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## BOOK REVIEWS

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AN INTRODUCTION TO THE SOCIOLOGY OF THE LAW. N. S. Timasheff, Cambridge: Harvard University Committee on Research in the Social Sciences, 1939.

During the last quarter-century juristic thought has followed two general lines. One of these is the neo-realistic, emphasizing the effects of social pressures and psychological processes of individuals in the determination of judicial decisions. The other approach has been that of the sociological jurist, who seeks an interpretation of the law based on a social evaluation of its purposes. In keeping with these trends, a group of sociologists are investigating coördinated human behavior and the nature of the law as a social institution.

One of these sociologists, N. S. Timasheff, has been interested in this subject for several decades. Timasheff wrote and lectured in Russia and Germany for a number of years prior to his coming to Harvard University in 1936. The result of his long study of the subject is presented in *An Introduction to the Sociology of the Law*. The method used in this book differs somewhat from the standard one employed by sociologists, for instead of consisting of observations from case studies, the material is rather abstract in form.

The aim of the author is to formulate a definition of law, showing it to be the progeny of certain types of coördinated behavior of individuals. What we know as law is the conjunction of the ethical group-conviction and a power relationship in society, with their combined strength. The belief of rightness in law is contributed by the ethical group-conviction. The development of this type of coördinated human behavior is described by Timasheff as a background for his definition of the law as a social institution.

The other necessary ingredient of the definition, the power relationship based on the imperative coördination, contributes the compulsion essential to enforcement. The author traces this element through the stages of its development from individual to group activity. The psychological explanation given for the growth of the imperative coördination is interesting. It is based on a natural "tendency" of dominance-submission in any group of individuals. The nature of the submission becomes less and less conscious as the power relationship grows in size and complexity. The successful power relationship must operate as does

the British system of government, in which the active power center allays possible internal conflicts by permitting fresh elements to ascend from the "passive periphery," and to take their places among the dominators.

Timasheff, as a sociologist, is more concerned with showing the nature of the law as a social institution than he is with evaluating that institution. The latter function he leaves to the philosopher. Nevertheless, the author would not allow us to believe that the institution of law could be postulated on a theory of natural law. This is most emphatically shown in his description of international law. International law is not a superstate law, but consists merely in the overlapping of similar rules of different states regarding interstate relations. It involves no more than a mutual recognition of such rules. We are led to believe that any other recognition of the rights of other states would have to be classed as "international morality."

The author directs his most severe criticism towards neo-realist thinkers, who emphasize the unpredictability of rules of law. They fail to recognize, says Timasheff, that there are both constant (abstract rules) and variable factors in judicial decisions. Legal disequilibrium or uncertainty is merely the result of disharmony between real forces and verbal formulas "expressing" the law.

It is difficult for one to measure the value, to the lawyer and judge, of such a sociological study as this. An understanding of the sociological basis and the component elements of the law should serve to bring sociologist and lawyer closer together in their attempt to grasp both the functioning and the function of law. The most pressing need, as pointed out by President Robert Hutchins of the University of Chicago, is for someone to "strike some mutual sparks" in the liaison between sociologist and lawyer in order that the science of sociology might produce more practical benefits for the legal profession.<sup>1</sup> Whether or not the present work meets his test, its basic nature and its precision constitute a step in the right direction.

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THE CONSTITUTIONAL HISTORY OF THE UNITED STATES 1826-1876. *Homer Carey Hockett*.<sup>1</sup> *The Macmillan Company, New York, N. Y., 1939. \$3.00.*

It is interesting as well as profitable to view the two published volumes of Professor Hockett's planned three-volume work on *The*

<sup>1</sup> Hutchins, Robert M., *Autobiography of an Ex-Law Student* (1933), 7 *Am. L. School Rev.* 1051, 1053.

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