

4-1-1951

## My Six Convicts. By Donald Powell Wilson.

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### Recommended Citation

Charles W. Webster, *My Six Convicts. By Donald Powell Wilson.*, 1 Buff. L. Rev. 89 (1951).

Available at: <https://digitalcommons.law.buffalo.edu/buffalolawreview/vol1/iss1/29>

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necessity for a world state. This lecture has now been carefully edited and published in this complete and inexpensive edition.

On the one hand, Dr. Hutchins' work is a scholarly argument that the political theory and teachings of St. Thomas lead irresistibly to world law, world government and a world state. At the same time, it is also a call to Catholics to assume active leadership in the drive for world organization and to make the special Catholic contribution to such a movement. The latter appeal has, of course, been heard within the Church many times. See *Pope Benedict XV, Encyclical on International Reconciliation*, 1920; Edward A. Conway, S. J., *Catholics and World Federation*, AMERICA, Dec. 4, 1948.

From a few suggestions in Aristotle's *Politics*, St. Thomas constructed a complete and balanced theory of the perfect community which is equally valid for our time and our problems. This perfect community is one which is self-sufficient and peaceful. This community does not need the help of any other for any purpose. St. Thomas' distinctive contribution was the recognition that peace is an essential condition of the perfect community. In modern terms, the only self-sufficient community must be the world itself. St. Thomas understood the necessity for positive law with its attendant coercive effect in view of the imperfection of human beings. This positive law is enforceable as against all save the sovereign. Dr. Hutchins argues from this that a world state requires positive law on a world scale. This is necessary to limit the freedom of action of the sovereign states themselves. He argues that, in the absence of such law, sovereign states may be expected to behave as individuals in the absence of positive law: they may be expected to break the peace. In this atomic era, in the absence of such positive law enforceable as against sovereigns, the continued existence of our civilization is doubtful.

Dr. Hutchins writes with persuasiveness, force and clarity. He has the gift, unfortunately vouchsafed to few contemporary Aristotelians, of being profound without being unintelligible. This slim volume should be read by everyone interested in a rational method for the preservation of peace.

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*James W. Sack*

**MY SIX CONVICTS.** By Donald Powell Wilson. New York: Rinehart and Company, Inc. 1951. Pp. 369. \$3.50.

It is a truism that the law advances no faster than the wishes of society. Donald Powell Wilson has recognized this, and has gone to the people to convince them of the necessity for a change in our approach to the basic problem of crime and criminals. He has diagnosed our present approach to crime and

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punishment and found it wanting. His book is about the three years he spent as a prison psychologist, and derives its title from the six convicts who served as his assistants at Fort Leavenworth. As a recounting of the events of these years, the book is entertaining; as a primer of criminology for the layman, it is invaluable.

In the fields of the social sciences, the lawyer is as much a layman as is any other segment of society. Unfortunately, society presumes that knowledge of the law carries with it an understanding of the desirability of any law. At the present time the loudest voices society hears speaking on crime and its causes are those of judges, district attorneys, and other law enforcement officers, whose position enables them to speak with authority, but not necessarily authoritatively. Law school curricula, until recently, have been noted for their failure to educate in the social sciences. Training in what constitutes a crime is not an education in why the crime was committed. Wilson's condemnation of Mr. J. Edgar Hoover as a criminologist is, to a certain extent, a blanket condemnation of the great mass of the legal profession. The author, in praising the F. B. I. as an investigative organization, and the advances it has made under the leadership of Mr. Hoover in police science, states that "it is to be regretted that in our admiration for Mr. Hoover's police science we have come to look to the Federal Bureau of Investigation for *penal philosophy* on crime and criminals." Lawyers, whose training has taught them the necessity of determining the facts, have rejected their own training when they leave the field of law and attempt to speak on crime and causation.

Wilson has fault to find both with the present approach to crime and our underlying philosophy of punishment. It is his thesis that the present societal attitude toward crime and criminals has the effect of fostering crime rather than deterring the criminal. What real effect has the societal attitude on law? It is inevitable that under any system crime will continue to exist. But the proportion of the problem "is reflected in the attitude of our people toward what crime is, for what a nation comes to agree upon as being the nature of crime is what determines the nature of the criminal."

What is crime? Legal scholars have long struggled for a satisfactory definition of crime and have met with little success. Jerome Hall, in his *Principles of Criminal Law*, admitting the tautological aspect of defining a crime as "behavior which violates criminal law" nevertheless points out the obvious advantage of such a definition. To the layman a crime is the commission of any act that the legislature has deemed to label criminal. How much consideration is given by legislators when they grind out another penal statute as to what effects such a statute will actually have on society in general? Although the selection of an isolated area in which to legislate may seem of little importance, it must be remembered that every time this happens, a new group of potential criminals is created. This problem is serious and not trivial. Wilson

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points out that in 1931, seventy-six percent of the people in prison were there for the commission of crimes which were not on the statute books fifteen years earlier. When we consider that "only three percent of all crimes known to police are serious; ninety-seven are minor offenses," it can easily be seen that many of the people confined to our prisons are there for violation of statutes which are merely *malum prohibitum* and present no great, grave danger to society.

Of what significance is this? If our present day prisons are breeding places of crime, and they are, aren't we introducing more and more men into an apprenticeship which can lead but to one trade? As is pointed out, it is almost axiomatic to say that a man becomes a criminal not by his first offense, but by his first imprisonment.

If this be so, and it seems reasonable to assume that it is, isn't it time that we call a halt to the enactment of more and more crimes by our legislatures? Why is it not possible to eliminate from the criminal law immediately that vast area of conduct which modern industrial society has felt needed to be controlled? Would it not be possible to establish in the law a classification which might well be called a public tort. This would have the effect of removing the stigma of "criminal" from people who have done nothing more than violate a rule of society which may next year be no longer criminal. These so-called crimes are normally punished only by a fine, and any imprisonment arises from failure to pay rather than from the originally imposed punishment.

