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Book Reviews

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BOOK REVIEWS


The publication of the present volume is one of the most optimistic and significant events in the long history of crime and punishment. With it, for the first time, there comes the possibility of eliminating almost all crime by preventive measures and by making all punishment almost completely effective. In brief, the book is an explanation and exposition of the Gluecks' methods of predicting, and hence anticipating, the several kinds of anti-social and criminal behavior. Perhaps most important, the Gluecks have extended their methods to the prediction of delinquent and neurotic behavior before the first anti-social or neurotic tendencies appear in the child, with what promises to be better than a ninety per cent accuracy.

The method of the authors, under development since before 1929, is general, statistical and objective, rather than ad hoc, individual and subjective, as earlier attempts have tended to be. By an exhaustive process of psychological testing of the delinquents, by following up their cases, and by correlating the outcome with the test results, the authors have identified the recurrent qualities in each of the classes of behavior studied, and have established that these qualities, when present in certain degrees, can be used to forecast the success or failure of particular kinds of correctional treatment such as parole or probation. They may be used to foretell the chance of success the previous offender will have in adjusting to life in the armed forces; or, most significantly, may serve to predict delinquent behavior before it happens. Even if their method does not put an end to crime, yet the authors' findings make possible a stable, fruitful approach to penological practice which is at once highly effective and inexpensive and simple enough to be practical. For the first time, the punishment can be made to fit the criminal as well as the crime, with the stifling of criminal tendencies and recidivism virtually assured, through the use of penological methods already for the most part in existence.

The Gluecks' results, which are broken down and presented in tabular form, have their most immediate usefulness in choosing the proper sentence for the young offender, following upon his first conviction. For instance, by evaluating such factors as the birthplace of the father, discipline by the mother, school retardation and school misconduct, the behavior of the juvenile offender while on probation can be predicted. In the same way, psychological testing with respect to the discipline imposed by the
father and the affection of the father for the offender, among other things, will serve to predict the success of probation with a suspended sentence. Similar tables are given for the prediction of behavior in correctional schools, while on parole, and as to the behavior of former juvenile offenders while in reformatories and prisons. Further tables demonstrate the application of the Gluecks’ method to the prediction of the success of the adult male offender in various penological situations; to the behavior of female offenders; and, as mentioned, to the identification of potential delinquents.

Of course, the authors give no hint of how their method is to be applied in practice; which is appropriate since their purpose was to establish their method, not to apply it. It remains for others to put the Gluecks’ great instrument into use. Illinois, fortunately, has already in existence a part of the means needed to accomplish the end of effective sentencing in the form of the Illinois Youth Commission. That commission, or that one of its two main agencies which is concerned with correction and rehabilitation, is already in a position to apply the Gluecks’ method to recommend effective sentences for young offenders already convicted of crime. Since offenders committed to the Youth Commission are now put through a series of tests, in part like those necessary to find the factors which the Gluecks’ prediction method takes into account, it should require no great change to adopt the method of the authors to present Illinois practice.

Some difficulty is foreseeable in the case of those juvenile offenders whose commitment to the Youth Commission is not mandatory and who, in fact, are not so committed. It is strongly suggested that the Youth Commission’s Division of Correctional Service be given authority, by amendment to the enabling legislation, to perform the tests required by the Glueck prediction method. In addition, it should be supplied with the necessary funds and personnel to make possible the application of these tests to every convicted juvenile offender and be required to report the results of the predictive process to the courts for use in choosing the sentence appropriate to prevent further offenses. The time and expense entailed by this course would be offset both by a saving of the time of the court and in the expense of crime, since it is entirely possible that the use of the Glueck method on first offenders would make their first offense their last in most cases. It could be added that one of the declared purposes for the existence of a Youth Commission is the conservation of human resources, a purpose well served by the elimination of recidivism.

The second and most important application of the Glueck Prediction Tables lies in the identification of future delinquent individuals before they
have manifested any criminal tendency. The Social Prediction Table, by collating an individual child’s test scores on five designated social factors, can predict with good accuracy which children will become delinquents and which will not. It has been shown that this prediction table will work when applied to children as young as six years of age, assuming that accurate measurements of the factors involved can be made, but perhaps the most striking thing about it is the confirmation it provides in the form of objective, statistical evidence (the prediction tables are really experience tables, like those produced by actuarial science) for the theories of the psychoanalysts concerning the beginning of the social aspects of human behavior.¹ The psychoanalytic view has long been that “character” or “personality,” that which animates and directs the conduct of the individual, is formed at a very early age rather than at some later period, so that the essential psychological make-up of the individual is not profoundly affected by later changes in external circumstance.²

Clearly, the elements which the Gluecks found remaining after severe and thorough elimination of all possible causative factors of early criminal tendencies afford a qualitative analysis of that which Freud and his followers have labelled the “superego.” If one assumes that the factors which the Gluecks found to be operative in predicting delinquency before it happens are causes as well as indicia of future anti-social conduct, it follows that the elimination of those factors as causes would eliminate some large part of anti-sociality. It is in this light that the Gluecks’ studies will have the greatest significance for philosophy and jurisprudence. Taking everything together, the Gluecks’ present book, most recent of many innovatory books by the authors, is a work of signal importance, the effects of which will be felt at the frontiers of knowledge for years to come.

