BOOK REVIEWS

THE OPEN PRISON. By Sol Chaneles. New York: The Dial Press. 1973. Pp. 205. $6.95.

Prison reform as we now know it is an exercise in futility. The millions of dollars funneled into the effort to improve this country's correctional system have produced counter-productive results. These are the conclusions reached by Sol Chaneles in his recent book, *The Open Prison*.

Chaneles contends that reform efforts to date have been destined to fail because they have been directed at rehabilitating the prisons, not the prisoners. Triggered by explosions such as those at Attica and Pontiac in 1971, and fueled by the promises of public officials that more funds will be directed toward mitigating the tensions which produce prison riots, "prison reform" consists chiefly of intensifying prison security by employing more guards, increasing their salaries, allotting them time off with pay for target practice, and providing them with more sophisticated weapons. This recurring pattern, the author notes, is entirely at odds with the notion that the goal of prison reform is the elimination of prisons.

Chaneles's thesis is that the task of guiding offenders back into society and motivating them to assume responsibility in the community cannot be entrusted to the law enforcement establishment which uses force and lethal weapons as its modus operandi. Gun-wielders should not be counted upon to be moral instructors. Instead, communities should have the primary responsibility for rehabilitating inmates. This follows from the premise that the community generates conditions and opportunity for crime, members of the community are the victims of crime, and the community must eventually receive the offender when he leaves prison.

The advantages of the scheme would be that the inmates, by maintaining ties with a "transitional community" in which they would work and live, would be directed toward coping with the community rather than toward embracing a regimented, meaningless routine of insulated prison life which is of no value outside of prison. An additional benefit would be that the communities themselves would be more aware of the defects in society which foster criminality and more conscious of upholding civil rights guaranteed to all, including prisoners.

The Open Prison provides a thoroughgoing exposé of institutionalized prison procedures, both official and unofficial. For example, in Pennsylvania's Holmesburg prison inmates pay guards for the opportunity to choose a sexual partner from among the prison population. Inmates who serve as informers are also given the same privilege. Those who do not wish to be raped are threatened with mutilation or death at the hands of guards or prisoners. The guards assure the continuing operation of the scheme by negotiating with pharmaceutical concerns which pay prisoners a token amount for "testing" new and dangerous drugs. This practice, according to Chaneles, is not unique to Holmesburg (p. 119).

The Open Prison is noteworthy because it reveals not only the scandalous practices which go unreported to the general public, but also the failure of reform efforts. The author criticizes judges and legislators for naively assuming that increasing appropriations or lengthening prison sentences will do anything other than exacerbate already existing problems. He reminds them, as he does other well-intentioned liberals, of a basic truth known only, it would seem, to those who receive their education in the streets: the chief goal of those in charge is to remain in charge by perpetuating the status quo. For this reason a defective system cannot be expected to cure itself.

But who is "in charge" of the prisons? According to Chaneles the "prison establishment" embraces a consortium of interests and is bifurcated into a visible and

an invisible sector. The visible sector includes the various governmental agencies charged with prison, parole and probation administration, sheriffs' departments, police, prosecutors, courts, local planning agencies and legislative committees. The invisible sector consists of private businesses which stand to profit from the maintenance, improvement or construction of prison facilities, and sheriffs' and wardens' professional associations, whose *raison d'être* is to support the status quo.

The difficulty of achieving reform of this establishment through citizen action is well illustrated by the example of the National Council on Crime and Delinquency. Funded originally by the Ford Foundation, it was directed precisely to prison reform. When the Council was subsequently taken over by the sheriffs and wardens, the Ford Foundation withdrew its support once it was clear that the Council was not effecting its primary purpose. The citizens' advisory boards which had been set up by the original grant are now rubber stamps for the sheriffs and wardens.

To forestall charges that he is proposing something even less viable than Brook Farm, Chaneles makes specific proposals and suggests guidelines for eliminating the need for (and hence the existence of) the prison establishment. Prisons must be closed and offenders sent back to the community within a reasonable amount of time. Avenues for expressing grievances must be opened so that individuals do not feel compelled to resort to violent criminal activity. Violent offenders, including police and prison guards who deal in brutality, must be confined until they "mature out of violence." Those in charge of helping people reach this maturity cannot be people who have discretionary violent power. Instead, the tools to be used are maximum freedom, trust, and commitment.

