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## Book Reviews

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## BOOK REVIEWS

JUSTICE IN RUSSIA: AN INTERPRETATION OF SOVIET LAW. By *Harold J. Berman*. Cambridge. Harvard University Press, 1950. x, 322 pp. \$4.75.

Professor Berman's book on Soviet law bears the imprimatur of the Harvard University Russian Research Center. It is a most valuable and highly informative work on a subject on which we have a paucity of material in the English language. While the subject of the book is law, it is a very broad concept of law with which the author is concerned. Soviet law is divided into three main categories: 1. Marxian law, 2. Russian law grounded in Russian history, and 3. "Parental law" expressing the concept of law training and guiding legal persons. Each of these three categories represents three different methods of approach to Soviet law. The Marxian is approached through the analytical, the Russian through the historical, and the parental through the philosophical method. In the words of the author, "Under each screen, different legal institutions come to prominence. None of the three screens gives a complete picture in itself. Together they may suggest the main outlines of the Soviet legal system as a whole, and its main implications not only for an understanding of Soviet law but also for an understanding of law."

The book is highly informative for students of criminal law. In the section on Socialist law, Professor Berman points out that "the General Part of the Criminal Code made the entire criminal law hinge on 'social danger' and 'measures of social defense' rather than on crime and punishment as such." With the purging in the thirties of the jurists responsible for this theory, the Soviet theory of criminal law now recognizes the concepts of "crime" and "punishment" and the "formal juridical" element is considered to have an equal coexistence along with the concepts of "social danger" and "social defense."

This does not mean that the "formal juridical" element is present in all criminal cases. As the author correctly points out, when the factor of sabotage or counterrevolution is present in a case, the "Special Board" of the MVD takes over the case and the trial is secret and administrative. Furthermore, it is the MVD which draws the line between a political and non-political crime, and there is no recourse to appeal on the part of the defendant. The presence of this non-judicial system for the trial of a large part of Soviet crimes does not mean that few criminal cases are tried in the regular courts. As a matter of fact, most criminal cases are handled according to the general prevailing standards of law and justice.

After having discussed the Marxist or Socialist character of Soviet law, the author proceeds to his second section and points out historically the connection between Tsarist Russian law and Soviet law. It is shown that the Soviet juridical system, the Soviet concept of criminal law, and the Soviet law of the peasant household all bear the strong components of Russian law. Each of these is discussed in detail. With respect to criminal law, it is interesting to note that in pre-revolutionary Russia, criminal law took into consideration the social, economic and occupational position of the accused. This was continued and augmented by Soviet criminal law where not only the "whole man" is tried but also his kin may be punished along with him.

In the third section of this study, the author discusses the "parental" aspects of Soviet law. This concept is not entirely unique with Soviet jurisprudence. American jurists have for some time noted the increasing role of law in the process of social development. But as Professor Berman points

out, this role of law is not the primary one. Law has only secondarily an educational function. But in the U. S. S. R., "the educational role of law has from the beginning been made central to the concept of justice itself."

Lawyers and political scientists owe Professor Berman a great debt for preparing such a well organized and highly informative study of a subject too little explored by students of law and government.

University of Washington

WILLIAM B. BALLIS

TRIAL OF SUMIDA HARUZO AND TWENTY OTHERS (The "Double Tenth" Trial).

Edited by *Colin Sleeman*, B.A. (Oxon.), and *S. C. Silkin*, B.A. (Cantab.), with a foreword by The Right Honorable The Viscount Simon, P.C., G.C.S.I., G.C.V.O., O.B.E., London, Edinburgh, Glasgow, William Hodge & Company, Ltd., 1951.

This is the eighth volume in the series of "War Crimes Trials" edited by Sir David Maxwell Fyfe, who served with distinction in the British prosecution for the original Nuremberg Trial. This series is to be distinguished from the series of "Law Reports of Trials of War Criminals" prepared by the United Nations War Crimes Commission which has been completed in fifteen volumes. The latter series is designed for the legal profession. It summarizes briefly the facts and evidence, but emphasizes legal principles, and utterances of the Tribunals of value as precedents.

The series of "War Crimes Trials," on the other hand, emphasizes the facts of the cases, reports the interrogations in full and recreates the dramatic incidents for the benefit of the general public. Many of the cases are duplicated in the two series, but the case reported in the present volume did not appear in the War Crimes Commission Series, doubtless because it involved no novel problems of law.

This case concerned the trial of twenty-one Japanese for torture and brutalities in the effort to discover sabotage and conspiratorial action in an internment camp in Singapore following the blowing up of six Japanese tankers on September 27, 1943. It was called the "Double Tenth" trial because the inquisition began on October 10th of that year, the day celebrated as that of the initiation of the Chinese Republic.

