

Cleveland State University
EngagedScholarship@CSU



Cleveland-Marshall
College of Law Library

Cleveland State Law Review

Law Journals

1963

Book Review

Gordon W. Larson

Follow this and additional works at: <https://engagedscholarship.csuohio.edu/clevstrev>

 Part of the [Criminal Law Commons](#)

How does access to this work benefit you? Let us know!

Recommended Citation

Gordon W. Larson, Book Review, 12 Clev.-Marshall L. Rev. 187 (1963)

This Book Review is brought to you for free and open access by the Law Journals at EngagedScholarship@CSU. It has been accepted for inclusion in Cleveland State Law Review by an authorized editor of EngagedScholarship@CSU. For more information, please contact library.es@csuohio.edu.

*Reviewed by Gordon W. Larson**

NARCOTICS AND THE LAW: A Critique of the American Experiment in Narcotic Drug Control, by William Butler Eldridge. Publisher: American Bar Foundation, 196 pp. (1962).

William Eldridge guided the American Bar Foundation's research project into American control of narcotic drug production and use. In his book, *Narcotics and the Law*, he reviews the administration of narcotics regulation in the United States. His research into this problem is a professional appreciation of the difficulties in administering justice in this controversial area of criminal law. Certainly, lumping together as criminal both exploiter and victim (the peddler and the addict) has created a unique problem for the courts. The Foundation's project was an explorative study demonstrating most effectively that available evidence about addiction and narcotics traffic lends very little knowledge about the extent of narcotics use and what might be the most effective control of it. Even before the Foundation project the Joint American Bar Association—American Medical Association Committee on Narcotic Drugs had in a two-year study shown nationwide uncertainty about and contradiction in application of the narcotic laws despite the existence of the Uniform Narcotic Drug Act in forty-nine jurisdictions. Mr. Eldridge tries to indicate what a statistical study based on an adequate nationwide reporting system might reveal. Hoping to prove that the whole approach to addiction as a matter of criminality is ineffective, if not utterly wrong, he marshals together a comparison of all the statistical information he could locate in seven states (New York, Illinois, Michigan, California, Ohio, New Jersey and Missouri) comparing them with the reports of the Federal Bureau of Narcotics, and the laws and regulations of the fifty states, the Uniform Narcotic Drug Act and the literature.

Inadequate and undefinitive information reporting undermines the validity of the documentation available from the states and from the Federal Bureau of Narcotics. The Bureau keeps a national census of the addict population, but investigation shows annually reported variances in the census that are contradictory. The Bureau appears committed to a policy

* A.B., Cornell Univ.; Second-year student at Cleveland-Marshall Law School.

of severe criminal sanction as the only workable treatment of narcotics traffic law enforcement. Its reports seem to bear out that the states with the more severe penalties have less drug traffic. Mr. Eldridge questions the meaning of such statistics and concludes a system of state agencies together with a federal agency in the Department of Health, Education, and Welfare "to obtain information on all salient aspects of addiction and traffic" with complete reporting from all such agencies would disprove the effectiveness of severe criminal sanction. Such agencies would gather information listing personal statistics of the apprehended addict or peddler, the present offense, narcotics history, criminal record, disposition, prison history, and probation record.

The law embracing narcotic drugs is very severe and shows a consistent trend toward increasing the severity of penalties in all the states. Many of the states have mandatory penalty legislation requiring commitment without parole until cured or for the sentence period. Sentences of forty years to life are frequently provided for. There are death penalties for sale to minors. Judges are prevented from weighing the many considerations of chances for rehabilitation or the distinctions between addict and peddler. The author challenges the humane-ness of such laws. The impossibility of parole deadens the will at attempt rehabilitation. The author points this up by examining a three-year New York project that tested the efficacy of parole in the rehabilitation of the addict. Caseloads of parole workers were lessened for purposes of the experiment, flexibility of choice of procedure with respect to the needs of different individuals in the face of violations of the parole was allowed, and maximum use of community resources was made. The experiment showed remarkable success as compared with the United States Public Health Service Hospital at Lexington, Kentucky, or Riverside Hospital in New York City. The practicality of such case work is underscored in his recommendation by recitation of the approximate costs of supervising the parolee (\$250 yearly) as compared to costs of a correctional institute (\$1900) or \$10,000 at Riverside.

