BOOK REVIEWS

ETHNIC AMERICA—A HISTORY. By Thomas Sowell. New York: Basic Books, Inc. 1981. Pp. 353. $17.65.

Thomas Sowell's *Ethnic America—A History* should be read by every minority lawyer in the country. This book is a ready reference to the statistics of economic integration of various ethnic groups into the mainstream of American life and livelihood. It provides factual information in a readable fashion that can be enjoyed by the lay reader and useful to the specialist scholar. The writing style is direct and simple without acquiring the monotonous repetition of a Standard Metropolitan Statistical Area (SMSA) census report. Very little economist jargon is evident, yet one is struck with the systematic and thorough method with which Dr. Sowell undertakes the much needed task of identifying and contrasting the patterns of economic involvement for "new" Americans throughout our history.

Many folkloric myths are dispelled in the pages of this book about our varying forebearers; where they came from and how they lived in the "old country" had a great effect in determining early economic, social and political patterns of development after arrival in America. However, the numerous and not insignificant differences among these people seem enormously overshadowed by the multitude of similarities that allow each group to seek its place and successively redefine the American dream in its own image. Continuing patterns of work and living have their roots in traditional values that evolved in cultures which developed over the centuries and throughout the varied geographic areas of the world.

Understanding the comparative development and the concomitant results of this development will enable the minority lawyer and especially the minority law student to more effectively define his or her role as a community leader and force for beneficial change. Dr. Sowell gives the best reason for reading this book in two sentences early on: "The point here is not to praise or blame whole peoples, not even to rank or grade their performances. The point is much more general—to assess the role of enduring cultural values compared to more immediate 'objective' conditions." If we as black professionals are to understand our position in American life we must be prepared to assess it relative to our fellow citizens of various ethnic persuasions. When we look at Dr. Sowell's work we discover that in America there are no minority groups. The *why* of that statement is the reason for reading the book. That reasoning can tell a lot about ourselves. The most numerous grouping of Americans, those deriving their ancestry from the British Isles, compromise only 15% of the U.S. population while German-Americans number 13% and Americans of African ancestry make up 11%. As the reader can easily determine, the term minority groups does not have a great deal of meaning in the context of economic comparison made in *Ethnic America*. Perhaps we have a valuable lesson to learn from this book. The so-called "minority" communities of America should be aware that they are all hyphenated Americans—even our Native-American brothers whose welfare has been so sorely neglected.

Ethnic America is divided into six major subsections consisting of eleven chapters. Parts I and VI provide, respectively, by way of introduction and conclusion, an overview of Dr. Sowell's study of ethnic groups in America and just what their relative economic positions are, as well as how each group has arrived at that point. Chapters two through ten, compromising the middle four parts (II-V), describe the individual ethnic groups and traces their economic and social interface with American society from arrival to present conditions.

Dr. Sowell analyzes nine major ethnic groups in America: Irish, Germans, Jews, Italians, Chinese, Japanese, Blacks, Puerto Ricans and Mexicans. Within these various groupings, he successfuly delineates certain subgroupings where statistically significant data points to a particular pattern of socio-economic integration not experienced by other members of the ethnic group as a whole, e.g., non-native born Americans of Japanese, Black, Mexican, Puerto Rican and Fillipino ancestry exceed the income achievements of their fellow ethnic group members who are native-born Americans over periods varying from eleven to eighteen years, depending on which group is being discussed.

Other similar patterns within the ethnic socio-economic integration are observed by Dr. Sowell when he treats the intelligence quotient (IQ) figures for the various groups discussed: similar IQ figures are obtained for nearly all the ethnic groups studied during their initial immigration period when family disruptions were significant and educational opportunities minimal. As an ethnic grouping began to acculturate, its average age increasing and fertility rate decreasing, IQ's rose on the order of fifteen to twenty points reflecting, in Dr. Sowell's opinion, a cultural rationale in relating IQ figures to a particular group where genetic explanations had been previously predominant, if not exclusive.

The very patterns of ethnic behavior which identified new arrivals as such, by their fellow citizens of a prior vintage, did not necessarily disappear as a particular group became more affluent. Groups of the newly arrived generally worked to "fit in"; they wanted to be American, yet much of the culture and custom that once marked a man "just off the boat" was incorporated into the American cultural fabric as a whole. If one relies on the facts and dismisses the popularized "melting pot" theory of the turn-of-the-century social reformers, ethnic groups in America did not disappear at all: they prospered, became more like the mainstream, yet held on to many customs and created a few new ones. Americans from all cultures are a vibrant lot; in fact, many cultural developments attributed to ethnic origin originated here in America as a particular group developed its own unique social structures. Such inventions as chow mein and pizza were first taste-tested in American cities. St. Patrick's Day parades are as much an American phenomenon as the Afro hair style, both being developed by their respective ethnic progenitors here in America.