Noting that unemployment is three to four times as prevalent among ex-offenders than it is among the population at large, Chaneles finds it imperative that prisoners be given employment opportunities, including on-the-job training in offices and factories to develop skills which are marketable in the community. A minimum wage substantially commensurate with the going rate for the same work on the open market would be a sound and fair economic alternative to the present money-power systems. The offender could use his earnings to contribute to his family's support, thus maintaining ties with his spouse and children. A regular job and regular wages would make him a productive member of the community. Taxing his income would lighten the community's financial burden for his rehabilitation. Collective bargaining rights and workmen's compensation should also be part of the package. Most important, the length of his term could be related directly to his earning power, thus providing motivation for increasing his capabilities. To those who stress the risks involved in allowing prisoners to leave the facility to go to outside jobs, the author replies that the risks of *not* allowing them to do so are much greater.

Among the small vanguard making progress toward prison reform Chaneles includes forward-looking judges, unionized prison guards and a new breed of prisoners who are fully aware of their rights. But the bulk of the work remains ahead, and falls on the shoulders of community members. Civil rights laws should be amended expressly to guarantee that basic civil liberties cannot be denied because of previous penal records. There must be an end to de facto discrimination in housing, education and employment. Chaneles does not offer suggestions as to how these tasks are to be accomplished, but perhaps that is asking too much of one book.

For every criticism he directs at prisons and those who would reform them, the author offers a suggestion aimed at ameliorating the condition condemned. He leaves to his readers the task of persuading their neighbors to act. His failure to document the conditions of which he complains makes *The Open Prison* inappropriate for the litigator. And his polemical approach limits his readership to those who are at least moderately well-informed about existing prison conditions. Nevertheless, Chaneles's structural analysis of the prison problem makes *The Open Prison* textbook material for those who would dedicate themselves to institutional change.

WOMEN IN PRISON. By Kathryn Burkhart. New York: Doubleday & Company, Inc. 1973. Pp. 465. $10.00.

The material for *Women in Prison* was gathered by a free-lance writer who interviewed and lived with a large number of prisoners in jails throughout the country. Though Kathryn Burkhart's own background is foreign to the conditions of life depicted in her book, she manifests a sympathy for and understanding of the special kind of hardship involved in being a woman in prison. Very little of the material written about the inadequacies of the American prison system has concerned itself specifically with the condition of women prisoners. Burkhart's effort to illuminate this subject is useful although not always successful.

The author organizes her material into three sections: "The Concrete Womb: 'Gettin' In'; "The Concrete Womb: 'Bein' In';" "The Concrete Womb: 'Stayin' in'." Within each section Burkhart alternates her emphasis, giving first an overview of a particular aspect of prison life and then a more detailed and vivid portrayal of that aspect rendered through the experience of an individual prisoner. For example, a chapter on the economic and productive functions of the prison work system is illustrated by one prisoner's story of exploitation as a housemaid for a prison official. Indeed, the book condemns the whole prison work system as repressive, punitive and enslaving.

The author's juxtaposition of a general condemnation with particular examples and prisoners' narrations unintentionally accentuates both the weaknesses and strengths of the book. *Women in Prison* is most effective when it depicts the indignities and cruelties which the prison system inflicts upon those whom it is the system's purpose to rehabilitate. When Burkhart allows the prisoners to tell of their own prison experiences, the wretchedness of penitentiary life punctures our complacency. There is an irritating yet touching sentimentality to the prisoners' narrations. They have a poignancy which unfailingly moves the reader to outrage. In purpose and in tone this part of the book is reminiscent of the muckraker tradition. Burkhart undoubtedly realizes that an individual's plight will affect us far more deeply than any array of statistics, that a detailed story of one man's death is more penetrating than the newscaster's summary announcement of ten thousand deaths.

