

## THE LAWBREAKER

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A CRITICAL STUDY OF THE  
MODERN TREATMENT OF CRIME

By

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## BIBLIOGRAPHY<sup>1</sup>

- English Justice.* By "Solicitor". 1932.
- Studies in the Psychology of Delinquency.* By Grace W. Pailthorpe, M.D. (Medical Research Council.) 1932.
- Die Strafe.* By Hans von Hentig. Stuttgart, 1932.
- Borstalians.* By J. W. Gordon. 1932.
- Shades of the Prison House.* By Stuart Wood. 1932.
- Boys in Trouble.* By Mrs. L. le Mesurier. 1931.
- The Crime of Punishment.* By Margaret Wilson. 1931.
- The Death Penalty Inquiry.* By E. Roy Calvert. 1931.
- Corporal Punishment, an Indictment.* By George Benson, M.P., and Edward Glover, M.D. (Howard League.) 1931.
- Five Hundred Criminal Careers.* By Sheldon and Eleanor Glueck. New York, 1930.
- Life in London's Great Prisons.* By T. Whyte Mountain. 1930.
- Justice and the Police in England.* By Albert Lieck. 1929.
- Capital Punishment in the Twentieth Century.* By E. Roy Calvert. (Fourth edition.) 1929.
- A New Way with Crime.* By A. Fenner Brockway. 1928.
- Children's Courts.* By Sir William Clarke Hall. 1926.
- The Young Delinquent.* By Cyril Burt. 1925.
- Crime and Insanity.* By Dr. W. C. Sullivan. 1924.
- English Prisons To-day.* By Stephen Hobhouse and A. Fenner Brockway. 1922.

<sup>1</sup> For a more detailed list of books on the treatment of crime, the reader is referred to the Catalogue of the John Howard Library, Parliament Mansions, Orchard Street, Victoria Street, London, S.W. 1.

- The Psychology of the Criminal.* By M. Hamblin Smith. 1922.
- English Prisons under Local Government.* By Sidney and Beatrice Webb. 1922.
- The English Prison System.* By Sir Evelyn Ruggles Brise. 1921.
- The English Convict.* By Charles Goring. (Abridged.) 1919.
- A History of Penal Methods.* By George Ives. 1914.
- The Criminal Prosecution and Capital Punishment of Animals.* By E. P. Evans. 1906.
- Crime and its Causes.* By W. D. Morrison. 1902.
- The Punishment and Prevention of Crime.* By Sir Edmund Du Cane. 1885.
- The State of the Prisons.* By John Howard. (Everyman edition.)

## OFFICIAL REPORTS

- Report of the Departmental Committee on Persistent Offenders.* 1932.
- Report of Select Committee of the House of Commons on Police Forces (Amalgamation.)* 1932.
- Report and Evidence of the Select Committee of the House of Commons on Capital Punishment.* 1930.
- Report of the Royal Commission on Police Powers and Procedure.* 1929.
- Report of the Mental Deficiency Committee.* Parts 1-4. 1929.
- Report of the Departmental Committee on the Treatment of Young Offenders.* 1927.
- Criminal Statistics for England and Wales.* Annual Volumes.
- Reports of the Commissioners of Prisons.* Annual Volumes.

## OTHER PUBLICATIONS

*Publications* of the Howard League for Penal Reform, National Council for the Abolition of the Death Penalty, the Borstal Association, the Probation Officers Association, the Magistrates Association and the Penal Reform Committee of the Society of Friends.



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