

1941

## Book Reviews

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## BOOK REVIEWS

A. R. Lindesmith [Ed.]

A KALEIDOSCOPE OF JUSTICE. By John H. Wigmore. Washington Law Book Co., Washington, D. C., 1941. Pp. xxx, + 736. \$5.00.

That John H. Wigmore, after bringing out the third edition of his renowned Evidence Treatise in 1940, should publish an entirely different sort of work in the early part of 1941, surprised practically no one who knows the man. His capacity for literary production is as legendary as the breadth of his interests. In reviewing his "Kaleidoscope of Justice," therefore, surprise as a theme for these paragraphs is definitely unavailable. Indeed, even the title, worthy of note as unusual if used by another, represents the expected with Wigmore, whose lack of imagination is about as justly famed as Hitler's love of peace!

As you well know, a kaleidoscope is not ordinarily a book. Strange things happen, however, even in this world, and now we do have a kaleidoscope that is a book—no ordinary book either. To quote the author, ". . . the 'Kaleidoscope of Justice' shows the different peoples of the world in all times and climes, perpetually engaged in this perennial process of seeking to administer justice, in one or another fashion." Now, the description of the machinery of justice in other lands has been assayed before. Witness the author's own "Panorama of the World's Legal Systems" and Burdick's, "The Bench and Bar of Other Lands" among others. In the volume presently under consideration, however, attention is focused on the stuff itself; justice as it is done. Specifically, the book consists of brief accounts of actual trials reprinted from other sources with explanatory notes by the author. There are, of course, numerous books containing accounts of trials, even series of volumes reporting famous trials in full. Here, however, instead of selecting from notable Anglo-American *nisi prius* cases, the author has selected from a vast field of cosmopolitan material to give us

sketches, brief eye-witness accounts of trials in England, France, Germany, Italy, Russia, Scandinavia, Arabia, China, Indo-China, Japan, Mongolia, Turkey, African tribes, North America, Latin America, Oceania, and the ancient Law-Peoples of Egypt, Mesopotamia, Judea, Greece and Rome.

Nothing puny about the sweep of this single volume! Into 736 pages are crammed some 150 trial stories, for the most part of the civilizations of earlier periods. Obviously, this is something a bit different and it calls for appraisal on a different basis from that appropriate to a treatise. As the author points out: "This book is not offered for recording any scientific views, but to enable the reader to share the entertainment which the compiler has had in perusing these records of the varied ingenuity of the human mind in doing justice."

If you wish to recall or learn for the first time of the ordeals of hot iron, boiling water, fire, cold water, red hot spoon, boiling butter pot, the thornbush corral and others, the Kaleidoscope is prescribed. Then there are reports entitled: "Cruel Justice of the Ameer of Afghanistan: The Ameer Eats His Ice Cream While 400 Rebels Have Their Eyes Put Out"; "Trial Procedure Among the Khasi Tribe in Assam: Judge and Jury Eat the Fine, i.e., a Pig"; "The San Francisco Vigilance Committee of 1856: The Hanging of Casey and Cora"; etc. Some few of the well known trials of history are to be found within the volume—those of Solomon and the two mothers; Socrates; Joan of Arc; Paul the Apostle, and others. Many more, however, most readers will acquaint themselves with for the first time. The story of the origin of the term "Lynch Law" was, I confess, new to me.

Interesting insight into judicial perception of an earlier day is afforded by the report of a trial before Mohammed (A. D. 570-632) of a woman charged with adultery. Under the applicable law the wife

could win an acquittal by swearing her innocence five times. The wife in question did so swear, whereupon the Prophet pronounced: "Now the woman has sworn herself free; but keep a watch on her. If she bears a babe with black eyes, big buttocks, and fat legs, it will be the child of Sharik." "And," the reporter tells us, "when the child came, it had just those features!"

It may be objected that, apart from the fact that these tales are all accounts of trials from varying civilizations, there is no thread of continuity running through the book—that it is just a collection of interesting but disconnected incidents. Such a criticism can come only from a very superficial reading. By his title the author indicates just what he is presenting—a kaleidoscope, and the common elements that appear in trial methodology in scattered sections of the globe in various stages of civilization will stimulate the thoughtful. For such as seek a moral, an Epilogue follows the trial accounts where-in the author advances his conclusions respecting "truths of evolution and principles of policy."

The book is the sort that should win a place on the lawyer's recreational shelf and will assuredly yield much in the appreciation of the evolutionary process in the administration of justice. We are indebted once again to Wigmore for a contribution to the field of legal literature.

