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## Book Reviews

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ZEITSCHRIFT FÜR DIE GESAMTE STRAFRECHTSWISSENSCHAFT. Berlin. Vol. 70, no. 4, 1958.

Eduard Dreher, *Für und wider die Todesstrafe* (For and against capital punishment) (p. 543-65).—Richard M. Honig, *Deutsche Strafrechtsreform im Lichte amerikanischer Strafrechtsgrundsätze*

(The German reform of criminal law as compared with American principles of criminal law) (p. 616-31).—Leon Schaff, *Das Strafverfahren in Volkspolen* (Criminal procedure in the Polish People's Republic) (p. 169-90).

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## BOOK REVIEWS

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THE PROBLEM OF DELINQUENCY. Edited by Sheldon Glueck, Houghton Mifflin Company, Boston, Massachusetts, 1959. Pp. 1183. \$10.50

The growing interest in the contributions of psychiatry and allied disciplines to the administration of justice is shown by the increased number of law schools which provide instruction in psychiatry or psychology. A major handicap for these programs has been the lack of suitable teaching materials. Attorneys, judges, probation and law enforcement officers who wish to learn more about the intricacies of criminal behavior encounter the formidable obstacle of an extensive literature couched in unfamiliar technical language. Several good text books and one or two compilations of material are available for this special audience. What has long been needed is a set of materials that is eclectic and far reaching in respect to the causes of delinquency, its treatment and prevention, and at the same time takes account of the legal problems inherent in society's efforts to cope with its maladjusted youngsters.

The aim of Professor Glueck's book is to fill this gap in the literature and the focus is on welfare and justice. The editor believes that dynamic psychiatry offers the greatest promise of any single discipline for the elucidation of the subtle and complex motivations of delinquency and crime. However, he rides no pet hobby horse, and in his selection of material he throws his net wide. Thus, one finds psychoanalytic formulations cheek by jowl with Lombroso's concept of the born criminal. The contributors include lawyers, judges, probation officers, sociologists, anthropologists, psychologists and psychiatrists. There are no fewer than 186 articles from a wide variety of periodicals, American and foreign, some of them difficult of access. Apart from some 50 court decisions on basic legal problems, almost one third

of the materials come from the AMERICAN JOURNAL OF ORTHOPSYCHIATRY, FEDERAL PROBATION and this JOURNAL.

This is not one of those hasty scissors and paste compilations of a number of ill selected recent articles, jumbled together and foisted on the unsuspecting reader. The editor, Professor of Law at Harvard University and a leading authority on juvenile delinquency, is eminently qualified for his task. Many of the items presented have been tried out in his seminars for post graduate law students. They have been found successful in aiding these students to see the delinquency problem as a whole, to note its ramifications, to assess its legal implications and to develop some facility in managing a wide variety of technical vocabularies derived not alone from legal documents, but also from the points of view of psychology, psychiatry, sociology, social work and anthropology.

The book is divided into sections on the incidence and measurement of delinquency, theories and findings on causation, the juvenile court and the law, detection, investigation and sentencing, treatment and prevention of delinquency. A valuable feature is the editorial introductory note to each of the majority of the 33 chapters. These notes, which are from one to five pages in length, lend continuity and round out what might otherwise be, at times, a somewhat uneven presentation of material. Additional references are provided for the reader with special interests. The articles vary in quality and it would be invidious to select from such a large number of contributions a few for special praise or criticism.

The section on treatment is particularly comprehensive as it covers probation; individual and group psychotherapy; foster home, institutional and hospital care, as well as other aspects of

treatment. Welcome information is provided on the difficult and puzzling problems, which the judge has to face, in determining the sentence to be imposed on the juvenile offender.

The section on basic legal issues deserves special mention. The juvenile court movement has been criticized on the ground that, although motivated by the lofty aim of protecting and rehabilitating, rather than punishing the endangered child, its procedures too readily invite abuse. Weaknesses and dangers inherent in juvenile court practices are carefully scrutinized. The legal decisions which are quoted throw additional light on this vexatious problem and give the nonlegal reader fresh insights on judicial attitudes. The other sections are also of high caliber and reflect the wide knowledge of the editor.

One may quibble over the inclusion of some articles and the omission of others, but there is no ground for serious complaint. As suitability for teaching purposes as well as soundness of content were the criteria for selection of articles, the volume should be a useful text for university courses on delinquency. The reader outside the classroom may be puzzled by the differing viewpoints of contributors, but he cannot fail to profit from even casual study of the contents. The "Problem of Delinquency" deserves to be on the bookshelves of all those who work in the field of juvenile delinquency or its adult counterpart. Students will be grateful, not only to the editor for his remarkable achievement, but also to the donors who made possible the sale of this book at a price much lower than would otherwise have been necessary.

