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Book Reviews

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NOTES AND ANNOUNCEMENTS

Ninth International Congress of the International Association of Penal Law To Be Held in The Hague.—The Ninth International Congress of the International Association of Penal Law (Association Internationale de Droit Penal) will be held in The Hague, Netherlands, from August 24 to August 30, 1964. The four topics selected for discussion, on the basis of the national reports submitted by a substantial number of national sections of the Association, including the American National Section, are as follows: (1) Aggravating Circumstances—except consideration of additional charges of recidivism; (2) Offences Against Family

and Sexual Morality; (3) The Role of the Prosecuting Organs in Penal Proceedings; (4) International Consequences of Penal Judgments. The official languages for the Congress are English and French. The Netherlands National Section of the Association has planned a substantial social program. Professor Dr. J. M. van Bemmelen of the University of Leiden is supervising the plans for the Congress. Inquiries about participation should be directed to the President of the American National Section, Professor Gerhard O. W. Mueller, New York University School of Law, New York 3, New York.

Meetings of the
NATIONAL DISTRICT ATTORNEYS' ASSOCIATION
for 1964

Mid-Winter Conference, March 3-7, 1964—Phoenix, Arizona
15th Annual Conference, August 17-22, 1964—New York City

BOOK REVIEWS

Edited by
C. R. Jeffery*

SOCIETY AND THE LAW: NEW MEANINGS FOR AN OLD PROFESSION. By *F. J. Davis, H. H. Foster, Jr., C. R. Jeffery* and *E. E. Davis*. New York: The Free Press of Glencoe, 1962. Pp. vii, 488. \$6.95.

LAW AND SOCIOLOGY: EXPLORATORY ESSAYS. Edited by *William M. Evan*. New York: The Macmillan Company, 1962. Pp. ix, 225. \$5.00.

The development of a subdiscipline seems to be reflected in a definite pattern of publication in the

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field. At first there is a scattering of defining and programmatic articles. These are followed by systematic researches, usually narrow in scope and without much of a theoretical framework and sometimes without good technical methodology. The quality of the research gradually improves; the demands for the use of the best available methodology are expressed and are increasingly met; systematic theories are formulated, and programs of research are envisaged within their framework. While the latter developments are occurring someone produces a book of readings. In fact, several such are published, either of a

comprehensive nature or dealing solely with one aspect of the subdiscipline. Finally, a systematic textbook is produced by one or two authors who attempt to integrate the research and theory in the whole field. The subdiscipline has then "arrived"; subsequent researches are generally of adequate quality and subsequent general works are systematic and scholarly.

The sociology of law has been in the stage of producing programmatic articles, with only a few systematic researches, for at least a half century. The output has been large enough in quantity, though hardly in quality, to justify a summary work. This is provided for the first time in the book authored by Davis and his collaborators. The authors have done nobly. They have systematically scoured the field, integrated the almost random ideas and researches, and tried to make sense and order of this inchoate subdiscipline. While the four authors reside at four widely separated locations, and have differing occupations (two professors of sociology, one professor of law, and a practicing attorney), they were able to work closely together. Their product is the only text that could be used in a course in the sociology of law, and it could also be used in courses in jurisprudence and introduction to law. Law teachers should find it indispensable, and sociologists, as well as other social scientists, will find it a useful and respectable work.

The book is in three distinct parts, dealing with law and social organization, law and social change, and lawyers as a professional group. The first part takes law as a type of social control for its theme; I would have preferred to see it examine law as a framework for social institutions—thus paralleling for social organization what the second part does for social change. Still, F. J. Davis, with some assist from his collaborators, does an unparalleled job of summarizing sociological jurisprudence and legal realism, and making a case for analyzing the law as a type of social control. His heavy reliance on the continental Europeans—Durkheim, Duguit, Levy, Hauriou, Weber, Ehrlich, Gurvitch, Timasheff—is perhaps a minor defect, for these authors were hardly equipped to deal with Anglo-Saxon principles of law; however, he compensates by also analyzing the ideas of Pound, Llewellyn, Cahill, Cairns, and M. R. Cohen. His definition of *law* is "the formal means of social control that involves the use of rules that are interpreted, and are enforceable, by the

courts of a political community." (p. 41) With this definition, he examines the institution of the statutes, the legal rules, the courts, the state and its power, international law, class domination, vested interests, and public sentiment. While sociological in orientation, Davis' chapters do not neglect philosophical issues. He closes the first part of the volume with a set of twelve hypotheses that could well serve as a framework for most future research in the sociology of law. These hypotheses are near-theory, and they suggest that the time may be coming when a systematic theory of the sociology of law can be developed.

