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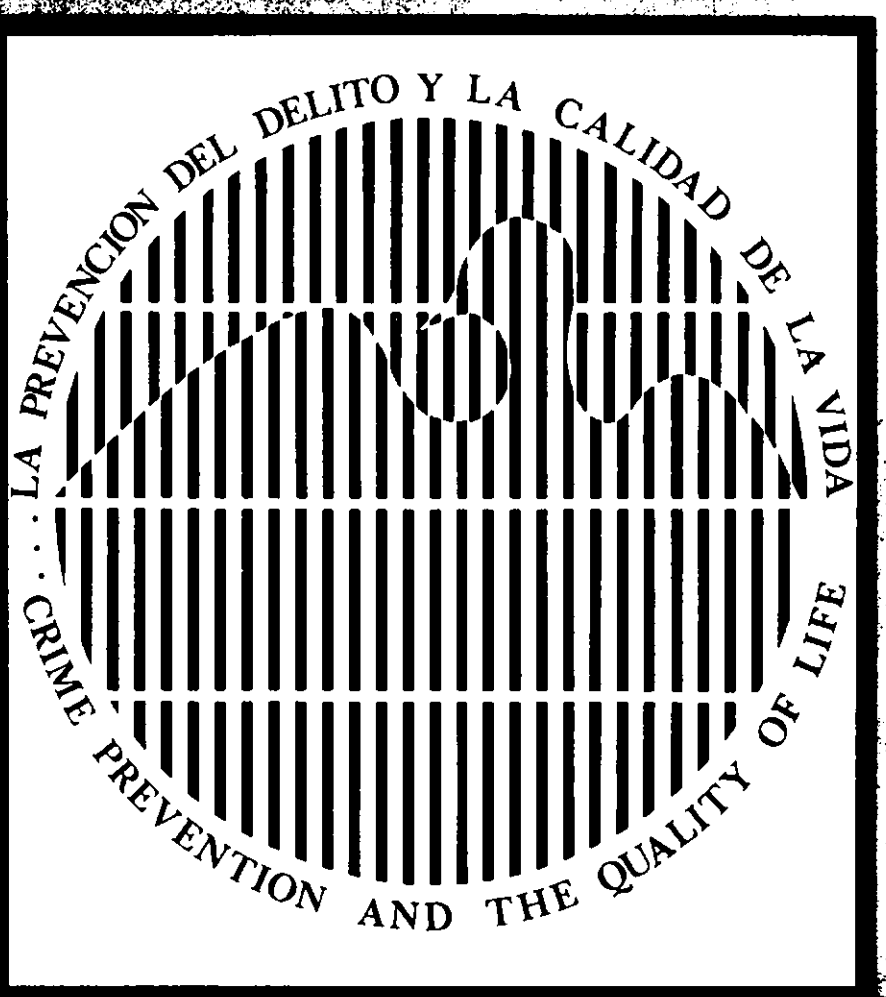
LA PREVENCION DEL DELITO Y LA CALIDAD DE LA VIDA
CRIME PREVENTION AND THE QUALITY OF LIFE

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COVER PHOTOGRAPH: Logo of the sixth United Nations Congress on the Prevention of Crime held in Caracas, Venezuela from August 25 to September 5, 1980. See story, Page 13.

Law violation and big business

A member of the Research Division of the Australian Institute of Criminology, Dr John Braithwaite recently returned from a visit to the U.S.A. which he undertook privately with Mr Brent Fisse, a reader in Law at the University of Adelaide. Both were interested in new approaches to the problem of white collar crime and both were seeking to understand the possible effects of adverse publicity in effecting changes within companies which the law might not be able to achieve.

With this in view they visited a number of prominent companies some of which have been featured in the media for mistakes or failures to eliminate defects from products as a result of which there were both criminal and civil suits. The two researchers were very well received by company directors and senior officials, many of whom they found to be as interested as they were in non-legal, media approaches to the ensuring of quality production and avoiding mistakes or structures likely to lead to the types of prosecution which could be counter-productive.

It is easy to have recourse to law but experience has shown that institutionalised controls such as the law can invoke institutionalised evasions and since at the corporate level the best legal minds are engaged the resulting protracted suits could be costly and ineffective in producing the security which the public needs.

Dr Braithwaite and Mr Fisse returned with a great deal of new data on company/media/law relations which should be valuable for future preventative work in this difficult area.

Computer bibliography

The Institute is interested in the uses being made of computers in the criminal justice system. As part of an information gathering exercise, readers are invited to contribute to the compilation of a bibliography of computer software packages capable of use in the Australian criminal justice systems. Please complete the enclosed questionnaire in relation to all packages whose existence is known to you, even if this knowledge is 'secondhand' and incomplete. The resulting information will be made available as an AIC publication.

Please return the form to: John Walker, Australian Institute of Criminology, P.O. Box 28, WODEN, A.C.T. 2606.

reporter

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Different cultures, different sentencing

The Assistant Director (Research) of the Australian Institute of Criminology, Mr David Biles attended an International Seminar on 'Culture and Criminality' in Messina, Italy in December. Mr Biles presented a paper entitled 'Culture and the use of Imprisonment' to the International Centre of Sociological, Penal and Penitentiary Research and Studies of which he is a member.

Mr Biles's paper focused on the formulation of explanations for the widely differential rates in the use of imprisonment in different cultures.

He told the seminar that there were many different approaches that could be followed in assessing the extent to which different countries may be described as 'punitive' or 'lenient' in their attitudes to law breakers.

For example he said, an analysis could be made of the severity of the penalties provided by the laws of each country, or public opinion could be sought of the appropriate penalties that should be imposed.

He said the method of gauging public opinion had been followed by Newman in India, Indonesia, Iran, Italy, Yugoslavia and the United States, and by Wilson and Brown in Australia. Mr Biles stated that a study of Australian imprisonment data showed no correlation with the relative sizes of police forces or with police efficiency measures.

He said it could not be claimed that where police work harder more people would be in prison, or that prisons were filled just because they were there.

Mr Biles said there was no evidence to say that high rates of imprisonment resulted in lower levels of crime.

In Australia, he said, the three states with the highest rates of imprisonment were the Northern Territory, Western Australia and Queensland.

These states had the highest population of Aborigines who, research had shown, were more likely to be arrested than proceeded against by summons, were less likely to be granted bail while awaiting trial, were more likely to be convicted, and were less likely to be fined or placed on probation.

Professor H.J. Eysenck, Director, Department of Psychology, Institute of Psychiatry, University of London, Chairman IV International Study Seminar in Messina

Mr Biles told the seminar that because ethnic minorities such as the Australian Aborigines and the New Zealand Maoris live in conditions of relatively severe economic and social deprivation, they were grossly over-represented in prisons. Mr Biles stated that data gathered from the eight Australian States and Territories showed that the numbers of people in Australian prisons would not be reduced by placing large numbers of offenders on probation or parole.

It seemed reasonable to assume he said, that communities with high imprisonment rates were less tolerant of deviance than those with low rates.

But, he said, researchers Scott and Al Fhakeb found that moral indignation had little or nothing to do with the penalty structure for criminal offences after asking the public in Finland, Sweden, Norway, Denmark, the Netherlands and Kuwait to specify the types of penalities they considered appropriate for particular crimes.

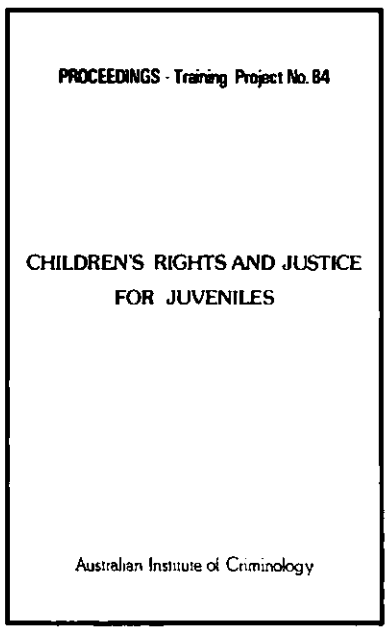
Other aspects of Mr Biles's paper invited examination of the relationship between levels of imprisonment and the rate of crime.

For example, whether high levels of imprisonment were associated with low levels of crime; whether the imprisonment of large numbers of offenders resulted in greater social benefit or public safety; and whether there is a measurable deterrent effect from the high use of imprisonment.

In summary, Mr Biles concluded that:

1. ethnic minorities appeared to be associated with high imprisonment rates;
2. evidence of the relationship between the use of imprisonment and the incidence of crime provided no support for the suggestion that high use of imprisonment resulted in low levels of crime; and
3. increasing rationality in the area of criminal justice would significantly reduce the numbers of prisoners in most countries in the world and would reduce costs and human suffering. ®

New publications



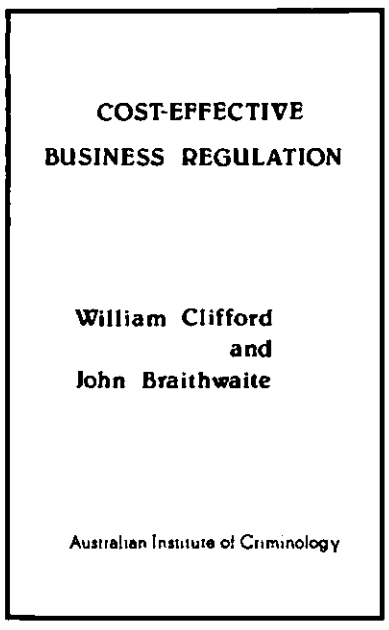
A publication recently released by the Australian Institute of Criminology suggests extending the rights of children to allow them to institute proceedings in matrimonial matters involving their own welfare.

The report, *Children's Rights and Justice for Juveniles,* contains papers delivered at a seminar organised by the Institute which was visited by 35 participants from universities, police departments, the Law Foundation of N.S.W., welfare departments, legal aid offices, legal profession, the magistracy, the Australian Law Reform Commission, women's refuges, juvenile aid bureaux and departments of Aboriginal affairs.

The seminar specifically provided an opportunity for Dr John Seymour, Commissioner of the Australian Law Reform Commission in charge of the Commission's reference on child welfare to submit proposals to the critical appraisal of experienced workers in the field.