The addict's problem in part is a medical problem which should be handled by a physician. Professional medical opinion ought to determine proper treatment of addiction, not legislative or enforcement bodies. This has satisfactorily been the case in Great Britain. Mr. Eldridge urges that a change in narcotic

laws should recognize and promote "the doctor's right and duty to treat a narcotic addict as he has the right and duty to treat any diseased person." Compulsory commitment or hospitalization until cured is discussed and compared with proposals for experimentation with dispensary clinics for the addicted. The author challenges the morality and effectiveness of out-patient drug-dispensing clinics.

In addition to the recommendations made for the gathering of a body of knowledge through adequate data reporting and experimenting with parole systems and clinics, *Narcotics and the Law* also asks what ought to be the law. Social and philosophic opinion should also be considered. In the nearly fifty years since Representative Harrison argued the act that was to bear his name in which he referred to addiction as a manifestation of criminality and of economic degradation, a policy of criminal sanction has been in use exclusively. Public opinion about addiction appears to be presently changing, however, in the area of what should be the law about narcotics there are factors that complicate its consideration making it rather too theoretical for popular approach to the problem. Present narcotic drug laws which make addiction a crime have sought both in their enactment and in their enforcement to facilitate the detection of larger crimes. In addition, knowledge of the procurement and enjoyment of narcotic drugs or acquaintance with addicts is not the common experience of the public when such association is criminal. There is probably, too, an inherent inutility to the average man in narcotic drugs. The author understates the reasons for the severity of the prevailing social judgment which appears to view the use of narcotics as per se proof of the deterioration of character and morality. Noting that opiates are depressants and that the concomitant causes and effects that lead to addiction are not peculiar to narcotic addiction but common to all kinds of psychological and social maladjustment and shared to an even greater extent by alcoholism as a social problem, Mr. Eldridge reaches the rather astonishing conclusion that apart from the problems of obtaining narcotics except through illegal means, popular generalizations about the necessity of repressive laws are "unfounded hysteria." It is put forward that condemnation of the narcotics user may be really condemnation of a widespread lower-class subculture in this country. It is likely that pre-existing anti-social factors in eco-

conomic depressed neighborhoods do create a propensity for testing suppressive legal measures that the population at large never experiences. The addict usually comes from the lower economic levels where addiction may belong to a pattern of anti-social conduct. It is not good reason though to presume a lower-class subculture, although such a postulated lower-class is the Atlantis of popular sociology, when it is much more harmonious with the Law of Parsimony to view individual personality problems as the root of anti-social conduct. In other contexts the author too notices that the addict has "problems which create addiction." Attitudes arising from cultural mores would not be problems to the individual. Individual maladjustment because of deprivation and degradation propels the unfortunate into experiences that lead to addiction. This is easier to prove by the facts and takes a harder look at the facts than the Dr. Pangloss view that there is within our culture a second set of mores whose presence lessens social responsibility for hard conditions in slums because the "lower-class" is really in that view an independent society governed by social laws of its own. Escaping the logic of his own views, Mr. Eldridge does believe that our present laws are ineffective and inhumane and should be so changed as to best help the individual addict rehabilitate himself.

The subject of this review appears particularly in point in view of plans by the present Administration in Washington to submit a comprehensive narcotics program to the next Congress. Attorney Robert F. Kennedy hopes to "translate cooperation into information, information into legislation, legislation into action and action into success." This would seem to be putting into effect Mr. Eldridge's information gathering program. The Justice Department favors civil commitment of narcotic addicts as a substitute for conviction and imprisonment in non-criminal cases. Although the Federal Bureau of Narcotics is opposed to reducing punishment of narcotics law violator if he is an addict, the new legislation would change the 1956 Federal statute which sets a five-year mandatory minimum sentence with no parole for narcotics violations. The Attorney General has remarked that rigid application of the law applied equally to racketeers and addicts "has produced some notable and dramatic sentencing disparities." Here then, clearly, is official recognition that our severe laws against narcotics have not had the deterrent effect hoped for and is in some measure certainly a result of the American Bar Foundation's project and Mr. Eldridge's work.