

1943

Book Reviews

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Recommended Citation

Book Reviews, 34 J. Crim. L. & Criminology 35 (1943-1944)

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Book Reviews

VOLTAIRE AND BECCARIA AS REFORMERS OF CRIMINAL LAW. By *Marcello T. Maestro*. New York: Columbia University Press, 1942. Pp. X + 177. \$2.00.

The above monograph is a study of the influence of two great 18th century intellectuals on the reform of the criminal law. Since it deals especially with the continental reform movement, it supplements the better known contemporary English history. The chief thesis is that Beccaria's book supplied Voltaire with special knowledge to implement the latter's battle against brutality and fanaticism in the treatment of accused and convicted persons. Voltaire added little to Beccaria's stock of ideas in this field, and while he generally agreed with his criticism of the prevailing law and procedure, he never took as rigorous a stand against the death penalty, nor against the use of torture as did Beccaria. But Voltaire was the outstanding publicist of the new liberal era, and Mr. Maestro credits the victory of Beccaria's ideas in the criminal law of continental Europe largely to Voltaire's advocacy.

It can hardly be stated that the author has adequately met the challenge of the momentous problems raised by his subject. His most important contribution is the description of Voltaire's activities in criminal law reform. This is set forth in a matter-of-fact manner, and the author nowhere probes deeply into the many important potentialities of what he narrates. An appended bibliography will be helpful to anyone interested in the 18th and 19th century criminal law reform. Understanding of that period and that history is essential to adequate knowledge of our own law. Many of the problems which agitate us were warmly debated then. Until the rise of the current dictatorships, the 18th century history of criminal law seemed to many, a curious, even irrelevant, sort of experience. We ought to know better now; and, though one may not hope for uniformity on such issues, certainly it would seem almost axiomatic that at least the specialists in this field would feel impelled to probe carefully into the illuminating 18th century literature on criminal law and its reform. Mr. Maestro's book will be a helpful guide to many important sources, and it is a welcome addition to the literature for that reason.

JEROME HALL

Indiana University Law School

THE FIELD OF SOCIAL WORK. By *Arthur E. Fink*. Henry Holt & Co. N. Y., 1942. Pp. 518. \$3.00.

Mr. Fink's survey of the field of social work is a well organized and readable volume. Following a highly condensed history of philanthropy during the past three hundred years, major emphasis is given to the practice of social case work in various settings. The concluding chapters present an analysis of social group work and community organization. Both the structure of the book and the textual material serve to define the limits of case work practice in relation to social work as a whole and at the same time to point up its basic importance. Each chapter, except the historical introduction, is followed by a case history or description of the process of social work in operation. They serve principally to enrich the

textual material and to give the reader the advantage of a panoramic view with enlargements of special points of interest.

In presenting the practice of case work, Mr. Fink's organization again enhances the text. He begins with the relatively unrestricted field of family case work in private agencies and progresses through the more narrowly defined fields of child welfare services and child guidance clinics to the semi-authoritative setting of visiting teacher work and lastly the highly authoritative setting of probation and parole procedures. Medical social work and the public assistance programs are treated separately following the progression from family case work to probation and parole. In each instance, the author presents the case work process as basically the same in that the case worker operates within the limitations of the function of her agency and that the client is free to accept or reject the services since acceptance implies a willingness to work on his problems. With the emphasis of repetition, case work is defined as the utilization of a trained understanding and sensitivity to help the client to adjust to his social situation. The case studies are, of course, examples of the best in case work practice and one could but wish that every case worker everywhere (and all clients) were capable of sustaining this high level of achievement.

The chapter on the Court, Probation and Parole deals with the use of case work services in the administration of the penal law and in juvenile courts and also touches briefly on their use in penal or correctional institutions. Read in connection with the preceding chapters, the discussion has a depth and richness which would otherwise be lacking and when thus read points up the potentialities of adequate case work services against the authoritative background of the machinery of justice. When one reads the case of John Milder, it becomes apparent that legal procedures alone could not have effected the purpose of the law: to salvage a delinquent adolescent and start him firmly in the direction of useful citizenship. It is also apparent that the probation officer must have the innate skill and training which is case work, as well as his official title, to make him an effective arm of the court.