Only one point remains—in his preface the author suggests that the material for a volume of this sort is so rich that "Perhaps some day an editor will be found who will care to compile a series of this sort,—'The Kaleidoscope of Justice,' Volume Two, and so on."

Were I assigned to locate said editor I think I would know where to start.

WILLARD H. PEDRICK.

University of Texas Law School.

A REPORT ON THE DEVELOPMENT OF PEN-  
OLOGICAL TREATMENT AT NORFOLK PRISON  
COLONY IN MASSACHUSETTS. By Walter  
H. Commons, Thomas Yahkub, and  
Edwin Powers. Edited by Carl R. Doer-  
ing, M.D., New York: Bureau of Social  
Hygiene, Inc., 1940.

This treatise reports a Research Study of

Penological Treatment at the Norfolk, Massachusetts, Prison Colony, which was carried through a period of several years during the incumbency of Warden Howard P. Gill. The volume consists of 274 pages (11x8½ double column), besides sixteen pages in a Foreword by the Editor, Dr. Carl R. Doering. Following the introduction there are three monographs, giving the history of the Colony; the official manual; and the theory of rehabilitation by means of individualization of treatment upon which it was based, and also fifty case histories.

The Norfolk prison was frankly an experiment from its inception on June 12, 1927, when a small group of twelve prisoners were transferred from the ancient bastille at Charlestown, to the newly purchased tract 25 miles south of Boston. The first men transferred were housed in a reconditioned old building as a colony of trustees, under the close supervision of "house officers" who lived, ate and worked with the prisoners. That initial transfer marked the beginning of the present modern structure, now housing some eight hundred male prisoners, and resembling an estate instead of the grounds of a prison.

The fundamental principle upon which the institution was based is that of joint responsibility to be shared by the administrative staff, officers and inmates. With the high ideal of reducing tendencies to crime, and with the cooperation of Sanford Bates, then State Commissioner of Corrections, the Superintendent sought no less a goal than the rehabilitation of offenders committed to him. To this end diagnostic clinics were organized; personality studies were made; emotional conflicts were dissipated, and domestic and social situations adjusted. Discipline was administered as a therapeutic rather than a punitive agent; constructive use was made of leisure time, and every helpful influence was directed toward the creation of honest motives and upright conduct.

With the formation of such an idealistic program for adult offenders, the case work method became inevitable and the center of the Norfolk plan and philosophy. An Inmate Council elected by the prisoners, in coordination with the Administration, extended the activities of the institution to the outside community through the organi-

zation of the Family Welfare Division. Citizen participation was sought by the appointment of unofficial sponsors—socially minded persons who would bridge the gap between the prisoner and the outside world, including his family, friends, prospective employer, etc.

A constitution and by-laws adopted by the Inmate Council stated: "It shall be the duty of this Council to advise with the Superintendent and the staff regarding conditions affecting the general welfare of this institution." A recent letter to this reviewer from the present Warden states: "The present policy at Norfolk continues, in the main, to be that laid down by Mr. Gill. We have paid more attention to discipline and I believe our Council today has even a more important function in the Community than in 1933."

As to the value of social case-work in such an adult institution there was apparently a wide difference of opinion between the editor of this survey, and the organized set-up and the continuing practice of the Colony. "In the editor's opinion case-work was not only a total failure in rehabilitation in the walled institution, but was a distinct contribution to the ruin of the morale of the inmate body."

Nevertheless, the revised Manual of 1934 places the duties and functions of the case-work division in a central position in the administration of the Colony: "Its activities touch and in some manner affect all that is done by other divisions for and with inmates." Its particular task is to apply (to the prisoner) the best knowledge of the social sciences to the problem of human rehabilitation and social recovery. As stated by an inmate: "The case worker endeavors to place a remedial finger upon the causative factors of the inmate's digression from the prescribed laws governing society."

This intensive study of methods pursued in the development of the Norfolk prison can hardly be adequately presented in a brief review. It is worthy of a careful study by all prison Administrators and workers in the correctional field. The success of this modern experiment in dealing with prisoners should be an incentive for other

states in their endeavor to make rehabilitation practical.

F. EMORY LYON.

The Central Howard Association.

THE CRIMINALITY OF YOUTH. By Thorsten Sellin. Philadelphia: The American Law Institute, 1940. Pp. 116. \$1.50.

