

Fall 1928

## Reviews and Criticisms

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### Recommended Citation

Reviews and Criticisms, 19 Am. Inst. Crim. L. & Criminology 438 (1928-1929)

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## REVIEWS AND CRITICISMS

THORSTEN SELLIN, ED.

THE ELEMENTS OF CRIME. A PSYCHO-SOCIAL INTERPRETATION. By Boris Brasol. With Introductions by John H. Wigmore and William A. White. xvii+435 pp. Oxford University Press, New York, 1927. \$5.00.

Not for some years has a book on criminology been launched under more pretentious auspices than that of Mr. Brasol, and few have created more discussion among experts in the field. It is manifestly something beyond a pot-boiling textbook or such typical alarmist volumes as the books issuing from Richard Washburn Child and Judge Marcus Kavanagh. A work of this moment deserves, then, rather more than casual notice. It must be examined with a thoroughness appropriate to the prestige of its birth.

Mr. Brasol is extraordinarily well prepared by study and practical experience for the execution of a general work on criminology. He has had a notable career as a brilliant public prosecutor in Russia before and during the World War, has studied criminology under some of the greatest European masters, has read widely in European and less thoroughly in American criminological literature, and recently, as a resident in the United States, he has come into active contact with criminal conditions and criminological doctrines in our own country. He is quite evidently a man who combines great learning with a logical mind, and is remarkably free, for a practicing lawyer, from formal legalism and archaic metaphysics. When noting facts in Mr. Brasol's past which lend dignity and prestige to his literary and scholarly achievements, it is essential in the spirit of fairness to call attention to one conspicuous blot on his escutcheon. We refer here to the fact that he was one of the chief persecutors of Beilis, and more than anyone else was responsible for the circulation of the forged Protocol of the Elders of Zion in the United States. This matter needs to be borne in mind as highly cogent in forming a judgment of Mr. Brasol's objectivity and detachment when treating of factors in crime, which involve racial or economic considerations.

Mr. Brasol's book falls midway between the old dogmatic and schematic works of the classical school of criminologists and the highly individualized and empirical investigations of the criminal personality by Dr. William Healy and others who have accepted Healy's approach to the study of criminal behavior. There is little doubt that such detailed studies of individual delinquents as those by Healy and the like should ultimately be exploited in the service of constructing generalized deductions from these clinical inquiries, but it may be doubted as to whether the time has yet come to do this, and certainly Mr. Brasol has not mastered these materials to a sufficient

degree to enable him to carry out such a task of synthesis. We must, then, regard him as a modernized classicist rather than as a synthetic modernist in the field of criminology. While there is no doubt that Mr. Brasol's book is a far more erudite performance, the wide contrast between the standpoint of the classicist, with modernized statistics and bibliography, and the dynamic psychiatric view of crime, which constitutes the core of the "new criminology," may be discerned through comparing the book under review with the late Dr. Max Schlapp's *The New Criminology*. Brasol still adheres to the older external, static, and generalized approach instead of concentrating on the individual criminal and his relation to the behavior patterns described by the dynamic psychiatrist and the social psychologist.

The book is divided into two parts. The first is entitled "Crime as a Social Phenomenon." This considers such questions as the scientific conception of crime and the criminal, the nature of the criminal personality, and the relation to criminal causation of economic factors, religious and family conditions, education and the press, and legislation and criminal procedure. The second part of the book is entitled "The Psycho-physical Nature of Crime." This deals with the question of the relative influence of heredity and environment in the causation of crime, with the contrast between legal and medical conceptions of criminal responsibility, and with the leading forms of mental diseases, having special reference to the relation between the specific behavior patterns of each of these diseases and potential criminality.

Mr. Brasol insists upon a broad sociological approach to crime and rejects the older single-track dogmas explaining criminality, whether anthropological, socialistic or judicial. His best summary description of crime indicates both the broad and comprehensive point of view which he adopts and the somewhat vague and indefinite analysis which he submits. His procedure renders impossible a single-track interpretation of crime, but it also affords little for the practical criminologist to exploit as a point of departure for dealing with crime and criminals in the concrete:

Reiterating, then, our brief remarks, we must say that crime in its dynamic aspects or its psycho-social origins and growth is neither the result of any one single antecedent nor even the arithmetical sum total of several constituent elements entering into the crimino-genic process. For it must be borne in mind that these ingredients are not isolated and merely coexistent states, mechanically brought together, but that they represent a complex correlationship of mutually permeative forces which, through their evolutive mobility, bring the individual in collision with the social order (social friction), and thus generate a new phenomenon, called crime.

Brasol definitely repudiates the older thesis that there is such a thing as a born criminal. He contends that one may be born with certain psycho-physical traits which will render him more than usually susceptible to external influences making for criminality, but he denies that one can inherit traits which inevitably lead to criminal behavior. Instead of talking about the criminal or the criminal personality as

some determinate and fixed entity, susceptible of exact definition and elaborate classification, Brasol wisely limits himself to analyzing the "propensity" to criminal behavior. With this position most sane criminologists will be likely to agree. He is also inclined to reject the older cut-and-dried classification of criminal types, though he admits the existence of the professional criminal and agrees that sub-classes within this group often approach a discernible uniformity of type due to similar methods, interests and conduct.