JOHN M. MACDONALD, M.D.  
Denver, Colorado

MODERN CRIMINAL PROCEDURE. By *Roy Moreland*, Indianapolis. The Bobbs-Merrill Company, Inc., Publishers, 1959, pp. x-366. \$10.00.

An excellent discussion of Arrest Without a Warrant and Arrest with a Warrant opens the volume. A careful study of these chapters will enable police officers to avoid being sued for false arrest. The Use of Force in Arrest is the topic in Chapter 3. The author points out that an officer has to be careful as in some cases he kills the person sought to be arrested at his peril and the officer may land in jail. It has happened that the arresting officer has been killed by the person he sought to arrest by mistake and the killer has not been held criminally liable. Although confusion reigns

on this point relating to the question of whether killing the suspect is to be excused in all cases the better thinking appears to be that the state cannot put a gun in the hands of the police and let them shoot willy-nilly where persons are resisting arrest. Questioning of Private Persons without Arrest concludes the matters pertaining to arrest in Part I.

Part II, Methods of Obtaining Evidence, opens with Chapter 5 on The Privilege Against Self-Incrimination. Interesting and illustrative cases are cited to explain the scope of the doctrine, concluding the chapter with The Fifth Amendment Communist. The next topic considered is the Third Degree. The author remarks, "It has become one of the best illustrations of the difference between the law in the books and the law in action." Chapter 7 contains a good discussion of various aspects of Search and Seizure, while Chapter 8 is on Admissibility of Evidence Obtained Through Unreasonable Search and Seizure. The concluding chapter of Part II discusses Wire Tapping and Other Scientific Devices for Obtaining Evidence of the Commission of Crime. Several important cases on the subject are analyzed.

Part III relates to Proceedings Prior to Trial. The preliminary examination is considered in detail along with the inferior courts in which the examination is held. The author points out the inferior court system is in need of overhauling and states, "It may be concluded, that here is an area where much improvement can and should be made. It is believed that this improvement should be effected as speedily as possible, not only to prevent further injustice in these courts, but also to prevent our whole judicial system from losing the respect of the people."<sup>1</sup> Right to Counsel Prior to Trial is next considered from a historical viewpoint and the contrast between federal and state aspects of the question is noted. The Right to Bail is given careful scrutiny and the Grand Jury is examined with a view to its continued use or abolishment as in England. Part III concludes with the topic—the Short Indictment and/or Information. The author states, "Remarkable progress has been made in the shortening and simplifying of the common law declaration in civil cases. Parallel progress is desperately needed on the criminal side. It must come if the people are not to lose all patience with courts and lawyers."

<sup>1</sup> The Illinois House and Senate approved a bill (June, 1959) to put an end to fees for Justices of the Peace and to substitute salaries therefor.

Part IV is on Trial and Appeal and starts with Right of Counsel During Trial and Thereafter. Chapter 17 follows on the Right to an Impartial Tribunal and includes comment on Disqualification of the Judge and the Trial Jury. Referring to it the author states, "But it still remains the safest agency for the achievement of justice in the determination of guilt or innocence in criminal cases that has been, as yet, suggested . . . However, a decision that the jury should be retained does not imply it should not be improved. John H. Wigmore created what has become a well-known fable about a Swiss watch to illustrate this proposition." Essentials of a Fair Trial is considered from the viewpoint of Right to Trial Free From Mob Domination; Relation Between the Right to a Fair Trial and the Right of Freedom of the Press; Right to Public Trial; Corroboration of the Testimony of an Accomplice; Improper Remarks by Prosecuting Attorney; Right of Accused to Refuse to Testify; Other Requirements of Due Process. Part IV concludes with the topic Right of Appeal by the State. The author's views on the latter question is that the common-law rule denying the State the right to appeal in criminal cases is outmoded and that the State should have the right to appeal to correct errors in the lower court proceedings.<sup>2</sup>

The volume concludes with an appraisal of Sentencing Powers and Practices of Courts, in which Existing Sentencing Procedures, Reform of Sentencing Procedures, and Parole are included.

The volume contains a Table of Treatises, Articles and Notes. There is also a Table of Cases and a valuable Index.

The author is a Professor of Law and also engages in the practice of law. He is also a Reviser for Kentucky Legislative Research Commission on Proposed Revision Kentucky Criminal Code 1958-1960.

Teachers of law, parole officers, and member of city, county and state police department will find the book a valuable guide. It should be read by all engaged in any phase of criminal practice or administration.

JOHN W. CURRAN

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THE RESULTS OF PROBATION. A Report of the Cambridge Department of Criminal Science.

