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Book Reviews

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BOOK REVIEWS

JUSTICE FOR YOUTH. By *Bernard C. Fisher*, for Committee on Public Affairs. New York: Community Service Society of New York, 1955, viii + 154 Pp., \$1.00.

"Justice for Youth" is divided into three major sections. The introductory section, Part I, presents certain general information regarding the courts of New York City. Part II describes the methods, procedures, processes, personnel, and judicial dispositions of New York City youth courts. Part III points out the need for social action on the adolescent court level and outlines certain definite proposals for reform. The Appendix includes a copy of the statutes of the Wayward Minor Act, the Youthful Offender Act, and the Girls' Term Act.

This research report is the second in a series of research reports dealing with youthful offenders, sixteen to twenty-one years of age, in New York City courts. The first report, "A New Pattern for Family Justice" described the evolutionary development of the numerous social courts in the city and recommended that they be consolidated into one family court system. The present volume analyzes the various legal procedures and treatment processes involved in the handling of youthful offenders in these courts. Delinquent children under sixteen years of age are not included in this study, but come under the jurisdiction of the Children's Court (juvenile court), which is a division of the city-wide Domestic Relations Court.

The reader will be astounded by the contradictions and lack of uniformity existing between the various statutory provisions creating New York City's youth courts. Four sets of statutory provisions govern court proceedings in cases of youthful offenders: (1) the General Code of Criminal Procedure and the Penal Code for all offenders over sixteen years of age; (2) the Wayward Minor Statute; (3) the Youthful Offender Statute; and (4) the statute creating the Girls' Term of the Magistrates' Courts in New York City.

The reader will be further astounded and confused by the complexity, the non-uniformity, and lack of correlation of the various social courts dealing with youthful offenders. These special courts include Adolescent Courts, Youth Terms, Girls' Term, Narcotics Term, and Home Term courts. In addition to these courts, the regular criminal courts, including the Magistrate's Court, Court of Special Sessions, and the County Court have also adopted specialized provisions for dealing with the youthful offender. The treatment of the youthful offender in some of these criminal courts is often more lenient and more rehabilitative than that received in the so-called youth courts. The maze of overlapping jurisdictions, contradictory statutory provisions, lack of uniformity in the social court system, and differences between jurisdictions in disposition of cases creates an unreal and chaotic situation similar to "Alice in Wonderland." The result is confusion, bewilderment, and frustration for the youthful offender.

The actual methods and procedures utilized by the various youth courts show the lack of uniformity and confusion in the youth court system. For example, the Adolescent Court operates under the Wayward Minor Act, originally passed in 1923 to enable parents and guardians to request assistance from the courts with ungovernable, disobedient, and morally depraved youth, sixteen to twenty-one years of age. Although this law still operates for many delinquent youth, nevertheless, the original purpose of the Wayward Minor Act has been diverted to deal with youthful criminals, sixteen to nineteen years, who appear to be hopeful candidates for specialized methods of treatment. Subsequently the criminal charges are dismissed and Wayward Minor complaints are substituted in their place. Adjudication as a wayward minor is not a criminal conviction, but merely indicates the status of waywardness.

The procedures and methods followed in dealing with a youthful offender, sixteen to

nineteen years of age, under the Youthful Offender Act (passed 1943) differs sharply from the Wayward Minor Act. First the youthful offender is arraigned in a Magistrate's Court devoted to youth cases, held for grand jury, and if indicted, may be tried before the youth division of a criminal court (County Court or Court of Special Sessions). However, the grand jury may recommend to the County Court that the offender be investigated by the Probation Department for treatment under the Youthful Offender Act. If the probation investigation is favorable, the court may substitute the charge of being a youthful offender for the original criminal charge. The youth adjudicated as a youthful offender may be committed to a correctional institution for a period not exceeding three years, given a suspended sentence, or be sentenced with the execution of the judgment suspended, and be placed on probation for a period not exceeding three years. The probation period may later be extended to a five-year period. Thus, treatment under the Youthful Offender Act may actually be more severe than conviction on the original criminal charge in regular criminal court. Furthermore, since the offender may often be adjudicated a youthful offender without a court trial to establish guilt, the youthful offender may be unlawfully imprisoned or placed on probation for a period of years in violation of the individual's constitutional rights and liberties.