In dealing with the problem of the causation of criminal behavior, Mr. Brasol emphasizes the necessity of allowing for a great complexity of factors, including hereditary predisposition to degeneracy and a vast number of influences in the social environment which condition the individual in the direction of criminality. He endeavors to formulate the calculus of criminal causation (pp. 103-4), and while we may not concede the necessity or validity of any such schematic, mechanical or mathematical formulation of the problem, nevertheless, one cannot fail to agree with the conception of the complexity of the issue which the equation is designed to imply. Mr Brasol sharply criticizes the theory of the economic determination of crime as set forth by Bonger and other socialistic writers. While the reviewer agrees with this scepticism, nevertheless it is difficult not to feel that in this section the author has departed from his usual scientific detachment on account of his hatred of the Bolsheviks. As author of *Socialism versus Civilization*, it could scarcely be expected that he would deal calmly with the socialistic hypothesis of criminality. Yet he is not to be regarded as an unqualified or unthinking eulogist of the theory of business enterprise or of the pecuniary standards and obsessions of our age. He holds that the great majority of criminals of all types are drawn from the unproductive classes. In his summary of the social causes of crime he sets forth the following indictment of the exaggerated pecuniary evaluations and interests of the contemporary period:

When we begin to conceive that all moral foundations have been gradually destroyed, men, women, and children alike, clamoring for nothing but material gain and self-gratification; when we think that people today, like the Roman mobs in the days of the decay of their Empire, are striving for nothing but '*panem et circenses*'; when our families are found in a state of complete dissociation, fathers and mothers having lost all ethical conceptions, and children morally neglected and abandoned by their parents; when we see supposedly civilized nations madly engaged in nothing but money-making enabling them to make mad expenditures for hideously vulgar and intrinsically immoral purposes; when all this is realized—then, indeed, we begin to be drawing nearer to the scientific interpretation of the problem of crime.

Mr. Brasol deplores "the utter neglect of religious, ethical and aesthetical elements in modern education, both in the family and in the school." He especially condemns the emphasis upon the pecuniary incentive and motivation which is inculcated in our schools. These things not only produce an "almost intolerable vulgarity of the public

taste," but also destroy those moral controls so essential in our society which is becoming ever more complex and baffling to the individual. He feels that while "an individual crime seldom can be traced to the influence of any single news item," nevertheless contemporary journalism "unquestionably occupies a prominent place among the factors which either cause or encourage the growth of the criminal propensity." The sceptical reader will be more likely to commend the above contention than he will Mr. Brasol's optimistic observation that the press, is "steadily growing more serious, also, perhaps, less biased." One may, in spite of the author's Continental derivation, detect a strain of Comstockery in his observations on the growing freedom in reference to sex in the drama, literature and art. In one place he says: "The literary behavior of the pleiad of sexual writers, indeed, is *collective exhibitionism*, constituting on offense against public morality, and inciting the mentally undeveloped to participate in the orgiastic feast." He further contends, in full agreement with John S. Sumner, that although it is very rare that one can detect any direct connection between an "immoral" book and any particular crime, "still, the crimino-genetic character of sexual literature and art is beyond doubt." As might be expected from his professional antecedents, Mr. Brasol's analysis of the relation of defective and unwise legislation and of our unscientific legal procedure to criminality is one of the best sections in the book, and he presents an excellent outline of a proposed institute of scientific criminology (pp. 220-23).

In discussing the relative importance of heredity and environment in the production of crime, Mr. Brasol is distinctly an environmentalist, even though he frankly admits the frequent hereditary nature of a predisposition to mental and moral weakness which makes the constitutional inferior succumb to criminal temptation much more easily than the normal types. He must certainly be regarded as a moderate social determinist. The following paragraphs well summarize his general views upon the social determination of crime and upon the complexity of these contributing social factors:

Generally speaking, the criminologist, in the course of his analysis, must dissect and scrutinize every socio-economic factor in the same way as a histologist in his laboratory examines under a microscope the delicate make of vegetable tissues, determining their chemical composition. The deeper we dig into the layers of the social order, tracing the mutual correlation—the more it is likely that some day—perhaps in the remote future—science shall reach the very root of the criminal propensity. Above all, the student has to be guarded against the tendency to interpret the complicated phenomenon of crime by any single cause, no matter whether social or psychological.

Neither logic nor philosophy can justify such an attempt. Only simplified science—but is it science after all?—can hope to make progress by mechanically reducing the number of ingredients entering into the structure of society. The elimination of some constituent elements of a phenomenon never serves to explain its nature; it narrows the scope of human knowledge, and ultimately destroys the pioneering faculty of the mind which

prompts us to extend scientific inquiry to the vast field of things knowable, but still unexplored. . . .

Here, then, criminology touches upon the *real*—not the imaginary—causes of criminality in its present-day militant aspect. It is not the mode of production, nor poverty, *in se*, nor prosperity, nor the shape of the nose, nor the brachycephalic symptom, nor any other incidental factor, that generates the phenomenon of crime, but those fundamental destructive changes which take place in the composition of society itself, assuming the form of dangerous gangrenous processes and threatening the very existence of social order.

Mr. Brasol's chapter on the nature of criminal responsibility is excellent, particularly his discussion of the difficulties in the way of using expert psychiatric testimony under the conditions imposed by the present legal duel in the courtroom. He suggests the following commendable innovations:

a. Prohibiting the contending parties to hire their own expert alienists, who should be appointed by a neutral body standing above and outside of the inevitable conflict between prosecution and defense.

b. Requiring the psychiatrist to present an all-embracing study of the mental constitution of the defendant, in the light of the latest discoveries in the fields of psycho-neurology, bio-chemistry, biology and psychology.

c. Taking, as it were, judicial notice of the expert's opinion on the mental state of the defendant, making it a constituent part of the juror's verdict.

