

concern. The written rule is apt to take on a quite different aspect when applied in practice. I know of no reason to suppose that Roman law differed in this respect, and I suspect that it may have appeared, to the citizens who lived under it, in a quite different light from that in which it appears to us.

Secondly, Mr Nicholas, following nearly all other Romanists, leaves two fields severely alone—criminal law and administrative law. Certainly the Romans had a system of criminal law. And I cannot believe that an organization as vast as the Roman Empire contrived to exist without something akin to a system of administrative law. It would seem that we are told nothing of these matters mainly because in neither of them did the Roman lawyers make any significant contribution. If this be true, it surely casts much doubt on the claim to pre-eminence as legal thinkers so often made on behalf of the Romans. Surely it is of more importance that a legal system should deal satisfactorily with the maintenance of civil order, and the relations between the government and the governed, than that it should be able to resolve in a harmonious manner the disputes between two individuals over a yard of land or a cake of soap.

These doubts, however, are concerned with the value of Roman law studies. Our concern here is with Mr Nicholas' book and there need be no doubt as to its value. To every reader it will provide much food for thought. To many it will provide an inspiration to dig deeper.

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Cambridge Studies in Criminology XVI: Offenders as Employees, by J. P. MARTIN, M.A., PH.D. (Macmillan & Co. Ltd, London, 1962), pp. i-xiv, 1-178. Australian price not stated.

Bankruptcy, infancy and sometimes marriage are status conditions with a fairly clear point of discharge. But when does a criminal cease to be a criminal? The question would not be important but for the *sequelae* of *unnecessary* incapacitating incidents which may attach to criminality. The Victoria public service carefully asks applicants about their criminal record; but should a government department set an example by taking a risk with a man for whom a job is the best preventive, or does the duty to conserve public funds come first, or again is it just a matter of balancing whether the expense should be borne by the employing department or a correction department?

This book is a welcome exploration of employers' policies and experiences with male criminals in Reading—a tantalizing progress report of a pilot survey, written apparently for the employers who had co-operated. A second report is to come; and this first part, its emphases not well drawn, cannot be judged as standing alone. The author has recorded his research techniques and a monumental questionnaire. A methodological pedant might wish that he had subjected his tables to a test of statistical significance, to see, for instance, if the distinction between large (20+) and small (2-19) employers was the most useful one.

In a more modest unpublished Melbourne study we found that a criminal record is usually a subordinate issue used to reinforce an impression otherwise gained that the applicant is unsuitable for the job, so it is gratifying to read:

The ex-offenders who did best as employees were those who may well

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have been "best" as individuals, and they were employed in jobs which allowed them to exercise a degree of skill or responsibility, while their employing firms were good employers. . . . Their crimes and punishments appear almost to have been irrelevant.

What led to the offender's being caught in the first place may be what makes him also poor employee material. A longitudinal study tracing the progress of individual offenders (the second part of Dr Martin's survey) promises good things, particularly if the job skills of the offenders can be matched, for example, with those of a group of registered unemployed, thus exposing the fact of criminality as the only uncontrolled variable.

Though employers approach each case pragmatically, Dr Martin ranks their disapproving *attitudes* in the following order:

1. Those who had been mentally ill.
2. 'Sex offences aroused the greatest aversion . . . based more on prejudice than experience.'
3. Stealing from a fellow worker—'to protect the morale and unity of the firm's employees'.
4. Stealing from customers.
5. Stealing from the firm. ' "Pilfering" . . . merges at an ill-defined point into theft. . . . Small "perks" . . . [are] seen as the worker's equivalent to the boss's expense account. . . . It is not what you steal but who you steal it from that makes the difference.'
6. Crimes of personal violence.
7. Driving offences. (In our Melbourne study, one firm, with an apparently aggressive sales policy, said that in prospective travellers it looked for 'an impressive record of parking convictions' because its absence 'would indicate that he had not done a great deal of driving in business hours'.)

In a penetrating analysis of employers' responsibilities to offenders, to other employers and to law enforcement, Dr Martin says:

An employer, more perhaps than any other civil person policemen excepted is in a position where he has to decide whether or not to put a man in the hands of the law. . . . A policy of prosecution *combined* with continued employment is possible.

For an offender facing difficulties with which he is unable to cope, 'to lose his job would merely add to them, whereas a court appearance might bring them into the open and secure the assistance of a probation officer'. But 'much of what is done involves an implicit criticism of the machinery of justice'.

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Essays on the Australian Constitution, edited by Hon. R. ELSE-MITCHELL, 2nd ed. (Law Book Company of Australasia Pty Ltd, Sydney, 1961), pp. i-xxxii, 1-380. Price £3 3s.

To republish after the space of ten years a volume of essays on the special topic of Australian constitutional law requires courage. One cannot be sure what the process of 'bringing up to date' will bring forth. Which analyses will now appear unfortunate? Which general theories will have to be abandoned? Which prophecies will now have to be recast?

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