



1925

## Book Reviews

Charles J. Turck  
*University of Kentucky*

Follow this and additional works at: <https://uknowledge.uky.edu/klj>

**Right click to open a feedback form in a new tab to let us know how this document benefits you.**

### Recommended Citation

Turck, Charles J. (1925) "Book Reviews," *Kentucky Law Journal*: Vol. 13 : Iss. 3 , Article 6.  
Available at: <https://uknowledge.uky.edu/klj/vol13/iss3/6>

This Book Review is brought to you for free and open access by the Law Journals at UKnowledge. It has been accepted for inclusion in Kentucky Law Journal by an authorized editor of UKnowledge. For more information, please contact [UKnowledge@lsv.uky.edu](mailto:UKnowledge@lsv.uky.edu).

## BOOK REVIEW

Criminology, By Edwin H. Sutherland, Philadelphia: J. P. Lippincott Company. 1924. pp. 643.

A frequent criticism of judges and lawyers is that they do not keep pace with modern scientific developments. The legal test of insanity, for example, and the medical tests are quite distinct matters. Experiments to get at the truth which are commonly employed by psychologists are forbidden in the court room. The lawyer looks to his precedents, so we are told, while the man of science seeks only the truth, and its novelty is no discredit to it. The inference must be that the law is full of absurdities that science has long ago disregarded.

In no field of law is this backwardness of law reform more repeatedly emphasized than in its attitude toward the problems of crime. The criminologist is likely to assume that the lawyer is a stupid creature, bound to his outworn tools and unwilling to cast them aside. Yet something must be said on behalf of this conservative spirit of the bench and bar, and before proceeding to commend a book that brings to the lawyer many new theories of crime, the reviewer wants to emphasize the fundamental reason that is back of legal tradition and legal conservatism.

The theory of government by law is that the collective wisdom of the race is greatly to be preferred to the brilliant discoveries of new truth made by a scientist of the present generation or even by a presiding judge on the bench. The single reason for this preference of the old is that the old is frequently the better. If one investigator acts upon his new theory, no great harm is done; but if the judge of the court were to follow each new theory of psychologist and criminologist, he would at once plunge a great group of people into a vast social experiment, and if, as occasionally happens, the theorist should guess wrong, infinite harm would be done. In the nature of his profession, therefore, the lawyer and judge must be by instinct a conservative. The rocks of government cannot be shifted about like the sands of the sea.

Yet no lawyer closes his mind to the presentation of new truth. In view of the public interest in criminal law, it is in this field that the lawyer must be particularly alert to recognize the wisdom of our day as well as the wisdom of the cases. The latest and ablest collection of theories, opinions, facts, reasoned judgments and thoughtful interpretations in this field has been recently published in the form of a text on "Criminology," by Dr. Edwin H. Sutherland, of the University of Illinois. No lawyer who wishes to keep informed on the trend of the times in regard to society's treatment and understanding of the criminal can afford to ignore this book.

Dr. Sutherland is not a lawyer, and the book is not written primarily for lawyers. But it contains a thorough discussion of many matters with which lawyers have much to do. A brief reference to these matters will indicate the scope of the book. On the question of whether there is a distinct criminal type, the author concludes that the young adult male class living in the cities has the largest criminal group, but that there seems to be little difference between criminals and non-criminals with reference to mentality. Among the causes of crime listed are heredity, abnormal or defective personality, mental disorders, social maladjustments, broken homes, slum districts, bad companions and gangs, and a public opinion that "not only puts no impassible barriers around the individual but gives him glorified examples, makes him believe that crime is customary, breaks down the legal influences."

In discussing the police system, Dr. Sutherland recalls the remarkable work done by Arthur Woods in New York City. "The preventive policeman is the policeman of the future." He approves the state police for rural districts. He makes a deserved criticism of the system of bail as a hardship on the poor and as a producer of a class of professional bondsmen who are often not good security and serve only as agents of further corruption. In Dr. Sutherland's opinion, the use of the county jail as a place of incarceration for convicted prisoners should be abandoned and convicts should be confined only in state institutions. In England, the local prisons were all taken over by the central government fifty years ago, and the change has produced a prison system that is less expensive and more efficient,

The author lists the three chief criticisms of the criminal courts as follows: (1) The prevalence of fixing cases by political or other influences; (2) the "sporting" theory of justice, with the trial a game between two lawyers; (3) the defective organization of the lower criminal courts. The use of juries should be confined to the more important cases, as it causes delay and it does not have the active support of the citizenship. The idea of the juvenile court is warmly endorsed, and the author suggests that it be progressively and gradually extended to include all delinquents, whether juvenile or adult.

It is in connection with his discussion of the juvenile court and the idea of control for the sake of reform rather than of punishment that Dr. Sutherland most emphatically disagrees with the original notion of the purpose of criminal procedure. He states frankly that "it is necessary to keep the punishment attitude and abandon the effort to understand the situation or else abandon the punishment attitude and continue the effort to understand the situation. The two attitudes are not in harmony and cannot be combined." In line with his theory that society in dealing with the criminal must aim to reform wherever reform is possible; he believes that prisoners should be kept at work, that schools for their educational development should be established, and that the whole atmosphere of our present prison system should be thoroughly cleansed and changed. "The only persons we save nowadays are those we do not send to prison."

The author strongly favors the indeterminate sentence because the punishment or confinement should be made to suit the criminal rather than the crime. The parole system is approved, not as a financial saving but as a saving in personality. The system of probation under suspended sentence is described as decidedly preferable to the alternative methods of imprisonment or dismissal without oversight.

From beginning to end, Dr. Sutherland has faced controverted issues squarely. He has presented both sides of each problem, he has marshalled an innumerable list of references for more extended statements, and he has with caution but with courage pointed the road that society in treating criminals must take. He has, in short, given in one volume an amazingly thorough and exhaustive summary of the multifarious legal, economic and sociological factors that make up the science of criminology.

C. J. TURCK

