I. Foreword: fundamental conflicts in American society and the general themes of sociology of law.

To understand the development of the sociology of law in America, one should view it in the context of a society characterized by three fundamental conflicts. First, American society asserts an egalitarian value system, yet displays quite apparent social stratification, including something like a caste distinction. Second, although a strong tradition of local autonomy, direct citizen participation in government, and primary group controls persists in the minds of many Americans, the country itself is presently more urban than rural, national than local, and its systems of social control and communication are becoming increasingly depersonalized. Finally, although America often visualizes itself as a nation composed of individual capitalists, the major economic power of the nation is held by large scale organizations — government, business corporations, also labor unions — in which the social, economic, and political fate of thousands, sometimes millions, can be determined by the decisions of relatively few persons.

In general, the sociology of law in America has addressed itself to these more or less apparent social contradictions. Thus, faced with the fact of social stratification within a society characterized by egalitarian norms, the sociology of law in America has looked into the consequences of the social stratification system for the administration of justice. To the general tendency toward depersonalization and urbanization, the sociology of law has reacted with studies seeking to understand the difficulties of realizing ideals of individual justice in a mass industrial society. Finally, to the centralization of power over the lives of individuals, the sociology of law has responded with a concern for the fate of legal ideals in private government and public regulatory agencies. Such tendencies are of course by no means exclusively American and we may anticipate that the sociology of law in other nations will address itself to similar issues.
In what follows, I should like to summarize essays and studies under these general themes, even though the themes themselves may not have been considered by the authors in doing their research or writing. Indeed, empirical studies in the sociology of law in America have characteristically not been related, either to each other or to an overriding theoretical concern. Like the parent discipline, American sociology, empirical socio-legal work has tended to be heavy on technique and design, relatively light on theory or larger philosophical issues.

In writing such a paper as this, therefore, the basic problem faced by the author is the development of a classificatory scheme for uniting disparate publications. One classification might be, for example, by technique; another by locale; or a third by specific topic (the legal profession, juvenile delinquency, etc.). To a degree, one is necessarily forced into using all of these classifications, but none addresses itself to the broader question of the purpose behind the studies; and by purpose I do not here mean to suggest the specific motivation of the individual researcher. Instead, I mean to characterize fundamental concerns generated by the environment which have influenced the kinds of topics selected by scholars working, broadly speaking, in the sociology of law. In making such an interpretation, there is surely the danger of reification, of conjuring a nonexistent teleology out of one's own reflections. But there may also be the advantage of placing empirical work within a larger intellectual perspective and attaching some broader meaning to some studies, more narrowly conceived by their authors.

Out of fairness to the authors, and also out of interest in how the sociology of law came to be — despite relatively circumscribed interests on the part of some authors, including the writer — I shall try to separate what is known to be the stated or specific interest of the author from what have been set out as major perspectives in the development of the sociology of law in America. (I doubt that I shall always succeed and hereby acknowledge having extracted in certain instances only a minor part of a study's meaning to the author in order to suggest that portion of it bearing relevance to broader issues and related studies in the sociology of law.) Additionally, while the findings of certain kinds of studies only partly relevant to sociology of law — e.g., those of juri-metrics — are discussed, other whole areas of social science research are passed over, as for example, much of the work that falls under the heading of social psychological studies of conformity. I have also not attempted anything like a systematic report or analysis of two other bodies of literature fundamental to the student of sociology of law, the