Women in Prison is weakened considerably, however, by the author's attempts to extrapolate and generalize from individual examples. The book's indictments of the judicial system which places these people in prison, and the sociological foundations and psychological effects of the same system, are neither original nor particularly well-substantiated. Burkhart paints a picture of Manichean simplicity: prisoners are rarely anti-social, and their criminal behavior often consists of nothing more than stealing to feed their children. The author implies by example that the typical prisoner is one whom society has arrested for an act of marginal criminality, coerced into pleading guilty, and finally sent to prison to learn how to become truly criminal. Such a pattern has long been known to exist; the book offers no new suggestions for altering it.

Women in Prison is also ambiguous in its attack on the penitentiary system. It abounds with statements by and about the prisoners, such as: "I've been here one year and it's the incredible intelligence and sensitivity of these women that's made me stay this long." The implications of such remarks are unclear. Are we being told that inmates are an exceptionally bright and perceptive class of individuals, or that the degradations of daily institutional life heighten the moral and ethical awareness of its victims? In one institution the author sees the administrators as inventive, dedicated and moral, yet hopelessly overwhelmed by an inherently immoral institutional scheme. At other prisons, officials are accorded a far less flattering treatment while the institution itself is given a tacit sort of approval. The book clearly maintains that prisons have failed, without telling us whether it is the system or the men who run the system who have caused the failure.

Burkhart's premise is that the present system of incarceration has as its goal the

rehabilitation of prisoners. Her conclusion is that this goal has not been achieved. This conclusion is no doubt correct, but short of recommending the retention of prisons only for psychopaths and irretrievable recidivists, the book really makes no constructive suggestions for reform. By detailing the daily toil and deprivation of prisoners, the author forces us to recognize the hell that is a woman's life in prison. In doing so she performs an undeniably valuable service. What our prison system needs now are some workable programs for reform.

THE RIGHTS OF CHILDREN: EMERGENT CONCEPTS IN LAW AND SOCIETY. Edited by Albert E. Wilkerson. Philadelphia, Pennsylvania: Temple University Press. 1973. Pp. xix, 313. $10.00.

The processes of the nation's juvenile justice systems are completely unknown to the majority of adult citizens. The proceedings in juvenile court are sealed in anonymity – neither the parties involved nor the discretionary decisions are publicly revealed. Since children have neither the political power nor the ability to articulate their feelings to a substantial public audience, the presumption that "all goes well" has become firmly established.

In recognition of this unjustified presumption and of the neglect accorded children's rights in other less visible areas of the law, Albert E. Wilkerson, D.S.W., has compiled *The Rights of Children.* The book is a series of articles covering a broad scope of topics involving children's rights and is addressed to lawyers, social workers and other professional groups engaged in child and welfare services. The articles, although dealing with interesting and diverse topics, focus on a central point: the need for full recognition of the concept of children's rights in social policymaking.

The first of the book's three sections is entitled "The Child as a Person." The introductory article by Coughlin discusses the concept of human rights and then explores expanding areas of human rights: adult corrections, mental health and economic welfare. The subsequent articles in the section concentrate on the need for expansion of children's rights by exploring the lack of rights in the past as well as the need to define new rights in view of changes in the law (abortion) and advances in medical techniques (artificial insemination). The Louisell article is especially enlightening in its exploration of the rights of the unborn child. Louisell argues that the abortion laws are inconsistent with existing law by exploring the rights of the unborn child in property, criminal and tort law. In view of the substantial protections accorded the fetus elsewhere in the law, Louisell suggests that due process considerations demand that a guardian be appointed to protect the fetus' right to life.

The second section explores some of the guarantees children receive and the legal principles behind them. The contributing authors contend that the majority of the guarantees derive from feudal property concepts rather than any recognition of the human rights of the child. The Arthur article compares the protections received by adults in our judicial system to those given juveniles. Especially cogent is his comparison of pre-trial proceedings, which illustrates that the child's guarantees are almost nonexistent. However, Arthur argues that the differences are the result of society's duty to protect children, a duty which makes absolute equality of rights undesirable.

