

Fall 1951

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Recommended Citation

Wladimir Eliasberg, Corruption and Bribery, 42 J. Crim. L. Criminology & Police Sci. 317 (1951-1952)

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CORRUPTION AND BRIBERY

Wladimir Eliasberg

The author received the M.D. from the University of Heidelberg in 1911, and Ph.D. (in Psychology) from the University of Munich in 1924. He was founder and secretary of the German Medical Society of Psychotherapy (1926) and, from 1928 to 1930, was Editor of the Congress reports and of the *Allgemeine Aertzliche Zeitschrift fuer Psychotherapie*. Dr. Eliasberg is author of 63 publications in American psychiatric, sociologic, legal and other scientific journals, and over 250 European publications. Among them are ten books including three on psychological aspects of propaganda and advertising, published in Vienna and Prague in 1936. His chief interests are in aphasia, forensic psychology, psychiatry and graphology. He is a Fellow of the American Psychiatric Association, and is engaged in professional practice in New York City.—EDITOR.

This paper is a discussion of corruption and bribery from the angles of ethics and psychology, of psychoanalysis, sociology and "kindynology".¹ It is offered as a possible introduction to a future jurisprudence of corruption. The revelations of the Kefauver Committee make it a crime against our generation to neglect thinking very seriously of the subject matter of this discussion.

Lawyers have not overlooked the social dangers caused by corruption and bribery. On the contrary, they may have been impressed with extra-legal viewpoints to the detriment of clear legal thought. Lawyers often assume that in the extra-legal fields more progress as to guiding ideas and systematization has already been achieved, than in their own field. In fact, much of our extra-legal knowledge of the ethics, etc. of bribery is still in the state of common sense-philosophy, which is a hybrid—neither common sense nor philosophy—and which compares neither with the direct life-experience of the plain man nor the systematic thought of the true philosopher and scientist.

In this paper I have attempted to present the extra-legal viewpoints as systematically as possible. This is done in the hope that the legal

1. "Kindynology" is a new word taken from the Greek (for danger). The lore of the endangerments has not yet been written. In fact, being in danger and in mental anguish threatens the entire dynamic energy of the individual or the group who feels so endangered, and lowers, in most cases, the level of aspiration. If and when such mental anguish is brought on a person by the carelessness, the neglect or the willful action of another this other person should be made liable for tort. "Whenever we speak of endangerment we mean that a person or a group wrongfully creates, or allows to persist, situations which, with reasonable probability, will expose other persons to risks in such a way that the person who has touched off the situation will no longer be able to influence it nor, by his action, avert the final effect." (H. Zangger)

The Swiss Heinrich Zangger, Director of the Zuerich Institute of Legal Medicine, Zuerich, Switzerland, has devoted more than 200 pages of his book "MEDIZIN UND RECHT, (Verl. Art Institut Orell Fuessli, Zuerich, 1920) to the cooperation of medicine and law in the problems of danger and endangerment. Zangger's above definition could be shortened thus: Endangerment is a condition which is avoidable on the strength of human volition and action. The condition is characterized by a higher than average probability of damage.

We want to point out in this introductory remark that bribery and corruption are typical endangerments of security, public welfare, socio-economic life and political life with all their consequences for the lowering of standards in all the above mentioned fields. Therefore the importance of a systematic "kindynology" or "kindynics."

treatment of our problem in the penal law and elsewhere will be benefited in various ways by a clarification of facts and concepts, and that this, in turn may lead to economy in law and enforcement. This last result should be desired by lawyers no less than by the people at large.

In no way should the present paper be construed as a subtle attempt by a non-jurist to trespass upon the legal field. What we have attempted rather is to prepare everything for the title-holder—the lawyer—to occupy and to cultivate, for the common weal, what by right is his patrimony.

