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Book Reviews

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ers are of two types, the first being typical working class delinquents, the second being atypical middle class youngsters who are antecedently less generally delinquent and subsequently slightly more discriminate in their drug taking. Thirteen of the eighteen in Social Class 5 had previous convictions before drug taking, compared with ten out of the twenty-seven in Social Classes 1 and 2.

Certainly as Professor Chein says, "The relationship between drug taking and criminality is complex". In the U.S.A., where there has been considerable study of the problem conclusions are still tentative and largely dependent on the individual point of view. Harold Finestone sums up the position: "For those holding that criminality generally precedes addiction, addiction is regarded as incidental and not a problem separate from criminality. Conversely, those holding that addiction is usually the antecedent event tend to regard criminality as a by-product."²⁴ A former Head of the Federal Bureau of Narcotics is less equivocal believing that the "overwhelming majority of drug addicts belong to the criminal element".²⁵

Referring to Britain in 1962, Dr. Schur said, "The British experience certainly offers no support for the view that addicts are basically criminals anyway" and suggested that "crimes committed by American addicts are mostly due to the financial

²⁴ Finestone, *supra* note 20.

²⁵ BUREAU OF NARCOTICS, U.S. TREASURY DEP'T, TRAFFIC IN OPIUM AND OTHER DANGEROUS DRUGS (1939).

situation of addicts in the United States".²⁶ More recently, research indicates that there is support for the view that some drug takers are involved in criminal activities. Dr. Ian James's²⁷ study of heroin addicts in Brixton Prison showed that the addicts had begun criminality earlier than a control group of first offenders in Prison. In the Maudsley study twenty out of thirty-seven were known to have previous convictions. As far as the present study of drug offenders is concerned, many were involved in criminal activity both before and after taking drugs. Harold Finestone quotes a prominent American physician concerned with the treatment of addicts as stating that: "It is clear that the individual who is a criminal and has been convicted for misdemeanours or felonies is a far different person to deal with than the individual who is convicted . . . of being in possession of . . . drugs. Many difficulties arise as a result of treatment because of the differences between these two main groups. . . ." ²⁸ Yet Professor Chein warns us that "Much of what we know about drug abuse may be highly inaccurate—a consequence of mixing together in one massive heap cases that do not belong together". The present study has been at least an attempt to distinguish different heaps and to provide a basis for future research.

²⁶ E. SCHUR, *supra* note 17, at 140.

²⁷ James, *Delinquency and Heroin Addiction in Britain*, 9 BRIT. J. CRIMINOLOGY 108-24 (1969).

²⁸ Finestone, *supra* note 20, at 156.

BOOK REVIEWS

Edited by Bernard Cohen

JUDGING DELINQUENTS: CONTEXT AND PROCESS IN JUVENILE COURT. By *Robert M. Emerson*. Chicago: Aldine Publishing Co., 1969. Pp. vii, 293. \$8.95.

It is often said that the criminal justice system is really no system at all, but a loose federation of uncoordinated institutions. Robert Emerson's revealing study of the juvenile court belies this popular view. Clearly, police, courts and correctional institutions are engaged in a common enterprise, and it is just as evident that they are quite capable of co-operation to achieve the aims they share. Unfortunately, however, the common enterprise is self-preservation and the co-operation they offer one another, from the perspective of an outsider,

looks very much like collusion. When we are finished reading *Judging Delinquents*, the disturbing thought may cross our mind that perhaps it would be better for some purposes if the criminal justice were not so systematic.

Emerson's study borrows heavily from two separate sociological traditions. The first part of the book describes the social context of juvenile court. Readers familiar with the literature on formal organizations will find this study a valuable addition to previous monographs which have dealt with how the social and political context provides an impetus for internal change. Originally designed to initiate reforms in the treatment of youthful offenders, the juvenile court attests to the difficulty

of effecting institutional change. The court was quickly forced to all but abandon its lofty ideal of rehabilitation in order to gain cooperation and support of other agencies who did business with juveniles. The rule of organizational survival seems to be that it is easier to change goals than to modify the means of goal attainment. Emerson concludes his examination of the contextual influences on the juvenile court on a pessimistic note: "The contemporary juvenile court is the survival of a reform movement that has lost its vitality. What began as a radical social experiment has become routinized and institutionalized." (p. 77)