In his opening remarks to the seminar, Mr William Clifford, Director of the Australian Institute of Criminology, recognised that the seminar would probably see a divergence between those people approaching the subject from a purely legal point of view, and those who would, while not opposing legal recognition, feel that attention could more productively be concentrated on the family environment.

Topics covered include children's rights, legal aid representation of children, rights of children in custody disputes, and Aboriginal juveniles and justice.



Cost-Effective Business Regulation by William Clifford and John Braithwaite is an account by the Australian Institute of Criminology of the views of leading business people in Australia on the question of corporate conduct.

Those people who were approached to make a contribution to the publication made up a significant part of the Australian business elite.

The publication was constructed from preliminary interviews, ranging from one to two hours, with thirteen business leaders and from a paper on the subject compiled by the authors.

After the interview sessions, the authors' paper on the subject became a matter for round table talks involving six of the business participants.

All agreed that government regulations were needed, and concluded that the greatest problem lay with small companies which operated on the fringe of an industry. But they took the view that the type of tight American government regulatory control should not be followed in Australia.

Most of the participants held the view that negotiation between government and business was a more efficient way of resolving disputes over regulations than by going through the courts.

The report, which the authors say is little more than a beginning, documents the gradual moving forward of the thinking on the regulation of business in Australia.

Companies participating included B.H.P., C.S.R., B.P. Australia, Esso Australia, Shell Australia, G.E.C. Australia, I.B.M. Australia, Nestle Australia and the Western Mining Corporation.

William Clifford

DIRECTOR'S DIGEST

There is a mature, practically urbane restraint about the average Australian's attitude to what appears to be the new threat of terrorism. It may be disturbing to know that this country has 'arrived' in the sense that terrorism has either been adopted or has penetrated this far; but the instances are few and alarm is not a very Australian characteristic. One still wants to say 'she'll be right'; and, after all, it is true that there is, as yet, no comparison between terrorism here and in other parts of the developed world. However, whenever people say 'we are different – it can't happen here', I am reminded of a Northern Irish Judge who was trying cases of terrorism in Cyprus in the late 1950s and mentioned to me that the people would just not stand for that kind of thing in the U.K. How disillusioned he must have been 20 years later!

In this country the first few parcel bombs exploded in 1975 during a period of political conflict. This was worrying until one looked outside Australia. In the same year terrorist activity was stepped up in Europe. From under 100 significant incidents a year, the figure approached 300, passed 300 the following year and then rose to 725 actions in 1978.[1] Kidnapping and terrorist attacks had become endemic to South America. In parts of Africa, terrorist attacks were part of freedom fighting and countries as far apart as the U.S.A., Japan and the Philippines had a ration of bombings and outrages that made the Australian experiences seem trivial.

Since then Australia has had the Hilton bombing, the Woolworths blackmail bombings and threats of bombing and a number of quite daring assassinations, culminating in the brilliantly organised killing of the Turkish Consul-General in Sydney.[2] This is still very far removed from the pattern in other parts of the world but now it is noticeably following the general trend. So what should Australia expect – or do about it.

Doubtless in the inner enclaves of Australian security there are well-written scenarios of possible terrorist futures and the counter measures which might be taken. This is normal procedure. If experience in other countries is worth anything, these forecasts should be examined very carefully in the light of political developments and the political realities within Australia itself. It has been suggested in some quarters that Australia has such a firm foundation of political stability and is so far removed from world events that its real danger is likely to flow from commercial rather than political terrorism. I do not share this confidence. Even if the country is stable, terrorists can be imported and gradually build local cells – first from the lunatic fringe and later from the frustrated idealists. A country may have trouble from exile groups and may suffer from the exploitation of its extensive media coverage.

All terrorism is criminal in that it involves breaking the laws, but the Australian threat seems to be (a) political, (b) criminally organised and (c) commercial terrorism – in that order.[3] The political variety has been demonstrated by minorities seeking to attract Australian and world attention to their grievances by the placing of bombs in Australia: it has been illustrated by the parcel bombs which coincided with a period of political division and by the deliberate killing of a diplomat.

'Criminally organised' means the terror used by organised gangs to establish or maintain their authority. The drug trade and gambling have given these operations added profitability and the obviously planned assassination of one person within the Melbourne Courthouse and another in a drug growing area are simply isolated instances of 'contract killings' which the police could document with other less publicised examples.

Finally, commercial blackmail, by planting bombs in stores, has hit Australia with a vengeance in recent months and, as a by-product, has provided scope for irresponsible hoaxers to disrupt shopping or indulge their grievances against the retailers.

To look at the political variety first, it is a truism that political terrorism is an outgrowth of a troubled democracy. It cannot thrive in a non-democratic State where movement is controlled and where there are street, neighbourhood, school, factory and courtyard committees to link the public with the governmental system of behavioural control. It can only thrive in the kind of democratic society where it can find divisive hooks on which to hang a plausible cause. While democracy, to be meaningful and to survive, needs a basic minimum of social justice, the concept is so relative that troubles in a democracy do not have to be profound in order to provide a basis for violent reactions.[4] The relativity of the concept

of justice links it closely with the expectations of the young, so that when we are looking for trouble, it is important to be sensitive to the gaps being created in any country between hopes and opportunities. Also where equality is a synonym for justice, it is less the affluence and poverty than conspicuous disparities in life styles which should sound the alarms.

In a consumer democracy, there is a high premium on success – however it may be achieved. And since success is a rare commodity, vaunted daily as the norm by the media, it pressures the laggards and provides an incentive for those who cannot achieve success legally to achieve it illegally. In terrorist torn Italy, interviews with 1,200 young people of both sexes between 14 and 20, conducted by interviewers of the same age group, revealed a youth culture highly politicised, deeply disillusioned with the system, diffident about the future and often sexually maladjusted. In other words, there was a pervading sense of personal failure.

In any country, therefore, where there is an education system (formal and informal) which raises unrealistic expectations and where this is accompanied by an economic structure unable to satisfy the expectations and technically committed to a frustrating level of youth unemployment, the extremists do not have to look far for recruits. For violence depends to no small extent on 'how badly societies violate socially derived expectations about the means and needs of human action',[5] and it should not be overlooked that we live in an age which has not only recognised violence as a means to an end but has justified it for its own sake.

The terrorism practised by organised gangs may be expected to grow to the extent that law and law enforcement are unable to deal with organised crime. Organised crime, to grow, needs a public demand for illicit supplies and depends upon its ability to suborn those in a position to stop that growth – not only in the criminal justice services but also in politics. New types of laws are required similar to the RICO Act[6] in the United States, which breaks new ground in trying to deal with groups as well as individuals. But any democracy should be concerned when the power of the purse can even extend to affecting the process of legislation.

In Australia, as elsewhere, the evidence for this kind of thing is extremely difficult to obtain and the few dramatic cases that arise are not always indicative of the extent of the problem. To deal effectively with organised crime, drug trafficking and certain types of corporate crime, Australia has a number of extremely difficult decisions to make – such as determining the extent of privacy, setting the limits to be placed on police investigations and deciding the degree of external scrutiny of the problems within the law enforcement agencies themselves.

On the one hand these can be a necessary counter to abuse and corruption, on the other hand they could make it more difficult to discover corruption. On the one hand they may protect the public against the police, on the other hand they may expose the public to those that the police are trying to deal with.

Commercial blackmail by terrorism is as difficult to deal with as any blackmail and becomes more so when the retailers concerned begin to compare the costs of paying off with the losses in turnover. As in any blackmail, the victim is placed in a dilemma and his cooperation with the blackmailer will be in direct proportion to the effectiveness of the police. Ultimately it is the public which will pay – not only by exposure to death and injury but via higher prices.

What has been interesting as the hoaxes develop, has been the relative indifference with which the public have treated the possibility that bombs might be hidden. Where known criminals are involved, there is more hope of the police successfully tracing them than if newcomers enter the field – as is true with most crime. And in dealing with a situation where there may be a real threat or a hoax, calculated risks may have to be taken, both by the retailers and the public.

Ultimately it seems that Australia will have to accommodate itself to the possibility of some forms of terrorism – however outraged it may be at this possibility. It should have emerged from the foregoing that terrorism is not just a problem for the specialists. The best way for the public outrage to be expressed is not just to kick those in power to perform self-righteous rituals of more laws, heavier sanctions and increased manpower but for the public to become fully involved in the counter action which has to be taken.

As we have seen, political terrorism thrives on the divisions in society and the gaps between expectations and realities. There are ways in which these dangers can be minimized. Criminally organised terrorism could not thrive if the organised criminals were not, in fact, giving the public what it is prepared to pay for, i.e., drugs, gambling, sexual indulgence, etc. And with commercial terrorism, the extent to which the public can be informed and develop an understanding of the risks is crucial to the extracting of the blackmailer's teeth.

Therefore, a nationwide educational campaign is necessary to prepare for the shape of things to come, to alert people to the fact that terrorism will succeed or fail according to the way in which the public is able to join in, pass vital information about unusual events and negate the hopes and expectations of the terrorists. The public in this context includes the media, because the media has had an ambivalent role in terrorism in the past.

(continued on P. 6)

Happenings

The Criminology Research Council at its meeting in Canberra in December 1980, made the following grants:

- $3,954 to Dr J.J. Pigram, Mr R.M. Boskovic and Dr D.J. Walmsley of the Geography Department of the University of New England to undertake a study of tourism and crime in a number of coastal areas in northern New South Wales.

- $10,680 to Mr D. Challinger, Lecturer in Criminology at the University of Melbourne, to undertake a project assessing the utility of fines.

At its meeting in Canberra in March 1981, the following grants were made:

- $8,360 to the Australian Institute of Aboriginal Studies to enable Professor Colin Tatz of the University of New England to undertake a study of the impact of Australian criminal law on remote Aboriginal communities in the Northern Territory.

- $12,685 to the New South Wales Bureau of Crime Statistics and Research to facilitate a study of homicide in New South Wales over the period 1969 to 1979.

- $10,141 to Mr Tony Rees in association with the Canberra College of Advanced Education for a survey of private policing in Australia.

- $3,000 to Mr R.G. Broadhurst of the University of Western Australia to assist with a research project aimed at ascertaining the impact of factual television programs on attitudes towards the correctional system.

The Council's Eighth Annual Report, tabled in Federal Parliament in December 1980, contains details of all previous grants.

