problems of the giant corporation. Unless the instructor can add a great deal from his own observations concerning every-day practice in civil law courts, this chapter will hardly convey that message which to this reviewer is perhaps the most essential one of all comparative law teaching in this country—that even in the most dictatorial country of the civil-law orbit, the "little man," in many ways, has had access to judge and justice more readily and more effectively than in this country which has perfected its procedure for commercial needs while relegating the righting of every day's wrongs to law-less and lawyer-less small claims courts and the charity of legal aid.[25] The young comparatist, as a future leader of the bar, must gain awareness of this crucial problem.

Schlesinger's book is a brilliant feat. It is as good as any one man's job can be on a subject which cannot be circumscribed in scope or aim, and for which the definitive teaching tool could be produced, if at all, only by a concerted effort of several schools and instructors of necessarily varying backgrounds and interests. To all schools and instructors in this country as well as abroad, however, this book will remain indispensable as a work of reference and inspiration.

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PARENTAL AUTHORITY: THE COMMUNITY AND THE LAW. By Julius Cohen, Reginald A. H. Robson, and Alan Bates. New Brunswick: Rutgers University Press, 1958. Pp. xii, 301. $6.00.

IF the "moral sense of the community" is relevant to the lawmaking process, either as a norm for the lawmaker (both legislator and judge) to consider, or as one to follow, its determination need not be left wholly to conjecture or intuition. Modern social science techniques are reasonably adequate to ascertain this moral sense with regard to any given subject-matter that concerns the lawmaker. On this premise the three authors—one a law-man, the other two sociologists—base their study. Using legal and community attitudes regarding parental control over children as the specific subject-matter of their research, the authors demonstrate a sociological method for ascertaining community attitudes and norms for purposes of comparison with the statutes of one state. The jurisdiction is Nebraska, where the authors were living when they did their study; hence the statutes are those of Nebraska and the sample of people interviewed is representative of the adults of that state.

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knowledge, are noted with apparent approval. Pp. 225-26, 230. There are occasional, but perhaps inevitable, over-generalizations which may distort the reader's picture of the civilian process in general, as with regard to the appeal de novo, p. 229, the "examination of the parties," p. 219, and the oath, p. 220.

25. On the key problem of attorneys' fees, pp. 206, 350, 355, see Ehrenzweig, *Shall Counsel Fees Be Allowed*, 26 CAL. S.B.J. 107 (1951).

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The concrete questions answered by the study are: (1) To what extent is the law in the selected areas of child-parent relationships in agreement or at variance with the views of the community? (2) How homogeneous are the views of the community concerning the law? In other words, is there *a* moral sense of the community, or are there *many* moral senses? (3) What bearing do such socio-economic factors as age, income, sex, education, religion have on the views of people in the community concerning the law? (4) What reasons are given by those in the community for their views concerning the law? (5) To what extent do the findings of social science support the judgments of the community concerning the consequences of the adoption or rejection of specific legal norms?

The answers to these significant questions are discovered by an interview technique as rigorous and reliable as is known to social science today. The findings are of high intrinsic interest and value to both law-men and sociologists. The demonstration of the method of research—which is the authors' main purpose—deserves the serious attention of legislators, judges, and students. The senior author makes a brilliant philosophic and legal case for the further use of the method. He anticipates and—in the judgment of the reviewer—satisfactorily answers the objections of law-men against the method: (1) While every case is unique and must be decided on its individual circumstances, the judge can use a scientifically ascertained "moral sense of the community," rather than his own intuition, as a base line gauging the deviation of the individual case from the norm. (2) The cost of such a study is not prohibitive. This one cost only eleven thousand dollars, and the authors believe the figure could be reduced if future students benefit from their errors. (3) The questions posed during the interview were not too hypothetical; rather they were made quite specific.

Three criticisms of the study can be raised which the authors do not adequately answer. They did not ascertain the intensity of opinions given in response to their questions. The authors recognized this problem, but they believed they did not have sufficient funds to ask the additional questions that would have resolved the issue. A second objection is that people have definite opinions about some things, and vague and confused opinions about other things, and one cannot properly know the "sense of the community" unless one can distinguish among these. Tautologous answers, given when respondents were asked to cite the reasons for their opinions, might have provided a clue as to the proportion confused, but the authors did not exploit this possibility. A third objection is that answers to questions are taken literally, whereas most opinion research has shown that only relative or comparative judgments are reliable. The authors' dilemma, of course, was that their purpose required them to ascertain absolute or literal judgments, while there is no reliable research technique yet known for ascertaining absolute judgments. It is only fair to add that the authors make superb use of subsidiary questions, and this enhances credibility in the absolute proportions giving specific answers.