The author's classification and summary description of mental defect and of mental disorders in their relation to criminality are reasonably satisfactory and up-to-date. He accords a discriminating acceptance to the Freudian psychopathology. The reviewer does not know of a better brief sketch of this field in a work on criminology. The chief criticism of this section of the book should relate, not to the content, but to the position of this material and the use which is made of it. It is tacked on to the end of the work and is in no sense integrated with the rest of the volume. Yet, it is here that one is to discover the key to the modernized approach to the problems of criminality. In other words, after having written an excellent conventional volume, following the old school of criminology, the author appends a section opening up the new vista of the psychiatric attitude towards crime and the treatment of the criminal. Had Mr. Brasol put this chapter at the beginning of his book and organized the remainder of his work about these concepts he would have been able to produce an integrated contribution to the "new criminology," instead of a model epitome of the older approach.

The book is, all in all, distinctly a valuable contribution to the literature of the field. It should be useful either to the serious general reader or to the professional student of criminology. Though scarcely designed as a college text-book, it could be used for this purpose. No effort is made to deal in any sense with the fields of penology or with those modes of repressing crimes outside of prison walls. It is pre-eminently an introduction to the nature and causes

of crime and to the nature of procedure in ascertaining guilt. Apprehension and repression are scarcely touched upon. Should one desire to make use of the book in a comprehensive college course on criminology and penology it could well be supplemented by Dr. Louis N. Robinson's admirable manual on *Penology in the United States* or the Lane edition of Wine's *Punishment and Reformation*.

As a concluding estimate, we are safe in maintaining that Mr. Brasol's book may well be characterized by the oft-quoted remark of James Bryce, relative to Dante's *De Monarchia*, namely, that it is not a prophecy but an epitaph. It is the best, and we may hope it is among the last, of the older variety of classificatory, defining, methodological and descriptive works, which deal with crime and criminals in general, instead of concentrating upon specific criminals and their relation to psychopathic states or anti-social habit patterns.

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KRIEG UND KRIMINALITÄT IN ÖSTERREICH. By Prof. Dr. Franz Exner. Mit einem Beitrag über die Kriminalität der Militärpersonen von G. Lelewer. xv+219 pp. Hölder-Pichler-Tempsky, Vienna; and Yale Univ. Press, New Haven, 1927.

This is one of the publications of the Carnegie Foundation for International Peace. It is an admirable compilation of observations of what is probably one of the most important phases of the world war in its effect on the popular welfare. The writer industriously brought together a wealth of data which for years to come will furnish food for reflection and no doubt influence modern thought in the direction of world peace. The work emphasizes the disastrous social and economic consequences of the world war, particularly in the direction of a breakdown of manners and morals reflected in the higher incidence of crimes against property. It is not an easy matter to condense the work into a few brief generalizations, for the picture displayed in one of extreme complexity. The facts, however, are dealt with impartially throughout and no exception can be taken to the main conclusions advanced.

It is observed in the summary that the war altered the criminal situation in Austria in a peculiar manner but in most suggestive directions. Crimes against the person in the main experienced a reduction with the exception of murder and abortion. The increase in murder, however was relatively small, but a large increase was observed in the frequency of abortion. An amazing increase took place in crimes against property, particularly theft of all kinds. But this, it is explained, must be considered in conjunction with the dreadful economic condition of the population and the excessive prices paid for all kinds of articles entering into daily consumption, articles which in ordinary course would not be stolen or have much value.

The German criminal statistics indicate almost identical tendencies. Crimes against the person decreased, while theft increased even to ten times the proportion even as far remote as ten years after peace had been established.

In the main, the causes for this change are to be found in the radically altered economic and governmental conditions. Attention is drawn to the breakdown of law and order and the practical impossibility of enforcing the countless laws and regulations enacted during the war. It was soon observed that practically every one was breaking the law and respect for law reached the minimum point in the experience of nearly all European countries. Decidedly beneficial results, however, were observed from the drastic control of the liquor trade. Drunkenness and crimes resulting therefrom diminished enormously. But profiteering also flourished on an enormous scale and led to countless crimes against property which would not be experienced under normal conditions.

Among other directions in which the criminal situation was altered, the author mentions the larger amount of criminality among women and particularly among young people. This he attributes to the lack of parental restraint which became restored soon after the war until gradually normal conditions were reestablished. Another factor was the higher economic position of women entering in numerous employments formerly closed to them, involving freer relations between the sexes with consequential criminal developments. Many of the crimes against property were the results of the needs of the people. In other words, men and women were tempted to smuggle and steal because the high profits were urgently needed for the family necessities of the thief. But throughout the war and for many years after, there was a distinct lowering of the moral tone, the after-effects of which have not yet disappeared.

