

BOOK REVIEWS

CRIMINAL CAREERS IN RETROSPECT. By Sheldon and Eleanor Glueck. The Commonwealth Fund, New York, 1943. Pp. xiv, 380. Price: \$3.50.

THE PREVENTION OF REPEATED CRIME. By John Barker Waite. The University of Michigan Press, Ann Arbor. Callaghan & Company, Chicago, 1943. Pp. xi, 221. Price: \$3.00.

These two books so different in content and in method nevertheless have a common point of view. Both authors make it transparently clear that our present philosophy of correction, or punishment, is woefully inadequate to meet the problem of modern crime. Both volumes are the work of painstaking and careful scholars who remain calm and objective when their findings cry to heaven for a vigorous and effective advocate.

Professor and Mrs. Glueck present the third volume of follow-up studies of 510 offenders, whose activities were previously analyzed in *500 Criminal Careers* (1930) and *Later Criminal Careers* (1937). Each volume covers a five year period. The questions asked in these volumes are the same: "What happens to criminals and why?" "How do they behave during and after peno-correctional treatment?"

The criminals whose careers have now been followed for fifteen years were all offenders whose sentences to Concord (Mass.) Reformatory expired during 1921 and 1922. Thus this report ends with the year 1937.

The task which the authors set up for themselves is both imposing and formidable. It is in a sense an attempt to explain the differential conduct of these offenders. What effect did their reformatory experience have upon their after release conduct? Why did some forswear their evil ways? Why did some continue their criminal behavior? Why did some follow the path of righteousness for a time and relapse into minor criminality and later return to the ways of conformity. A further question of first rate importance to judges, prison administrators and parole authorities revolves around the possibility of intensive analytical studies such as this one contributing information which may be used to select offenders for various types of treatment which offer the greatest value to the offender himself and to society in general. In other words, is it possible by means of this kind of research to predict what types of mentalities, backgrounds, leisure time activities, ages of offenders and so on are positively or negatively correlated with success or failure while undergoing treatment such as probation, parole or institutional confinement?

While parole and probation prediction studies have received careful academic attention there is little evidence that either the public or administrators of criminal justice have been particularly enthusiastic. The authors are careful to emphasize that prediction tables are at best aids to, *not* substitutes for, mature human judgment.

In the present volume 439 of the original 510 were investigated as to whereabouts, with whom living, length of time in the community, mobility, home conditions, neighborhood conditions. In general it was found that throughout this third period there was some slight improvement in the environmental conditions of these men.

Marital status and conjugal relations, assumption of marital responsibilities, relation to nearest relatives, relation to family, economic conditions,

assistance from social service agencies, and assumption of economic responsibilities, when carefully analyzed, resulted in "On the whole . . . [a] picture . . . of somewhat improved family relationships, but of greatly worsened economic status." The latter, of course, is mainly attributable, according to the authors, to the "industrial depression."

Summarizing their findings on occupations and skill, steadiness of employment, earnings, work habits, and industrial adjustment, the authors state, ". . . one gets a general picture of progress in industrial life" even though work was not plentiful. They point out that there was no increase in illicit occupations and infer from this "strong proof of growing stability."

The use of their leisure time analyzed through companionship and haunts, and constructive activities yielded only a slight indication of improvement. Over half the men "utilized their leisure time *harmfully*." Two-thirds did not attend church at all, a fourth now and then, "while less than a tenth went to church regularly." It is interesting to note that in the fifth year of the period under examination less than one-half (49.5%) were using their leisure time harmfully as compared with 57.4% during the first four years of this period. The failure to show greater improvement is attributed to handicaps and discouragements and the general pessimistic psychology of the depression.

The criminal conduct of these men during the third five year span may be summarized as follows: 135 (32.3%) of the 418 men who could be thoroughly investigated over the entire 15 years, persisted in serious criminality, 121 men (28.9%) became minor offenders, 140 (33.5%) reformed entirely while 21 men (5%) relapsed into crime for a brief time after showing good conduct during the first or second five years, and again became non-criminals. The greatest increase appeared in drunkenness with a marked decrease in arrests for property crimes. On the whole, and everything considered the authors state ". . . it is legitimate to characterize the behavior of our men as showing some improvement since the second follow-up period."