Wilkerson's third section is entitled "Decisions About the Child." The thrust of the section is toward a means of representing the interests of the *child* in juvenile and divorce court proceedings. Although *In Re Galt* has disposed of the question of right to counsel in cases where juveniles may be incarcerated, divorce and custody proceedings are often carried on without any consideration of the child's interest. To prevent a purely adversary struggle for child custody the Keith-Lucas article advocates

representation of the child's interest by attorneys trained in child welfare practice.

The three sections cover a broad scope of topics and provide numerous recommendations. Throughout all the articles, however, several conflicts basic to the concept of children's rights emerge. There is a continual emphasis on proper interplay between the role of the judge and the role of substantive and procedural guarantees for juvenile proceedings. At the extremes we find total judicial discretion and the full panoply of constitutional rights. Thus far, say the authors, the philosophy has been that consideration of each child's problem by a judge endowed with complete discretion is the optimal policy. Such a policy rests on the assumption that the rehabilitation received by the juvenile in a "non-criminal" facility renders procedural safeguards less important. However, lack of adequate funds for such juvenile rehabilitative facilities has turned many of them into juvenile "prisons." The low priority in federal and state budgets for juvenile programs does not promise much change. *In Re Galt* recognized that we must move toward the other extreme. But if, as Arthur argues, absolute equality with adult rights is undesirable, where do we draw the line between the two extremes in policy-making decisions? Although the articles may not offer well-documented solutions, they have exposed and defined the conflict.

A second area of conflict involves the concept of parental rights in the child. The articles espouse a firm position: only recognition of the child as a person, and not as parental property, will yield the child his full complement of legal and human rights. The general consensus of the authors is that the community is ultimately responsible for the "best interests of the child" and that there is a rebuttable presumption that the parents are in the best position to fulfill these community responsibilities. The authors' position is in conflict with the commonly held belief in the absolute sanctity of parents' right to complete control of their children.

Wilkerson has succeeded in raising some basic issues in the children's rights controversy. It is unfortunate, however, that the various theories espoused were not documented by empirical studies. Several programs implementing the suggested theories were mentioned in the articles, but none of these was discussed in detail nor were their results included.

It is also unfortunate that there was not more *current* material among the articles included. Although the latest article in the book was published in 1971, the majority of the articles were written in the second half of the 1960's. From the articles, one gathers that developments are moving quickly in the children's rights area. After reading the book the reader is curious about developments since 1971. These minor shortcomings aside, Wilkerson has presented an interesting selection of articles which succeeds in promoting awareness of the vast and neglected area of children's rights.

THE LAW AND THE POOR. By Frank Parker, S.J. Maryknoll, New York: Orbis Books. Pp. xi, 217. $4.95.

Mobilization of the urban poor by political pressure groups in the 1970's could significantly shift the balance of power in the American political process. Frank Parker fears that unless the poor gain an understanding of the American legal system with its constitutional guarantees for their fundamental rights, they may be induced to follow the cause of revolutionaries who seek the destruction of American democracy. To eliminate this danger, the author intends to acquaint the poor with urban law, which he defines as the "legal statutes and cases that apply particularly to the financially poor urban dweller in his day-to-day life" (p. 5). Parker's effort fails because he never correlates the current state of the law with the specific problems of the urban poor.

The author's avowed purpose to define the present state of the law for the "average city person trying to make enough money to survive" (p. 11) seems

inconsistent with the focus upon the "poor" indicated by the title. Moreover, this disjunction between the author's purported and actual purposes is reflected in the structure of the book. The main body of each chapter contains a general discussion of such topics as the functions of judges and lawyers in the legal process, the system of checks and balances in the federal government, and the present state of criminal law, landlord-tenant law and juvenile rights. Not until the cursory summary at the end of each chapter does the author attempt to relate these general explorations of law and legal process to the poor's day-to-day legal needs.