His Grace Elias Mutale, the Catholic Archbishop of Kasama in Zambia paid a visit to the Institute last month.

His visit was at the invitation of the Director of the A.I.C., Mr William Clifford.

The Archbishop discussed the problems of crime in his own country, and also the work of the Institute.

He was presented with some of the Institute's publications and showed great interest in duplicating some of this work in an African setting.

The 51st ANZAAS Congress will be held in Brisbane from 11-15 May at the University of Queensland.

Those attending the criminology section include the President, the Hon. Mr Justice Kirby, the Chairman of the Australian Law Reform Commission, Dr Helmut Loiskandl, Department of Anthropology and Sociology, University of Queensland, and Mr Matthew Foley, Department of Social Work, University of Queensland.

The Australian Institute of Criminology will be represented by Dr John Braithwaite who will deliver a paper entitled 'Do Slums Really Cause Crime?'

Topics to be discussed include 'Aboriginal and Islander People and the Criminal Justice System', 'Aboriginals and the Law', 'Forensic Use of Psychosocial Evidence' and 'Natural Justice and the Hidden Courts'.

The main theme of the conference is 'Energy and Equity' which will cover specialist areas from Architecture to Zoology.

(continued from P. 5)

The official reaction to terrorism should probably lie somewhere between the extremes demonstrated by Western Germany and Italy. In Western Germany success over the Bader Meinhoff led to the *Rasterfahndung*, a computerised scanning technique which has been challenged by civil libertarians as an overkill detrimental to society since it brings the whole population under scrutiny and could be greatly abused by unscrupulous governments. Italy, on the other hand, has gone through her purgatory of terrorism without the kind of legislation which would interfere with human rights or human freedoms. Perhaps for that reason the Italian reaction has been less efficient than the German's. Britain in Northern Ireland is trying to strike a middle course: but the evidence given to the Royal Commission on Criminal Procedure shows strong support for an increase in police powers and the abandonment of the Judges Rules or other devices to protect an accused.

With these models ahead, Australia should be able to choose its own pattern, but one thing is certain. If this country is thinking of terrorist prevention rather than cure, then it should be acting now to evolve a common criminal law and the kind of uniform and coordinated reaction to crime which could work smoothly and swiftly at Federal and State levels. Some progress has been made – a great deal more is needed.

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1. According to Charles A. Russell, 'Europe: Regional Review' in *Terrorism: An International Journal*, Vol. 3, Nos. 1 and 2, 1979, p. 159.
2. This is not to suggest that these incidents are linked.
3. Some would not use 'terrorism' here since the victims are not always the public.
4. The term 'democratic' is used loosely here. It does not mean that the existence of terrorism denotes a democratic state, e.g., in Latin America. Successful terrorism probably indicates, however, ineffective controls of movement.
5. T.R. Gurr, *Why Men Rebel*, 1970.
6. The Racketeer Influenced and Corrupt Organisations Act.

Criminologist - A 'woman in question'

Criminologist with the Australian Institute of Criminology, Jocelynne Scutt believes power corrupts, but lack of power corrupts absolutely.

Ms Scutt, a self-confessed feminist, was speaking on A.B.C. television where she was being interviewed on the program 'Woman in Question' televised nationally on 4 January 1981.

Ms Scutt told interviewer Terry Lane that women had been deprived of any access to political institutions, therefore they had been deprived of any political power and this had meant that they had had to use subterfuge to get their ideals across.

Ms Scutt's program was one of a series which aimed to study women who had made their mark in business and in sport, political and feminist causes, religion, and in literature.

Below are several key questions, and how they were answered by Ms Scutt who has been described as academically the most qualified woman lawyer in Australia.

Jocelynne Scutt

Q. Did anyone in your family – your mother, for example – influence your feminist views?

A. Both my mother and father were important in my childhood, and I was unrestricted in formulating ideas and coming to decisions. I had very strong role models in the women in my family. My mother and particularly my maternal grandmother were feminists.

Q. Is it possible for a man to be a feminist?

A. Possible, but not probable.

Q. Is there any prominent Australian man whom you would call a feminist?

A. I can't think of one.

Q. You have been quoted as saying the nuclear family is not the natural base unit of society. Could you elaborate on that?

A. The nuclear family is a relatively modern event. Village societies did not adopt this form of living, and in our own history there has been a diversity of living patterns. For example in the upper echelons of society during the Victorian era 'maiden aunts' were often an integral part of the family unit. Three generations sometimes lived together on the one estate. Similarly in the lower socio-economic strata, it was not uncommon for what we would today call a 'nuclear unit' to dwell together with other units of the family. Of course, research today shows that it is untrue to imagine families in the past comprised grandparents, parents, thirteen children, maiden aunts, uncles and so on. Yet similarly it is wrong to think of 'the family' from time immemorial as consisting of mother, father, two children, a cat and a dog – and today the television set. This is simply a misreading of history and of anthropology.

Q. Do you think there would be less family violence in an extended family than a nuclear family?

A. I do not see some rosy time in the past when the extended family provided an answer to all ills including domestic violence. Domestic violence has always happened. However family violence is exacerbated by the limitations of the nuclear family. It arises directly from the way we socialise men and women, boys and girls into believing that the male must be 'masculine' – that is, dominant and aggressive, and that the female must be passive and submissive to live up to 'femininity'. If a dominant and aggressive person is placed together with a submissive and passive person, locked up in a family situation where they are required to have children and to take upon themselves total responsibility for those children, the inevitable result is distress frequently leading to violence. By 'extended families' I refer to living situations where both men and women take equal responsibility for household duties, cooking and the like. People would not consider themselves to be part of a 'family' by reason of biological accident. No one would believe that simply because they had given birth to a particular individual, in some way they own that person. Without restrictive role stereotyping and 'ownership' a more caring, non violent community would be established.

(continued on P. 10)

In the interests of child welfare

Dr J.A. Seymour, the Australian Institute of Criminology's senior lawyer, has just come to the end of a two-year period of secondment to the Australian Law Reform Commission. During that time he was a part-time Commissioner and was in charge of the Commission's inquiry into child welfare law and practice in the A.C.T. The task of inquiring into the Territory's child welfare system was given to the Commission by Senator Durack in February 1979.

The Terms of Reference of the inquiry included an examination of the treatment of children in the criminal justice system, of methods of helping neglected and abused children, of the roles of welfare, education and health authorities, police, courts and corrective services in relation to children, and of the regulation of the employment of children.

During the inquiry Dr Seymour engaged in a thorough process of consultation with members of the A.C.T. community. Discussions were held with magistrates, members of the Australian Federal Police, members of the Welfare Branch of the Department of the Capital Territory, members of the Capital Territory Health Commission and of the A.C.T. Schools Authority and representatives of voluntary agencies.

An interesting feature of the consultation process was the involvement of A.C.T. children. Dr Seymour and another member of the Commission visited six schools and colleges in Canberra and obtained pupils' views on a large number of matters relevant to the reference.

Two discussion papers were published by the Commission during its work on the child welfare reference. These were *Children in Trouble* and *Child Abuse and Day Care*. These papers attracted a good deal of interest and comment, and prompted a large number of oral and written submissions.

The Commission's report on child welfare will include the first detailed description of A.C.T. procedures for dealing with children in trouble and comprehensive statistics on the operation of the system.

In the past, the statistics which have been published have been inadequate, and the Commission had to conduct its own surveys and analyses in order to compile the statistical data so necessary to an understanding of existing procedures.

The Commission's report, which will run to 14 chapters and will include a draft of a proposed new Child Welfare Ordinance, will contain an examination of the theory of the Children's Court and detailed recommendations on procedures for dealing with young offenders and children who are neglected, abused, or otherwise in need of care.

These recommendations will cover both pre-court procedures and the measures which should be available to the court when intervention is required.

Special chapters will deal with child abuse, legal representation for children, the regulation of day care, the control of the employment of children, and the organisation of welfare services in the A.C.T.

In addition to his work as Commissioner in Charge of the Child Welfare reference, Dr Seymour was a member of the division established by the Commission to produce a report on sentencing. The Commission's interim report, *Sentencing Federal Offenders,* was published in 1980.

Dr Seymour is now writing a book on Children's Courts in Australia.

Dr John Seymour

Probation : A sentence in its own right?

The Director of the Australian Institute of Criminology, Mr William Clifford, estimates that three times as many convicted offenders are on parole as are in gaols in Australia.

Delivering the keynote address at a seminar on probation at the Australian Institute of Criminology in Canberra last December, Mr Clifford termed probation 'the lynchpin of penal reform'.

He told the seminar that probation was producing results equal to those of any other method in use today of dealing with offenders and was a great deal cheaper for society.

It could be established that in 1978-79, the cost of prisons for all states in Australia was $113 million, while the cost of probation and parole was $11 million.

Mr Clifford said that in the absence of probation it would be economically crippling for society to provide prison accommodation for those presently under supervision.

Because probation was a flexible, economical and successful method of dealing with crime and criminals, it ought to be recognized as such and given encouragement in the future.

Senior research officer at the Australian Institute of Criminology, Mr Ivan Potas told the seminar that probation in itself is a punishment, not a let-off, and ought to be treated as a sentence in its own right.

In a controversial paper entitled 'The Myth of Consent in Probation', he said it may be that the term 'placed on probation' should be abandoned in favor of 'sentenced to a period of community control' to indicate the true nature of the restraints involved in probation and to counter the idea that probation means 'getting off'.

Mr Potas argued from the premise that probation is a punitive measure imposed by a court and therefore should not require the consent of the offender. He pointed out that in reality such consent could not be regarded as true consent.

Mr Potas pointed out that the two distinct forms of probation in use in Australia, (i) probation by way of recognizance (used in N.S.W., South Australia and the Territories) and (ii) probation as an order of the court (used elsewhere), embodied a subtle difference in philosophy although there were no drastic differences in an offender's obligations.

Under probation by way of recognizance, the offender, in theory, has the right to accept, or reject in whole, the terms and conditions that are to apply. Similarly, under the order form of probation as in Victoria, the court shall not make the probation order unless the offender expresses his willingness to comply.

But Mr Potas maintained that, although these methods of probation were said to be consensual, the offender was rarely told of his or her right to agree to the terms and conditions of the recognizance or order.