The ethnic communities are in fact so vital and dynamic that Americans tend to export governmental institutions en masse. The constitutions of the Philipines and Liberia are in large measure copied from our founding documents; American Freedmen formed the West African nation of Liberia and created the first modern democracy on the African continent. Ethnic

Americans even provide leadership to their states of origin in the old world, as well as sharing their vitality with their fellow citizens: Eamon de Valera was the first chief executive in Ireland and Golda Meir, a school teacher from Milwaukee, helped found the Nation of Israel and became its Prime Minister during very troubled times.

Dr. Sowell spends the necessary time in tracing the evolution of certain trading patterns of the great steamships which eclipsed the era of sail by the late 1880's and began to bring more and more people from eastern and southern Europe. These new arrivals remained for the most part in the large eastern cities but gradually as time passed moved into America's heartland. Earlier, the African slave trader had delivered their wares to the river mouth cities of an agrarian south where the need for inexpensive labor made enormous profits for men willing and ready to trade in human flesh. The pattern of Afro-American economic development, as with other Americans, is still dependent upon geography. Dispersion primarily in the south has resulted in lower income for Blacks: the South is less developed economically and hence its entire population suffers income levels significantly below that of other Americans. Lower income Americans of any ethnic group are significantly less mobile than their more affluent fellow citizens and hence are doubly affected by an adverse economic-geographic condition.

Ethnic America chronicles this historical model and attempts to develop a concept in describing ethnic economic development that I choose to call time/place historical-condition. Patterns of trade between a developing America and the old world determined the migration pattern in the past three centuries. Sailing ships in the 16th, 17th, 18th and early 19th centuries disgorged their cargoes of raw material in western Europe, the then empty holds to be filled with the hopeful pioneers looking for work, freedom and land in America. The African slave trade itself was dependant upon this commercial cycle. Ships, first under sail and then propelled by steam, full of human cargo, slave and free, plied the North Atlantic from 1492 until 1920 when the large migrations were prematurely halted by the United States Congress.

The early immigrants landed in eastern or southern cities where the better-off headed west to work the land of the vast American wilderness. The mid-nineteenth century saw immigrant groups ariving without capital but having in marketable abundance the one pitiable trade necessary for the early industrial revolution then just beginning in America, the ability to sweat at unskilled tasks for less wages than earlier arrivals. Where and when a group arrived determined its future prospects as a group. If a group landed during hard times getting started in a new land was difficult indeed.

Dr. Sowell has several very interesting conclusions about geographic distribution for groups in America and relates them to the conditions of arrival in our history. He makes use of journal studies, biographies, census records and other historical accounts to describe relations between and among various groups of Americans.

For the future, the long term prospects for particular groups who reside in the rapidly developing areas of the country may be quite different from what has occurred previously, but that is a different study. I hope Dr. Sowell addresses that issue in a follow-up work.

Perhaps I can best state the value of this study by resorting to that tortured tool of the desk-bound academic and offer the backhanded compliment of pointing out the only two mistakes found in the entire book. On page 79, Dr. Sowell makes reference to Nicholas II, the Czar of Russia who freed the serfs in 1861 and was assassinated in 1881. This is in error; it was Alexander II whom he describes; Nicholas II came to the throne of Russia in 1894 upon the death of his father Alexander III. Further, on page 221 Dr. Sowell refers to the first Black American Flag rank military officer, General Benjamin O. Davis. Dr. Sowell understandably confuses two members of a prominent American military family. Brigadier General Benjamin O. Davis was the first Black star rank officer in the military. However, he was an Army officer who received his general's star in 1940 after 42 years of active service. His son, Benjamin O. Davis, Jr., a member of the United States Military Academy class of 1936, retired a few years ago as a United States Air Force Lieutenant General. As a distinguished military aviator he led the famous 332nd Pursuit Squadron in the European Theatre during World War II. Such mistakes are easily made by a non-historian and do not reflect upon the quality of the otherwise accurate and compelling work.

