

1946

## Book Reviews

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## BOOK REVIEWS

**THE CASE AGAINST THE NAZI WAR CRIMINALS.** Opening Statement for the United States of America by Robert H. Jackson, and Other Documents. With a Preface by Gordon Dean, of Counsel for United States. Published by Alfred A. Knopf. (New York, 1946.) Pp. Preface xiii, 217. \$2.00.

This introductory volume of the trial of the century at Nuremberg containing Mr. Justice Robert H. Jackson's Nov. 21, 1945, classical opening statement before the first International Military Tribunal speaks for itself in that it depicts a form of legal action based upon universal principles of justice that is as striking and as modern as the atomic bomb. Mr. Justice Jackson's great State Paper did for the supremacy of law what the atomic bomb did for the supremacy of science.

The Preface of Gordon Dean, of Counsel for United States, though brief is packed full of pungent historical facts that enables the reader to more fully understand some of the unanswered questions in the public mind. He quotes Mr. Justice Jackson as stating, "This is the first case I have ever tried when I had first to persuade others that a court should be established, help negotiate its establishment, and when that was done, not only prepare my case but find myself a courtroom in which to try it."

Appendices include the United Nations agreement that War Criminals shall be brought to justice and the text of the indictment. Legal minds have been agitated by an indictment that specifies offenses that were not defined until the trial, on the ground that such a practice is not in harmony with the common law. This reminds one of the famous trial of the Lincoln Conspirators before a Military Commission in Washington in the summer of 1865, in which Senator Ewing, counsel for Dr. Mudd said to the court that the prosecutor expected to convict "*under the common law of war.*" Senator Ewing further remarked that he did not know the meaning of that expression and it was very important—a question of life and death—whether you will punish only offenses created and declared by *law*, or whether you will make and declare the past acts of the accused to be crimes, which acts the law never heretofore declared criminal. . . . It is interesting to note that the defendants at Nuremberg repeat the same argument. I shall detain you no longer than to recommend this volume and its historical records that defy the tooth of time . . . and to congratulate the publisher upon the format, the pictures, and the dust jacket reproducing a picture of the Nazi war criminals in court as the trial opens.

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JOHN W. CURRAN

**GAMBLING: SHOULD IT BE LEGALIZED?** By Virgil W. Peterson. Chicago Crime Commission, 1945, pp. 63.

The pressure to legalize gambling is a very old social phenomenon and this is a very valuable booklet for those who wish to know about its history in the United States. It is a brief history not of gambling as such but of the attempts—successes and failures—to convert it into big business. The author stresses that he is not interested in the moral aspects of the problem for these he considers to be an individual matter. There is reason to question this dichotomy—moral versus legal—and, as a matter of fact, the difficulties which it involves are frequently apparent in the pamphlet.

As attorney for the prosecution he is concerned with the problem of making a case against the legalization of gambling. His main attack is to show by facts and figures that whenever and wherever the law has permitted gambling to become big business all the evils—crime, debauchery and lawlessness—connected with it grew apace. "On the whole, legalization of gambling in the United States has failed completely. Instead of eliminating abuses it increased them." A parallel-column type of proof is not used. In view of the fact that the attempted assassination of Ragen has fastened nation-wide attention upon Chicago as a gambling center, there should be a widespread reading of at least his third chapter: *Highlights of Chicago's Gambling History*. This is the newest and most illuminating highlight. It goes far toward substantiating many of his charges as to the corrupting powers of professional gambling. He indicts it as (1) parasitic (2) completely unproductive (3) always associated with fraudulent devices, various cheating schemes and manipulations. The indictment of policy would have been stronger if reference had been made to the research and writings of Lewis Caldwell. Had space permitted the author would undoubtedly strengthened his case by sharing with his readers some of his rich information concerning greyhound racing.

He is much concerned with the question as to whether the business of gambling "will properly lend itself to legalization." His contention is: "The gambling business has . . . been recognized as a principal source of crime." Therefore, he says, "The conclusion is inescapable that the business of gambling does not properly lend itself to legalization." Conversely he argues that statutes which declare gambling illegal are "consistent in principle with other laws designed to protect social and economic welfare."

In a small booklet one can not expect an author to produce much evidence for his statements. Certain primary and secondary sources are cited but in the main the total effect is that of a polemic against an evil. Prof. Burgess's pamphlet taking the opposite point of view should be companion reading. In this highly controversial field the reader is presented with conclusions which have been carefully developed and they serve to throw the burden of proof upon the opposition. This is his major conclusion:

"It has been definitely established that the wide-open illegal gambling business with all its evils can be effectively suppressed whenever those in political authority order it suppressed and mean it, and when the subordinates, including the police, know that they mean it. Only defeatism and a loss of faith in the integrity of local government could make the people resort to further legalization experiments along the lines usually suggested."

Let the opposition answer it, is his challenge.

He might well have devoted one paragraph to a statement about the gambling activities sponsored by church and welfare groups in order to raise funds for their respective programs. Certainly this is no small contributing factor to the difficulties faced by law enforcing agencies.

This is an important pamphlet for the general public and especially for those charged with the responsibility for legislation affecting their welfare.

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