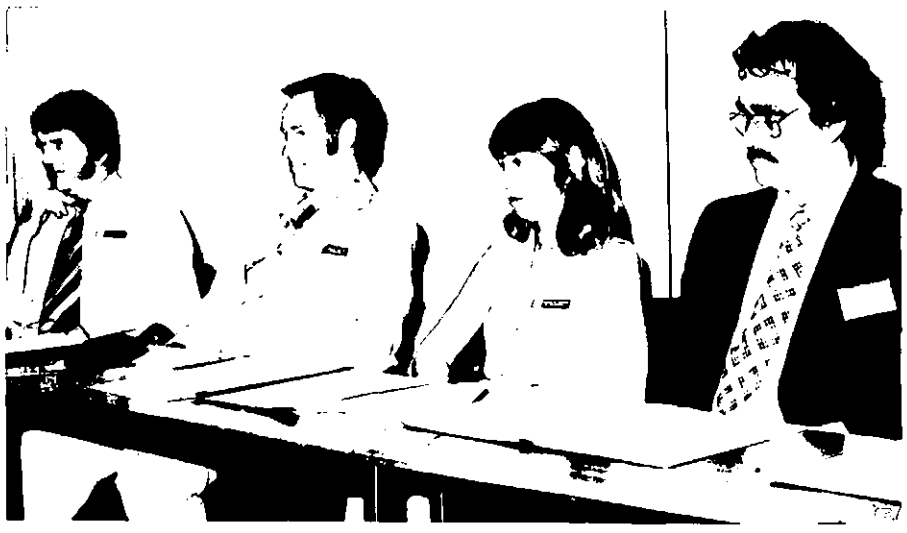
States which have probation orders of the court, as opposed to those who use recognizance, usually specify in greater detail the terms and conditions that may be applied and require an explanation to the offender in lay language of the consequences of breaching the requirements.

There are no provisions in the N.S.W. Crimes Act requiring the court to explain the consequences of a breach to the offender. But, should the offender breach probation or commit a further crime, he or she then becomes liable to be sentenced for the original offence.

Mr Potas said that because the court presented the terms and conditions of the probation to the offender in the form of an ultimatum, often interpreted as 'accept this or else', the 'or else' implying imprisonment, under both the recognizance and order form of probation, the offender is coerced into accepting the conditions specified by the court. This was hardly free consent. Mr Potas said consent was not a pre-requisite in other sentences. For example, he said, convicted motorists were not asked in court whether they intended to pay traffic fines.

Mr Potas said that if probation became a sentence in its own right, it would remove the need for consent altogether.

Other papers at the seminar were delivered by *Mr D. Murray*, the Assistant Director Welfare Branch Department of the Capital Territory, Canberra, A.C.T.; *Dr D. O'Connor*, reader in Law, A.N.U., Canberra, and *Mr D. Owsten*, Principal Field Officer Correctional Services Division, Department of Community Development, Darwin, Northern Territory.



Pictured from left to right.
Mr Allan Brush, Mr Dennis Keller, Ms Agnes Godfrey, and Mr Vincent Jones, Probation Seminar.

Institute's initiatives on Aboriginals

A criminological research workshop on Aborigines was held at the Australian Institute of Criminology on 3-4 March.

The Institute invited experts in Aboriginal affairs from all states including representatives from the police, the National Aboriginal Conference, Department of Aboriginal Affairs, Law Reform Commission, Departments of Attorneys-General, Community and Welfare Services as well as independent researchers.

Because of the importance of the subject, members of the Board of Management of the Institute, which was meeting in Canberra on the same day, also took part in the workshop.

Behind the Institute's initiatives was Mr Terry Walsh, a member of the A.I.C. Board of Management who would like to see the Institute maintain, and perhaps collate, the work being done concerning Aborigines and crime throughout Australia.

The workshop decided there was a need for a data centre offering guidance facilities on Aboriginal criminal research. The moderator of the seminar, the Director of the A.I.C., Mr William Clifford said it was decided that the centre should be established at the A.I.C. and that, to enable the data to be collated, all those engaged with the gathering of statistics within the criminal justice field or related departments or organisations should take note of the views expressed by representatives of Aboriginal organisations that the advantages of identifying Aborigines in the gathering of data outweighed the disadvantages.

He said for a long time some agencies had discontinued the practice of showing Aborigines separately since this was considered discriminatory.

However, he said it was clear that, with Aborigines constituting 1 per cent of the overall population, but probably 30 per cent of the prison population, it was essential to be able to show the extent of the problem so that public policy could be developed to improve the situation.

At a break in the Aboriginal Criminological Research Seminar, 3-4 March 1981, from left to right: Mr T.A. Walsh, Ms M. Brady, Mr W. Clifford, Mr A.A. Grant and Mr H. Wallwork

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Q. Do you believe in a maternal instinct? Do you, for example, have a maternal urge?

A. I don't believe that there is such a thing as a 'maternal' instinct. I believe that some persons – be they male or female – have a 'parenting urge'. Some people have a definite desire to parent children. Equally, some people – be they male or female – have no desire to parent children. These latter may have many children with whom they have contact – by way of being uncles, aunts, friends, and the like – but do not want 'children of their own'.

Q. You have written extensively on the law relating to rape and other sexual offences. Why do you have this particular interest in rape?

A. I am opposed to sexism and to violence, and believe in equal rights for women and men. As a feminist, I believe that rape is the ultimate act of sexism. In analysing the law, I point out the anomalies in this particular area of the law, and ways in which laws which are ostensibly designed to protect women in fact do not, because they have been built up by a male-dominated profession, a profession wherein, indeed, women were prohibited from practising in Australia until approximately the 1920s. When traditionally male and female sexuality is viewed differently, and when the law has been built up by male persons, it is inevitable that the law will not serve the best interests of women.

Q. Do you find that the law generally discriminates against women – does the law favour men?

A. Unquestionably. Our legal system is a brilliant example of discriminatory rules and practices. When feminists talk of discrimination, it is frequently said, 'Well, show us your female Beethoven, your female Renoir, Bertrand Russell, George Bernard Shaw – and where is your High Court judge?'. That no woman sits on the High Court is no reflection upon women; rather it is a reflection on our male law makers who for well over one hundred and fifty years legally precluded women from practising law, much less sitting on the bench. Laws preventing women from participating in legal profession are no different from those of today ousting women from participation in other fields.

Australia, like all other nations, has a sad and sorry history of discrimination against women and is only beginning to recognise that discrimination exists.

With reference to the article above on Aborigines the latest data from the Australian Bureau of Statistics for the census of 1976 shows 726.5 Aborigines per 100,000 population were imprisoned on the day of the census.

Mad, Bad, or Both

Senior Research Officer with the Australian Institute of Criminology, Mr Ivan Potas, visited Alberta, Canada, in January.

Attending the 5th International Congress on Law and Psychiatry held at Banff, Mr Potas gave a paper entitled 'Sentencing the Mentally Disordered in Australia'.

In it he argued that a sentencer's main task, after weighing all the evidence including that of a psychiatric nature, was to pass sentence according to legal, not medical considerations. In other words the court must make a judicial not a clinical determination.

'Sentencing is often described as one of the most difficult tasks faced by a judicial officer,' he said. 'If this is so, the sentencing of mentally disordered offenders must rank as the most difficult of difficult tasks. Indeed, no jurisdiction, whether or not it purports to base its criminal justice system on principles of justice and humanity, has found a satisfactory solution to this problem. Perhaps there can be no wholly satisfactory solution – the only practical aspiration being the adoption and implementation of systems or strategies designed to improve upon present policies and practices.'

'Few would deny that there is in the muddled relationship of law and psychiatry a need to define and clarify the respective role of each, if progress is to be made. Nor is the task simplified by the knowledge that that which amounts to progress or improvement in the management of the mentally disordered involves value judgements measured by reference to criteria which themselves are often little more than matters of opinion and the subject of constant disagreement and sometimes of vehement debate.

After describing the judicial and political systems which operate in Australia, Mr Potas continued: 'The problem remains however to identify through readily agreed criteria those mentally disordered persons who require involuntary containment, and to ensure that such containment is neither arbitrary, excessive nor accompanied by unreasonable or objectionable methods of therapeutic treatment or control. In this regard there is a growing appreciation of the patient's right to object to treatment, the right to have certain forms of treatment, the right of the patient generally speaking to be treated with dignity and humanity.'

'All this must be balanced against the right of ordinary men and women in the community to go about their ordinary business of living unmolested and free of threat or of serious interference to life, liberty or property. Sensitive ethical issues arise where the harm created or threatened is directed only at the patient himself but few would argue with the proposition that some people must be restrained in order to protect others from harm. Further, if such persons are amenable to treatment and the risk of adverse effects of treatment do not outweigh their potential benefit, then it would be inhumane to deny the patient an opportunity to have such treatment.'

'If the patient objects then once again difficult issues arise and judgements, clinical, ethical and legal must then be made. Further complications arise where the patient is unable to give consent. A consideration of these issues, important and difficult as they are, are outside the scope of this paper.'

'The burden of this paper is to show that Australian courts are developing positive and realistic principles for sentencing offenders who either, at the point of commission of their offences or during the sentencing stage of the proceedings are considered to be mentally disordered.'

In a general discussion of sentencing, Mr Potas concluded that in Australia the principle of commensurate deserts was paramount, with relegation to the background of characteristics personal to the offender and predictions of future conduct. He went on to discuss the place of rehabilitation.

'Rehabilitation as an objective of the criminal justice system is out of favour with criminologists. However there seems to be a reticence on the part of sentencers to dump the rehabilitation model in sentencing. This is despite Hogarth's recent observation that the "rehabilitation ideal in sentencing which flowered only a decade ago is now buried, with criminological researchers having acted both as midwives and as pallbearers".'

'The rhetoric of rehabilitation is particularly prevalent in pleas of mitigation of penalty, in presentence and psychiatric reports and in the written judgements of sentencing courts. If the ideal of rehabilitation is dead and buried its ghost seems doomed to walk betwixt the heaven and earth of the courtrooms of our land clanging its not too rusty chains during the dispositional stage of proceedings.'

'Indeed if one listens carefully on those long drawn out occasions during which there is a profusion of psychiatric evidence it is not only chains but a distinct rattling of pill bottles and hypodermic syringes that can be discerned accompanied by moans of "give him these, this will cure him, give him these".'