<sup>2</sup> Judge Leibowitz on Russian Law. LIFE MAGAZINE, New York, June 8, 1959.

Vol. X in English Studies in Criminal Science, Edited by *L. Radzinowicz*. London: Macmillian & Co., Ltd., 1958. Pp. xvi + 112.

The organization of this little volume is peculiar. The Editor's Preface is mainly a brief, but elegant, history of probation in Britain. The text plunges the reader into tables of success and failure percentages for various categories of probationer without indicating the size, time or place of the samples to which the percentages refer. Only in an appendix may one discover that the data cover 9336 persons terminating probation for indictable offenses in London and Middlesex courts during 1948-50, and that their post-probation records were followed through 1953.

On the basis of no reconvictions during one to three years of supervision and three years of follow-up thereafter, probation is credited with 74 per cent success for adults and 62 per cent for juveniles. Even where probation was granted to persons having two or more previous convictions, adults had 52 per cent success and juveniles 42 per cent. The latter had only 35 per cent success if prior commitment was to a Borstal, but for adults it made little difference what the prior commitments were. However, all categories of offender had markedly higher failure rates if required to reside in a specific home or institution as a condition of probation. One gets the overall impression that remarkable success is achieved with probation in Britain, but the success rates would mean more if we also knew the proportion of comparable offenders denied probation, and their post-release record.

While this book has much interesting data of relevance to judicial and correctional decisions, one's ability to generalize from its 90 tables and 14 graphs is severely limited by its frequent failure to give the numerical basis for percentages, and by its analysis of many variables only one or two at a time instead of by multivariate statistical methods. Perhaps our disappointment stems from the methodological leadership which we have come to expect from British correctional research as a consequence of recent Home Office publications. The Cambridge explorers penetrated a vast and largely unknown territory. They might have charted it more adequately had they employed better conveyances.

DANIEL GLASER

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ORIGINS OF CRIME: A NEW EVALUATION OF THE CAMBRIDGE-SOMERVILLE YOUTH STUDY. By William McCord and Joan McCord, with Irving Kenneth Zola. Columbia University Press, New York. 1959. Pp. 219.

This book is a re-examination of the results of the Cambridge-Somerville Youth Study, a project begun in 1935 by Dr. Richard Clarke Cabot, marking the beginning of one of the most outstanding and progressive attempts ever undertaken to aid youth by intensive services. The ultimate goal of the project was to prevent delinquency. The program was actually commenced in 1937. About a thousand boys were referred to the project by schools, churches, social agencies, and police departments. A total of 650 were selected, divided into 325 matched pairs. The two groups were matched in terms of physical health, intelligence, emotional adjustment, home background, neighborhood conditions, and delinquency prognosis. The boys in the treatment group were provided with counselors who talked with the parents as well as the boys, planned trips for the boys, and provided medical, dental, welfare aid, or other services whenever it was required. The control group received no special treatment by the project personnel. As the years passed, counselors found themselves overloaded with cases and dropped some of them. Military service, changes in the neighborhood, death, and other factors contributed to the reduction of the size of the group. Only 75 boys remained in the active file when the project was closed in 1945.

In 1948, Edwin Powers and Dr. Helen Witmer began a careful analysis of the cases treated and reported their findings in *An Experiment in the Prevention of Delinquency*, 1951. In 1955, ten years after the closing of the project, the McCords began a re-study of the Cambridge-Somerville boys. Unfortunately, it was not possible to follow-up the major proportion of the cases, but the McCords studied the available case records of those who committed offenses. Some of the boys in both groups probably committed offenses outside of the state, but it is believed that only a small proportion of them had no records in Massachusetts. Of the 253 boys who received treatment (not counting 65 who were dropped early and seven who died), 27 had records of only traffic violations and 104 had committed at least one crime which led to court conviction. Of the boys in the control group, 35 had committed traffic

violations and 93 had committed at least one other offense.

On the basis of the comparative analysis of the boys in the treatment and control groups who had committed offenses by 1955, the McCords confirm the conclusion of Powers and Witmer that the project failed to accomplish its goals. They conclude further that "it failed primarily because it did not affect the basic psychological and familial causes of crime." However, they point out some positive findings about the causes and the course of deviant behavior. The re-appraisal of the case records revealed certain etiological and developmental aspects of criminal behavior. The causes of criminality were not reconstructed retrospectively, after the men had become criminals; but the availability of the extensive fund of case records, gathered before the onset of criminality, as well as the subsequent records of offenses, provided the main data for this study.

