

Book Reviews

Alan R. Rosenberg, M.D., J.D., Editor

ONE JUST MAN. By James Mills. New York: Simon & Schuster, Pp. 239. 1975. Price \$7.95.

On the surface this short novel deals harshly and powerfully with the criminal justice system in America. Beneath the surface lurks the timeless problem of the ultimate frustration of the trained professional functioning, or trying to function, in our social order.

The central character, a well-trained, competent lawyer, Allan Dori by name, has spent his career in legal aid defending literally thousands of arrestees. In the brutally direct language of the street criminal and in the short-hand jargon of judges and assistant district attorneys, the novel offers a direct view of exactly what happens to arrested criminally charged persons today. It is a very ugly picture.

The arrested party can spend long months in jail before his case is handled. When he is finally brought to court he is faced with the hard fact that if he wants to get out he must plead guilty, whether he is or is not guilty. If he does not, he will be sent back to jail for a longer time to await a trial. If he is willing to plead guilty, his reward will be a lighter sentence or almost immediate freedom. Why such a perversion of the criminal justice system? Because it is impossible under the present court set-up to hold trials for more than a tenth or a twentieth of all arrested persons.

So all the operating forces, the legal aid defending lawyers, the prosecuting D.A.'s, and the judges have to keep the mass of bodies moving to prevent a log jam in the prisons. So, in effect, the straight society, the establishment, makes an unconscionable deal with suspected criminals—to wit: you plead guilty, thereby allowing us to keep up our façade of justice, and we will pay you off with an easy sentence so that you can go about your criminal work more readily and rapidly. That's the way it works. This unwritten *quid pro quo* contract is entitled Plea Bargaining.

Quite ethical judges and lawyers appear to rationalize their actions handily with aphorisms like "There's nothing else you can do" or "That's the reality of the situation," or "The State will never give us enough money to correct the system," and so on. Truly innocent arrested persons can easily spend much more time in jail demanding a trial to prove their innocence than they would if they were guilty. Bail helps only the affluent.

These appear to be the facts generally throughout America. The author, James Mills, has presented us with a hero, Allan Dori, who, after two decades of legal aid work serving his clients by plea bargaining, decides, or is driven, to revolt. Dori's plan is simple. If all the arrested parties demand trials, the entire rotten edifice will have to collapse under its own weight because the jails will overflow. The plan is not original. It is merely a variation of the theme, "They can't arrest us all."

So Dori, with the aid of an inmate of New York's jail, the Tombs, persuades all suspects to demand trials; the clot sticks; and we end up with a massive prison riot based on overcrowded conditions. At this point the book, which has been moving very well along, bogs down and we are treated to exquisite details concerning the Tombs prison and the riot, all to little effect. James Mills did this to me once before when I read his *Report to the Commissioner*, in which he stranded me interminably in a stalled elevator.

It is too bad that James Mills does not take a little more time with his books. I cannot

help feeling that he knocks them out too fast. He has an excellent ear for realistic dialogue, and you never doubt the authenticity of his plea-bargaining judicial hearings. You learn the words of art, the argot, the jargon, of the criminal courts. A "bullet" is a year in jail. E class felonies exist. A "flat" is also a year, so that a plea of guilty can buy "an E and a flat" for a criminal who multiply stabbed the person he robbed. Homicide sentences can go as low as three years, depending on the facts, as well as on the pressures.

Mills picked a good subject and his book has some shock value, but he falls short of doing a thorough muckraking job. His writing is thin and superficial for this type of material. I do not ask for muckraking in the grand old Lincoln Steffens or Upton Sinclair style, but more intensity is needed. We never really get into any other character besides Dori, and that hullabaloo about the prison riot is not very helpful or utile.

Of course, Mills offers no solution, having told us that only more money for courts and judges can solve the problem. So it becomes just another disaster of our social order, along with things like state mental hospitals and the like, which we bury out of sight as long as possible. Besides, only "crazies" or "bad guys" get stuck in those places.

I stated at the beginning of this review that I sensed a deeper theme in this book than the prison situation. I sensed the ultimate frustration of the trained professional in our social order. It was an easy step for me to liken my profession, psychiatry, to the hero's legal aid work, in many respects. I assume that any other professional can do the same with his—granted that the prison situation is far more horrendous than most. But the basic questions are these: After about twenty years of a profession, any profession, what are the rewards other than material? Should there be any rewards? Is it a form of vanity to ask for rewards?

We all justify our life's work in one way or another. In the book *Dori*, the lawyer, collected in a notebook various famous judges' definitions of "justice." Was he masochistically sublimating his failures, or his self-disgust at functioning within a "faulty" system? Do not we all function within "faulty" systems, yielding more often than we like to their "realities"? After all, by defending his clients and plea-bargaining with gusto, he actually was getting them back on the street in record time. Why should he give a damn or be plagued by the fact that some might actually be innocent? Even if they were, they clearly were better off pleading guilty. Yet it bothered him. What is it in man that won't let him settle for less? What do we want from ourselves? Why does it bother some men much more than others? These are the questions this book might engender in you.

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PARTIAL JUSTICE: A STUDY OF BIAS IN SENTENCING. By Willard Gaylin, M.D. New York: Alfred A. Knopf. Pp. 250. 1974. Price \$7.95.

Let us imagine a completely rational criminal. How would he approach his craft? What must he consider?

Ultimately, like a practitioner of any other rational endeavor, the reasonable criminal's thought processes reduce themselves to an equation of a "benefit to cost" form, the typical approach of any entrepreneur. Like any business man the criminal must consider the likelihoods of the various benefits against the risks of the various costs. For example, a businessman, whose utility calculations involve objectively measurable quantities of money, might consider that a given move will have a 10% chance of gaining 2 million dollars or a 20% chance of gaining one million dollars, while he might face a 60% chance of breaking even, an 8% chance of losing half a million dollars, and a 2% chance of going bankrupt. He evaluates the risks against the losses, and makes his decision.

The reasonable criminal, however, must deal with more factors involving personal