case will successfully overcome the weight of the courts which have unfortunately taken the contrary view.

BOOK REVIEWS

CRIMINAL JUSTICE IN CLEVELAND. Cleveland: The Cleveland Foundation. 1922. pp. 700.

The administration of criminal justice, especially in urban communities, presents no novel problem in the United States. For many years the importance of the problem and the difficulties of its solution have been steadily growing. Volumes have been written about it. There has seldom been a time in recent years when it has not been the subject of newspaper report and public discussion in some part of the country. Innumerable movements for reform have been inaugurated and run their course. Some peculiarly atrocious crime, some notorious failure of criminal justice, some scandal in the administration of criminal law, apparently fortuitous, actually inevitable, since these manifestations are only the external symptoms of an internal disorder, stirs the public conscience to demand action and reform. The action demanded has usually been the wreaking of vengeance. Incompetent or corrupt officials must be removed or punished and new ones substituted for them, who in turn are left to cope with all the forces which rendered their predecessors incompetent or corrupt. The demand for reform has usually found expression in new legislation creating new crimes or new machinery for the administration of criminal justice or both. More police are added to the force, new courts are created, new officials established, and then having treated the symptoms without really discovering the disease the public interest turns to other matters and we drop back into the old slough of despond. This has been the traditional procedure in our efforts to reform criminal justice, and the inevitable result has led even the most stout-hearted reformers to begin to despair of progress toward a more enlightened and efficient system.

In the spring of 1920 the civic consciousness of Cleveland, the fifth largest city in the United States, was aroused by the perpetration of an atrocious crime in which one of its municipal court justices was implicated. That this dramatic event did not stir into activity the usual agitation for vengeance and quick reform is probably due to the wise leadership in the civic organizations of Cleveland, which, headed by the Cleveland Bar Association, requested the Cleveland Foundation to undertake a survey of criminal justice in that city. The survey has now been brought to a conclusion and its results are embodied in the present volume. For the first time there is presented in it a thorough, painstaking, objective study and analysis, by experts, of the elements which enter into the problem of administration of criminal law in an American city.

I suppose no one would be more prompt than the authors of this survey to disclaim any pretensions to infallibility or any assertion that the survey was free from all error in its choice of particular subjects for investigation or in its conclusions. They had a difficult task to perform even had its precise limits been previously marked out, but in addition they had to blaze a new path in an unknown wilderness of social experiment. Yet seldom does one have the privilege of reading any study which is on its face more dispassionate or impartial or which bears such conclusive internal evidence that it has been made with exceptional skill and thorough integrity.

But more important than the complete verity of its data and conclusions is the fact that this survey presents in concrete and readable form a new approach to the problems of the reform of criminal justice in urban America. In this

respect the survey is epoch making, for the hope for all lasting social reform must rest upon our capacity to make social studies, as this one was made, by experts residing beyond the sphere of local influences, whose work is impersonal and impartial, with no aim at quick results, with no disposition to seek a victim, and with a genuine effort to search out those underlying causes which give impetus and direction to social tendencies.

Although this study was directed toward a distinctly local problem and for that reason cannot be taken as of universal application, the basic problems with which it deals lie at the root of the administration of criminal justice in practically every urban community in the United States. For that reason the Cleveland Survey has its lessons for those in every city who are engaged in the difficult undertaking of endeavoring to improve the administration of the criminal law. With respect to the fundamental difficulties of securing such improvement, one might substitute for the name of Cleveland in the survey, the name of numerous other cities in the United States, and when one comes to the analysis and appraisement of those forces which tend to thwart the due administration of criminal justice the survey may be as useful in any one of a dozen cities as in Cleveland.

The survey was made under the direction of Dean Pound and Professor Frankfurter, and its published results are embraced in seven distinct parts, representing the respective fields of inquiry which were deemed most important, as follows:

The Criminal Courts, by Reginald Heber Smith and Herbert B. Ehrmann.
Prosecution, by Alfred Bettmann.
Police Administration, by Raymond B. Fosdick.
Correctional and Penal Treatment, by Burdette G. Lewis.
Medical Science and Criminal Justice, by Dr. Herman M. Adler.
Legal Education in Cleveland, by Albert M. Kales.
Newspapers and Criminal Justice, by M. K. Wisehart.