As stated in the preface, this volume is intended primarily for those who are not social workers and who want to know something about what social work is and what social workers do: undergraduates looking toward vocational plans, board members wanting to orient themselves and those who contribute financially to the support of the social services either through taxation or private donations. The author has admirably fulfilled his self-assigned task. He has given a competent and interesting portrayal of social work in action and that without the use of technical terms or other barriers between the material and the reader. As he also suggests, the book has value, too, for the professional worker who wants perspective on her particular job in relation to the larger field. It must be borne in mind that in a profession as young and ever-growing as is social work, there are many highly controversial areas. Within the limits of the size and purpose of the work, it was not possible to present all facets of each issue. The author has made his own evaluations and there will probably be some, particularly specialists in the various sub-divisions of the field, who will disagree with him. It can be said, however, that his evaluations are competent although not the only ones which could have been made. With the lay public in mind, the author has used few footnotes and his statements are not, therefore, readily verifiable, but that he has done extensive research in the accepted authorities in the field is evidenced by the rich bibliography appended. One of the most interesting observations at this time, is Mr.

Fink's repeated assertion that case work, as he defines it, can operate only within the climate of a democratic state and, in turn, contributes to the full realization of democracy.

VIRGINIA LEHMANN (Virginia L. North)

Chicago

THE JUDICIAL FUNCTION IN FEDERAL ADMINISTRATIVE AGENCIES. By *Joseph P. Chamberlain*, Noel T. Dowling, and Paul R. Hays. New York, the Commonwealth Fund. 1942. Pp. 234. \$3.00.

This book is another study in the series on administrative law undertaken by the Legal Research Committee of the Commonwealth Fund. It is written by three eminent professors of law at Columbia University who are also members of the Legislative Drafting Research Fund of that institution. The book treats of the judicial procedures and practices of the Federal Communications Commission, the Federal Trade Commission, the Interstate Commerce Commission, and other federal administrative agencies. The treatise is well documented. It has an imposing bibliography and includes such government documents as "Administrative Procedure in Government Agencies," annual reports of the various agencies, and numerous committee hearings. Numerous citations are made to cases and statutes which conveniently are listed in a table in the appendix.

The numerous independent administrative agencies have been created as a result of the extension of government control. Hence Congress created these boards to administer the new legislation, as the Securities and Exchange Commission, and the National Labor Relations Board. The power with which these agencies has been vested by Congress is large including as it does investigation, regulation, and adjudication. The judicial function that these agencies embrace includes the rights and duties of individuals, settlement of differences between individuals, and settlement of differences between the government and individuals.

Congress may at any time limit the power of these agencies or abolish them altogether. They are distinctly creatures of Congress to simplify the work of increasing government control. Congress might attempt to achieve the same result by passing statutes or federal laws enforcing them through the courts. But this would be a cumbrous, inflexible procedure. By establishing agencies hearings may be had and changes made in policy with corresponding adjustments in administration. The real problem arises over the question as to whether a policy-making, administrative agency should also act in a judicial capacity. It is like one man acting as prosecutor and judge. The writers of this book, attempt to explain this by stating that many of these agencies have separated their administrative and judicial function. Thus in the Immigration and Naturalization Service the case on appeal comes before the Board of Immigration Appeals which is independent of the administrative side which prepared it. As to the best solution of this delicate problem the authors are rather noncommittal. They say: "In some instances it will be found better to require an action to be brought in the district courts by an agency to enforce its orders and where policy forming plays a minor role, it may be appropriate to vest the power to judge the cases of individuals in a tribunal with a specialized jurisdiction apart from the agency, such as the Court of Customs and Patent Appeals or the Board of Tax Appeals."

This much criticized judicial procedure of the agencies has been a logical outgrowth of the administrative process. It aids the agency in the efficient performance of its duty. The tendency of the courts has been to withdraw from interference with the policy laid down by the agencies. Yet the

complication arises in the fact that the courts must act to enforce the decisions of these agencies yet must also be used to protect the rights of the individuals under the elastic doctrine of due process of law.

The authors conclude that these agencies are an efficient and elastic method of enlarged government regulation kept under control by Congress, by public opinion, and by the courts. However, they failed to discuss the recommendation in the report of the President's Committee on Administrative Management for the co-ordination of these various independent agencies under the respective cabinet offices. Nor do they take recognition of the confusion in the judicial system of divided functions between the courts and these agencies.

KENNETH COLEGROVE

Northwestern University

TRUBLEMAKING IN PRISON: A Study of Resistant Behavior as an Administrative Problem in a Medium Security Penal Institution. By *Jerome G. Sacks*. 1942. Pp. 168.

