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Book Reviews

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BOOK REVIEWS

THE ANATOMY OF A RIOT. By Judge James H. Lincoln. New York: McGraw-Hill. 1968. Pp. 206. \$5.95.

It is not always that a book with a misleading title and a "split personality" can make an important contribution on a vital topic. *The Anatomy of a Riot* does just that. It is not, as might be supposed (or as the book jacket suggests), a comprehensive and detailed review of the Detroit riot of July, 1967. Instead, it is a kind of double essay—first, a detailed account of the experiences and problems of the Detroit Juvenile Court and its Youth Home during the riot and, second, an analysis of the causes and conditions of the inner city disorders and the author's view of the national programs required to meet their challenge.

The first facet of the book provides well documented data and concrete advice that should be of value to every major city juvenile court as its judges and key staff members seek to formulate plans and develop procedures to cope with full-blown urban riots. It is authoritative and will be the major focus of this review. The second facet is a venture into an area of analysis—urban poverty, education, family structure, citizen alienation—in which the author's contribution, while creditable and constructed on a broad intellectual base as well as from the rather unique vantage point of the juvenile court bench, must withstand serious competition from full-time analysts of urban plight—the urban economists, social planners, and experts of race, neighborhood, social disadvantage and metropolitan disorganization. Suffice it to note, in this latter area, the author's light treatment of "law and order" programs and his ultimate reliance on such basic reform measures as a combination "family allowance-negative income tax" program to neutralize poverty and a doubling of federal aid to education (now running at nearly \$8 billion annually) to restore the "achievement-oriented" society. The input is provocative but leaves the reader wanting for a more detailed and rigorous case in support of the broad proposals advanced.

As a lesson and guide in the administration of juvenile justice during the extreme stress of a major civil disorder, the book is well worth its price. The Detroit Juvenile Court, a division of the Wayne County Probate Court, underwent about as severe a test as has the juvenile court apparatus of any major riot city. When the "blind pig" explosion of Sunday, July 23, 1967, occurred, the court was probably one of the few in the nation with a concrete disorder plan dealing with notification of court officials, detention home operation, and procedures for securing additional police help. The Detroit Youth Home, with a rated capacity of 160 boys and 60 girls, had 171 boys in detention during a comparative summer lull. In a few days' time, the court would have to cope with an unprecedented population of 681, the need to conduct some 700 preliminary hearings, the accommodation of as many as 50 boys in wards designed to hold 18, the provision of food for up to 900 staff and youths at a time, and attendant problems of intake processing, staff resources, emergency supplies, parent contact, and mass "due process" rarely experienced by this or any other juvenile court.¹

1 The Detroit juvenile arrest ratio, 10% of all arrests, is somewhat lower than the ratio for other major riots, (e.g., 14% for Watts, 16% for Newark, 20% for New Haven, 30% for Dayton), but this is probably due to Michigan's lower juvenile age dividing line (below

Within a week's time, operations were largely back to normal, the court having met these demands in what appears to have been exemplary fashion and in favorable contrast to the confusing and more difficult situation faced by Detroit's adult criminal courts and prosecution apparatus. (Nearly 6,000 adults were arrested as compared with the 703 juvenile apprehensions.)

The success of the Detroit juvenile operation seems as much attributable to dedicated staff work and prompt and forceful response to command problems as to the pre-existing plan. Indeed, certain features of the plan had to be scrapped and several issues were not even addressed. Imaginative response was also necessary to preserve the court's traditional concern for procedural right and protection of its juvenile charges. Many lessons were learned, several of the type that could only emerge from the laboratory of experience. Among them were the following:

- (a) normal intake procedures must be abandoned to avoid hopeless backup (eliminate showers, changes of clothing, and medical examinations except for the injured);
- (b) paperwork must be minimized (process all activities—intake, release, and judicial screening—on the basis of a single sheet admittance form);
- (c) a capacity to quickly locate each juvenile in the overcrowded detention facility must be preserved (keep careful records of the facility to which each boy is assigned);
- (d) adaptations to fulfill the court's obligation to provide a prompt preliminary or detention hearing must be provided even though required parties, parents or counsel, cannot be immediately located (limit judicial work to preliminary hearings only and provide fast screening through the "continued hearing" technique with no attempt to obtain statements that might be used in formal delinquency hearings, leaving detention or other adverse determinations to be reopened on request); and
- (e) additional resources must be obtained both for external and internal security needs (the heavy commitment of police to direct riot activities may require reliance on National Guard personnel as the major staff supplement).

