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Book Reviews

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BOOK REVIEWS

OUR RELATIONS IN THE FAR EAST AS THEY APPEAR IN THE INTERNATIONAL WAR CRIMES TRIAL IN TOKYO. By Joseph B. Keenan, Chief Counsel for the prosecution. Pp. 41 Mimeographed.

The king can do no wrong. The theory of the prosecution is that this ancient doctrine is no longer a defense for ex-premier Tojo and twenty-five associates grouped as defendants in this novel and unprecedented international criminal trial involving alleged crimes over a period of fifteen years in various parts of the world. The court hearing the case is composed of representatives of eleven nations and where differences of opinion arise the rule of the majority prevails. The prosecution points out that the *ex post facto* argument, that the international crime "waging aggressive war" was created after the war, is unsound as a treaty violation was involved. Critics have also contended that there is no specific punishment provided for this new international crime. The prosecution explains that the international common-law sustains whatever punishment is decreed.

Penologists might be interested in the implications of the following statement: "We believe that with the history of civilization supporting the view that such punishment does have justifiable deterring and preventing effect, it should be employed unless there is some good reason for its omission in the case of international war criminals." "When the condemned murderer begins the last march to the gallows, an example is set." I once heard Clarence Darrow remark about the hanging of a pickpocket in public in England. He said such a hanging in public was always anticipated with glee by the followers of the pocket-picking profession.

Criminologists will find several matters for their consideration in this important release, such as the following: "In the Tokyo trials we hold that it is a crime even to plan a war in violation of international law, treaties, agreements and assurances." The trial of Aaron Burr contains some early American thinking on this matter.

Jurisdiction is always an important question. On one aspect it is stated, "We do not require physical presence in the locality where the crime is committed as a requisite for such jurisdiction."

It is documents of this type that appear in later years as choice ephemera for the historian and collector. But you can and should obtain it now. It bears the signature of Mr. Joseph B. Keenan, Chief of Counsel for the Prosecution. Mr. Keenan, a graduate of Harvard Law School, was engaged in the practice of law at Cleveland for many years. He was an officer in World War I. He has had considerable experience in criminal prosecutions in Ohio, and later as Special Assistant to Attorney General of the United States, in charge of criminal law division, Department of Justice from 1933-36. Since then Assistant to Attorney General of the United States.

JOHN W. CURRAN.

DePaul University

AUSTRIAN REQUIEM. By Kurt von Schuschnigg. G. P. Putnam's Sons, New York, 1946. Pp. 322. \$3.50.

There are three parts to this book, although they are not clearly divided as such: (1) defense of Schuschnigg's policies and actions

while *Bundeskanzler* of Austria, between the assassination of Dollfuss and the German-imposed *Anschluss*, (2) a partial diary written while in the custody of the Nazis, and (3) transcripts of certain telephone conversations among Goering, Seyss-Inquart and others at the time of the *Anschluss*, contained in an Appendix. Most interesting are the telephone transcripts and the diary; most important is the defense of Schuschnigg's policies while he was Chancellor.

The diary changes its moods. One may speculate whether it is a faithful reflection of Schuschnigg's feelings, or a compensatory mechanism which aided him to maintain his sanity under cruelly trying circumstances. It unwittingly displays how exquisitely the Nazis tortured without force. Time and again concessions were announced for the future; hope sprang in the former Chancellor's breast for his wife, his son and himself; then suspense over many months and finally frustration.

The telephone transcripts demonstrate the utter absence of morality in Hitler's and Goering's inner characters. Despite its familiar strain, one is still horrified to read such concise evidence that a major nation of the earth was ruled despotically by criminal mentalities, and in modern times.

Part of the book was written while Schuschnigg was imprisoned. Some of this portion, although not all, was submitted to the Gestapo to avoid harmful consequences. The censored portions are not specifically identified, although one may guess that the defense of Austrian policy was scrutinized by the Germans, for there is little castigation of the Nazis and even a bit of pity for Seyss-Inquart. Nevertheless important and little-known attitudes of Schuschnigg are brought to light.

Schuschnigg was at heart a monarchist although he knew that a restoration was not feasible politically. He next preferred authoritarianism to democracy: ". . . we merely sought new, modern ways, ways that were in conformity with our needs and our times." He made a distinction between authoritarianism and totalitarianism, which, while perhaps satisfactory in his own mind, is incomprehensible to the American reader. From his conversations with Sir John Simon, Britain's Foreign Minister at the time, it is evident that he does not understand democracy. Austria had fifteen years' experience with democracy; this manifestly is insufficient to instill a true comprehension of it in the Germanic mind—even the best of them.

