

CRIME AND CRIMINAL LAW: THE CALIFORNIA EXPERIENCE, 1960-1975. By Walter L. Gordon, III. Gaithersburg, MD: Associated Faculty Press, Inc. 1981. Pp. ix, 164. \$14.00 (paperback).

Between 1963 and 1975, California attempted a full-scale revision of its nineteenth century-based penal code. Walter L. Gordon, III, who has taught advanced criminal procedure at UCLA School of Law, examines in *Crime and Criminal Law: The California Experience, 1960-1975* the reasons and lack of success behind California's goal to rewrite its criminal legislation in a comprehensive manner. Gordon, whose book began as a Ph.D. dissertation, discusses the influence of the American Law Institute (ALI) and its Model Penal Code (MPC) on the efforts of the California revision committees. Cogent to his analysis is the effect of comprehensive criminal reform on minorities, law enforcement, and business interests.

Beginning with a brief history of the creation of California's nineteenth century penal code and the need for reform, Gordon reviews the origins of the ALI and its modern, "progressive" Model Penal Code. Central to Gordon's discussion is the debunking of the MPC as a liberal force. Gordon's major point concerning the MPC is that its authors eliminated strict liability in the business or white collar context, but retained it for felony-murder. He convincingly argues that the drafters' decision was one of class bias, a fundamental problem that affected most of the California drafters' reform provisions.

Included in his account of the reform effort are the political shifts and changing consensus of the California legislature, which eventually led to a rejection of comprehensive criminal legislation. Instead, piecemeal legislation, which is a product of political compromise and public pressure, was enacted, circumventing the complexity of total reform.

Gordon notes that the drafters of the comprehensive legislation were basically removed from the input of groups that were not pro-law enforcement or prosecutorial. Rarely did minority or special interest groups penetrate the workings of the drafting committees. He further notes on page 82 that "[p]enal code reform, in short, is potentially a force for extending freedom or it can serve as a tool of repression. If the latter is to be avoided then the process must be opened up to participation by all sectors of the population." Comprehensive reform in California was ultimately determined by legislators and law enforcement bodies who did not trust the efficacy of full-scale reform to protect their interests.

Gordon's emphasis on the struggle to reject the Model Penal Code in California is not without merit. He sees the tension of comprehensive versus piecemeal reform as a battle between eastern elitism and southwestern conservatism. The ALI and MPC were perceived by western legislators as an abstract liberal program not grounded in the special peculiarities of California's law enforcement needs. The MPC came to represent the spectre of defense-oriented progressive reform so abhorred by conservative politicians. However, Gordon cites several instances where the original California drafters ("the professors"), who adhered closely to MPC reasoning, were no more liberal in their drafts than their pro-law enforcement replacements ("the Ringer staff"). The question remains open whether any reform legislation—

piecemeal or comprehensive—that does not consider the interests of all representative groups in society, is truly “reformist.”

In addition to a look at California's return to determinate sentencing, *Crime and Criminal Law: The California Experience, 1960-1975*, has a useful appendix on crime in California during the relevant reform period. While he includes statistical data to support his discussion, Gordon is primarily concerned with the underlying political attitudes and ideology behind California's attempt at criminal reform.

Gordon's book is a good introduction to the California reform struggle. His insights into the conservative nature of criminal reform are worthy of extended analysis of post-1975 criminal legislation. His conclusion that the rejection of comprehensive legislation was in effect the rejection of eastern elitism (as symbolized by the MPC), in favor of conservative southwestern interests, highlights California's unique failure in an area of complex, controversial importance.

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