Vexing physical problems have to be faced and resolved. Among these are getting court staff members through police blockades and curfew patrols (an identification letter signed by the judge can help considerably), making telephone contact with staff members possible (a special unlisted number may obviate dependence on hopelessly clogged listed lines), accommodating crowds of anxious parents and friends seeking to locate and assist children in already overflowing facilities (benches and waiting lines can be set up outside the building) and finding food where normal supply sources are unavailable (in the Detroit situation, the local general hospital could be counted on for bread and milk).

age 17 as compared with age 18 in most jurisdictions). Numerically, however, Detroit juvenile arrests exceeded those of the foregoing cities. Even in the 1968 Washington, D.C. riot, where total arrests exceeded 7,000, the juvenile apprehensions were much lower. See NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS, REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 190 (1968).

Perhaps the Detroit Juvenile Court's greatest source of satisfaction was the feeling that in acceptably meeting these problems, it was discharging its basic obligations:

The quality of justice administered by a juvenile court during a riot depends on proper administration as well as proper judicial decisions. It is impossible to explain to a juvenile the distinction between legal and administrative justice. Injustice caused by undue delays in getting a juvenile before a hearing officer cannot be tolerated.²

The aftermath of the riot, somewhat typical of patterns in other cities by virtue of the small number of formal delinquency actions, produced its own problems. Of the more than 770 juveniles arrested,³ the police ultimately requested 461 delinquency petitions. This number was further reduced by the court itself to about 154 boys whose cases were referred for action, either through new petition (113 boys) or, in the case of probationers or boys already under some form of court or institutional supervision, to the appropriate state or local authorities. In processing these cases, the court experienced the legal frustrations normally attendant in riot situations. Illustrative were difficulties in producing or identifying witnesses and questions of whether Guardsmen had power to arrest, whether mere possession of looted goods amounted to proof of theft, and whether admissions made at arrest or preliminary hearings are usable.⁴ As might be expected, the court was not disposed to proceed to formal petition with those boys apprehended only for curfew violations, except possibly where they were already in probationer or parolee status.⁵

The author, personally satisfied that few if any of the juveniles apprehended during the riot were involved in the more serious shooting or burning violations, appears not unduly disturbed by the small "prosecution" caseload and, in fact, he seems somewhat concerned with the court's capacity to properly dispose of even this added docket burden. Somewhat nostalgic about the abundance of staff dedication and freely loaned resources during the emergency, he writes that "[t]he court was in a much better position to handle riot problems than post riot problems It is a paradox that in the eight years I have been on the bench, the only time I had proper resources to handle the task at hand was during the week of the July riot."⁶

One strong feature of the book is a valuable and extensive appendix section (100 pages) that backs up and rounds out the relatively brief text pertaining to juvenile court administration during the riot (some 50 pages). This appendix includes statistics (arrest, detention, demographic, etc.); research findings on juvenile attitudes, and profiles of those processed; post-riot disposition data; relevant forms and documents (processing forms, interagency agreements, the 1966 riot

2 J. LINCOLN, *THE ANATOMY OF A RIOT* 38 (1968).

3 703 juveniles were arrested by Detroit Police and the remaining number were arrested by the police of other communities within Wayne County.

4 For a consideration of these and other legal problems arising out of a riot situation, see *The Long, Hot Summer: A Legal View*, 43 *NOTRE DAME LAWYER* 913 (1968).

5 Less than 25% of the 703 court referrals had any prior juvenile court record and less than 80 were currently on probation or parole. This confirmed the belief of researchers that juvenile participation in the riot, as with adults, derived from a primarily non-delinquent group.

6 J. LINCOLN, *THE ANATOMY OF A RIOT* 138-39 (1968).

plan); a description of the Detroit Juvenile Court and its jurisdiction; and comparative data on adult court experience and activities in surrounding communities during the riot. In sum, it contains the kind of data so important for a complete perspective, and for comparison of the Detroit context to the situations of other courts or communities seeking to formulate their own plans.

Chapter 13 of the *Report of the National Advisory Commission on Civil Disorders* deals with the administration of justice under emergency conditions. It places a premium on careful development of plans and procedures for all stages of the prosecution and court process to respond to the demands of mass civil disorder. In providing a case study and concrete model for juvenile court administration during such a crisis, *The Anatomy of a Riot* offers a valuable supplement to the Chapter 13 recommendations. It is detailed, oriented toward problems of operation, and parochial in a positive way. Would that we had a half-dozen more like it to assist other juvenile courts in formulating sound disorders plans for their communities and juvenile justice systems.

