

1949

Book Reviews

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BOOK REVIEWS

LAW REPORTS OF TRIALS OF WAR CRIMINALS. Selected and Prepared by the United Nations War Crimes Commission, London: Published for the United Nations War Crimes Commission by H. M. Stationery Office, 1948, Vol. V, Pp. 101, 5s net and Vol. VI, Pp. 120, 5s net.

These two volumes contain cases from American, British, Australian, and Norwegian tribunals dealing with the criminal liability for killing prisoners of war and civilians without a fair trial. Most of the cases were tried in military commissions and concerned enemy persons who participated as judges, prosecutors, or executioners in unfair trials and executions of Allied persons in areas as widely separated as Germany, Norway, China, and New Guinea.

In some cases the enemy authorities had given no trial at all; in other cases only a summary trial in which elements of fair procedure were denied was given. They usually concerned allegations of sabotage by inhabitants of occupied countries, bombing of civilian populations by aviators, and espionage. In some of the cases the Allied persons executed by the enemies were probably guilty of war crimes or of acts, like espionage or war treason, which a belligerent can properly punish as a defensive necessity. The Allied tribunals, however, in the cases here reported, held that if executions took place without a fair trial, those responsible for the conduct of the trial and the execution had violated rights of prisoners of war or civilians protected by the law of war, and were themselves war criminals.

These cases usually raised problems of superior orders and the binding effect of national laws contrary to international law. Was an executioner liable for carrying out the sentence of a tribunal if he did not know that the trial had been unfair? The Norwegian Supreme Court, overruling a lower court, answered "no" in the case of Oscar Hans (Vol. 5, p. 91). Were Japanese judges liable if they applied an *ex post facto* law requiring the summary execution of American fliers who bombed civilians? An American military commission answered "yes" in the Sawada case if the trial was actually unfair, although superior orders and the apparent authority of the law urged a mitigation of punishment (Vol. 5, p. 7). A comparative study of numerous cases dealing with these subjects is presented in connection with the Sawada case (Vol. 5, p. 14-22), and throughout the volumes occur interesting summaries of the minimum requirements of "fair trial" (Vol. 5, pp. 12, 30, 34; Vol. 6, p. 103). These statements manifest some differences, but all call for an impartial tribunal, notification of charges to the accused, and opportunity of the accused to present evidence, to call witnesses, and to be represented by counsel.

Somewhat different from these trials in national tribunals was the trial of Altstotter and others (the Justice case) by the Nuremberg Tribunal in 1947 (Vol. 6). This tribunal was considered international because, although established by the United States, the authority to establish it and the offenses to be tried derived from Law 10 of the Control Council for Germany. The offenses were virtually the same as those set forth in the Charter for the original Nuremberg Trial. The high German legal officials tried in this case were not indicted for violations of the law of war in specific instances, but for participation as members of the Nazi judicial system "in governmentally organized atroc-

ities and persecutions unmatched in the annals of history," constituting "crimes against humanity" (Vol. 6, p. 73). It is planned to report other trials before the Nuremberg tribunals in this series of law reports.

Other matters of legal interest dealt with in these volumes is the nature of Allied authority in Germany and the conditions permitting annexation of occupied territory (Vol. 6, pp. 29, 53), the nature of crimes against humanity (Vol. 6, p. 45), the liability of individuals for membership in criminal organizations (Vol. 6, p. 77), and the applicability of the principle against *ex post facto* criminal law in international law (Vol. 6, p. 41).

The general plan of the reports in these volumes is the same as in previous volumes of the series. The editorial notes, added to the description of the proceedings, the evidence, and the judgment, are usually of great interest. The personnel of the tribunals, and the prosecution and defense lawyers are not usually given, as they were in the earlier reports, and other details of procedure and evidence are less complete. As the general editor, Lord Wright, reports in his *Foreword* to Vol. 5, the United Nations War Crimes Commission has been disbanded, and this has meant that a different and smaller staff has been left with the task of completing the reports. It is to be hoped that this will not result in a deterioration of the editorial standards.

University of Chicago

QUINCY WRIGHT

CRIME AND THE MIND. By Walter Bromberg, M. D., J. B. Lippincott Company, 1948. Pp. 219. \$4.50.

The author of this book is a psychiatrist with psychoanalytic training who has had many years of experience dealing with prisoners. He was Senior Psychiatrist at Bellevue Hospital, New York City, where he was in charge of the prison wards, and he was also the Director of the Psychiatric Clinic of the Court of General Sessions in New York. In this latter capacity he had the responsibility for the psychiatric examinations of all prisoners arrested in New York County on a charge of felony who either pleaded guilty or were convicted. He not only did pre-sentence examination on these prisoners but also did psychiatric diagnosis and treatment of prisoners on probation to the Court of General Sessions.

