more problems and questions, particularly in those areas which first year law students often find to be conceptually difficult.[15] Adding a second Analytical Table of Contents which contains the cases and statutes under various headings is a good idea. For someone familiar with the subject it is easier to find a page reference for a case in this manner than by thumbing through a Table of Cases.

One important criticism which I do have is that where there are excerpts of statutes, which quite understandably are usually Ontario Statutes, not only are there no citations of equivalent statutory provisions in other provincial jurisdictions, there is usually no mention that equivalent enactments even exist outside Ontario. By way of example, the book includes, at page 259, section 16 of the Mercantile Law Amendment Act[16] which substantially changes the rule in *Foakes* v. *Beer*.[17] It so happens that, with minor modifications, similar provisions have been enacted in most other provinces.[18] Not only is this not noted at all, but, almost immediately following this excerpt is the following statement:[19]

> *Some American states* have adopted similar legislation. *See*, for example, California Civil Code, s. 1524. (the emphasis is mine)

At the risk of appearing overly sensitive, I would like to believe that other Canadian jurisdictions are as worthy of mention as, say, California or Michigan. Certainly any casebook attempting to cater to a national market should not have omissions of this type.

—R. S. NOZICK*

15. *E.g.*, following the classic case of *Carlill* v. *Carbolic Smoke Ball* [1893] 1 Q.B. 256, found in Milner at 346, there are no questions or problems. Compare this with the treatment of the case in Smith & Thomas, *A Casebook on Contract*, (5th ed. 1973), p. 42.

16. R.S.O. 1970, c. 272.

17. (1884) 9 App. Cas. 605.

18. Equivalent enactments exist in British Columbia, Alberta, Saskatchewan, Manitoba, the Northwest Territories and the Yukon.

19. P. 259. While there are no direct references to other provincial enactments the case immediately following is *Rommerill* v. *Gardener* (1962) 35 D.L.R. (2d) 717, dealing with the British Columbia enactment, and adverting to others. Similar omissions occur in respect of the Frustrated Contracts Act, p. 831, and Consumer Protection Statutes, p. 594, *et seq.*

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BEYOND CONTROL: STATUS OFFENDERS IN THE JUVENILE COURT: Edited by Lee E. Teitelbaum and Aidan R. Gough. Ballinger Publishing Company: Cambridge, Massachusetts, U.S.A. 1977.

A status offender is a child whose conduct is unlawful because he is a child and would not be unlawful if he were adult. Status offences are thought to comprise no less than one-third and probably close to one-half the workload of the juvenile courts in the United States (pp. 271, 291). In 1967 the President's Commission on Law Enforcement recommended that "serious consideration" should be given to their elimination; in 1974 the National Council on Crime and Delinquency and in 1971 the California Committee on Criminal Procedure concluded that all status offences should be removed from court jurisdiction. Nevertheless, the contributors to this book found there was "a devastating lack of information" about such offences. Their contribution not only fills the gap with a wealth of information about hearings in respect of status offences in the United

States, it also provides some astonishing glimpses at motivations underlying both the theory and practice of the law. Displayed here are also some of the consequences of relaxation in the eternal vigilance that Franklin D. Roosevelt reminded us was the price of freedom.

Alberta is closely and will probably soon become even more closely involved in the question of "status offences", giving rise in the United States to the jurisdiction over PINS, CHINS, MINS or JINS—persons, children, minors or juveniles in need of supervision. Under proposals put forward by the Canadian Federal Solicitor General in 1977 the federal Juvenile Delinquents Act of 1908 would be replaced by a Young Offenders Act. This would limit federal jurisdiction in respect of young offenders to those over the age of 12 years who commit offences under the federal Criminal Code and other federal Statutes. All children under the age of 12 will therefore be dealt with under provincial legislation, which will also cover other infractions by those under the age of 18 now included in the Juvenile Delinquents Act, *viz.*, violations of provincial statutes, municipal by-laws or ordinances, and those "guilty of sexual immorality or any similar form of vice" as well as neglected children under the Alberta Child Welfare Act. These include (amongst a long list of variants in s. 14(e) of the Act): a child "who is being allowed to grow up without salutory parental control or under circumstances tending to make him idle or dissolute"; "who, without sufficient cause, habitually absents himself from his home or school"; and "whose parent wishes to divest himself of his parental responsibilities towards the child". It is understood that as a matter of practice, children are usually apprehended in Alberta under the Juvenile Delinquents Act rather than the provisions of the Child Welfare Act relevant to neglected children. Section 15 of the Child Welfare Act specifically provides for neglected children to be "apprehended" without a warrant. The term seems unfortunate.)

The wealth of information provided in this book about status offenders and what happens to them in United States juvenile courts contrasts starkly with the virtual absence of published statistics in Alberta, not only in respect of status offenders, but of young offenders generally. (The Kirby Report on *The Juvenile Justice System in Alberta* of October, 1977 considered that: "an adequate, accurate and readily accessible data base . . . does not exist in Alberta, nor does it exist in Canada". The Board "experienced difficulty in securing reliable statistical information with respect to the operation of the Young Offenders Program". It recommended that "The province should create an extensive record-keeping system which would provide data involving the multitude of factors which may be directly or indirectly related to the delinquency of juveniles" and employ a staff competent to sift and analyze the data. Kirby Report, pp. 96-8. One of the richest provinces in Canada might do better than this.) All we know about such young people is that for the years 1974-76 the following "neglect reports" were made in Alberta:

