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REVIEWS

A VIEW FROM THE CAPITOL

Brock Adams*

CRIME IN AMERICA: OSERVATIONS ON ITS NATURE, CAUSES, PREVENTION AND CONTROL. By Ramsey Clark. New York: Simon and Schuster, 1970. Pp. 346. \$6.95.

Crime in America is an important book for everyone with a stake in the integrity of America's legal system. It is a scholarly dissertation combining an analysis of the shortcomings of our criminal justice system with suggested changes. Because Ramsey Clark has presented a strong, pungent, liberal and political criticism of our present priorities and system, using certain conservative figures in contemporary American political life as examples of why certain problems continue, those who should read the book probably will not. Early reviews and magazine articles have stressed the controversial statements concerning the FBI, J. Edgar Hoover, Attorney General John Mitchell, and Senators John McClellan and Strom Thurmond. While this publicity undoubtedly will stimulate sales, I am afraid it will cause many lawyers, judges, police officials and lawmakers—who should read the book—to cast it aside without opening it, thus inhibiting its legitimate use as a serious study of our criminal law system and that system's place in the fabric of our nation's government.

The book, divided into three parts, traces the deep-seated problems in criminal justice: children growing up in the ghetto; the role of the police; prosecution and tolerance; court backlogs; and custodial detention, rehabilitation and recidivism. The first seven chapters discuss the nature and causes of crime, the next eight concern criminal justice, and the final five consider the false conflict of liberty versus secu-

* United States Congressman, Seventh Congressional District, State of Washington. B.A., 1949, University of Washington; LL.B., 1952 Harvard University. The author has served as United States Attorney for the Western District of Washington. As a legislator, he was one of the floor leaders on the controversial District of Columbia crime bill considered by the House of Representatives in 1970.

riety. *Crime in America* is heavily documented with statistics which could only be gathered from sources available to an Attorney General.

If the reader is a lawyer of conservative political leanings, I would suggest that he start with Chapter 8, "The Failing System," which describes our system of criminal justice in brutal detail, but avoids judgments on social problems. This will allow the author to establish his validity as a scholar and knowledgeable practitioner in the criminal law system before the reader turns to the first and third sections, which contain biting criticisms of our current social system and some of our contemporary folk heroes.

A good example of Clark's description of the criminal justice system is his discussion of court backlogs. The problem, he suggests, is twofold: first, the waste of judicial resources on cases containing "no seriously disputed issues of law or fact"¹ and, second, trial postponements²

by insurance companies that save money by delaying payment, by law firms that have more cases than they can handle, by defendants who do not want to be tried.

This statement is an indictment of all lawyers. Clark's solution is a judicial system which forces lawyers and litigants to settle or try their disputes, which cuts through such motivations for delay, and which "clears dockets so judges can reflect on the issues that count."³

He continues with a commentary on the established lawyer, describing our legal system as one in which lawyers devote ninety percent of their time "to fulfilling the rights of ten percent of the people"⁴ and in which "monied might will usually find ways of doing its will, sometimes by merely wearying out the right."⁵ Similarly chastised are the law schools for training "bright and ambitious young people in esoteric theories and overrefined rules of corporate, tax, commercial, and business law,"⁶ and for their slow shift of "focus from courses developed for propertied classes of nineteenth-century America"⁷ to

1. R. CLARK, *CRIME IN AMERICA* 198 (1970).

2. *Id.*

3. *Id.*

4. *Id.* at 250.

5. *Id.*

6. *Id.*

7. *Id.*

studies of rules and techniques of law applicable to present problems. The tragedy is that while lawyers devote their time to monied interests and law students to property law, "there are millions without rights to whom the law is irrelevant except as a clumsy technique for maintaining order."⁸

Clark's comment on sentencing in the criminal law system and the impact on justice of the possible use of the indeterminate sentence is something most judges will immediately grasp. I am certain that all who have tried criminal cases or sat in judgment cannot help but agree that:⁹

[t]he dialogue over the proper limits of police action and barely relevant court rulings consumes most of the emotion and much of the energy that could be constructively used to strengthen the system of criminal justice.

Instead, Clark suggests efforts be devoted to raising police standards, expanding training, increasing salaries and improving judicial machinery.

Crime in America has been heralded as a vicious attack on law enforcement agencies. Although the author is critical of the manner in which certain police forces are organized and the manner in which they handle problems of "The Young, The Powerless and Dissent," he is not damning the police or the system. Clark is sympathetic to the problems of the police as the "man in the middle" and strongly favors local control of police activity as opposed to a federal police force or use of the army. He sees hope for the future in the contrast between the disastrous police handling of the 1967 riots and that of the riots caused by the death of Martin Luther King in 1968. He points out, in the latter situation, the restraint of the police, the prevention of looting and property damage without risking the lives of the public or police officers and the fact that the police¹⁰

avoided both the risk of overreaction, which ignites a counterforce, and of inadequate action, which permits a small disturbance to grow into a riot. They acted with awareness that we would have to go on living together tomorrow.

8. *Id.*

9. *Id.* at 272.

10. *Id.* at 171.

I know Clark's charges that the FBI overemphasizes the communist menace and, more recently, organized crime for public relations reasons will cause many readers to react indignantly to his book. However, his discussion of J. Edgar Hoover and the FBI has been widely misinterpreted as an attack on the FBI. The discussion of Mr. Hoover is really only an aside. The book itself is filled with statements indicating Clark's strong belief that the FBI not only performs well but should, in many ways, be a model for the police. For example, he notes with approval the professionalism of the FBI, attributable to its high standards.¹¹ He also quotes at length the FBI statements on the use of guns and recommends the policy therein for all law enforcement agencies.¹² Clark clearly defends the FBI against any attack that it is political:¹³

[b]ut the FBI has effectively prevented political interference with its personnel. It is a fatal mistake for an ambitious FBI agent to seek political support for promotion. If he does, he will not be considered.

The same is true of his philosophy on the manner in which police, federal law enforcement agencies, the national guard and the army should handle crime and riots.

The book does contain volatile rhetoric, such as Clark's comments on *Miranda v. Arizona*¹⁴ and his statement that "hardliners" (described as a "handfull of men, among them Senators John McClellan and Strom Thurmond, and later Richard Nixon") were not approaching the problem of criminal justice in an appropriate fashion. He does this, however, without animosity and only to substantiate his argument that reversing *Miranda* is not the way to solve the problems in our criminal justice system.¹⁵

Ramsey Clark has tried to write a complete book on the system of criminal justice and its place in contemporary American life. This required not only an analysis of the causes of crime and the functioning of the system, but also recommendations that will improve justice in the future. Clark sees two possibilities. Officials can resort to

11. *Id.* at 146.

12. *Id.* at 177.

13. *Id.* at 192.

14. 384 U.S. 436 (1966).

15. R. CLARK, *supra* note 1, at 321.

repression and make punishment more certain and severe, or, as the author suggests, poverty, racism and apathy, the basic social phenomena leading to crime, can be attacked.

Ramsey Clark has clearly pointed out his opinion with respect to the present state of the American system of criminal justice and what its future direction should be. I do not agree with all of his conclusions on the social reforms which must be accomplished before we can make significant inroads on crime. Regardless of our personal views, his book should be required reading for those of us who are involved with the criminal law. We must heed Clark's closing plea:¹⁶

[g]uided by reason, America will soar on the wings of humane concern. Passion is the vital spring to human action. Fertilized by ideas, passion alone has the power to activate millions. America's passion must be justice.

16. *Id.* at 346.