Dr. Sowell has written an excellent book, remarkable both because of the scope of the topic and the depth of his insights. He is to be commended for forcing his readers to think and providing adequate material for thought. Legal professionals and law students should find a reading of this book to be beneficial, as should any well informed person. The very special role of lawyers in our own society of protecting individual freedoms and rights from governmental intrusions which uniquely define the American way of life must be especially well perceived by Black and other minority, nay ethnic lawyers. No matter what type of practice speciality a hypenated-American lawyer develops, he or she has an obligation to be well informed about issues which are vital to all ethnic communities. This book provides much useful information in that regard and acordingly should be "must" reading.

J. HOLMES ARMSTEAD, JR.*

* J.D., DePaul University College of Law 1975. Currently Visiting Associate Professor at Pepperdine University School of Law.

Taking Ideals Seriously: The Case for a Lawyers' Public Interest Movement. Edited by Robert L. Ellis. Washington, D.C.: Equal Justice Foundation. 1981. Pp. 168. $6.95 (paperback).

In Brooklyn, a poor person wanting a divorce has to wait from twelve to eighteen months simply to get an interview with a government paid attorney. On Wall Street, three law firms representing large corporations employ more people than all of the public interest organizations nationwide that represent consumers, environmentalists and citizen groups. Such is the fare of *Taking Ideals Seriously: The Case for a Lawyers' Public Interest Movement*, a collection of twenty-one short, readable and eyebrow-raising essays by Ralph Nader and other well known activitists, edited by Robert L. Ellis and published by the Equal Justice Foundation (EJF).

Launched by Nader in 1977, the Foundation's lawyers and law students who "take their ideals seriously" employ this collection as a proselytizing tool in advocating structural change in the legal system. EJF maintains a national office in Washington, D.C. where it coordinates activities regionally at several prestigious law schools. All of the Foundation's projects focus on the goal of increasing access to the legal system for traditionally underrepresented portions of the population. One such project has been the preservation of the Legal Services Corporation (LSC), the subject of one essay. Recently, EJF has been waging an intensive campaign to prevent President Reagan from disintegrating LSC from within by appointing directors who have been openly hostile to the very concept of legal services for the poor.

Although the goal of access to the legal system is evident throughout the book, the fundamental importance of access for the minority community is treated as a matter of coincidence by the essayists. The essays do not distinguish between the inability of non-whites to gain any substantial foothold in the legal system and the general plight of the underrepresented.

Organized into two parts, "The Problem" and "Working for Solutions," the book begins with Philip Stern's "The Maldistribution of Legal Resources." This essay serves as a implied footnote to all of the other essays in the collection and indicates the focus on economic, as opposed to racial, discrimination. The reader learns, for instance, that the United States Department of Justice budget was only 10% of the 24 billion dollars spent by corporations for lawyer services in 1977, and that only a part of its budget was used to fight corporate crime which causes damage estimated at 44 billion dollars per year.

Performing legal services in prodigious amounts on behalf of corporations are the lawyers of the organized bar. While becoming more openly receptive to women, the legal profession remains essentially closed to most ethnic minorities. There are few minority students enrolled in law schools and entry into the profession poses yet another hurdle. During the 1970's, on a national level, three-fourths of white applicants passed bar examinations but only half that many blacks taking the examinations passed. Despite the filing of racial bias suits aimed at ending discrimination by bar examiners in more than ten states, strong institutional biases in the judiciary and large law firms persist.

The hypothesis put forward by Jerold Auerbach in "The Failure of the

Organized Bar to Support the Public Interest" is that a cause and effect relationship exists between the barriers to minorities in entering the profession and the minority community's comparative inability to retain lawyers' services. "[E]lite lawyers [have] promulgated and defended a set of professional values that served the interests of the ethnic, social and economic groups to which they and their clients belong."[1] However, the detailing of corporate misconduct elsewhere in the collection belies this simple theory of causation linking underrepresentation in the legal profession with unequal access to legal services. Whether or not minority enrollment in law schools is proportionate to the general minority population, law schools presumably will continue to feed many of their graduates into large corporate practices because that is where the jobs are. Perhaps law school placement offices, criticized for funneling students into large firms without exploring alternative, social justice-oriented opportunities with them, need to be racially integrated just as much as the student population. However, it remains unclear how a racially balanced profession can be expected to ameliorate the problems attributed to corporate misdoings.

