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Book Reviews

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BOOK REVIEWS

AN INTERNATIONAL BILL OF THE RIGHTS OF MAN. By H. Lauterpacht. New York: Columbia University Press, 1945. Pp. x, 230. \$3.00.

The idealist in the law will applaud Professor Lauterpacht's sincere—almost fervent—plea for the establishment of "An International Bill of the Rights of Man." The realist, however, along with the statesman dealing with political problems of nation-states, probably will regard Dr. Lauterpacht's proposal as desirable as a long-term objective but impossible of immediate realization. Anglo-Americans will approve most of the individual rights and guarantees contained in the Bill, as well as the rules regulating the relations between the citizen and government, because such provisions are in general an accepted part of their own political systems. The author urges that this Bill of Rights be accepted by all nations as a part of their positive law and sanctioned internationally. The difficulty, however, is that as long as the nation-state system exists, the burden of interpretation and enforcement would fall upon the nation-state itself.

The author believes strongly in the existence of natural law and natural rights, but as he is confronted with the fact that under the state system any rights an individual may possess are revocable by government, he is forced to argue that natural rights must be protected by a legal source superior to that of the states. The author appears to see in the law of nations or international law a suitable protection of such rights (p. 28). But the guarantee of such rights, even if nations could agree on what constituted "natural law and natural rights," would inevitably have to come from the state itself, for international government with force to make law effective does not exist and international law is not self-enforcing.

The practical difficulties in the author's proposal are overwhelming. The Russian Constitution of 1936 contains many of the rights and guarantees the author wants to see incorporated in "An International Bill of the Rights of Man," but these provisions are either given no practical effect or are interpreted in a manner wholly unacceptable to Anglo-Americans. An equally interesting and important comparison between law and fact could be made in most of the Latin-American countries. Can "international law" interpret the positive law of these states and guarantee its enforcement?

An example of the sort of guarantee the author advocates being made a part of international law is: "No state shall deprive its citizens of the effective right to choose their governments and legislators on a footing of equality, in accordance with the law of the state, in free, secret, and periodic elections" (p. 134). The plain fact must be recognized that not all nations define "free, secret, and periodic elections" in the same way. The Soviets have defined these terms by example in their own country and in their insistence on combined party lists in some of the Balkan states. It is doubtful that the author's Bill of Rights could be made any more effective than the Kellogg-Briand Pact or the Atlantic Charter. However the problem is turned, one is faced with the unpleasant realization that any rights the individual possesses in the modern nation-state are rights arising out of the positive law of the nation-state, which can be applied and interpreted as the nation-state sees fit or taken away completely.

Of course, the author's International Bill could be made effective if the nation-states were willing to fuse their individual sovereignties into a world unitary or federal government which would have the force necessary to sanction the rights and guarantees incorporated in the Bill. Dr. Lauterpacht admits that the Bill of Rights can function "... only within the framework of an effective international organization of law and power set up on a universal basis." But he also recognizes "... the probable disinclination of governments to submit to the restrictions of sovereignty implied in the Bill of Rights" (p. 222). This reviewer would have appreciated a detailed statement of the value of the Bill of Rights in light of the fact (1) that international law at present has no effective sanction and (2) that there appears no likelihood whatever that the nation-states in the near future will create a world state with a world government.

The section of the author's treatise dealing with the origin of natural rights is interesting, but as he wants to translate certain guarantees and rights into positive law, the argument as to their origin is of dubious value. Perhaps this would not be so if he had been able to prove conclusively the universality of certain norms. Unfortunately, however, Dr. Lauterpacht proves rather convincingly that the law of nature has been used very flexibly to support political and economic philosophies and programs of individuals and pressure groups. His conclusion, therefore, that "In a sense the very misuse of the notion of natural rights has been a tribute to the vitality and the inner worth of the law of nature" (p. 39), seems a little strained. If the author has individual rights and guarantees he believes ought to be extended to all peoples everywhere, why not demonstrate their value teleologically and urge that they be formalized by positive law and sanctioned by the force of an international government?

The author's references to Latin-American constitutions contain a number of factual inaccuracies (pp. 186-187), but the basic weakness of the volume in this reviewer's opinion is the failure to come to grips with the realities of government in the modern nation-state and in the sphere of international law and international politics.

WILLIAM S. STOKES

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THE MODERN PRISON SYSTEM OF INDIA. By Lieut.-Colonel F. A. Barker: MacMillan Co., Limited, London, 1945, Pp. XVI & 139. \$2.50.