R. O. Young

¹ Reference herein to “psychoanalyst,” or to a “psychoanalytic view,” is directed toward the scientific and philosophical qualities of the subject matter, as Freud and the other early theorists often used these terms. No reference is intended to the medical or therapeutic aspects of the science.

² Freud, in An Outline of Psycho-Analysis (W. W. Norton & Co., New York, 1949), pp. 16-7, states: “The long period of childhood, during which the growing human being lives in dependence upon his parents, leaves behind it a precipitate, which forms within his ego a special agency in which this parental influence is prolonged. It has received the name of superego . . . The details of the relation between the ego and the superego become completely intelligible if they are carried back to the child’s attitude toward his parents. The parents’ influence naturally includes not merely the personalities of the parents themselves but also the racial, national, and family traditions handed on through them as well as the demands of the immediate social milieu which they represent.”

The present work on federal estate and gift taxes, subtitled, "A Guide to the Law," fills a long-standing need. In the preface, the authors state that "in a sense it is an estate planner's estate and gift tax primer." They state that it is "not a how-to-do-it book." Instead, they state: "It aims at creating the kind of broad knowledge and understanding that guard against mistake through lack of awareness."

The book reflects a combination of historical insight, scholarship, practical experience, and awareness of the need of the reader to be oriented in a field where the statute is characterized by lack of definitiveness and the rulings evidence a growth and development more typical of common law than of statutory principles. It is perhaps more than a happy coincidence that the collaborators are a law professor and a practicing lawyer.

The use of the term "primer," and the avowed aim at obviating a "lack of awareness," indicate undue, if becoming, modesty on the part of the authors. The work is definitive and comprehensive. Although it does not purport to be exhaustive, it does embrace the principles of the judicial decision, omitting only references which must inevitably be sought out and investigated in the light of a specific controversial problem. The book adequately fulfills its avowed purpose as a primer, and as a vehicle of orientation. It goes far beyond that, however, as a text for the practicing lawyer.

Too many of the "text" materials in the tax field constitute merely a paraphrase of the Code, the Regulations and the head notes of the decisions. The present work avoids this treatment entirely. It is an actual synthesis of the available materials, cast into the historical perspective so important to the subject matter, with a running rationale which explains rather than obscures. The writing is fresh and lucid. It poses the problem, explores it, and furnishes answers. The style is strongly suggestive of the informal classroom lecture approach.

From a point of view of mechanics, the work is very usable. In general, it follows the statutory order. The table of contents is intelligible and descriptive. The headings throughout the text are clear. There is a table of cases and rulings and an adequate index.

G. S. Stansell
With the publication of the present volume, the hornbook for law students has achieved a higher level of excellence than was formerly to be found in many a legal text. To begin with, the book is an adaptation of the author's earlier treatise on the subject. As a consequence, it is useful as a guidebook to that more substantial work, permitting the researcher to find his topic in the text and then to pursue it, for more detailed treatment, in the treatise. By following that plan, the author has pioneered a new purpose for the hornbook, one which will make it far more useful to the student who will soon pass on into practice than was the case with older publications. The student who acquaints himself with the hornbook during his term in law school will have a quick and convenient entry into the more substantial treatment of the subject which he will need in practice. In much the same way, the attorney who lacks familiarity with the general outline of administrative law can find the area he is looking for quickly in the general treatment of the text and thereafter proceed to the treatise. This close connection between hornbook and treatise introduces a principle which could well be developed more fully as the mass and complexity of textual materials on legal subjects continues to grow and such things as tables of contents and indices become increasingly inadequate as guides to thorough research.

The present volume also shows a wholesome advance over previous hornbooks in the high quality of its index. Earlier volumes comprising the series carry a topic index of sorts, but usually one inclined to be brief and more frustrating than useful to the reader. Such indices were of slight utility to all but those who knew by name that which they sought; and they, because of that fact, were prepared to go directly to a more complete source. The student or the uninformed practitioner who consulted a hornbook to orient himself, often concerning general and fundamental things, could only leaf pointlessly through the volume, hoping to find the appropriate topic by chance. This volume remedies that by including an excellent and complete index, replete with copious cross-references for the interrelated subjects. The effect is to make the book one of great utility.

As to its substance, the book is more than adequate and presents the material in a fluid, non-textbookish style. One may disagree with some of Professor Davis's conclusions, such as the one that there is no worthwhile difference between jurisdictional facts and ordinary facts as the identification of one or the other may change the scope of judicial review of
administrative action. In the event a justice of the peace were to under-
take to try a murder case without authority so to do, everyone would agree
that his judgment therein could be challenged on jurisdictional grounds.
It is hard to see why an administrative determination could not be similarly
challenged when it falls outside the agency’s qualitatively narrow and
limited authority, for the administrative agency is exactly like an economic
justice of the peace in this respect. However, any person undertaking to
disagree with the author should be prepared to defend his position, for
every conclusion in the book is supported by good authority.

Special mention ought to be made concerning the introductory chapter,
which provides a historical setting of the genesis and growth of American
administrative law. It affords considerable assistance to one unfamiliar
with the internal organization of the subject and serves to put in perspec-
tive the problems of the field which, of course, are treated in detail in the
subsequent chapters. The introduction not only provides interesting
reading but serves as a good beginning to a fine contribution to the art
of the text-writer.

R. O. Young