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## Book Reviews

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## BOOK REVIEWS

A. R. Lindesmith [Ed.]

**DIE KONJUNKTURKRIMINALITÄT:** By Bruno Gleitze. Stuttgart and Berlin: Kohlhammer, 1941. Pp. X + 106. R. M. 6.30.

Gleitze's study deals with the influence which business cycle and demographic developments exercised on German criminality figures in the period between 1925 and 1932. The period thus chosen contains the prosperity intermezzo as well as the final crisis of the Weimar Republic. The excellent study works out a threefold pattern for the relationship between the fluctuations of the economic situation and the crime rate: He distinguishes between crisis- and prosperity favored criminality as against a third group which remains entirely unaffected by economic fluctuations. His tabulations show that crisis and prosperity criminality do not conform to the conventional division in crimes against person, public order, and property but cut right through these classifications; he also notes a continuous regression in female criminality continuing throughout the crisis period. In a very instructive way the author tries a further differentiation of the results obtained by splitting them up according to age groups. He arrives at some characteristic differences in criminal behavior. Most striking in this respect is the increase in fraud and embezzlement during the crisis within the older groups as against the inverse development within the group below thirty, whereas the larceny figures follow an opposite trend.

It is a pity that G. does not seem to have had access to H. Schwarz's article on Criminality and Business Cycle, (*International Review for Social History*, Amsterdam, vol. 3, 1939, pp. 336-397) which using a number of diversified economic

indices establishes a still closer correlation between individual crimes and the corresponding economic phenomena. At any rate, both works together go a long way in giving a satisfactory explanation of the German criminality figures of that period.

OTTO KIRCHHEIMER.

Institute of Social Research,  
New York City.

**CRIMINAL LAW AND ITS ADMINISTRATION: CASES, STATUTES, AND COMMENTARIES.** By Jerome Michael and Herbert Wechsler, Chicago: The Foundation Press, Inc., 1940. Pp. XI + 1410. \$6.50.

One's judgment of a book, primarily intended for the students' use, will largely depend on one's conception of the aims and functions of the course in which it is intended to be used. One may, for example, conceive the course in substantive criminal law primarily as an introduction into the art of how and where to draw the boundary line between permissible and reprehensible conduct and how to distinguish between the different labels which are put upon different forms of criminal behavior. But, one may also conceive it from the broader viewpoint, variously called "integration of law and social sciences"<sup>1</sup> or the "functional approach."<sup>2</sup> Michael and Wechsler's book gives ample proof that these conceptions are complimentary. The amount of trouble we take in distinguishing criminal from non-criminal behavior is proportioned to our evaluation of personal liberty within the framework of society. We may define criminal conduct so broadly—take, e. g., the "definition" of a criminal conspiracy—

<sup>1</sup> See D. Riesman's report on Michael and Wechsler's class book in 50 *Yale Law Journal* (1941) pp. 636-653.

<sup>2</sup> This latter terminology is not without its danger, however, as evidenced by Strahorn's Review in 54 *Harvard Law Rev.* (1941) pp. 1415-1418. St. Naxom takes issue with Michael-

Wechsler for the inconsistency of their functional approach, inconsistencies which mostly result from his restriction of the conception of functional approach to the aims of punishment; a narrowness which the book itself is fortunate in avoiding in favor of the broader and more diversified aspects of criminal justice.

as to obscure the distinction between criminal and lawful behavior. The inevitable result is a shift in the delicate balance between the community as a whole and its individual parts. Since the structure and conception of our criminal law is so intimately related to social realities that alterations in either have immediate repercussions on the other, the authors have conceived their task in a twofold way: They provide the student with all the material he needs to learn how to decide and to distinguish individual cases, but they also supply him with materials which will give him a deep insight into the historical and social setting of the rules, suggest alternatives to him and give him some capacity to make an intelligent choice between them.

To fulfill such a task the authors had to include in their volume much material hitherto excluded from the traditional case book as "extra-legal"—a somewhat artificial distinction between legal rules and the political and social conditions under which rules arise and are constantly reshaped. Illustrative cases are presented, as usual, in full or in part, and only degraded to the status of footnotes in the annotations to typical criminal statutes, as in the case of arson, when no major problems of interpretation appear to be involved. Corresponding to the purpose of the book to give as complete a survey as possible, of the legislative and executive as well as of the more strictly judicial problems involved in the administration of criminal law, the authors include reports preparatory or supplementary to legislation, a host of illustrative domestic and foreign statutes, and statistical, definitory and explanatory material collected from books, articles and notes gathered from the whole field of the social sciences.

With such a wealth of material the problem of organization becomes of primary importance. There seems to be a more or less conscious tendency on the part of editors of other case-books in the field to separate those more general provisions of the criminal law from specific crimes. M.

