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Criminal Justice in England

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BOOK REVIEWS

CRIMINAL JUSTICE IN ENGLAND. By Pendleton Howard. New York: The Macmillan Company. 1931. Pp. xv, 436.

There is in the United States an impatience with criminal law and the administration of justice. Law is less frequently eulogized as the corner-stone of civilization. Even Fourth of July oratory has of late omitted law and justice from the spell of its light-winged words. This changed public sentiment has furnished in part the incentive for the effectuation of a better operating system of law administration. Those persons scientifically interested in this project have recognized the necessity for a critical analysis of our own and contemporary systems with a view to a comparative appreciation of our own administrative devices. Professor Howard's book is of such character — it affords a careful and instructive comparison of the English methods with our own.

Writing for the thoughtful layman the author has considered the administrative organization of English criminal justice in seven well selected chapters. The chapter titles will best convey the scope of this work. They are in order: The English Executive and the Management of Prosecution, The Movement for Public Prosecution, The Director of Public Prosecution, The Police and the Management of Prosecution, The Criminal Courts, Summary Jurisdiction and Trial Upon Indictment and The English System: Some Characteristics and Tendencies.

The administrative effectiveness of judge, jury, counsel and police are thus nicely compared and contrasted. The author seeks for a technique within the English system which will explain its apparently more effective operation than our own. Concluding that certain methods are suggestive of a more effective dealing with the problem, with true scientific accuracy, he notes the difficulties the English methods have incurred and the Britishers' discontent with their own institutions.

The development of the public prosecutions and the eventual creation of a Director of Public Prosecutions affords clear contrast between English institutions and our own. Likewise, it stands as a warning that the transplantation of institutions cannot successfully be done without a knowledge of the soils upon which they are to grow. We can only conceive of disorder and chaos if the prosecution of offenses were left in this country to private initiative and the sporadic interest of the police.

Mr. Howard finds the English jury a far safer and more substantial institution than the much maligned jury of his own country. But in spite of its superiority it has been found necessary, even in England, to supplant it in a steadily increasing number of cases. English society, like our own, has since the war witnessed great change in the rôle of law — the advent of the motor car and the demand that law be a social regulator has imposed burdens to which administration has as yet become unadjusted. Consequently a large percentage of criminal cases, both minor and serious, are now disposed of by the more expeditious summary jurisdiction. Mr. Howard has ably shown that there is nothing historically persuasive in the continued existence of the trial jury, that other devices for the administration of the criminal law have existed in the land of the jury's origin for a period equally long and equally revered. Thus the author concludes that there is ample precedent for other administrative devices, but with characteristic caution warns,

“that many commentators on law administration in the United States overlook, . . . that the success of the jury as a guilt-finding device is largely conditioned by the character, learning, and ability of the trial judge.”

Does this not suggest that the jury may be but the expression of judicial inefficiency and not the cause of it? That if our judges are “judicial scolds, blatant bullies and third-rate politicians” the summary treatment of the criminal would be as indifferent to efficiency, fair dealing, and justice as is the present jury system. One must then inquire, if the need is for better judges, what is the cause of the incapable, corrupt, and untrained judge. The usual recipient of condemnation, the usual scape-goat, — *The Public* — we are told is to blame. The attitude of the American people does not demand that judges of intellect, character, and dignity preside over our judicial tribunals, and thus, particularly in metropolitan areas, the position of judge is not an honored one. But to leave the problem of criminal justice floundering in the morass of public indifference seems an undeserved fate. Already we have suggested the rising interest in administrative reform.

If the public will get as good but no better administration of justice than it demands, we are still confronted with the question, What should it demand? Should the demand be limited to improved personnel? Should we try new devices and new ma-

chinery for the instigation of actions and the trial of cases? These are the questions with which we are confronted. Improved procedure with present personnel will have small chance for success — improved personnel will be hampered, though in a lesser degree, by out-worn procedure. Improvement in both is necessary. But in the demand for change we cannot rely on change alone to be the ameliorating agency of social ills. Too recently we have discovered that the adoption of the direct primary, the initiative and referendum, and similar popular government devices were not the panaceas their makers envisioned them.

The improvement of conditions in law administration will come today in a large measure through legislative activity. Thus books of the character of *Criminal Justice in England* take on an importance of first order; for those who have carefully and with scientific fairness evaluated comparative systems must present to those who enact our legislation a background upon which new experiments may be made with the benefit of past experience. If legislation is to rise to the ranks of a science our laws must be prepared with such books as Mr. Howard's as ready reference in the committee rooms where law is made.

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STRIKE INJUNCTIONS IN THE NEW SOUTH. By Duane McCracken. Chapel Hill, N. C.: University of North Carolina Press. 1931. Pp. xi, 290. \$3.00.

This case study of the labor injunction has come forth in a world so engrossed in keeping its head above water that it may not receive the consideration that it merits. But that is not to say that it is untimely. At a time when the workers are rather fearful of losing what employment they have and the operators' situation is little more enviable, neither labor nor capital is in a belligerent frame of mind.¹ Nevertheless, there has never been a better time for improving the relations of capital and labor. The common experience of industry in its course along the under arc

¹ The depression has not suspended all open conflict. The Supreme Court of Errors of Connecticut has only recently upheld an injunction against picketing. *Levy and Devaney, Inc. v. International Pocketbook Workers Union*, U. S. Daily, March 12, 1932, at 62. And at the present writing a bitter strike is underway in the Hocking Valley coal fields of Ohio.