

## BOOK REVIEWS

**YOUTH UP IN ARMS.** By George Paloczi-Horvath. New York: David McKay Company, Inc. 1971. Pp. 349. \$6.95.

Today, over one-half of the world's population is under the age of twenty-five. This numerical superiority makes youth a potentially powerful force for social change, a fact which has for the most part been ignored. Focusing on the educated segments of this group, George Paloczi-Horvath, in his exceedingly pro-youth study, *Youth Up in Arms*, examines the present and possible future implications of this group within a sociological and political framework. He postulates that youth is a barometer of and rallying point for societal discontent. He utilizes the more familiar notions of youth as innovator and savior of society. Unfortunately, because of serious technical and substantive flaws, the promise of these interesting themes is not fulfilled.

The basis of Paloczi-Horvath's thesis is his characterization of youth as rational-altruists, and his belief that educated youth is the prime societal source for this personality type. The rational-altruist is the mature adult, or the "true Homo sapien"; he is reasonable, innovative, unselfish, and intellectually open. Scorning the established bureaucratic structures and refusing to conform to their norms, this youth "contracts out" of society and agitates for the changes he believes necessary for mere human survival. In this capacity, his complaints are a harbinger of general societal discontent; for when conditions are proper, youth will be joined by the masses in a true revolution, spontaneous, leaderless, and incapable of being completely eradicated without removing the underlying causes.

However, Paloczi-Horvath continues, the ever growing and intensifying intergenerational war is foreclosing youth's value to society as an innovator and barometer of social malaise. The rift began in the repulsion which the conformist adult world, both individual and organizational, felt for the violent gang format of early youth disengagement in the 1950's. This negative feeling was generalized to all youth; and deepened to bitter hatred as youth's focus shifted to social and political activism where an increasing threat to the status quo was recognized. By 1970, a full fledged "cold war" between the generations had developed, driving youth into inflexible counterpositions to establishment views; and away from a commonality with the general public whose discontents they might have foreshadowed.

Paloczi-Horvath's thesis is interesting, and, if valid, of undeniably great importance to an understanding of social change. However, his presentation of his views is extremely unconvincing. Although he states that the group he discusses is only an "important minority" of all youth, his god-like description of the group is saccharine and unrealistic. The book contains very little sociological or psychological documentation for the author's view; rather, Paloczi-Horvath expounds the rational-altruist youth in trite platitudes.

Similarly, Paloczi-Horvath's theory of intergenerational hatred is poorly documented. Some substantiation for the idea is provided by anecdotal data. However, the author's penchant for presenting the opposing camps as polar absolutes severely undermines his credibility. His youths are almost always virtuous; and his youth-haters are extremists, the Agnews, Reagans, and hard-hats of the Communist and Western worlds. Maladaptive youths and reasonable adults are virtually ignored.

The representation of youth as the barometer of and rallying point for general societal discontent is also poorly substantiated. The author provides an interesting and detailed chronology of many movements in which youth have played an important role, but the vital link between their activities and the favorable reaction of the general

public is not demonstrated. Rather than his blanket proposition, Paloczi-Horvath seems to prove only that youth may or may not strike a common chord with societal discontent, depending upon the particular circumstances involved.

The book suffers from several other serious flaws. It is poorly constructed; and were it not for two explicit introductory chapters, the reader would find it difficult to cull the main themes and flow of ideas from a single reading. Paloczi-Horvath's language is trite and strongly biased, further reducing credibility. But, the most serious fault is overbreadth; the author attempted to cover too broad a topic, and as a result inescapably involved areas which are either insufficiently discussed or totally ignored. He discusses the origins of the concept of adolescence, but does not attempt to link the frustrations of this period of enforced suspension to revolutionary inclinations. The apolitical hippie or flower child is treated only tangentially, and the present return to political apathy by youth is not even anticipated as a possibility.

*Youth Up in Arms* presents several interesting ideas about the importance of youth's role in social change. However, these are practically buried by the study's numerous faults. In sum, unless the legal reader is seeking merely a change of diet rather than a serious sociological work, it would perhaps be better to await another author's treatment of these issues.

**UP AGAINST THE CORPORATE WALL.** By S. Prakash Sethi. Englewood Cliffs: Prentice-Hall. 1971. Pp. xv, 431.

Mr Sethi, a professor of business administration at Berkeley, presents case histories of major corporations involved in current social issues in his book *Up Against the Corporate Wall*. His compilation is addressed to a wide audience and poses a variety of legal and moral questions. Sethi suggests that big business has been primarily a negative force in our present society and illustrates this point with case histories which are far from flattering. All agree that the old line corporate mentality must change, but Sethi's presentation is too one-sided. He does not portray a single instance in which a company honestly wishes to reform its practices. However, *Up Against the Corporate Wall* would be an excellent supplement to any traditional corporate law course, since it would add a touch of reality to the dry textbook cases.