The corruption of goals does not invariably result in pressures outside the organization. Even if the social environment were less resistant to rehabilitation, the task of the juvenile would be hardly less difficult. Its job, as Emerson tells us, is not so much one of assigning guilt or innocence, but of deciding how best to treat the suspected offender and the problem is that no one knows what to do. It is their collective ineffectiveness that makes cooperation between police, courts, and corrections so possible, indeed so necessary. In the face of considerable uncertainty, they desperately need each other to reinforce decisions, conceal mistakes, and mollify the public. The court assumes a crucial role in this ceremony—it stands as the ultimate sanction for the institutions trying to prevent and control delinquency (the family, schools, and social agencies), enabling them to pass on the failures to the correctional institutions. As such, it is charged with the responsibility of making the delinquent aware of his blame worthiness.

In the second part of the book, Emerson uses to great advantage the other sociological tradition—what has come to be called ethnomethodology (alias, symbolic interaction). The best chapters in the book detail the mutual posturing by all parties to establish the "moral character" of the juvenile. Admirers of Goffman, Garfinkel and Scheff will recognize the scenario of moral degradation, no less frightening because it has now become familiar to us.

Those who have spent time in the courts may perhaps complain that the full horror of the court is not conveyed in Emerson's sober description of the process of adjudication. In many respects, however, the restrained tone makes the analysis all the more disturbing. A more legitimate criticism perhaps is Emerson's distance from the participants. At times, he seems to be relying more than he needs

to on indirect inference backed up by occasional anecdotes. For example, he rarely lets us see the juvenile court through the eyes of its participants especially the juveniles themselves.

On balance, however, the strengths of the book easily outweigh this defect. The scholarly quality of the book should satisfy the reader, its potential usefulness in courses should please the teacher, and the reform-minded activist should find *Judging Delinquents* a valuable point of departure.

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CRIME AND DELINQUENCY: A RATIONAL APPROACH TO PENAL PROBLEMS. By *Sol Rubin*. Dobbs Ferry, New York: Oceana Publications, Inc., 1970. Revised Third Edition, xx, 234, \$6.50.

Mr. Rubin is a lawyer by profession. He has served for many years as counsel to the National Council on Crime and Delinquency. He is well known for his significant contributions to the drafting of the so-called "Model Acts," i.e., The Standard Juvenile Court Act, the Standard Probation and Parole Act, the Model Sentencing Act, which are intended to serve as models for State Legislatures.

In approaching this revision of the basic concepts presented in his earlier publication of this work, the author raises the question of the relevancy of these "old standards" to the current times, which he defines as a time of wide-spread protest crimes—arson, looting, riots, and demonstrations. He answers this question by stating that it seems to him that now they are more relevant than ever.

"If we are ever to overcome the spirit of violence among us," he says, "it will only be through decency and legality in the law enforcement process, and through improved methods of treating convicted offenders, not in violent or illegal law enforcement, not in indifferent and calloused treatment methods for offenders."

Mr. Rubin claims that the recent years have seen *some* but *very limited* improvements in juvenile courts, probation, and parole services and their legal procedures. Thus, the author feels that there is need to *restate* the basic concepts upon which he feels needed reform can be instituted by the courts and correctional service institutions.

In his introductory chapter, Mr. Rubin explains that what perhaps distinguishes his approach to the study of crime and delinquency problems is his five-pointed viewpoint towards law, administration,

science, humanity, and responsibility, which he sees as interrelated. In brief, it might be said that he sees law and its administration in terms of its contribution to defining basic human rights and responsibilities, as adding to the dignity and self-esteem of individuals, as a protector of human rights, as basic to healthy personality development, and as a basis for a framework of action in correctional services.

From this vantage point, then, Mr. Rubin begins to analyze certain questions related to the definition of juvenile delinquency and the judicial handling of delinquents, sentencing and correctional problems related to youthful offenders, and to problems concerning sentencing, probation, correction, parole, and readjustment to the community of adult offenders.

In the final section of his book, Mr. Rubin reviews what he sees as failures and prospects of using scientific criminology as an aid to the correction of criminals. He urges that we dig much deeper than we have into the life histories and personalities of criminals in an attempt to better understand, predict, and control their behavior. He suggests that we conduct research on the impact on various treatments to modification of criminal personalities, and on the therapeutic aspects of correctional settings, processes, and personnel.

