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Book Review

Walter Greenwood

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*Reviewed by Walter Greenwood**

LAW WITHOUT ORDER: Capital Punishment and the Liberals, by Bernard Lande Cohen (Arlington House, New Rochelle, N. Y., 1970), 224 pp.

It is ironic that, in the week in the autumn of 1970 in which Canada endured one of the most humiliating moments in its history, a noted Canadian attorney should publish a provocative and penetrating analysis of many of the ills that beset the current administration of criminal law in both Canada and the United States. Mr. Cohen's assault on our present system of criminal procedure is not limited to an attack on the philosophy of those who would eliminate the death penalty. Rather it is a closely reasoned analysis of many of the weaknesses that have developed in the practical application of criminal law. Among the shibboleths which attract Mr. Cohen's barbed pen are jury trial, the plea of insanity as a defense, and most particularly the protracted, time-consuming appellate processes that invariably occur before a sentence may be ordered into execution. All these ills Mr. Cohen attributes to the prevalence of a liberalism that is excessively sensitive to the rights of the accused and remarkably indifferent to the interests of the public as a whole. Whole sets of statistics are offered to support his contention that, since the de facto elimination of capital punishment in Canada in 1957, the murder rate has risen horrendously from 129 per 100,000 to 314. Equally persuasive statistics for the United States and Great Britain reinforce the basic thrust of his contention that excessive liberalism in the courts, the press, and various highly vocal political groups, have inspired the incipient criminal to greater and more bloodthirsty endeavors, confident that if he is apprehended, at the very worst he'll only be slapped on the wrist for his anti-social behavior and will be forgiven because society has failed him. In any event, years will pass before even the wrist-slapping occurs.

It is evident that Mr. Cohen finds the trend of the times alarming. Just what his reaction has been to the savage, senseless outrages committed in Canada in the few weeks of October 1970 is not known. One may speculate that his deep concern and dismay have been justified, and that the time is *now* for a far-reaching re-evaluation of the processes of criminal law.

It should be noted that the *New York Times* of October 25th announced that, in the period July 1, 1970 through September 30th, 26 policemen have been murdered in the United States and more than 600

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[*Editor's Note:* Because this book is on a societal problem that ultimately will be decided by non-lawyers, this book was given to Mr. Greenwood (a non-lawyer) for review.]

have been assaulted. To re-emphasize that an effective system of law must have as one of its prime qualities the prompt, impartial, and implacable punishment of the guilty perhaps is superfluous. On the other hand, there is little today to inspire confidence that this quality is flourishing. Mr. Cohen's call for re-evaluation of our administration of criminal justice deserves careful consideration.

*Reviewed by George R. Katosic**

MARIJUANA—THE NEW PROHIBITION, by John Kaplan, World Publishing Company, New York and Cleveland (1970), 388 pp.

This book is the result of research done by the author as one of the six Reporters (professors of criminal law at California's major universities) to the Joint Legislative Committee to Revise the Penal Code of the State of California. Mr. Kaplan was assigned the broad area of drugs, but after long hours of research concluded that the key problem in this area was the treatment of marijuana, and that until this problem was solved, progress in the wider area of drug abuse would be impossible.

The sale, possession, or use of marijuana was outlawed in 1937, four years after the repeal of Prohibition. But, even as the Noble Experiment did not work because Congress found it could not legislate morality, so too, Mr. Kaplan feels, the criminalization of marijuana is likewise wrong because it imposes upon society a greater cost than benefit. Despite its criminalization, the use of marijuana is widespread, one conservative estimate being that some twelve million Americans have tried the drug. The author feels, however, that the most serious cost of its criminalization is that it makes felons of a large portion of our youthful population. Moreover, the younger generation's belief in the harmlessness of marijuana fosters a more generalized disrespect for the law and for political processes.

Before considering the consequences of marijuana use given as a justification for the criminalization of the drug, Mr. Kaplan discusses the ordinary (non-pathological) effects of marijuana. The most widespread ordinary effects include a feeling of relaxation, a sense of euphoria, and an impression of the sharpening of one's senses.

Turning then to a consideration of the reasons given for the criminalization of marijuana, the author discusses the charges that marijuana causes its users to commit violent crimes; that it causes mental illness, brain damage, and the amotivational, or dropout, syndrome; and that

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