W., of course, make the distinction, but they employ it much more flexibly as a principle of organization. Moreover, in spite of all their reputed modernism they do not emphasize functionalism to the extent of renouncing the manifold advantages which the use of accepted analytical categories procures. Their first chapter, e. g., is a thorough examination of homicidal crimes, but it considers such general problems as causality and negligence and many of the administrative problems which confront both the judicial and the executive agencies in the application of the law of homicide. In the same fashion procedural problems are interwoven with substantive problems where they are most likely to be met by both judge and practicing lawyer. On the other hand, attempt and solicitation, conspiracy and the problem of criminal responsibility are treated as separate entities. Accomplices in crime are dealt with under the heading of "vicarious criminal responsibility". Granted that labels should not be over-emphasized and that the problem of parties, as most problems in criminal law can be somehow related to responsibility, it seems to me that the problem is more closely related to that of conspiracy. In fact, the necessary process of deflation of the overworked theory of conspiracy<sup>3</sup> could be hastened by showing the close relationship which exists not only between conspiracy and attempt, but also between the concept of conspiracy and that of parties, and that the problem of conspiracy is only an aspect of the doctrine of parties. The usefulness of M. and W.'s approach is best demonstrated in the section entitled "Variation in Acquisitive Methods," under which well-chosen heading they treat the larceny-false pretense muddle. After having convincingly shown the shortcomings of the present practice which deprives the criminal law of fraud of much of its effectiveness, they present us with an instructive survey of the administrative devices which are gradually superseding the criminal law of fraud. Whereas this material suggests to the student the possibility and feasibility of administrative control of socially undesirable behavior, especially in connection with property relationships, the chapter en-

<sup>3</sup> See the dissenting opinion of Justice Clay in "Commonwealth v. Donoghue 250 Ky. 343, 358, 63 SW 2d 3, 9 (1933).

titled "the Problem of Conflicting Values" contains a series of cases belonging in different categories—where criminal law and procedure are viewed mainly from the standpoint of the necessity for and the limits of the protection of personal liberty. Thus the student is immediately introduced into one of the most urgent legal problems of our time: the redefinition of spheres between administrative and criminal law, between property relationships and personal liberty.

The book is of equal value for the student and the teacher, and represents in many respects a pioneer work, promising to become a standard work in the art of teaching criminal law.

OTTO KIRCHHEIMER.

Institute of Social Research,  
New York City.

**NARCOTIC AGENT.** By Maurice Helbrant.  
New York: The Vanguard Press, 1941.  
Pp. 319. \$2.50.

This book, by an ex-undercover agent of the Federal Bureau of Narcotics, is written in a choppy and somewhat journalistic style. It is, however, dramatic and informative, and has a certain honest air about it. The language is picturesque and forcible, and shows liberal signs of being influenced by the racy argot of the underworld in which Mr. Helbrant, known popularly as "Colonel Smokey," learned to make himself at home. The author describes his work in a series of anecdotes, amusing, pathetic, exciting, and always interesting. Interspersed are short informative statements about such things as stool pigeons, cocaine, marihuana, the police, and the history of narcotics.

The principal task to which Helbrant devoted himself was that of tracking down persons who sold narcotics, usually in large amounts, and then getting the evidence necessary to convict by posing as an underworld character and making a purchase from such agents. Most of his work dealt with the sellers of morphine or heroin; in a few cases persons peddling cocaine or marihuana were involved. He describes his activities as follows: "I worked hard on my assignments and stopped at nothing, nothing within the law. I had to be tough. I had to wade in the

muck for my successes, sometimes for my life. I lied, cheated, double-crossed. I was a spy. But as a spy I played the game within the rules. . . . Nobody is out gunning for me." (P. 11.)

The author gives an interesting and probably accurate picture of the role of the addict stool pigeon in enforcing the narcotic laws. He does so because he himself attempted to use them as little as possible, and felt a certain contempt for other agents who used them a great deal. The addict stool pigeon, he feels, is the bane of the narcotic agent's existence, and is more of a problem than the gangsters and racketeers he is trying to capture. The agent has to "lend" him money, protect him when he gets into trouble, and look out for him all the time. In return, the stool pigeon informs on all the dope peddlers, all, that is, except his own. Being an addict and always short of dope, he will not hesitate to steal, lie, or double-cross for it. Such frankness on this delicate and neglected subject is refreshing.

Mr. Helbrant is not always consistent in his treatment of marihuana. Early in the book he gives the usual picture of that drug as a terrible menace to society, and vividly portrays the evils connected with its use. Later, however, he makes a more sober and less journalistic appraisal, saying, "I found that the weed, though dangerous in many cases, was not as grave a social menace as many supposed. It is dangerous for young people to fool with, go on jags with, more dangerous even, than alcohol. It is dangerous for defectives, psychopaths, with criminal tendencies, and the like, as it releases inhibitions at a rate that gallops beyond alcohol. But in general, among the Mexicans and migratory workers and longshoremen, it is apparently not a very dangerous narcotic." (P. 315-316.)