The issues presented by Sethi range from public health to the SST with several themes reappearing throughout the book. Most striking is his revelation that the position taken by each level of government is critical to the outcome of each case. The governmental intervention in the case studies documented by Sethi can be described as inconsistent at best. Sethi gives the example of the Department of Labor taking a bold stance in attempting to break the lock step of discriminatory hiring in the Allen-Bradley Company. In sharp contrast, we are shown a county government and the A.E.C. assisting Pacific Gas and Electric Company to construct a nuclear power plant a few hundred yards from the San Andreas fault.

Sethi also teases us with the intriguing question of the true effectiveness of public protests. In the Dow Chemical Corporation section, he recites the facts of the napalm issue in which Dow was the central figure. Sethi rejects the simple answer that Dow relented or even suffered in the face of the campus protests. Sethi's cynicism seems justified for he tells us that after the last major protest, Dow was outbid for the government contract for the manufacture of napalm. Dow's president, however, promised to regain the contract for the company. The author also claims that business has only engaged in "putting out brush fires", and, therefore, avoided any measure of constructive social reform. Campus protests he says have not significantly changed the status quo; and Cesar Chavez' fight to obtain basic rights for the farm workers is a unique case of social change. Sethi suggests that only intervention by the government,

big business' equal in power, can exert sufficient external pressure to force social change.

The major theme of the book is that big business zealously guards its "right" to determine its role in society. Sethi gives examples of corporations, such as Kodak in its "company town" of Rochester, who become involved in the community, but resent when the community dares to make any demands on them. Mr. Sethi feels, however, that the United States in the Seventies is no longer a place where corporations can place their priorities above those of the public's with impunity. He feels that the modern corporation must cooperate in social reform if it wishes to survive.

**THE CONCERN FOR COMMUNITY IN URBAN AMERICA.** By Bert E. Swanson. New York: Odyssey Press. 1970. Pp. x, 175. \$5.50.

*The Concern for Community in Urban America* tries to isolate and address itself to the dilemma inherent in today's growing urban regions. It recognizes the individual citizen's need for a "sense of community" to foster his personal and political identity. This sense of community is realized at a very localized level. While localization does build a sense of community within a small area, it also acts to prevent the shaping of metropolitan-area-wide solutions to problems that can be dealt with most efficiently on a metropolitan scale. However, identification of the dilemma does not necessarily aid in its solution. There must also be a fundamental understanding of the social, political and economic forces acting to create and preserve the dilemma. Swanson fails to provide the reader with such a fundamental understanding. He chooses to develop the book through a continual use of the works and theories of other authors. This method of development hampers the stylistic continuity of the book and allows Swanson to avoid analyzing the works and theories he presents. Swanson too willingly accepts the conclusions of these authors. He does not define the terms they use or explain in any meaningful depth how they reached their conclusions. As a sociological work, the book is deficient. Swanson too readily opts for a simplistic explanation of social phenomenon when the true explanation must be sought in factors underlying the surface manifestation of the social phenomenon.

The work is also inadequate in its handling of urban politics. It takes a "good government" approach emphasizing the structural aspects of regional government. However, the book does not give any indication of the political problems that this approach presents. Significantly, little attention is paid to the dynamics of the politics of Black citizens within the central cities and the effects of Black political goals on regional unification.

Swanson's contribution of original research is the study of community dialogue, the means of increasing discussion between differing segments of the community on the problems of the total community. He outlines his research in this area but, again, the reader is not enlightened. Swanson seems to strain to find agreed upon goals within the community dialogue without facing the real possibility that there might not be any agreement. Explanations of data used by the author are extremely over simplified and general, leaving the reader without a critical point of reference.

Viewed as a whole, *The Concern for Community in Urban America* is a futile attempt at providing simple explanations of social phenomenon that cannot be simplistically explained. Little is to be gained today from discussing urban problems on an elementary level or by uncritically presenting theories of urban and metropolitan government. The Swanson book does not add to the tools available to understand and solve urban problems.

**JUSTICE DENIED: The Black Man in White America.** Edited by William M. Chace & Peter Collier. New York: Harcourt, Brace & World, Inc. 1970. Pp. xi, 548. \$4.25.