In general those who reformed were "better circumstanced" than those who recidivated in that they were reared in less criminalistic surroundings, had better homes, and greater family solidarity. They had somewhat higher intelligence, greater emotional stability, and fewer personality distortions. They were better behaved in school, and truanted less frequently. It is interesting that the unreformed left home at an earlier age and showed delinquent tendencies earlier in life. This fact points up what recent researches have emphasized as to the importance of congenial and emotionally satisfying home conditions as the prime prerequisite for the prevention of delinquency. The reformed had better industrial skill and work habits and assumed and met their economic obligations more effectively than those who continued in crime.

The differences in the reformed and unreformed are not to be found in the social milieu from which they came but in their "biologic" differences. By "biologic" the authors mean "their mental and emotional make-up rather than their physical condition." This conclusion indirectly lends support to Hooton's general thesis of the importance of biology in crime causation.

Attempting to evaluate the influence of correctional treatment at various age levels it was found that institutional treatment yields better results in the early years of criminality than extra-mural treatment such as probation. A "growing adaptability" to parole supervision is noted for the period 22 to 26 years of age, but intra-mural treatment yields better be-

havior than extra-mural treatment. During the age interval 27-31, a higher proportion did well on straight probation, but no marked improvement during probation under suspended sentence. Behavior was slightly better for this group in reformatories, prisons, and in the Army and the Navy.

Success or failure in the Army and Navy was determined by honorable or dishonorable discharge. Between 32 and 36 years of age conduct improved in all types of treatment except in the Army and the Navy. Of those in the Army and Navy 67 were honorably and 57 dishonorably discharged. In general behavior tends to improve with advancing years to age 40 when those who are still criminals tend to deteriorate physically and mentally. This is in line with the general theory propounded by the authors in their *Later Criminal Careers* that if conformity or at least non-criminal status is not achieved by age 36 it is increasingly difficult to effect a change. The concept they suggest as the clue to decreasing criminality is the process of *aging*, or growing old. Quite correctly and for the first time the age factor is emphasized as of the utmost importance in the construction of reliable and practical prediction tables.

One point which this reviewer heartily endorses is that it is "much more important for the purpose of adjustment to the demands of the penal code" to possess "a sound temperamental equipment than good intelligence." Shrewdly the authors suggest that those prisoners who are not paroleable should be released on parole anyway rather than at the expiration of their sentences so they may have some supervision during the very difficult period of transition between confinement and freedom. Were sentences completely indeterminate, or wide-zoned, it might be possible to reclaim more persons than can now be salvaged with definite sentences or even indeterminate sentences where the minimum is less than or more than one-half the maximum. Sound correctional philosophy necessitates the complete abolition of the maximum just as soon as possible.

In commenting upon the value of prognostic tables the authors very ably and cogently point out the utter futility of prescribing "treatment" for an offender about which the judge has little or no information of prognostic value.

Causal-correctional procedure presupposes the elementary fact that crime is not spontaneously generated, nor does it appear in its varied forms simply because a person so wills. Behind and beneath every criminal act are social and biological causes. Unless these causes are discovered, recognized, understood, and modified or if possible removed, otherwise useful members of society will make periodic trips for varying periods of duration to penal institutions leaving the community with a feeling of insecurity while at large, and a progressively shrinking bankroll while confined.

This volume cannot be read. It must be studied. It points in the only obviously intelligent direction our correctional philosophy should be oriented. That is its misfortune.

The problem set by Professor Waite in his volume is "through what reasonably acceptable changes in theory and practice, and in the content of legislation, can prevention be made more effective?" His general conclusion is that contemporary methods of handling offenders do not prevent repeated crime and new ideas "must be embodied in legislation and put into practice."