The book is divided into two parts. Part one being entitled: "The Legal and Social Environment of the Criminal"; the second part dealing with "The Individual Criminal." Under part one he has three subdivisions as follows: 1. The Approach to the Criminal, 2. The Criminal and His Society, 3. Psychiatry in the Law Courts. Part two is divided into the following chapters: 4. The Psychopathic Personality, 5. Emotional Immaturity and Crime, 6. The Neurotic Offender, 7. The Cure for Crime.

Throughout the entire book Dr. Bromberg gives many records of actual cases that he has observed or treated; some of these he mentions by their proper names inasmuch as the nature of their crimes has been widely publicized. For example, he describes in some detail the case of Robert Irwin who committed three murders after having been a patient in a state hospital. The author points out that there is often a very close relationship between the personality and the background and the type of crime which he commits; and with the use of psychoanalytic knowledge he interprets the motivations of those who commit crimes such as bigamy, larceny, robbery, arson, etc.

In the last chapter dealing with "The Cure for Crime" he describes in detail the special type of psychotherapy needed in the treatment of criminals. He points out not only the defects of treating prisoners within the prisons walls, but he also points out the pit-falls to be observed by those trying to treat criminals who have not made a special study of the criminal mind. In the reviewer's opinion, this last chapter is one of the most important in the book and a very definite contribution to the field of forensic psychiatry.

The book has a pleasing style; it reads like a novel, and in addition has a very complete and reliable bibliography. The book is highly recommended particularly to psychiatrists and psychologists, but also to lawyers, judges and wardens who deal routinely with persons similar to those described by the author.

Univ. of Virginia

FRANK J. CURRAN, M.D.

"YELLOW KID" WEIL: The Autobiography of America's Master Swindler. As Told to W. T. Brannon. Ziff-Davis Publishing Company, Chicago, 1948. Pp. 297. \$3.75.

A tiresome but thought-provoking maxim—"Never give a sucker an even break," is the principal theme of this book. In his autobiography related to newspaperman W. T. Brannon, one Mr. Joseph Weil has justified his wholehearted conversion to the above-mentioned way of life. Admittedly one of the most skilled of confidence men in the golden era of the twenties, the "Yellow Kid" expounds the basis for society's incredible gullibility. He does claim to have exploited more credulous souls than the gullibility of this reader can accept. But once the necessary grain of salt has been taken, the contents of the book portray a colorful story of one whose reputation will outlive him. Joseph "Yellow Kid" Weil, it is emphasized, deserves to be remembered not alone for his roles of chicanery and skulduggery, but as a participant in a society which provided him with a character role.

Noble citizens will sigh that it is too bad "Yellow Kid" Weil's intelligence and talents were not applied to more legitimate pursuits. Such righteous indignation, daily expressed about hundreds of the sort of situations Weil describes, might appropriately be preoccupied with a society which supported, not thwarted, this confidence man's accomplishments. "Sharppers," Weil emphasizes, are not born. They are made. Weil's method consisted of taking advantage of the desire of the most respectable business man to win, not earn, a multitude of easy dollars. Delusions of profit erased in the minds of many any inquisitiveness about the source of promised income. People who were convinced that *they* could fall beneficiary to something for nothing and were smarter than the horse, were candidates for Weil's smooth propositions.

Weil's proposals to his prospective victims inevitably spelled unheard of profits for them. He made use of the device known as the ruse. His ability to set up a social situation characterized by *almost all* of its normal attributes enabled him to omit the few links in the chain which meant the difference between a legitimate situation and fraud. The victim was inevitably deceived into believing that certain people, objects and ideas existed in accordance with normal expectations when they actually did not.

The fantastic complexity of Weil's schemes no doubt augured in

favor of his success. Renting entire hotels and office buildings so that he might temporarily appear to own them, replacing authors' pictures in city library books with his own, investing heavily in homes, automobiles and wardrobes, represent only a few of the props which Weil employed in his efforts to deceive. It should be remembered, after all, that in the early years of World War II almost every potential employee in war plants was screened by the federal government. Yet the Illinois Gars-son Brothers, with a few friends, some extravagant claims and an impressive letterhead, pyramided a few dollars and much gall into a huge financial success later alleged by the same federal government to have been built at the expense of our war effort.

Mr. Weil sardonically comments upon the efficacy of law enforcement. The cleverness of his brethren is emphasized with singular egotism to a point overlooking the abilities of law enforcement officials. New laws, he suggests, might protect the bait from the fishhook. I wonder. It would be interesting to contemplate the degree to which a book such as this might discourage a would-be or novice confidence man from embarking upon a share-the-wealth career. Whatever benevolence Mr. Weil exhibits, in his suggestions for more efficient laws and for young people to avoid the wages of sin, falls flat as an admonition. It is doubtful that Weil would choose to live over very much of his life. His few prison experiences became educational opportunities. A thorough beating-up administered by one contact was a difficult thing to experience. But Weil concedes a lesson about the nature of his clientele which he never forgot.

