" *The Challenge of Delinquency*," by Teeters and Reinemann, pp. 819. New York. Prentice-Hall. 1950.

" *Deliberations of the International Penal and Penitentiary Congresses*," by Negley K. Teeters, pp. 198. Philadelphia. Temple University. 1950.

These two publications are indispensible for any library carrying works on criminology.

" The Challenge of Delinquency " is a comprehensive and detailed study of the causation, treatment, and prevention of juvenile delinquency. Professor Teeters, co-author of the established text book " New Horizons in Criminology," is a Dean of the Faculty of Sociology at Temple University, and his interest in penal history as well as current practice has blended well with the everyday experience of Mr. Reinemann, who is the Director of Probation in the Municipal Court of Philadelphia. Not unnaturally, the bulk of the book is devoted to American practice, but space is also given to certain English experiments such as the Q. Camps, Approved Schools, and Borstals. Fifteen case histories are collected in an appendix in order to relate the general exposition of the problem of juvenile delinquency to the specific difficulties that each individual young criminal presents. " The Challenge of Delinquency " can be heartily recommended to Probation Officers, Children's Court Officials, Teachers, those working in institutions for young people, and generally to all who are interested in this important and difficult subject.

The " Deliberations of the International Penal and Penitentiary Congresses " is a short work in which are summarized the discussions and resolutions of the eleven congresses held between 1872 and 1935 by the International Penal and Penitentiary Commission. The deliberations at these congresses are elsewhere available, but they are available only in French and in such bulk as to deter all but the most serious (might one say " obsessed ") students. By rendering them down into a light and comprehensible whole, Professor Teeters has performed a worthwhile service for all those interested in penal matters.

N.M.

The Hearsay Rule, by R. W. Baker, B.C.L., B.Litt., LL.B., Professor of Law in the University of Tasmania.

A learned magistrate once observed that the law of evidence presented less terrors in practice than he had anticipated, because in general these were only two matters on which he was called on to rule. One was the objection that the evidence tendered was hearsay, the other, that the evidence tendered was irrelevant.

Every practitioner will acknowledge the correctness of the Magistrate's observations. Unfortunately there is no means known to law whereby a sense of what is not relevant to a given legal situation can be

instilled into the minds of discursive and garrulous witnesses: nor can it always be instilled into the mind of practitioners and judges.

On the other hand there is no reason, in principle, why the nature of hearsay should be so persistently misunderstood among practitioners.

Over twenty years ago the late Mr. Justice Ferguson, in an article in the Australian Law Journal[1], trenchantly criticised the then prevailing professional misconceptions as to hearsay. Those misconceptions still flourish. The need for a comprehensive but concise text book on the subject has been evident for years. The book under review should fill that need.

Professor Baker's book begins with an analysis of the nature of Hearsay, and then traces the history of the rule: against that background he traces the development of the various theories advanced for the exclusion of hearsay and shows the extent to which the exclusion of hearsay was influenced by the jury system. The value of this historical approach is especially evident in the discussion[2] of the reasons put forward by Professor Morgan to justify the admissibility of admissions.

The author then proceeds to deal with the various exceptions to the hearsay rule. Here the treatment is very satisfactory—the author first states the rule, then traces its history, then states the principle which (in his opinion) justifies the particular exception. He then deals briefly but critically with the requisites for admissibility of the evidence tendered under the exception in question, and then finally offers suggestions as to the future of the exception in question. Thus he is very critical of the " heresy " of Lord Blackburn in *Sturla v. Freccia*[3]: he suggests that the rule therein enumerated which requires that for a public document to be admissible it should have been open for inspection to the public or a large proportion thereof should be reversed, and he is very critical of the decision in *Lilley v. Pettit*[4] which followed and applied the " heresy " of Lord Blackburn.

Again he regards the *English Evidence Act* 1938 (on which our *Victorian Evidence Act* 1946 is modelled) as being unduly limited. In general, he favours the immediate liberalisation of the hearsay rule (for instance he would admit all statements made by persons of competent knowledge in good faith and before the beginning of the suit, such persons being now deceased) and the ultimate abolition of the rules excluding hearsay. He urges in fact " that the principle should be established that all relevant evidence should be admissible unless some rule of policy excludes it. This is the approach adopted in *R. v. Sims*[5] (subsequently criticised by the Judicial Committee of the Privy Council in *Noor Mahammed v. The King*[6]).

From an Australian point of view, it is curious that the author makes no mention of *Cornelius v. The King*[7]. One result of this omission is that he adopts (without comment) a statement (by Lord Coleridge C.J.

1. Volume 1 at p. 195.
2. At p. 32.
3. (1880) 5 A.C. 623.
4. [1946] K.B. 401.
5. [1946] K.B. 531.
6. [1949] A.C. 182.
7. (1936) 55 C.L.R. 235.

in *R. v. Fennell*[8]) of the rule governing the requirements for admitting confessions in these terms :—

> " The confession made by the accused must have been free and voluntary, *that is, must not have been extracted by threats or violence, nor obtained by any promise.*"

The words which I have italicised state a view as to " voluntariness " which is no longer tenable in view of the decision in *Cornelius' Case*—see also *R. v. Lee*[9].

One view advanced by Professor Baker seems to the present reviewer to be somewhat wide of the mark. Dealing with the fact that many " confessions " are repudiated at the trial, and after citing the remarks of Cave J. in *R. v. Thompson*[10] on this point, Professor Baker adds the curious comment :—

> " But not too much importance should be attached to this not infrequent repudiation, for it is felt that it must be a common experience in criminal law circles that confessions are made whilst the accused is still unrepresented ; the repudiation takes place after the brief has been placed in the hands of counsel."

I presume this last statement is intended as an example of *post hoc propter hoc*. If it is it casts an aspersion which, so far as Victoria is concerned, at all events, is quite unwarranted. In any case it betrays a regrettable ignorance of the creative and inventive abilities of those unknown geniuses of the " remand yard " who are forever willing to suggest a good defence—who in fact will suggest up to four or five alternative defences—to any fellow-inmate awaiting trial.

Notwithstanding these defects, (which are slight compared with the merits of the book), the book is one which can and ought to be studied with profit by student and practitioner alike.

At all events, there can be little excuse now for any practitioner who neglects this means of correcting any misapprehensions he may have as to the nature of hearsay evidence.

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8. (1881) 7 Q.B.D. 147, at p. 151.
9. [1950] A.L.R. 517.
10. (1893) 2 Q.B. 12, at p. 18.

The Law of Carriage by Inland Transport, by O. KAHN-FREUND. Second Edition. London. Stevens & Sons Ltd. 1949. pp. xxv, 357.

The first edition (1939) was based on Disney's *Law of Carriage by Railway*, but was substantially rewritten. Since then the law of inland transport has been dramatically affected by nationalisation, and the second edition, therefore, had to be largely recast. The work is done with the clarity and skill which we expect from Dr. Kahn-Freund. It is primarily intended for the student, but its usefulness goes beyond that. It naturally cannot compete with the detail of the eight hundred pages of Leslie's *Law of Transport by Railway*, but it has the advantage of being adapted to the recent acts, while Leslie is dated 1928. The