I. HISTORICAL, ETHICO-POLITICAL, MOTIVATIONAL, SOCIOLOGICAL ASPECTS

One should speak of corruption only, when officials or persons of semi-official standing, or licensees who are deemed bound by ethical standards, accept something of negotiable value for which, on the surface, they do not pay. Corruption can be defined only by enumerating one or more legal concepts and comparing them historically, and in the light of international law. A survey of older and more modern American concepts yields the following: the makers of the Constitution were led by group-interests and partly, also, by self-interest. If the self-interest became too strong, it was considered improper, although not amenable to impeachment. Hamilton, as Secretary of the Treasury, showed "hesitancy in passing upon his own land claims but did not deem it incompatible with his official duties to communicate occasionally with friends, as to the probable prices of public securities and bank stocks . . . neither did he deem it necessary to inhibit his brother-in-law from dealing in securities".²

The American system of spoils and patronage since Andrew Jackson has time and again been considered proper because it enables the party in power to govern with the aid of officials who will be loyal. It has not been considered improper for a representative to put his wife or some other relative on the congressional payroll; it is not improper even if said employe does not work very seriously. But it is improper, for the employer to accept a kickback. Corruption is legally defined as: the "act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another".³ The emphasis is on *unlawfully* and

2. CHARLES A. BEARD: AN ECONOMIC INTERPRETATION OF THE CONSTITUTION OF THE UNITED STATES; The Macmillan Co., 1941, N. Y.

3. H. C. BLACK: A LAW DICTIONARY: 2nd Edition, West Publishing Co., 1910, p. 227.

wrongfully. Just what is in a given time, and place, considered unlawful or wrongful is not a matter of a priori ethics of conduct. It is the purpose, then, to find out the psychological, social-psychological and sociological bases on which ethical and legal concepts of corruption and bribery have been built, and to find out furthermore how in a changing world corruption and bribery in turn have kept changing. The latter will not, however, be taken up in this paper.

There are cases of red blooded corruption where the negotiable value does not appear on the surface, and on the other hand negotiable values, handy cash, which do not in themselves constitute full fledged bribery. Examples of the first constellation will be given later. The following case belongs to the second group: If a grateful patient gives a gift to his physician besides the usual fee, no one speaks of corruption. Albeit gifts have, as we will point out later, very particular psychological effects, the patient who makes a gift is not trying to secure something which other patients would not be able to secure without additional offers.

Free-of-charge offers have been discussed by economists, psychologists and advertisers. There are two types of such offers: those where, indeed, nothing is charged nor is any reciprocation expected, as e.g. in charity.⁴ There are secondly such apparently free offers which do not show in the bill but which raise the general level of the charges: thus, a hotel will not charge for the elevator but it has a higher basic level of charges than a walk-up hotel.

Acceptance of free gifts, if it is called corruption, is economically within the pale of the second type.⁵ If a bribe is given and accepted both parties are either explicitly or tacitly agreed upon this much: the apparent gift should be requited in some way. Furthermore, as we said above, the one who may be bribed is a public personality, especially an official.⁶

4. While the medieval donor expected redemption in exchange for his donations, the modern benefactor grand style, wants survival in the Hall of Fame or restitution of his good name. But such returns come only *pro rata* from the individual beneficiaries and it is not necessarily corruption if the public benefactor benefits privately, although the case approaches somehow Mandeville's notorious statement: "Private Vices, Public Benefits." At any rate it is only the relationship between the individual recipient (or his group) and the individual donor (and his group) that may deteriorate into corruption; example of the latter: so-called government slush funds.

5. KARL MARBE: *PSYCHOLOGIE DER WERTREKLAME*, Stuttgart, 1930; W. ELIASBERG: *REKLAMEWISSENSCHAFTEN*; Verl. Rudolph M. Rohrer, Bruenn, Prag, Leipzig, Wien, 1936. SAME: *ARZT UND PROPAGANDA*; Saturn Verl. Wien, 1936.

6. HAROLD D. LASSWELL: *ENCYCLOPEDIA OF SOCIAL SCIENCE*, Vol. 1, p. 690. Macm. 1932, N. Y. finds that to bribe is to control by means of tangible inducement rather than by persuasion or coercion. In this definition the means are stressed and the motivation is omitted. In that same article Lasswell mentions that an offer of money may shade over to such less tangible forms of influences as calculated sociability. Even with this addition the definition is insufficient. Bribe implies that a choice remains for the recipient as well as for the donor. Otherwise we should have to speak of extortion or imposition. But where there is a choice there is motivation (see later in the text) for such choice.

Historically this has not always been the case and a short survey of the historical changes in the concept of the obligations and duties of officials is worth while. The Greeks⁷ and the Romans held that knowledge and science, ideas and philosophical insights, education, the performance of religious rituals and government in its judicial, legislative and executive branches should be above the level of money, fee, etc.