Admittedly, Parker's discussion of the landmark decisions in *Miranda, Kline v. 1500 Massachusetts Avenue Corp.* and *Gault v. Arizona* illustrates the judicial concern for the fundamental rights of all social classes which the Supreme Court, especially the Warren Court, has shown in recent years. Yet discussion of these decisions does not compensate for Parker's failure to explain to the urban ghetto dweller how he can use the law to protect these fundamental rights in his daily routine amid the political and economic chaos of the slums. Parker himself concedes that he has insulated his work from the political and practical realities which conflict with American democratic ideals. He justifies this insulation with such platitudes as the categorical assertion that all whites desire equality for blacks in the 1970's. Consequently he does not pause to compare the law's treatment of blacks versus whites.

The Law and the Poor, then, is essentially a lawyer's survey of present consitutional rights in the field of criminal law, and a guide for laymen to other areas of law such as divorce, landlord-tenant relations and corporations. In his limited attempt to evaluate the use of this body of law by the poor, the author concludes that it can provide them with appreciable aid. The merit of Parker's argument lies in his emphasis on the urban dweller's need to become familiar with the law and to free himself to utilize it fully with the aid of lawyers. Where there is need for change in existing law, the author believes that the failure of the poor to effectively organize their numbers and to make their voices heard through their congressional representatives has contributed to their economic plight. Thus, Parker exhorts the poor to exploit their numerical strength at the polls and use their untapped political power to achieve economic and social gains.

The author's naive statement, however, that congressmen, spurred by democratic zeal, would become responsive to the needs of a vocal inner city constituency if only the poor would beckon them, reflects Parker's refusal to consider the practical side of representative government. Corporate lobbyists who persuade congressmen to sponsor bills primarily for increasing profits of big business, and the realities of American politics, where the size and source of campaign contributions have a far greater impact on aspiring candidates than do the needs of the poor, are perhaps appropriately ignored by an author who feels that the Constitution's tenets will be followed by the "haves" in the 1970's in sharing their legal rights with the "have-nots." Nevertheless, a belief in the innate goodness of the American people, although it may provide a refreshing departure from the dissident cynicism of the 1960's, fails to sustain Parker's simplistic, abstract treatment of the relationship of law to the urban poor.

Furthermore even the scheme advanced early in the essay for binding statutory and case law to the "law in its environmental sense," "a here-and-now, day-to-day interpretation of the proper penalties that ought to be available for the benefit of those who have been injured". (p. 18), is forsaken by the author when he discusses some recent court rulings in the areas of juvenile law and welfare legislation. Although the author's exposition of these decisions is adequate so far as it goes, his discussion fails to analyze their limitations. Parker's conservative attitude toward judicial interpretations which extend Bill of Rights guarantees, and his belief that previously enacted legislation provides a sufficient "urban law" basis for uplifting the poor, lead him to the innocent conclusion that if everyone followed the law faithfully, the inequities in American life would disappear. This prescription is a patently ineffectual remedy for the problems of the urban poor.

For the layman seeking a general description of several areas of the law, or a

civics lesson on the workings of the federal government in its development from revolutionary days, *The Law and the Poor* is an adequate survey. But its value as a means of providing the poor with insight into the law's particular relevance to their practical problems is minimal. Regrettably, *The Law and the Poor* treats the law fairly, but virtually ignores the poor.

CRIMINAL SENTENCES: LAW WITHOUT ORDER. By Marvin E. Frankel. New York: Hill and Wang. 1973. Pp. 124. $5.95.

To Judge Marvin Frankel our current method of sentencing is criminal. Under the American criminal justice system a law can be struck down for unconstitutional vagueness, yet a judge is allowed to send a guilty defendant to jail for an indeterminate sentence without any truly effective restraint imposed by appellate review. Drawing on his many years of experience as a federal judge in the Southern District of New York, the author sets forth his reasons for concluding that revision of sentencing procedure is long overdue. He criticizes the legal system that produces the judges who sentence defendants, and the legislatures which define crimes in detail but not their punishment.