Racial conflict may be discussed more widely today than ever before, but it can hardly be considered a creation of our times. Although each new generation sees it in a slightly different perspective, the "Negro Problem," as Black novelist Richard Wright recognized so clearly, has been an enduring feature of life in America. From the first painful encounter between the man ripped from African soil and the man determined to make him a slave, racism has been a part of our institutions and laws, our culture and ourselves.

No single book could hope to describe fully the clash between Black man and white America, and *Justice Denied* does not pretend to do so. Rather, this anthology clarifies certain aspects of the confrontation by describing the price Black people have been forced to pay for attempted "adjustment" to the heavy burden of prejudice, and by considering some of the strategies they have used to fight racism. It begins with a discussion of the damage done to West African societies during the worst years of the slave trade and concludes with the program of the Black Panther Party. *Justice Denied* is neither an historical survey nor a detailed sociological investigation. It is a series of essays which reveal the Black Man's reaction to the powerful and intransigent forces arrayed against him.

There are voices from the past. In the first section, for example, "Jenny Proctor's Story" conveys a sense of slavery as a day-to-day reality for a woman who, for a large part of her life, was considered someone's chattel. One may turn to a selection from "The Narrative of the Life of Frederick Douglass, an American Slave" to gain an intimate and vivid sense of the strength of the slaves' desire for freedom. Or one may consider W. E. B. Dubois' study of how the Black Codes of Reconstruction brought slavery back to the South immediately after the conclusion of "The War to End Slavery."

There are also contemporary voices. St. Clair Drake's long essay gives a lucid picture of what it means — economically, educationally, medically — to be a Black man after 350 years in America. Eldridge Cleaver discusses the connection between the war in Vietnam and the war raging in the ghettos of this nation. Malcolm X's speech, "The Ballot or the Bullet," is offered as an eloquent appraisal of the decision which Black people face each day: whether to accept the gradual approach to social equality and content themselves with small gains, or to commit violence against a land in which democracy has, for them, never really functioned.

The question at the heart of Malcolm X's speech is the focus of *Justice Denied*. As many historians have noted, the conflict between working for gains within the established conventions of American society and the possibility of taking a radical stance outside those conventions is a conflict deep within the Black experience. It was present in the decision of some slaves to acquiesce and in the decision of others to rebel; in the debate between moderate and aggressive Black abolitionists; in the friction between those who would set up a separate Black state and those who would trust in America as they found it. It operates today in the conflict between nonviolence and militancy, between "cultural nationalism" and a revolutionary political posture, between "black capitalism" and the Black Panthers.

Perhaps the clearest expression of this conflict and of the changes it undergoes with each new era is the controversy between Booker T. Washington and W. E. B. DuBois at the beginning of this century. In his own time Washington was important enough to become an advisor to presidents. In our time, however, he has become known as an advocate of compromise and accommodation. On the other hand, DuBois, shunned by many in his own day, is now appreciated as a man who resisted compromise and whose stern response to Washington contains a sentence which stands as the most prophetic insight into what lay ahead. "The problem of the twentieth century," DuBois wrote, "is the problem of the color-line, — the relationship of the

darker to the lighter races of men in Asia and Africa, in America and the islands of the sea."

*Justice Denied* does not try to make the Black American "visible." That would be more than presumptuous; given the nature of American society, it would be impossible. Instead, the book succeeds in indicating the kind of forces that have produced this invisibility as well as those that have resisted it. It also shows why, because of the wide variety of forces bearing down upon the Black man, the twentieth century belongs, so to speak, to DuBois and those who shared his pessimism about what it held for Black people.

**MAN AND SOCIETY: Criminal Law at Work.** By Richard Deming. New York: Hawthorn Books, Inc. Pp. vii, 171. \$5.95.

Mr. Deming, a well-known author of crime and mystery novels, has written a "handy reference . . . in lay terms to which nonlawyers could turn for an explanation of how the law functions." This first volume of a three volume general survey of the law conveys a very basic understanding of criminal law and procedure in superficial and straight forward manner. Deming traces the historical background of our criminal law, from biblical times, through the present English and American systems. He covers the origins of law enforcement, the legislative process, state and federal court systems and basic trial and jury procedures. The last two chapters are less cut and dry. Deming describes the "inequities" in the law and "legal" technicalities in our present system. He does little more than state the existence of two types of inequities, the different standards for the treatment of the rich and the poor and the discrepancies which exist due to the absence of precise sentencing standards for judges. However, his presentation is sufficient to increase the awareness and knowledge of the neophyte. Although this book may add to the cocktail hour discussions of the reader, it is not a viable "handy reference" to the criminal law. For this purpose, one of the "Bust" books may be a far more valuable reference.