The trial which took place in the spring of 1946 in Singapore appears to have been handled justly. The evidence clearly indicated extensive torture resulting in the death of a number of internees and other barbarities in violation of the law of war. The only legal problem concerned the defense of superior orders, a problem referred to in Lord Simon's foreword as follows: "True it is that the discipline of armed forces, especially under the tense conditions of war, requires prompt obedience to orders, but this assumes that orders are lawful orders, or at any rate appear to be such to those who carry them out." (p. xiii.)

Seven of the accused were acquitted, some because of mistaken identity, eight, including Lt. Col. Sumida Haruzo who commanded the Singapore branch of the police organization (Kempei Tai) which carried out the inquisition, were sentenced to death, and six were sentenced to varying terms of imprisonment. Apart from the proceedings of the trial, the volume contains the text of the regulations concerning the Tribunal's competence, biographical information, in many cases photographs of the person involved, and an index.

University of Chicago Law School

QUINCY WRIGHT

THE CHILD AND THE MAGISTRATE. By *John A. F. Watson*. (Revised Edition.) London: Jonathan Cape, 30 Bedford Square. 1950. Pp. 367, 12s 6d net.

This revision of a book first published in 1942 consists of a detailed discussion of the juvenile court and treatment procedures in England, bringing in a summary of the historical development and the most recent legal changes. It is written in non-technical language by the Chairman of the South-East London Juvenile Court for the use both of juvenile court magistrates and of all others interested in the welfare of children. Fourteen years of experience in one of London's most active juvenile courts have fitted the author to speak with knowledge and wisdom.

In the factual sections, the author critically discusses the juvenile court system, summarizes its shortcomings, and suggests improvements; he gives in detail the approach that the magistrate should make to the child and his parents. The basic approach is similar to that in the United States, although in England the juvenile court is part of the criminal court system. Emphasis is upon understanding why the child has misbehaved and in planning treatment rather than punishment. A probation officer makes a pre-hearing investigation and medical and psychiatric services are available. The courts also perform certain civil functions, in addition to dealing with delinquents, as in many parts of the United States, with reference to three classes of children: those beyond the control of their parents and guardians; those in need of care and protection; and school truants.

The system differs from that in the United States, however, in several respects. Three magistrates form a panel to consider each case, one of whom serves as chairman, and one preferably is a woman. Since many of the magistrates are lay persons, a clerk trained in the law assists them.

The author recognizes the deficiencies of many of the appointments of magistrates and makes his own recommendations: appointments should not be for political reasons but should select persons qualified by experience, personality, and training to deal with children; in age they should be under fifty, that is, of approximately the age of the children's parents; they should be thoroughly familiar with the various institutions offering treatment; and they should be willing to train themselves for the specialized task of the juvenile court procedures.

In addition to the use of probation and foster homes, several graded types of institutions are used, including approved schools to which the child may be sent, hostels where the child lives in the institution but works in the community, homes where the child both lives and works within the institution, and detention (remand) homes to which the child is sent for a short period of severe discipline in the nature of punishment. In the future special institutions will be provided for this short term treatment and the remand homes will be used for their primary purpose as detention homes. Another institution, the Borstal, resembles our reformatories; adolescent delinquents are sentenced to the Borstal by the criminal court, often upon recommendation of the juvenile court.

The author interlards his factual discussion with his own philosophy. He urges informality in the court proceedings with every attempt to establish rapport with the child and his parents, through the setting of the room, the translation of legal terms into the words of the common man, a confidential manner—but at the same time firmness and maintenance of the dignity of the court. The point of view is non-legal and non-penal—an attempt to understand why the child has misbehaved and to aid him in rehabilitation within the limits set by law. The author feels that a genuine interest in children

and understanding of them is of more importance than the legal training, for the legal knowledge may be supplied by a clerk, whereas an understanding of children is essential to the magistrate in whose hands rest the decisions that may determine the entire future life of a child..

Rockford College

RUTH SHONLE CAVAN

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PRINCIPLES OF GENERAL PSYCHOPATHOLOGY. AN INTERPRETATION OF THE THEORETICAL FOUNDATIONS OF PSYCHOPATHOLOGICAL CONCEPTS. By *Siegfried Fischer, M.D.* Philosophical Library, New York. 1950. Pp. 315. \$4.75.

This interesting and very helpful book by a distinguished author is, as Dr. Fischer himself qualifies it, "a survey of the most important psychopathological phenomena and their theoretical bases."