The essayists who follow plead that the law itself presents barriers to access to legal services. Even though ethnic minorities are often the primary victims of these barriers, the legal analyses are written in an almost color-blind fashion. A case that challenged racially discriminatory zoning laws[2] is offered for the purpose of assailing the Supreme Court's narrow concept of standing. In "Rights Without Remedies: The Burger Court Takes the Federal Government Out of the Business of Protecting Federal Rights," cases involving a discriminatory pattern of bail setting and sentencing[3] and discrimination in the employment context[4] receive cold, analytical treatment. Other essays decry encroachments on the remedial powers of the comparatively more enlightened federal courts without illuminating the underlying danger to the hard won gains in the civil rights movement. *Brown v. Board of Education*[5] is called forth not to examine the historical course of racial segregation and discrimination, but merely to illustrate the legal strategy known as "test case" litigation.

There is no doubt that "public interest" law is a concept broad enough to encompass "civil rights" law. The NAACP Legal Defense and Education Fund, the Center for Law and Social Policy and the National Resources Defense Council, to name but a prominent few, can each be described by the catch-all phrase "public interest group." The essay "The Accomplishments of Public Interest Law" points out that these "public interests groups" and others are responsible for making improvements in the areas of health, environment, equality of opportunity and consumer protection. It is to provide

1. Auerbach, *The Failure of the Organized Bar to Support the Public Interest*, in TAKING IDEALS SERIOUSLY: THE CASE FOR A LAWYERS' PUBLIC INTEREST MOVEMENT 16 (R. Ellis ed. 1981). [Hereinafter all articles cited refer to essays within the reviewed text].

2. Warth v. Seldin, 422 U.S. 490 (1975), discussed by R. Ellis in *Do Not Pass Go*, 35-9.

3. O'Shea v. Littleton, 414 U.S. 488 (1974), discussed by A. Morrison in *Rights Without Remedies: The Burger Court Takes the Federal Government Out of the Business of Protecting Federal Rights*, 42.

4. Johnson v. Railway Express Agency, Inc., 421 U.S. 454 (1975), discussed by Morrison, *supra* note 3, at 44.

5. 347 U.S. 483 (1954), discussed by M. Meltsner & P. Schrag in *Public Interest Law — Some Practical Aspects*, 142.

such public interest efforts with a stabilized funding mechanism essential to their continuation that EJF devotes its own particular energies. EJF requires its lawyer members to "tithe" a small percentage of their salaries (usually 1%), allowing them to begin fulfilling their ethical duty as lawyers to improve the legal system.[6] Since the public interest organizations share complementary, if not common, goals, the book's emphasis on the similarity of the obstacles facing them may explain why the particular evils attacked by each individual group are glossed over. Perhaps the editor had to downplay the very different nature of the problems addressed in order to present a unified "case for a lawyers' public interest movement."

Also lending unity to the collection is the essayists' consistently critical attitude towards corporations. Those who have chosen not to lambaste corporations do not come to the defense of corporate practices either. Corporations receive much of the blame for keeping in place the structural barriers of the law (legal requirements for standing, class actions, federal jurisdiction, etc.) through their sponsorship of continuing educational programs for federal judges and assaults on legislatures through lobbyists and political action committee campaign contributions. The insidiousness of the corporate influence is allegedly magnified by the collapse of shareholder democracy as decried in a recent report of the Securities and Exchange Commission, resulting in corporations that resemble government-like autocracies. Nader, in his essay, encourages the private bar to support public interest work, reminding lawyers that "a license to practice law is not a license to run a private business."[7]

The most common approach to solving the problems delineated in the first part of the book takes the form, "Let's rewrite the law to say . . ." For example, one author argues for increased citizen participation in agency proceedings through provisions for intervenor funding. "Justice without Judges," advocates arbitration, mediation, and centers for dispute resolution as ways for citizens to participate in the legal process. Another author audaciously proposes that alternative methods be tested, including protests and demonstrations, individual therapy and self-help.[8]

Perhaps the greatest shortcoming of the collection is that it leads the reader to ask about the relationship between wealth and inequality, but nowhere addresses or even articulates the question. In a highly informative and entertaining way, the essayists manage to skirt the question just as blithely as they skip around the issue of racism when speaking of illegal discrimination. The result is that the reader never finds out what the justification is for a public interest movement. Why, in a democracy where we elect representatives to legislate in our interest, are legal crusaders needed to protect us from our chosen leaders? At best, the book hints at an incomplete, simplistic answer: large corporations have a pervasive, often negative effect on the general well-being of the nation and, by virtue of their wealth and influence, are able to exert considerable pressure on the legislatures and

6. Model Code of Professional Responsibility Canon 8 (1974) discussed by S. Kellock in *A Wholesale Approach to Law Reform*, 118.