The chapters on social change are much more concrete and get into substantive law. Still, F. J. Davis and Foster open this section with a general analysis of how the judicial process is related to social change. Aspects of "the case" are examined, the adversary procedure, law business, the lawyer as a craftsman, jurisdiction, remedies, enforcement, precedent, reasoning by analogy, appeals and probability, social policy as the "inarticulate major premise" in a judicial decision, the personality of the judge, interests and jural postulates. The substantive chapters are on public law, by Foster; concrete legal structures, by E. E. Davis; family law, by Foster; and criminal justice by Jeffery. The last two of these chapters ought to have a special interest for sociological students of the family and of crime. Sociologists tend to neglect the law and so miss an important factor that affects their subject matter.

The legal profession has been less studied by sociologists than most other professions, but the recent work of Smigel, Karlin, and O'Gorman should begin to fill the gap. Unfortunately, the authors of the book under consideration did not have this work available when they finished writing in 1962 and had to rely on the less sociological work of Riesman, Blaustein and Porter, Esther Brown, E. E. Cheatham, Currie, Harno, L. S. Nicholson, and the classic works of Pound, Wigmore and Llewellyn. Still, Jeffery's chapter on the legal profession and Foster and Jeffery's chapter on legal education are contributions in their own right. They make challenging use of cross-cultural comparative and historical materials.

Society and the Law is a work of systematic scholarship and provides a framework for future research in the sociology of law. The second book to be considered, *Law and Sociology*, is much less

than this. Whereas the first set of authors know their field and love it, the second set of authors have only a marginal interest in the sociology of law, with the exception of William Evan. Hence the latter volume is of much less value, and belongs to an earlier, essayistic, stage in the development of the subdiscipline. The book consists of a series of lectures offered in the late 1950's at Rutgers University, by David Riesman, Talcott Parsons, H. C. Bredemeier, T. A. Cowan, Hans Zeisel, F. L. Strodbeck, W. M. Evan, and A. W. Blumrosen. Much of the material is out of date: Riesman's personal observations, though insightful, have been supplanted by systematic research; Parsons says he has considerably modified his thinking since he gave the Rutgers talk; Strodbeck and Zeisel have published fuller accounts of their innovative research elsewhere. The book is not integrated, although Evan tries manfully to give it cohesion: for example, Blumrosen wanted to include his research on the history of labor law, and so this longest chapter of the book has only a few paragraphs relevant to the general theme.

The framework provided by Evan, Parsons, and Bredemeier is in terms of definitions and classifications, rather than of problems and hypotheses. The latter two seem unfamiliar with the heritage of the sociology of law. Blumrosen differs sharply with his colleagues in expecting that the sociology of law will deal with the substantive side of the law only, although he has made a notable contribution to research on labor law, using sociological concepts and research findings by Scott Greer. He would have sociologists engage in the research they have always done and leave students of the law to apply these to problems of the law. His suggestion may have some merit, in that there are already hundreds of sociological studies completed which could have significance for lawmen, but I doubt that many students of the law besides himself are going to pay very much attention to these studies. Sociologists will have to do the translating and the interpreting of their findings, *after* they find out what the law is really about, both by means of research reviews in law journals and by means of serving as expert witnesses in court cases.

The studies by Strodbeck and Zeisel demonstrate that the sociologist has much more to contribute than Blumrosen suggests. They can actually develop knowledge pertinent to legal procedure and provide a theoretical foundation for

jurisprudence (although no author in this book goes into the latter). The suggestive studies of Strodbeck and Zeisel still indicate a woeful ignorance of legal rules, and their research has limited usefulness because of this.

Cowan offers several suggestions as to how lawmen may aid sociologists. His discussion is both informed and insightful, but I doubt that sociologists can take much heed of his ideas until they learn more about the law. Riesman deals realistically with some of the barriers to effective communication between sociologists and lawmen. Most of the book reveals that these barriers have not been overcome, although Evan's own chapters give some ground for hope.