Epistemology, the theory or science of the method and grounds of knowledge, was deemed invaluable. This, of course, was connected in antiquity with the underestimation of paid work. The changes in the meaning of the Greek word *Banausos*, (originally a stoker, later a craftsman and finally anyone hiring himself out for paid work), give away the story. Aristotle in his *Politics* divides the workers into two groups; slaves who serve one master and *banausi* who have to obey anybody. The same way Cicero says: *Nec vero quidquam ingenuum potest habere officina*.⁸ It is worth mentioning that in the Middle Ages the crime of simony was just the selling of spiritual, immaterial, religious, clerical goods for mundane profits. "You must not desire to buy the gift of the holy ghost."

In his "Philosophical Disquisition on Money," George Simmel⁹ has shown that money creates merely functional relations between people. Sociological and psychoanalytical¹⁰ investigations of capitalism concur in this one finding: Leading types of financiers are extremely retiring and impersonal in their human relationships; in other words the functional character of money and the functional character of the financier¹¹ meet halfway. We will see later that this functional character of money plays a particular role in bribery.

7. Cf. the excellent and profound study by THEODOR LOEWENFELD *Inästimabilität and Honorierung der Artes Liberales nach Roemischem Recht*. Aus der Festgabe der Münchner Juristenfacultaet zum Doctorjubilaemum des Herrn Geheimen Rats und Professors Dr. Joh. Jul. Wilh. von Planck, Muenchen, Christian Kaiser, 1887.

W. ELIASBERG: *ZUR KULTURGESCHICHTE DER PSYCHOTECHNIK KWARTALNIK PSYCHOLOGISZNY*, Poznan, 1936.

W. ELIASBERG: *PSYCHOLOGIE DER HOEHEREN GEITIGEN BERUFE NEDERLANDSCH TIJDSCHRIFT VOOR PSYCHOLOGIE*, 1938.

A. AYMARD: *L'IDEE DE TRAVAIL DANS LA GRECE ARCHAIQUE*. *JOURNAL DE PSYCHOLOGIE NORMALE ET PATHOLOGIQUE*, No. 1 1948.

8. CICERO: *DE OFFICIIS*, I, 42.

9. GEORGE SIMMEL: *DIE PHILOSOPHIE DES GELDES*; Munich and Leipzig, Duncker & Humblot, 1920.

10. Q. PFISTER: *DER SEELISCHE AUFBAU DES KLASSISCHEN KAPITALISMUS UND DER GELDGESTES*. *Schriften zur Seelenkunde und Erziehungskunst*, H. VII, Verl Ernst Brichner Bern, 1923. The much broader investigations by MAX WEBER: *GESAMMELTE AUFSATZE ZUR RELIGIONSSOZIOLOGIE*, I. TUEBINGEN 1920. *Die Protestantische Ethik und der Geist des Kapitalismus*. ERNST TROELTSCH: *DIE SOZIALLEHREN DER CHRISTLICHEN KIRCHEN* which appeared in Germany in 1912, translated by Olive Wion, New York, 1931. *THE SOCIAL TEACHINGS OF THE CHRISTIAN CHURCHES*. (Macmillan).

11. LINCOLN STEFFENS: *CHARACTER PICTURE OF WEYERHAEUSER* in his *Autobiography*, Harcourt Brace, N. Y. 1931.

As for those whose activities are carried on within the frame of modern civilized national life, and for the officials, too, continued attitudes and obligations are required.

This holds true also for the professions. Should the individual professional man not find it in his conscience, to observe an established, often antiquated rule, it is enforced by the professional association to which he belongs. The enforcement in business may be more along the lines of mores, folkways, rituals and taboos and is on the whole effective enough. For the official there are solemn ceremonies such as taking the oath, hierarchical supervision, promotion and demotion, and specific rules in the particular branches of the services. There are, moreover, strictly regulated ways of accession, tenure, discharge, rights to pension, etc. At present, the general obligation of the official consists of an orderly and impartial discharge of his particular duties in such a way that the general welfare is promoted.¹²

Why are such general obligations of the officials and semi-officials vitiated by the acceptance of benefits? Such benefits are offered by a person who in some particular case wants definite action possibly to the detriment of someone else or¹³ to the detriment of public welfare. At any rate such action is supposed to be wrongful in various senses; a.) such offers and acceptances are prohibited by positive laws. b.) there is danger that such action will be harmful to private and public interests. c.) the equality before the law and due process of administration are harmed by such actions.¹⁴

The assumption of a definite point-to-point-relationship between the act of bribery and the action to be expected is incorrect in various respects. From the legal, the social-psychological and the motivational points of view it is important to note that a reciprocity, a *Do-Ut-Des*, a value-for-value-relationship is rather the exception than the rule.

