

Fall 1936

Book Reviews

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Book Reviews, 27 *Am. Inst. Crim. L. & Criminology* 467 (1936-1937)

This Book Review is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in *Journal of Criminal Law and Criminology* by an authorized editor of Northwestern University School of Law Scholarly Commons.

BOOK REVIEWS

THORSTEN SELLIN [Ed.]

CRIME AND JUSTICE. By *Sheldon Glueck*. 349 pp. Little, Brown and Co., Boston, 1936. \$3.00.

Two years ago, I read with pleasure and with some excitement Waite's "Criminal Law in Action," a vigorous account of the administration of the criminal law, based upon personal contact. Last year, I read with profit, but with considerable labor upon my part, Jerome Hall's "Theft, Law and Society," a scholarly and thorough treatment of one small field of the substantive criminal law. This year, as part of my summer's reading, I read with *pleasure and profit* Sheldon Glueck's latest book, based upon his lectures delivered to a lay audience at the Lowell Institute, Boston, in the spring of 1935. While anything Glueck writes may be read with pleasure and profit, I did not find in his "Crime and Justice" the stimulation which Waite's book, also written for the lay audience, had for me. Nor did I find in it the thorough scholarship in the development of a *new* field, which Hall showed. But Professor Glueck accomplished the task which he imposed upon himself in a very skillful way—he has pointed out the ills of the present system of criminal justice, and he has presented a plan for betterment. He has produced a volume which every serious minded citizen should, and many will, study.

What a gloomy picture the first six chapters present! He has taken

all the *bad* features of the present system and has held them up for all to see. He washes all the dirty linen of criminal justice right before us. Under the topic of *Climate of Justice* (Chapter I) he discusses the difficulties which we face in this field: our aims are complex today due to our industrialized, dynamic civilization; the rush to the cities, overcrowding, overstimulation, the increase of leisure, the development of a sensation loving public, all add to our problems; there is a growing disrespect for traditional symbols and agencies of authority; the increase of divorce, the decline of the church, the growth of corruption, the weakened respect for the courts and the bar, plus an increasing tendency to evade the laws increase our perplexity. As for the *Climate of Justice*—it is *foul*.

As to the *Halls of Justice* (Chapter II) police stations are crowded and disorderly and American police are weak in equipment, investigative method, organization, crime prevention, and centralized control. Prosecutors' offices are full of confusion and give an impression of "unsystematic conduct of business and, worst of all, lack of dignity." When he describes the dirty, noisy, and sordid courtrooms we can almost get the old "Court-house smell" again. As to industrial schools, jails and prisons, overcrowded by sex-starved inmates,—with a few rapid strokes of his pen

he pictures them so vividly that every reader will ask himself, "Why do we allow such conditions to exist. What can we do to better them?"

Under *Lameness of Justice* (Chapter III) he discusses the hampering effect of our constitutional guaranties. Justice must be administered *legally*. Evidence illegally obtained ordinarily cannot be used even against an obviously guilty criminal, criminals may not be "entrapped," and interstate rendition must follow technical rules. Procedural obstacles in the path of justice explains much of its *lameness*: law's delays, the four-fold sifting of the case "by the police, magistrate, prosecutor and grand jury;" long form indictments, jury trial, the law's slow acceptance of the contributions of extralegal science, the technical rules of evidence and trial rules, all receive swift but sure attention from Professor Glueck. The substantive law code is a maze of contradictions and the resultant edifice, magnificently described, is "like the temple of some insane architect."

And then he discussed the *Blindness of Justice* (Chapter IV). "Criminal statistics, however carefully gathered, are only samples, and not always reliable ones, of the actual crimes" and our data springs from different fact-finding agencies of varying reliability. Record systems are inefficient and we have no way at all of checking the exercise of discretion by administrative officers. Sentences vary exceedingly, even in the application of indeterminate sentences and these differences are not due to scientific individualization. The public shows its blindness through "planless 'reforms,'" and all our

officialdom exhibits a lack of training in the social sciences. But, these sciences are as yet undeveloped themselves? The answer, "there is enough available in extralegal disciplines even today to render justice less blind."

The *Knights of Justice* (Chapter V) are the *police*, suffering from politics, short terms, poor selection, little training; *prosecutors*, who have vast powers of discretion, but are politically minded opportunists; *defense counsel*, whose methods "range all the way from the use of every ingenious procedural technicality to gain an acquittal, to the exercise of downright political influence in the district attorney's office, the obtaining of perjured testimony and jury fixing;" *judges*, interested in politics, and *clerks* and *bailiffs*, all highly useful henchmen to political bosses; *bail bondsmen*, skilled in dishonesty; *jurors* drawn from the undesirable classes; *penal workers*, including the overburdened *probation officers*, the *wardens*, politically appointed, the *guards*, who are "voluntary prisoners" themselves and poorly paid and untrained *parole officers*.

And on the same chessboard with these Knights are the *Pawns of Justice* (Chapter VI). It is difficult for anyone to describe the "criminal class" because "every person has his own resistance-point." Professor Glueck nicely states that "criminal conduct as a rule is the gradual development of a related series of anti-social acts" but it is difficult to evaluate the "factors" causing crime among those mentioned: illiteracy, economic conditions, broken homes, mental defects, employment of

children, unwholesome recreation, and many others.