7. R. Nader, *For the Preservation of the Public Interest*, 131.

8. E. Cahn & J. Cahn, *Moving into the Eighties: Confronting the Deficiencies of the Legal System from a "Consumer" Perspective*, 166.

courts to blockade citizen efforts to effectively regulate or successfully sue them.

Anti-capitalist sentiment permeates the patchwork of solutions proposed as the antidotes to corporations that refuse to behave. Rather than presenting "the case for a lawyers' public interest movement" as the subtitle proclaims, *Taking Ideals Seriously* can be viewed as bashfully presenting the antecedent to the argument for a socialist state. To propose tactics such as demonstrations and self-help without distinguishing between activities that may be lawful but outside the channels of the legal system and that conduct which is illegal, is to flirt with the idea of revolution.

Nevertheless, the book provides considerable information and insight and is no less valuable for provoking the reader to ask questions that may be beyond the scope of inquiry and to draw conclusions that, perhaps, were unintended.

BRIAN M. RUDNICK*

* J.D., University of Pennsylvania School of Law 1981. Currently serving on a judicial clerkship in New Jersey.

THE NAACP CRUSADE AGAINST LYNCHING, 1909-1950. By Robert L. Zangrando. Philadelphia: Temple University Press, 1980. Pp. ix, 309. $27.50.

The NAACP Crusade against Lynching, 1909-1950 ("*Crusade*") by Robert L. Zangrando, chronicles the rise of the National Association for the Advancement of Colored People ("NAACP") through its forty year struggle against lynching.

> A gruesome instrument of social control, lynching exposed white America's contempt for black people and its disregard for duly constituted legal procedures. The mob exercised a ruthless, indiscriminate sovereignty over all black lives, and racism was never more blatantly displayed than when a gang of lynchers roused themselves to fury against a defenseless victim whose ultimate crime was being black in a white world. (p. 210).

Zangrando poignantly describes the years of violence amid the frustration of a national campaign. He further examines the NAACP's progress and preparation in these early years for its later victories in civil rights reform.

Springfield, Illinois produced Abraham Lincoln, the American president who accomplished more for blacks than any other. The NAACP, too, grew out of events in Springfield. During one very hot summer in 1908 a white mob ripped through the streets of Springfield. Two thousand blacks were forced to flee their homes. Hundreds of thousands of dollars worth of private property was damaged. Two blacks were lynched and the national militia was called to restore order. From this tragedy, according to Zangrando, sprang the NAACP a year later in 1909.

For hundreds of years blacks had suffered the indignity of senseless mob violence; *Crusade* insightfully reminds us that the horror of lynching has not so long past. In the decades preceding the Springfield riot, mobs attacked and lynched blacks with frightening regularity. These mobs attacked responding to the victims' claimed participation in homocides, felonious assaults, rapes, attempted rapes, robberies, and insults to white people. However, as Zangrando explains, the primary motive behind these attacks was usually pure racism. Until very recently, blacks throughout America lived in constant fear of their personal security.

Zangrando's *Crusade* presents a scholarly, detailed account of the progress of the NAACP's anti-lynching campaign in light of the continuous tragedy of lynching. The nature of mob violence is spontaneous "justice." However, Zangrando notes in his introductory chapters that the NAACP found no spontanaeity or justice in lynching where 72% of the 4,743 individuals reported lynched from 1882 through 1968 were black. Once centered in the southern states, lynching lost its regional character by the turn of the century. From 1890 to 1920 outbreaks of mob violence resulting in lynching occurred in New York, Ohio, the District of Columbia, and Illinois, as well as in North Carolina, Louisiana, Texas, Georgia, Tennessee, Nebraska, Arkansas, and Oklahoma. The incidents, as the author discusses, though increasingly widespread, had striking similarities.

> In riot situations, local or state law enforcement agencies occasionally abetted white mobs by a tardy response to the crisis, by a tendency to harass and punish blacks whether or not they actually fought their attackers, or by outright participation against black residents. Like lynching, riots often originated in rumor and false accusations against members of the

> black community. Riots showed a bitter determination among whites to employ force as an instrument of social control. And while some few prosecutions did occur, those were exceptions. Overwhelmingly, white rioters, like their lynching counterparts, expected and enjoyed immunity from the law. (p. 8).

Thus, Zangrando also examines the pervasiveness of mob violence throughout the first half of the twentieth century.

