



THE UNDERWORLD

A Stultified Conscience

by WALTER LIPPMANN

EUROPEANS who read about the more spectacular aspects of the gang wars in Chicago, about the murder of Arnold Rothstein, the attack on Jack Diamond, and the fabulous immunity of Al Capone, naturally conclude, as the *Manchester Guardian* put it the other day, that "all the machinery of law exists in America, but the thing does not work properly." There is no disputing this conclusion. The thing does not work properly. That is why we have almost as many crime commissions as we have gangs collecting tribute and issuing death warrants. But though everybody thunders in the index about the increase of organized crime, nothing much is done about it. The general public is not really aroused, public opinion is not coherent and enlisted, officials are not effectively concerned.

Thus the voters in our large cities have as yet shown no disposition to get thoroughly rid of the politicians who submit to, profit by, and fumble with the activities of the underworld. Leaving out all the evidences of subterranean partnership, the indisputable fact is that the dominant political machines in cities like Chicago and New York have notoriously failed to suppress organized crime. Even on the assumption that they are manned

by brave, incorruptible, and patriotic individuals from the mayor and the boss at the top to the patrolman and the precinct captain, the fact remains that they are demonstrably impotent against the powers of the underworld. Yet they continue to control the agencies of the law, and in spite of the fulminations of press, pulpit, and grand juries they are periodically confirmed in their control by large majorities of American citizens.

Somewhere or other there is a blockade of the civic will which paralyzes action; somehow or other, as the *Manchester Guardian* went on to say, "the public conscience does not function as it should." We find ourselves revolving in a circle of impotence in which we outlaw intolerantly the satisfaction of certain persistent human desires and then tolerate what we have prohibited. Thus we find ourselves accepting in their lawless forms the very things which in lawful form we repudiate, having in the end to deal not only with all the vices we intended to abolish but with the additional dangers which arise from having turned over their exploitation to the underworld.

There are obvious reasons why these paradoxes are not easily realized by the American voters. In spite of the magnitude of its opera-

tions, the ordinary householder has little personal contact with the grosser felonies of the underworld. Arnold Rothstein was murdered in a hotel which is a ten-minute walk from my home; Jack Diamond was shot in a hotel which is not much farther away. But for the fact that I am a newspaper man and know reporters who were at the scene shortly after the shootings, I should not, I think, have any greater conviction of their reality than I have about a murder in a novel by Edgar Wallace.

The detectives were a little less smart than they are in the books, and of course there was no solution. But I cannot recall that my primary emotion was one of indignation that defiant crimes had been committed in the city where I live. As far as I could observe my friends and myself, it seems that we enjoyed the Rothstein and Diamond affairs. For we city dwellers are connoisseurs of celebrated crimes, and here were two specimens which after examination turned out to be pretty good, but not quite up to the level of the Snyder, Elwell, and Hall-Mills cases.

I have little doubt that the shooting of Diamond amused New York for a few days and shocked it very little. This was due partially to the feeling that Diamond's life was not precious, but chiefly it was due to the fact that the shooting did not seem actually to have happened. Thus we must be acquitted of mere callous cruelty, however much we are damned for lack of imagination. It has never been accounted vicious to enjoy the murders in the Rue Morgue, and the same sort of innocence pervades New York's enjoyment of its big murder cases. For our civilization has become so extensive and complex that we are for the most part mere spectators of events in which by a hidden chain of causes we are implicated.

If the grosser crimes of the underworld are remote from our lives, its services are sufficiently close to inhibit our continuing indignation. The ordinary householder in American cities has considerable contact with the underworld, almost all of it of a kind which dulls his conscience. Unless he is the victim of a racket, has his house broken into, or is held up and slugged — all comparatively unusual experiences — he meets the underworld through the favors which it sells. From the

underworld he, or at least many friends whom he respects, obtain their liquor. He knows this. But he does not allow himself to dwell too much on the knowledge that the cocktail comes from the bootlegger who operates under the jurisdiction of a criminal magnate, and that before the cocktail could be drunk, the Constitution and the laws had to be broken, public officials had to be deceived or corrupted, and some murders may have had to be committed.

With all of this complex of lawlessness the ordinary householder is dimly associated in a common defiance of the law and by the relationship of buyer and seller. There is no way of measuring the intangibles, but this must be a fact of prime importance in explaining why in the big cities one does not find the uncompromising hostility to the underworld which it is assumed should normally exist in a civilized society.

The bootlegging trade is not the only friendly and profitable bridge between respectability and the underworld. It is indubitably true that gangs have not infrequently been employed, and thus their existence encouraged, by business men. They have been used to break strikes. They have even been used in commercial warfare. It seems to me fairly certain that a history of gangs in Chicago and New York would show that the present development of racketeering, which is essentially the levying by gangsters of ransoms upon small business men, is rather closely connected with payments to gangsters to break strikes and to ruin commercial rivals. The extortion which gangs now practice has been and probably is now at times a voluntary payment to them for services rendered. Even to-day I should imagine that it would be a false and naïve picture to suppose that racketeers prey entirely upon innocent victims. The relationship is more complex. The gangs do not merely prey; in some measure they also serve their victims. The business flourishes because there is a certain reciprocal profit in it.