But we have first to consider the general political and sociological background of corruption. Corruption on a large scale is observed on the political scene, if and when the political power is no longer vested in that class which still has economic power. Such separation of powers

12. In times gone by only the welfare of the prince mattered.

13. The one damaged may be a competitor or an employe or an authority, such as the Federal Government. Cf. EDWIN H. SUTHERLAND: *WHITE COLLAR CRIME*, Dryden Press, N. Y. 1949, PP. 180, 217, 233.

14. The voluminous British literature on Secret Commissions, etc., edited by the Secret Commissions and Bribery Prevention League. The British law dates back to 1906, ALBERT CREW: *THE LAW RELATING TO SECRET COMMISSIONS AND BRIBES, CHRISTMAS BOXES, GRATUITIES, TIPS, etc.* The Prevention of Corruption Act of 1906, Putnam & Sons, London, 1913. The German literature has dealt with the criminal aspects of bribing and officials: MAX HEISE: *BESTECHUNG UND BESTECHLICHKEIT*, H. Adler, Greifswald, 1909 (Corruption and Corruptibility). There has also been a voluminous German literature on the problem of acceptance of benefits by employes. (*UNLAUTERER WETTBEWERB*—unfair business practices).

becomes the more accentuated, irrespective of the form of government, the more the polity is democratized. In the democratic polity political encroachment on economic power continues to increase. Therefore, the increasing tendency on the part of business to neutralize political with economic power. Thus corruption of individual officials is followed by the corruption of governing bodies. Rebecca West in her very clear report on the recent investigation of corruption within the labor government,¹⁵ has shown how in the back of the mind of many of the leading officials and politicians there is the idea of securing some position with industry once the political "plums" will have withered away. Social-psychologically there is no great difference between corruption of politicians and officials, especially not in the parliamentary system as in England where members of parliament or otherwise deserving members of the party get leading positions in the executive branch. Public opinion holds that it is the duty of both the public officials and the politicians to discharge their obligations honestly. Said Lord Russel¹⁶ in introducing the Prevention of Corruption Act: The evil of the commissions blunts the sense of honor and honesty.¹⁷

There is one more reason why in a democracy corruption is more disruptive and this has come to the fore in France at the time of the Stavisky scandals in February 1934, in the Barmat and Sklarek scandals in Germany in the '20s, as well as in the Sidney Stanley-John Belcher scandal in England, 1948-49. In modern marketing branded merchandise represents good will and belief when knowledge is not available to the consumer. We have known a time in the beginning of the modern age when knowledge did supersede belief. We should face the fact that in modern democracy, owing to its bigness, belief has to supersede knowledge!

BELIEF IN WHAT? BELIEF IN MOTIVATIONS

Motivations are for practical purposes¹⁸ very similar to attitudes. Gordon W. Allport writes: "An Attitude is a mental and neural state

15. REBECCA WEST: *The Tribunal that Stirred England*; HARPER'S MAGAZINE, June, July, 1949. (The parallel among the English, French and German scandals is pointed out in the text).

16. LORD RUSSEL: Quoted from R. L. LEONARD in WOMAN AND BRIBERY, London, The Bribery Prevention League.

17. Pearl S. Buck, to the contrary, thinks that Americans should learn from the Chinese that art of stripping life of a useless romanticism and should accept life as is and find it worthwhile, grafters and all. P. BUCK: "The Chinese Attitude Toward Graft"; *Harpers Mag.* Jan. 1935 (The Chinese may not have known modern democracy, after all!)

18. W. ELIASBERG: *The Closeup of Psycho-sexual Gratification*. J. OF NERV. AND MENT. DISEASE Vol. 99, No. 2, Feb. 1944.

of readiness, organized through experience, exerting a directive or dynamic influence upon the individual's responses to all objects and situations with which he is related."¹⁹

The difference between this concept of attitude and my concept of motivation²⁰ is the following: in motivation emphasis is put on consciousness or potential consciousness instead of on the physiological and neurological readiness. Motivations themselves or the patterns of action derived from them will at some time in the individual development become conscious. An adult person will know that in a certain situation he is expected or expects himself to act in a certain way. Motivations resemble neither the personality nor the situation, neither the drive nor the law, neither the emotions nor the observances, neither the volition nor the social compulsion. The motivation is rather the diffusion membrane between the personality system and the situation system.²¹

Motivations are built up in the various phases of the individual's life from boyhood to adolescence, to adulthood and to old age. This is a slow process and by analogy to a well known biological law, according to which late achievements crumble first, motivations are highly vulnerable. They are, as has been wittily remarked, soluble in alcohol but while, after such a disappearance owing to a spree, most of the motivations usually will reappear, they will not do so if exposed to the acid test of bribery. On the contrary, lasting deviations from the path of honor may be the result of even the puniest bribe.