It would appear to this reviewer that Mr. Rubin's book would be worthwhile reading for all academicians and practitioners in the field. His definition of law as fundamental to both the development of individual personality and to a dynamic society, I feel, is sound. I would only add Blackstone's injunction that we remember that the natural law, which was designed for Man by the Creator, must be the basis of our positive law, both in its design and administration.

Further, it appears that Mr. Rubin presents seasoned arguments to support his case against what he feels is a series of long-neglected questions in the field. However, this long neglect may be due not so much to the fact that we have not been discussing the questions, but rather that we have not had a clearly defined statement of basic premises upon which we first could agree! Hence, Mr. Rubin's greatest contribution here may be his effort to get our thinking back in the direction of clarifying the first order of things—the Law. From this focal point we may find a base from which effective action can proceed in all related areas of the field.

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MASS PRODUCTION AND THE CONSTITUTIONAL IDEAL. Edited by *Charles H. Whitebread, II*. Charlottesville, Virginia: The Michie Company, 1970. Pp. xvii, 236. \$15.00.

This report, subtitled *Papers Presented and Proceedings of a Conference on Problems Associated with the Misdemeanor* (University of Virginia Law School) is a substantial cut above the usual run of works of this genre. The conferees let their differences show. It makes interesting reading whether one starts with the premise that our constitutional ideal of intricate criminal due process is unattainable at the Misdemeanor Court level because of sheer volume, or the premise that with sufficient will a way will be found.

The opening address by Dean A. Kenneth Pye focusses on what Dean Edward Barrett once phrased as "due process values and administrative imperatives." We are a rather lawless people. A typical large city with a population of 800,000 can produce 180,000 arrests a year, almost all for petty offenses. Various shrinkages, including reduction of major charges to misdemeanors, will reduce the felony case burden to 2,500, but a whopping 70,000 minor cases will remain even after pretrial forfeiture of collateral.

When a system reaches saturation point delays have a way of escalating. An increasing imbalance arises, as Pye notes, in favor of the defendant who on his own, or on advice of counsel, "waits out" the system. And as several conference participants noted, various aspects of our "constitutional ideal" can have a boomerang effect for example, search and seizure refinements, liberal pre-trial release procedures, and even police efficiency which further overloads a faltering system.

The question of counsel at the misdemeanor stage poses problems more practical than theoretical. In constitutional theory, as Dean Francis A. Allen noted, the two principal arguments supporting a right of indigents to appointed counsel in felony cases apply equally to misdemeanor cases. One is the equivalence theory that what a funded defendant can buy a poor defendant must be provided. The other is the theory that counsel is essential to the adversary system. But is the typical misdemeanor process an adversary method, or can it remain such under a case load which may reduce

both counsel-client conferences and hearings to 5 or 10 minutes?

Law is the deliberative use of reason. Can it find a home in the Misdemeanor Court under present conditions? Several conferees, assuming a negative answer, talked more of ways to reduce the mass of cases than to preserve the conventional adversary method and achieve higher output. Recommendations included plea bargaining to avoid trials; removal from the criminal code of various "victimless" offenses such as gambling, narcotics, prostitution; and large scale transfers to the administrative process—the ultimate American method not only of institutionalizing failure, but of embalming it. Suggested candidates for the administrative process included small civil cases, traffic offenses, minor criminal offenses, housing violations, business crimes. One conferee, Professor Lewis Katz, would abolish petty criminal courts as a total failure and substitute lay community councils—a suggestion more dramatic than mature, for without compulsion how could they work, and with compulsion how could they avoid the Constitution?

To all of these suggestions Chief Judge Harold Greene of the Court of General Sessions in Washington, D.C., issued a resounding no. Abolition of criminality is a legislative matter, and there is no sign of a popular movement to minimize or remove criminal sanctions. Nor do transfers of jurisdiction have any beneficial effect on critical shortages of legal and sociological talent caused by underfinancing. Nor is the dignity and authority of a court to be lightly cast aside regarding issues which to the litigants are explosive and not petty at all.