'Is it not time to put the ghost to rest and abandon altogether the rhetoric of rehabilitation? Is it not time to advocate that psychiatry's role in criminal proceedings should be limited to diagnosis and not extended unreasonably into prognosis and cure?'

'Yet while it is recognised that treatment and punishment are unhappy bed-fellows, there appears to be a reluctance on the part of some Australian sentencers to prise them apart. It is as if the marriage were sacrosanct – that which God has joined together let no man, judge or psychiatrist put asunder. The search for a cure of criminality is somehow confounded with the primary task of the judicial system, that of dispensing justice and

apportioning blame or culpability to individual offenders. It is just not acceptable to evaluate punishment in terms of therapeutic philanthropy or what is more frightening, in terms of therapeutic control. To fit the therapy to the crime is an open door invitation for the arrival of the therapeutic state.'

'This is not a plea for abandoning efforts to provide humane consideration and necessary care, treatment or control of mentally disordered persons whether they be involved in criminal proceedings or otherwise. Quite the contrary, rehabilitation as a humanitarian concept should operate independently of the criminal justice system.'

'In this regard also mercy has an important role to play in apportioning punishment, but sentencing a person for rehabilitation is a concept that can only confound and confuse those with the task of determining the penalty that is commensurate with the gravity of the offence.'

'To reduce a penalty otherwise appropriate on the grounds of mental infirmity on the party of the individual offender is a perfectly normal and acceptable practice if the determination of penalty is assessed from the point of view of the offender's culpability.'

After describing in detail a specific case where preventive detention had been a consideration in the sentencing of a mentally disordered offender, Mr Potas said, 'It may be premature, indeed inhumane, to give up hope for searching for ways and means of preventing future criminal conduct on the part of individual offenders, but it may not be premature nor inhumane to expunge from the statute books and the minds of sentencers the concept of preventive detention where this entails imposing extra punishment for the purpose either of providing protection for the community or for providing some presumed therapeutic benefit for the offender. It is submitted that preventive detention provides yet another example of the overreach of the criminal law.'

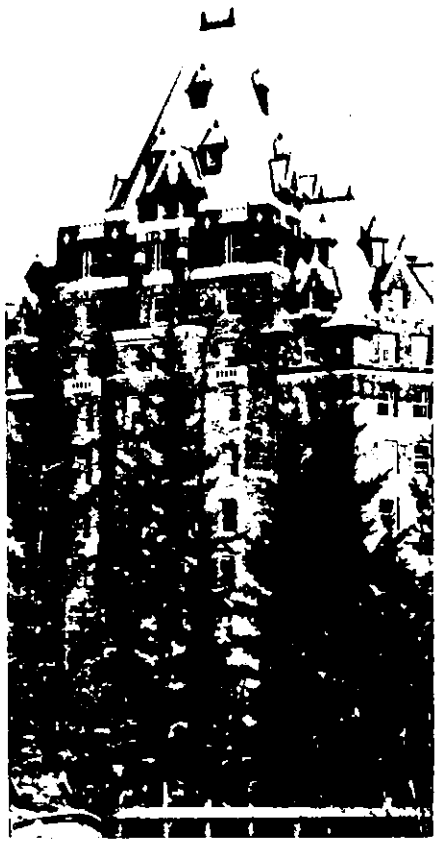
'It is as if the criminal law were the only agency concerned with community welfare whereas in truth there are many control mechanisms in society – including the family, the school, the church, political, economic and educative influences, the mental health and social welfare agencies and so on. These institutions must share the burden, accept the blame and take the reward for the level of safety with a given society.'

'The criminal law, while concerned with maintaining core values and upholding certain minimum standards of behaviour through a complicated process involving the declaration and denunciation of prescribed behaviour attempts to achieve this through a formal and elaborate process of trial, guilt determination and punishment. Sentencing powers are limited by law and achieved principally by reference to the act or acts of which the offender has been found guilty.'

'Modern sentencing practice has allowed into this scheme of things an individualised approach enabling factors personal to the offender as well as factors relating to the circumstances of the particular offence to be taken into account. This individualisation has been imported into the system of sentencing for reasons of justice and humanity. It has not been imported in order to single out the bad risks for additional punishment but to identify the good risks and to mitigate the otherwise harsh sanctioning powers of the courts.'

'The indeterminate sentence, preventive detention, recidivist provisions and perhaps also parole go beyond these traditional goals and extend the concept of protection to a point where the aims and objects of the criminal law become distorted. Some of these punitive devices have been described as "extreme measures at the outer fringes of the criminal law" being "best viewed as crude counterparts of civil commitment carried on under the aegis of the criminal law". The imposition of extra punishment beyond that which is warranted by the offence is morally unacceptable whether the rationale for additional punishment is punitive or therapeutic.'

'Indeed it is submitted that any disposition which is based on a treatment rather than on a punitive model belongs under the aegis of mental health or welfare rather than criminal justice systems – to those agencies that are in the business of treatment rather than punishment. In this regard the call for both law and psychiatry "to return to their historic roles", to stop encroaching on each other's territory and to establish "a true division of labour" would truly simplify the sentencing process and confine the criminal law to more traditional and realistic objectives.'



Banff Springs Hotel, Alberta, Canada. Venue of the 5th International Congress on Law and Psychiatry.

Caracas and crime

In the December edition of the *Reporter* we covered in part, an account of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held from 25 August to 5 September 1980.

It was reported that there were observers of the congress, held in Caracas, Venezuela, from eight inter-governmental organisations totalling some 101 representatives from 101 states.

As space limited the coverage of the congress in full, we were unable to deal with the proceedings in detail. These are covered below.

The agenda items were designated topics and with the resolutions that emerged, the pattern was as follows:

Topic 1: Crime Trends and Crime Prevention Strategies

This resulted in resolutions of a very general nature, stressing the importance of economic and social conditions and the need to consider crime prevention strategies within this context. A resolution, co-sponsored by Australia, dealt with the need to intensify efforts to improve crime statistics at both national and international levels.

Topic 2: Juvenile Justice Before and After the Onset of Delinquency

The most interesting resolution under this item of the agenda was one which called for the development of minimum standards of juvenile justice. Australia co-sponsored this resolution.

Topic 3: Crime and the Abuse of Power: Offences and Offenders Beyond the Reach of the Law

This was a highly political debate, with resolutions which brought out some of the deep divisions in the international community. There were resolutions condemning the practice of executing political opponents. Cuba wanted four countries named, but this proposal was rejected on a role call vote. There was another call for an end to torture and inhuman treatment of detained persons and again a deep division on specific countries being named. There was a resolution seeking to prevent the abuse of power, which again had strong political overtones but did include references to multi-national and transnational corporations and to the problems of corporate crime.

Topic 4: De-institutionalisation of Corrections and Its Implications for the Residual Prisoners

There was no objection here to the need for alternatives to imprisonment and, indeed, there were many alternatives suggested. A resolution adopted proposed that governments report to the Secretary-General every five years on progress in providing alternatives to imprisonment. A resolution on women offenders sought special consideration for them when alternatives were being considered and there was a resolution calling for better facilities to help the persons released from prison to re-establish themselves in the community.

Topic 5: United Nations Norms and Guidelines

Discussion of this topic generated a number of resolutions dealing with torture, codes of conduct for law enforcement officials, transfers of offenders, implementation of human rights for prisoners, the better dissemination of legal knowledge, guidelines for the selection and training of judges and prosecutors and implementations of conclusions of this Congress.

Amnesty International obtained the support of a number of delegations for a resolution on the death penalty. There are, of course, a number of excellent U.N. resolutions calling for the abolition of the death penalty, even though the word 'eventually' may be included in most of them. Amnesty sought to make this more specific, calling not only for reports, but for suspensions of the death penalty where it could not be abolished immediately and a number of other safeguards. For the first time in United Nations history, it was clear that, had this resolution gone to a vote, it would have been defeated. A number of Third World countries considered the death penalty to be a necessary deterrent and some of them even considered it to be a religious requirement. This kind of support for the death penalty has never emerged before in United Nations meetings, but its strength on this occasion made it very clear that, despite the widespread support for abolition amongst the delegations, a resolution would have been defeated – with unfortunate consequences and, therefore, the draft resolution was withdrawn.

Topic 6: New Perspectives in Crime Prevention and Criminal Justice

This was a very broad item dealing with future cooperation and development and, in particular, the need for better planning to prevent crime. Australia was very active in making sure that the resolutions adopted would strengthen the relevant bodies and extend the work which was already being done in Australia to improve economic and social planning for crime prevention.

In general, the Congress was a success, but rather less of a cohesive approach to crime than one might have hoped for. A great deal remains to be done, but it is significant that the Australian delegation, despite the effect of the cancellation of the hosting arrangements for this Congress to be held in Sydney, made a substantial impression. The Leader of the delegation and the Deputy Leaders made impressive statements, as did other members of the delegation. The Australian

(continued on P. 14)

Librarians in the criminal justice system

The Third Seminar for Librarians in the Criminal Justice System was held from 16-18 February in Sydney.

The 32 participants agreed that the change of venue this year from the Australian Institute of Criminology to the Law School Library at the University of New South Wales was beneficial.

The Director of the A.I.C., Mr William Clifford, in the opening address said that holding the seminar outside Canberra was in keeping with the Institute's role as coordinator of research and training in the criminal justice field throughout Australia.

The seminar was organised by the Librarian of the J.V. Barry Memorial Library of the A.I.C., Mary Gosling who opened discussion with a paper on the role of the Library and the future of the criminal justice library system.

Neil Donahoo, the Librarian of the Community Welfare Training Institute presented a paper on the provision of a library service to Australian prisons. During the discussion which followed, Rob Brian, the Law Librarian from the University of N.S.W. said that the climate of opinion in Corrective Services Departments was gradually changing regarding the provision of library services to prisoners and improvements had occurred particularly in New South Wales.

Other papers read at the seminar were: Aborigines and the law: the methodology of a bibliography by John McCorquodale, Principal Legal Officer, Commonwealth Deputy Crown Solicitor's Office; Family Information Centre, Institute of Family Studies by Judith Newbold, Librarian; Law Library, Supreme Court of Western Australia by Bruce Bott, Librarian.

A videotape of the facilities at the Airlie Police College Library, South Yarra, Victoria was shown by the Librarian, Christine Paterson.