In addition to the sociological considerations there are also psychological reasons for the far reaching effect of corruption. Why is the man who has once been caught in a lie no longer trusted? Not because his next statement is met with an associative recollection of his lie, but because we all assume that the purposive actions of human beings in civilization are motivated by lasting motivations. Thus we feel that the acceptance of unlawful benefits in a single case was possible only because there was already a vitiated attitude.

19. GORDON W. ALLPORT in HANDBOOK OF SOCIAL PSYCHOLOGY, CARL MURCHISON, Editor, Clark University Press, Worcester, Mass., 1935, Ch. 16.

20. W. ELIASBERG: and co-workers: BEITRAEGE ZUR ARBEITSPATHOLOGIE, Berlin, Karger, 1931.

W. ELIASBERG: GRUNDRISS EINER ALLGEMEINEN ARBEITSPATHOLOGIE, Joh. A. Barth, Leipzig, 1924.

W. ELIASBERG: RECHTSPFLEGE UND PSYCHOLOGIE: Verl. Carl Heyman, Berlin, 1932.

21. For further detail see:

W. ELIASBERG: DAS ZWANGSERLEBNIS UND DER SOZIALE ZWANG ZTSCHR. F. D. GES NEUROLOGIE UND PSYCHIATRIE Bd. 126, H. 3/4, 1930.

W. I. THOMAS AND F. ZNANIECKI: THE POLISH PEASANT IN EUROPE AND AMERICA; Analysis by HERBERT BLUMER in CRITIQUES OF RESEARCH IN THE SOCIAL SCIENCES: I, Bull. 44, 1939.

W. ELIASBERG: FORENSIC PSYCHOLOGY; SOUTHERN CAL. LAW REVIEW; Vol. XIX, No. 4, July 1946.

II. SOCIO-PSYCHOLOGICAL, PSYCHOLOGICAL, PSYCHO-ANALYTICAL ASPECTS

Psychology can teach us more. Meeting each other in a friendly way is a strong force in social life. We react in a sympathetic way to the one who meets us in a sympathetic manner. Thus any single action of sympathy even a mere gesture may create obligation. And it should be stressed that those rungs of kindness from the fleeting "idealistic" gesture to the lasting material object are, psychologically at any rate, steps on one ladder. Thus, corruption very often does not start with that purposeful sub-surface understanding which we mentioned above but with an open handshake. And very often the noose is put around the neck of the victim without his noticing that he is becoming ensnared. As the poet says of the beginnings of love:

You meet by accident, you feel you stay
And by degrees your heart is tangled—
And there's a neat romance complete 'ere you know

What the giver experiences is quite similar. It is again Georg Simmel²² in his Sociology who has analyzed the meaning of the gift: such meaning is first in the act of giving itself which is the expression of the love, the sacrifice, the expansive mood of the one who gives (see above). But on the other hand the meaning may be in what the gift achieves, i.e. that the recipient should be possessed of certain material, thus uniting the giver and the recipient in the act of giving as well as in the transfer of the gift.

But here danger lurks. In the normal act of giving, the gift wears out and loses its charm very soon, often too soon. Thus from the lover's hands an endless chain of gifts and charms will flow. *Des petits cadeaux entretiennent l'amitié.* In the normal act of giving the giver and the recipient are in a very specific relationship. The giver is, at least in this particular act, the superior. Thus the child receives gifts from the grown up and the beloved one from the lover. If this order is changed, if the weaker gives to the stronger, something may be going wrong and suspicion is aroused. We will remember those gifts of vanity in ancient imperial Rome (see footnotes 4 and 7). But things may be much more wrong from the angle of social psychology. It has been said that the Tzarist absolutism was mitigated by corruptibility and it is of course the weakest minorities which are using this method of mitigating oppression. We may recall, also, our own "sub-surface new deal," so-called—

22. GEORG SIMMEL: SOZIOLOGIE, Duncker and Humblot, Berlin, 1908.

that whole system of political corruption based on monies, stemming from prostitution, illegal gambling, policy racket, etc.