For Schuschnigg, loyal to Austria as he was, was pan-German. "I further made it clear that Austria could not take part in any political group or alliance which was openly or potentially directed against Germany." How unrealistic it was for this so-called practical man of politics to believe simultaneously that (1) authoritarianism was best suited to Austria's needs, although she could not accept Nazi totalitarianism, and (2) Austria must never work against the German people, although she must remain independent! Schuschnigg made *Anschluss* inevitable so long as Hitler willed it.

The book was gotten out in too great a hurry for it to make even reading. This very lack gives it a sincerity it otherwise probably would not have. It is also noteworthy as an exhibition of the thought processes of a man whose mental growth necessarily was arrested nine years ago. It would be unkind to say of a man who suffered much that his mind is socially pathological.

ROLLIN B. POSEY.

FORENSIC PSYCHOLOGY. By Wladimir Eliasberg, M.D., Ph.D. Reprinted from Southern California Law Review, Volume XIX, No. 4, July, 1946.

Dr. Eliasberg in an interesting and valuable monograph challenges a number of our established court practices of securing testimony. He points to certain basic inadequacies, misconceptions and over-evaluations of evidence supplied by means of interview, testimony, or documents. He stresses the importance of looking beyond the physical criminal act, and examining questions of underlying motivation, and the need for seeking for provocative psychological and social factors, as well as for extenuating circumstances.

He reviews certain of the comparative attitudes toward criminals and their handling in both primitive and modern society. He points out how deep seated psychological motivations or even petty psychological influences can distort or invalidate testimony, as well as mislead the courts in their seeking the true facts. He believes that a highly interpretive psychoanalytic procedure should be used as an aid to the court, pointing out that a person's actions, "conscious motivations and rationalizations are only a rippling of the surface; that contrary to popular assumption an individual acts according to certain more or less unconscious motives dating back to patterns acquired in his early childhood." The author feels that not only can the psycho-analytic approach aid the court's disposition of the offender, but perhaps even more significantly further better administration of probational parole.

Various methods of seeking and evaluating information from offenders such as hypnosis, graphology, statistics, psychometrics, etc., are critically reviewed. Qualifications of an expert witness are discussed, and he for instance, among other facts, points out how frequently the judge or jury is unable to interpret testimony rendered by an expert witness, and how important it is for the expert to reduce his terms to lay language.

In conclusion, he states, "That the higher the valuation we place upon facts, the more the rules governing the admissibility of evidence should be liberalized," and he cautions "that we must not mistake those rationalizations that are *en vogue* for reason itself." He gives support to those of us who believe that the courts will render their best services to society if they make themselves fully available of highly qualified experts in their attempts to interpret the complex psychological and social ideology of crime.

MICHAEL M. MILLER.

Washington, D. C.

SOCIAL CORRECTIVES FOR DELINQUENCY. Yearbook of the National Probation Association, 1945, edited by Marjorie Bell, National Probation Association, 1790 Broadway, New York. 328 pages. \$1.25.

This volume was not published until 1946. The Office of Defense Transportation in 1945 ruled against national conference meetings, the proceedings of which form the basis of the yearbook. The present issue is therefore a compilation of contributed articles specifically written for it.

The article on "The Army's Rehabilitation Program for Military Prisoners" by Austin H. MacCormick and Captain Victor H. Evjen, points out that the army's major problems in penology have not been

