

RADIO, TELEVISION AND THE ADMINISTRATION OF JUSTICE

A Documented Survey of Materials: By the Special Committee on Radio and Television of the Association of the Bar of the City of New York: Columbia University Press (1965), 321 pages.

The publication of the Warren Commission's Report in 1964 on the events surrounding the assassination of President Kennedy has stimulated a great number of books, articles and speeches on the impact of the news media on the administration of justice in the United States. The present book is a preliminary report of the recently formed Special Committee on Radio and Television of the New York City Bar Association. The report consists of a selection of factual situations from relevant American cases, news reports on certain aspects of specific criminal and civil cases, and excerpts from the code of ethics of state bar associations, police commissions and news media.

The report makes no evaluation or appraisal of the facts and excerpts presented. In many of the incidents cited, however, the injustice resulting from the conduct of newsmen and legal officers is so obvious as to require no comment. One such incident noted concerned the arrest of two men for theft of a number of gems from a New York museum in 1964. The detective who had flown from Miami with the two suspects in custody was asked on a television interview whether he thought the two suspects were guilty. The detective replied that he wasn't sure, but remarked the suspects had behaved on the trip in a manner strongly suggesting guilt.

The first portion of the book deals with specific cases and reported incidents in which the rights of the accused have been seriously prejudiced by pre-trial broadcast or telecast of confessions made by the accused and compromising statements made by police officers and attorneys. In many of the cited cases the prosecuting attorney is the source of highly publicized information about an apprehended suspect and his part in the crime committed. The press conference called by the district attorney and the planned "leak" are frequent occurrences. In the case of *Irwin v. Dowd*¹ for example, the local prosecutor and police officials issued press announcements, which were widely publicized by radio and television stations throughout the country, stating that the accused had confessed to six crimes. At this trial, on a motion for change of venue, eight of the jurors testified on *voir dire* that although they thought he was guilty, they believed that they could remove their prejudice against them. The motion was denied, although the case was later reversed by the Supreme Court. The report has paid special

1. (1961) 366 U.S. 717.

heed to the significance of interview or statements made by the accused before a microphone or on television prior to his trial. In the case of *Louisiana v. Rideau*² (later reversed) for example, the accused was arrested for robbery and murder. A day after his arrest, his interrogation and confession was filmed and telecast over the local television station. The telecast was repeated three times over the succeeding two days. At the trial, a motion for change of venue was denied even though it had been determined that three of the jurors had seen the telecast.

The data presented on civil cases is excellent. The emphasis in most of the material published on the continuing debate between "Free Press" and "Fair Trial" is on the problems related to the criminal process. The problem relating to the civil process seems to have been largely neglected.

The second portion of the book contains documents and materials obtained from various news media, police commissions, and bar associations, and includes opinions and code extracts concerning the use of radio and television prior to and during, criminal and civil trials.

The excerpts from letters received by the Committee in response to a questionnaire distributed to police officials of major American cities provide most interesting reading. Generally, the subject of these excerpts is the freedom with which newsmen may interview persons in police custody, the photographing and filming of bookings and interrogations, and the degree to which officers may co-operate with newsmen in such activities. The excerpts provide remarkable contrasts in some cases with the incidents and court cases cited earlier in the report. The remarks made by the detective mentioned above concerning the guilt of two suspected gem thieves in New York in 1964 should be read with the following section of a directive issued by the New York Police Commission in 1963:

The present practice of allowing arresting officers to be interviewed concerning the circumstances of an arrest shall be continued under appropriate circumstances and provided the end of justice are not thereby defeated.

The purposes that might be served by the publication of this book are somewhat difficult to determine. As a source book, its defects are considerable. While the incidents related and excerpts quoted are of some interest in themselves, the reader is given no indication of their significance in the context of the general problem with which the book purports to be concerned. This defect could easily have been remedied by the greater use of comment and background information to link the various incidents within each chapter and to provide a progressive theme throughout the report. The issues that were to have been illustrated could have been defined more precisely.

2. (1963) 373 U.S. 723.

While the purpose of publishing such a preliminary report as this can be questioned the report at least indicates that the publication of the final recommendations of the Committee may be well worth examining. The preliminary report indicates that the entire problem of the impact of radio and television on the administration of justice is to be explored in depth by the Committee. Most of the present literature available is concerned only with one or two of the many aspects of the problem. The final report may be of some interest to Canadian lawyers, for although the issues may not be directly relevant, certainly the general conflict of interests exists in Canada.

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CRIME AND PUNISHMENT IN BRITAIN

By NIGEL WALKER. Edinburgh University Press, 1965.

The author states in his preface that:

This book is an attempt to describe our penal system in a particular way. It is not about the criminal law except to the extent that this defines and sets limits to the types of conduct which we call "offences", and curtails the flexibility and severity of the penalties which we apply to offenders. It is not about the philosophy of punishment, although it tries to describe objectively the aims, assumptions, and techniques of current penal measures. It does not offer a unified explanation of crime, although it tries to sort out some of the tangles between contemporary theories. What it attempts is to be a study of our present ways of defining, accounting for, and disposing of offenders, regarded simply as a system in operation.

To a potential reader who may have reservations concerning the utility of such a book in Canada, it must be stated that the phenomenon of crime is in many respects universal. To this should be added the comment that disparity between the English and Canadian approaches to crime is a matter of degree only. In short, the book is relevant to Canadian problems.

The shortage of descriptive works in this field makes the author's endeavour a very valuable contribution indeed. His divergences and comments upon the raw material are witty and succinct. The reader is not asked to adopt a point of view, but is instead given the material upon which he may reach his own tentative conclusions upon the many facets of crime dealt with.

The work is suggestive of many worthwhile research problems and gives to the novice some of the basic methodology of social science research. In this respect the book will be of some assistance to budding Canadian Criminologists and in particular, those law teachers interested

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