What is the role of the minority in corruption? The complete similarity of German, French, English and Tzarist Russian cases (see footnotes 14 and 15) allows us to derive some general laws. The oppressed minority certainly does not of its own create oppression or the necessity of mitigating oppression by bribes. That oppressive government is a "pathological" abnormality is shown by, among other symptoms, a diminished resistance to corruption and bribery. Once the basic conditions of diminished resistance of the oppressor and increased distress on the part of the oppressed exist, some specific psychological conditions will guide the selection of those individuals that will come to the foreground. We will refer later to the psychological rules.

Suspicious may also be vouchsafed where the donor and the recipient are equals. Indeed very important "side effects" may be observed. The gift does not wear out normally, it is not forgotten, it is repressed in the psycho-analytical meaning of the word. One resists the recollection actively. Even more active is the type which is described in the saw: "Ingratitude is the way of this world." Here the obligation is not forgotten or repressed, it is resented; it is requited with hostility.

Goethe in "Truth and Fiction" differentiates the wearing out type, the forgetful type of ungratefulness, from the resentment in superior men who were forced to accept "charity." By being ungrateful they want to regain their freedom of action.

Sum total: Sympathy and generosity will not always find sympathetic responses. We do not want to be under obligation.

But the corrupting gift bars the way back to freedom. Kindliness and sympathy have made us supine. From now on we can no longer forget or ab-react or repress. We are in the noose. Gratefulness, as our examples have shown, can not be an eternal bond. Corruption wants to create eternal bondage and it does so bind.

Thus the psychology of corruption makes it clear how necessary it is to fight it. But the fight is not easy. So far the weapons have been borrowed from the penal law and politics. But a definite success has never been reached in this way. No fusion party, no good government party has ever been able to live up to its promises. Nor have the campaign promises of the clean government parties ever rung with truth. Thus practical experiences show that it is necessary to turn to psychology and sociology.

Social psychology of corruption yields an aspect which is somewhat surprising to the man in the street. In big as well as in small corruption

the one who is bribed rarely succumbs to mere greed. It is not the *homo-economicus* who is endangered by corruption. He, after figuring what profits his unlawful action could bring, will think of his risks and finally, like a good business man, will feel that he must be indemnified for such risks. This indeed is the way the one who corrupts usually proceeds. Figuring his risks he would, as a good business man, retire from a "corruption-transaction," if his gain would not be considerably higher than what he could gain in the lawful way. But those who are corrupted are no five-percenters, no ten-percenters, nor twenty-percenters. They do not figure their risks, in fact they are very far from any sound business calculation.

Rebecca West has pointed out, in her already quoted article, astounding facts which are fully borne out by the above mentioned experiences in the twenties in Germany. More or less well salaried officials were caught with such pittances as three silken shirts, two bottles of whisky, a weeks' stay in some resort, all expenses paid, a cocktail party, some vague promise given by a shady character, some doubtful social contact or a mirage of a wonderful job for the rainy day. But the realities, the monies that change hands, are pittances. It is definitely psychology and not economic thinking which explains such cheap selling out as that of John Belcher, parliamentary secretary of the board of trade. Silken shirts are a luxury. It is as though the rustling of the silk lures. Luxuries flatter. And that one has the power to have luxuries without having to pay for them, without that indignation which goes with any financial obligation, without any "shelling out of dough" flatters and raises self-assertion. This is the psychology of those well-to-do people who will never go to a concert or to a theatre but on a courtesy ticket. They would feel humiliated if they had to pay as Tom, Dick and Harry must. They must go to the wicket "Reserved Seats" and must have it handed to them. The cheapness of corruption does not make it the less dangerous. In fact honesty is much more destroyed in such cases of cheapness than in cases where the one who took a bribe at least knew his price.

Who are the ones who can get their man so cheap? Rebecca West has described that fish-eyed, funny little man with the aureole of reddish hair, circling an otherwise bald pate, with his funny White-Chapel dialect, his limitless ambitions, his technique of sneaking up to people, of catching the mice with the cat and the cat with the mice—one of those "*Luft-Menschen*" as they were called in the European East, living in a milieu of gilded mirrors, in rooms, each one furnished in the style of another Louis; men, in short, eagerly looking for the

admission ticket, as Heine called it, and at the same time able to understand only the weakest spots of that civilization to which they seek admission. Most of these unassimilable people remain in their ghetto, content to live out their lives with or without the help of some sub-surface new deal. Some can't. But one should not be mistaken about the basic conditions of their existence. They are what in immunology is called super-infectious germs, meaning that they can thrive only if the tissue is already weakened by a primary infection. The fact that they thrive shows that there had already been a diseased condition. Usually, when they are exposed to trial, public opinion wonders how such shady characters could get to the peak; how they could make their contact with respectable people.