This story provides us with one chapter of Chicago's development. It suggests the by-products which result from corruption in a graft-ridden community. The setting for Weil's accomplishments in fraud and deceit is well presented. The book lacks helpful scholarly insight, though not because it reads like a novel. Little effort is made to provide the reader with a systematic analysis of Weil's endeavors. And Weil, himself, makes little inquiry into his motivations and personality. There is not a great deal we can discover by guess and by hindsight. If we are to fashion explanations of criminal behavior, we cannot afford to consider them apart from the personality of the very person whose behavior invites our observation.

ROBERT C. SORENSEN

University of Nebraska,
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STATISTIQUE CRIMINELLE DE LA BELGIQUE, Années 1944-1945, Institut National De Statistique, Ministère Des Affaires Économiques, Bruxells, 1948. Pp. 206. 200 Francs.

This is one of the first governmental documents on criminal statistics published by the Belgian government since the end of World War II. Although the data cover the years 1944 and 1945 the general and special statistics include the years 1930 to 1945. The material records data according to age, sex, civil and family status, occupation and position of the offender. In addition there is detailed information according to *arrondissement* and canton with special facts about recidivism and persons convicted by the military.

By way of explanation the publication points out that the period covered by the report were years of intense crisis which compounded the

complexity of human relations and affected the moral fiber of the people. All of this tends to interpret the increase in convictions from 595 (mean for 1930 to 1939) to 886 per 100,000 in 1942. For the same years the convictions of women rose from 256 (mean) to 605 in 1943 and juvenile offenses (16 to 18 years) for females increased from 171 to 519 and for males from 580 to 1,363. Prior to the war 22 per cent of the convicted persons were women, whereas in 1943 they accounted for 36 per cent of the total. The data reflect the conditions within the country in the combat zone, during the years of occupation by the enemy and the chaos which followed at the end of the war. The total convictions declined from 56,332 (886 per 100,000) in 1942 to 21,126 (325) in 1945. According to age groups convictions were highest in ages 21 to 30 in 1943 with more than 1,250 per 100,000. Prior to the war first offenders accounted for 55 per cent of all convicted persons whereas in 1942 they numbered 66 per cent. Correspondingly, recidivism decreased from 100 (index for 1930-39) to 79 in 1943 and to 81 in 1945. In addition to these data the report presents information relative to conviction by residents and nonresidents, size of community and districts. The data for recidivism are classified according to degrees, i.e., a person convicted of two offenses is a recidivist of the 1st Degree and one convicted of 9 offenses is an 8th Degree recidivist. The entire report is a mine of information for research in criminology revealing the variations during peace, war and occupation and the aftermath. In reviewing this information one is impressed with the thoroughness of the Belgian statistics and the comparative poverty of judicial statistics in the United States in spite of the vast amount of calculating machinery in existence.

Iowa State College

WALTER A. LUNDEN

VILLAINY DETECTED. By Lillian De La Torre. D. Appleton-Century Company, Inc. 1947. Pp. 243. \$3.00.

"Being a collection of the most sensational true crimes and the most notorious true criminals that blotted the name of Britain in the years from 1660 to 1800, by various hands."

Thus, does the editor quaintly describe the contents of this slender anthology, which, while it merits attention through its picture of the social climate of the times considered, presents little to beget the interest of the professional criminologist or law enforcement officer.

Daniel DeFoe, Jonathan Swift and Sir Walter Scott appear briefly and unimpressively in rather disappointing selections. Andrew Lang, whose authorship is familiar to the initiated in the literature of crime, is also represented, but the other authors chosen will probably be unfamiliar to the average reader.

The language used in the collection is principally that of the last two centuries and though its relative quaintness is at first engaging, the interest of the reader soon pales because of the unfamiliar idiom.

Miss De La Torre is distinctly successful, however, by means of her notes as well as through her contributors, in reconstructing a picture of the times with reference to the criminal and the peculiar and popular interest that was demonstrated in him. Imagination is stimulated to recall that these were the days of the professional thief-taker, the gentleman highwayman, the watch who felicitously seemed to believe always that all was well and the macabre holiday that was a public hanging. In a real, albeit rather bizarre sense, a measure of public sym-

pathy went fervently with the criminal, particularly the highwayman, whose deeds too frequently were romanticized into Robin Hood exploits. Historically, this may be considered to reflect the deep social unrest of the times and such unrest almost necessarily affects mores. Too, it invites attention to the fact that overly severe penal laws (which then existed) serve to enfeeble the social sanctions that operate so effectively in a civilized society to inhibit the criminal, and thus are more and greater crimes begotten. But with all of this many readers may not agree, preferring the belief that there is an innate human sympathy for the transgressor and that, distance lending enchantment and safety, the notorious criminals of one period become a species of sentimentalized folk heroes of another age.