The author finds our sentencing procedure an anomaly under a government predicated on rule by law and not by men. In the absence of appellate review of sentences per se, a sentencing judge is answerable only to his own conscience. Only in the rare instance where a criminal's lawyer can show clear prejudice on the part of the judge will the sentence be reviewed by a higher court. Judge Frankel finds justifiably repugnant an instance of a judge's increasing the prison term of a defendant by one year after the defendant, exercising his right to address the court before sentencing, proceeded to lambaste the judicial system.

Unlike some foreign systems, the American criminal justice system does not provide special training for judges. Most judges start out as law students following a curriculum that lacks courses on criminal sentencing. (Judge Frankel notes that to his knowledge New York University School of Law is one of only two law schools which have corrected this deficiency.) As a rule judges arrive at the bench after many years in a private practice that does not serve criminal clients. Judges bring with them class biases, as well as their own private senses of good and evil. Consequently a judge is more likely to be sympathetic toward a tax evader from his own social stratum than a ghetto resident involved in interstate transportation of a stolen car. As a result the tax evader is rarely sentenced, and if sentenced, only for a brief stretch compared to that of the car thief who may spend years in prison. Sentences become "individualized" not in terms of the defendant's status or crime, but in terms of the judge's background.

Furthermore, presentencing reports prepared for a judge as an aid to sentencing also reflect biases, as well as inadequate fact-gathering techniques. For example, the religious belief of the defendant and any church-going behavior are routinely noted. To a judge who regularly attends religious services, the atheism of a defendant might well confirm his guilt.

Judge Frankel upbraids legislatures which fail to set definite prison sentences but phrase punishment in terms of "not more than ... years," thus making possible disparate sentences for the same offense, ranging anywhere from probation to indefinite incarceration. In addition, he notes that legislators too often vote for a maximum sentence at the time of enacting a law simply because of pressure from their constituents for a harsh sentence and not for considerations reasonably related to the social origins or consequences of the crime.

According to the author, people are often sent to jail for terms that are unjustifiably long. The defendant, he contends, is entitled to know the reasons for the length of his particular sentence. He suggests tht if judges had to justify their sentences

with explicit reasons, they would give the sentences greater consideration. Moreover, if reasons were given for the sentences imposed, those sentences would be more vulnerable to modification on appeal. Primarily because sentencing is a product of the legal system, however, the author rejects the idea that sentencing be taken away from the judges and given to students of human behavior. The major problem with our sentencing procedure is a deficiency of law, not an excess.

Judge Frankel makes several proposals designed to achieve more equitable sentencing. As already noted, legislatures should provide precise definitions for criminal punishments. Sentencing institutes for judges, which have been created by federal statute, should be used as an adjunct to a program of reforms. Citing the example of the District Court for the Eastern District of Michigan, he proposes extensive use of sentencing councils to determine the defendant's sentence. These councils would be composed of three judges: the trial judge and two others who are familiar only with the record. The author further suggests the possibility of a sentencing tribunal composed of experts on human behavior as well as the judge. He strongly endorses appellate review of sentences, which was proposed by the American Bar Association as long ago as 1968. Noting that all criminals are not sick and that many do not need rehabilitation (even assuming an available alternative of effective rehabilitation), Judge Frankel stresses that indefinite sentences give various authorities too much flexibility to determine when a prisoner is rehabilitated or "cured." On the basis of *Furman v. Georgia*, 408 U.S. 238 (1972), in which the Supreme Court struck down capital punishment as a violation of the eighth amendment, in part on the basis of the risks of discrimination and arbitrariness inherent in broad sentencing discretion, the author expresses hope that the Supreme Court will soon move against indiscriminate sentencing in noncapital offenses. Finally, he proposes the establishment of a permanent commission to study sentencing procedure. It should include lawyers, judges, penologists, criminologists, and former or present prison inmates. The commission would be responsible not only for the formulation of sentencing laws, but also for their enactment.

Criminal Sentences gives us a sensitive portrayal of the arbitrary and discriminatory practices current under present sentencing procedures, while offering a thoughtful analysis of the origins of these practices and constructive proposals for their elimination. The initiative is now with the public and the legislatures to reform the system.

PRISONERS OF PSYCHIATRY: MENTAL PATIENTS, PSYCHIATRISTS AND THE LAW. By Bruce Ennis. New York: Harcourt Brace Jovanovich, Inc. 1972. Pp. 232. $6.95.