Reflecting upon earlier war experiences, particularly the Franco-German War 1870-71, it is pointed out that the results were quite at variance with the economic and social consequences of the world war. In other words, the motives of obviously sordid conquest inherent in the world war did not develop the idealism of the public as observed during the war against France in 1871, or the war against Austria in 1866. On the other hand, it would seem that the effects of the war were much less pronounced in the direction of unfavorable tendencies in France and England than in Central European countries, including the neutral countries like Holland and Scandinavia. The length of the world war had, of course, an important bearing upon this difference. Again and again the author emphasizes the striking parallelism of the experience as regards altered criminal conditions in most of the Central European countries. In this connection, certain statistics for England may be quoted. The average number of indictments on account of burglary which had been 1,612 during 1910-14 diminished to 800 during the war but increased to 1,477 in 1920. House breaking which averaged 4,923 in 1910-14 diminished to 3,574 during the war, but increased again to 5,416 in 1920. Shop breaking which had averaged 4,363 during 1910-14 increased slightly during the war to 1,440 but increased to 7,143 during 1920. Crimes of this kind have continued to increase during the intervening years, having numbered 9,363 during 1926.



Conversely all forms of murder which had averaged 414 during the five years ending with 1914 decreased to 327 during the war period, while the figure for 1920 stood at 329. Thus in broad outlines the English experience confirms that of Continental Europe in that the results of the war primarily led to an increase in crimes against property.

The returning soldiers are considered less a source of new criminality than are wide-spread idleness and unemployment. The author draws attention to the serious economic results of the blockade and the depreciated currency in their destructive effects on the character of the people. Again and again he emphasizes the conclusion that law violations became so common as to be looked upon on the part of every element of the population as a matter of course. The lesson in this respect may be applied to all sumptuary laws under conditions of peace which are not or cannot be enforced. In other words, the resulting disrespect for government obviously failing in its essential functions is bound to have consequences of a far-reaching nature and possibly pave the way for an ultimate revolution. Another disastrous effect of the war was the increased intelligence of the criminal element. Men and women who ordinarily would never have entered on a criminal career did so regardless of a high order of intelligence, based in most cases on the distress of trying social and economic conditions. The book, however, issues a warning against a flood of laws and legislation aiming at social control though wholly ineffective in bringing about a degree of control in harmony with common sense conceptions of the functions of the state.

There are brief references to Canada and Japan but these are not amply supported by statistics. There are no references to the United States. As regards Japan and Canada, the author is of the opinion that these countries being far removed from the center of operations did not suffer to anything like the degree as the countries in the theatre of war operations. Nothing could better illustrate the lamentable want of American judicial statistics than this admirable discussion based, as it is, primarily on the official returns of different countries. It brings home to us the necessity of having established in the Census Office a Federal department of judicial statistics to collect data in a uniform manner as is the case at present with statistics of births and deaths, and marriage and divorce. Our police statistics are not comparable, nor are they trustworthy in many cases. Our homicide statistics are but an inadequate measure of crime and punishment historically reviewed. It is significant, however, that our homicide death rate should have experienced a reduction from 7.7 during 1917 to 6.8 during the year of the American participation in the war, increasing to 7.5 during 1919, and 8.5 during 1921.

It is to be hoped that in due course of time this interesting contribution of statistics of crime will be issued in English translation by the Carnegie Foundation for International Peace.

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FREDERICK L. HOFFMAN.

LA COOPÉRATION DES ÉTATS DANS LA LUTTE CONTRE LE FAUX MONNAYAGE. RAPPORT ET PROJET DE CONVENTION PRÉSENTÉ À LA SOCIÉTÉ DES NATIONS. By *Prof. Vespasian V. Pella*. 143 pp. A. Pedone, Paris, 1928.

When, after the extraordinary forgery of the public securities of certain European States—a forgery which the perpetrators, some of whom were of high station attempted to justify or, at least, mollify on patriotic grounds—M. Briand asked the intervention of the League of Nations, it was specially fortunate that the whole subject of counterfeiting from an international point of view had already been fully discussed by one of the ablest of European lawyers: Professor Vespasian V. Pella of the law faculty of the University of Jassy, Roumania, had established his reputation by such works as his *La Criminalité Collective et le Droit Pénal de l'Avénir*, and in 1925, a contribution to the Bulletin de la Société d'Études législatives, with the title *Le faux Monnayage à Caractère politique*.

The League of Nations took the matter up in earnest. A mixed committee was appointed late in 1926 and Professor Pella was requested to take part: of the subcommittee of four, Pella was one. The committee made a report to the Council of the League in which they stated that they had utilized "the very complete and very remarkable Report of Professor V. V. Pella."

The present work of 143 quarto pages contains Pella's Report and his Avant-Projet for the suppression of counterfeiting (*faux monnayage*). His Report is divided into two parts: 1. Repression of ordinary counterfeiting and international penal protection of money; and 2. Political and interstate forms of counterfeiting: prevention of international conflicts.

As to the former, he finds three difficulties in the way of international protection of money: (a) Differences in legislation defining crime; (b) Existing differences in international penal law which in some cases insures safety for the actor; (c) Want of speedy and direct collaboration between the officers of the various States charged with the capture and prosecution of counterfeiters. These difficulties, he points out, can be removed only by means of an International Convention, adopting as he does Bluntschli's dictum: "For international evils, international remedies are required."

The first of these difficulties is aggravated in certain newly constituted States, which are either wholly new or have had their territory enlarged as a consequence of the World War, Jugo-Slavia, Roumania, Poland, etc., as different Criminal Codes are applied in the different Provinces, just as in the Dominion of Canada until 1892. An example of the grave consequences which may result from this difference in definition of crime is given. In Germany it is a crime to manufacture instruments which may be used for counterfeiting money; in France, it is not. In France, the law concerning Extradition of Foreigners (March 11, 1927) provides "that in no case is extradition granted by the Government of France unless the act is

punishable in the law of France." Accordingly, the German criminal of this class, taking refuge in France, cannot be extradited.