Then there are the reciprocal relations between gangs and political machines. On this point we have not only the evidence of fairly extensive personal relations between certain politicians and the lords of the underworld, we have not only rather striking evidence in the careers of men like Capone, Rothstein, and

Diamond that they exercised sufficient political influence to stay out of jail, but we know that the gangs play a considerable part in elections, particularly in primary elections. The suffrage in American cities is by no means pure: the tricks of colonizing districts, of repeating, of stuffing ballot boxes, and of terrorizing voters often require the assistance of gangs.

PROHIBITED — BUT POPULAR

THESE RELATIONSHIPS tend to blur the sharp distinction between civilized society and the underworld. The will to exterminate the underworld is necessarily blunted by the evident fact that the underworld performs many services which respectable members of society call for. Thus we have a code of laws which prohibit almost all the weaknesses of the flesh. This code of laws is effective up to a point. That point is the unwillingness of respectable people to engage in the prohibited services as sellers of prohibited commodities.

Respectable people are, however, willing to be consumers, patrons, and clients of these services. The underworld, having no respectability to lose, is the producer and seller of opportunities for gambling, fornication, drug-taking, and erotic amusement. The respectable world and the underworld interpenetrate at race tracks, bucket shops, poolrooms, prize fights, night clubs, speakeasies, backstage in the theaters, in bawdyhouses and hotels of assignation.

There are, of course, millions of Americans who do not enter this twilight zone in the whole course of their lives, but, on the other hand, there are numbers who do. That they deplore gang murders, the extortion of the racketeers, and even the grosser forms of bribery, we may take for granted. But they can hardly be very much interested in the abolition of the underworld's trade in goods which the law prohibits, the prevailing morality frowns upon, but their appetites desire.

In the larger cities the direct consumers of services that the underworld alone dares to provide are large in numbers; they are influential out of all proportion to their numbers. They shade out into the still larger class of reputable citizens who, though they have no contact at first or even second hand with the underworld, nevertheless have one thing in common with it. They are lawbreakers and

they are glad to use pull to evade the consequences. It is difficult to speak accurately about this aspect of American social habit. One must rely on one's own observation. Mine is that scrupulous respect for all the laws and a refusal to accept favors is almost everywhere regarded as priggishness. The few men I have ever known who were really scrupulous have often wondered whether they were not suffering from some form of compulsion neurosis.

Certainly the general sentiment is to assume the right to beat the law. Different people have different points of resistance. I myself, for example, have no hesitation about breaking the prohibition law. I would not, however, break the tariff law, much as I despise the existing law, except that I would break that section of it dealing with prohibited books. I would smuggle any book I wanted to read. I would not violate the revenue laws. But I cannot develop much of a conscience about the archaic personal property tax in New York. I do not always obey the speed laws, but, if I were caught, I do not think I should care to bribe a policeman or to ask a politician to talk to the judge. I would bet at a race track if I felt like it.

The point of all this is that we are all so much addicted to lawbreaking that the existence of a great underworld which lives on lawbreaking is not wholly alien and antagonistic to the working assumptions of our lives. Because of their own strong addiction to lawlessness, Americans as a whole are by no means clear in their own minds as to the moral grounds on which they could challenge the underworld and go to war against it. Such warfare as they conduct is limited to the attempt to convict individuals of the more heinous crimes. These convictions are for many reasons difficult to obtain. Even when they are obtained they are of little account. For the heinous crimes are merely extremes of lawbreaking arising out of a high level of lawlessness.

The high level of lawlessness is maintained by the fact that Americans desire to do so many things which they also desire to prohibit.

A DISSENTING DEMOCRACY

WE COME HERE upon one of the fundamental patterns of our political consciousness. The dominant American tradition is that morality requires the absolute condemna-

tion without compromise of the weaknesses of the flesh. This tradition is by no means universal in Christendom. It prevails, as I think Thomas Cuming Hall has shown convincingly, primarily among peoples schooled in the dissenting spirit. They feel that the carnal pleasures — drinking, fornicating, and gambling — cannot for one instant be tolerated as normal in human existence. This is not the view held by the more aristocratic tradition of Western Europe. That tradition is tolerant of human appetites, and far too worldly to seek to condemn absolutely what it seems impossible to abolish.