Zangrando also discusses the causes of lynching's continued popularity in the 1900's. He suggests that the Great Depression may have been an underlying cause of mob violence and the resurgence of violent factions, such as the Ku Klux Klan. Scholarly commentators frequently analyze at length the anxiety and frustration of coping with severe economic hardships while struggling to maintain the social status quo; *Crusade* briefly discusses the periods most scholarly works on lynching and the race issue cover. Zangrando thereby adds continuity and depth to his analysis. Although *Crusade* concisely summarizes this theory and data, this topic replows familiar ground, adding little originality to former examinations.

Crusade delves into the anti-lynching movement from its roots. In the 1880's black frustration toward lynching manifested itself as unorganized, retaliatory self-defense. By 1890 an orderly anti-lynching campaign had developed. After the Springfield riot in 1908 two movements, building since the post-Reconstruction period, joined forces to establish a national organization to campaign against the capriciousness and brutality of lynching. In 1909, a modern effort to thwart lynching was born with the founding of the NAACP. Two groups formed the NAACP. One was a group of interracial reformists composed of middle class intellectuals dissatisfied with Booker T. Washington's accomodationism. The other was the angry and beleaguered black population in desparate need of relief from racist oppression. The NAACP's anti-lynching campaign began in earnest less than ten years later. This campaign is where *Crusade* focuses.

The NAACP's campaign was directed at producing federal anti-lynching legislation. In this regard, the first chore was to re-educate legislators. At the outset, many proponents of lynching in state and federal legislatures rationalized lynching as a necessary means to protect white womanhood. Thus, rape, attempted rape, and assault were most prominent among justifications for lynching. However, Zangrando notes that advocates for anti-lynching legislation from Federick Douglass to Walter White and Roy Wilkins fought persistently to demonstrate that protecting white virtue often had nothing to do with lynchings. Legislators were slow to learn and even slower to accept the brutality and injustice in the mob violence they had supported and encouraged for so long. Thus, the NAACP arose to challenge ignorance at the highest levels.

Crusade traces the efforts of the newly created NAACP while it lobbied the United States' Congress. The House of Representatives passed NAACP sponsored anti-lynching bills five separate times from 1923 through 1950. The Senate failed each time to approve the measures. Despite the Senate's failure to approve any anti-lynching measure, each campaign initiated by the NAACP brought greater recognition of the problems. Legislators were increasingly forced to respond to the issues and compromise their inflexible

positions. Furthermore, the American public became more aware of the realities of lynching through the NAACP efforts.

Chapters three through nine focus on the anti-lynching campaign in Congress during this period. In the early period, 1919 to 1923, the NAACP placed all of its strength behind a bill first introduced by Leonidas Dyer (R-Missouri) in 1919. The Dyer Bill became the prototype for later bills and until 1923 formed the cornerstore of the NAACP's lobbying effort. As Zangrando reveals:

> Designed to invoke the Fourteenth Amendment, the bill would guard 'citizens of the United States against lynching in default of' state action, which had denied victims the equal protection of the laws. Delinquent officials who allowed a lynching to occur or failed to prosecute lynchers were subject to imprisonment for up to five years and fines of up to $5,000, while the county in which the crime occurred would have to pay from $5,000 to $10,000 to the victim's heirs. Members of lynch mobs and those sympathetic to lynching were barred from serving on federal juries trying cases under the act. (p. 43). (Citations omitted).

These elements were present in each of the subsequent bills presented to Congress. Throughout the years of campaigning, the NAACP struggled to maintain the quality and integrity of the Dyer Bill. *Crusade* notes that the proponents of lynching frequently introduced "anti-lynching legislation" which was nothing more than a subterfuge to replace acceptable and effective legislation with insubstantial boilerplate. These sham measures purposefully omitted the provisions holding abetting public officials liable and extended application only where the victim was taken from a public officer. According to Zangrando, these changes undercut the effective enforcement of anti-lynching legislation. In most cases, victims were never arrested or detained by police. Moreover, police could easily release their prisoners while cooperating with the mobs.

The Republican party professed its support for the anti-lynching effort. However, Republican legislators failed at every opportunity to confront and overcome the Democratic filibusters in the Senate that arose to defeat each measure. Early on the NAACP's strongest supporters were often inexperienced newly elected Congressmen. These men were idealistic and well intentioned, but lacked the senority and persuasion to generate significant support among their colleagues. In fact, Zangrando notes, one fledgling representative in a floor debate deferred to one of his elder colleagues, expecting him to join in the favorable discussion of anti-lynching legislation. Instead, control was lost and the debate ended. From experiences like this the NAACP learned that their hopes rested with seasoned and persuasive legislators.