As far back as 1893, the German penalist, Franz von Liszt, in his *Die Strafgesetzgebung der Gegenwart* . . . said that it was quite possible to elaborate a Criminal Code which would be wholly satisfactory to France, Germany, Austria-Hungary, the Low Countries, etc.; many penalists of note have urged the desirability of such a step, and the International Convention of Penalists of the Old and the New Worlds at Brussels in 1926 adopted a resolution of Pella's approving thereof.

One anomaly to be overcome is the distinction made between the various objects of counterfeiting in different countries. Some accord protection equally to metallic money, and paper money and securities of state or company; others to metallic money and paper-money proper, i. e., bank bills etc.; while still others draw certain distinctions between metallic money and bank bills—this last Pella says "is not rational." Again there is a difference in the protection given to foreign money. Some States, as in some of the Swiss Cantons, protect national moneys alone: some, as in France, England, etc., afford a higher degree of protection to national than to foreign moneys: some, as in Italy, Hungary, etc., make no distinction. As the genuineness of money concerns every civilized State, Pella is emphatic that "today there is no longer any motive justifying the establishment of a distinction between national and foreign moneys in respect of penal protection." In his opinion, too, "the object to be attained by an international convention is the protection of all moneys accepted generally in the exchanges. That protection should not be limited to moneys having legal currency but the larger view should be adopted of *commercial currency*," as in Italy, Venezuela, and certain of the Swiss Cantons.

The various kinds of "infractions" in respect of money are the subject of discussion: actual counterfeiting or fabrication of false money, even if the metallic money is of the same weight and fineness as genuine coin; alteration, coloration, etc. These all, however, have this character in common—they all attack the freedom of the circulation of money by shaking the public faith in it. And what is of importance is not the method but the fact—just as in murder, it is unimportant whether the murderer employ the revolver or the knife. Disagreeing with some criminologists, who consider "emission," passing-off, of forged securities as in reality but the consummation of the fabrication, Pella adopts the view of Garçon, Code Pénal annoté, art. 132, and most other authorities that fabrication and emission should be considered as separate and distinct crimes. Otherwise, repression will be much hampered or even paralyzed, the actual counterfeiter remaining secure in one country while his wares are emitted in another. He approves, too, of the French law which makes criminal the "exposition" of false money, which consists in the simple fact of placing it before the eyes of the public: the same approval is expressed of the prohibition by the law of France. Bel-

gium, Austria and Germany of the fabrication of medals or prints which from their appearance may facilitate their acceptance as money.

A whole section is devoted to Intention, and a comparison is made of the laws which require that, to constitute a crime, *dolus specialis* must be found, that is, an intention that the counterfeit shall be put in circulation as honest money and those in which the *dolus generalis* implied in the falsification itself shall be sufficient to fix criminality, and the proof of absence of fraudulent intent is to rest on the accused. The latter view is wholly approved and supported by admirable argument—and this, although it is admitted that in all cases, fabrication, accumulation, introduction, exportation, exposition, emission, etc., the fraudulent intent is of the very essence of the crime.

More difficulty may be felt in the case of preparatory and tentative acts. In all legislation, the principle has been recognized that repression should not interfere until it is manifested by substantive acts that the intention to commit crime exists. But an exception may well be made where grave prejudice to society may be caused by the execution or the commencement of the execution of the delict: and then the legislator may intervene at the stage, often indecisive, of preparatory acts. Accordingly, even as long ago as the French Revolution, by the decree of 17 Brumaire, An II, it was made a crime to make instruments which might serve to counterfeit *assignats*. Many modern legislatures have made similar provisions: some make even the possession of such instruments a crime; some forbid the making of paper similar to that used for bank-notes, etc., or the possession of metal which may be transformed into coins. International agreements should contain an obligation on the contracting States to repress preparatory or tentative acts looking either toward actual falsification or putting into circulation of counterfeits.

In the case of associations, companies, conspiracies of counterfeiters, there is a great difference in different States. Pella enumerates four ways of dealing with the repression of them: (1) Considering the formation of such an association as a crime in itself—as in the former Russian law; (2) Suppressing only when preparatory acts have been committed—the Hungarian Code; (3) Only when actual execution has been commenced—the Bulgarian Code; (4) Considering the association not criminal in itself but a circumstance of aggravation of a crime when consummated—the Soviet-Russian law of June, 1922. The author adopts the first system as the proper one.

We may pass over the discussion of punishments to be inflicted upon transgressors, attenuating and aggravating circumstances, recidivism, etc. A whole chapter is devoted to "Police judiciaire, compétence, instruction." It is pointed out that the peril of counterfeits cannot be met unless the States agree to establish amongst them relations more and more close in respect of procedure. In 1905, the idea of establishing in each State, police centers for the repression of international criminality was broached: this in respect of counter-

feiting has been recognized as a valuable project by the Banks of many States, including Britain and the United States: since 1922 the bureaux centralizing every fact concerning the falsification of coin and bank notes have been in some fifteen States in direct communication with those of other States with great advantage. But the institution of an International Bureau which would centralize all information relative to such offenses is loudly called for.