In the space of a short review, it is not possible to present more than a few of the many substantive conclusions of this study. The law does not value children as highly as people do, possibly because there is a lag in the law. The law fails to recognize age differences in deciding on the independence of children, but people certainly do. There are very few significant differences among people with differing socio-economic background—on sex, religion, age, education, income, occupation, number of children, urban-rural residence—on attitudes as to what should be the extent of parental authority, and most of the differences that did appear are quite small. No category in the population (using these eight criteria) were regularly closer to the existing law in their opinions than any other category. An illustration of the interesting findings derived from the probing of reasons for given opinions is that the public is less likely to support parental control over a child's earnings than over gifts to a child (although a clear majority are in favor of neither), whereas the law gives parents control of a child's earnings but not his gifts. The reasons for this community attitude appear to be that gifts might be large, whereas earnings are likely to be small, and people believe that a child should be protected, for his own future benefit, against squandering sizeable gifts.

Of the seventeen issues on parental authority studied, the public agreed with the law on only five, disagreed on ten, and was ambiguous on two. Thus, for this subject matter, the law is generally *not* in accord with the moral sense of the community. Three reasons are offered to explain this: "the differences in the impact of tradition upon law-makers and upon the community; the relative lack of pressures exerted upon law-makers to signal the need for change; and the inadequacy of prevailing techniques utilized by law-makers for ascertaining the moral sense of the community."[1]

In this otherwise careful, scholarly, thoughtful study there is one bit of incompleteness which this reviewer may be permitted to point out. The introductory, and especially the concluding, chapters convey the impression that the *method* of ascertaining the moral sense of the community used here—an opinion survey—is an innovation. But the authors fail to cite an earlier study by this reviewer[2] which did exactly the same thing (with perhaps a slightly better technique, although admittedly an inadequate sample). In fact, my earlier study arrived at a conclusion which is identical with a major one of this study, although the subject matter of the research was different—namely, that the community may value children more highly than does the law.

Notwithstanding the fact that this study is not wholly novel, it has such a high degree of intrinsic merit that it deserves the close attention of law-men and sociologists. For sociologists, the study provides a superb addition to knowledge concerning the values of a community and the correlations of these values to socially significant categories of the population. For law-men, the justification for the study—both in philosophic and practical terms—is best

1. P. 195.

2. Rose & Prell, *Does the Punishment Fit the Crime? A Study in Social Valuation*, 61 Am. J. Sociology 247 (1955).

made by the senior author in the book's first chapter. I can only provide a brief summary of his argument, and urge a careful reading of the full book.

Whenever the legislator or judge arrives at a decision as to what is to be done about a given problem or conflict, he has some conception of the prevailing notions of right and wrong to guide him. Existing statutes and judicial precedents are usually not specific enough or relevant enough to compel his decision without reference to additional standards. Assuming that he does not cynically choose his value-premises arbitrarily, or in terms of his purely personal interests, he is obliged to think in terms of community values—whether these be current norms or ideals for the future. At present, he guesses regarding these values. If he is a perceptive and intellectually honest person, his guesses are probably good ones in so far as he is acquainted with the various populations that make up the community. But in our heterogeneous society, no man can be sufficiently familiar with the range of subcultural variations to be found in an American jurisdiction. To overcome these limitations on experience, not to speak of any inadequacies in personal sensitivity, the legislator and judge need some systematic means of ascertaining the relevant moral judgments that are to be found in the community. Empirical social research can provide such a means. Allusions to the community's moral sense are commonplace in legislatures and courts, but seldom, if ever, is there a reasonable specification given as to how one discovers this. Even if the judge or legislator deems it desirable to ignore the current, perhaps debased, moral sense of a given segment of the community, he ought to make sure he really knows what that moral sense is, and not rely on intuition or stereotypes. He can then reasonably arrive at a decision which will have the best chance of effectuating his idea of justice.

Cohen does a splendid job of answering the stated and potential objections of the law-men, and of making a positive case for the research, and, with minor exceptions, Robson and Bates do a splendid job of executing and presenting a useful example of sociological research.

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