

## Book Reviews

by J. C. MARTIN, K.C.

THE UNKNOWN MURDERER, by Theodor Reik. Pp. 260. George J. McLeod Ltd., Toronto, \$3.75; Prentice-Hall, Inc., New York, \$3.

This book, dated 1945, and ably translated from the German by Dr. Katherine Jones, deals with the application of psychology in the field of criminal law before the criminal is known.

It is a highly provocative book and for that reason difficult to review because the reader is tempted at times to be led into argument. For example, the author says (p. 43): "Doubts have been thrown, and rightly so, on the adequacy of the psychological knowledge and understanding of judges in problems of this kind (i.e., of establishing a connection between the deed and the personality of the criminal). It is like trying to get to the deepest layers of the earth with the child's spade. Do not let us speak of common sense which guides the judge in his examinations. Stupid things with tragic consequences are still done in the name of common sense. The way in which the judges, the public prosecutor and the defending counsel learn to know the accused is the most cursory that can be imagined, the material at their disposal is the scantiest, the method they employ the most superficial."

At p. 45 he writes: "The kind of psychological thinking which dominates the law courts becomes most dangerous when it is thrown as a weight into the scales of Justice. The scales are, indeed, falsely weighted whether it is a question of the expert's opinion about a witness's capacity for remembering, or of making a judgment about the nature of a suspect's impulses so as to arrive at a conclusion as to his guilt or innocence. It is not my business to show in how many thousands of cases the naive trust in one's own psychological insight or in the understanding of other people's mental processes has led to the most terrible miscarriages of Justice."

These extracts would appear to be an argument that psychological training should be part of the equipment of a judge, but later we find the following (p. 54): "Alexander and Staub assumed it was right and

important to 'introduce' psycho-analysts into the courts of justice. They prophesied that psycho-analysis would never again leave these courts. In a review of their book—I expressed a doubt as to the desirability of psycho-analysis in the law-courts. I was afraid that the functionaries of the law would misunderstand psycho-analysis and would teach the criminal that what he used to do by instinct was done in accordance with certain rules." And again (p. 55): "No, I do not wish for the 'introduction' of psycho-analysis into court. I had rather it stayed outside. I think a law-court is not the right place for psycho-analysis. Its influence goes deeper; its research into criminology will lead to a recognition of the many problems involved in criminal justice."

It is difficult to reconcile these expressions even amongst themselves. It is equally difficult to reconcile them with the view of Prof. Hugo Munsterberg stated in his book *On the Witness Stand*: "The time will come when the methods of experimental psychology cannot longer be excluded from the court of law. It is well known that the use of stenographers in trials once met with vehement opposition; while now the shorthand record of the court procedure seems a matter of course. The help of the psychologist will become not less indispensable."

The case which the author cites as the outstanding example of judicial error is that of the murder of a domestic servant in 1886. A number of clues pointed to a tanner, Gregor Adamsberger, who in his turn sought to inculpate a youth named Franz Kunz. The latter, however, refuted the tanner's suggestions and produced what seemed to be a conclusive alibi. Adamsberger was convicted and sentenced to be imprisoned for life. In 1890, Kunz attempted suicide and confessed in detail how he himself had murdered the woman. This author stresses the point that the court was unduly influenced by public opinion, yet, as he tells the story, it seems that the emphasis should fall elsewhere. The court must proceed on the evidence before it and, while Kunz must have been a convincing liar, the fact remains that his word was the