Two types of prophylactic activity appear to be needed: (1) correction or alleviation of the social and economic conditions from which crime emerges, and (2) "measures designed to operate upon the individual him-

self." The chief objective of this book is "preventing repeated crime through treatment of the known criminal himself."

The author is extremely cautious in his speculations as to the origins of punishment for crime and equally hesitant as to its original purpose although he assumes it to have been retribution. Criminologists today are less cautious and appear agreed that revenge was the origin of punishment for crime and its contemporary purpose is still revenge regardless of the pious declarations of so-called "new" penologists.

Whatever the origin or contemporary purpose, revenge, expiation, social protection, social hygiene, rehabilitation, or prevention, it is clear that punishment as currently applied under the euphemism of "treatment" has failed utterly to reduce criminal conduct to any appreciable degree. Professor Waite is specific in his statement that "It is not an effective preventive either of first crime, or of repeated crime." The fact that a convicted offender undergoes punitive treatment and thereafter commits no known crime cannot be attributed to the influence or effect of punishment. Until some methodological device is invented to evaluate the effect of punishment upon after-release conduct it will remain uncertain as to whether imprisonment, let us say, was instrumental in changing the offender's attitude toward accepted conduct or against accepted conduct. Thus empirical data are meaningless and we must fall back on one of man's most sterile analytical procedures—Logic.

Statistics of major penal institutions indicating the tremendous number of recidivists cannot be taken as a satisfactory criterion of the failure of the prison to reform convicted persons. These institutions, generally speaking, receive only those offenders who are at least two-time losers or have committed some very serious crime. But the fact remains, that *treatment* in a large penitentiary by the very nature of the institution, its purpose, organization, and personnel, must at best be strictly in terms of administrative necessity or expediency rather than in terms of the needs of the inmate. As Professor Waite cogently puts it the punitive process does not attempt to discover and remedy and so cannot improve capacity for self-support. "Though it may in many create a will to refrain, it does not create a capacity to refrain." That is the best statement this reviewer has yet seen of the fundamental sociological and psychological weakness of penal treatment.

The whole structure of our penal philosophy needs careful re-examination not only in the interest of saving money or even saving human beings but so we may know with more certainty than we now have, precisely what we wish to achieve. Up to date it is impossible to get complete agreement even among criminologists as to the basic causes of criminal conduct and equally impossible to get complete agreement as to the objectives of correctional treatment. After a studied examination of the varieties of punitive and non-punitive methods authorized by the states, Professor Waite concludes: (1) treatment has changed in form but its nature is still punitive; (2) the punitive process is relatively ineffective in preventing *repeated* crime by those who have been subjected to it.

Finally the author suggests that the new legislation "must be such as to eliminate the faults which cause the failure of the punitive system," by limiting the possibility of character degradation, keeping dangerous persons segregated as long as they are regarded as dangerous, correct conditions which led to criminal conduct and increase his capacity and will to refrain from such conduct, and when he returns to social freedom, continue its protection and "actively assist him in law-abiding conduct."

Part II. Statutes and Related Materials should be of great interest to students of law. The author has analyzed all the statutes relating to the state's efforts to assist the released offender, in meeting and solving the problems which confront him. A list of Prison and Relief Associations in the United States and Canada is appended.

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AMERICAN CONSTITUTIONAL DEVELOPMENT. By Carl Brent Swisher. Houghton Mifflin Company, Boston, 1943. Pp. xii, 1079. Price: \$7.50.

The constitution expresses the fundamental organization, powers and procedures of the government. And government touches virtually every activity of the individual. The constitution, accordingly, is related directly or indirectly to an enormous range of affairs. A full exploration of the impact and significance of the United States Constitution at any moment would require several volumes. It is a far greater task to record the changing impact and significance of the constitution throughout the period since its adoption. The student who wishes to make available a useful one-volume account of American constitutional development is confronted by a most difficult task in selecting the points to be included.