**LAW AND DISORDER: The Legitimation of Direct Action As an Instrument of Social Policy.** Compiled by Samuel I. Shuman. Detroit, Michigan: Wayne State University Press. 1971. Pp. 236. \$8.95.

*Law and Disorder* is a collection of five essays, originally a series of lectures given at Wayne State University. The essays are concerned primarily with the effects of direct action on the law, on law enforcement, and on the university. Each speaker concerns himself with the problem of action as a vehicle for expressing ideas, and with the basic question of its legitimacy and effectiveness. The first essayist, former Associate Justice Tom C. Clark, traces the judicial development of direct action and, in the process, sets the theme and mood of the rest of the book. Justice Clark leads the reader from *Plessy v. Ferguson* (163 U.S. 537) to *Gitlow v. New York* (268 U.S. 652) and *Brown v. Board of Education* (347 U.S. 483). He then discusses in a new light the classic tension between law and order, and justice. He argues that we cannot have justice unless we have order. Therefore, the choice is actually between order and

justice, and chaos. Obviously, Justice Clark chooses order and justice. Rather than discussing the problem of direct action, he presents the two opposing classic arguments and leaves their discussion to the other speakers. The argument against direct action is that seeking change through violence will only jeopardize the quest as well as place the lives of the dissenters in peril. On the other hand, constituted authority must remember that there is more to civil liberty than a claim to the protection of the law. There must be fairness in its execution. Somewhere between these two extremes lies the proper mix of social stability and direct action. The remaining essays focus the components of this mix.

Mr. Shuman, in the first of his two essays, emphasizes the need for judicial protection of first amendment freedoms. He argues for the absolute protection of speech and expression originally espoused by Justice Black. He maintains that where speech is declared invalid, the cost in terms of repression will almost always be too high. Speech should not be inhibited unless the repression serves some socially useful purpose beyond keeping the established institutions functioning at any cost. By allowing speech to be open and free provides for a democratic process of change and eliminates any need to resort to violence for necessary change.

Mr. Shuman, however, is aware of the dangers for abuse inherent in an absolute protectivist theory. As a viable compromise, he suggests that the courts adopt the "least intrusive alternative" when dealing with legislation in this area. This approach would sustain the legislation only if another legislative scheme would not serve the socially useful purpose and would not improve the restrictions on free speech. This method appears to minimize the "chilling effect" of prior restraints on speech by tilting the scales in favor of free speech, while providing a court with a manageable standard to measure legislation.

In defense of the argument against direct action, Mr. Ernest van den Haag argues that direct action by a minority in a democratic system can never be legitimate (p. 98).

In a democratic political system, direct action is antidemocratic (therefore illegitimate from a democratic viewpoint) if the change aimed for requires curtailment or abolition of democratic political processes . . . If the proposed change is supported by the majority it does not require direct action, since democratic political processes would produce it . . . What kinds of direct action, then, can be legitimate in a democracy responsive to majority wishes?

The weakness in this argument is the author's lack of recognition for the law of inertia: Once an inherently evil institution pervades our society, it tends to perpetuate itself indefinitely. Active and effective resistance is needed, first, to make the majority aware of the evil, and, second, to recommend courses of action to eliminate it. The civil rights and anti-war movements are the most obvious examples.

Our nation is ultimately run by the dictates of the majority, but the majority frequently needs direct action by the minority to help guide them in their decisions. As Mr. Charles V. Hamilton states in his essay, society only reacts to a crisis and not to court decisions. To move the country, one must do something; one must take direct action.

Mr. Shuman ends the book with his own essay on the specific use of direct action on the campus. He concludes that direct action in the form of demonstrations must be tolerated if the goals are theoretically capable of accommodation without having to abandon the basic values of scholarship and teaching excellence. Demonstrations should be tolerated even if the action entails some violence. A demonstration is not permissible when it creates an imminent and uncontrollable danger to life or causes grossly unreasonable property damage.

Although reasonable on its face because of the need to protect student rights, this approach is probably too extreme to be adopted by college administrations. The entire national mood, especially toward campus disorders, favors strict enforcement of the law to insure the order and safety of lives and property. If student demonstrations

are to be tolerated on the campus, they will have to meet the rules and regulations of the university. Therefore, the realistic answer, as Mr. Shuman suggests, is to have the universities promulgate reasonable rules for conducting demonstrations. Such rules would protect property and keep the university functioning, but would not be so harsh as to strangle the right of dissident groups to voice their opinions. Student groups would be placed on notice of the standard of conduct expected to be maintained *before* they engage in possible illegal direct action. If the participants then decide to continue to demonstrate, they can anticipate and evaluate the reaction of the administration. The average student will not engage in questionable behavior if he knows in advance that his actions will be illegal. The extremist minority will be unaffected by these rules, but the use of concrete rules and regulations should help to inhibit and control the number and level of violent demonstrations.