Some books are read solely for the sake of enjoyment. Others "ought to be read," whether or not the reading is enjoyable. Finally, there are those such as *Prisoners of Psychiatry* which should be read precisely because they will not be enjoyed. Disturbing, often moving, this book presents a stark picture of the Kafkaesque plight of persons who are or once were institutionalized for mental illness.

Bruce Ennis, Director of the Civil Liberties and Mental Illness Litigation Project of the New York Civil Liberties Union, has been devoting his full time to bringing test-case litigation on behalf of mental patients. He soon discovered the ways in which the system – comprised of mental institutions, institutional psychiatrists, judges, state statutes and the erroneous but widespread belief that the mentally ill are more prone to violence than the "sane" – operates to deprive institutionalized people of basic civil rights enjoyed by others. An accused criminal is, in our society, entitled to the safeguard of a jury trial. In many states, however, a person may be shut away for

years, perhaps the rest of his life, upon the mere certification of two doctors, neither of whom needs to be a psychiatrist, that he is "mentally ill," a nebulous determination since psychiatrists have never been able to agree on what constitutes mental illness. It is not unheard of for such certification to be given solely on the basis of the statements of the patient's relatives.

As Ennis has learned from discussions with his institutionalized clients and various institutional psychiatrists, a patient is likely to spend years in overcrowded and understaffed facilities, often receiving no treatment and seeing a doctor three or four times a year for, perhaps, five minutes a visit. A patient who sits quietly in his ward may well be simply ignored. On the other hand, as is illustrated in the case history of Donaldson, the fact that a patient, incarcerated for a number of years, feels that he is sane and is being unfairly imprisoned in the institution might be viewed by the hospital authorities as evidence of delusions and impaired judgment, justifying further confinement.

The theory that those who draft and administer involuntary commitment laws (courts and institutional psychiatrists included) are the enemies rather than the benefactors of those individuals alleged to be mentally ill is not altogether novel. What distinguishes this book is the author's vantage point as a lawyer specializing in test-case litigation on behalf of mental patients. Each chapter is a case history of a patient's institutional experiences and the legal battle over his rights. Written in this fashion, Ennis' book impresses upon the reader, poignantly, the frustrations and anxieties which face the patient both in surviving in the institutional environment and in asserting his legal rights.

Although he has just scratched the surface, Ennis nevertheless has won some significant decisions on behalf of mental patients' rights. Under New York law, an individual accused of having committed a crime and found incompetent to stand trial (a judge-made determination) may spend the rest of his life in an institution, waiting until he is declared competent, for a crime carrying a sentence of only a few years. It was not until 1969, in a case brought by Ennis on behalf of a patient named Neely, that a federal court ruled that an individual declared incompetent to stand trial and confined to an institution has a right to initiate any court proceedings, such as a motion to quash the indictment. In another significant decision, a federal court held in 1972 that institutionalized patients have a right to treatment meeting certain standards. In *Jackson v. Indiana*, 406 U.S. 717 (1972), the Supreme Court expanded the rights of allegedly incompetent defendants, citing the *Neely* and *von Wolfensdorf* cases (discussed in the book) as grounds for the decision.

These decisions, however, are rare exceptions to the rule. *Prisoners of Psychiatry* is replete with unfeeling judges slavishly accepting the judgments of institutional psychiatrists regarding the mental condition of people with whom, admittedly, they have had minimal contact. We learn, for example, of a prisoner due for parole but institutionalized shortly before the date set for his release. It appeared that the other prisoners, believing that he acted as an informer to gain an early release, threatened his life. When he expressed fear, a prison psychiatrist had him committed because he felt that the prisoner's life was not really in danger and the fact that he expressed fear must, therefore, have meant that he was paranoid. A New York State judge had no qualms about upholding the commitment on this basis.