Due to a variety of causes operating within the last generation, the aristocratic tradition of compromise with human nature has been almost obliterated in American public life. In its place the dissenting democracy has become dominant almost everywhere, but most particularly in the legislative bodies. This dissenting democracy, being composed almost entirely of people without previous practice in the arts of government, has had very much more moral conviction than it has had human experience. It has legislated out of its convictions rather than out of the body of human knowledge, and it has been much more interested in affirming its ideals than in facing the problems of applying them.

Proceeding on the principle of no compromise with the devil, the first concern of the dissenting democracy has been to purge the statute books of anything which could be construed as countenancing sin. This passion for legislative purity is, I suppose, the ghost of that grandiose conception which the New Englanders found systematically set forth by Richard Baxter in his *Holy Commonwealth*,* the idea that the civil state was to become the visible City of God. If this state was to express "that temporal dignity of the Saints, which undoubtedly would much bless the world," its statute books could make no concessions to the devil.

Whether or not this is the source of our American passion for a perfect idealism in the law, it is certain that this passion controls the mass-mind of America; and as direct democracy has advanced at the expense of representative government, the insistence on legislative declarations of perfection has been unchecked.

* See Herbert Wallace Schneider's *The Puritan Mind*.

Thus, to the amazement of the older nations of the earth, we have in the last thirty or forty years enacted new legal prohibitions against the oldest vices of man. We have achieved a body of statutory law which testifies unreservedly to our aspiration for an absolutely blameless and highly competitive life on earth.

The practical effect of this supreme moral achievement has been to lay upon the administrative branches of government the task of lifting the moral life of the American people above all temptation. Except in little utopian colonies here and there, no such stupendous thing has ever before been attempted by government. The people through their legislatures decreed that the American nation must be protected by officials against all opportunities to drink, to gamble, to fornicate, to see lascivious pictures, to read impure books, and also against attempting to protect their livelihood against the moral blessings of destructive competition.

This ambitious program of moral reform implied, of course, the establishment of the most despotic and efficient government ever seen on earth. The program called for thousands and thousands of resolute and incorruptible inspectors, policemen, prosecutors, and judges to enforce it. These could be had only by the expenditure of enormous sums of money. They could hope to carry out the program only by the suspension of most civil rights such as trial by jury, the sanctity of the domicile, freedom of speech and of publication.

But the very people who had enacted the program of moral reform which called for a tyranny, the dissenting democrats, happened also to be great lovers of liberty. They inherited another tradition along with that of the Holy Commonwealth, a tradition of profound distrust of executive and judicial authority, which they embodied in the Bill of Rights. Nothing has ever been able to induce them to set up a really strong executive government in America. Thus by their moral convictions they prohibited all sin, and by their liberal convictions they have kept the prohibitions from being enforced.

The enormous growth of activity in the underworld is the direct consequence of this contradiction in the American mind.

The underworld is what it is largely because

Americans are too moral to tolerate human weakness, and because they are too great lovers of liberty to tolerate the tyranny which might make it possible to abolish what they prohibit. They have made laws which act like a protective tariff — to encourage the business of the underworld. Their prohibitions have turned over to the underworld the services from which it profits. Their prejudice in favor of weak governments has deprived them of the power to cope with the vast lawbreaking industries which their laws have called into being.

The dangers and inconveniences of this result are multiplying and have become omi-

nous. The present deadlock between our legislative purposes and our administrative prejudices cannot continue forever. For while it lasts, lawlessness is growing, and in certain areas of the country the social structure is already badly shaken. Something will have to give way. Sooner or later the American people will have to make up their minds either to bring their legislative ideals down to the point where they square with prevailing human nature or they will have to establish an administrative despotism strong enough to begin enforcing their moral ideals. They cannot much longer defy the devil with a wooden sword.

Endless Saturday Nights

A Short History of Tubbing



Drawings by Barney Tobey

by **GEORGE FREDERIC NIEBERG**

IN THE FUSTY parlors of the faithful, wall mottoes are still in vogue — handsomely embroidered sentiments attesting mutely to the acceptance of all the sacred bromides in the great American credo. And leading the pack in popularity is that holy pronouncement: *Cleanliness is next to godliness*. This dictum, while interesting, wobbles a bit on its factual hind legs. Of course, no intelligent and unbiased observer, in view of the trend of events during the past decade, will question America's godliness; but when the hygienic habits of our pious countrymen are subjected to a pitiless close-up, there is disclosed no visible evidence of any affinity between bathtubs and God.

It may be that another holy war will result from this subversion of the sainted doctrine. If so, it should be a first-rate show. On one side — the hordes of fanatical muzhiks, splendidly outfitted with guns, bombs, and prayer rugs. On the other — a few civilized heretics equipped with a sense of humor and some embarrassing facts pertaining to the enemy's present, and past, aversion for soap and water.

However, no historical secrets are divulged by the unpleasant but incontrovertible truth that bathing has been decidedly unpopular in this best of all possible worlds for the last seventeen hundred years. This includes America, where the damp finger of the Bathtub