

Book Review: Sentencing of Adults in Canada, by Stuart K. Jaffary

Barry B. Swadron

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/ohlj>
Book Review

Citation Information

Swadron, Barry B. "Book Review: Sentencing of Adults in Canada, by Stuart K. Jaffary." *Osgoode Hall Law Journal* 3.2 (1965) : 414-416.
<http://digitalcommons.osgoode.yorku.ca/ohlj/vol3/iss2/59>

This Book Review is brought to you for free and open access by the Journals at Osgoode Digital Commons. It has been accepted for inclusion in Osgoode Hall Law Journal by an authorized editor of Osgoode Digital Commons.

Sentencing of Adults in Canada. BY STUART K. JAFFARY, TORONTO:
UNIVERSITY OF TORONTO PRESS, 1963. pp. xii, 122. (\$4.95)

The problem of what to do with a person after he is convicted of crime is currently and has been for some time, the subject of heavy debate. Of the act of sentencing, the late author writes that "no

¹² P.188-9.

¹³ And in particular students taking the Dean's course in Constitutional Law.

*Mr. Witterick is in his second year at Osgoode Hall Law School and is a graduate of York University.

action could be more social or more fraught with human consequences."

For the most part, the work under review is descriptive. It attempts to examine the Canadian criminal and penal processes, and also to place them in a wider context, both philosophically and practically. This being a Herculean undertaking, the question comes to mind whether it properly can be achieved in such a short volume. The many topics chosen to be considered by the author of necessity receive light treatment, and unfortunately, documentation is sparse.

After introducing the nature of the sentencing power, Dr. Jaffary considers classicist theories and their influence upon the Criminal Code of Canada.

The author then proceeds to examine Canadian criminal and penal statistics (using those published by the Dominion Bureau of Statistics), and finds that, as respects sentences meted out, there is a high degree of disparity among the provinces. In search of possible explanations for such variations, Dr. Jaffary sent questionnaires to certain officials of several provinces. Replies indicated that disparities in sentencing were due in some degree to differences in the availability both of institutional facilities and personnel resources in the correctional field. Certain of the statistical data tended to support these explanations. Comparing statistics dealing with frequency and duration of imprisonment in Canada with those in other countries, Dr. Jaffary finds that the Canadian offender is more likely to be imprisoned and for a longer term.

Under the heading "transition to a social rationale" are considered various developments of penal reform in England, the United States and Canada, and an emerging emphasis upon the correction of the offender. The author was himself a staunch advocate of penal reform.

Dr. Jaffary indicates that the magistrate holds the major sentencing power in this country, noting that in 1955 ninety-five per cent of all criminal cases in Canada were disposed of in magistrates' courts. For this reason, he very properly devotes a significant portion of his book to the magistrates' courts at work. His treatment of this topic, unfortunately, falls short of the searching inquiry that the reader should reasonably expect. The text is devoid of such pressing questions as the effect upon sentence of a plea of guilty and of legal representation. Instead of finding a treatment of these and other necessary issues, one sees a great deal of space devoted to matters the relevance of which is questionable. Such matters as the precise formula employed to calculate a magistrate's retirement allowance and a description of the architectural features of two particular magistrates' courts well could have been omitted. At one point, the author notes that in 1956 only in three per cent of the cases of persons convicted of indictable offences in Ontario were appeals recorded. This fact, he writes, "would seem to indicate that

the parties at trial are, on the whole, not dissatisfied with the procedure and sentence." In the absence of a deep consideration of a multiplicity of other factors necessarily involved in any decision not to appeal, and such an absence is here the case, this reviewer simply cannot accept it.

In a section of the book which relates the magistrates' courts to the correctional system, Dr. Jaffary offers several constructive suggestions. He advocates better training of the magistracy under a planned programme and the making available to them of guides to sentencing in Canada. He feels that there should be a follow-up system whereby the sentencing court could be made aware of the outcome of the sentences imposed upon offenders. The author propounds a scheme which would encourage, by promoting relationships and communications among correctional agencies, a better integration of the magistracy into the family of corrections. Communication amongst the magistrates themselves is seen by Dr. Jaffary as an important means for improvement, and he makes suggestions relating thereto. Finally, a cogent plea for research in the correctional field is advanced, a plea against which few could argue.

BARRY B. SWADRON.*