The Girls' Term Court, originally established June 1, 1951, is a court with exclusive city-wide, original jurisdiction of girls from sixteen to twenty-one years of age charged with delinquency or immorality, or neglect in case of girls sixteen to eighteen years. The Girls' Term Court deals primarily with the sexually promiscuous female, the truant, the undisciplined, and neglected girl. This court aims at remedial measures and the prevention of delinquency—an experimental adventure in the area of preventive justice. However, many of the girls who are held by this court and actually committed to a correctional institution for a period of years, have never violated any law nor committed a crime of any kind. This procedure is certainly in direct violation of their constitutional rights.

Although the criminologist may favor the adolescent or youth court in principle, nevertheless he cannot approve the hodge-podge system which has developed in New York City. This conclusion is in line with the report by the Committee on Public Affairs. The report of this committee clearly and forcefully points out the principal weaknesses and defects of the New York youth court system. It also vigorously recommends a six-point program for the establishment of a city-wide youth court as a division of a new family court system.

MORRIS G. CALDWELL

University of Alabama

DIE STRAFE. Vol. I: FRUEHFORMEN UND KULTURGESCHICHTLICHE ZUSAMMENHAENGE. Vol. II: DIE MODERNEN ERSCHEINUNGSFORMEN. By *Hans von Hentig*. Berlin, Goettingen, and Heidelberg, Germany: Springer Verlag, 1955, Pp. v + 429 and Pp. vii + 415, each DM 36.60.

This monumental work, encyclopaedic in nature, by one of the world's foremost criminologists, Professor at the University of Bonn and Associate Editor of this Journal, will probably stand as a landmark for many years to come. So far as this reviewer is able to determine, nothing of its kind seems to exist in the literature of either hemisphere. The author's scholarship, already renowned from previous publications, both in English and in German, and reviewed on previous occasions in this JOURNAL, is at its usual high stature here; if possible, the present work surpasses everything he has written so far. The author, being at home in most modern and the classical languages, cites with ease French, Italian, and English, as he does Greek and Latin, sources.

The first volume, as the title indicates, is historically oriented. The history of *die Strafe* is organized by types of punishment. Therefore, the reader will learn first about punishments peculiar to the ancient world only and obsolete now, such as exile, the punishment of the already dead, cannibalism, etc. The second part of the first volume is divided into four chapters, chapter three being by far the longest of the entire volume and dealing with capital punishment, which the author divides into "genuine"

and "artificial" methods of execution. It is quite conceivable that the reader, just by going through the Table of Contents, may discover some methods of capital punishment which were hitherto unknown to him, such as being buried alive, being thrown from a precipice, being quartered or hacked in pieces, or being broken on the wheel. There is a history of one "imaginary" capital punishment, the curse. The last two chapters deal with forms of corporal punishment, such as flogging and castration, and punishments concerning the offender's honor, *die Ehrenstrafen*; among the latter the reader will find some equivalent to the flogging of prisoners who have been bound to an Indian totem-pole, the *Pranger* (exposure in the Pillory in the town-square), and the *Brandmal*, a forced tattooing, reminiscent of the popular literature, such as *Milady* in the "Three Musketeers."

While the first volume, not hard reading for the layman, is almost entirely historical with some sociological aspects inevitably thrown in, the second volume will delight the expert and the professional practitioner, particularly the criminologist, no end, since it deals with the psychological mechanism of punishment, considered under the various methods of punishment. Although the author cannot avoid mixing in history with the psychological phenomena of the various eras, such timely and controversial discussions as arguments pro and con capital punishment constitute one chapter; included is so acute a modern problem as the mentally ill or incompetent homicidal convict. While the first part of the second volume deals with capital punishment only, the bulk of this volume is devoted to the subject of incarceration, and the various experiments that some countries have undertaken, such as Holland, England, and the U. S. The purpose of these experiments has been to study effects of various kinds of prison treatment, as well as the social implications or social dynamics of the inmate's environment, such as the guards (in the broadest sense, including the warden, the chaplain, and the physician!) and his fellow-inmates, and the conflicts arising from this environment, boiling over in riots and escapes.