This is but one of the many shocking incidents Ennis describes. One need not agree with the author's thesis, that mental institutions should be shut down and all involuntary hospitalization of the mentally ill dispensed with, to conclude that major reforms must be made in the institutional system. Ennis sets forth a number of suggestions, such as limiting involuntary commitments to that small percentage of mentally ill persons who show a marked tendency toward violence. More suggestions are needed; *Prisoners of Psychiatry* is an excellent point of departure. It is written for psychiatrists, lawyers and the general public. Quick reading though it is, *Prisoners of Psychiatry* is not a book to be read quickly.

THE PEOPLE'S LAWYERS. By Marlise James. New York: Holt, Rinehart and Winston, 1973. Pp. 368. $8.95.

In the late 1960's a television serial called *The Storefront Lawyers* appeared on the screen presenting a romanticized version of young, well-dressed attorneys dashing around town defending the indigent and unjustly accused. *The People's Lawyers* is a survey of the attorneys and firms about whom young people romanticized some years ago.

The author, who is a graduate of the Columbia School of Journalism and not a lawyer, spent several months traveling around the country interviewing various radical and reformist lawyers. The book, divided into chapters about individuals, organizations and geographical locations, presents the attorneys through their own words. James includes brief descriptions when vital background is missing from the monologues which comprise about 95 percent of the material.

The book describes essentially three types of law practices. The first is the public-interest law firm, supported by personal and foundation contributions, dominated by reformist attorneys and exemplified by the NAACP Legal Defense Fund and Ralph Nader's Public Interest Research Groups. These firms handle civil rights and governmental reform cases. The second is the community-oriented law firm in which attorneys accept a large volume of negligence, divorce and criminal cases on a fee-paying basis so they can devote the remainder of their time to nonpaying "political" and local reform cases. The final group is the law commune which is similar to the community-based firm, except that the lawyers believe they must reform themselves as well as the system. In the law commune everyone shares the work and the profits equally: secretaries become legal workers, lawyers do their own typing and the whole group frequently discusses the sexism, racism and ego problems that exist within the group.

The attorneys present a dual view of their work. On the one hand, they believe they are changing institutions, helping people and fending off societal repression. On the other hand, they declare that the law is impotent to change society to the degree they believe it needs to be changed.

As a result of the conflict between the belief in change and the disbelief in the effectiveness of the law as a tool for such change, the community-based firms believe that lawyers must act as political organizers as well as legal representatives. But this conflict bred so much dissatisfaction in the more radical law communes that most of them dissolved. Moreover, the conflict sends the reform lawyers constantly scurrying from one group to the next, searching for the effective means to accomplish change.

Despite the book's length, it is more like a series of photographs of radical lawyers than an in-depth study. Each lawyer and each kind of law practice is an example, an inspiration to serve the majority of Americans who cannot afford conventional legal services. But like photographs, the examples have only an appearance of depth.

For example, the Community Law Firm in San Francisco's Mission district is described as a two-man, community-oriented firm employing two legal workers. Paul Harris and Stan Zaks, the attorneys, both graduated from Boalt Hall. Mr. Zaks worked in Legal Aid for a year and Mr. Harris clerked before they started their successful practice. They serve a "mixed Latino, white working-class, Native American, and hippie community." Mr. Harris states, "Our main stress has been ... the house counsel role [for community groups] and the criminal cases that arise out of it. That accounts for 70 percent of our time. The other 30 percent we spend on regular cases which we make money on" (p. 223).

This description, which is typical of those in the book, suggests more questions than answers. One knows nothing of the background of the lawyers other than where they went to school. Did they grow up in the area where they work? Did they have any financial problems when they started out, like $5000 in loans to pay off? Are their paying cases defenses of numbers runners, mafia henchmen, heroin pushers or

wrongly accused first-time offenders? Are the tort cases against General Motors or the unemployed next door neighbor whose son left a skate board on the sidewalk? How do they get their clients? What is their house counsel role, merely securing tax-exempt status for their clients or advising the groups on political and legal strategy? These are the nuts-and-bolts questions that the examples raise but about which the book says little. Instead, like the portrayals of *The Storefront Lawyers* the images of *The People's Lawyers* pass before us, leaving only a superficial impression.