This volume is one in a series entitled *English Studies in Criminal Science*, promoted by the Department of Criminal Science, Faculty of Law, University of Cambridge. This book is an appraisal of the prison reforms introduced in India after the 1919-1920 Survey by the "East Indian Jail Committee." Colonel Barker has been associated with Indian penal administration for thirty years and is, therefore, well qualified to evaluate what has been accomplished during the last two decades. Although largely written from memory, and, therefore, not strictly a scientific treatise, the study is especially revealing as to the nature of prison problems in India. If the British Commonwealth is to achieve a proper standard of criminal justice Provincial governments need to display a better appreciation of adequate penal policy. This book, however, points

out how difficult it is to set up an acceptable code of principles for so heterogeneous a population as that of India.

Nevertheless, after the Jails Committee's Report, despite many difficulties, considerable advancement was made in the management of jails and their inmates. Improvements have been made in buildings, staff, administration and labour, as well as on rehabilitative treatment. One, however, misses the development of a Probation Service or an adequate parole and release procedure.

Of course, penal reforms are very difficult in a land where life is cheap, violence common, education meager, living standards near or below the subsistence level, and religion enmeshed in politics. Adequate prison reforms is a concomitant of general social and cultural improvement. Social conditions in India have improved marvelously, but there is still much to be desired. The war has temporarily stopped progress, but there is no doubt that reformatory measures will again be undertaken with renewed vigor.

The book is easy reading, is to the point, and meaty. It has a very interesting Appendix of sixty-three pages of specific cases and illustrative material.

CHARLES H. Z. MEYER

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MEN, MIND AND POWER. By David Abrahamsen, Columbia University Press, New York. 1945; pp. 155. \$2.00.

Men, Mind and Power, by an eminent psychiatrist and criminologist, is an interpretation of the maladjustment of the German people and their Nazi leaders which resulted in the cataclysmic conflict of World War II, with its attendant acts of brutality, destruction, and mass murder. It is stated that this war did not happen "by accident" but as a national expression of a social and emotional instability perpetuated since the time of the early German tribes, when the "herd inclination" became the basis of the mass mentality peculiar to the German people. "One is inclined to believe that one element of the dominating tendency latent or manifest in the German people may be rooted in the tribal life they once led." In his explanation of the psychodynamics involved in the development of the insecure personality structure manifested by the German in his preoccupation with his socio-economic status, his servility and aggression, Dr. Abrahamsen carefully pictures the autocratic paternalistic features of the German family structure and the interplay of hierarchial aspects of the social situation upon individual status in the family and in society. Thus, it is pointed out that the German personality pattern, with its intertwining of romanticism and materialism, submission and dominance, masochism and sadism, and the resultant emotional insecurity evidenced in ready acceptance of the supremacy of force embodied in the Nazi philosophy, has been repetitively nourished, generation after generation, by the very nature of the German interfamilial relationships and the social environment. The author arrives at the conclusion that the German people, emotionally prepared by an environment of maladjustment, were fertile soil for the growth of the Nazi ideology and exploitation by Nazi leaders. "We are led to believe that the formation of Nazism was possible only because of the original emotional attitude of the German people, and that this very state of mind made it possible for Hitler to become Fuehrer of these people and to indoctrinate them with his distorted and perverted ideas."

Fully half the book is devoted to an explanation of the psychodynamic factors prevalent in the formulation of those maladjusted individuals who became the leaders of Nazi Germany and their foreign puppets. In each case the author makes manifest the role of the family in the personality development and subsequent behavior of these "miscalled 'war criminals' . . . they were criminals before the war, and they were criminals before they became the leaders of Germany." Thus, we see the source of Hitler's hostility towards society in the hatred he felt for his "violent" father and the indifference he felt towards his "weak" mother, with his consequent escape into fantasy and hero worship. After the early death of his parents, we see his development as an "outsider," with swollen ego demands and an absence of superego control, a psychological development compared with that of a "murderer," eventuating in the philosophy of hatred he propounded as Nazism. The personality structure of Goebbels, Goering, and Himmler are similarly analyzed, portraying their individual maladjustments as superimposed upon their common characteristics of lust for power, emotionality, insecurity, and basic hostility. In like manner, adequate interpretation is made of the warped personalities of Quisling, "an abnormal Messiah," and Laval, "the man with the Janus face." The maladjustment underlying the personalities of these men is brought forcibly home to the reader, who is left with a dynamic picture of the forces that molded them, carried them ruthlessly to power, and eventually destroyed them.