ARNOLD M. ROSE

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ORGANIZED CRIME IN AMERICA: A BOOK OF READINGS. Edited by *Gus Tyler* with an Introduction by *Estes Kefauver*. Ann Arbor: University of Michigan Press, 1962. Pp. xvi, 421. \$7.50

This is an extensive collection of readings from the voluminous and varied literature of the past 50 years that seeks to describe and interpret the numerous activities and counterdictions in American life often called organized crime. There are 51 selections, arranged under seven major subdivisions, each part or subdivision preceded by an interpretative analysis by the editor. In his "Introduction" the late Senator Kefauver says that the collection "will make a significant contribution to public understanding of and action against organized crime." (xii) There is, of course, included a considerable selection from the Kefauver Committee Report dealing with the Mafia as one axis of organized crime in America.

The seven parts or subdivisions of the book are: I, The Extent of the Underworld; II, The Matrix of Organized Crime; III, The Forerunner of the Syndicate; IV, The Evolution of the Syndicate; V, Anatomy of the Underworld; VI, The Mafia; VII, The Juvenile Syndrome. The editor's introductory essay preceding each part is often the best material in the section, provocative and written with sophisticated insight.

As in all collections, individual readings vary greatly in type and character. Thus there are the relatively scholarly selections on "Racketeering" and on the "Mafia" from the *Encyclopaedia of the*

Social Sciences (1930), and the polished analysis of Walter Lippmann's "The Underworld as Servant" (1931), set alongside the anecdotal sensationalism about the frontier from H. C. Owen's *King Crime* (1932). There is also a contemporary and equally disturbing excerpt from a Kansas City Grand Jury Report of May 4, 1961.

In the case of some of the selections there is a disappointing lack of follow-through. Thus, for example, there is the story of "An Underworld Convention" taken from the Final Report, Select Committee on Improper Activities in the Labor Management Field, U. S. Senate, 1960. It is in effect an outline of the government's case involving the meeting of alleged gangsters at Apalachin, New York, on November 14, 1957, in which a conspiracy to commit crime was said to have been worked out. The committee report is an interesting document, but it seems strange that no hint is given of the outcome, either in the editor's introduction or in the inclusion of a selection reporting the court findings in this case. There is no mention of the simple fact that the government's case collapsed and the allegations about criminal conspiracy were disallowed and rejected by the United States Court of Appeals. If the Apalachin meeting was indeed an underworld convention, the government failed to establish in court that any criminal activity was there planned or carried out.

It is of course clear that the "underworld" is the other side of the "upper world"—two sides of the same coin that is the structure and character of our civilization. An excellent statement of the problem of this interrelationship is to be found in the editor's introduction to "Part II, The Matrix of Organized Crime." Included in Part II is a selection from *20th Century Crime* by G. L. Hostetter and T. Q. Beesley (1933) which offers this arresting definition of "racketeering." "[It] is a combination of business, labor unionism, politics, lawyers, and the criminal underworld, the purpose of which is exploitation of commerce and the public through circumscribing the right to work and do business. . . . If all, or a majority of these five elements are not present . . . there is no racket in the true sense of the term. When one or more element is absent the racket project is doomed to failure, for it cannot exist for long without the ministrations of all." (Pp. 51-53, this collection)

There is in this formulation the implied corollary that the correction and control of organized crime involves the correction and redirection of several major elements of our contemporary society. In

our competitive democracy pursuit of group self-interest is an accepted and respectable goal. This brings on an inevitable struggle for the control of power and influence. This is the basic element in our politics—organization for the control of power—and this is likewise the essential object of organized crime. The participation of criminals in politics and of politicians in shady and criminal activity are part and parcel of the more generic struggle of competing groups and individuals for survival in the endless quest for place, position, and the control of power in our society.