One cannot have aught but praise for the objectivity with which Dr. Sacks approached his interesting task, thus demonstrating adherence to the fundamental requisites of fastidious research; but, though objectivity represents one of the essential qualities of a successful researcher, happily no similar restriction embarrasses one called upon to express his critical judgment upon a study of such provocative nature as this, merely suggested by the simple formulation of its title.

This is not primarily a study of isolated acts of resistance, sporadic outbreaks of temperament, sullenness, or, for that matter, of any of the customary reactions of prison inmates to their new and unwelcome environment. Dr. Sacks has here presented the reverse side of the coin; this is a study of the reaction of *an institution* to *patterns* of resistance. He has admirably portrayed an ugly specimen of administrative deportment when confronted with symptoms of the deep-seated, but unrecognized, variety of behavior processes of a portion of the population at the District of Columbia Reformatory. Dr. Sacks served as parole interne for three years in this institution, euphemistically described as an unwallied, medium-security penal institution. Once planned as a small reformatory for young, first offenders, it has deteriorated ("expanded") so that it now incarcerates a generally unsegregated population of all types of offenders over 17 years of age, serving sentences of from one year to life, for offenses ranging from auto theft to murder. The ages of those studied here are distributed between 17 and 37 years.

The author describes a resistant prisoner as "one who is recalcitrant toward punishment which has been prescribed for him by law." He examined and reports upon the case histories of 25 such prisoners—a small number, to be sure, but a fair sampling in light of their typical and varied backgrounds and the appreciable length of time each served before the study was undertaken. It is not an unwarranted assumption that the intra-mural difficulties encountered—quarrels, stabbings, destruction of property, smuggling, sexual offenses, strikes, etc.—are experienced in many other places; but certain it is that they are bound to multiply in those institutions in which an attempt to *understand* prisoners and deal with them in terms of their social and psychological histories is consistently forborne because that entails extra-custodial care—rehabilitation, if you please; moreover, it might be misinterpreted as lenity, or, colloquially, "coddling." Two of Dr. Sacks' many recommendations—all of them susceptible of effectuation—are

directed toward the end that intelligent classification, segregation, vocational education, recreation and all the other classic adjuncts of a modern penal institution be further implemented with an endeavor to identify the prisoner and his problems through use of the knowledge made available by psychiatry and social work. The obvious distinction between the characteristics of the resistant and non-resistant prisoner makes this need abundantly clear.

The prison's personnel includes many guards (the majority) who were inducted years ago without the qualifications (education, training, understanding of the prison situation, etc.) required by modern standards; their ideas concerning treatment of inmates, especially the recalcitrants, are strictly limited by administrative *expediency*, a philosophy of penology that begins and ends with the desire for "peace" within prison walls. Isolation, bread and water, withdrawal of privileges, forfeiture of "good time," denial of parole—these aspects of a retributive doctrine constitute the principal efforts by which conformity to regulations for internal discipline is still sought to be effectuated. Considering that the same penalties are meted out to all the resisters, though some manifest an unmistakable pattern of neurotic implacability ante-dating their admission to the reformatory, that the custodial staff failed to achieve conformity surprises no one but those who still cherish the ancient shibboleth that punishment, like the bleeding prescribed by barber-surgeons during the Middle Ages, is destined to correct all disorders! That the staff failed thereby to establish a *modus vivendi* for the balance of the population of the institution is also not surprising.

It is sufficient here to point to this study as a worthy addition to the growing literature on the subject of prison management, as a painstakingly prepared critique on how *not* to rehabilitate criminal offenders. The increasing sensibility of society to conditions in penal institutions—paced by the outstanding contributions of The Osborne Association under the extremely able guidance of Austin H. MacCormick—will one day develop into an indignant demand for reform. The flowering of social conscience patiently waits on the nourishment of its roots by a slowly distilled educational process, to which Dr. Sack's study is a distinct contribution. Until that flowering we can only murmur, with the bitter poignancy of Shaw's Saint Joan: "How long, oh Lord, how long?"

EDWIN J. LUKAS

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New York City

JUVENILE DELINQUENCY AND URBAN AREAS. By *Clifford R. Shaw* and *Henry D. McKay*. The University of Chicago Press. Pp. 451. \$4.50.

This volume, published in September, 1942, is the culmination of a series of intensive studies of delinquency in relation to environment. Included in the present volume are six chapters by other writers, describing studies in other American cities, showing a significant relationship between them as to areas of delinquency.