These six chapters are designed to stimulate laymen into action. They contain little of novelty to criminologists and in some places the pictures seem somewhat overdrawn. I should have been better pleased had they been omitted entirely and the book made up from the later chapters, greatly expanded. The same old *Crime Surveys* form a large part of the basic material, particularly the continued use of the Cleveland Survey of 1922 and the ten-year-old figures of the Illinois Crime Survey. The description of the Chicago Police Commissioner's office with its ward-heeler hangers-on is decidedly unfair to our present efficient Commissioner, James P. Allman, who now has served for five years. In 1936, to say that only 3.8 per cent "of the cases" in Chicago ever reach trial "in recent years" [p. 85] is quite misleading, as that figure, as of 1926, was limited to felonies and jury trials and was related to all "cases" even those discharged at preliminary hearing. The Illinois Crime Survey is no accurate source for Chicago's crime today. In 1935 there were 2,011 indictments (felonies) and 438 jury trials in spite of the fact that since the Illinois Crime Survey defendants may waive jury trial. If the Illinois Crime Survey is used as descriptive of general conditions in this way, how much reliance can we place upon Professor Glueck's constant use of other surveys and Mr. Bettman's analysis? Other cases of over-emphasis are the use of the famous "THE" case, *State v. Campbell* [note on p. 300], when that case was later overruled and probably would not be followed anywhere today, the statement that

in thirty years, Chicago has had fourteen chiefs of police [p. 138], the figures relating to the *nolle prosequi* [p. 145], and the discussion of the inadequate securities furnished by bondsmen [p. 60] based upon a report of 1927. I do not know bail-bond conditions elsewhere but there has been such a stringent tightening up by statute and practice, that it is quite difficult for a Chicagoan ever to comply with the rules followed. These and a few other small "errors" met my eye while reading. Having some first-hand information, I find that the Chicago segments of Professor Glueck's picture are overcolored and it casts some doubt upon the other parts of the picture, since they all are painted with pigments prepared several years ago.

While inclined to be critical, I wish to state that, although the publishers have used the usual gaudy jacket and have produced an attractive volume, the practice of putting the notes at the end and failing to cut many pages is irritating. The notes are full and interesting and some [see pp. 298, 330] must be closely studied because of their length. The documentation is admirable, although a serious omission was the Report of the Committee on Personnel made by Professor Waite to the Section of Criminal Law of the American Bar Association last year.

And now for the best part of the book. Professor Glueck, the psychiatrist and criminologist, becomes the political scientist in a very splendid way as he deals with the *Prospect of Justice* (Chapter VII), and the *Horizon of Justice* (Chapter VIII). First, we must overcome inertia and secure the aid of opinion-forming agencies. Then, we must eliminate the vindictive

element in criminal law and the present mass-treatment and erratic-treatment, still in vogue. In his own words:

"How, then, shall a more scientific and just individualization be brought about? Four features of an improved system appear to be indicated by analysis of the existing sentencing practices. First, the treatment, or sentence-imposing, feature of the criminal proceedings needs to be differentiated from the guilt-finding phase in method and, to a large extent, in personnel. Second, the decision regarding the treatment necessary for each offender needs to be left to a tribunal or board specially qualified in the interpretation and evaluation of sociologic, psychiatric and psychologic, as well as legal, data. Third, the treatment program arrived at in each case needs to be modifiable in the light of periodic reports of the offender's progress, submitted to the tribunal by those entrusted with carrying out its mandates. Fourth, the rights of the individual must be safeguarded against possible arbitrariness or other unlawful action on the part of the treatment tribunal."

This sentencing board should contain a psychiatrist or psychologist, a sociologist or educator and the trial judge, with carefully defined powers. Then, there must be a *wholly indeterminate sentence*, with the use of all predictive devices, improved police [too heartily condemned in the text, I feel], improvement in the trial so as to make it more like juvenile court proceedings, judges with more power, a code of *administration*, more ethical defense, and much more ingenuity in correctional practices such as the use of psycho-

analysis, home visits, education, prison labor, foster-homes for juveniles and the like.

And, added or superimposed, is recommended a "well-planned, expertly staffed Ministry of Justice" with units or bureaus for (1) police administration, (2) public prosecution, (3) public criminal defense, (4) court administration, (5) correctional facilities, (6) (in effect) judicial and legislative council, and (7) personnel.

Above all, we need to establish "*Career Service*" by eliminating the spoils system and properly educating those who administer criminal justice—even the judges must be included! A few final words on crime prevention, marital and family guidance clinics, recreation, and mental defectives and the book ends with a thoughtful forecast on the complex problem of economic security.

Already, this review is so long that I can only justify it by stating that a Glueck book always deserves it. I find a conclusion difficult. His ideas of a board of sentencing judges and a ministry of justice are not new. Many statements inclined me to argument, but the purpose of a review is to show what the book contained and then to evaluate it. I have sufficiently accomplished the first objective. As to evaluation—I think Professor Glueck accomplished exactly what he set out to do. He furnished valuable and interesting material for the lay reader—and he has taken many long steps toward the accomplishment of one point he emphasized in the text—the necessity to overcome public inertia and to arouse opinion-forming agencies.

NEWMAN F. BAKER.

Northwestern University
Law School.