The competence of national courts to deal with offences *déhors* their territory, has always been a troublesome question—the natural justice of the principle *non bis in idem*, *nemo bis vexari debet pro eadem causa* cannot be disputed, but difficult questions have not infrequently arisen as to its application. No one at all acquainted with criminal law but can easily conceive of such cases. None of the systems heretofore developed is wholly satisfactory, but most of the difficulties disappear if the “*théorie de la complicité du délit distinct*” is adopted. This has been the theory of the Institute of International Law since its session at Milan in 1883. It consists in taking as the foundation of competence not the place where participation has produced its effects but the place where the individual is found at the moment in which he became guilty of the acts of complicity. The author, after stating other views gives a clear opinion that it is absolutely necessary that the International Convention should decide that all acts of complicity may be prosecuted and adjudged in the place where they are committed whatever may be the locus of the principal crime—and also in the country in which the offender takes refuge.

Extradition is another vexed question: it is considered absolutely necessary that the Convention should declare the principle that the foreign pursuing officers should have all the powers and rights of the national officers: they should receive all the assistance possible in collecting evidence by Rogatory Commissions and otherwise; and extradition should be freely granted. It is contended, however, that the order of preference of courts should be first the State in which the actual falsification was made, then the State in which the passing off took place and lastly, the State in which the culprit has taken refuge.

The second part deals with the prevention of international disputes and the political and interstate forms of counterfeit money. Leaving aside the case of revolutionaries who have recourse to forgery to obtain funds to finance their project—such as the Hungarians in 1848-49 who had forged money and whom Britain refused to extradite—it is pointed out that such falsification tends to become a new means of terrorism destined to satisfy collective vengeance of a political or chauvinistic character—or it may be to impose certain social doctrines by intimidation. This corresponds to assassination, which generally is ineffectual; other than to fill the place of the martyr. The same thing may be said of destruction of buildings, etc., but the effects of terrorism by false money are more profound and more enduring. The Convention should declare that counterfeiting is never to be considered a political offense.

The jurisdiction, actual and proposed, of the Permanent Court at the Hague is carefully discussed and a hope expressed that the jurisdiction will be maintained and much enlarged.

The *Avant-projet de Convention pour la Répression du Faux Monnayage* is the statement in concrete and systematic form of Pella's proposed International Code in the premises.

This very notable production deserves and will well repay the careful attention of every student of international criminal law: it has been a real pleasure to read the clear and convincing arguments advanced, a pleasure enhanced by the fine literary French in which they are clothed.

P. S. That the questions discussed by Professor Pella are by no means academical may appear from the following newspaper item appearing since this review was written:

Stockholm, July 15 (A. P.).—The newspaper *Dagblad* prints a report, the source of which is not given, saying that General Nobile "is in fact, the Italian Government's prisoner, as he is forbidden to leave the base ship *Città di Milano* before he gives the world a clear account of the Italia catastrophe and later events." . . . Talk of a legal investigation of the disaster continued in the press today. It is admitted that such an inquiry would be hard to arrange, as the jurisdiction of any country could be defined only vaguely. . . . With regard to the death of Dr. Finn Malmgren, who is reported to have been left on the ice by his companions, it is pointed out that it probably occurred in a sort of "no man's land." Thus no country would have a clear right to command a juridical inquiry.

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WILLIAM RENWICK RIDDELL.

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DIE ENTWICKLUNGSPHASEN DER KRIMINALSTATISTISCHEN FORSCHUNG. By *Dr. Rudolf Wassermann*. 99 pp. Ernst Wiegandt, Leipzig, 1927. M. 4.00. (Krimin. Abhandl. herausgeg. v. Dr. Franz Exner, Heft V.)

This monograph is a compact summary of the development of criminal statistical research from Quetelet to the present. The author is primarily concerned with the basic principles and presuppositions of the various writers whose work is discussed. The reader must look for factual material from their researches only as illustrations.

Quetelet is presented as the founder of scientific criminal statistics, and as the point of departure and the point of reference for the later workers in the field. The great Belgian's use of statistics in criminology was based upon his social philosophy. Crime is a "social" phenomenon. For example, his "penchant au crime" is a characteristic of a society, not of an individual. It is the ratio of the number of persons committing crime to the number of potential committers of crime. This ratio is an average, like those whose sum constitutes the famous creation of Quetelet's, "l'homme moyen." There is also a rough constancy in the number of crimes in a given country from year to year, Quetelet holds. This con-

stancy is produced by the "lois des causes naturelles" which, in combination with the "lois des causes accidentales," explains the phenomena of social life. Wassermann points out very neatly that this simply means that man is a product of his environment ("nature") and his individuality ("accident"). The "causes accidentales" on their part are the factors in the production of the "penchant au crime." Of Quetelet's factual researches into the relationships of crime to age, occupation, etc., Wassermann says that they are in general corroborated by recent studies in the same field.

So epoch-making a work as Quetelet's naturally called forth followers, some of them temperate, others extravagant. The greatest (and soundest) of these, whom Wassermann calls "Queteletists," was Adolf Wagner. Then came the inevitable reaction. "Anti-Queteletists" arose. Some were theological libertarians incensed at the mechanistic implications of Quetelet and his followers. Some were philosophers outraged at the invasion of fields of speculation by factual investigation. Others were merely cautious statisticians unwilling to accept the extravagances of the "Queteletists." Then in the eighties of the last century appeared a modified Queteletism represented by von Oettingen, the "Moral Statistician," and von Liszt, more purely a criminologist. Von Mayr, though not so consistent as either of these two, may be counted in this group.

