the factors of social mobility and the relative dispersion of economic and political power. Both analyses proceed within the limits of great adulation for certain political leaders. It is difficult indeed to find in Schlesinger any mention or implication of shortcoming in Franklin Roosevelt; it is hardly more difficult (though less to be expected) to find any criticism of Marx, Lenin, or Stalin.

Both books, as political platforms, are propaganda. Foster's is far more so than Schlesinger's, by common tests: Foster ignores or slides over much more of the truth. Much of what Foster says depends for plausibility on the circumstance that Russia is not easily observable by his readers. Schlesinger, on the other hand, must run a far stiffer course in that the sources of American history and life are as open to his readers as they are to him.

Foster is worth reading as a lesson in Communist propaganda. Schlesinger is worth reading as a provocative analysis and program of choice in American politics.

CHARLES A. H. THOMSON†

SOCIAL MEANING OF LEGAL CONCEPTS—CRIMINAL GUILT, New York University School of Law, 1950. Pp. ii, 93. $1.50.

Under the guidance of Professor Edmond N. Cahn, New York University's very able legal philosopher, annual conferences on the social meaning of legal concepts were initiated two years ago. The subject of the first conference was the inheritance of property. In his Introduction to the published report of that conference, Arthur T. Vanderbilt, a former president of the American Bar Association and now Chief Justice of the New Jersey Supreme Court, explains the purpose of the project:

> Progress in the law is manifestly dependent upon our utilization of all the available knowledge of man and of society.
>
> The annual conference on SOCIAL MEANING OF LEGAL CONCEPTS is a scholarly effort, not merely to pose the fundamental educational problem of the relation of the law to the social sciences but, by focusing attention upon a particular legal institution, to come forth with specific findings and recommendations from the several social sciences which will have concrete significance for the single fundamental legal concept chosen for discussion.

The monograph here reviewed contains essays by a law professor, an anthropologist, a criminologist, a psychiatrist, and a professor of theology, with remarks by a judge, several lawyers, and a sociologist. The purpose

14. P. 151.

† Research Associate, the Brookings Institution, Washington, D. C. Author of THE OVERSEAS INFORMATION SERVICE OF THE UNITED STATES GOVERNMENT (Brookings, 1948); Co-author (with Harold W. Metz) of AUTHORITARIANISM AND THE INDIVIDUAL (Brookings, 1950).

was to explore the meaning of the concept of guilt from the viewpoint of the several disciplines indicated above.

The importance of studying such problems can hardly be exaggerated. To the reasons advanced by Judge Vanderbilt may be added the needs and obligations of the Bar and the consequent duty of the law schools to meet the insistent challenge of changing problems, new kinds of practice, and the growth of knowledge in many fields. To phrase this challenge in terms of the interrelations of law and empirical knowledge may suggest a sort of academic other-worldliness. But that is far from the actual situation, as may be inferred from a mere pointing to the careers of such men as Holmes, Cardozo, Root, Hughes, Darrow, Vanderbilt, Hand, and many other leaders of the Bench and Bar. The plain fact is that a knowledge of jurisprudence and the social disciplines increases legal knowledge and opens avenues of resourcefulness which otherwise remain *terra incognita*. This has become rather evident in labor law and criminal law where a knowledge of industrial relations, in the former, and of psychiatry in the latter is a prerequisite to a lawyer's effectiveness. So, too, of corporate finance, the economics of taxation, and numerous other fields.

The lawyer's problems require the application of such knowledge to legal issues; and they are not easily solved, as appears from an examination of the present monograph. For, although it is both interesting and instructive, it fell short of possible accomplishment because the participants in the conference were not clear and definite about their objectives. The problem before them was not carefully formulated. The theory of inter-disciplinary analysis was not considered. Not even the approximate length of the various essays was controlled. The final results are therefore disappointing, although the mere bringing together of the contributions made from different viewpoints is significant.

It is impossible here to discuss any of the essays in detail, but a very interesting phase of the conference may be noted. Mr. Edwin J. Lukas, who is a lawyer and the Executive Director of the Society for the Prevention of Crime, presents a very long essay in which he is extremely critical of the criminal law; and his principal thesis is that criminals are sick people who suffer from various psychoses which punishment only aggravates. His deterministic stand is refuted by a later contributor; but what is particularly interesting is the contribution of Dr. Frederic Wertham, a distinguished psychiatrist who is a director of two clinics and chief of staff of the psychiatric service of a large hospital. From wide experience he finds that only a relatively small percentage of criminals suffer from psychiatric disorders. "The claim of the crime-is-a-disease school, that every criminal has an emotional

disorder, is not correct in any strict scientific sense."[1] Dr. Wertham also dissents from the opinion that the criminal law bars or handicaps adequate introduction and use of psychiatric knowledge in criminal trials. He states, "This claim, according to my studies, is entirely unfounded . . . The law not only makes possible but, as I see it, demands the scientific diagnosis of a mental disease from the psychiatric expert."[2]

This reviewer would be among the last to assert that the criminal law cannot be considerably improved; e.g., to mention only one instance, far too little use is made of available knowledge regarding alcoholism, where intoxication is involved in criminal liability. But the wholesale assaults on law by many psychiatrists and criminologists, who would have us abandon legal controls and place life and liberty in their hands, are more than questionable; and it is comforting to learn that necessary correction is being made by psychiatrists and social scientists of undoubted competence. The correct inference is not that the social disciplines are worthless for legal purposes. It is that they are no substitute for sound law and adjudication and that the lawyer's job is to understand them sufficiently to be able to use them without sacrificing legal safeguards.

A final point made by Dr. Wertham is important in about ten states, including Indiana, where the "irresistible impulse" test is apparently recognized. "In my opinion," he writes, "the criminal law which makes use of the conception of irresistible impulse is not an advance belonging to the present 'scientific social' era. It is a throwback to, or rather a survival of, the previous 'philosophical psychological' era. The concept of irresistible impulse derives from a philosophical, speculative, synthetic psychology. It forms no part of and finds no support in the modern dynamic psychoanalytic study of mental processes."[3]

Regardless of the inadequacy of certain contributions to this symposium on the social meaning of legal concepts, these efforts to advance legal knowledge deserve encouragement. As experience grows and methods improve, the conferences should provide specific illustrations of their practical value.

JEROME HALL†

1. P. 157.
2. Pp. 160, 163.
3. P. 164.

† Professor of Law, Indiana University School of Law.