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## Review of “The Elements of Crime,” By Boris Brasol

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## Book Reviews

THE ELEMENTS OF CRIME. By *Boris Brasol*. pp. xvii and 433. New York: Oxford University Press, 1927. Price \$5.00.

Brasol was born and educated in Russia. He was admitted to the bar, and after serving some time in legal and administrative offices was sent to Switzerland and France by the Russian Ministry of Justice to receive special training in criminology. Subsequently he was appointed prosecuting attorney of one of the districts of St. Petersburg. He thus combines special training and practical experience in the field covered by this volume.

The field of criminology is so broad that Brasol does well in limiting his treatment to one phase, the "nature, genesis, growth and outward manifestations" of crime. Even so limited, however, he presents so much material that one cannot hope to summarize it in a brief review. It will be necessary to call attention to a few selected features of his argument that proved particularly interesting to the reviewer.

First of all we shall want to be clear as to just what the term crime is taken to mean. This is particularly the case because a good deal of confusion exists as to the content of the term, not only among laymen but also among specialists. Hence we find practically every book on the subject defining its term anew. Brasol chooses to restrict the term to those societies in which the metaphysical entity, the "state," has appeared. Such a book as Malinowski's recent volume entitled *Crime and Custom in Savage Society* would, from Brasol's point of view, carry an incorrect implication as to the meaning of the term, crime. Specifically a crime is an "act of an individual aiming at the wilful transgression of the dictates of the social order." As defined by the materials actually presented in the book, the discussion deals with the genesis of breaches of the "dictates" of the social order embodied in the law.

The general method of analysis is somewhat stereotyped. Since crime is a result of social friction, we are led to inquire into the causes of such friction. The elements disclosed are society, on the one hand, and the person on the other. Theoretically, one may seek his explanation in either of these elements or in both. Brasol considers any explanation in terms of only one of these elements as invalid, hence he adopts a method which will embrace them both with, perhaps, more emphasis on the conditions in society [as the directing or determining factors in the etiology of criminal acts].

The social factors occupy the first half of the discussion. Here we find the usual analysis of the correlations between crime and economic conditions, religion, the family, education, the press, literature, legislation, enforcement of criminal law, methods of detection. In general, Brasol's position is orthodox. Economic determinism is rejected; the family and religion are degenerating; education has become secular, consequently juvenile delinquency increases (an assumption which seems to be contrary to our latest reports on juvenile delinquency in this country), and so on. On all these points we are offered nothing new, and since these alleged correlations have not been measured, we do not know whether they exist, or to what degree. Hence inferences from them can amount only to hypotheses.

In one or two respects a new point of view is offered. In regard to the role of the press, Brasol takes a very strong position against the practice of the re-

porter interesting himself in criminal investigation. One of the best parts of the book is presented in the criticism of criminal investigation in this country. In this respect the United States is alleged to be far behind European practice. Three aspects are assailed in particular, namely, the exaggeration of the importance of oral testimony, the deification of the "half-ignorant" and "almost invariably incompetent" detective, and the use of "confessions." As a corrective substitute Brasol suggests the formation of an institute of scientific criminology. This is not new but it is frequently ignored in the prevalent discussions of crime by those who look only to more serious punishments as the cure for the evil rather than in methods of connecting the offense with the actual offender.

In view of this last named tendency on the part of many contemporary comments on the situation in the United States, we must not omit mention of one particular in which Brasol takes an unorthodox position. While he asserts a correlation between punishment and the amount of crime, he at the same time points out that there does not seem to be much correlation between the *type* of punishment and the amount of crime. For example, no punishment at all would result in increase of murders, but as between capital punishment and life imprisonment he asserts that there is no evidence that one is more effective than the other. In other words, he is unable to find any correlation between the death penalty and the amount of capital crime.

The second half of the book is devoted to the other element in the causation of crime, the "bio-psychic." Here is presented a good deal of material descriptive of mental processes in general and certain types of abnormality in particular. He assumes the freedom of the will in general but also recognizes some cases which are exceptions to the rule. Hence he is compelled to review the standards by which the exceptions can be made. He does so by presenting the rules in *McNaughten's Case*, as well as those rules and practices in vogue on the continent. He is too well versed in the literature of abnormal psychology to be willing to dispense with the expert in this field. But how is he to be used? He condemns the common practice of alienists hired by the contending parties, and advocates the appointment of alienists by an impartial body so that they shall in no way be within the influence of the conflict. The report of such experts should be made a part of the jury's verdict, but should be independent of the latter since in his opinion the assumption that a jury is competent to pass on mental status is a "legalistic atavism."

Brasol's general psychological point of view may be described as that of an older instinct psychology. Thus we are told that we all have an ego-centric instinct, which may be developed into a criminal personality or not, depending on the incidence of the social factors mentioned in part one. Given this ego-centric instinct in competition with a gradually implanted (not congenital) social disposition, the issue is determined by the success of the implanting process. It is in this sense that his view of causation is said to be a social rather than an hereditary one. It does away with the born criminal in the Lombrosian sense.

Brasol's general psychology is but one of the several types in contemporary psychology. His discussion, therefore, on this point, must be recognized as the elaboration of a theory rather than a measured conclusion which must be accepted. As an explanation of criminal or other behavior it is not final. We are left about where we began, with the problem of the causes of crime (if indeed we can still use the concept of cause) somewhat clarified, but with an increased sense of the painful lack of tested knowledge on this important phase of human behavior.

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