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RECENT BOOKS

CRIMINAL LAW AND CRIMINOLOGY: A SURVEY OF RECENT BOOKS

BARD R. FERRALL* & IRENE BERKLEY**

CAPITAL PUNISHMENT—UNITED STATES

AMERICA'S EXPERIMENT WITH CAPITAL PUNISHMENT: REFLECTIONS ON THE PAST, PRESENT AND FUTURE OF THE ULTIMATE PENAL SANCTION (James R. Acker, Robert M. Bohm & Charles S. Lanier, eds.) (Durham, NC: Carolina Academic Press, 1998) 586 pp.

A collection of twenty-one essays dealing with various aspects of the re-establishment of the death penalty in the twenty-five years since *Furman v. Georgia* (1972). Among the general topics considered are the death penalty legislation that followed *Furman*, the effects of public opinion, questions about the deterrence value of capital punishment, legal issues arising in death penalty litigation, and the impact of the actual methods of execution.

CRIMINAL LAW—METHODOLOGY

PAUL H. ROBINSON, STRUCTURE AND FUNCTION IN CRIMINAL LAW (NY: Oxford University Press, 1997) 251 pp.

The book presents a comprehensive conceptual framework about criminal law doctrine. The book has two themes. First is that the way we conceptualize criminal law is of more than theoretical interest: the rules and doctrines of criminal law and their interrelation affect events in the real world. The second is that criminal law can be structured in any number of ways. The themes and discussion of this book are the result of fifteen years of theorizing about criminal law doctrine. In the introductory chapter, the author discusses current American criminal law in terms of

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its formal structure, its operational structure, and its functional structure. The formal structure is based on the familiar distinctions between offenses and defenses and between *mens rea* and *actus reus*. The operational structure represents the way the law actually operates. In the second and third parts of the book, the author critiques the formal and operational structures of American criminal law, and moves beyond critique by arguing for an analysis and reorganization of criminal law doctrine in terms of the primary functions which criminal law serves—rule articulation, liability assignment, and grading of offenses. In the concluding portions of the book the author advocates for, and discusses strategies for, the development of separate codes: a code of conduct, for members of the public; and, a code of adjudication, for lawyers, judges, and juries. The appendices provide draft codes prepared on the basis of the strategies set forth in the book.

EVIDENCE, CRIMINAL

PETER B. AINSWORTH, *PSYCHOLOGY, LAW AND EYEWITNESS TESTIMONY* (NY: John Wiley and Sons, 1998) 194 pp.

Recent psychological research into perception and memory indicate that several factors may distort the recall of the honest witness, suggesting that juries may rely excessively on eyewitness testimony and that the criminal justice system as a whole may make inappropriate assumptions about the accuracy of eyewitness testimony. The author discusses psychological research topics such as the subjectivity of perception, factors which may influence how an event is remembered, how subsequent information or misinformation may alter the memory of the earlier event, and the special problems of facial memory and recall. Cases of witness misidentification are presented, along with a review of a number of identification techniques and suggestions for improvements in identification procedures. The author is also concerned about whether current interview techniques may fail to obtain the maximum amount of accurate information from a witness. The author then discusses the "Cognitive Interview Technique", which may aid law enforcement. Other topics include the problems of hypnotically refreshed testimony, children as witnesses, and the use of psychologists as expert witnesses.

NARCOTICS, CONTROL OF

CANNABIS SCIENCE, FROM PROHIBITION TO HUMAN RIGHT (Lorenz Bollinger, ed.) (Frankfurt am Main: Peter Lang, 1997) 335 pp.

This book is a publication of papers presented at the International Symposium "Cannabis Policy, Criminal Law and Human Rights," held in Bremen, Germany, Oct. 1995. The book aims to present the "international state of art of cannabis science." Papers on the pharmacology of cannabis include research into its toxicity, its affect on driving, whether it leads to use of other drugs, and cannabis' medical potential. Law enforcement topics include recent developments in the drug laws of France, Germany, Poland, the Netherlands, and Canada. Several papers deal with the United States' international war on drugs, and its impact

on the nations of Europe and South America. Some of the papers are presented in German, accompanied with a summary in English.

PUNISHMENT—CROSS-CULTURAL STUDIES—CONGRESSES
PERSPECTIVES ON PUNISHMENT: AN INTERDISCIPLINARY
EXPLORATION (Richard Mowery Andrews, ed.) (NY: Peter Lang,
1997) 200 pp.

The editor states that imprisonment, as society's preferred form of punishment, is generally perceived as having failed: "rates of violent crime . . . increase exponentially," despite significantly increased penal sentences. Moreover, criminal adjudication and actual imposition of punishment is inconsistent from case to case. The editor's overarching purpose in compiling these essays is to find alternatives to this situation. Three essays describe the place of punishment in the cultural traditions of China, Islam and Medieval and Early Modern Europe. In these cultures, the editor finds, there was a common moral code, which was also accepted by the person punished. Punishment was a form of ethical education and reintegration of the offender into the moral community. Other essays examine morality and punishment in European and American literature of the late Nineteenth and early Twentieth centuries, and how the idea of punishment influences the moral sense of self. Other essays consider whether contemporary society lacks the moral cohesion of the earlier cultural traditions, and if not, whether state imposed punishment leads to moral change in the offender, or will produce only aversion and resentment. A concluding essay proposes a democratic and egalitarian community, which imposes legal punishment for violation of only the most basic shared values.

