

"The Administration of Criminal Law"

by *Ernst W. Puttkammer*

This book, although the writer does not agree with everything that Professor Puttkammer states therein, is an important contribution to the practice of criminal law. It must be remembered that very few books have been written on this phase of the law. Criminal law, as popular as it is in a general sense, has very few texts of any particular value. This text is an exceptionally useful book, not only for laymen and law students, but for the everyday practicing lawyer. Although Professor Puttkammer intimates its basic value is to laymen and law students, the writer feels that it serves an extremely useful purpose for the everyday practicing lawyer.

In a city like Chicago, where the Criminal Court is remote from the other courts, the criminal practice is limited to a few. The young lawyer, who today does not have the advantage the old lawyer had in the days when the Criminal Court was in close proximity to all lawyers, can use this much-needed book in the way of "handy" information. This is also particularly so in cities where the public defender represents so many people, hence depriving the young lawyer of the opportunity to occasionally represent one charged with a crime.

Professor Puttkammer, by way of introduction, discusses the purposes of the criminal law from every possible aspect. Particularly amusing is the analogy of the criminal who repeats his crime because of a return to the same environment to that of a person who acquired pneumonia and was cured, and then returned to the same atmospheric conditions and then had a recurrence—omitting completely that the repeater could, if he desired, avoid the crime even in the same environment if he so wished.

His chapter on "Police Organization" is highly informative and gives a short and interesting history of this organization. It is interesting to note that the "policeman," as such, is only of recent origin and that, particularly on the Continent, policemen more often than not come from some other community than the one in which they are police officers. What a controversy making it a requisite that nonresidence be the basis of an appointment to the police department would raise in a city like Chicago or New York.

Professor Puttkammer speaks of crime waves as being the idea of a shortage of newspaper material. He serves a very useful purpose in writing of crime waves in that light. It enables the practicing attorney, the student, and the laymen to realize that no crime wave in fact exists in many cases. He presents an entirely different approach to the administration of punishment in the courts. Too frequently, courts are influenced by what newspapers say rather than by the issues immediately before the courts. It would be well if the courts would read what Professor Puttkammer says of crime waves toward assisting them in the administration of justice.



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He discusses at some length the basis of an arrest and warrants and a summons. He points out how statutes have limited the authority of a citizen to make an arrest. His reference to the summons, although overlooked in the state's courts, as far as criminal matters are concerned, is interesting enough and particularly so when one considers that in England 82 per cent of the offenses were proceeded against by way of summons. In our states, although used, it is so insignificant that it would be interesting to conjecture what reaction would be had if the states were to adopt it on the same basis as England.

Professor Puttkammer discusses police investigation from only two aspects: (1) the questioning of suspects and abuses and (2) search and seizure. It is difficult to understand the divergent points of view that Puttkammer takes, in that he so bitterly opposes third-degree measures but intimates that, as far as search and seizure are concerned, the rule that ought to prevail is that civil liability is the only remedy against officials who engage in an illegal seizure. In either event, it is suggested that the point of view ought to be the same in both cases, and violations of constitutional rights, in either event, should be strictly upheld, even though on an occasion justice might be thwarted.

The writer agrees with what is said of the police

magistrate or the presiding magistrate on preliminary hearings, and what is said therein, if true, would add a great deal to the administration of criminal law, although, in fact, a court, the presiding magistrat , particularly in many of our large cities, including Chicago, is merely a hold-over court without a hearing. How often does a lawyer complain of the court that makes the remark that "this is a hold-over court in which the defendant does not have to be represented by counsel, is not entitled to cross-examine the witnesses, and that the hearing is limited to only what the court wants to hear and no more." It might be suggested that it is not often too frequent that he is by-passed and the matter is heard directly by the grand jury.

The rights and duties of the coroner are discussed at some length. It is sufficient to say, as Professor Puttkammer intimates, that it is an office of ancient origin and should have long been abolished. He speaks of the medical examiner as supplementing the coroner but under the direct supervision of the state's attorney's office. There are occasions, however, when a coroner's inquest could arouse an indifferent state's attorney to prosecute when the need should arise.

The reference to the grand jury and its duties portrays an interesting insight into that body; although an independent body, unfortunately at times, its destinies can be guided by a clever prosecutor.

He comments on the indictment and information, and this is most noteworthy in that he indulges in discussing some of the difficulties at some times attached to such instruments. His discussion on the elimination of a grand jury and on proceeding by information is extremely interesting, and the conclusion that he comes to, namely, the retention of both systems on a limited basis, is interesting to observe.

He discusses jurisdiction and venue, extradition and rendition, with sufficiency to comprehend the issues involved.

His chapter on arraignment becomes more interesting today in view of the rule now used in some states requiring a particular transcript of the proceedings to be filed concerning arraignment to preclude the defendant from subsequently raising the question that no attorney was appointed for him, that he did not have the choice of an attorney, and that he was not fully advised as to his plea as well as to the charge against him.

Puttkammer's chapter on the trial, particularly as to the public defender, should be of great interest to lawyers generally. Unfortunately for the professor, he assumes that, because of the friendship created between the public defender and the prosecution, a give-and-take situation would not materialize under such conditions. This is not necessarily so. The converse is true; a strong public defender, through these friendships, could possibly gain an advantage that might not otherwise be obtained.

Professor Puttkammer also discusses posttrial motions.

Unfortunately, he omits the postconviction statute, which provides for a remedy for prisoners who maintain that their conviction was a result of a substantial violation of their constitutional rights. It has become quite a controversial statute, but indications are that the substance of it will remain.

Professor Puttkammer's book, all in all, is a contribution to anyone interested in the administration of criminal justice. It is informative, at spots controversial, but, on the whole, worth-while reading; and, used as a handbook of information, it is invaluable.

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