Mr. Swisher built this volume on the following principles: (1) he summarizes (272 pages) the development of the constitution prior to the Civil War, without particular effort to enlarge our knowledge or alter our evaluation of the events of that period; (2) he expands somewhat more fully (323 pages) the account of events from the Civil War to World War I; (3) he devotes more than a third of the book (397 pages) to the events of World War I to World War II; (4) he builds his treatment mainly about issues of public policy that have been resolved by positive or negative action; and (5) in discussing events of constitutional significance he makes use of every kind of evidence which will show what the issue was, who stood where in respect to it and why, and how the issue was settled.

This formula for the construction of a one-volume account of American constitutional development gets a fair test in this book, for none of his contemporaries is better equipped than Mr. Swisher to write such a volume. He is a close student of politics and public affairs as well as of constitutional law; he has written excellent biographical studies of two United States Supreme Court Justices with emphasis on their relation to the constitutional issues of their times; and he served at least two years in the United States Department of Justice where he was engaged in research relating to public law and the role of the Attorney General in determining constitutional questions. Any dissatisfaction with this volume must be assessed against the choice of materials to be included; there is no reason to believe that anyone else would produce a better book built along the same lines. The author pursued his search for materials into strange places, he was painstaking in his effort to describe events and occurrences clearly and accurately, and the judgments and conclusions which he presents are remarkably objective. Indeed, he deserves special praise on the latter point. I do not see how anyone could exclude his personal values more rigidly from a book on constitutional history and at the same time enlighten the reader as to what has happened.

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There are both advantages and disadvantages in constructing a constitutional history according to the pattern Swisher adopted. He gets the full story of constitutional growth before us yet finds it possible to develop at great length the events of recent decades which are not adequately treated elsewhere. For the reader who is beginning his study of constitutional history, this may result in some distortion; the early events (like the establishment of judicial review or the decision in *Martin v. Hunter's Lessee*) may appear to have much less than their true significance because treated so meagerly in comparison with later developments. By breaking his treatment up by periods, the author shows how particular developments went hand in hand with others. On the other hand it becomes necessary to shop around throughout the book to obtain a connected story of the fight for and against judicial supremacy or to piece out an account of the expanding power of the federal government in relation to the reserved powers of the states. The author could have written his book directly about recent constitutional developments with reference, where desirable, to precedents; this would have made it easier to accomplish some of his objectives but difficult or impossible to accomplish some others.

The decision to construct most of the book about principal issues of public policy with examination of the debates in Congress and other public forums has a number of merits. It forces the reader to realize that the constitution and the courts are in politics; that the judicial tribunal is only one (and not always the final) place where contemporary interest is weighed against established understanding; that the constitution sometimes stands firmly where common sense says it should be, but that sometimes it is shoved one way to accommodate current demands for action or another way to obstruct them. Comment on the personal interests and views of Supreme Court judges adds certainty to the conclusion that the constitution is a tool for those who control its interpretation.

But the focus on issues of public policy also has its disadvantages. It invites over-attention to the merits of the issue of policy as distinguished from the relation of constitutional understandings to the question of policy; six pages (pp. 629 to 635) on the politics of enacting the Lever Act (the War Powers Act of 1917) seems to me too much. Discussion, which is more than mere identification, of the question of policy makes it difficult to introduce comment which relates the issue to earlier or later interpretations of the same constitutional principles. And focus on *issues* of policy provides unsatisfactory basis for dealing with matters of vital significance which have not been fought out at any one place or time. The fight over the Logan Bill (to limit and regulate exercise of legislative and judicial power by administrative agencies) seems hardly sufficient foundation for a full discussion of the fundamental significance of piling up enormous power in the national governmental bureaucracy. Perhaps the principal adverse criticism that can be made against the book is that attention to debate and controversy denied space for discussion of many things of first importance in the constitutional structure of the nation such as the changing relation of the community to national power, and developments in exercise of electoral power and other means of popular control over government.

In conclusion it should be said that Mr. Swisher constructed a sensible plan for his book, stuck to it, looked far and wide for his evidence, wrote lucidly and with discrimination, and strove throughout to enlighten the reader rather than to sell his own convictions or aggrandize his own values. Many people will find this book very useful. *Charles S. Hyneman.*†

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