In a work like this, it is next to impossible to

single out any particular contents. Suffice it to say, to this reviewer, even superlatives seem mild in speaking of this work. It should enrich and broaden the horizon of both layman and professional, giving them a better understanding and a new vision of what to strive for, namely prevention and rehabilitation with the aim of integrating a convicted individual into society before his release from an institution. It should move the reader to aim at a revision of our (i.e. American as well as foreign) penal system, in which everybody has a stake, from the citizen, who elects the judge, and the judge, who commits an individual to prison, to the warden, who "supervises" the inmate while the latter is serving his sentence, and the guard, who virtually "lives with" the inmate every day during the latter's term in prison.

One fault, mentioned by this reviewer in a review of a previous book by von Hentig, is the lack of a bibliography, other than what is furnished in copious footnotes. Many researchers might appreciate the author's efforts if he prepared such a bibliography for a later edition of this work. This fault will not in any way, however, stand in the way of the success which the work is bound to have the world over. It is to be hoped that a translation of it will before long appear in English.

HANS A. ILLING

Los Angeles, California

YOUTH AND THE LAW. By *Frederick J. Ludwig*.
Brooklyn: The Foundation Press, Inc. xxii +
386. \$5.50.

In view of the fact that this volume is a Youth Counsel Bureau Project, it is desirable to preface these remarks with some pertinent comments about the book's sponsor. In 1941, former Governor Thomas E. Dewey, then the racket smashing District Attorney of New York County, founded the Youth Counsel Bureau. The purpose of the Bureau was and still remains the aiding of youngsters in difficulty with the law—those who have either been discharged by the courts or those who have been found to be outside of its jurisdiction. Thus, because of its close familiarity with the problems confronting youth, the Bureau has made numerous studies on problems such as

gangs, narcotics, auto thefts, etc. "Youth and the Law" is sponsored in the hope that there will be wiser administration of laws affecting young people.

Now as to the volume itself, it is primarily a practical handbook, well documented, full of helpful information and definitely an asset to those concerned with day-to-day problems affecting youth. It contains cases and statutes of the 48 states and Federal courts—pointing up what occurs when youth and the law are in conflict. As such, it also indicates gaps and loopholes in existing laws and reveals the desirable changes for legal correction.

The volume contains an extensive list of authorities. This reviewer wishes however that names such as Adler, Aichorn, Freud, Friedlander, Shaw, Thrasher, and others would have been included in the table of experts. Nevertheless, this lack in no way detracts from the value of this work for the policeman, social case worker, counselor, probation and parole officer, lawyer, judge, legislator, student, teacher—in fact, for all concerned laymen.

ARTHUR LERNER

Los Angeles, California

THE OTHER MAN—A STUDY OF THE SOCIAL, LEGAL, AND CLINICAL ASPECTS OF HOMOSEXUALITY. By *Donald J. West*. New York: William Morrow and Company, Inc., 1955. Pp. 224. \$4.00.

At long last, a book has appeared upon the scene which should have a decided constructive effect in an area which has long been taboo. The homosexual is still regarded by many as a moral leper. Whatever resistances prevail regarding an understanding of the homosexual should be somewhat loosened with the advent of the present volume.

Dr. West has attempted to make available results of research for the intelligent layman and professional—in order that both should have the opportunity of making objective appraisals of what has been achieved and what can be expected from medical and social science as regards homosexuality.

This book's original edition was of English origin. However, the scope of its content is universal in nature. The reader is reminded from

the outset that while most people look upon sexual indulgence as an abnormality, there are many communities which do not share this attitude. The work of Ford and Beach, Devereaux, Mead, Benedict, Malinowski and others are cited. Incidentally, there are 160 references plus a selected list of fiction dealing with male homosexuality. This reference is one of the most complete which the reviewer has ever observed.

Dr. West appears to be psychoanalytically oriented. However, he does not allow his views to blind him to other possible facets of the problem. Thus, he offers no rash generalizations and indicates a possible multiplicity of causes in so far as homosexuality is concerned. His approach is a well-balanced presentation founded upon scientific bases without losing the popular theme of his subject.

Along with cultural and sociological factors, constitutional, hereditary and endocrine influences in the causation of homosexuality are also examined. The subject is discussed with keen and sympathetic understanding. Nowhere this characteristic more wholesomely revealed than when the author takes up the question of treatment. Though Dr. West regards prolonged psychoanalysis as the best technique for homosexual treatment, he recommends it primarily for carefully selected cases and with certain reservations. Every practicing psychiatrist, psychoanalyst, and psychologist knows only too well the difficulties involved in the treatment of homosexuals.

