Vicious Circles: The Mafia in the Marketplace

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Vicious Circles is a convincing and unsettling exposé of organized crime in American industry. Relying on law-enforcement eavesdropping tapes, Jonathan Kwitny, a reporter for the Wall Street Journal, meticulously details the Mafia's infiltration of a host of familiar industries, and its involvement in a staggering variety of economic crime. But the book is not only reportorial: Kwitny also attempts to explain the failure of the criminal justice system to halt the "vicious circles" of Mafia crime and corruption. He argues that lenient sentencing policies of judges, the "revolving door" practice of lawyers, and their "hired gun" ethic are in large part responsible for the legal system's inability to control organized crime.

The Mafia activities described by Kwitny form an almost unbelievable pattern of crime against American consumers, workers, and small businessmen. A "respectable" meat distributor, in order to increase profits, sells the meat of horses and diseased cows, some of it soaked in formaldehyde to conceal its true condition. A Mafia-controlled mozzarella cheese business uses an ingenious bankruptcy fraud scheme to cheat Wisconsin dairy farmers out of hundreds of thousands of dollars. The trustees of the Teamsters Union pension fund make multi-million dollar "loans" to a "circle of union leaders, trucking company executives, Mafia members, and their lawyers" (p. 165). Liquor wholesalers in New Jersey make illegal kickback payments to retailers and high elected officials. And the list continues.

Over one third of the book is devoted to the Iowa Beef Processors scandal, in which one of the world's largest meat companies was reduced to doing business with one Moe Steinman, who, according to the author, "fronted" for three powerful Mafia families in controlling the New York City meat industry in the 1960s and the 1970s. For the "privilege" of selling its pre-packaged meat in the New York City market, Iowa Beef agreed to pay Steinman commissions of a half cent per pound on all of its shipments to New York retailers.

1. Kwitny is not the first to expose the Teamsters' pension fund abuses. See, e.g., S. Brill, The Teamsters (1978).

2. Kwitny recounts that Matthew Feldman, then president of the New Jersey state senate and vice-president of a wholesale liquor company, pleaded guilty to federal bribery charges after having bribed whisky buyers to maintain their patronage. Feldman was fined a mere $1,000 and remained in office. According to Kwitny, New Jersey Governor Brendan Byrne publicly defended Feldman with this remarkable statement, which he attributed to an old law professor: "We all commit about the same amount of crime. It's all a question of what kind and whether we get caught" P. 247.
Part of these commissions, Kwitny says, were retained by Steinman, while the remainder were paid out in kickbacks to supermarket executives, union officials, and Mafiosi. The scheme bilked consumers of millions of dollars annually. After several years of investigation, the New York district attorney and a special United States strike force brought Steinman, Currier Holman, the president of Iowa Beef, and supermarket and union officials to trial. Though convictions were obtained, most of the defendants received the kinds of sentences that are typical in organized crime cases: fines and prison sentences of no more than a few months.

According to Kwitny, this consistent pattern of lenient sentences is one of the primary reasons for law enforcement’s failure to check the activities of organized crime in the American marketplace. Kwitny argues persuasively that stiff sentences will have an especially strong deterrent effect on the class of criminals involved in such schemes as the Iowa Beef scandal. Business executives who engage in this kind of crime particularly fear the prospect of prison sentences and give more thought to the consequences of their actions than do other classes of criminals. Kwitny believes that stiffer sentences will offset the monetary rewards from economic crime. Kwitny also decries the fundamental injustice of giving more lenient sentences to perpetrators of white-collar crime involving millions of dollars than to those who commit street crimes (e.g., armed robbery) that cause far smaller losses.

Lenient sentencing, Kwitny believes, results from judicial politics and judicial naiveté regarding the professional white-collar criminal. The defendants in white-collar cases often resemble the same influential contributors whom the judge has courted on the political circuit. Such defendants are also better able than other criminals to play upon a judge’s sympathy by presenting themselves as reformed wrongdoers. Kwitny’s solution to this potential bias is to require that white-collar criminals be given mandatory sentences, proportional in severity to the amount of money stolen.

The second cause of law enforcement’s failure, in Kwitny’s view, is the “revolving-door” practice of lawyers. Young lawyers join prosecutors’ offices to gain experience and reputation, but leave after a few years for careers in criminal defense work. This practice, Kwitny says, often encourages young prosecutors to make “deals” with defendants on easy terms, since the prosecutor can amass impressive conviction statistics without alienating potential future clients and law firm partners. Kwitny’s concern with the “revolving-door” practice is part of his larger disapproval of the “hired gun”
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ethic. He objects to the notion that a lawyer should zealously defend any person who has hired him for that purpose, even if the lawyer knows his client to be guilty. Kwitny espouses a new legal ethic in which the lawyer's role will be not that of a "hired gun," but rather that of "a dedicated advocate for causes he selects and believes in" (pp. 398-99). As Kwitny explains, "[u]nder such an ethic no lawyer could claim an obligation to marshal the full resources of his genius to obtain freedom for a man he knew didn't deserve it" (p. 401). Kwitny's comments about legal ethics and the role of the lawyer will be regarded by many lawyers as naïve or even heretical. But the questions he raises are troubling, and should not be dismissed without a hearing, particularly in this day of public cynicism about lawyers.

*Vicious Circles* is not without its shortcomings. Although the extensive use of government eavesdropping tapes gives the book a solid factual foundation, Kwitny does not explicitly reveal most of his other sources. The reader is thus often left to guess which "facts" Kwitny obtained from available trial records and which he obtained elsewhere. In addition, Kwitny's description of the Mafia's overall structure is not entirely satisfying. He suggests in an early chapter that the Mafia is a highly centralized, monolithic organization headed by a "national commission." But it may be more accurate — and more in accord with the tenor of Kwitny's accounts — to view the Mafia as a group of interconnected, Italian-American crime families that operate out of large American cities. This seems to be Kwitny's working definition in *Vicious Circles*, since it is particular Mafia crime families, and not a "national commission," which he implicates in the criminal schemes in the book.

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3. Thus, in his chapter on Teamsters pension fund abuses, Kwitny fails to indicate the specific source of information on particular diversions of fund monies (e.g., fund records, memoranda from trustees, etc.).

4. Kwitny offers as evidence of the "national commission" an FBI bug of a conversation between Simone "Sam the Plumber" DeCavalcante and Bayonne Joe Zicarelli, a member of the Bonanno crime family. But even assuming that there is a "national commission," this fact tells us nothing about the extent of its control over the localized crime families. Kwitny himself concedes this when he observes: "The conversations clearly establish that there is a Mafia. But exactly what it is, and who is in it, and what role it plays in all of American crime are more difficult questions." P. 61.

Vicious Circles is a bold effort to trace the role of organized crime in a broad segment of American industry. Although lawyers may not accept all of Kwitny's conclusions about the criminal justice system, they are certain to find them provocative. They will also come away with a better understanding of the extraordinary and pervasive ways in which organized crime operates in our society.⁶

⁶ Other reviews of the book include: Gartner, U.S. Business and the Mafia, Wall St. J., April 24, 1979, at 24, col. 4; Powers, Dropouts in Sharkskin Suits, N.Y. Times, April 15, 1979, § 7, at 9, col. 1; Sherrill, Prime Cuts for the Mob, Wash. Post, May 13, 1979, § K. at 5, col. 3.