Part I deals with: "Fundamentals of Psychopathological Concepts," Part II with: "Comprehensible and Causal Connections," Part III with: "Syndromes (Symptom-Complexes)," and Part IV with: "The Abnormal Personality." For the worker in the fields of criminal law enforcement and students of criminology, the parts of the book dealing with the author's general views on dynamic psychopathology and on the pathology of volition are of special and practical interest. Many new and interesting views are advanced and the grouping of the vast material is systematic and especially helpful for using the book as a manual. The non-psychiatrically and non-psychologically trained reader will find an especially enlightening introduction to the study of psychopathology and will derive a great deal of benefit for his understanding of abnormal behavior. In the following, a number of quotations from the book might help the reader of this review to identify basic opinions of the author and the schools of thought to which he adheres.

"Purpose is the will to adjustment and self-preservation, a self-preservation which includes self-imposed purposes and objective tasks . . . The concept of purposive context is, therefore, the basic category of all dynamic psychology. We can thus say that comprehensible or dynamic psychology is the science of the purposive context of psychological events." (P. 195)

"The more richly one is supplied with such comprehensible connections, the more subtle and correct one will be in his emphatic analysis of the individual case. One's own experience is thus supplemented by the psychological discoveries which one finds in the work of poets, biographers and philosophers. Through directing our attention to previously unknown mental connections, these leaders in thought expand our field of understanding. Such newly disclosed knowledge then becomes an auxiliary means for our future understanding. Thus, for instance, Freud made it *comprehensible* to us that the carry-over of the sexual attachment of the child to the parent of the opposite sex leads to pronounced conflicts in adulthood." (Pp. 195-196)

"An emotion is merely a person's condition at any given time. Fear and anxiety, happiness, joy, indicate how we emotionally *evaluate* or *confront* reality at each moment. Just as thought is directed toward the cognitive apperception of reality, and just as volition is directed toward the attainment of a goal in reality, *emotion is the direct evaluation of this given reality. The relation of the cognized reality to our striving and volition is the objective content of our emotional life.*

"The greater the general validity an emotion has in relation to reality, the more its value rises above purely personal motives, the richer is the objective content of the emotion and the more it becomes of general interest and also the more it becomes the common possession of humanity." (P. 196) (To

make the changing—and relative—quality of “general validity” an objective criterion, seems to this reviewer questionable.)

“As to whether we are justified, from the clinical point of view, in conceiving the various illnesses as reaction types, is a question on which we will not voice an opinion.” (P. 203)

“Sometimes . . . by the psychoanalytic technique . . . we find the repressed and make the psychosis *comprehensible*. But why the patient reacts in just this manner, why a psychogenic or hysterical mechanism goes into effect, rather than a normal reaction remains incomprehensible in many cases.” (P. 204)

In Chapter Eight of Part I, Dr. Fischer discusses: “Drive, volition and their disturbances.”

“The various types of drives can be traced to the two fundamental drives of self-preservation and propagation . . . *Drives are the main-springs of psychic energy* . . .

“The question of whether volition is derived from other basic mental experiences, or is an independent operation, has not yet been clearly determined. That there is the experience of volition resulting from a feeling of activity and a certain tension connected with it, is the extent within which general opinion is certain and in agreement . . . We call this experience the *act of will*, which is not to be confused with *volitional action*.

“The conscious inducements to volition are called *motives*. Apart from these, ‘motivating factors’ embedded within the personality must be considered as causes of volition. These are character, temperament, temporary mood and physical condition (fatigue, hunger, sexual sensitivity, etc.)” (Pp. 124-125)

“Values and advantages can only make themselves felt when we think of them. Strictly speaking, therefore, there can be no unconscious motives. Experimentally, to be sure, a continuing motive over a period of time may become less and less in the forefront of one’s thought, and thus accessible to introspection only with difficulty . . . Intellectual motives don’t necessarily overpower other motives, which may be stronger emotionally . . .

“ . . . The effect of an act of will is a *volitional action* . . . We do not, however, know how an act of will is transformed into such an action. In other words, the question of how the act of will influences the motor centers of the cerebrum, or how the psychological act of will influences the brain centers, is one which, considering the present state of knowledge, does not belong in psychology, but in the realm of metaphysics.” (P. 126)

“A description of volitional acts is facilitated by an examination of persistent mental action. This is necessary because psychology has paid little attention to this phenomenon and because it is of extraordinary importance for the pathology of ‘impulse’ (Antrieb).

“ . . . according to Theodor Lipps, . . . ‘The experience of striving occurs when some psychological event, proceeding along its natural path, meets some obstacle during this process.’ ” (Pp. 127-128)

“Fatigue and exhaustion influence all mental processes, especially processes of the will in normal persons . . . Drugs like chloroform, alcohol (in the most advanced stage of intoxication), morphine, etc., hinder the creation of will-impulses as well as the ability to make decisions.