Americans hold widely different views about the crucial questions of who or what groups are the really dangerous elements in our contemporary society. There is no unity on these questions, and our political battles are fought out with endless charges and countercharges about political opponents. What specific groups or sets of individuals are to be identified as involved in organized crime is often a matter of political group affiliation or identification. Thus the dust jacket describes the editor, Gus Tyler, as Director of the Department of Politics, Education, and Training for the International Ladies' Garment Workers' Union. In the past he was commissioned by the Fund for the Republic to do a study on the underworld. His selection "The Big Fix" (pp. 15-19) first appeared in the *A. D. A. World*, September 1951. There may be some Americans to whom some of these names suggest unpleasant or undesirable associations. Let us hope that no reader of these pages will jump to the conclusion that the book under review presents a slanted or biased point of view. That simply is not the case.

Organized Crime In America is a good collection of valuable materials on an important and often ignored aspect of our crime problem. Both editor and publisher should be congratulated on a thoroughly worthwhile production, useful for class reference and also well worth attention for general reading. It deserves to be widely read and pondered.

GEORGE B. VOLD

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DAS VERBRECHEN. VOL. II: DER DELINQUENT IM GRIFF DER UMWELTKRAEFTE. By *Hans von Hentig*. Berlin, Germany: Springer-Verlag, 1962. Pp. viii, 524. DM 59, —.

Whereas the first volume, sub-titled *Der kriminelle Mensch im Kraeftespiel von Zeit und Raum*

and reviewed here last year, presented a philosophy of crime within "a sociological frame of reference," the present volume deals with the delinquent as the product of his environment. The titles of the five chapters indicate the author's environmental orientation, namely, "The material crises of the masses," "The nations in crisis-war," "The dynamics of collective forces," "The problems of family groups," and "The victim as a part of his environment."

It would seem to me that, in evaluating von Hentig's present volume, a comment should be made with respect to von Hentig's approach in criminology that this reviewer has made in reviewing almost all of the author's previous writings: von Hentig is frankly a dyed-in-the-wool sociologist. His orientation, therefore, while eminently useful for all social scientists, also has a distinct disadvantage for those researchers and practitioners who are not sociologists. The concepts advanced by the psychoanalytical schools of criminology (from Freud to Aichhorn and the contemporary Glover) are completely absent. Of necessity, this absence limits von Hentig's contributions seriously, for I cannot see how any criminologist can afford to ignore the present-day advances in theory and practice, beyond those presented by sociology. It is, however, von Hentig's distinction that, despite these serious shortcomings, his books continue to be eminently readable and, for the interested researcher, continue to contain a wealth of material, mostly not found in any other literature of criminology, so far as I know.

Another unusual aspect of von Hentig's scholarship is that he is as much at home in American, English, and French literature as he is in his native German. Readers are reminded that one of his earlier works, *The Criminal and His Victim*, was published in English by the Yale University Press in 1948.

The book abounds in copious footnotes, which often make reading the text difficult. Von Hentig still uses footnotes instead of a bibliography. However, this book contains an index of subjects and authors. Like its predecessors, the book also abounds in statistics, tables, and graphs from many countries, the United States included. Many of the statistics cover the post-World War II period. For instance, in his chapter on "War," the author presents, among other statistics, tables on public health in the USA, such as venereal diseases between 1939 and 1944, and the incidence of mental

illness (manic depression and "dementia praecox") during the same period.

Of particular interest to me was the chapter on the problem of family groups. Von Hentig attempts sociologically to analyze the family, particularly the institution of marriage and the deterioration of marriage due to events of modern times, such as World Wars I and II. He tries by hundreds of examples to demonstrate that the theories fit his examples (rather than arriving at conclusions empirically). Von Hentig lists 17 "collateral causes" (*Mitursachen*) of marital conflict: drinking, immorality, disorganized life, laziness, abuse (*Misshandlung*), mental retardation, poor house-keeping, nagging, interference by other family members, uncontrolled temper, jealousy, extravagance, frugality (*Geiz*), physical defects, venereal disease, sexual frigidity, and excessive sexual demands. Von Hentig's list of causes may be of interest in itself: it shows his aloofness from other than sociological factors, and his use of factors ill-defined even for sociologists (e.g., what is "immorality"?); it also gives us a glimpse of those factors (we call them psychodynamic) which invade von Hentig's thinking apparently without his awareness. Of the emotional causes leading to suicide, von Hentig lists only two: family conflicts and anxiety in love (*Liebeskummer*); other causes (such as economic causes) he lists only in a footnote, as though they were of minimal importance. Von Hentig cites a case where a wife went to a draft board and initiated her husband's induction into the army, only to have a fit of remorse, which caused her to go back to the draft board and request it to cancel the induction of her husband in order to "give her husband another chance." Von Hentig calls this action, "an attempt at murder."