Helbrant's book is a concrete specific and lively description of things with which the author was very well acquainted personally. It is slightly, perhaps more than slightly "jazzed" up for popular consumption. It has the virtues and the defects that such a document would be expected to have.

ALFRED R. LINDESMITH.

Indiana University.

**MEN AT THEIR WORST**, by *Doctor Leo M. Stanley*. Pp. 332. Published 1940, by D. Appleton-Century Company, Inc. New York, N. Y. Price \$3.00.

Here is a human document, if ever there was one. Written in narrative form the book not only describes Dr. Stanley's 27 years of professional experience as San Quentin's prison doctor, but reveals his human interest in "men at their worst." It is a saga of the lives of sinful and sordid men, to be sure, but relieved at intervals with flashes of humor, or the description of ridiculous situations in which men in prison sometimes find themselves.

The chapters of this volume can hardly be recommended for good bed time reading, unless the reader is fond of disturbing nightmares. The tragedy of broken lives, and the misery of disease, deceit and death are made too realistic for comfort. The author states that during his incumbency as prison physician he has dealt with over 40,000 different inmates; that he has witnessed 1,000 men die in prison or "go out the back gate," and that he has been required to participate in 150 executions."

The names of many famous, or in-famous characters, such as Clara Phillips and Tom Mooney, give title to several of the chapters. The background, the deficiencies and the motive that prompted criminal acts on their part, are given. The highly dramatic situation, for example, of the young man, son of a preacher, who killed another in a fit of jealousy; was convicted; sentenced to hang; escaped from jail; was a fugitive for eight years; was married and built up a good business; only to be discovered, torn away from his new home and returned for execution.

Thus Dr. Stanley not only reveals men at their worst, but points out the good in the worst of men. In fact, he confessed his inability to understand why men do what they do, in view of his discovery that almost without exception, the worst of men show some redeeming quality. A life prisoner, for instance, who had been a cruel murderer, proved himself a valued assistant in the kindly care of patients in

the prison hospital, and was scrupulous in protecting birds and pets.

That San Quentin, with a population of five or six thousand, is the "largest prison in the world" is stated several times. That it is grossly overcrowded and unsanitary as a consequence, goes without saying. That 50 per cent, or more, of the inmates are repeaters, is due more to the handicap of a prison record after release, than to inherent criminal tendencies, the doctor believes.

That the sterilization of prisoners, widely practiced in San Quentin, is a justified, harmless and wholesome performance, is the studied opinion of Dr. Stanley. That capital punishment is largely futile as a crime preventive, this medical man is fairly convinced. Nevertheless, he feels that efforts to abolish it are impractical so long as punishment and revenge are the prevailing impulses of the populace. His keen ethical sense is shocked at the morbid clamor for permission to witness executions.

It was a red letter day for San Quentin prisoners in 1913 when Dr. Stanley came to the institution, and when, soon after, Warden James A. Johnston took charge and began a series of reforms and improvements. The striped suit and lock-step were abolished, new badly needed cell blocks were built, the men were called inmates instead of "convicts," and especially, better care was given to tubercular and other patients sadly in need of medical and surgical treatment. In 1913, there were 1,910 prisoners, with 60 listed as tubercular and on the verge of death. In 1934 the population was 6,400 with only 40 tuberculosis patients receiving preventive treatment. The doctor states: "The reports of San Quentin's earlier prison doctors read like excerpts from Dante's description of the damned."

Vigorous steps were taken to remedy the situation, and finally the women's building was vacated and transformed into a modern hospital and scientific methods were inaugurated. Dr. Stanley points out that a prison hospital is a unique place for research, in view of the wide variety of medical and surgical problems and the

continued control of its clientele. In addition to the oft stated causes of crime—heredity, environment, alcoholism, poverty, broken homes, etc., he added another—the glands. He is convinced that, in many cases, defective thyroid, pituitary and adrenal glands are primary causes of abnormal behavior. In an interesting chapter on "Glands" he discusses this subject in connection with the conduct and treatment of narcotic addicts.

The doctor's experience, and the achievements of his hospital work has been especially gratifying for personal as well as scientific reasons. The fact that his young wife had struggled bravely against the inroads of tuberculosis furnished the inspiration, after her death, to help others in a similar fight, and the new hospital became the pride and consuming passion of his life. On page 320 he says: "This started out to be a story of my life. Instead it has turned out to be the story of a prison and the forty thousand patients I have attended within its walls. The answer is that for twenty-seven years, since graduation from medical school, my life has been devoted to San Quentin and these forty thousand patients."