Of greatest interest to the reviewer is the analysis of the position of the "criticists," as Wassermann calls the group to which he belongs. To them criminal statistics is not a branch of natural science, (as it was thought of by the "Half-Queteletists") but of the historical sciences ("Geschichteswissenschaften"). Its data are the "relatively individual" facts of criminal action: such facts as the occupation of the criminal, the season of commission, etc. It cannot solve the problem of the causes of crime, but its function is the accurate description of crime. The causal relationships of crime are to be sought by the method of case study, in which the "absolutely individual" facts can be disclosed. This school therefore occupies a methodological position between the "societal causation" of Quetelet and his followers, and the purely individualistic point of view of the case historians with the psychological approach.

The author, in supporting this position, quotes with approval the distinction raised by the statistician Forcher between the idea of functional dependence of statistics, and the idea of causal dependence of experimental science. He is enthusiastic, however, over the possibilities of his method in refining the description of the facts of criminal action.

This monograph is a useful guide through the philosophical and methodological path of criminal statistics as a science. Most American students have adopted an almost wholly empirical approach to problems in this field. This may be wise; but it is well for us to know that we are pursuing this course.

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C. E. GEHLKE.

## BRIEF NOTES

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MITTEILUNGEN DER KRIMINALBIOLOGISCHEN GESELLSCHAFT—TAGUNG  
IN WIEN ZU PFINGSTEN 1927. 85 pp. U. Moser, Graz, 1928.

Since the great war Central Europe has made great strides toward the development of a methodology and a technique, which will give us a better understanding of the nature of the offender. In Germany and Austria, this movement has followed lines which emphasize the biological factors in the causation of crime. The pamphlet under review contains the proceedings of the first conference of the Criminobiological Society, an organization which has been formed to support, encourage and coordinate research in the personality of the criminal. The following titles give an idea of the interesting content: Problems of Criminobiology, by Prof. A. Lenz; The Criminobiological Service in Belgium and Lettonia, by Prof. F. v. Neureiter; Types of Reformable and Unreformable Criminals, by Dr. T. Viernstein; Purpose and Organization of a Card-Catalogue of Subnormals (*Minderwertigen*), by Dr. R. Fetscher; Criminobiological Research in Russia, by Prof. Leo Orschansky; The Ascertainment of Suggestibility as an Example of Criminobiological Methodology, by Dr. E. Seelig.

The following resolutions were adopted: The Criminobiological Society regards as its aim to develop and synthesize for criminological use the different scientific methods for the study of personality which have developed in psychiatry, in the study of biological heredity, and in clinical and philosophical psychology. This aim shall finally serve to establish criminobiological research institutes which may lend expert assistance in the administration of criminal justice and the treatment of offenders.

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THE SACCO-VANZETTI CASE. Transcript of the Record of the Trial of Nicola Sacco and Bartolomeo Vanzetti in the Courts of Massachusetts and subsequent proceedings 1920-7. Vols. I-II. Henry Holt & Co., New York, 1928.

A committee, on the roll of which such names as Elihu Root, John W. Davis and Newton D. Baker appear, has sponsored the publication of these volumes, the first of several, which will contain the full stenographic report of the trial and full records of later proceedings. A supplemental volume will give the available material on the earlier trial of Vanzetti in 1920 on the charge of attempted hold-up.

The motives prompting the committee to undertake this costly venture have been summarized in the prefatory note to the first volume. Attention is briefly called to the lack of information available about the historical trials of earlier days, making critical judgment exceedingly hazardous. That the Sacco-Vanzetti case will go down in the annals of history as a cause célèbre is apparently certain. Historical jurisprudence would consequently profit by hav-



ing at its disposal the full records, which will prevent misrepresentations and uncritical evaluations.

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THE RELATION OF THE INDIVIDUAL TO THE COMMUNITY. (Publ. of the Amer. Sociol. Soc., vol. 22.) viii+353 pp. Univ. of Chicago Press, Chicago, 1928. \$2.00.

These proceedings of the Washington meeting of the American Sociological Society in December, 1927, include several papers of interest to criminologists. W. I. Thomas, in discussing "The Behavior Pattern and the Situation," suggests important future steps in the methodology of causation-research; John Slawson, in a paper on "Causal Relations in Delinquency Research," makes a plea for the quantitative method as essential for the objectification and evaluation of causal relationships disclosed by the individual study method; Clifford R. Shaw attempts to show the "Correlation of the Rate of Male Juvenile Delinquency with Certain Indices of Community Organization and Disorganization," such as dependency, population increase or decrease, home ownership, etc., and, Walter C. Reckless describes "A Sociological Clinic for the Study of Juvenile Delinquency" at Vanderbilt University, Tennessee, outlining its procedure and program.

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THE GANGS OF NEW YORK. An Informal History of the Underworld. By *Herbert Asbury*. 382 pp. A. A. Knopf, New York, 1928. \$4.00.

Mr. Asbury does not wish to sail under false colors. In his introduction he flatly denies that his book is a sociological treatise. He proposes instead to attempt "to chronicle the more spectacular exploits of the refractory citizen who was a dangerous nuisance in New York for almost a hundred years, with a sufficient background of vice, poverty, and political corruption to make him understandable." All his readers, and may they multiply, will agree that he has succeeded in showing us a cross-section of life in the world "where the other half lives" and that whether it be a sociological treatise or not, it is certainly an instructive, well-written, and fascinating bit of cultural history, brought within the covers of a book, which in its make-up and workmanship does great credit to the publisher.