The participants took the opportunity to visit the libraries of their counterparts in New South Wales and to discuss practical problems.

Rob Brian organised a tour of the Law School Library and described the Library's services including 'BLIS', a bibliographical legal information service for lawyers. Demonstrations of the computerised NCJRS data base to which the Law School now has access through DIALOG showed that searches produced results previously unobtainable through the usual library resources.

Resolutions passed at the seminar were

The participants

1. support the continuance of the services currently provided by the J. V. Barry Memorial Library including (a) the holding of seminars; (b) the publication of the Union list of Criminology Periodicals; (c) the further expansion of the CINCH data base; (d) the publication of the Information Bulletin; (e) the maintenance of the Union Catalogue of Monographs held by criminology libraries

2. reaffirm the urgent need to survey the status of Australia prison libraries and set minimum standards for them,

3. recommend that a professional librarian be appointed in each state to advise the Department on library services for prisoners,

4. support the proposed computerised police data base to be developed by the Librarian at the Australian Federal Police College as a complement to the CINCH data base

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Institute of Criminology had prepared working papers on all topics and was instrumental in sponsoring a special research meeting, which was held during the Congress; the two speakers were Mr W. Clifford, the Director of the Australian Institute of Criminology and Dr D. Szabo, the President of the International Society of Criminology. Another interesting feature of the Congress was the increased strength of the Non-Governmental Organisations Alliance. This informal structure, which was set up in New York by Mr Clifford in 1971 to ensure better consultation between the NGO's and the Secretariat, had gathered tremendous strength over the years and was able to organise at Caracas a lounge for NGO representatives, the dissemination of information and two special meetings on particular aspects of the agenda which had an impact on the later official discussions. Mr Clifford was speaker at one of these meetings and chairman of another. The Canadian Government provided funds for interpretation.

Other special meetings of interest to criminal justice personnel in Australia covered the proposal for an international organisation for probation and a new organisation for half-way houses. The Howard League was active in the non-governmental functions and the three United Nations Institutes in Rome, Tokyo and San Jose, Costa Rica, were very well represented.

In retrospect, it is interesting that the U.N. Secretary-General, in opening the Congress, referred to the concept of crime prevention within the context of economic and social development as being something new. In fact it is 15 years since the subject was first dealt with by the United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders. It was a subject of tremendous importance at the Fourth United Nations Congress in 1970 and it was, indeed, the theme for a complete issue (No. 25) of the International Review of Criminal Policy. Perhaps Caracas means that the message has reached the higher levels of diplomacy and policy in the international community. If so, this is extremely gratifying. However, what is needed now is more field action to apply the principles more effectively and evaluate the results.

Review of criminological research seminar

A broad representation of persons engaged in criminological research attended the Australian Institute of Criminology last month to take part in a seminar entitled 'Review of Criminological Research'.

The seminar, the second of its kind held at the Institute brought together more than 60 psychiatrists, police officers, correctional services personnel, lawyers and parole officers.

More than 40 papers were presented at the seminar which provided those in attendance the opportunity to discuss their work with fellow researchers with a view to improving the quality of research in Australia.

The convenor of the seminar, the Assistant Director (Research) of the A.I.C., Mr David Biles said the significant difference between this seminar and other Institute activities was the strong representation of participants from the forensic sciences.

The seminar was opened by the Director of the A.I.C., Mr William Clifford.

'Just Deserts just cannot be Just', a paper delivered at the seminar by research criminologist, Mr John Braithwaite examines the concepts of the 'just deserts' and 'utilitarian' approaches to punishment with respect to white collar crime.

Because a large proportion of white collar offences were organisational crimes, perpetrated by persons acting on behalf of their organisations, Mr Braithwaite questioned whether punishment should be directed at the individuals, the organisation, or both.

He said, 'just deserts' as a principle of sentencing provided no guidance to this question, whereas the 'utilitarian' principle enabled a choice to be made.

But public opinion surveys as a method of gauging the will of the people were fickle in the sense that the public was more likely to be led by criminal justice policy than capable of leading it.

Mr Braithwaite also saw problems associated with the alternative of measuring 'desert' by objective harm because, he said, many types of harm such as the impact of white collar crime were not objectifiable.

Mr Braithwaite believed the 'just deserts' concept of punishment was unworkable in relation to white collar crime because certain offences which constituted only a minor part of the white collar crime problem, almost equalled in number all the traditional offences dealt with by the police.

Therefore, he said, metering out 'just deserts' to all white collar offenders would tie up more of a government agency's resources than it could afford. For example, continually having a quarter of the pharmacists or auto dealers being processed for prosecution would bankrupt the wealthiest of governments.

As a result he said, it must be conceded that given the legal system we have inherited, the public obtained most of its protection from extra-legal muscle-flexing by regulations which persuaded companies to change their ways.

Mr Braithwaite's paper showed that if 'just deserts' were to work in practice, there would be many more white collar criminals in prison than common criminals, and cost alone would prevent any government from processing all the complex white collar crime cases which would be required to achieve this goal.

In conclusion, he said that his paper attempted to show that the choice between the two principles of sentencing was really a choice between 'utilitarianism' and a hypocritical commitment to 'just deserts', which in practice, could only increase injustice.

At the same time he said, hypocrisy associated with the 'utilitarian' concept was also questionable.

Finally, he said that 'just deserts' as the basis for sentencing common criminals, and crime prevention as the goal in sentencing white collar offenders—in other words, 'just deserts' for the powerless and comparative lenience for the powerful-is not 'just deserts' at all.

If 'just deserts' means hearing the will of the people concerning how common crimes should be punished, while turning a deaf ear to the voice of the people with respect to the crimes of the powerful, then 'just deserts' was a way of excusing ruling class justice.

GETTING THE COMMUNITY INVOLVED

The seminar was told that a police/community involvement program was launched last month by the Victoria Police.

Detective Sergeant David Smith from the Police Management Services Division, said the purpose of the program was to provide a planned and practical approach to police/public involvement in crime prevention and to increase police effectiveness in providing service to the community.

He told the seminar that a pilot project to evaluate the program was being carried out by a police unit over twelve months within the Westernport district of Melbourne.

The objectives of the pilot project were to:

1 promote awareness of the police role;

2. develop community interest, support, cooperation and confidence in assisting police to attain police objectives;

3. identify police and community problems, needs, attitudes and expectations relative to police functions;

4. act as a focal point in assisting police and other organisations and individuals in the community to coordinate their activities towards common goals;

5. conduct research in connection with designated projects;

6. provide practical assistance, through information and feedback, to police and the community; and

7. monitor and evaluate the Police/Community Involvement Program

Pilot Project and its individual projects.

The unit will operate in three areas of responsibility

1. community affairs,
2. information services, and
3. juvenile aid.

Detective Sergeant Smith said police hoped the evaluation would provide enough reliable information to help decision makers to make judgements as to the future commitment and direction of the program.

He said the pilot scheme had a strong practical thrust to involve the community in crime prevention and that its outcome may well have far reaching consequences concerning the methods of carrying out the role of police in the community.

Detective Sergeant David Smith.

HALF-WAY HOUSES. . . HALF-WAY THERE?

Researcher Tony Roux, himself an ex-prisoner, told the seminar of the difficulties of adjustment to life outside prison within the first three months of freedom.

His paper dealt with what he termed identification of the critical factors associated with ex-offenders who sought readjustment at half-way houses on release from prison.

Mr Roux pointed out that his research project, funded by the Criminology Research Council, was not an evaluation of half-way houses, but the post release experiences of ex-offenders to readjustment problems within a half-way house environment.

Mr Roux selected Glebe House to record basic data such as background, problems, and plans for the future of 80 ex-offenders during their first three months of freedom.

Although most half-way houses have an arbitrary three months stay available to ex-offenders (by roughly which time a person is either settled into the community or back in gaol), the project found that the average length of stay of the sampled 80 was just under six weeks.

Mr Roux said his analysis of the experiences of the research sample indicated support of the hypothesis that half-way houses reduced recidivism.

However he said they were not infallible and only succeeded when the necessary degree of motivation was exercised by the ex-prisoner.

He said of the 80 sampled at Glebe House between 2 April 1980 and 28 October 1980, only 27 persons by 31 January 1981 had reoffended and been returned to prison.

Mr Roux drew attention to conclusions drawn in evidence of the Nagle Royal Commission into N.S.W. prisons that many persons were being released from gaol not only with the same problems that caused their imprisonment, but without much money, without friends or family in many cases, with no accommodation and few, if any, prospects of employment.

Mr Tony Roux

He said very few of the 80 indicated that they were victims of an unjust society, although they said that once convicted, it became very hard, even if they wished, to resume their place in society.

Mr Roux said despite loneliness, lack of emotional support and companionship which often could only be eased by associating with former criminal or prison acquaintances, most of the sample 80 showed a desire to 'go straight', to try anew.

But he said without the help of a half-way house this desire after release from prison could be offset by earlier mentioned hardships.

Mr Roux concluded by saying that half-way houses in some ways took the place of family support and encouragement and reduced the likelihood of an ex-offender being returned to gaol within the first three months of freedom.

VIOLENCE BREEDS VIOLENCE?

Some findings of a research project on women homicide offenders in N.S.W. were presented to the seminar by sociologist and law graduate, Wendy Bacon.

The study involved the cases of 36 women who were convicted of homicide offences or found not guilty of such an offence by reason of insanity.

The object of the study carried out between July 1979 and March 1980 by the Feminist Legal Action Group was to examine the cases in detail with a view to reconstructing the context and events leading up to the act or attack.

The study showed that 24 of the 36 women killed or attacked members of their own family or someone with whom they were having an intimate relationship.

In 14 out of 16 cases of women being charged with killing their husbands, the husband had been extremely violent in the past to his wife.

But in most cases the trial gave an inadequate picture of the violence the woman had endured.

As well, she said, the emotional

side to their relationship – where they often lived in constant debilitating fear – was rarely explored in any detail when they faced trial.

Ms Bacon added that the difficulties the women faced in leaving the marriage were hardly ever explored in a thorough or convincing way. At least not sufficiently so as to overcome the preconception of both judge and jury that a woman could leave a violent relationship if she wanted to.