"Caring for men at their worst is still my business. My days are filled with the hospital work, attending the sick, operating, inspecting the food supply, attending to institutional details, and trying to keep up with the new rapid advancements of medicine. San Quentin's hospital is still my life work."

That ardent spirit will be an inspiration to all other prison physicians who will read this book. To prison executives engrossed in mass treatment of prisoners, the doctor's wise statement "I am convinced that each one (inmate) is a separate problem vital to us all," should be helpful. All social workers, probation and parole officers will find food for thought, and principles for practice, in this volume. Mothers who over-indulge their "boys," and fathers who neglect their sons should read it. It is commended to the average citizen who thinks little, and cares less, about what is going on within our prisons.

In short, this reviewer would agree with the publishers: "Anybody who can read

can get something worthwhile out of this book," with its "astounding stories of human error and punishment, sometimes grim with horror, many relieved with humor and the good in the worst of men."

F. EMORY LYON.

The Central Howard Association.

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SUCCESSFUL JUSTICE. By Ewing Cockrell. Charlottesville, Virginia: The Michie Company, 1939 (p. xxxix) 1305. \$7.50.

This book is both a confession and a plea. It is a confession by the writer, a lawyer and one time judge, of his ignorance of the principles involved in justice as it pragmatically unfolds in the administration of the law in both the criminal and civil spheres. It is a plea, developed in great detail, for a reorganization of our court system and a new educational curriculum for our court personnel in order to bring about successful justice from the "law in action." Reduced to its basic viewpoint, the author's chief argument, supported by numerous illustrations from his own experiences and from other court cases, is that the law as it now functions in specific situations does not secure "real" justice for both the person and the community because of the faulty social and administrative knowledge on the part of those persons whose task it is to parcel out justice fairly, squarely and economically. The best laws possible to conceive are worthless if they are not administered in a manner which will bring about a brand of justice which will satisfactorily harmonize both individual and community interests. The author contends that the law has to its credit numerous successes along with its many failures, and it is to these successes that he goes to unravel the principles involved in obtaining what he regards as successful justice and about which he should be able to secure ready agreement from many. He devotes several chapters to a discussion of the nature of future successful justice. Thus, he would endorse certain changes in the professional college curriculum, especially in the direction of setting up degrees in law administration and social therapy. The high character standards which he demands for the fu-

ture lawyers are significant and desirable in this day of individual legal enterprise.

The criticisms which the author makes concerning the present administration of the law are very much needed and should be constantly reiterated by persons competent to judge. However, the reviewer thinks that the author would have had a much better book if he had reduced it to about one-third its present size and built up a careful case against the manner in which the law actually functions in our culture at the present time. As it stands now, it is far too wordy and the real meat of the book is obscured and lost. In addition, the book lacks a basic grounding in the sociology of jurisprudence. This is evidenced by the fact that the author is well aware of the existing deficiencies of the "law in action" and is very clear on the type of court organization and trained personnel needed to overcome these deficiencies, but he is not clear and pays scant attention to how this gap can be bridged or the difficulties, both individual and cultural, in the way of bridging it. This book is sponsored by fifty personages prominent in the fields of education, law, medicine and social work.

H. WARREN DUNHAM.

Wayne University.

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CRIME AND CRIMINAL JUSTICE. Abul Hasanat. Calcutta: Thacker, Spink and Company, 1939. Pp. 915. 8s, 6d.

This textbook is a thoroughly inadequate survey of criminology. It makes overtures to the majesty of theory but is theoretically incoherent. Its presentation and analysis of the standard points of view are weak. It presents anachronistic tabulations of instincts and faculties. It yields the penetrating truth that the "psychological roots of [homicide] can be traced

back to fundamental traits of human mind and character, such as the powerful emotions of anger and the various instinctive reactions to injure the object of anger, envy or jealousy." I cannot remember the occurrence of the word, or, to any significant extent, the notion of culture in this work.

The discussion of criminal investigation will be of interest primarily to Mr. Hasanat and detective story fans; there is little on the actual functioning and organization of police systems. There is no realistic analysis of the judicial process but only a supererogatory dissertation on "the judicial frame of mind"—a sort of autonomous cerebrum that generates justice with ineluctable rationality. The book is highly discursive and full of philosophical and homiletical irrelevancies. It is didactic and deductive, poorly documented and innocent of footnotes or any other means of identifying sources or references.

One of the most exasperating failings of the book is its casual references to crime in India. This field, unknown to the mass of criminologists, should obviously have been more systematically exploited by one fortunate enough to have intimate knowledge of the data. (The author is a Bengal police superintendent.) Even the appendix on the criminal tribes of India—a meager, descriptive catalogue—has no scientific relevance. The failure to employ this data on a larger scale with reference to specific problems and theories constitutes criminal criminological negligence.

Although there is more of good to this book than these strictures would indicate, it could fairly be said to be defective in the respects indicated above.

A. COHEN.

Indiana University.