Last but not least, the author's expression of the need for the reform of the penal law as regards the homosexual act, in keeping with the soundest scientific findings, should go a long way toward accentuating prevention. In addition to being an "eye-opener" to some, this volume should help all who read it think through one of the most complex problems of our day.

ARTHUR LERNER

Los Angeles, California

THE GUILTY MIND. PSYCHIATRY AND THE LAW OF HOMICIDE. By *John Biggs, Jr.* New York: Harcourt, Brace and Company, 1955, Pp. xii + 236, \$4.50.

The present volume is the third of the Isaac

Ray Award Series (the former two having been authored by psychiatrists and having been reviewed here previously) and has as its author the Chief Judge of the Third Judicial Court of the United States. More and more judges (e.g. Vanderbilt) publish books on law reforms, some technical and others writing in a popular style. Whatever their intrinsic value, they all have in common one goal, reform, and one purpose, to propose the best and to expose the worst in judicial procedure, personnel, and practices.

Judge Biggs is no exception. His book is that of a scholar, delving into the history of law and psychiatry in four out of six chapters! Only the last two chapters deal with current problems and recommendations. To this reviewer, who has had considerable experience in the courts with the criminally "sane" or "insane," the chapter which deals with the "Development of the Concept of the Guilty Mind in the Law of England and the Evolution of the M'Naghten Rules," is not only the most important one in this book, but it also seems as one of the best illustrations and presentations yet to come before the practicing lawyer, judge, probation officer, or social worker. (And this notwithstanding a series of popular magazine articles, recently published in "The New Republic"). This chapter is so important that a suggestion to reprint it for a wide distribution may not seem to be amiss.

The relationship between psychiatry and jurisprudence is a subject, which permeates the whole book and, while never criticising psychiatry, Judge Biggs holds out the hope that psychiatry, being as young as it is, may become more "disciplined" in time in order to command more respect, dignity, and competence in our court rooms. All difficulties, psychiatric and legal, have their roots in history. Judge Biggs feels that "the thought that a criminal is a person very much like ourselves, a person who may be mentally ill or who has been subjected to pressures of life that have proved insurmountable, has not been presented to the average lawyer or to the average citizen." "Bluntly speaking," says the Judge, "I doubt that there is a single reader of this book who has not broken the law on occasion." However,

the author does not favor a soft policy toward the lawbreaker. Aside from "some tigers among us," as Mr. Justice Holmes once referred to them, most of us, in committing some kind of misdemeanor or other, are "still fundamentally very much like you or me."

The Judge ends his volume by quoting the "National Statement" of the small Duchy of Luxembourg, which, in excerpts, states that "We do not pass moral judgment, but we try to see only the man as he is. If he is incorrigible, no longer rehabilitable, or his prognosis is bad, we still pass no moral judgment. That would be to defeat our own methods. Just as the doctor is all too often forced to give up when faced with a fatal disease, we have to confess that we are not able to rehabilitate every anti-social person."

How many, among our judges, "average" citizens, and even psychiatrists, can truly say that they never passed "moral judgments?" This book, if any, is a real contribution to the furtherance and promotion of vitally needed law reform.

HANS A. ILLING

Los Angeles

THE SOCIAL WELFARE FORUM, 1955. OFFICIAL PROCEEDINGS, 82ND ANNUAL FORUM NATIONAL CONFERENCE OF SOCIAL WORK, San Francisco, California, May 29-June 3, 1955. New York: Columbia University Press, 1955, Pp. xvi + 265, \$5.00.

Of the twenty papers included in this slim volume (former Proceedings used to be fatter in volume and less expensive!) as a reflection to those readers, who were unable to attend the Conference, less than half a dozen, in this reviewer's opinion, stand out as highlights. Some of these papers the reviewer listened to from the audience were Max Lerner's "The Meaning of Group Experience in the Current Scene," George S. Mitchell's "Segregation," and Joseph H. Douglass' "Migration." Other papers on social casework, social group work, and a lone paper on "Social Class and the Treatment of Neurotics," appeared to me both superficial in context as well as basically lacking in research, although the authors claim to possess "the" authority in their respective fields of compe-