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The Repression of Crime, by Harry Elmer Barnes

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any to be found elsewhere and in his discussion of each covenant various possibilities such as the effect of a provision for delay rental, express provisions of other types, etc., are analyzed and discussed in such a thorough and comprehensive manner as to leave no doubt of the success of the author's expressed attempt "to get at the principles behind the cases, to determine the validity of the results reached in particular cases, and to weigh the relative value of conflicting rules." The book is far more than the mere statement of rules, with or without a digest of authorities contained in other works on oil and gas.

The chapters on the "Tests of Compliance with the Implied Covenants" and "Remedies for Breach" contain discussions of these topics not approached elsewhere. The summaries contained at the end of each division of the book are helpful, as is the final chapter on "Review and Criticism."

That there is need for such a book is evidenced by the words of Mr. James A. Veasey, an eminent authority on the subject, in a review of the case-book on oil and gas previously referred to. Vol. 23, Michigan Law Review, at p. 930, Mr. Veasey says:

"Another topic requiring more careful attention than is evidenced by this work involves the implied obligations of an oil and gas lessee to drill the property. Cases dealing with that aspect of the law are interspersed throughout the volume, but the subject is of such great practical importance as to merit a separate heading."

Professor Merrill's book admirably satisfies this need.

ALAN W. BOYD.

Of the Indianapolis Bar.

THE REPRESSION OF CRIME.*

This book is an effort to counteract the present hysteria on the part of many people regarding the problem of crime. Mr. Barnes discusses the general importance of the criminal problem, the evolution of American penal codes, the prison system in America from colonial times to the present, the growth of penology, the development of some phases of criminal law, the jury, and recent literature on crime and prisons. A chapter on prison industry is largely devoted to the history of prison industry. Much of the material which Mr. Barnes has used is to be found in specialized works on various phases of the subject, but his activity on commissions of inquiry in New Jersey and Pennsylvania has naturally resulted in his acquisi-

**The Repression of Crime* (Studies in Historical Penology), by Harry Elmer Barnes, Geo. H. Doran Company, New York, 1926, p. 382.

tion of a large body of detail with regard to criminal problems in those two states. However, Mr. Barnes has documented the book well, though it is written in a rather readable style, and most of the standard works on crime and penology will be found cited in appropriate places.

Probably one of the most worthwhile chapters in the book is the chapter on recent literature. Mr. Barnes gives a brief statement of the points of view of various authors, gives a helpful estimate of the value of the particular works on the subject which have appeared in recent years. The book is a vigorous attack on the conventional approach in treating the problem of crime. Probably Mr. Barnes launches his heaviest attack on the jury. His arraignment of this institution as an agency in the effective enforcement of any intelligent policy with regard to crime is very forceful and to many will be very convincing. Mr. Barnes is not content with a little tinkering here and there with criminal procedure, nor with slight modifications in the substantive law. He would have the whole policy of the state with regard to crime fundamentally changed. Perhaps his views are well illustrated by the following quotation, which follows a brief summary of the suggested reforms in procedure and substantive law now being considered by the various lawyers and judges who are interested in some change in criminal law and procedure:

"In any survey of the history of criminal law as it is, however, necessary to emphasize the fact that even the progressive and scientific juristic measures advocated by Dean Mikell and by the members of the American Bar Association who are concerned with the revision of the criminal codes of the country are as much out of harmony with the self-evident and thoroughly established principles of psychology, social science and criminology as the ducking-stool and the pillory. The most advanced criminal code ever proposed by a professional lawyer with any serious hope of its adoption has rested upon assumptions which have been completely repudiated by modern psychological, social and criminal science. Such advanced codes still accept as their fundamental postulate the doctrine that the criminal is a physically and mentally normal individual, and a free moral agent capable at all times of choosing his actions and determining whether he will be a law-abiding citizen or a heinous criminal."

The book is well worth reading because of its clear and vigorous statement of the views of one in the forefront of thinkers on social problems. One may disagree with conclusions, or with fundamental assumptions, but one is forced to re-examine the validity of his own theories. Perhaps the weakness of Mr. Barnes is that he would cast aside too much of the traditional before psychology and medicine and psychiatry have made sufficient advances to enable us to progress in any more intelligent

way than we have hitherto used. One cannot read this book, however, without feeling that it is now high time that lawyers and legislators begin to learn the elements of elementary sciences and to apply them not too gradually to the body of law with which they are continually working. It is not necessary to be a radical to realize that when science has established a fact previously unrealized it is only sheer ignorance and worse to continue to ignore it in governmental and social fields if it is of significance there.

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NOTICES.

(These *notices* are preliminary; they do not preclude *reviews* later.)

American Prohibition Digest, 1926 (Prohibition Search and Seizure Cases). Edited by Arthur W. Blakemore. Published by Mathew Bender & Co. Albany. 1926. pp. XXXV, 389.

This is a book composed of a digest of individual cases arranged under headings to denote one of the main questions involved. The digest of every case is preceded by a brief title in black letter type, which states the rule of law or issue involved in the case. The book is divided into two parts: I. The Eighteenth Amendment, II. The Volstead Act. The main subdivisions under part one are: Validity of State Prohibition Laws, Effect of Prohibition on Shipping, Effect of Prohibition on Civil and Criminal Remedies. The subdivisions in part two are: Words defined, Evidence of Quality of Liquor, Duties of Commissioners. (Indictment and Information. Search Warrants), Crimes, Nuisance—Abatement in Equity, Possession of Property Designed for Manufacture, Contraband, Search, Warrant, Forfeiture Under Volstead Act, Forfeiture Under State Law, Penalties, Repeal, Compromise of Causes, Bonded Warehouses, Industrial Alcohol. Most of these main divisions are subdivided again under appropriate headings to cover the multitude of questions that can properly be grouped together in the general field of law enforcement under the Eighteenth Amendment and State Prohibition Laws.

The book is properly called a digest, that is a brief synopsis of the various cases given under appropriate headings with the general implication that the case bears out the statement of law given in the black letter type by the heading. Apart from this numerous compilation of digested cases the author does