As time passed, the NAACP looked increasingly towards northern Democrats to support the anti-lynching effort. In the period 1934 through 1936, the Costigan-Wagner Bill was offered. Senators Robert Wagner (D-New York) and Edward Costigan (D-Colorado), enraged by the shocking reversion to primitive brutality, introduced their bill to defeat mob rule and to guarantee that constituted authority would dispense equal justice to every race, creed, and individual. Both men were committed to liberal and humanitarian reforms.

Zangrando expresses the urgency of this period and the difficulty of the

NAACP's task while also examining the impact of the political and social climate on the legislators that they sought to persuade. Public opinion polls revealed the general public's disapproval of lynching, yet those same polls indicated the continuing vitality of its favor in southern states.

The Costigan-Wagner Bill gave way to the Gavagan Bill in 1937. Democrat Joseph Gavagan of New York introduced this bill at the urging of the NAACP. This time, however, southern obstructionists found an unwitting ally in the House's only black member when Arthur Mitchell (D-Chicago) introduced a weaker version. *Crusade* shows the agility of the NAACP in overcoming this and other barriers to its progress.

NAACP representatives' efforts expanded throughout the period of Zangrando's study. They repeatedly testified before state and federal investigative committees, presenting the evidence gathered from their independent investigations. They also waged battles in the courtroom for blacks in eminent danger of the mobs' wrath. They petitioned Presidents to take some executive action in condemnation of lynching, yet at every stage of political and legal incursion they found limited success and met consistent evasion. As a result of their persistent efforts, however, Congress passed the Dyer Bill in 1922. Finding no Senate supporters, the Dyer Bill died later that year, the victim of a lengthly southern Democratic filibuster.

Zangrando details a similar result for the subsequent five campaigns through 1950. Each drive, however, attracted more Democratic support and thus brought the Senate closer to approval. In addition, after its initial drive, the NAACP leadership realized that the anti-lynching program could be utilized for other tasks.

Throughout the succeeding years, 1923 through 1933, the NAACP changed its focus. During that period, lynching had dropped off and with the demise of the Dyer Bill, the political climate of the 1920's proved less hospitable to civil rights legislation. Zangrando examines this unusual trend and details the development of the NAACP beyond lynching issues. Its leaders, among them James Weldon Johnson and W.E.B. DuBois, redirected the NAACP effort toward a mobilization of the black community as a viable political entity. The anti-lynching campaigns were thus used to rally the black community into pressing state governments into drafting appropriate legislation. As a result, Pennsylvania and New Jersey passed measures similar to the Dyer Bill in 1923.

In 1933, with a dramatic resurgence in lynching over the past year, the NAACP returned its primary emphasis to federal anti-lynching legislation. "Its renewal of an intensive campaign for a federal law against lynching seemed sudden, but the reasons behind this decision in 1933-1934 stemmed from a mixture of necessity, apprehension and hope." (p. 97). *Crusade* consistently develops the varying intensity of the lynching horror and the pragmatic artifices of the NAACP developed in response.

Thus, *Crusade* examines the lessons learned and the experiences gained through the NAACP campaigns. It notes that although the campaigns failed in a normal sense, the entire effort was a victory paving the way for more victories to come. Zangrando details the recognition by the NAACP of the utility of radio promotion in the 1930's and the 1940's and of the intracasies of lobbying members of Congress. Further, he examines the efforts of those

friendly to the NAACP, in particular Eleanor Roosevelt, on its behalf in presenting the anti-lynching position to the President. Although no American president ever publicly supported anti-lynching legislation, and as an indirect result a federal law was never passed, the impact of these friends added much to the integrity and credibility of the NAACP and its campaign. *Crusade* insightfully recounts the significance of these contributions. In addition, it provides a positive viewpoint from which the later work of the NAACP's goal of civil rights reform can be understood and appreciated.

The NAACP's efforts to lobby Congress prepared it technically, intellectually, and emotionally for its later battles. As a result, according to Zangrando, the NAACP spearheaded the great formal victories in equality and voter's rights for blacks. As *Crusade* states:

> The drive against mobbism had multiple results. It was the Association's earliest and most sustained attempt to bring the federal government back into the field of civil rights enforcement. Lynching became the wedge by which the NAACP insinuated itself into the public conscience among philanthropists, and opened lines of communcation with other liberal-reformist groups that eventually joined it in a mid-century, civil rights coalition of unprecedented proportions. Lynching provided a readily acceptable issue around which to mobilize the black community, North and South. Once brought together against mob action, black people were better able thereafter to pursue other common objectives. (p. 18).