Conceding that mass production justice is relatively new but here to stay, Judge Green's solution is to meet it, as we met mass public education years ago, with enlarged facilities and expanded judicial and related personnel. This in turn could make appointed counsel for indigents meaningful, and he feels such counsel should be afforded by some kind of governmental subsidy—the Criminal Justice Act payment system, or the public defender.

In short, before we give up on the Misdemeanor Courts, says Judge Greene based on his own work, we should be certain that effective alternatives exist. We should first pour in money and talent, which we concededly have not yet done on any scale commensurate with need or our expenditures elsewhere.

I am not sure I believe the job can be done. But I would like to.

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PROBATION AND PAROLE: SELECTED READINGS. By Robert M. Carter and Leslie T. Wilkins. New York: John Wiley, 1970. Pp. XV, 694. \$10.95.

As the editors state in their preface, the purpose of this book is "to provide both student and practitioner with convenient access to some of the most significant literature in the field." This purpose has generated both the major strength and the major limitation of the book. The editors have certainly collected many of the significant selections on probation and parole, but have also compiled an anthology that is somewhat uneven with regard to selection quality.

The book is divided into six major sections dealing with probation, parole, supervision, legal aspects, research and prediction, and personnel. Thus, there is an initial consideration of probation and parole as distinct operations, followed by four sections that attempt to focus on what the editors identify as significant issues common to both probation and parole services.

The section on probation contains sixteen articles on the history and definition of probation, the standards for probation, the characteristics and problems of presentence reports, disposition decisions and sentencing. These statements are drawn primarily from *Federal Probation* articles and government publications. Section I is essentially a guide to the development of a philosophy and procedures for a modern probation office.

Section II, Parole, is less concerned with the existing practices, or as Carter has previously characterized them, the "myths of" probation and parole. The seven articles in this section consider what have frequently been identified as the basic problems of parole—the basis of selection for parole, the impact of decision makers on parole decisions, and the violation of parole as an organizational, as opposed to a behavioral problem. Furthermore, this section contains two previously unpublished works that are significant contributions to the literature. First, an article by Paul Takagi describes the "Role of the Inmate in the Prerelease Process," in which he reports the results of a small but informative study of the ways in which release decisions are affected by the pressure (partially created by inmates) to reduce the proportion of cases that are overdue. Second, the work

of Robison and Takagi considers the "Parole Violator as an Organization Reject." Both of these articles explore the issue raised by Martinson, et al., later in the book, namely that the most glaring weakness in parole and probation research is the absence of studies of parole as an organization and the concomitant recognition that parole decisions and outcome are reflections of behavioral (i.e., client and officer) and organizational dimensions. It is important to note that the anthology does not give explicit attention to the issue of organizational analysis.

Section III, Supervision, considers the alternative practices that can be utilized in supervising clients (not officers). In addition, there are articles on the usefulness of case records, and the problems of assessing probation outcome. As in Section I, the articles are basically descriptions of what is, with the exception of a new essay by the editors entitled "Caseloads: Some Conceptual Models." In a very concise and helpful way the editors discuss existing models of case assignment, and offer some samples of more complex models (essentially multi-classification, variable caseload models). The article makes very visible the issue of caseload determination, and offers a strategy for caseload experiments.

Section IV contains eleven articles on a variety of legal issues in probation and parole. These are drawn from a variety of sources and provide the reader with a comprehensive survey of the legal problems facing probation and parole.

Section V, Research and Prediction, is by far the most comprehensive aggregation of articles in the text. The traditional prediction articles (Mannheim and Wilkins, Ohlin, and Wilkins and MacNaughton-Smith) are combined with less frequently reprinted statements, that together provide the reader an excellent overview of the construction, problems, and use of parole prediction devices.

Section VI, Personnel, is the most uneven section of the book. There are seven articles: three from the *Manual of Correctional Standards*; the code of ethics of the Federal Probation Officers Association; and three useful articles (recruitment and retention, training, and socialization). However, the latter three do not constitute all or most of what could be said on personnel (e.g., there is nothing on volunteers and indigenous worker programs), and the section does not quite reach the level of the rest of the book.

In the above, I have attempted to display the

variation in quality of the articles contained in the anthology. I would suggest that the most obvious manifestation of this problem would come in the utilization of the book as a text or a supplementary text. If the course was part of a training or orientation curriculum, a certain subset of articles would be useful; however, if the course was more concerned with probation and parole as objects of research, another relatively independent subset would be selected.