Those who are acquainted with the previous studies will welcome this further accumulation of evidence that delinquency inevitably results from the growth of congested centers in American cities. The segregation of the population of these areas on social, economic and racial levels is made apparent. The marked variations from the normal of child behaviour in these areas is shown as reflected in the records of the juvenile courts. The method of the study is revealing and extensive in that comparisons are made between three six-year periods of 1900, 1920 and 1930. Consideration

is given to commitments by the Juvenile Court, one-half of which is shown to be from one-fifth of the city's total area, and 4.2 percent per 100 of the population. Furthermore, 85 percent of cases are dealt with by police probation officers and on petition—a total of 10,000 in Chicago per year.

It is shown that delinquency is an outgrowth of truancy, unemployment and other characteristics—physical, economic and social. It corresponds with rates of sickness, infant mortality, mental disease, etc. Of the cases of truancy dealt with, 55 percent became delinquents during the juvenile court age, and of the latter, three-fifths became adult offenders. It is the contention of the author that the prevailing pattern found in these areas is not evidence of maladjustment since it is in conformity with traditions and folk ways of the community. The writers eloquently portray the prevalence in these areas of poverty, substandard housing, overcrowding, decline in population, heterogeneous cultural and racial elements. It is there that is found, not only individual delinquency but delinquent groups or gangs and organized crime. There is, not only concentration but continuity of transmission of delinquency concepts and standards.

The remedy lies, these authors are convinced, in the character building organizations and enlightened leadership of the community itself. This conception of the Chicago Area Project is further confirmed and developed in this book.

A striking feature of this treatise lies in the comparative study of such other cities as Philadelphia, Boston, Baltimore, Cleveland, Columbus, Denver, Seattle, etc. The relationship of delinquency to other characteristics and its trend with the change in population were found to be surprisingly similar, with a few exceptions. The difference in native and foreign-born, white and colored, rapid or slow growth of cities did not materially change the percent or trend of delinquency in a given area.

It is assumed or implied that the youth of the depressed areas live in a world apart, with little, if any knowledge of the legality, not to mention the ethics, of their conduct. The question arises, if the youth of these areas have no knowledge of right and wrong, as judged by civic standards, what is wrong with our courts, that they should hold them guilty and subject to punishment?

The concluding chapter, summarizing the achievements of the Chicago Area Project, and pointing to its future possibilities, is especially rich in food for thought.

F. EMORY LYON

Central Howard Association

SOCIAL PATHOLOGY. By *Laurence G. Brown*, New York, F. S. Crofts and Co. 1942. Pp. 595. \$3.75.

This volume is definitely in that class of text books written by a teacher for use in his own classes. It is a very fair descriptive outline of Social Pathology under its various heads, each chapter with a fine bibliography of required readings at the end, an adequate index of names and of subjects. A finely produced book of good workmanship, encyclopedic in nature and coverage. For the general reader, or anyone outside of Dr. Brown's classes the outlines will be found to be a bit sketchy and repetitious. As a broad introduction to the field of social pathology this book has great merit.

Dr. Brown has a theory and the book is written around the theory and so continually stresses it that one gets very very tired of hearing about it. This theory is that social pathology does not differ essentially from that which we call normal behavior patterns. Both are the result of interacting

forces on the individual, or the community. It is simply the luck of the draw as to whether normality or abnormality results in any given case. It is as simple as that. No will, no choice, no nothing. Just a group of forces working away all by their lonesomeness.

There are thirty-three principles or laws set forth as governing the study of pathological types. Of these at least three are open to question, and some debate might be held on at least five others. Each chapter is cast into a very tight formula which sometimes does not fit, but the subject matter is nevertheless fitted to it. It is this that gives the book a certain monotony and repetitious character.

That which differentiates the normal from the abnormal is what the author calls reserve potentialities. These reserves are not the same as Freud's subconscious, but near cousins. In an emergency, or by the use of some instrument such as narcotics, these reserves may emerge. The narcotic is not the cause of the deviation but an interacting force which uncovers a reserve. An undisciplined emotion may do the same thing.

A favorite principle of the author is that every individual is born into the world a *tabula erasa*. Everything is undefined. Nothing is shaped toward any end. After birth this person begins to experience things. He experiences his organic heritage, he experiences his environment, etc. Out of this come unique experiences which build a private world of his own within which he lives. These experiences develop what the author organic heritage, social heritage, and unique experience are dealt with.