To reiterate: my allegiance to the scientist von Hentig is boundless as long as I take him with a pinch of salt: although he repeatedly aspires to be a psychologist (as, I suppose, do many sociologists), he is not a psychologist, either traditional or in the modern sense.

Von Hentig's book abounds in the curious mixture of the old German school of encyclopedic learning: Pitaval and Schiller are quoted, as are the Gluecks, Sutherland, Locke, and some psychiatrists and psychoanalysts, such as the late Robert Lindner and Henry Ellenberger. Generally, it seems to me that von Hentig prefers American sources, giving the German reader the impression

that American criminology is either more "interesting" from a cross-cultural and anthropological point of view or has more references to offer than has present-day German criminology. Only when von Hentig studies the constitutional symptoms of the criminal, does he approach Germany's still favorite school of thought, presently dominated by Kretschmer (never mentioned by von Hentig), the *Koerperbau und Konstitutionstheorie*, which in part derives from the nineteenth century theorist, Lombroso (whom von Hentig quotes only twice).

All told, the present volume (a third, to complete this series, is contemplated) still shows the "old hand." So far as I know, no one has asked von Hentig, the Old Man of Germany's criminology, to abdicate. I hope nobody will. Von Hentig is an institution in the world of criminology.

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WAR AND DELINQUENCY. By *Walter A. Lunden*.
Ames, Iowa: The Art Press, 1963. Pp. iv, 88.
\$2.50.

This little book is jammed-packed with stark information about the extent and spread of post-war juvenile delinquency and crime across half the world. The book is ably done. The covers are only 88 pages apart, yet contained between them are 50 charts and statistical tables and the author's lucid and illuminating interpretations of the statistical material. Each chart and table is a kind of pivotal point in a continuum of shattered and broken generations of youth.

Facts are presented for countries, counties, and cities. There is some variation, but no matter how the facts are examined, with few exceptions delinquency has increased "during or after each World War," and juvenile offenses have become increasingly serious in their nature. And "today there is little difference between the zones of combat and the zones of the interior and destruction is almost as great within a city miles away from the front as in combat areas."

JAMES M. REINHARDT

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EXCERPTA CRIMINOLOGICA. An International Abstracting Service. New York: Excerpta Medica Foundation, 2 East 103rd Street, New York 29. \$31 a year.

THE OFFENDER. A Bibliography, compiled by *Dorothy C. Tompkins*. Berkeley, California: Institute of Government Studies, 1963. Pp. viii, 268. \$7.50.

Excerpta Criminologica is a journal published bimonthly, devoted to abstracting the literature in criminology and related fields. It is international in scope, and the contents include psychology, psychopathology, psychiatry, anthropology, sociology, social work, special groups, special offenses, antisocial behavior, prediction studies, the victim, prevention, treatment and punishment of offenders, resocialization, penal law, and criminal procedure and administration of justice.

The Offender is a reference work of titles published since 1937 and is designed to follow Culver's *Bibliography of Crime and Criminal Justice*, 1932-1937. This is a most complete and professional work, and it includes books, journal articles, popular articles, commission reports, and university theses and dissertations.

The indexing is excellent, and it utilizes three major subdivisions: the offender, factors involved in the making of the offender, and studies of the offender. Within each category are further divisions and subdivisions, such as drug offenders, street groups, minority group offenders, sexual offenders, the woman offender, economic conditions, family relationships, mental conditions, personality characteristics, studies of the probationer, tests and measurements, the House-Tree-Person test, Rorschach test, Szondi test, and prediction techniques.

There is a further grouping of items which is helpful to the reader. For example, the work of Sheldon and Eleanor Glueck is grouped in one section, followed by the application of their predictive techniques by the New York City Youth Board in another section. Thus, the major effort of library research has already been completed for the reader by the reference work which Miss Tompkins has compiled.

Every serious student of criminology will want these volumes in his library or available to him through an institutional library. Anyone responsible for teaching criminology at the college level ought to see that his library has these publications available as general reference materials.

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