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## *Administration of Criminal Law*, by Ernest W. Puttkammer (1953)

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surveyed, concerning book collections, quarters and equipment, personnel (including qualifications and salaries), and services rendered. The have-not personnel budget planners (but not the book-budget planners) will find useful comparative figures, but if there is any "must" reading in this division, it is the must for administrators who are contemplating, without benefit of advice by an expert law librarian, new quarters for the library. Pages 80-82 provide good basic rules for planning the quarters, including footnote references to further reading. This is one of the few places in which Mr. Roalfe can gracefully direct a concrete solution to problems made evident by the facts collected.

The lawyer who ordinarily does not participate in budget or building planning may not be interested in comparing the salary paid his librarian, or the number and ages of his degrees, with those of other librarians, or in the proper placement of the control desk, but he should be interested in knowing whether he is getting his money's worth in terms of service. If he is not allowed to take books out of the library, he may be solaced or infuriated by learning that 23 out of 86 county law libraries make no loans and that 14 make loans only to particular persons or of particular books; that 14 of 24 state court libraries, and 8 of 12 federal court libraries make no loans; that of all types surveyed, 59 out of the 148 responding to the question do no lend their books to anyone.

If he expects of his library something more than availability of books, he may find the Survey suitable for waving under someone's nose. It tells him how many libraries answering the question do not have a catalog of any sort, how many do not assist readers in locating or assembling books, do not help locate references, explain the use of unfamiliar books, give refresher courses in legal bibliography, or do any type of legal research.

If he has a feeling that as a library patron he is entitled to more comfort and convenience, a feeling so vague that he refrains from specific demands, he may receive inspiration from a knowledge of the number of libraries furnishing consultation rooms, typewriters, and dictaphones (the last report by one county law library only, although another pointed with pride to plugs where the attorney might attach his own model).

The second major division of the book, classified by types of libraries, outlines their distinctive qualities and their particular problems. The value of the comment about any one of the types will be greater to the reader who refers to the statistics and explanatory remarks collected in the first division, than to him who reads the "type" summary alone.

The lawyer who browses through the first division, and that part of the second division dealing with his type library, will not know all that is right or wrong with his library, but he will know whether it is a credit to or a reflection on him and the others who ultimately control its policies.

The remainder of the Survey is of limited interest except to law library administrators and librarians, and in it, the chapter on Cooperation among Libraries is most nearly calculated to light a fire under them. There is probably no administrator or law librarian too skilled or too experienced to profit from reading it.

MARION G. GALLAGHER\*

ADMINISTRATION OF CRIMINAL LAW, by Ernest W. Puttkammer, University of Chicago Press, Chicago, 1953. Pp. 249, \$5.00.

Our few great treatises on adjective criminal law have now received a worthwhile companion. The field of criminal procedure proper has been dealt with by such competent authors as Orfield (*Criminal Procedure from Arrest to Appeal*, and *Criminal*

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Appeals in America) and Viesselman (Abbot, Criminal Trial Practice). But there has always been a gap; there was no treatise on the administration of criminal law until now. Puttkammer filled the long existent need for an evaluation of our law of criminal procedure, an interpretation of the functioning of the law enforcement machinery, the usefulness of procedural tools and devices, and finally of the "human limitations that exist in regard to the effectiveness of . . . criminal law." (p. 4) In other words, this is the first book on criminal law enforcement and procedure "in action."

The works on criminal procedure proper gain dimension and life when looked upon in the light of Puttkammer's book. In turn, Puttkammer must and does rely on the writers on criminal procedure for those innumerable technical elements of the law that have received different and independent status in many jurisdictions.

The author based his work on lectures given in his course on criminal law administration which he has taught at the University of Chicago Law School for a number of decades. During all these years he has kept in close touch with the profession and has been an active member of numerous commissions and organizations working for improvement of our criminal laws. His book, therefore, is based on the experience of practice. The conclusions are arrived at after thoughtful considerations by an author who has a deep interest in the subject. The book is written in a pleasant and lively style. The University of Chicago Press printed the volume in clear and flawless type. A few misprints could have been avoided.

After an introduction dealing with the purposes of criminal law the author leads us through all the stages of criminal law administration, from the recruitment of the police officer to the moment when the files of a criminal case can be closed. The seventeen chapters acquaint lawyers not specialized in criminal cases, law students, and interested citizenry alike with the history, purpose, functioning, and shortcomings of criminal procedure. It is easy to detect the areas which the author deems particularly worthy of reform: police organization and functioning, the magistrate's office, warrants and summonses, indictment and information. In these and some other areas of particular importance the author rests longer to discuss the appropriateness of departure from antiquated thinking and for steps towards modernization and greater efficiency.