The introduction to the survey was prepared by Professor Frankfurter, and Dean Pound has added a summary. Together the introduction and summary constitute not only a review and summarization of the work of the survey, but an admirable handbook in which is set forth the fundamentals of the problem of improving criminal justice and the guiding principles which must necessarily control any successful effort at reform. It would be impossible in a brief review to present any adequate picture of the work of the survey. It is only possible to indicate in a general way its scope and nature. Any such investigation as was projected by the Cleveland Foundation must necessarily center upon the criminal courts, the prosecutor's office, and the police, as the three agencies immediately concerned with the administration of criminal law. A thoroughgoing study of these agencies, however, inevitably carries one into the fields of investigation treated by the other parts of the survey. In dealing with these agencies the treatment is necessarily to a large extent statistical, but statistics are not used with any illusion as to their real purpose and value. The statistical method of dealing with social problems often cannot be relied on as mathematical demonstration leading to specific conclusions, but it may be used to indicate tendencies, to mark out the boundaries of a problem and to point out the direction which should be given to a particular investigation of a non-statistical character. A large disproportion, for example, between the number of arrests and the number of convictions for crime could never lead either to the specific conclusion that there were too many arrests or too few convictions. Either conclusion or both might be true, but the principal fact once established constitutes an important statistical basis for further and more intimate study. It is with this general purpose and with commendable

restraint in drawing conclusions from statistical premises that the studies of the survey are made.

The survey as a whole is evidently dominated by the belief that facts have a reforming power of their own, and that it is more important to let the facts speak for themselves and that the reader should draw his conclusions from them than that the personal views and conclusions of the author should be unduly stressed.

What are the more significant facts in the administration of criminal justice so far as the courts are concerned? There is first the long and complicated procedure which lies between arrest and conviction, inherited from earlier times and from a simpler society than our own, affording too many opportunities for escape of the offender or unmerited mitigation of his punishment; there is the bench, subjected to the corrupting influences of machine politics and more recently to the pernicious political influences of particular racial or religious groups, labor organizations, and the like. There is the inadequate or improper functioning of courts because of insufficient records and lax methods of keeping them. Some offender is arrested for a shocking crime and then upon investigation, often conducted by newspapers, it is discovered for the first time that his career, now brought to its logical conclusion, has been dotted with criminal charges "nolle prossed," sentences suspended, bail jumped and forfeited, and in each instance judicial action has been taken without any adequate knowledge of the offender's previous contact with the courts. There is a lack of dignity and decorum in the conduct of court proceedings, with the inevitable loss of public respect for the administration of justice. There is the bar, recruited in part from candidates with wholly inadequate liberal and professional training, who are brought into it by the operation of the pernicious combination of the low-grade "cram" law school and the low-grade bar examination, — a bar until recently inactive in the matter of the selection of judges, in improving legal education, and in purging the bar of its unworthy members. And finally there is the lack of any adequate permanent system for gathering and disseminating public information about what is of first concern to the public, — the functioning of our system of administering criminal justice.

If we turn to the relation of the public prosecutor to the administration of the criminal law we find a like formidable list of subjects of inquiry. The "mortality" of cases passing through his office, occurring both in his office and in the courts, slackness on the part of the prosecuting officer in maintaining decorum and dignity of the court procedure, laxity in the selection of juries and the presentation of cases in court, indifferent and inadequate representation on the part of the prosecutor of the interests of the public wherever leniency is accorded to those accused of crime through the *nolle prosequi*, suspended sentence, reduced sentence, etc., — these are some of the many subjects considered, but the outstanding fact is that the weakest point in the functioning of the public prosecutor is in the organization and conduct of his office. In large measure the skill and integrity with which criminal justice is administered depend upon the functioning of that office. Yet less is known by the public of what goes on there than of any other part of the machinery of justice. This fact, coupled with the fact that the office is political and peculiarly subject to untoward political influences, accounts for the tendency toward laxity and inefficiency of office organization and office administration when they are of the first importance. Lack of system for the assignment of work and handling of cases, inadequate office records, carelessness in the preparation, filing, and recording of affidavits, entire absence of those methods of fixing personal responsibility which are essential to the conduct of a modern law office, necessarily make for inefficiency and give wide latitude and opportunity for corruption. With such possibilities, all too often becoming realities, in the administration of justice in the courts and in the office of the public prosecutor, it is little to be wondered

at that the machinery of justice does not work with that exactness and precision which the legal theory presupposes and that evasions of the criminal justice thrive through the "no papering" of cases (that is, failure to produce affidavits on which the prosecution of those who have been arrested may be based), the *nolle prosequi*, the suspended sentence, pleading guilty of lesser offenses, reduction of sentence, and the like.

Especially interesting are the reports on legal education and on the relations of the newspapers to criminal justice. The study of legal education presents in succinct and readable form an authentic account of the process which has been going on for the last twenty years in practically every large city of the country, of lowering the tone and standards of the bar through the great increase in the numbers of those entering the legal profession who are without adequate training and without the experience and educational background which make for moral responsibility as well as capacity for assuming the duties and responsibilities of the lawyer. The remedy by raising educational standards for admission to the bar through the active interest and coöperation of the bar is clearly indicated.