Briefly, "Villainy Detected" should be read only intermittently, with the reader's imagination awake to be at least mildly titillated by the picture Miss De La Torre presents of the times and its rogues.

Asst. U. S. District Attorney, Chicago, Illinois.

DANIEL P. WARD

DIE PROPHYLAXE DES VERBRECHENS. H. Meng, Editor: Benno Schwabe & Co., Verlag: Basel, 1948. 568 pages with indexes and 17 pictures. Price: \$10.25.

This is thought to be a textbook on the prophylaxis of crime. The contributors have tried to survey our knowledge from the psychoanalytical angle. Most of the authors have made use of psychoanalytic insights without exaggerating their point. The contributions by A. Kielholz, former director of one of the biggest Swiss institutions for the mentally ill, and of A. Repond, he too a psychiatrist of great experience, are especially valuable by reason of the tact with which psychoanalytic tenets are applied.

This is not to say that there are any astonishing new revelations for the future prophylaxis of crime. The value of the clinical contributions consists rather in the case histories, a feature which to this day is missing in many psychoanalytical publications. In addition to Kielholz, and Repond, the lawyer, Paul Reiwald, has contributed case histories, on account of which this book can be recommended to the psychiatrists as well as to lawyers and criminalists.

New York

W. ELIASBERG

THEIR MOTHERS' SONS. By Edward A. Strecker, M.D. J. B. Lippincott Co., 1946. Pages 220. \$2.75.

This book should be "must" reading for everybody who has smaller or larger responsibility for rearing and educating children from infancy to early adulthood—which includes most of us. It is a nice assignment, for the author weaves his philosophy and good humor into the text of what could be a dull recital.

Dr. Strecker is Chairman of the Department and Professor of Psychiatry in the University of Pennsylvania. As Consultant to the Surgeons General of the Army and Navy and Adviser to the Secretary of War during World War II he had the best of opportunities to observe men who "broke" mentally, not only at the front, but earlier in the camps before their military training was completed. Even more important than this, professionally, the author has engaged during many years in the practice of psychiatry privately and in public hospitals.

A man with such experience doubtless knows whereof he speaks when he berates the over-indulgent and over-protective "mom" and "pop" and their cooperator, the soft teacher. They create dependence, not self-reliance, in their children and pupils, and probably life-long emotional instability which obstructs the road to a healthy democracy and to world-wide stability and peace. We need more "Mothers", "Fathers" and "Educators" and fewer "Moms", "Pops" and soft teachers to produce a healthy population. We must have much more of the emphasis that Dr. Strecker is giving to the subject, if for no other reason than to balance the current stress upon outside-the-home social agencies whose directors sometimes give the impression that they have put parents upon the shelf out of sight.

If Dr. Strecker were primarily interested in delinquents and criminals particularly he undoubtedly would have introduced a chapter to point out the fact that the ranks of the wayward and of the law breaker are crowded with those who, from infancy, lacked training in the art of "taking it."

Evanston, Illinois

ROBERT H. GAULT

THE MEANING OF TREASON. By *Rebecca West*. The Viking Press, New York, 1947. Pp. 307. \$3.50.

Within the reviewer's knowledge there are few contributions to literature that equal "The Meaning of Treason" as a psychological analysis of the revolutionary. The book is packed with background details concerning especially the traitor William Joyce ("Lord Haw Haw") and his family. Joyce's associates, including Sir Oswald Mosely, the events leading up to his escape to Germany at the outbreak of the war, other traitorous British prisoners of war and their doings, all make interesting reading. As far as this part of the book is concerned, the account ends with the arrest of Joyce and his trial and execution in London.

But it is not just as a narrative that the volume is worth repeated reading. From first to last it draws a superb picture of the psychological makeup of revolutionaries like Joyce. He was mentally adequate, supremely ambitious for power and egotistical to an extreme. His physical insignificance and his crudity from a cultural viewpoint, notwithstanding a university education, condemned him to mediocrity. The result—frustration but not surrender, and a willingness to seize every opportunity, fair or foul, to get into the limelight. We are familiar with this aspect of the picture, because we find something similar to it in confidence men and a good many others.

In the course of Joyce's trial his defense took the ground that the prisoner was a citizen of the United States because he was born in Brooklyn after his father had taken out citizenship papers. But it was of no avail. Joyce had claimed the protection of the London government through a visa which he carried abroad with him and it proved to be his undoing.

Evanston, Illinois

ROBERT H. GAULT