Stubborn adherence to a rigid system of inherited procedure for the sake of "consistency"—or whatever else the excuse might be—have no place in an age that has found so many ways in everyday life to integrate individual and community welfare. Where, therefore, the criminal law collides with either it should make us think about its continued propriety and validity. The development towards the better is exemplified in a number of jurisdictions by our progress from mere vengeance in the form of confinement in all cases towards methods of reformation of the perpetrator. But it also finds expression in this book by the author's preference for two apparently inconsistent rules of evidence: Exclusion of testimony or confessions obtained by third degree methods on the one hand, and admissibility of evidence obtained through illegal searches and seizures on the other (civil liability of the violating officer being the only remedy in the latter case). It is clear, though, that if it is trustworthiness of the evidence that we are interested in, the apparent inconsistency turns out to be non-existent. Society is interested in the conviction of those who are guilty of crime, and a finding of guilty can only be made on the basis of reliable evidence. There remains the argument that admission of such evidence would encourage law enforcement officers to continue and enlarge the practice. Whether this is so can only be tested by a comparison of statistics of jurisdictions with opposite rules. The author indicates that one way to solve the problem—though a very difficult one—would be the enactment of liberal defining statutes on legal searches and seizures.

The greatest weakness of our criminal law administration rests probably in the initial stages of the procedure. It is here where, unfortunately, competency counts least and where the dangers of irrevocable harm or undue influence are greatest: Police organization and functioning, and procedure in the magistrate's office. Legislation can do little to root out the evils. It is here where community pressure must be brought to bear. But blind pressure will not be able to cause any change; it must be a pressure that has ripened into maturity as a result of information and education. It is in this area that Puttkammer relies to a considerable extent on the experience and better practice in England. This often produced adverse criticism by students in his class. The professor's answer is as simple as enlightening: "If my subject were interior plumbing I could restrict myself to American precedent."

In the chapters on arraignment and trial the emphasis is on rules of law which so frequently become booby traps for counsel or prosecutor and which, therefore, require particular attention: pleadings and motions, the causes that give rise to them, their nature and their effect. All those aspects of criminal procedure which do not differ materially from their counterparts in civil procedure have received summary treatment only, the author making wide use of references to the already mentioned works of Prof. Orfield. In intermediate chapters the appropriateness—or rather inappropriateness—of the coroner's functions is discussed, and subjects like jurisdiction and venue, and extradition and rendition are described. Post-trial motions, judgment and sentence, subjects of some difficulty, are commented upon with great clarity.

As one might expect the author favors wide use of probation and parole with resulting benefits for both community safety and individual welfare, as experience with well organized programs indicates. In addition such a system might well turn out to be considerably cheaper for the taxpayer than the maintenance of an unduly large number of castles of organized vengeance, the maximum security penitentiaries. A prerequisite is, of course, a probation and parole authority that is capable of doing the job proficiently and not one that occupies its office space merely as a political favor and for as long as the political machine stays in power.

This volume does not deal with the law of any particular jurisdiction though whenever a reference to representative case law was required the author conveniently referred to the law of Illinois or of the federal courts. Statutory references—and their number is large in comparison with case references—are restricted to the Federal Rules of Criminal Procedure and the Model Code of Criminal Procedure. These are both, generally, representative of the better though not always of the majority view.

Among the dozen or so references to scholarly books we find mention of John B. Waite, Arthur C. Train, and R. Moley. The number of law review citations is kept rather small. A few leading articles in national law reviews are referred to, some of which have long been regarded as classics.

The author endeavored throughout to present a work that would be scholarly enough to be an accurate and practical guide for lawyers and law students—which, no doubt, has been accomplished rather well—but which at the same time could serve as a handbook for citizens without legal training but who are interested in understanding or willing to improve criminal law administration. The latter endeavor is illustrated by emphasis on such subjects as the influence of the press, "crime waves," participation of private organizations, political pressure, etc. It might be doubted whether the non-professional layman will have enough patience and understanding to appreciate this vastly larger part of the book which necessarily had to deal with what sociologists sometimes call "fine, even subtle distinctions\*\*\*that only a lawyer needs or wishes" but which regular procedure cannot dispense with. (See 41 Ky. L.J. 489.)

This reviewer, therefore, believes that the lay readers will be mainly composed of sociologists who, quite generally, would benefit from a better understanding of pro-

cedural niceties and who would—in turn— make better partners for teamwork in the solving of criminological problems. But this book's greatest usefulness lies in its being a handy, thorough, and competent guide for the law student and the young practitioner who so frequently get lost in the labyrinth of criminal procedure. There is no doubt that the volume will be welcomed by every law school and every criminal law practitioner in the country.

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