"Curtail'd of this fair proportion

"Cheated of feature by dissembling nature

"Deform'd, unfinish'd. . . ."

not only linguistically but otherwise, too. Their legal judges as well as public opinion point their finger and feel "holier than thou". But in fact such reactions are perfectly useless and even worse than that, as far as prevention goes.

III. PSYCHOLOGICAL AND SOCIOLOGICAL ASPECTS OF PREVENTION AND IMPROVEMENT

Considering the present set-up in our democracy which is governed by universal ballot and also by unequally distributed—financial powers, what can be done about corruption? The first aim would be to attempt to diminish the distance between economic and political power. This is a political problem which we do not intend to tackle in our context.

In democracy there should be much more careful and scientifically based selection of personnel than has been used so far. Vocational guidance, experimental psychology, applied psychology, psychoanalysis, sociometry, clinical interviews, questionnaires, graphological analysis, psycho-pathology, projective tests should not supersede, but rather cooperate with, the usual method of screening which we will call shortly, and unprejudicially, the F.B.I. method. In applying these methods there is, of course, no need to forego other checks such as congressional hearings, etc. in appropriate cases.

Apart from the carelessness, in character-selection in democracies, it is also a fact that those selected are not well versed in the techniques of handling people so as to avoid snares, and that they are haunted by the banshee of financial insecurity. This does not mean that cor-

ruption is unknown in aristocracy or in fascism or in monarchy. On the contrary it is more rankling in those systems because it is hushed up and because the aristocratic standard of life is higher. Corruption is more expensive in the aristocratic system both to the one who bribes and to the administration.

There is also the following difference between corruption in democracy, on the one hand, and in monarchy (aristocracy), on the other. Because there are more titles, medals, ribbons and honors available in monarchy, the universal human need for recognition can on the whole be better satisfied in a monarchy than in a democracy (Montesquieu). And here we indeed may point out a way to partial prevention of corruption. Satisfaction of the need for recognition belongs in the broader field of sympathetic social contacts. And sympathetic contacts are apt to diminish tensions,²³ "contractions," introversion, egotism, etc., which are in an atmosphere of better human understanding replaced by expansion, extraversion, altruism and the concomitant motivations. It is easier, *ceteris paribus*, for a sympathetic, altruistic, expansive man to stay honest than for an introvert egotist. Therefore, love, courtesy in the vehicular and social traffic, taking it easy, the whole atmosphere of increased sympathy is preventive of that disease of public life—corruption. Corruption belongs in the line of social destruction which threatens whenever the libido demands of human beings (not only the common man as S. Freud thought) are not sufficiently satisfied.²⁴

Sympathetic contacts may be both tangible and abstract, the latter being oriented on abstract orders, laws, statutes, rules, etc., a fact which is usually taken to refer to the one kind of tangible rub-elbow contact. But the abstract order, too, is amenable to sympathy.²⁵

SUMMARY

Although the functional character of money brings corruption and bribery to its peak, merely functional, economic definitions of corruption stressing the "means" are incomplete. The importance of bribing

23. We do not believe that a "state of tension" (individual or group tension), though it may precede "all marked or radical changes in routine behavior criminal or non-criminal" (STUART LOTTIER, A TENSION THEORY OF CRIMINAL BEHAVIOR, AM. SOC. REV., Vol. 7, No. 5, Dec. 1942, p. 846) will shed any too much light on the particular problem of corruption and bribery, at least not in our present stage of knowledge. Tensions which may cause any change of behavior, and neurosis too, do not contain the solution of any particular problem. (cf. DONALD R. CRESSEY, *The Criminal Violation of Financial Trust*, AM. SOC. REV., Vol. 16, No. 5, Dec. 1950, p. 738 ff).