Crusade thus places the NAACP in historical perspective which illuminates the organizations significant contributions.

Crusade's major flaw lies in its conclusion. The final chapter falls flat in contrast to the powerful portrayal of the events, issues and personalities of the preceding chapters. It suggests that the NAACP, and with it the American public, has changed toward apathy and neglect in its concern for minority rights. This is probably correct. However, instead of consistently following the positive development of his historical treatment, Zangrando retreats unexpectedly to a hopeless outlook. He says that the struggle lies with "Parties Yet Unknown," as the chapter's title suggests.

Despite the superficial final paragraph, *The NAACP Crusade against Lynching, 1909-1950* by Robert L. Zangrando, is well written and deals fairly and accurately with its subject matter. Whatever the book lacks in sensitivity, it makes up for in detail and clarity.

WILLIAM K. MILLS

CRIME AND CRIMINAL LAW: THE CALIFORNIA EXPERIENCE, 1960-1975. By Walter L. Gordon, III. Gaithersburg, MD: Associated Faculty Press, Inc. 1981. Pp. ix, 164. $14.00 (paperback).

Between 1963 and 1975, California attempted a full-scale revision of its nineteenth century-based penal code. Walter L. Gordon, III, who has taught advanced criminal procedure at UCLA School of Law, examines in *Crime and Criminal Law: The California Experience, 1960-1975* the reasons and lack of success behind California's goal to rewrite its criminal legislation in a comprehensive manner. Gordon, whose book began as a Ph.D. dissertation, discusses the influence of the American Law Institute (ALI) and its Model Penal Code (MPC) on the efforts of the California revision committees. Cogent to his analysis is the effect of comprehensive criminal reform on minorities, law enforcement, and business interests.

Beginning with a brief history of the creation of California's nineteenth century penal code and the need for reform, Gordon reviews the origins of the ALI and its modern, "progressive" Model Penal Code. Central to Gordon's discussion is the debunking of the MPC as a liberal force. Gordon's major point concerning the MPC is that its authors eliminated strict liability in the business or white collar context, but retained it for felony-murder. He convincingly argues that the drafters' decision was one of class bias, a fundamental problem that affected most of the California drafters' reform provisions.

Included in his account of the reform effort are the political shifts and changing consensus of the California legislature, which eventually led to a rejection of comprehensive criminal legislation. Instead, piecemeal legislation, which is a product of political compromise and public pressure, was enacted, circumventing the complexity of total reform.

Gordon notes that the drafters of the comprehensive legislation were basically removed from the input of groups that were not pro-law enforcement or prosecutorial. Rarely did minority or special interest groups penetrate the workings of the drafting committees. He further notes on page 82 that "[p]enal code reform, in short, is potentially a force for extending freedom or it can serve as a tool of repression. If the latter is to be avoided then the process must be opened up to participation by all sectors of the population." Comprehensive reform in California was ultimately determined by legislators and law enforcement bodies who did not trust the efficacy of full-scale reform to protect their interests.

Gordon's emphasis on the struggle to reject the Model Penal Code in California is not without merit. He sees the tension of comprehensive versus piecemeal reform as a battle between eastern elitism and southwestern conservatism. The ALI and MPC were perceived by western legislators as an abstract liberal program not grounded in the special peculiarities of California's law enforcement needs. The MPC came to represent the spectre of defense-oriented progressive reform so abhorred by conservative politicians. However, Gordon cites several instances where the original California drafters ("the professors"), who adhered closely to MPC reasoning, were no more liberal in their drafts than their pro-law enforcement replacements ("the Ringer staff"). The question remains open whether any reform legislation—

piecemeal or comprehensive—that does not consider the interests of all representative groups in society, is truly "reformist."

In addition to a look at California's return to determinate sentencing, *Crime and Criminal Law: The California Experience, 1960-1975*, has a useful appendix on crime in California during the relevant reform period. While he includes statistical data to support his discussion, Gordon is primarily concerned with the underlying political attitudes and ideology behind California's attempt at criminal reform.

Gordon's book is a good introduction to the California reform struggle. His insights into the conservative nature of criminal reform are worthy of extended analysis of post-1975 criminal legislation. His conclusion that the rejection of comprehensive legislation was in effect the rejection of eastern elitism (as symbolized by the MPC), in favor of conservative southwestern interests, highlights California's unique failure in an area of complex, controversial importance.

MICHELLE M. OSBORNE