*Law and Disorder* is valuable as a stimulant to thought on the current and important subject of direct action. However, except for Mr. Shuman's essays, the book merely presents the issues without providing any viable solutions. Although Mr. Shuman's suggestions fall short of being practical, workable answers to the problem, his ideas provide a sound foundation for further thought and analysis by the reader.

**CONSCIENCE AND COMMAND.** Edited by James Finn. New York: Vintage Books. 1971. Pp. 300. \$1.95.

In their efforts to describe the inequities of our military legal system, critics of military law often quote Clemenceau's noted remark, "military justice is to justice what military music is to music." This reality is restated in another form by James Finn, editor of *Conscience and Command, Justice and Discipline in the Military*: "When a person enters the Armed Forces of the United States, he leaves one society for another. When he enters military society, he leaves behind some of the Constitutional and due process rights which were his in the civil society he is now called upon to defend." This dilemma of military justice is further noted and explained in the essay by Edward Sherman. He points out that the basic concern of the court-martial has historically been the discipline and control of troops, a function not always compatible with the objective of providing a fair legal system for those accused of crimes.

The increased attention being given military law today is in large part a result of the Vietnam War and the dissent accompanying this conflict, especially the substantial growth in criticism of our military institutions. Suppression of free speech by the armed services is more visible because the ideas repressed correspond to views held by numerous civilians. Scrutiny given to the role of the Black soldier has further sharpened this public awareness of military injustice. The greatest impetus for concern over military law has arisen from the recent war crimes trials relating to the My Lai massacre. No other exercise of the military justice system has so affected the nation.

Faced with such a range of problems, the coverage of military justice by *Conscience and Command* is quite narrow. Finn has divided the book into two parts; the first being a series of five essays by different authors on various aspects of command influence, the first amendment in the armed services, the Uniform Code of Military Justice (U.C.M.J.), and a study of how the new recruit adapts to basic training. The second part contains interviews with five individuals who ran afoul of the military justice system by exercising what may be generally termed first amendment rights. The focus of the book revolves around specific incidents wherein some of the processes of military justice can be seen at work.

Two abuses which notoriously characterize military justice are the immense influence of the commander and certain vague provisions of the UCMJ allowing wide

discretion in defining conduct which may be an offense. Regarding the latter, Article 133, making "conduct unbecoming an officer and a gentleman" a crime, and Article 134, forbidding "conduct of a nature to bring discredit upon the Armed Forces," would probably be held unconstitutionally vague under civilian standards. However, the most flagrant abuses result from the power of the commander; for he decides whether or not to prosecute, chooses the jury and often the prosecutor and defense counsel, supervises administration of the trial, and reviews the findings and sentence. In addition, the commander has authority over the promotions and efficiency reports of those under his command who may be involved in the trial. Finn's book illustrates some of the resulting abuses, especially the reactions of commanders to dissenters.

Some of the material in this book is quite interesting, especially interviews with those who have been prosecuted in the system, e.g., Dr. Howard Levy. However, one is left with the impression that much vital information and analysis is missing. About all that is actually gained is reinforcement of previously held beliefs about military injustice. A person desirous of learning something more about military law does not even have pertinent sections of the UCMJ in the Appendix. Further discussion of substantive and procedural military law would be advantageous; so that instead of often vague assertions, specifics of the military legal system could be delineated.

Although *Conscience and Command* is a series of short essays and interviews, it is needlessly disjointed. It has no real organization or integrating theme except that there are certain things wrong with the military system of justice. Most people are aware that first amendment rights are not fully observed in the armed forces and that numerous other abuses occur. What is really needed are more specific recommendations for reform. Just how should the UCMJ be revised? Specific evils call for specific remedies.

The basic difficulty with *Conscience and Command* is its limited concern with the military's suppression of certain individuals. It fails to focus on the more collective or social issues such as the failure of civilian leadership in government to really press for reforms. Ultimate responsibility does not lie with inept or malevolent commanders. They have been given certain powers in the system of military justice and it would be naive not to expect them to make use of such authority. Analysis of responsibility and who should carry the burden is, of course, essential in any critique of military law. War crimes and the individual soldier, however, also deserve at least equal treatment; for it is here that determination of responsibility is most important, and the very role of the military in society is most open to investigation.