



CSU
College of Law Library

Cleveland State Law Review

Volume 13
Issue 2 *Fraud and Deceit (A Symposium)*

Book Review

1964

Book Review

Rudolf H. Heimanson
Cleveland-Marshall Law School of Baldwin-Wallace College

Follow this and additional works at: <https://engagedscholarship.csuohio.edu/clevstlrev>



Part of the [Law Enforcement and Corrections Commons](#)

How does access to this work benefit you? Let us know!

Recommended Citation

Rudolf H. Heimanson, Book Review, 13 Clev.-Marshall L. Rev. 394 (1964)

This Book Review is brought to you for free and open access by the Journals at EngagedScholarship@CSU. It has been accepted for inclusion in Cleveland State Law Review by an authorized editor of EngagedScholarship@CSU. For more information, please contact library.es@csuohio.edu.

*Reviewed by Rudolf H. Heimanson**

THE LAW OF CRIMINAL CORRECTION, by Sol Rubin, with Henry Weihofen, George Edwards, and Simon Rosenzweig. Published by West Publ. Co., St. Paul, Minn., 728 pages (1963).

This book explores not criminal law but criminology. It is less concerned with individual crimes than with the phenomenon of crime itself, its genesis, history, prevention and cure. To law schools and bar examiners, criminology is almost *terra incognita*, and the actual criminal law is only grudgingly accepted. This unpopularity stands in stark contrast with the layman's vision of the law, and may even be explained by it. To the layman, law mostly means criminal law, and his image of the law is often drawn from distorted accounts of criminal proceedings. Thus, to the legal profession, criminal law has its embarrassing features. Yet, nobody can escape the logic of Chief Justice Vanderbilt's view that only the enforcement of criminal law guarantees our private civil rights. The authors justly demand greater respect for criminal law in our curricula, and equal attention to the roots, effects and controls of crime. The teaching of criminology should not be deemed a trip beyond the border. Criminology may be in the realm of sociology and police science, but law is an offspring of sociology and, as it cannot thrive without enforcement, it cannot be truly understood without an understanding of enforcement methods.

The authors attempt an even closer identification of criminology and law. In the *Law of Criminal Correction*, both sciences meet and form a particular segment of the law. "Criminal correction" is the cohesive which binds both sciences together, and is their joint concern and the ultimate objective of criminal law. Right from the start we recognize the pivotal thesis of the book: Punishment is a remedial but not a vindictive device. There is no deep seated affinity between punishment and vengeance. In earlier times, as the authors remind us, penalties squarely aimed at compensation; the victim's loss must be restored, his sense of vengeance be satisfied. This was *vindictiveness* in its purest form, but it was not actual *punishment*. Revenge and punishment differ in one essential aspect: Revenge is concerned with the victim alone, punishment, on the other hand, considers the offender and

* Professor of Law and Librarian, Cleveland-Marshall Law School of Baldwin-Wallace College.

works directly towards him. Compensation caters only to the victim's wants and feelings; punishment tends to reach the offender. The mingling of retaliation and punishment was understandable in an age which had not developed a clear distinction between civil and criminal trials, and knew very little about the human personality. It seems quite significant that the Church, which is naturally concerned with the human spirit, always did stress the remedial task of punishment. The humanitarian approach received a strong impetus from the constitutional veto against cruel and unusual punishment; yet even in modern practice it often seems lacking, as evidenced by the rash of recent prison riots.

The book reviews the historical and current record of criminal punishment, the effectiveness of the death penalty, imprisonment, fines, probation and parole. It examines the various ways sentencing comes about, *i. e.*, the participation of juries, their part in meting out penalties, the uses and abuses of "bargained sentences," and the commitment to correctional institutions which turns the basically judicial job of sentencing over to an administrative body. Due attention is given to the problems of the criminally insane, the recidivist, the youthful offender, and to constitutional issues arising from Due Process considerations. One may feel that the question of "Double Jeopardy" has been somehow neglected, but the book does not claim to be a full scale encyclopedia. As it is, it represents a generous cross section of jurisprudential, sociological and purely legal problems stemming from the proper treatment of the criminal offender. It does retain an encyclopedic flavor: In arrangement and make up, it resembles *Corpus Juris Secundum* or *American Jurisprudence*, because a comparatively slim text is followed by copious notes. The reader should not be misled by the seemingly light treatment of some subjects; the footnotes, and the cases to which they refer, provide the real substance. For this very reason the book is primarily a *teaching* and only secondarily a *learning* tool; it yields its full value only to those who go on beyond it, and it is up to the teacher to inspire such further research.

This book points out the need for, and provides the means for, a new law school subject: Criminal correction. Conceivably this may become part of a Graduate or Continuing Legal Education program, and it may even serve to enrich and augment the conventional course in Criminal Law and Procedure.