*Daniel L. Skoler**

HOW TO AVOID PROBLEMS WITH YOUR WILL. By Robert A. Farmer & Associates. New York: Arco Publishing Co., Inc. 1968. Pp. vi, 106. \$4.95.

As this reviewer has previously noted,¹ when a person died in the Kingdom of Probatania his property was normally entrusted to one or more magicians who saw that it was distributed in accordance with his wishes. Fortunately, the Great Probate Emancipator (GPE) relieved the masses "from the bondage of the iniquitous probate system"² by his famous work, *How to Avoid Probate*. In criticism of the GPE, the suggestion was made "that the people of Probatania should be informed as to the details of the magic."³

A few magicians⁴ have now undertaken, in *How To Avoid Problems With Your Will*, to supply the Probatanians with information which deals with the magic surrounding testamentary instruments. Recognizing the scope of the problem, they note at the outset:

The will, in popular imagination, is some sort of sacred document, endowed with strange, magic qualities. . . .

. . . The very action of making a will seems to many to have some mystical quality; as if they were hastening their demise [*sic*]. Or perhaps it is the facing of the fact that we are mortal and that we will all have to die eventually.⁵

While it is not clear whether they seek to dispel or maintain this impression, the

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1 Wren, Book Review, 42 NOTRE DAME LAW. 445 (1967) [hereinafter cited as Wren].

2 N. DACEY, HOW TO AVOID PROBATE, back cover (1965).

3 Wren 448.

4 Robert A. Farmer & Associates. These magicians are described as "a team of highly experienced attorneys" or "a team of highly qualified practicing attorneys." R. FARMER & ASSOCIATES, HOW TO AVOID PROBLEMS WITH YOUR WILL, outside back and inside back overleaf (1968) [hereinafter cited as FARMER].

5 FARMER iii.

magicians have set out the general rules governing the Probatanian law of wills. They warn that their services may still be needed:

No book, of course, can deal with all the intricacies of the various laws which differ from state to state, nor can it foresee [*sic*] the difficulties that may arise in individual cases. Should any problems be encountered, we strongly urge that the advice of a competent attorney be sought.⁶

After noting the need for testamentary instruments in Probatania,⁷ the magicians consider the execution requirements of an attested will.⁸ They discuss handwritten and oral wills,⁹ and offer some suggestions as to will substitutes and variations.¹⁰ This is followed by a discussion of legacies, with appropriate reference to the law of ademption and satisfaction.¹¹ Then comes a consideration of the law of revocation, including a detailed analysis of twenty-one variations in the magic of the fifty states with regard to revocation by operation of law.¹² The rights of the members of the testator's family¹³ and the problems of state and federal death taxes are considered¹⁴ as are variations in state inheritance taxes among the fifty states.¹⁵

Unfortunately, the magicians do not tell the Probatanians what they should say in their wills. They say nothing about such familiar magic as exordium, testimonium, or attestation clauses, let alone the more important dispositive or administrative clauses. Perhaps they feel that the drafting of these clauses should be left to the magicians.

Since many of the problems regarding wills stem from the language used in the document and since many Probatanians are anxious to know what to put in their wills, it may be wondered whether these magicians have succeeded in helping them to avoid their problems. After reading this book, the typical Probatanian may be prompted to seek out a magician to assist him. Or, perhaps, he will return to the GPE to be emancipated.

*Harold G. Wren**

6 *Id.*

7 *Id.* at 1-9. In this chapter, the authors deal with the law of intestacy, and conclude, not surprisingly, that testacy is preferable: "All of these remarks consistently bring us back to the same question: Why not make a will?"

"As has been pointed out, the advantages are obvious; and the process is short and simple, and the cost reasonable." *Id.* at 9.

8 *Id.* at 10-20. This chapter also includes some discussion of the problems of undue influence, fraud and mistake.

9 *Id.* at 21-26.

10 *Id.* at 27-42. In speaking of the trust as a will substitute, the authors warn that the GPE's magic key, the living trust, may be testamentary in nature:

For it to be non-testamentary it is necessary that the settlor give up control of the property. But not necessarily complete control. He can keep certain rights or benefits for himself as long as the property remains in the control of the trustee. *Id.* at 40.

11 *Id.* at 43-48. For some reason, the authors do not consider the doctrine of lapse, normally associated with ademption and satisfaction.

12 *Id.* at 49-66. It is not entirely clear why the authors chose to devote so much attention to the law of revocation in this, the second longest, chapter of the book.

13 *Id.* at 66-76. This chapter is a summary of the law of dower, curtesy, the widow's elective share, the rights of pretermitted children, the homestead, and the family allowance.

14 *Id.* at 77-100.

15 *Id.* at 92-98.

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