This small but significant volume is a "condensation of the report of the Author to the Criminal Justice-Youth Committee" of the American Law Institute made in conjunction with the Youth Correction Authority Act. It summarizes in terse form the voluminous reports Prof. Sellin prepared for the Institute.

The book covers four phases of the youth question, viz.: (1) The Criminality of Youth, (2) Recidivism and Penal Treatment, (3) First Offenders and Recidivists, and (4) Youth and Recidivism. Each part of the volume contains carefully selected statistics from the United States and Europe, with critical analysis and summaries of the findings. After stating that "Our mode of living, our economic order, our governmental structure all demand a training and a measure of social maturity which has not been achieved by the end of adolescence" the author poses two questions. First, "To what extent are youths found among those who get in conflict with the law" and second, "What is the incidence of criminality at various age levels?" Prof. Sellin found that while "youths (in general) do not contribute an extraordinary amount of such violations . . . it is obvious that they figure greatly in the case of certain major crimes." When age groups and types of crimes are considered "older age groups benefit to a greater extent than does youth from acquittals and other forms of disposition prior to conviction." In addition certain types of crimes seem to be more prevalent for certain age groups. For the 16-20 year age group burglary, larceny and auto theft run high ratios. The "20-24 year group shows highest ratios for robbery, carrying or possessing deadly weapons, receiving stolen goods, rape and other sex offences, forgery and counterfeiting. The 25-29 year group leads in homicide and assault, embezzlement and fraud and in the keeping of disorderly houses, etc. . . . Viola-

tions of drug laws show the highest incidence in the 30-34 year group." After reviewing certain foreign data the author suggests a highly important factor in the problem of youthful criminality. "The youth group does not present an overwhelming problem, but its high crime rates in those very offenses most conducive to the development of a habit of law breaking and professional forms of criminality calls for the most intelligent approach possible to the problem of reducing and preventing the delinquency of youth."

The second part of the report makes clear that "those sentenced to our prisons and reformatories are almost all persons who have had a great many contacts with the criminal law." The percentage of recidivism varies from 59 to 90 per cent depending upon the particular prison and the type of offense. Further data reveal that the jail population in the United States is just as highly recidivistic as the prison population although the types of offenses are not as serious. Judicial statistics (23.4 per cent in New York State) portray much lower proportions of recidivism than the prison data while the police records (27.1 per cent in the U. S. Bureau of Investigation Reports) of arrests show slightly higher percentages than the court cases.

The data for the First Offenders and Recidivists (Chapter III) indicate that "the probability of a first offender's being reconvicted was four times smaller than that of a person who had five or more previous convictions." Hence as the number of convictions advances for the individual prisoner the chances for improvement and moral adjustment become less and less.

In "Youth and Recidivism" (Chapter IV) the author demonstrates that first offenders appear more often in the younger age group and decrease rapidly after middle age and old age. Again "the younger they are when they commit their first crime, the more likely they are to commit another." This leads Prof. Sellin to the significant statement that "preventive correctional treatment applied to the youth group is of paramount importance—and, if successful, should materially reduce the

chance of recidivism and thereby the crime rates of later age groups."

As a whole this report points the way to an important course of action in the care of the youthful offenders for if proper treatment can reach the youth "the offence rates of later age groups should in the course of time show considerable decline." In other words if society is to meet the crime problem consideration and care must begin with youth.

WALTER A. LUNDEN.

University of Pittsburgh.

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EVERYONE'S CHILDREN, NOBODY'S CHILD. By Justine Wise Polier. New York: Charles Scribner's Sons, 1941. Pp. XI + 331. \$2.75.

"The purpose of this book," in the words of the author, "is to add something to the knowledge of children in our day, in the hope that such knowledge may stimulate a keener and deeper sense of individual and communal responsibility for their welfare." After presenting a brief discussion of the historical development of private and public care of dependent, neglected and delinquent children in the United States Judge Justine Wise Polier depicts the social background of the children who came before the Children's Court of New York. As a sample she selected 588 cases during the months of July and August of 1938. Of these 343 were neglected and 224 delinquent. By reviewing a large number of the case histories in a cinematographic method the author reveals the problems of the children and the parents together with the limitations of the Children's Court. Judge Justine Wise Polier summarizes the general treatment and problems of neglected, dependent and delinquent children in America when she says that, "Throughout the unwritten history of their lives two powerful factors have persisted—chance and poverty." Judge Polier concludes the colorful volume with a brief account of American relief in relation to the Poor Laws of England and a selected number of prints and photographs of neglected children in various parts of the nation.

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