Dr. Abrahamsen concludes his book with a chapter offering suggestions for policies to be adopted by the Allies in the reeducation and rehabilitation of Germany. It is demonstrated that the basic point of departure must be "remolding the minds of Germans," and that this process of reeducation must be directed towards producing a healthy personality structure in the German individual. "It must be a change in the *character structure* of the German. Thus will change be wrought also in German institutions and the German outlook. All other treatment would be only *symptomatic*." The first step towards alteration of the German ideology and eradication of German personality maladjustment is to be extensive educative measures which will eventually accomplish a balanced, dynamic family situation, a unit in which there is neither patriarchal nor matriarchal domination but an awareness of the functional interrelationships of the family members. In order to bring about this healthy family structure, the father's authoritative status and the mother's dependent role must be changed into a relationship of mutual participation. It is suggested that this could be attempted through a long range problem of occupational opportunities for women and through adult education. After careful selection, German women might be employed as teachers in a decentralized educational program operating under the auspices of the National Education Association or an educational committee of the United Nations, this program being devised to inculcate German youth, from early childhood onward, with democratic ideals. The author also believes it essential that the German people be forced to realize their responsibility for the war atrocities and "a sense of guilt. That sense of guilt might in turn help to create a new outlook for them." Punishment must be meted out to the groups who composed the Nazi collaborators, the writer states, the former receiving the death penalty and the latter being placed in reconstruction labor camps. Other Germans, particularly the German youth indoctrinated with

Nazism and antisocial attitudes, should be treated in mental hygiene clinics or "psychiatric social clinics" established for that purpose. "Psychiatric social clinics should be established to care for individuals who are suffering intense social maladjustment whether they have manifested criminal behavior or not. Such a clinic might have discovered such people as the pathological liar, Goebbels; the sadist, Himmler; and the neurotic character, Hitler. Those men might then have been kept within walls." In the final analysis, Dr. Abrahamsen indicates that our problem of establishing a lasting peace rests in our ability, by these various means over a period of many years, to produce in the German people "alteration of the personality structure so as to avoid mental maladjustment."

This timely book, clearly and intelligently presented, offers the lay reader an understandable professional analysis of the German character, an interpretation provocative of the insight into the German mind which is essential to the rehabilitation of Europe and the waging of a successful peace.

HARRY L. FREEDMAN, M.D.

New Orleans, La.

COOPERATION IN CRIME CONTROL. Yearbook of the National Probation Association, 1944. Edited by Marjorie Bell. National Probation Association. Pp. 320.

This volume is a "must" for anyone interested in the field of delinquency and crime control. It consists of an excellent series of papers given at the thirty-eighth annual conference of the National Probation Association, meeting in Cleveland, Ohio, May 19-23, 1944.

The Yearbook is divided into 7 sections each dealing with a phase of crime control. the Juvenile Court, control of juvenile offenders, preventive services, control of the wartime delinquent, parole, helping the special problem offender, and new legislative controls. Dean Roscoe Pound describes the developmental history of the Juvenile Court. Judge Paul W. Alexander of the Juvenile Court of Toledo makes an appeal for keeping the Courts out of politics and providing them with adequate funds to carry on their correction work. Mr. Robert C. Taber of Philadelphia deals with the controversial issue of the responsibility of the School and the Court. A very interesting paper is that of Professor Austin L. Porterfield of Texas Christian University who believes that "the parents of children who get into Court are problem parents." These parents need help: 1) with human nature, 2) with their own childhood, 3) with one another, 4) with their children, and 5) with and from the community. "The rejected children down stream come out of rejected parents and families up stream." This hypothesis is supported by a study of 1500 cases.

Rhoda J. Milliken, Director of the Women's Bureau, Metropolitan Police Department of Washington, D. C. gives a clear picture of the function of the woman police officer, particularly in the matter of female offenders. "Treatment Without Conviction," by Philip Heimlich of New York City is a stimulating discussion because it opens up new procedures in dealing with adolescent delinquents from 16 to 21 years of age. A special Youth Counsel Bureau in the District Attorney's Office was organized to assist youthful offenders and give them guidance in rehabilitating themselves without going through the regular Court procedures. This procedure has possibilities for future development.

Kenneth L. M. Pray, Director, Pennsylvania School of Social Work, and Frank W. Hagerty, Member, Board of Prison Terms and Paroles, Olympia, Washington, give a comprehensive picture of classification and its close relationship to parole. Mr. Hagerty points out that it is a mistake to divide imprisonment into two functions, one restraining punishment and the other rehabilitation for release.

One of the finest papers in the book is that of "Alcoholism and Social Isolation" by Selden D. Bacon, Assistant Professor of Sociology, Yale University Sociologist, Section of Alcohol Studies Yale Laboratory of Applied Physiology. It suggests the alcoholic's supreme need of primary group affiliation. Dr. Ralph S. Banay of New York has a very helpful article on psychopathic personalities and epileptic offenders illustrating the same with interesting case histories.

The section on "Legislation and Court Decisions Affecting Juvenile Courts, Probation and Parole, 1944," compiled by Frederick W. Killian of N.P.A., is very revealing of the general trend of improvement in these services.

There are other scholarly discussions such as those on the war-time delinquent which makes this volume one of the best yearbooks published by the National Probation Association.

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