In this area the legislatures might also consider adopting the much more humane approach of the British in relation to a fine. As Dr. Wilson points out "Although debtor's prisons are theoretically abandoned, one man out of two in prisons . . . is serving a sentence because of debt—he can't pay a fine . . . England and Scotland have solved the problem of fines by the simple expedient of installment payment. . . . It seems odd that America with its mania for installment buying, has not applied this concept to its courts. Nearly a fourth of American imprisonments for inability to pay fines are for amounts less than ten dollars and sixty percent for less than twenty dollars. This is certainly punishment for poverty." If this is so, when a man is imprisoned for inability to pay a fine, is he punished for his crime or for his poverty?

Wilson's dissatisfaction with our present approach to crime is not limited to the large number of criminal laws in America; one of his criticisms relates to the punishing as criminal, actions for which people may not be directly accountable. Medical science now recognizes that such crimes as drug addiction and alcoholism are actually mental illnesses. Certainly such addicts may need to be segregated, but should they be labelled as criminals?

The present definition of insanity does not include within its scope the feeble minded. Dr. Wilson in testing all of the men admitted to Fort Leaven-

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worth during his stay, found prisoners whose IQ's classified them as imbeciles and low grade morons — a situation existing in all our prisons. These men are continuous law breakers and under our habitual offender statutes soon earn enough credits to entitle them to the life imprisonment society awards to the four time loser. "Perhaps eventually society will commit them to a hospital, for they surely do not belong in prison. Their irresponsibility results from their low IQ, not from their moral culpability." These men are often a danger to society, through no fault of their own and should not be collocated with the more nearly normal. They are the dupes of the criminal both in and out of prison. They, as well as society, need protection.

Three years as a prison psychologist have led Dr. Wilson to find serious fault with our present philosophy of punishment and the selection of those whom we will punish.

At present, the law in most instances determines punishment on the basis of the crime, not the criminal. We have traditionally treated criminal homicides as the most serious of crimes and have meted out our most severe punishment to those who commit murder. While the sanctity of human life is of extreme importance and the law must protect it, much greater discrimination among the killers seems in order. The author reports that "the one-time killer who is frequently a lifer, who did not kill sadistically or with premeditation, but who struck in a moment of provocation, rage or drunkenness, presents the fewest disciplinary problems of any inmate. His is the most nearly normal personality in prison." Although many of the men in our prisons today should not be released upon the expiration of their sentences. (See REPORT ON 101 SEX OFFENDERS IN SING SING) many others are ready to resume their normal places in society long before the end of their terms. Warden Lawes recognized this and felt that some means should be devised to remedy this situation. (See TWENTY THOUSAND YEARS IN SING SING.) As long as we continue to make deterrence and revenge our primary theories of punishment, we will continue to confine them long after the necessity to protect society from this individual has ended.

Dr. Wilson does not believe that punishment deters anyone. With this position, the reviewer would like to take exception. One of the many functions of law is an educational one; law deters the law abiding, and as such it provides part of the educational process of our youthful citizens. But, irrespective of this, a penal law which is tailored to fit the criminal rather than the crime need not discard any possible deterrent effect the law may have. A criminal law developed on the premises that the purpose of incarceration is to isolate dangerous segments and take steps to rehabilitate the deviant, will have as great a deterrent effect as the present law, but will be designed to return people to society as useful citizens as soon as they are capable, rather than keeping them isolated far beyond the time necessary.

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Wilson's second great criticism of our present punishment tactics is an obvious one. As he says, "our most serious problem in crime is not the run-of-the-mill convict in a penitentiary. It is the criminal at large who remains so with the knowledge of the populace. It is not reasonable to expect the reformation of small-time criminals while gangsters operate with political and police protection." The only lesson a convict can learn from the freedom of the big time criminal is simply "that the way to make crime pay is to line up with the Big-Time Boys."

The author has his own theories as to why many of the men whom he studied came to follow a life of crime. With these the reviewer is not in a position to disagree, as this is a field of special competence of the psychiatrist and the clinical psychologist, many of whom may disagree with his theories regarding the causes of criminality. In this area, Dr. Wilson is answerable to his colleagues.

My SIX CONVICTS presents little in the way of original research, nor was that the author's intention. Any one who is deeply interested in any of the facets of the problems raised by the author has but to turn to the libraries to find well documented studies in the fields covered in this book. Unfortunately, the public is rarely exposed to the scientific findings of the social scientist in the field of crime. Dr. Wilson has attempted to remedy this situation. His book is not a learned treatise, but if it serves to raise some doubts about our present approach to crime, it has served its purpose.

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NEW YORK PRACTICE (3d Edition). By Julian J. Appleton. New York: Practising Law Institute. 1950. Pp. 376. \$6.00.

The slow but steady stream of annual amendments to the Civil Practice Act and Rules of Civil Practice has continued unabatedly since 1921 and has gained momentum since the advent of the Judicial Council of the State of New York in 1934. This has had the incidental effect of outdating, in the course of the years, substantial portions of the standard textbooks on Practice and Procedure generally used by the profession in New York. The gap in procedural literature which developed gradually has been filled, at least in part, in recent years by the publication of up-to-date textbooks of New York procedure, such as the 1946 edition of Carmody's *MANUAL OF NEW YORK CIVIL PRACTICE* by Carr, Finn and Saxe, and Prashker's *NEW YORK PRACTICE*, published in 1947.

Appleton's *NEW YORK PRACTICE*, published in 1947 and now appearing in its third revised and enlarged edition, is another welcome addition to New York's procedural literature. Essentially the volume is a concise, but com-