those of program, plant, equipment or techniques and procedures; the constant and pressing problem has been adequate personnel to operate the largest prison system in the country. By June 30, 1945 a total of 32,562 general prisoners were in Army confinement. Of these 15,000 were restored to duty. Follow-up studies of these restorees showed that 80 per cent remained in good standing. Eighteen per cent again violated or were absent without leave. About six per cent restorees achieved non-commissioned officer ratings. Commander Richard A. Chappell and Ensign F. Emerson Logee in writing about "Training Wayward Sailor Men for Return to Duty," point out that the wayward sailors in confinement were screened and classified as to their backgrounds and needs—that is, the illiterate were assigned to elementary school, others were placed in industry assignments, while another group were retrained for restoration to duty. It was noted that the shorter time between release from confinement and reporting for duty to a ship, the more likely was the restoree to make an adequate release adjustment. If the time lapse was too lengthy, chances that he would take another unauthorized leave increased. Dr. Harold S. Hulbert, psychiatrist, writes an illuminating article on "The War-Modified Combat Veteran and the Law." Thirty out of seventy veterans will adjust to civilian life as if they had not been in the armed forces. Ten will be somewhat modified for the better, and ten more will be considerably more mature. Ten will be undesirably modified by the war experience. These will be our trouble cases. For such, stiff imprisoning discipline is the way to further wreck the combat veteran who has violated our code. Veterans who are offenders rate special understanding and special handling. Dr. Hulbert sets forth several helpful and positive approaches. In their article on "Mental Hygiene Frontiers in Probation and Parole Services," Major Harry L. Freedman, MC, and Staff Sergeant Myron John Rockmore, AUS, conclude that there is no panacea or specific cure-all for the veteran who comes into contact with the courts. Each case is different and individual in its response to treatment. If the individual in difficulty is to receive treatment with psychiatric orientation, mental hygiene divisions should be included in the courts and in the departments of correction, parole, and probation.

The second section of the book deals with the subject of "Origins of Social Thinking in Crime Treatment." Here Wiley B. Sanders, Professor of Social Work, University of North Carolina, discusses the "Early Beginnings of the Children's Court Movement in England," and Frederick A. Moran, Chairman, New York State Board of Parole, cover "The Origins of Parole," in lengthy and exhaustive articles. Dr. Walter C. Reckless of the School of Social Administration, Ohio State University, writing of "The Democracy of Probation and Parole," points out two trends which may threaten the treatment process. The first trend is that of reducing probation and parole risks to "actuarial" tables or ratings. The second trend is the tendency to classify treatment cases into types for prognostic purposes. These trends toward actuarial ratings of risk and the prognosis of treatment response may serve to classify cases into categories, and thus individualized treatment would suffer. Dr. Reckless, however, believes that the predictive and prognostic approaches are less threats to the democratic treatment processes than scientific aids to good practice.

The third section deals with "New Approaches In Treatment." Here Ralph S. Banay, M.D., Director, Research on Social Deviations.

Columbia University, stresses the need for "An Institute of Criminal Science." Chief Mazie F. Rappaport of the Protective Service, Baltimore Department of Public Welfare, under the heading "A Social Agency Helps the Prostitute on Probation," contends from experience that it is "infinitely easier for an agency to help a girl quit prostituting if she is placed on probation, than if she comes voluntarily, because the authority of the court gives her staying power and an added dynamic impulse to help herself to change." The "mortality" rate of course is high, because all depends upon a girl "wanting to quit" and not being told to quit. However, the experience has proved that girls can quit prostitution and that the situation is not hopeless. The article on "California Camps for Delinquents," by O. H. Close, a member of the California Youth Authority, is descriptive and informative. Robert V. Seliger, M.D., Assistant Visiting Psychiatrist, Johns Hopkins Hospital, Baltimore, has an interesting discussion on "Alcohol and the Probationer" in which he points out that probation and parole officers can be of greatest help to the alcoholic by working in close cooperation with competent psychiatric aid. If alcoholics are non-cooperative after a fair trial, incarceration is preferable to continued probation or parole, so long as special facilities for their treatment do not exist.

The "Delinquent In the Community" is the fourth section of the book containing articles by Edward E. Schwartz of the Children's Bureau, and Gustav L. Schramm, Judge in Pittsburgh, Pennsylvania. The first article deals with "A Community Experiment in the Measurement of Juvenile Delinquency." The Judge stresses the value of frankness when "Judge Meets the Boy and His Family."

Ethel N. Cherry of the Children's Court, New York, considers the "Probation Officer on the Job," and Irving E. Cohen, Probation Department, New York City, writes of "Probation as a Social Case Work Process."

In Section Six, David Dressler, Executive Director, New York State Division of Parole, in a delightfully interesting article, covers "The Semantics of Social Work," in which he examines the connotation of words frequently used in social work. Every occupational group rightly uses its special language. Social work, however, is still in flux and so many of its concepts are not completely clear. These concepts need to be re-examined and expressed in terminology scientifically defined and universally understood within the profession.

Part Seven is the "Legal Digest" of legislation and court decisions affecting juvenile courts, probation and parole in 1945.

The volume is well compiled and edited, easily read, and in many parts very informative.

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