Of great importance is that part of the survey devoted to the influence of the newspapers on the administration of criminal justice. Necessarily this portion of the inquiry can be only to a very limited extent statistical. The influence of the press on public opinion, which after all is by far the most potent influence in law administration as well as its direct effect on the process of criminal justice, cannot be weighed and measured statistically. At most, certain tendencies of the press can be observed and noted and their current manifestations recorded, and some estimate made of their effect on the administration of the law. But this has been done with a thoroughness and at the same time with a restraint which will encourage the thoughtful consideration of this most difficult and important problem.

In brief, the survey establishes by specific example and illustration the tendency of the press to interfere with the administration of criminal law, not only by actual attempts at police and detective work but by irresponsible publicity, which embarrasses detection of wrongdoing and hampers the administration of justice through the creation of public sentiment inimical to the fair and impartial trials of criminal offenders. Back of this and of even more serious import is the ever-widening vicious circle of the stimulation, by sensational news methods, of the insatiable public demand for sensational news stories which is corrupting public standards and distorting the popular notions of justice and its administration. Sentimental and extravagant reports of crimes and criminals and criminal trials, the featuring of exaggerated accounts of crime waves followed by like exaggerated accounts of corrective measures adopted by police and courts, the featuring of the personality and official action of public officers, are familiar procedures by which the administration of justice is discredited and the soundness of public sentiment and judgment impaired. And all this is due to the necessities of competition and the feverish haste with which the journalistic enterprise, apparently, must be carried on, the financial limitations which necessitate low-paid reportorial and editorial staffs, and above all to the lack of professional standards which take adequately into account the public duties and responsibilities of journalism. At the same time there is brought home to every student of the subject the fact that the greatest single need for the improvement of our administration of criminal justice and one, which the newspapers apparently cannot supply, is suitable means by which the public may be fairly and intelligently informed about what is actually going on in the courts and how our whole system of administering criminal justice is actually functioning.

The necessity of a free press forbids coercive methods or structural reforms even were they otherwise practicable. Improvement must come from the

voluntary acceptance by the press of higher standards of professional and public obligation.

One might write of many interesting and important features of other parts of the report but time and space forbid. The conclusions to be drawn from the investigation are given in admirable fashion by Dean Pound in the summary. One may not agree with all his conclusions in detail, but in its broad aspect the survey is an admirable presentation of those elements in the problem which are fundamental. The whole undertaking for the improvement of the administration of criminal justice is not one of individuals or personalities so much as it is one of an adequate system; but back of this is the problem of adequate publicity and of securing the primary motive force of good citizenship, which working together will result in the selection of suitable individuals for public office and give to them the stimulation and support which are necessary to make any system work well, however skillfully it may be devised. Our system is bad of course, because it is outgrown, and because being adapted to country communities and the product of one type of social and political philosophy it is now being applied to communities which have gradually become urban and industrial with a changed social and political structure. The system must be changed and adapted to new conditions, and this is a relatively easy undertaking. But no system can be made to work without the support of informed, intelligent, and public-spirited citizenship. How to secure this support is the big problem presented by the survey, to which not only Cleveland but most other cities of this country must address themselves.

Dean Pound's suggestion of a ministry of justice is most helpful, but probably no one would be quicker than he to admit the inadequacy of the ancient device by which one public official is set to watch another. The survey taken as a whole, however, indicates very clearly the need of some permanent body whose business it is to study the functioning of the administration of criminal justice and to place the results of its investigations before the public at frequent intervals. We doubt whether this function can ever be left wholly to public officials. Some civic organization, not unlike the Cleveland Foundation, will ultimately have to be created in each community to undertake this work if real and permanent progress is to be made.

The civic organizations of Cleveland responsible for undertaking and carrying on the present survey and the authors of it may take just pride in their work, and all those interested in the improvement of the administration of criminal justice owe to them a large debt of gratitude and appreciation for bringing it to such a successful conclusion.

HARLAN F. STONE.

INTERNATIONAL LAW: CHIEFLY AS INTERPRETED AND APPLIED BY THE UNITED STATES. By Charles Cheney Hyde. In two volumes. Boston: Little, Brown and Company. 1922. pp. lix, 832; xxvii, 925.

This is a laborious and praiseworthy piece of work. It places at the disposal of any one interested in International Law an indispensable supplement to all earlier treatises. As the title page indicates, the intent is to emphasize the interpretations and applications made by the United States. Yet the practices and contentions of other countries are not disregarded, and the author's presentation of his own country's point of view does not result in twists or in concealments. The author's ambition has clearly been not to demonstrate that his country has always been right, but merely to give to American facts, American documents, and American judicial decisions greater attention than can fairly be expected in a treatise produced by a foreigner.

The footnotes bristle with citations, thousands of them, giving the reader