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MILITARY JUSTICE AND THE RIGHT TO COUNSEL.
By S. Sidney Ulmer. Lexington: The University Press of Kentucky, 1970. Pp. 115, \$6.50.

There is a shrill quality about the current public debate on the nature of military law and justice. The harsh condemnations of military justice as offensive excesses of a totalitarian system have been matched by the strident and unyielding defensiveness of the highest Army spokesmen. For those grown weary of the rhetoric or suspicious of the one-sided presentation in Sherrill's widely-read *Military Justice Is to Justice As Military Music Is to Music*, this little book by Ulmer provides a welcome relief.

And it is a little book. There are less than one hundred pages of text, small pages, and some chapters are as short as three pages.

A sense of objectivity begins with the historical review of the United States legislation on military law in the first half of the book. As military law evolved from the 1790 Federal Crimes Act through the 1806, 1874, 1916, and 1920 Articles of War to the 1951 Uniform Code of Military Justice and the 1968 Military Justice Act, a pattern of increasing safeguards and liberalization emerged. The present state of military justice looks quite good from this perspective and a historical momentum toward broader rights to counsel for the accused serviceman is apparent.

The second half of the book discusses the important civilian right-to-counsel cases—*Gideon*, *Escobedo*, *Miranda*—and their military analogs. U.S. Court of Military Appeals decisions are examined in chapters on qualification of defense counsel, counsel behavior during trial, rules for counsel selected by the defendant, and stages of criminal proceedings at which counsel is necessary. The author concludes that in some respects, such as the qualifications of court-appointed counsel,

the military system is clearly inferior to civilian justice. In other respects the military is seen as equal or superior. An increasing similarity is seen as emerging.

Dr. Ulmer does not express his opinions often in this discussion. Rather, he has carefully selected representative points of view and by placement and emphasis, lets others speak for him. His attention is focused on a progressive, positive aspect of military justice, the right to counsel, in which the safeguards and evolving improvements are quite satisfactory. The author does not deal in any depth with many of the relevant problem areas. Thus, there are minimal or no discussions of the discrepancies between written and practiced military justice, the continuing effects of command influence or the vagueness of some articles in the Uniform Code of Military Justice.

What is the audience at which this book is directed? It is a rather narrow one, in spite of a strained attempt in the introduction to use the Pueblo crew capture and hearings and the current interest in military justice to broaden the audience. Military lawyers and civilian lawyers who represent military clients will be highly interested. Among the general public and criminological professionals, only those few with special interests in military law and lawyers will be attracted to this clear exposition of military justice and the right-to-counsel.

STANLEY L. BRODSKY

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STATIONS OF THE LOST: THE TREATMENT OF SKID ROW ALCOHOLICS. By *Jacqueline P. Wiseman*. Englewood Cliffs, N. J.: Prentice-Hall, 1970. Pp. xxi, 346. \$8.95 (\$4.95, paper).

C. Wright Mills identified "the capacity to shift from one perspective to another" as the essence of the sociological imagination, and Peter Berger has labelled the same process "alternation" and accorded it similar respect. Many of today's sociologists pay lip service to the practice of alternation, but a work that seriously and systematically attempts to interweave the points of view of two or more groups of subjects is rare.

Stations of the Lost by Jacqueline Wiseman is such a book. It is a most successful attempt to reconstruct the perspectives of both the alcoholics who live on skid row and the professional agents of social control who deal with them. The author demonstrates how each group maintains its cultural

integrity, and analyzes the interactions and "defining encounters" between representatives of each group. Thus, she presents "two perspectives on the same social scene and the effect that each has on the other's maintenance and development."

Wiseman's data are from taped "depth interviews" with 72 white skid-row alcoholics and from notes derived from interviews with 57 agents of social control. Early in the project she identified the "loop"—the circuit from institution to institution which skid-row men follow—as "a concept that gave promise of yielding the greatest understanding of the social organization of the lives of Skid-Row alcoholics" and the stations of the loop then became the organizing principle of her study.

The various rehabilitative institutions on skid row are based upon different philosophies of rehabilitation. Ideally, such a situation might provide treatment alternatives appropriate for the different types of alcoholic. But instead a continual mismatching occurs: the men seem to be distributed among the different institutions by chance, and hence, all of the specialized approaches are unsuccessful.