It is not possible to review in detail the findings of this study, which are concisely summarized in the book, which includes 97 tables. Among the findings reported, it is significant to note that the roots of crime are implanted early in life. The authors weighed the possible influences of particular elements of family life and social conditions, especially as they affect later life. Parental discipline, family emotional relationships, home atmosphere, parents' character, and the type of neighborhood in which they lived were analyzed in particular. Intelligence was not found to be strongly related to the causes of crime, except that those who committed crimes against property were, most often, of average intelligence and it is likely that some of those with high intelligence may have escaped detection of offenses. The physical conditions of the boys did not seriously affect the crime rate, except in cases of those who suffered from a distinct neurological disorder. Social factors were variously related to crime. Even though a slum neighborhood can mold a child's personality, the influence of this variable is conditioned by other factors in his background that may make him more susceptible to sub-cultural conditions. The boys who lived in good neighborhoods, even though some were neglected by their families, tended to channel their frustrations in noncriminal ways, and even those who did commit offenses were more likely to change their behavior after the age of eighteen than those who lived in the poorer areas. Cohesiveness in the

family, consistent discipline, and parental affection tended to insulate children from gang influences. Specifically, home atmosphere, the type of discipline, the father's personality and his role model, the mother's personality, and the son's position in the family were found to be significantly related to the behavior of the cases studied. Gang membership increased the chances of criminality. Neighborhood conditions as factors in criminality affect children more than they do later in life.

The study indicates that the origins of crime cannot be understood by concentrating on one factor only or chiefly. To understand crime it is necessary to study the "complex interactions of such determinants as the parents of the individual, the parents in relation to the child, and the family as it combines with neighborhood influences." The multiple causation theory of crime is now quite generally subscribed to by criminologists, but there still is a difference of opinion with respect to the most investigative and influential factors.

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LAW OF JUVENILE DELINQUENCY. By *Frederick B. Sussmann*. Revised 2nd Edition. Legal Almanac Series No. 22. Oceana Publications, New York, New York, 1959. Pp. 96. \$2.00 clothbound; \$1.00 paperback.

The revised *Law of Juvenile Delinquency* should prove a valuable, up-to-date guide for juvenile court workers, social workers, students and community leaders concerned with the treatment and prevention of juvenile delinquency. It contains a factual, non-technical account of the origins, purposes, and development of the juvenile court in the United States, the legal definition of juvenile delinquency, the jurisdiction and functioning of the court, its techniques, the detention of children, the disposition of cases, the court staff, and state participation in juvenile court work. An index increases its usefulness.

Sussmann has also presented summary charts of each state's definition of juvenile delinquency and court jurisdiction as well as an appendix which condenses the law, state-by-state. This is meritorious for it affords an opportunity for comparison and contrast. The changes in the 1957 law and court decisions are outlined in another appendix from material based on the NATIONAL PROBATION AND PAROLE ASSOCIATION JOURNAL, and thus enables the reader to become acquainted

with the recent trends in this field. An excellent foreword by Sol Rubin, Counsel for the National Probation and Parole Association, informs the readers of the present revision of the Standard Juvenile Court Act, an ideal standard with which to measure state juvenile court laws. He forecasts the changes in this Act which will soon be released and indicates the sections which will remain unchanged. All in all, this should prove a useful book and the price of \$1.00, paperback, shows that it is also economical.

The most serious drawback is the omission of the revised Standard Juvenile Court Act. This revision is still incomplete; yet it seems to the reviewer that it is so essential as a standard to measure state laws and procedures that the book suffers accordingly. The foreword summarizing this law is helpful, but too general to take the place of the actual Standard Juvenile Court Act.

The author is concerned only with imparting information in concise and readable form. This stimulates the reviewer, however, to question the local basis for the organization of the juvenile court. This has been the philosophy of the Standard Juvenile Court Act and is reflected in the multitudinous laws and court jurisdictions existing within states as well as among states. New York State, for example, has several different court set-ups as well as variations in jurisdictions resulting from local autonomy. This unevenness does not seem to be as effective as the Connecticut system, for example, which operates on a state-wide basis. Local autonomy is difficult to justify in mid-twentieth century when greater inter-dependency, increased communication, and a trend toward centralization are evident. Perhaps this philosophy needs to be re-examined in the light of changed conditions.

Legal trends for the year 1957 do not clearly indicate any one direction. There are some indications of jurisdictional improvements, new procedures, and expanded probation and parole services in keeping with the Standard Juvenile Court Act. Problems of inter-state cooperation still remain, and the rise in juvenile delinquency has created a public consciousness which does not always act rationally in the public interest. As a result of the newspaper attacks of the past year on "mollycoddling" of juvenile delinquents, new laws have given permission to publicize names and records of juvenile court cases in some states and have given the juvenile court the power to impose