Ms Wendy Bacon

The study concluded that the images of women as victims, neurotics and provocateurs and the ideology of privacy which surrounded the institutions of sexuality and the family played a part in perpetuating the domination and violence of relationships such as those experienced by these women.

It is those same ideologies and myths which pervade our criminal justice system and which prevented the actual circumstances of these homicides emerging in the court process which judged and sentenced them.

NEW CRIME COMPUTER

The Australian Federal Police has commenced a total review of National Crime Statistics.

With the assistance of the Australian Bureau of Statistics the review will lead to the production of Federal Police statistics as the result of a joint project by the A.F.P. and the Australian Statistician.

The statistical review and development will coincide with the progressive introduction of subsystems of a major national A.F.P. computer network due to be completed this year.

Chief Inspector Lionel Claydon of the A.F.P., one of the officers involved with the system called 'The Response Management Information System', told the seminar that it would perform a number of significant functions some of which had not been previously attempted in Australia.

He said the system would be able to log details of all requests for police assistance. It would also be able to identify work loads assigned to Divisions as well as identify manpower needs relative to cases referred for investigation.

He said the computer would also help uniformly define the results of investigations between police forces and determine whether offences were against the Commonwealth or State jurisdiction.

Chief Inspector Lionel Claydon

Pictured. Participants at Review of Criminological Research Seminar.

STATISTICS
Juveniles under detention

By Satyanshu Mukherjee
Senior Criminologist

This Institute's series on Juveniles Under Detention was abandoned in November 1979 when the new improved series was about to be finalised. In March 1980, the social welfare administrators accepted the content and format of the new system and after a brief period of experimentation the monthly series on Persons in Juvenile Corrective Institutions was implemented.

The earlier series suffered from certain serious deficiencies. For example, it was not possible to separate juveniles who were convicted from those on remand in all the jurisdictions. Also, persons detained in institutions because they had committed an offence could not be separated from those detained for other reasons. The new system rectifies these limitations and goes a step further in identifying more realistically the types of persons detained in juvenile corrective institutions. The new series does not use terms such as 'convicted' or 'on remand'. Instead, it uses broader concepts such as 'not awaiting hearing, outcome or penalty' and 'awaiting hearing, outcome or penalty'.

Because of the substantive nature of the changes it seems desirable that the terminologies used in the new series are clarified. For the sake of brevity the definitions developed by the Standardisation of Social Welfare Statistics project relevant to this series are produced below.

CHILD/JUVENILE – a person who is under 18 years of age.

AGE (YEARS) – age at last birthday.

JUVENILE CORRECTIVE INSTITUTION – a residential child care establishment that is mainly for child offenders or children on remand for alleged offences, and that has, as one of its major aims, the secure detention of the majority of its residents through active measures designed to prevent them from leaving the grounds of the establishment at all, or for reasons other than school attendance, work, participation in activities supervised by the establishment or authorised home leave. Excludes establishments mainly for the detention of persons aged 18 or over (these are classified as prisons), even though such establishments may be called 'youth training centres' or similar names more usually applied to establishments for the detention of children.

DETENTION STATUS – Awaiting Court Hearing, Outcome or Penalty. This category covers persons who, at the counting date, are awaiting the start, final outcome or penalty of a hearing or trial before a court or children's panel, whether for a criminal matter (i.e. an offence) or for another type of matter (e.g. a child welfare matter). For practical reasons, indefinite adjournment of a hearing or trial is considered to be the final outcome of the hearing or trial. All persons who fit the definition are included, whether or not they are already under a detention, guardianship or other control order imposed as the penalty for another matter. The category includes:

- persons remanded for further 'observation' or 'assessment' before the court or children's panel decides on a final outcome or penalty.
- persons awaiting the hearing or outcome of an appeal, if they are not already under a detention, guardianship or other control order imposed by a court or children's panel as the penalty for a matter other than the one that is the subject of the appeal.

The category excludes:

- persons awaiting only a decision by the state or territory welfare or corrections department as to their placement.
- persons awaiting the hearing or outcome of an appeal, if they are already under a detention, guardianship or other control order imposed by a court as the penalty for a matter other than the one that is the subject of their appeal.

Not Awaiting Court Hearing, Outcome or Penalty. This category covers persons who, at the counting date, are not awaiting the start, final outcome, or penalty of any hearing or trial before a court or children's panel. This category includes:

- persons awaiting only a decision by the state or territory welfare or corrections department as to their placement.
- persons awaiting the hearing or outcome of an appeal, if they are already under a detention, guardianship or other control order imposed by a court or children's panel as the penalty for a matter other than the one that is the subject of their appeal.
- persons not awaiting court hearing, outcome or penalty who have never appeared before a court at all, e.g. children placed under the guardianship of the state or territory welfare department by departmental decision rather than by court order.
- persons not awaiting court hearing, outcome or penalty who are not under any court order or under the guardianship of the state or territory welfare department, e.g. children placed in a juvenile corrective institution at the request of their parents.

COUNTING RULES – the statistics cover all persons in juvenile corrective institutions on the night of the last day of each month. As a general rule, persons should be counted if they are actually in a juvenile corrective institution on the night of the last day of the month, whether their placement is long-term or short-term and regardless of their 'usual' residence. Hence persons absent from a juvenile corrective institution on the counting night should generally not be counted as still in that institution. However, the following two cases are exceptions to the general rule.

- when the last day of the month falls on a Friday, Saturday or Sunday, persons on an authorised absence from a juvenile corrective institution for the weekend only should be counted as still resident.
- persons absent from a juvenile corrective institution on a group outing (e.g. a camp) organised and supervised by the authorities of the institution should be counted as still resident.

In Tables 1, 2 and 3 statistics relating to persons in juvenile corrective institutions as at the last day of each month October to December 1980 are presented. Table 1 provides data on total number of persons detained, and their rate per 100,000 relevant population, by jurisdiction and sex. Table 2 distinguishes between those not awaiting hearing, outcome or penalty and those awaiting hearing, outcome or penalty.

Table 1 Persons Aged 10-17 in Juvenile Corrective Institutions by Sex, October to December 1980

		31 October		*30 November*		*31 December*	
		M	*F*	*M*	*F*	*M*	*F*
N.S.W.	n	500	109	559	108	483	78
	r	141.4	32.8	158.1	32.5	136.6	23.5
Vic.	n	235	78	229	79	204	78
	r	83.6	29.2	81.4	29.6	72.6	29.2
Qld.	n	98	18	104	18	91	17
	r	61.3	11.8	65.1	11.8	57.0	11.2
S.A.	n	86	13	92	8	82	13
	r	90.7	14.6	97.0	9.0	86.5	14.6
W.A.	n	127	12	130	25	119	20
	r	136.1	13.7	139.3	28.5	127.5	22.8
Tas.	n	21	4	32	5	20	3
	r	64.9	12.9	98.9	16.2	61.8	9.7
A.C.T.	n	10	10	15	7	16	6
	r	59.8	63.8	89.6	44.7	95.6	38.3
Australia	n	1077	244	1161	250	1015	215
	r	104.4	25.0	112.5	25.7	98.4	22.1

Table 2 Persons Aged 10-17 in Juvenile Corrective Institutions by Detention Status, October to December 1980

	31 October		*30 November*		*31 December*	
	Not Awaiting	*Awaiting*	*Not Awaiting*	*Awaiting*	*Not Awaiting*	*Awaiting*
N.S.W.	431	178	408	259	448	113
Vic.	264	49	261	47	262	20
Qld.	87	29	85	37	83	25
S.A.	67	32	78	22	60	35
W.A.	120	19	130	25	124	15
Tas.	11	14	16	21	16	7
A.C.T.	10	10	10	12	12	10
Australia	990	331	988	423	1005	225

Finally, data in Table 3 separate persons who have committed or are alleged to have committed an offence and those who are detained for reasons other than an offence.

Table 3 Persons Aged 10-17 in Juvenile Corrective Institutions by Reason of Detention, October to December 1980

	31 October		*30 November*		*31 December*	
	Offender/ Alleged Offender	*Non Offender*	*Offender/ Alleged Offender*	*Non Offender*	*Offender/ Alleged Offender*	*Non Offender*
N.S.W.	532	77	592	75	519	42
Vic.	186	127	176	132	163	119
Qld.	81	35	95	27	86	22
S.A.	96	3	97	3	92	3
W.A.	135	4	144	11	130	9
Tas.	22	3	36	1	22	1
A.C.T.	9	11	10	12	16	6
Australia	1061	260	1150	261	1028	202

Probation and parole

By Ivan Potas
Senior Research Officer

The number and rates of adult persons on probation and parole as at the first day of September 1980 were as follows:

Table 1

	General Pop. '000*	*Probation** Number*	*Probation** Rates**	*Parole Number*	*Parole Rates**
N.S.W.	5,157	8,225	159.5	2,304	44.7
Vic.	3,901	2,947	75.5	803	20.6
Qld.	2,237	2,790	124.7	435	19.4
S.A.	1,304	2,447	187.7	164	12.6
W.A.†	1,274	1,539	120.8	528	41.4
Tas.††	423	1,741	411.6	79	18.7
N.T.	121	231	190.9	87	71.9
A.C.T.	233	153	65.7	56	24.0
Australia	14,650	20,073	137.0	4,456	30.4

* Estimated population as at 30 September 1980 (subject to revision). Rates per 100,000 of population.
** Only those under actual supervision are counted.
† In W.A., current probationers include 118 persons subject to Community Service Orders.
†† In Tas., current probationers include 217 persons released on probation after having served a term of imprisonment.

Australian prison trends

By David Biles
Assistant Director (Research)

During the period November 1980 to January 1981 prison populations in Australia have continued to fall but not as markedly as in the previous three months. The total number of prisoners in custody during January 1981 was the lowest found since February 1978. The numbers of prisoners in all States and Territories for January 1981 are shown in Table 1.

Table 1 Daily Average Australian Prison Populations January 1981 with Changes since October 1980

	Males	*Females*	*Total*	*Changes since Oct. 1980*
N.S.W.	3,134	112	3,246	+ 40
Vic.	1,668	46	1,714	− 60
Qld.	1,658	41	1,699	+ 42
S.A.	776	23	799	− 64
W.A.	1,319	57	1,376	− 45
Tas.	222	5	227	− 21
N.T.	273	18	291*	+ 13
A.C.T.	49	−	49**	− 4
Australia	9,099	302	9,401	− 99

* 9 prisoners in this total were serving sentences in S.A. prisons.
** 43 prisoners in this total were serving sentences in N.S.W. prisons.

