Book Review. Radzinowicz, L., A History of English Criminal Law

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BOOK REVIEWS


This book is a scholarly detailed history of the reform movement in English criminal law from 1750 to 1833. The author is apparently a Polish criminologist and his earlier publications in English law reviews indicate that he has been in England for 10 to 15 years, where he has devoted himself to an intensive study of English criminal law.

In this book, the first of a three-volume treatise on the modern history of English criminal law, Dr. Radzinowicz takes up his study at an apt point—1750—when criminal law in England, as on the continent, was characterized by an indiscriminate capital penalty which was occasionally extended even to the execution of children and the burning of women. The substantive criminal law of the time represented a steady proliferation of “non-clergable,” i.e., capitaly punishable offenses, crimes against property bulking largest. The irrationality of the scheme was only emphasized in the fact that the punishment for patricide was no more severe than that for cutting down a tree or digging up a plant. The apparently inevitable barbarism was avoided in the 18th century by the studied efforts of judges, juries, complainants, lawyers, and general public to indulge in any practice that would circumvent the capital penalty. But there were many obstacles to thorough reform, resulting from the persistent opposition of the high judges and of the majority of Parliament. During the whole of the 18th century, criminal law was accordingly unpredictable, intermittently harsh beyond present-day conception and, often, in the efforts to avoid the capital penalty, indulgent to the point of practically inviting the commission of serious crimes. Then, slowly but inevitably began the much-needed reform of the statute book.

The author goes into very great detail in recounting this history. The substantive law is minutely set out and particular statutes and their interpretations by the courts are fully described. From this precise picture of the substantive law, the author proceeds in like detail to describe the administration of the statutes and, especially, the methods of circumventing the death penalty which were employed by the judges, juries, et al. He provides an interesting chapter on the commutation of the death sentence by the royal prerogative and a really blood-curdling account of the public hangings at Tyburn, with which readers of Ives and Laurence are familiar. In equal detail, the author describes the reform movement, first summarizing the continental contributions (Montesquieu and Beccaria) and then describing the efforts of Eden, Romilly, Bentham, Buxton, and a series of Parliamentary Committees, leading to Peel’s extensive revision of the statutory criminal law. But much remained to be done to modernize the English criminal law; and it is at this point (1833) that the
author will presumably begin the second volume of his history. The text terminates on page 607, and the remaining 250 pages of fine print are devoted to appendices setting forth various 18th century capital statutes, many cases interpreting them, views of foreign observers, petitions favoring reform, a detailed bibliography, tables of cases, and statutes. The author's use of hundreds of State Papers, which are carefully summarized, is his most important contribution to the history of English criminal law.

Readers familiar with this reviewer's Theft, Law and Society, published in 1935, will recognize that Dr. Radzinowicz' treatise is largely a very expanded description of the subject matter of chapters 2 and 3 of that book. This does not make Dr. Radzinowicz' volume any the less valuable; indeed, it is an important contribution to a kind of legal history which deserves much more attention than it has received. In further specification, it may be noted that Dr. Radzinowicz does not deal with the subject matter of chapter 1 and the Appendix (Carrier's Case) of Theft, Law and Society, i.e., he omits the analysis of the economic and political conditions of the period. More important is that, whereas the reviewer pursued a causal, sociological inquiry into the inter-relations of the legal and the non-legal institutions, Dr. Radzinowicz presents an historical narrative—a detailed description, minus the economic and political influences.

One can have only great admiration for Dr. Radzinowicz' industry and thoroughness as well as appreciation of English interest in legal history. This great treatise is being subsidized by the Pilgrim Trust under whose auspices it was published in excellent style. Where in the United States is there any comparable interest in legal history? We ought to be ashamed of our gross neglect of this very important aspect of American culture.

Jerome Hall.*


This book is the second of a projected three-volume study of domestic and international monopolies by George W. Stocking and Myron W. Watkins under the sponsorship of the Twentieth Century Fund. The first, Cartels in Action (1946), was a study of cartel activity in sugar, rubber, nitrogen, iron and steel, aluminum, magnesium, electric lamps, and chemicals. The third volume “will contain a survey of the concentration of industrial control and the spread of monopolistic business practices in recent years.” It is projected for completion this year.

In the preface the authors present the problem of cartels as they view it. "The basic issue . . . does not revolve around the direct effects of cartels on the terms and volume of international trade. Nor

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