

1987

Book Review: A History of English Criminal Law and its Administration From 1750, Volume 5, The Emergence of Penal Policy, by Leon Radzinowicz and Roger Hood

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Source Publication:

Canadian Bar Review. Volume 66, Number 4 (1987), p. 841-843.

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Recommended Citation

Parker, Graham. "Book Review: A History of English Criminal Law and its Administration From 1750, Volume 5, The Emergence of Penal Policy, by Leon Radzinowicz and Roger Hood." *Canadian Bar Review* 66.4 (1987): 841-843.

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A History of English Criminal Law and its Administration From 1750, Volume 5, The Emergence of Penal Policy.

By LEON RADZINOWICZ and ROGER HOOD.

London: Stevens & Sons. 1986. Pp. xv, 1101. (£75.00)

Reviewed by Graham Parker*

Radzinowicz, and now Hood, are guilty of false advertising. This historical behemoth, running to five volumes and several thousand pages, is about crime, not criminal law. This fifth volume discusses criminology, penology, prisons, reformatories, police, vagrancy, drunkenness, transportation, borstals, juvenile delinquency, probation, ticket of leave, Victorian reformers and, inevitably, flogging.

Radzinowicz is no Gibbon, Macaulay, Maitland or Toynbee; there is no grand scheme or insightful synthesis. The History of English Criminal Law reads like the work of a committee or a royal commission. Much of the text is made up of bland general statements, some of the more interesting material being relegated to the very comprehensive footnotes and bibliography (264 pages). On the other hand, the first three

⁶ In Oliver, *op. cit.*, footnote 2.

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chapters on theories of crime, describing the views of Lombroso, Marx, Galton *et al.* are excellent. The examination of criminal statistics is a useful discussion of a neglected subject. I enjoyed reading of the exploits of the Victorian reformers. The chapters on habitual criminality, the establishment of prisons and borstals, drunkenness, vagrancy and flogging are history as written by lawyers and sociologists, heavy on facts obtained from conventional secondary sources and rather lacking in interpretation. This volume does not hold together very well; the chapters seem like rather long entries in an encyclopedia. The book would make a good source-book for student essays.

The intellectual origins of modern English penal theory are full of paradox. While the rational and ameliorative views of Beccaria (and other *philosophes* of the Enlightenment) had their effects on Howard, Romilly and Mackintosh, the super-rationality of Bentham's views on codification and "scientific" treatment of criminals was largely ignored in England although very influential in Europe. Admittedly, the science of Galton and the statistical work of Rawson were taken seriously in England, but after the mid-nineteenth century the most impressive reforms were by the remarkable gallery of Victorians who were usually amateur, pragmatic and enthusiastic rather than scientific, organized and idealistic. These Victorians were not dreamers and they were not rigorous ideologues. They were doers, such as the country squire Thomas Barwick Baker who was a prolific pamphleteer but who also built a boys' reformatory on his estate; Matthew Davenport Hill, a judge who used his addresses to grand juries as a vehicle for reform; Mary Carpenter, who devoted her life to better housing for the poor and establishing reformatories; Sydney Turner, who used his evangelical zeal to create more humane penal institutions; John Horsley, a temperance pamphleteer and prison chaplain who undertook pioneering "criminological" research. Another fifty illustrious names could be added; they would include many clergymen, usually with evangelical or social gospel roots; writers, such as Charles Booth and Henry Mayhew, whom we would now call investigative journalists; public-spirited country squires; barristers who were also good polemicists; and dedicated penal administrators and public servants such as William Crofton, Joshua Jebb, Edmund du Cande and Evelyn Ruggles-Brise. Radzinowicz and Hood present us with a good survey of these people who lived through a century of extraordinary energy and remarkable reform. I felt James Fitzjames Stephen and John Maconochie were somewhat neglected. I was disappointed by the treatment of the development of the borstal. I thought the history of transportation was trite but perhaps the authors looked upon that form of penal discipline as Australian rather than English history.

The most intriguing story in the book is the diminution of crime in mid-nineteenth century England. Statisticians and social historians could have a field day with this topic. Radzinowicz and Hood suggest the

following factors could be the causes of this phenomenon (if it indeed happened): the amelioration of social conditions, an increase in police manpower and efficiency, a reorganization of the prison system with reformatory and industrial schools "reforming" criminals, the supervision of habitual criminals, and the social hygiene consequences of emigration. That list is fraught with potential controversies.

I wish I had the space to cite many of the quotations that the authors have culled from the authorities. There is an insightful comment from Engels about the relativity of criminal statistics. Can you imagine finding Cardinal Manning more or less in agreement with Engels? — "Those who live among statistics, and have seldom, if ever, lived among the poor, little know how poverty brings temptation, and temptation both vice and crime . . . It would be an affectation of scepticism to say that this close relation is not by way of cause and effect".¹ The authors quote the perceptive interpretation of the popular Victorian phrase "dangerous classes" by a modern commentator, Kellow Chesney:²

[T]hey were not talking about the labouring population as a whole, nor the growing industrial proletariat. Neither were they referring to that minority of politically conscious, mostly "superior" radical working men on whom any sustained working class political movement ultimately depended. They meant certain classes of people whose very manner of living seemed a challenge to ordered society and the tissue of laws, moralities and taboos holding it together.

I have reservations about this book because the authors do not offer me much nourishing food for thought on the crucial questions. Why, despite the good works of the Victorian reformers which had such promise, did the end of the nineteenth century see an expansion of crime and a great proliferation of penal institutions? What role did social class play in the history of crime and penal institutions? What was peculiar about English legal and penal institutions and the thought that created them?

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¹ P. 45.

² P. 69.

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