	Total no. of cases	One Report	Two Reports	Three Reports	Four Reports	Five Reports	Six to Nine Reports
1974	4,423	4,105	240	65	10	1	2
1975	4,077	3,516	433	99	18	8	3
1976	4,567	4,076	410	68	10	2	1

In the United States, however, a notable contribution to knowledge about status offenders has been made by the book under review. An

introductory chapter by Lee E. Teitelbaum and Leslie J. Harris traces the history of the family and what was and is expected of it in the United States. The longest chapter follows, with a description and evaluation of the PINS processing applied to more than 10,000 young people every year in New York State for such offences as staying out late, disobeying parents, running away, and playing truant from school. Although boys outnumber girls among those brought before the court as delinquent, more girls than boys are subjected—in four cases out of five by their parents or relatives and in 60% of all cases by their mothers—to the judicial process as in need of supervision. Detailed observations were made of PINS cases in 1972 in two family courts in New York State: that for Manhattan and that for Rockland County. In Manhattan, the law guardians were found to dominate the court, which 'is a court not of laws, but of personalities'. In Rockland, where 'adjudication as PINS is virtually certain', the probation service is dominant: "Just before the dispositional hearing occurs, the probation officer meets privately in chambers with the judge and law guardian and lays out his/her proposed disposition. This is almost always accepted."

Fré LePoole traces the counterparts of the PINS jurisdiction in France, West Germany, England, Sweden, and especially Holland, where the major *Sosjale Joenit* (Social Unit) test case took place between 1971 and 1973. Briefly, one of two social workers charged was convicted on appeal, after an initial acquittal and after a total of five trials, of hiding a girl aged fourteen who had run away from home. He refused, without her agreement, to disclose the address of the children's home where he had lodged her, either to her parents or to the police, and when he finally supplied the address to the police he alerted the home so that the girl could be moved before the police arrived. Anne R. Mahoney concentrates on the parents who invoke the law to assert their dominance over their children, and suggests that it may frequently be the children who require institutional support to obtain a "divorce" from parents. Alan Sussman analyzes the preponderance of girls brought to court under the PINS jurisdiction, most of whom are charged with non-criminal behavior, usually with a sexual connotation (or, to quote Aidan R. Gough: "general sex innuendo" (whatever in God's world that may mean, if anything)). The possibilities of attacking the jurisdiction for vagueness are considered by Al Katz and Lee R. Teitelbaum, and Lindsay A. Arthur mounts a spirited defence for its retention. The two final chapters, by Floyd Feeney and Aidan R. Gough, press for abolition of the PINS jurisdiction and, most important, consider alternatives. Attention is drawn in particular to two experimental projects carried out in California, somewhat along the lines of the Family Guardian appointed in the Netherlands and West Germany.

The Sacramento 601 Diversion Project showed very successful results with short-term family crisis therapy replacing court hearings. It also showed impressive savings in terms of cost and resources. In the second project, carried out in Santa Clara county, each police department in the county attempted to resolve the problem at the local level without referral to either the probation department or the juvenile court. The project exceeded the proposed target, which was to reduce by two-thirds the number of young people referred to the juvenile court and the probation service for beyond-control behavior. Co-operation from the young people concerned was noticeably greater than that forthcoming from parents.

Cash savings to the court and the probation service were estimated at U.S. $1,040,563 plus 27,715 work-hours over two years.

This seems to indicate one direction for further progress not only, I suggest, with respect to status offenders, but also other juvenile offenders. Both are indicia of family failure and, to quote Floyd Feeney (p. 257): "The issue . . . is not really whose fault the problem is but rather what is to be done about it." It would seem obvious that the solution cannot lie in isolating the child with whose upbringing the family is failing, subjecting the child alone to the judicial process and frequently detaining him with others similarly placed at vast expense to the public and great detriment to the child. The solution must lie in counselling and the attainment of minimum standards within the family setting (please note the use of the words "family setting" instead of "family unit". The family is not and must never again be considered as a static unit into which any of its members is locked. It is a constantly-changing complex of interacting relationships between each of its members).

Two programs in California have now demonstrated that developments on these lines are both more efficient and much cheaper than the existing system. It is now for other jurisdictions, including Alberta, to explore solutions along these lines, at a saving of public money, judicial and professional expertise and—not least—a happy and law-abiding future for the young.

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TAKING RIGHTS SERIOUSLY: By Ronald Dworkin. Harvard University Press. 1977. Pp. 295.

In 1971 John Rawls published *A Theory of Justice.* It is well known that this work asserts a version of the old social contract theory and the concept of individual rights which may not be overridden on the basis of the general welfare. It states and defends a liberal theory of justice.

Rawls' work was important for a number of reasons. It marked a return to grand normative theory in ethics.[1] It was no less than a systematic theory of social choice which drew on developments in a number of disciplines. These facts made the work of immediate interest to individuals outside the relatively narrow circle of professional philosophers.

The work was also of ideological significance. It defended liberalism at a time when "liberalism was becoming unfashionable, dismissed in smart circles as shallow compared with the deep (not to say unfathomable) truths of Hegel or a Hegelianized Marx".[2] Indeed, certain critics, among whom are many lawyers, suggest that Rawls' conception of justice is "a particularly subtle rationalization of the political status quo in the United States."[3]

1. For a more elaborate statement of these points see the Introduction to Reading Rawls. Critical Studies on Rawls' *A Theory of Justice,* (ed.) N. Daniels.

2. B. Barry, *The Liberal Theory of Justice,* at 4.

3. R. Dworkin, *Taking Rights Seriously,* at 82.