The book is in four parts: I. The frame of reference for personal disorganization in which the author's theoretical approach is set forth. II. Periods of disorganization—childhood, adolescence, adulthood, and old age. III. Types of personal disorganization: the usual subheads of sex, eating, drinking, drugs, emotions, sickness, mental ill health, psychopathic personality, mental deficiency, suicide, delinquency. IV. Social disorganization: ideologies, families, education, religion, science, economics, politics, legal factors, the press, and social psychological epidemics. He ends with a chapter on War in social disorganization.

HAROLD HOLT, D.D.

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OUTLINE OF PSYCHIATRIC CASE-STUDY. By *Paul William Preu, M.D.*
Paul B. Hoeber, Inc. xvii. Pp. 279. \$2.75.

This is a useful book for the beginner in psychiatry and a good reminder for the criminalist. As Dr. Eugene Kahn points out, it represents the point of view of the Yale University School of Medicine, Department of Psychiatry and Mental Hygiene. Certain repetitions could have been avoided, see f.i. literally identical statements on complaint on p. 20 and p. 194. On the other hand, the beginner must be given details for examination. We do not agree with the author when he states that examination of aphasia does not interest the psychiatrist. At any rate, it would have served the purpose if the author had secured the permission to reprint such information which otherwise must be looked for in other books.

W. ELIASBURG

New York City.

THE ETIOLOGY OF DELINQUENT AND CRIMINAL BEHAVIOR: A PLANNING REPORT FOR RESEARCH. By *Walter C. Reckless*. New York: Social Science Research Council, Bulletin 50, 1943. Pp. 169. \$1.50.

This Report deals with "the existing and future status of research in

the etiology of delinquent and criminal behavior." Reckless has on the whole done a fine job in evaluating the definite contributions to the study of the causes of criminal behavior. He has also reviewed what he considers the most important recent efforts to develop systematic approaches. He lists some of the promising research leads in recent criminological research, based on his review and evaluation of pieces of research. He winds up the Report by a series of recommendations as to what should be done to promote better research in this field.

In the opinion of the reviewer Reckless makes his most important contribution in this study by the calm, detached way in which he evaluates these various pieces of investigation. It is the sanest, most level-headed analysis of the pieces of research, and of the attempts to attack the problem in a systematic manner I have ever seen. He is especially clear in pointing out the loose joints in the logic, and the gaps in knowledge shown by the material under review. That alone is of inestimable value at this stage of the hunt for the "causes" of crime. A reading of this Report will save many a researcher in this field from numerous pitfalls.

In his discussion of "Recent Efforts to Become Systematic" Reckless discusses "The School of Criminal Biology." He incisively points out that the criminal biologists fail in their etiological search, not from faulty logic and empiricism, but from the lack of proof. Curiously he omits any mention of Hooton's work. His criticism of Sutherland's theory of "differential association" rests upon the doubt whether we can ever prove or disprove that criminal behavior never occurs unless the person has had contact with carriers of criminal patterns. Sellin's suggestion that research abandon legal definitions and study the violation of conduct norms, and his theory that the explanation of the "differential response" of persons "exposed to confronting behavior patterns" lies in the different meanings which those patterns have for various individuals are criticized in that Sellin does not inform us to what is the differential between conformists and violators. He might have added that both Sutherland and Sellin leave us in the dark as to how we shall identify the violators.

"The Categorical Risks" theory is that propounded by Reckless himself in his *Criminal Behavior*. It means abandonment of the search for "causes" for the time-being. Perhaps that is as far as we can go at present. However, Reckless apparently hopes that by that method the underlying motivation of criminal and delinquent behavior may be revealed—especially by the use of case histories carefully collected and critically examined.

There is an Appendix of forty-eight pages in which eleven different individuals make suggestions as to Research Resources and Opportunities, Records and Statistics on Crime and Criminals, Some Problems and Projects. Reckless winds up the Report with an Appendix on Recommendations. Each of these individuals has his own point of view.

On the whole this Report gives one the impression that researchers in this field are feeling their way, each in his own fashion and according to his own qualifications, towards the solution of the problem of crime causation. In his final Recommendations Reckless suggests "a small compact Academy for Research in Delinquent and Criminal Behavior" and stresses the need of large funds for such research. Very well! But experience with a small effort of this kind by the Social Science Research Council does not augur any great success in getting the funds required, or the discovery of any great fount of wisdom in any aggregation of a specially appointed committee to plan, advise and direct large-sized projects on the subject.

University of Wisconsin

JOHN L. GILLIN