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WARPED IN THE MAKING. Crimes of Love and Hate. By *H. Ashton-Wolfe*. xiv+322 pp. Houghton Mifflin & Co., Boston, 1928. \$3.50.

Drawing upon an extensive and varied experience as criminal investigator and court interpreter in England and in France, the author relates some of the most interesting of the cases in which he has been more or less closely connected. The strange Don Ramon, who appears to have been possessed of a dual personality; Orsini, the croupier, whose sensitive artist fingers bid fair to wreck the

bank at Monte Carlo; Captain von Köpenick, whose exploit made the German army the laughing stock of the world; and, Mata Hari, the Dutch-Japanese dancer, whose eventful life was closed by a French firing squad are among those who pass in review before the reader. Methods of detection are incidentally treated. More than casual tribute is paid by the author to his erstwhile master, Alphonse Bertillon. The stories are told in a manner and in a style which prove the author to be a seasoned raconteur.

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L'EXPERTISE DES ARMES À FEU COURTES. By *Harry Söderman*. Preface by *Dr. Edmond Locard*. viii+166pp. J. Devigne et Fils, Lyon, 1928.

In the science of criminal investigation, the study of the weapons of the criminal is a most important source of information for both police and court. In so far as the examination and identification of small firearms are concerned, the author has here given a most complete and able description of the technique employed in the great modern police laboratories of the world. Dr. Locard recommends the book warmly to technicians as being the best monograph on the subject. An extensive bibliography is appended.

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SING SING, CAPITAL PUNISHMENT AND "HONEST-GRAFT." By *Florence J. Sullivan*. Connolly Press, New York, 1927.

Among many other things, "this book demonstrates: that capital punishment does not legally exist in the State of New York; . . . that capital punishment inflicts less punishment than life imprisonment; . . . that the average murderer prefers immediate death to life imprisonment; . . . that Sing Sing prison no longer legally exists in Westchester County . . . was built in a stone quarry through the corrupt influence of padrones and grafters, was never fit for human habitation and is the very worst prison in the civilized world."

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JUGENDGERICHTSHILFE. By *Dr. iur. Heinrich Haeckel*. 104 pp. F. A. Herbig Verlagsbuchhandlung, Berlin, 1927.

Although the juvenile court has existed in Germany since 1908, this is the first monograph to discuss in any detail the probation work, which is one of its indispensable component parts. It is a manual, which gives the historical development of the courts and also aims to be a guide to the "probation officer," who in Germany serves a function similar, yet different, from that of his American colleague, due no doubt to reasons inherent in the origin, structure, and function of the German juvenile court itself.

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JURY SYSTEM. Compiled by *Julia F. Johnsen*. (The Refer. Shelf, vol. 4, no. 6.) 176 pp. H. W. Wilson Co., New York, 1928. \$0.90.

The arguments for and against the jury system conveniently systematized by an able bibliographer. Purely technical aspects have

been omitted. The abolition of the jury, its displacement by a court of three judges, and the question of unanimous verdicts are problems which have received special attention. Affirmative and negative briefs and a bibliography of twenty pages render the compilation of particular value to the debater.

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REPORT OF THE CRIME COMMISSION, STATE OF NEW YORK. Submitted February 28, 1927. (Legisl. doc. no. 94, 1927.) 432 pp. J. B. Lyon Co., Albany, 1927. Free.

This is one of the most valuable official committee reports of its kind issued by any American state for a good many years. Some of its component parts have already been separately dealt with in earlier issues of this Journal. Of the rest, the report of the sub-commission on statistics (pp. 95-174) deserves special mention. It is a very able analysis of the administration of criminal justice in the courts of New York State on the basis of 25,000 felony cases initiated in 1925.

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THE CHILD GUIDANCE CLINIC AND THE COMMUNITY. 106 pp. The Commonwealth Fund, New York, 1928. Free.

A collection of papers by various authors, including one by Judge Charles Hoffman on the Juvenile Court, the Community and the Child Guidance Clinic. To those who are interested in crime prevention, these articles should prove stimulating, for they yield a glimpse of a new criminology, which goes to the root of asocial behavior instead of squandering its energies on palliative measures of penal treatment.

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THE TREATMENT OF ADULT OFFENDERS AND CHILDREN BY THE COURTS OF BERKS COUNTY, PENNSYLVANIA. (Publ. of the Penn. Comm. on Penal Affairs, Inc., March, 1928.) 53 pp. Philadelphia, 1928.

A statistical analysis of the administration of criminal justice and penal treatment in the Berks county courts of Pennsylvania for the period 1923-25, prepared by Mr. Leon Stern, Research Secretary of the Pennsylvania Committee on Penal Affairs.

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SACCO-VANZETTI DRAMAT. Justitiemorden i Massachusetts. By *George Branting*. Bokförl. Brand, Stockholm, 1927. Kr. 2.00.

A warm-hearted, earnest defense written by a Swedish lawyer, who spent some time in Massachusetts during the last few months of the S.-V. case, as an observer for the labor party of his country.

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LOS PRINCIPIOS GENERALES DEL DERECHO ADMINISTRATIVO. By *Gaston Jeze*. Transl. from the French by *Carlos Garcia Oviedo*. 567 pp. Ed. Reus, Madrid, 1928. 16.50 pes.

This Spanish translation makes Prof. Jeze's valuable treatise available to a larger circle of students interested in judicial technique and in the duties of functionaries in public service.