Three chapters on "strategies of control and containment" present the views of skid-row men and of the social control agents with reference to police on skid row, the judicial screening process, and the county jail. Then, therapies available to the men at three loop stations—the "Jail Branch Clinic," the "State Mental Hospital," and the "Christian Missionaries' Work and Residence Center"—are discussed in a section entitled "Strategies of Rehabilitation." There is no empirical evidence that any of the strategies is successful, possibly because in each station conflicting definitions of the situation operate to produce unintended negative consequences for most participants, and effectively short-circuit whatever positive results might derive from the station's program.

All of the rehabilitation programs are designed to bring the men "back into society," but despite the programs, most skid-row alcoholics return to skid row. The social control agents who operate the stations of the loop explain the failure of their programs as due to the men's lack of sincerity, "premature abandonment of therapy," or immaturity. The skid-row men have no viable theory to account for their recidivism.

The finest section of the book is the last two chapters in which Wiseman illustrates the context in which failure occurs. The rehabilitation programs are organized around the notion that the

skid-row alcoholic can "return" to some niche waiting for him over the years, when, in fact, that niche frequently does not exist and sometimes has never existed. Each of the stations has a re-entry plan which usually includes elements such as getting and keeping a job, getting a room and decent clothing, abstaining from liquor, working on the drinking problem, and being patient as one gradually is re-integrated.

All these steps, Wiseman suggests, are ways of recapturing "social margin," a concept which refers to the amount of leeway one has for making errors without suffering serious penalties. Social margin may be seen as a collection of good will. In many respects it is like money—the more one has, the more one can get.

The skid-row alcoholic is one who has consistently overdrawn his social margin. Accumulation of margin is difficult, especially for a man who lacks assurance and social graces. A new biography must be created for the marginless person. The agent of social control believes that new margin can be created, but the skid-row man puts the re-entry plan into operation and learns that the creation of new margin is exceedingly difficult.

The book has a limited focus. It is not concerned with all residents of skid row, but only those skid-row alcoholics who had been institutionalized at least three times for a drinking problem and had lived on the row for three years. Other studies of skid row have shown that such men may make up perhaps one-third of the skid-row population. In addition, Wiseman's sample was limited to whites, although Blacks form a substantial proportion of the skid-row residents. Finally, the study focused on a specific city, "Pacific City," and in some respects the institutions of skid row there and the row itself are different from skid row in other cities.

Consequently *Stations of the Lost* is not a substitute for demographic or attitudinal surveys of larger scope. It is not even a comprehensive analysis of the Pacific City skid row, since the majority of skid-row residents are excluded by definition. The important point, however, is that within the limitations Wiseman has wisely established for her-

self, this is perhaps the best book about skid row since Anderson's *The Hobo*.

Some may criticize her naturalistic orientation, the lack of concern with "objective" criteria, the eschewing of the systematic testing of formal hypotheses, or the absence of recommendations for resolving the dilemmas she so brilliantly illuminates. Nevertheless, the stark juxtaposition of the frequently irreconcilable definitions of the situation held by participants in the skid-row game is a most compelling example of the utility of the sociological imagination at its best.

One of the strengths of this book is its broad appeal. Certainly it is "must" reading for social workers, clinicians, and other professionals who deal with the problems of homelessness, alcoholism, and poverty. But more importantly, it is a most graphic portrayal of the nature and consequences of social relativism. Not only does the reader learn about skid row, but he learns about the internal contradictions and varying perspectives likely to characterize any social organization. The focus is sharply limited, but the essence of the sociological perspective is enhanced rather than obscured thereby.

The book should be particularly useful to students of crime, delinquency, and deviant behavior in general, not only as a device for "sensitizing" them to the too-often overlooked contradictions in perspective and "fact" which characterize persons who occupy different organizational positions, but also as a model for graduate students and professional researchers. Hopefully a host of imitators will follow, students of social problems whose studies of their specialties are modeled after this excellent work. I would even recommend *Stations of the Lost* for supplementary reading in Introductory college courses. I know of no work which more clearly and persuasively illustrates the kinds of insights and heightened awareness likely to derive from the application of the methods of sociology to the problems of our time.

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