Table 2 shows the imprisonment rates (daily average prisoners per 100,000 population), for January 1981. The national rate of 63.9 compares with 64.8 found in October 1980.

Table 2 Daily Average Prison Populations and Imprisonment Rates by Jurisdiction – January 1981

	Prisoners	*General Pop.* '000*	*Imprisonment Rates*
N.S.W.	3,246	5,181	62.7
Vic.	1,714	3,905	43.9
Qld.	1,699	2,273	74.7
S.A.	799	1,302	61.4
W.A.	1,376	1,277	107.8
Tas.	227	426	53.3
N.T.	291	124	234.7
A.C.T.	49	228	21.5
Australia	9,401	14,716	63.9

* Estimates Population as at 31 December 1980 (subject to revision).

Table 3 Total Prisoners, Federal Prisoners and Remandees as at 1 January 1981

	Total Prisoners	*Federal Prisoners*	*Prisoners on Remand*	*Percentage of Remandees*	*Remandees per '000 of Gen. Pop.*
N.S.W.	3,221	129	441	13.7	8.5
Vic.	1,715	43	111	6.5	2.8
Qld.	1,652	34	89	5.4	3.9
S.A.	783	12	106	13.5	8.1
W.A.	1,398	48	90	6.4	7.0
Tas.	229	2	7	3.1	1.6
N.T.	264	15	28	10.6	22.6
A.C.T.	50	−	7	14.0	3.1
Australia	9,312	283	879	9.4	6.0

BOOK REVIEWS

REDMOND BARRY – A COLONIAL LIFE 1813–1880
By Peter Ryan
Melbourne University Press. 45 pp.
Reviewer: PAUL WINCH, Senior Training Officer, Australian Institute of Criminology.

This small limp offering from Melbourne University Press must be a joke, a spoof, a satire. Its reprinting can only have been prompted by a black sense of humour coupled with a desire to cash in on the centenary of the hanging of Ned Kelly and the death of the man who sentenced him to the gallows, Redmond Barry.

Redmond Barry gained a place in Australian folklore by his involvement in the Kelly drama. His death just twelve days after Ned Kelly was hanged assured him of some prominence as it was seemingly in direct response to Kelly's taunt from the dock that they would soon meet face-to-face in another world.

The author claims to be unashamedly partisan in the picture he paints of Redmond Barry and in his attempt to counter Barry's notoriety as a harsh judge – a hanging and flogging judge. However, I believe that the author must be sending the good judge up. How else could he write drivel which would barely rate inclusion in a cheap romantic novel.

A selection of quotes will suffice. 'In 1846 he met Mrs Louisa Barrow, another resident of Melbourne though of lowly social position. He fell instantly and deeply in love with her. . . For a man so given to ceremony and formality it may seem odd that Mrs Barrow remained his common law wife, their union blessed by neither church nor magistrate.'

And further, 'On both occasions that he went abroad the partings left her prostrated with grief.' Dare I test your patience with another? 'When court work called he would ride a fine black horse to town and think nothing of cantering back again to Syndal in the evening.'

The tone is deferential bordering on reverential. The style is vintage woman's magazine. Redmond Barry is not honoured by this short sketch and we can but hope that the full biography which the author promises (threatens?) will do justice to a man who was a powerful force in the Melbourne of his time.

PRISON SEXUAL VIOLENCE
By Daniel Lockwood
Elsevier Press, New York.
167pp. – $12.50
Reviewer: JOCELYNNE SCUTT, Criminologist, Australian Institute of Criminology.

> The crime of homosexual rape. . . committed in the present case upon a cell-mate, is such as to merit a heavy punishment. . . Where three men are by force of law and by due process of law, locked together in a cell, it is encumbent upon the law to ensure the personal dignity and safety of each of those men against onslaught by the other two. . . [A] prisoner is entitled to expect that a sentence will be served according to civilized standards and free from barbaric outrage. . . [All] persons in the community, whether serving a sentence of imprisonment or whether free, are entitled to be protected from criminal attack. . . It is necessary to make clear to all inmates of penal institutions that the perpetration of violence on fellow-inmates will be firmly put down.
>
> *R. v. Glasby and Hines*, 13 December 1976, New South Wales Court of Criminal Appeal, cited Ivan Potas, *Sentencing Violent Offenders in New South Wales*, (1980, Law Book Company).

Homosexual rape does not only occur in New South Wales prisons. In South Australia an alleged rape in prison sparked off the recently convened Royal Commission into South Australian Prisons. In the United States of America sexual violence has long been seen as a problem in gaols and penitentiaries, culminating in a holding in California that escape of a prisoner is justified on grounds that he (or presumably she) has a real fear of sexual attack. In *Prison Sexual Violence*, Daniel Lockwood carries on an American tradition of revealing the enormity of this issue, a tradition that has not, unfortunately, been matched in Australia: the *Royal Commission into New South Wales' Prisons* spent an entire chapter dwelling upon allegations that one prison officer had made homosexual suggestions to inmates, but made little mention of aggressive sexual acts carried out against prisoners by their fellows.

Far from being concerned, only in a purely academic way, with sexual violence among inmates, Daniel Lockwood's research was directed at illuminating general areas of victimisation, violence and 'corrections', and at formulating prison policies to overcome – or at least to lessen – the incidence of these aggressive attacks. *Prison Sexual Violence* deals, in eight chapters, with victims of prison rape and their aggressors; the impact and shape of victimisation; 'target violence'; reactions of prison staff to sexual violence in prisons; 'alternatives' to prison sexual violence; the way in which prison violence has been researched in the past, and the methods of the current enquiry. The scope of the enquiry was from verbal propositions through to gang rapes. Men classified as victims were those describing themselves as such; 'sexual aggression' was defined as sexual behaviour perceived as threatening and offensive by targets of aggressors; strict legal categories took second place to mental or physical harm actually suffered by those men who were targets.

Of 89 men chosen at random from two adult prisons, 28 per cent were classified as having been targets of sexual aggressors at some time during their institutionalisation. Seventy one per cent of 23 white youths from the same sample had been targets. Only one respondent of the entire 89 had, however, been the actual victim of a sexual assault. According to Lockwood, one of the reasons for

'targeting' being high but completion of the assault being relatively low is the reaction of the target to the proposition. Generally, targets react by fighting back. New inmates are schooled by the old into rejecting sexual approaches by showing they are 'men' and will not brook any suggestion that they will participate in homosexual activities. This leads inevitably to violence and to the escalation of violence in prisons.

Perhaps one of the most startling findings of *Prison Sexual Violence* is that prison staff do not affect the incidence of attacks, nor does prison architecture. Sexual propositions, 'goosing' and the like, and outright sexual assaults are carried out under the surveillance of guards. Gang rapes occur in work areas, at meal times, in cells. One member of the gang takes the target unawares, leading him out of the direct vision of guards, and the attack takes place. Because the attacks do not take place only in cells, 'one-inmate, one-cell' will not, contrary to a popular belief, end sexual aggression in prisons.

A disturbing feature of Lockwood's exposition is, however, the assertion that segregation of American prisons on race-lines would put an effective end – or almost an end – to the problem. He is convinced that it is black Americans and sometimes Chicanos who are responsible, in the main, for sexually aggressive acts between inmates. One must be sceptical of such a proposition: there has been no suggestion in any responsible research into rape that the activity is the sole preserve of a particular race; there is no reason to believe that the activity should be any different, in terms of its perpetrators, in the prison setting. Lockwood, however, reads sorrowfully when he writes of the constitutional problems that would inevitably arise were prisons to be segregated in this way; unfortunately (in his view) standards requiring integration and equality of races preclude such an 'easy' solution.

Beyond this, Daniel Lockwood cannot applaud any proposal made in the direction of lessening sexual violence in corrections. Prison architecture will not do it; restricting the freedom of inmates is an unpalatable proposition – and how far would freedom need to be restricted in order to limit the aggressive activity? Increasing the number of guards will not suffice: prisoners become astute in avoiding staff surveillance. Smaller penitentiaries would not improve the situation: one study has shown sexual victimisation 'thriving' in a small cottage setting. Court action may be taken – although Lockwood has little confidence in this approach: 'victims fear becoming "rats" during the remainder of their sentences and are justifiably reluctant to face the humiliation and embarrassment that comes when one openly reveals one's "loss of manhood"'; victims run similar evidentiary problems as victims of heterosexual rape (although it cannot be denied, though not noted by the author, that a charge of buggery would proceed far more easily than one of heterosexual rape, in that consent, the all important factor in the latter, is not an issue).

The author concludes that the only hope for ending prison sexual violence is a reorientation of prisoners from the aggressive and dominant role into which they have been thrust by a society that promotes violent values:

> These values are learned in communities, families, and peer groups. Situations in which offenders become involved reinforce these values. . . Not the least influential of the situations in which one learns the value of force is involvement in the criminal justice system. While punishment for crime must be justly deserved, programs. . . which call for individuals to repudiate the use of violence to solve life problems, must struggle against the contradictory examples set by the police, the courts, and the prison system. Can we ask a person to give up his or her belief in the propriety of violence when we rely on threats of punishment and physical force and constraint to manage that individual?

The ultimate conclusion must, indeed, be one of despair, for it is not only the various components of the criminal justice system that preach force, domination, lack of caring and aggression. All our institutions, economic, social and political rely for their sustenance upon force and coercion, sometimes through subtle rather than crude means, but not the less dangerous for that. Sadly, to a greater or lesser degree the characteristics which in prisons lead to sexual aggression are present in our own 'free' society – where women, rather than men, are the victims. Lockwood preaches a true message: violence will be ended only by a reassessment of our present value system. Whether the message will be heard is an entirely different matter. I for one am not confident it will – and nor, I am sure, is Daniel Lockwood.

Research grants

The Criminology Research Council is seeking applications for research grants from individuals and organisations for projects likely to produce results of relevance for the prevention and control of crime throughout Australia. Projects designed to evaluate currently effective measures are particularly invited.

Application forms are available from Registrars of all Australian Universities or from the Assistant Secretary, Australian Institute of Criminology, P.O. Box 28, Woden. A.C.T. 2606.

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