Book Review. Timasheff, N. S. An Introduction to the Sociology of Law

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the Chicago social science group, as a semico-operative venture. Young assistants were placed at the author's disposal; and their aid no doubt facilitated the use of a remarkable range of sources and the production of the first two volumes within a relatively short period. But it is apparent that the major burden fell upon the author herself and that only the greatest industry could have brought the work to its present stage. Comparable studies of other urban centers may have to wait upon the slow appearance of individual monographs and an eventual synthesis of the same. It will then be interesting to contrast the results of such laissez faire processes in historiography with the standards already set by the planned economy of the Chicago program.

The appearance of other urban histories may also make possible a systematic comparison of various cities, a comparison that Miss Pierce naturally does not attempt but which should provide a wider perspective from which to view any given center. It is unnecessary to quibble as to whether this should be done by the historian or the sociologist; the point is that it is a task for those dealing with the past as well as with the present.

The most obvious criticism which may be raised concerning the present study is that it lacks literary appeal. The volume is well written in the sense that the style is clear and the material well organized. It has the very real virtues of "unity, emphasis, and coherence." But it lacks the local color of such a work as, let us say, Asbury's *Gangs of New York*. This is not so much a criticism of Professor Pierce's work in itself as it is of "scientific" history in general. The reviewer's inclination is to divorce historiography from the clinging literary tradition and to let it stand on all fours with the social sciences. One gathers that Miss Pierce shares this opinion. It does not reflect in any way upon popularization as a distinctive genre of historical writing but is simply a matter of specialization in both form and function. *A History of Chicago* is aimed at social scientists and critical historians rather than toward the so-called reading public.

Richard H. Shryock

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The author begins his book with a discussion of "the sociological place of law" and "law as a social phenomenon." Law as a social phenomenon is a crucial problem, especially in the United States where, until the
advent of totalitarianism, the most prolific, if not profound, writing in the field represented a crude behaviorism. Briefly, the fatal error of these latter writers consisted in their elimination of "law" as distinctive reality in any sense. Consequently, the net import of their argument could only be the theoretic impossibility of a sociology of law—"official behavior" cannot be distinguished from lay behavior; hence, legal sociology was merged indefinably in general sociology. Timasheff avoids and controverts this basic error; but he is far from clear in his own analysis of "law." He insists frequently that "law is ethico-imperative coordination" (p. 16); that "law is a historical phenomenon, a product of cultural development" (p. 273), which implies a purely positivistic interpretation; but, elsewhere, he asserts, "the ethico-imperative coordination is created by law" (p. 15). And he discusses "the existence of legal norms" (p. 30) in a manner suggestive of metaphysical theory ("ideal reality").

Most of the book is concerned with elaborating the meaning of "ethics" and "power" to the end of discovering the nature of "law" viewed as a resultant of the above two factors. The author's range of reading is enormous, but his discussion is discursive and vacillating where what is required is argument that is sustained and pointed. Only brief reference can be made to two or three major issues. "Ethics" in Timasheff's terminology usually means "mores," but sometimes, apparently, "moral principles." The deficiency of his argument here, apart from ambiguity, can most briefly be indicated by reference to the problem of the petty offences, traditionally regarded as not involving moral principles or affective states, as well as by reference to the thousands of "laws" that the community as a whole is completely unaware of.

There is, next, Timasheff's contention that many primitive peoples are entirely without law not because of lack of "ethics" but because the necessary power centers do not develop until culture has become advanced. The problem is long standing, and little additional insight is here provided. No lengthy delving into the literature is required to reveal that "law" has four or fourteen or forty meanings; and the problem of constructing one or more relevant to a projected sociology of law is not easy. Sociology is functional in approach and its laws profess universal validity. This requires a construction of "law" that would conform to all types of social relationships. Here Timasheff seems inhibited by traditional meanings of "power"; in any event, he does not consider the diffused but effective controls associated with familial relationships and feuds, concomitant with general community support. Beyond that is the overriding question whether in the main the author has not expounded a positivistic
interpretation of "law" rather than laid the foundations for a sociology of law. Certainly there is little discussion of "law" as a system of ideas—yet it is inescapable that, without a theory of "law" as mental significances with implied postulates of human understanding and consequent rational conduct, the major problems are simply ignored.

Sociology of law is becoming increasingly important in a culture characterized by expanding government. Timasheff has made a significant contribution to the construction of a sound prolegomena. American sociologists, who, in the main, have ignored the fertile fields of law (cf., by contrast, Weber), will find this volume important and, indeed, essential reading. The detailed Bibliography is unusually helpful.

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This excellent book is a study of Cheyenne "trouble-cases," showing the methods used by these Indians, in aboriginal times, for the legal resolution of intratribal conflicts. It is more than that, for, as the authors state in the Preface, "We have aimed at the development of a social science instrument for the recording and interpretation of law-ways among primitive peoples; the Cheyenne and their Way provide the subject material." They have taken as their problem, further, to show "law-stuff . . . in its relation to social science at large."

The Cheyenne material was gathered in Montana in 1935 and 1936 from aged informants who remembered pre-reservation life. Estimates of informants' personalities and biases are given and help the reader to evaluate the data. The authors' comments and discussions of the cases are clearly separated from the Indian accounts. The senior author, a professor of jurisprudence, has a keen appreciation of the role of "law-stuff" in a social system. Sociologists and social anthropologists will find him understandable and stimulating. Hoebel, a social anthropologist, has done research into the systems of social control of two other Indian tribes and has published competent papers on his work.

The present book starts with five trouble cases which the Indians had deftly solved. Even the reader who disdains theoretical discussions will likely be so entranced by them that he will be easily carried through the next chapters of concept-defining and hypothesis-stating. Case material