“In the final stages of schizophrenia, emotional dullness leads to a general lowering of volitional life. In general paresis, as mental and emotional sensitivity are lost, the efforts of will likewise wane . . . A similar poverty of volitional life is sometimes observed in the final stages of senile dementia.

“Weakness of will and instability: disturbances of this kind are character-

ized by the fact that they are permanent. Hence they are not symptoms of insanity in the true meaning of the word, i.e., psychosis . . . These disturbances are further characterized by the fact that they probably involve an anomaly of motivation . . . we find in certain psychopaths an inability to achieve anything as soon as an unpleasant motive disturbs a free process. Hence these individuals are completely incapable of performing persistent and thorough work. Another peculiarity is the ease with which other persons can change the direction of these psychopaths' will. An initially leading motive is unable to resist the influence of others which impinge upon it from the environment." (Pp. 129-130)

After discussing the organically caused disturbances of impulses the author refers to "compulsive experiences." He defines compulsions as experiences which obtrude upon the patient as a feeling of being forced, the existence of which he resists, but which cannot be banished, and the content of which is recognized as alien, unfounded and nonsensical by the patient.

The author's presentation of the material leaves the criminal lawyer and criminologist with the same feeling of disappointment which he is accustomed to experience when trying to draw practical conclusions for the improvement of the criminal law from publications in the field of psychiatry. Again, those problems which would directly affect a new philosophy of the protection of society from crime are tossed into the lap of metaphysicians.

This reviewer is by no means materialistically oriented and does believe in the divine spark in the human soul—beyond identification by so-called scientific means. He believes in the basic freedom of human will—if this will is not *impaired* by pathological factors. In his opinion the tools presently at our disposal for the study of psychodynamics and especially the inter-play of psychic forces which lead to aggressive and antisocial acts, already warrant a much larger degree of certainty than expressed in this book and many others. It leads to the desire for more, and far more intensive research focussed specifically on the "acting out" type of neurotics and psychopaths. Especially the latter group still constitutes the dumping ground for all those cases of offenders who are not responding to the generally used methods of treatment and the classification in the group of "psychopaths" is actually entirely dependent on the "social integration" of the individual. That countless psychopaths (in the clinical meaning of the word) are not violating the laws and are extremely successful, confuses the issue even more for the conscientious sociologist, concerned with a constructive approach to the offender.

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MARCEL FRYM

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ABNORMAL PSYCHOLOGY AND MODERN LIFE. By *James C. Coleman*. Scott, Foresman and Co., 1950. Pp. 657. \$4.50.

This is a textbook on abnormal psychology—unique as textbooks go. It covers an enormous area, and most interestingly. The pages are profusely illustrated. There are illustrations which appeal to the antiquarian and to the modern. Few readers will come away from the book saying he had already been familiar with them all. Both the author—Assistant Professor of Psychology in the University of California at Los Angeles—and the publisher deserve congratulations for having got out such an attractive book.

The greater part of the volume does not interest the criminologist primarily. Nevertheless, as a whole, it serves us indirectly, and well. The reviewer believes that most criminologists will find the following discussions illuminating, though brief: "Abnormal Behavior," pp. 103 to 139; "Patho-

logical Personality Types," pp. 383 to 439; "Alcoholism and Drug Addiction," pp. 440 to 465; "Disorders with Mental Deficiency," pp. 466 to 479, and "The Prevention of Abnormal Behavior," pp. 561 to 590. There are numerous case histories in these pages.

A seventeen page glossary in an appendix is a boon to readers who lack a background in one or more of the biological sciences, or in psychology and psychiatry. Readers of that description are sometimes hard put to it even though they may be equipped with one of the standard, unabridged dictionaries.

Evanston, Ill.

ROBERT H. GAULT

THEIR MOTHERS' SONS (Second Edition). By *Edward A. Strecker, M.D., Sc.D.* J. B. Lippincott Co., 1951. Pp. 237. \$3.50.

This book should be a "must" for three million "moms," as many "pops" in the United States, and for millions of younger fry who are looking ahead to the job of heading up families of their own. These young folk can do some self-help toward becoming emotionally mature—if they will. *Mothers* and *fathers* help them toward that end, but "moms" and "pops" do not.

Away back in kindergarten "mom" saw to it that her "little lamb" had the most favored spot for taking a nap—"just because." Later she was on the sidelines to be available in case he should be scratched in scrimmage. She wore her fingers to the bone to give him such a coat as he wanted rather than encourage him to cut lawns for it.

