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Book Review

George R. Katosic

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have been assaulted. To re-emphasize that an effective system of law must have as one of its prime qualities the prompt, impartial, and implacable punishment of the guilty perhaps is superfluous. On the other hand, there is little today to inspire confidence that this quality is flourishing. Mr. Cohen's call for re-evaluation of our administration of criminal justice deserves careful consideration.

*Reviewed by George R. Katosic**

MARIJUANA—THE NEW PROHIBITION, by John Kaplan, World Publishing Company, New York and Cleveland (1970), 388 pp.

This book is the result of research done by the author as one of the six Reporters (professors of criminal law at California's major universities) to the Joint Legislative Committee to Revise the Penal Code of the State of California. Mr. Kaplan was assigned the broad area of drugs, but after long hours of research concluded that the key problem in this area was the treatment of marijuana, and that until this problem was solved, progress in the wider area of drug abuse would be impossible.

The sale, possession, or use of marijuana was outlawed in 1937, four years after the repeal of Prohibition. But, even as the Noble Experiment did not work because Congress found it could not legislate morality, so too, Mr. Kaplan feels, the criminalization of marijuana is likewise wrong because it imposes upon society a greater cost than benefit. Despite its criminalization, the use of marijuana is widespread, one conservative estimate being that some twelve million Americans have tried the drug. The author feels, however, that the most serious cost of its criminalization is that it makes felons of a large portion of our youthful population. Moreover, the younger generation's belief in the harmlessness of marijuana fosters a more generalized disrespect for the law and for political processes.

Before considering the consequences of marijuana use given as a justification for the criminalization of the drug, Mr. Kaplan discusses the ordinary (non-pathological) effects of marijuana. The most widespread ordinary effects include a feeling of relaxation, a sense of euphoria, and an impression of the sharpening of one's senses.

Turning then to a consideration of the reasons given for the criminalization of marijuana, the author discusses the charges that marijuana causes its users to commit violent crimes; that it causes mental illness, brain damage, and the amotivational, or dropout, syndrome; and that

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it is a stepping stone to heroin addiction. Regarding the first charge, Mr. Kaplan reports studies showing that marijuana inhibits rather than increases aggression. In regard to the others, he states that his research has indicated that there is no positive correlation between the use of marijuana and these conditions.

The author concludes with his suggestions for dealing with the marijuana problem. He favors the abolition of the total criminalization of the drug in favor of a licensing system, patterned after that now used to control alcohol. Moreover, he feels that this licensing system will be accepted by our society as more and more people learn of the great disparity between the costs and benefits of marijuana laws.

*Reviewed by Joyce Barrett Krebs**

COPING WITH PSYCHIATRIC AND PSYCHOLOGICAL TESTIMONY, by Jay Ziskin, LL.B., Ph.D., Law and Psychology Press, Beverly Hills, California (1970), 284 pp.

The basic theme of Dr. Ziskin's well-documented treatise on the "how to's" of handling "expert" psychiatric and psychological testimony is that psychiatry and clinical psychology are, at best, disciplines in their infancy, highly speculative and conjectural, and, as such, undeserving of the scientific status often accorded them in a court of law. The author then goes on to systematically and methodically illustrate how the diligent attorney can take appropriate steps to protect his client from the damage that can befall him through the imputation of expertise in these fields where, in fact, none exists.

In dealing with the question of admissibility of so-called "expert" psychiatric and psychological testimony, Dr. Ziskin draws an interesting comparison between the status of opinions offered by lie detector experts (generally held inadmissible) and the opinions of psychologists and psychiatrists (generally held admissible). He contends that the evidential basis upon which the polygraph test is excluded; to-wit: that it is a scientific discovery which has not yet crossed the line between the experimental and the demonstrable, is also applicable to psychological and psychiatric testing. A major criticism of polygraph evidence is that the results are affected by such irrelevant factors as temporary states of tension and the anxiety a subject may experience by the mere fact that he is being interrogated. But, as the author points out in his chapter on clinical

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