24. SIGMUND FREUD: *MASSENPSYCHOLOGIE UND ICH—ANALYSE PSYCHOANALYTISCHER* Verlag, Leipzig, 1927.

25. W. ELIASBERG: *PSYCHIATRY AND PROPAGANDA J. OF NERV. AND MENT. DIS.*: Vol. 101, No. 3, March 1945.

lies in the motivation or psychological changes it touches off in both the giver and the recipient.

For an understanding of corruption both sociological and psychological viewpoints are necessary. Among the former the most important is the increasing separation of the political from the economic power and the interrelationship between oppressed, underprivileged, unassimilable minorities, on the one hand, and on the other hand corruptible government, officials or persons of a semi-official standing. Important in democracy is also the specific degree of corruptibility which is, if not quantitatively at least qualitatively, different from the specific corruptibility in other forms of government.

Psychology is called upon to explain a.) the normal non-corruptive actions of making gifts and donations and b.) the fact why certain character types play a part among corrupting and corruptible individuals.

Corruption is a psychologically unsatisfactory and incomplete, legally wrongful and motivationally unethical substitute for public sympathy.

The necessity of sympathetic human relationships for the prevention of corruption in democracy is shown.

Among the many factors that cause the multiplied feeling of insecurity and endangerment, corruption has come to play the most important role. Lawyers will have to cooperate with sociologists, psychologists, social engineers, reformers and others in building dikes against the flood of evil. So far this has been done by way of criminal action. But criminal procedure, hedged as it is and should be by many guarantees of due process of law, cannot easily follow the meanders of corruptive practices. The general trend should be to take care of the damages in litigation rather than in criminal action. At any rate it would be advisable to admit action by competitors, employers, union members and taxpayers much more than heretofore. Criminal sentences in themselves may only very incompletely satisfy the sense of justice and the indignation at injustices.

APPENDIX

The Kefauver investigation has brought us again a spate of well intentioned suggestions: "Legalize gambling and there will be no organized crime!" One might as well say: "Legalize bull fights, (giving outlet for aggression) and we won't have any wars." Neither is organized war "discharge" of individual aggressiveness nor organized crime the release of the so called gambling instinct. The organizers

of crime in connection with gambling should not be called gamblers, but criminals.

Organized crime originates a.) from the big stakes and takes, and b.) from the basic fact that in a democracy economic and political power are no longer vested in the same stratum. With the big stakes there has always been a tendency to get by way of terror, conspiracy, fraud, buying legislatures what one cannot get in the democratic way or by propaganda. Politicians and gangsters and the big interests have been in an unholy alliance, not only for the exploitation of gambling. One remembers Gustavus Meyer's book on the "History of Big Fortunes in America," Fords vigilantes, his organization of whole communities as his domain, buying off judges, police, county sheriffs, county councils, and legislatures included. The latest Cleveland scandal with the president of a big and respectable business firm hiring shady characters to fight against unionism has just been brought out. In gambling, business, too, there are big stakes, monopolistic tendencies, and there is ample living room for muscle men and their organizers.

The answer, then, to our problem would not be legalization of gambling, but nationalization, e.g., in the form of a national lottery, which would force private interest to retire from the cultivation of "the gambling instinct." One source of gangsterism would in this way be dried out.

A proof of the sociological and socio-economic theory of gangsterism can be derived from the so-called English honesty, the absence for quite some time of organized political crime and organized crime in connection with gambling in the 19th and 20th centuries. First one should keep in mind that in the 18th century with the *Bourgs pourris* there was much rotten in the state. However, some real political power has been left with economic leading strata up to Lloyd George and later, and therefore there was no need to buy politicians or use terror methods. This and no mysterious quality of the English race, no traditional honesty, was the wall against political gangsterism and mobster politics in England. It may be anticipated that if the leading groups are progressively divested of political power without at the same time losing their financial power, our typical ills will put in an appearance in England too.

What are the lessons to be drawn from the congressional investigations? It has been American tradition to give the public the facts and let the public take action. It certainly is important to shed light on the local ramifications. But the illness is a generalized and systemic one and therefore not amenable to local treatment. If here and there

an honest sheriff, an honest district attorney, an honest mayor, an honest police chief tries to do something, the fry just leaves the boat and migrates into the neighboring county or state.

The legal mind has so far been sticking too much to the microscopy of the local process, the localized illness and we have been spending much money just on this. But autopsies, even if helped by the microscope, won't achieve any too much. Some of the money should be earmarked for the microscopic observation by those who can see the forest in spite of the trees—i.e. for sociological and psychiatric research to be applied to power politics.