Everything came to this boy on a silver platter. Naturally his "I" became huge—his "you," pitifully small. What has his home experience put inside him which will make him an asset to his neighbors and nation? Nothing. He will be one of the half million who try to evade the draft or one of the near 2,000,000 rejected because of psychiatric disorders when the country calls. He will be AWOL from the training camp, if he gets so far along as that or an absentee from the civilian office because he "can't take it." The silver platter isn't there and work is so tedious! He will probably be a "joiner" of movements which promise to correct what's wrong and to give the underdog a fair show. "Doesn't the country owe every man a living?" It isn't far from that point to being a subversive nor to unleashing the basest elements of the personality.

Dictatorships sometimes thrive in this emotional immaturity, as the author has pointed out in a chapter on "swaddling clothes" which he has included in this second edition. It is as if a powerful inner protest against the psychological swaddling he suffered in childhood had begotten aggression and hostility as it very often does. ". . . there is a similarity of pattern in the lives of Hitler, Mussolini and Stalin" which makes Dr. Strecker suspect that this protest is at the root of their destructive behavior. He has access to an eye-witness' account of Stalin's childhood which lends color to the suggestion.

The author is Chairman of the Department of Psychiatry in the University of Pennsylvania. During many years he has enjoyed a wide professional practice. During World War II—at least as early as that—he was Consultant in Psychiatry to the Surgeons General of the Army and Navy and Adviser to the Secretary of War—and he continues in these capacities. He has had contact—direct and indirect—with thousands of "moms'" sons who "couldn't take it," and with thousands of "mothers'" sons who could and did "take it." This background, alone, is enough to create the conviction that the author knows what he is talking about.

Evanston, Ill.

ROBERT H. GAULT

AUTHORITY AND DELINQUENCY IN THE MODERN STATE, *A Criminological Approach to the Problem of Power*. By Alex Comfort; Routledge, Kegan Paul, Ltd., London, England. 1950. Pp. 112. Price 8s 6d.

The author of this small but provocative book is a novelist, a poet and a lecturer in physiology in the London Hospital. After the fashion of a psychiatric essayist the author reviews the social forces creating psychopathic citizenry and in turn the political criminal in government. He re-interprets the old folk wisdom, that people have the kind of statesmen they deserve.

The introductory portion of the book explains how the modern state punishes the "egocentric psychopath who swindles in business" while at the same time permits the same type of person to enjoy immunity and esteem as he makes the laws of the land. The highly centralized and yet fragmented urban culture has created the "indispensable and licensed delinquents" in government. This is what Lombroso meant, when he said earlier, that people create "the criminal whom society venerates as its chief." Dr. Comfort is fearful that democracies cannot select and elect leaders with as much care as the older aristocratic oligarchies. Current party politics, general public anxiety and frustration during the "war—depression—war" years has developed unstable citizens and correspondingly delinquent leaders in the state. As governments have become more intricate and complex law-makers have been unable to meet the problems of the day because they are too far removed from the people. Their only means of communication is through secondary "mechanical channels." Law-makers become an "in-group" concerned with sustaining self and the people become an "out-group," seeking help for an undefined need. The legislators thus, are ignorant of the ultimate details of their laws.

In his material on "War and the Corps d'Elite" the author maintains that "war is essentially the playground of the psychopath in society," where "full indulgence is given to aggressive behavior." Wars give the delinquent civilian in high office an opportunity to "cover-up" his abnormal personality under the cloak of patriotic zeal. "The calculated and indiscriminate war crimes" of the present were but projections of psychopaths in high governmental offices. These men were far removed from the grim operational details and the people had little information of the consequences.

In the second portion of the book the author explains that crimes have increased faster than the authority and the effectiveness of government. The fragmented character of urban life has shattered the social conscience needed in bolstering the law. The law no longer has ethical compulsion behind it. This condition widens the gulf between the "governors and the governed" and opens the doors for super-governments. When a society has reached this stage the people can do nothing to control delinquencies in high offices, especially when the leaders operate in a "crisis politics" continually promising to correct conditions "after the end of the emergency."

Under the title of "Remedies" for the present crisis ridden society, the author suggests that we need a revolution "in depth" which will change life from asocial to social living. The real revolution should take place "at the level which religion's apostles term 'life changing' rather than at the barricades." Changes in character structure are more important than changes in economic or political power. If changes are to be made there must be an incentive. The old incentives of profit, fear and power have become useless. The profit motive no longer exists. Fear has been used by governments to the point where "citizens live under a barrage of threats directed at his security" all of which ends in anxiety and frustration. The incentive of