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## Book Reviews

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## BOOK REVIEWS

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LAW REPORTS OF TRIALS OF WAR CRIMINALS, Selected and Prepared by the United Nations War Crimes Commission. 15 Vols. London, 1947-49. 5s per volume. Total, 750 pp.

HISTORY OF THE UNITED NATIONS WAR CRIMES COMMISSION AND THE DEVELOPMENT OF THE LAW OF WAR, compiled by the United Nations War Crimes Commission. London, 1948. Pp. XX + 592. 30s.

REPORT OF ROBERT H. JACKSON, United States Representative to the International Conference on Military Trials, London, 1945. Department of State, Washington, D.C., 1949. Pp. XX + 440. \$1.75.

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The United Nations War Crimes Commission has ended its labors begun in 1943 not the least of which is the publication of the Law Reports and the History here reviewed. The present writer has reviewed the first six volumes of the Law Reports in earlier numbers of this journal. The last volumes provide a rich body of materials on international law, much of which is analyzed in Volume 15. The History includes not only an account of the Commission and its work, but also a history of the development of the concept of war crimes before, during, and after World War I and in the jurisprudence of the Commission itself and of the tribunals which functioned after World War II. Appendices state the personnel of the Commission, present statistics on the cases listed by the Commission and on the war crimes trials, and summarize information about the more notable war criminals. A bibliography of some 400 titles of articles and books on war crimes is also included. Lord Wright of Durley, who was Chairman of the Commission after 1944, has written informing introductions to all of these volumes and his important article on "War Crimes Under International Law," which originally appeared in the *Law Quarterly Review*, is reprinted in the History (p. 547).

The statistics indicate that the western states participated in about 2,000 war crimes trials equally divided between the European and Far Eastern Areas. Over 6,000 individuals were involved of which about 1,500 were sentenced to death, 3,500 to imprisonment, and 1,000 acquitted. The data on trials by the Soviet Union and the Eastern European states is incomplete but the number was probably equally great. Thus it is safe to say that over 10,000 individuals of the Axis countries were tried as war criminals of which probably 80% were found guilty (See History p. 518).

The fifteen volumes of reports include only a small proportion of the total records of war crimes trials. Two important cases, the Tokyo Trial of major war criminals and the "Wilhelmstrasse" Trial at Nuremberg were ended too late to include. Ninety-two cases are actually reported in the series and 89 others are cited out of a total of 9,111 trial records received by the Commission. The aim, according to Lord Wright, "has been to derive from the records in the possession of the Commission all materials containing any guidance for the building up of a jurisprudence of war crimes law" (Vol. 15, p. xvii).

In analyzing the reports published, volume fifteen discusses sources of international criminal law, the legal basis of courts administering that law, parties to international crimes, some types of victims of such crimes, types of offenses, defense pleas, the procedure of the courts, and the

punishment of criminals. Many of the points here analyzed or referred to in the cases invite discussion, but only a few can be selected.

A comparison of cases from different jurisdictions illustrate some confusion on the relation of international law to municipal law in war crimes tribunals. The American tribunals have been most clear in stating that war crimes are defined by international law and therefore a tribunal, whether an American national court, an American military commission, or an international court looks to international law alone whether to define the offense or to consider defenses urged by the defendant. National law may sometimes provide useful evidence of international law or suggest applications of general principles of international law, and it may sometimes provide convenient procedural rules, but it is not controlling. It sometimes happens that a defense defined by national law is not also an offense under international law or a defense not recognized in national law is recognized in international law. In such cases courts may be obliged to acquit a defendant who would have been criminally liable under the municipal law of the place where he committed the offense. This position was stated in the Flick Case (Vol. 9, p. 16) and is referred to by Lord Wright in several of his introductions (See Vols. 7 & 9). This position is also generally recognized in the British cases and notably in a Dutch case (Vol. 14, p. 110). The French cases, however, show a tendency to apply national codes and decrees without reference to international law, particularly where the offense was committed in French territory during occupation (Vol. 9, p. 59ff). Polish courts have been disposed to cite sources of international law and municipal law without discrimination (Vol. 9, p. 18ff).

One of the most interesting questions raised in these reports is that of the right to execute hostages. One of the Nuremberg tribunals took the position in the List Case that hostages could be shot as a last resort when certain conditions exist and the necessary preliminaries have been taken (Vol. 8, p. 61). In the Rauter Case, a Dutch tribunal of first instance agreed with this (Vol. 14, p. 130), but on appeal the Dutch court of cassation held that retaliatory measures against the inhabitants of occupied territory "are never permitted against innocent persons" (Vol. 14, p. 135). Lord Wright makes interesting comments on these opinions in his introductions leaning toward the latter view (Vols. 8, 14). The subject is one on which national regulations and textwriters differ considerably and it is clear that further juristic analysis and international agreement on the subject is desirable.

Several cases deal with the crime of genocide which has recently been defined in a general convention approved by the General Assembly of the United Nations. Several Polish cases defined this crime (Vol. 7, p. 6; Vol. 13, p. 70) and it is dealt with at length in the Greifelt Case tried at one of the later Nuremberg tribunals (Vol. 13, p. 40). Genocide comes under the general category of crimes against humanity. The nature of such crimes, and the definition of certain of them such as the employment of slave labor is discussed in other cases.

The nature of the crime of aggressive war is discussed at length in the Farben and Krupp Cases at Nuremberg (Vol. 10). Judge Anderson's opinion in the latter is especially notable (p. 109ff). These tribunals made it clear, as did the original Nuremberg Tribunal, that participation at the policy making level in a concrete plan to initiate aggressive war was a necessary element of this crime.

Many of the cases deal with traditional war crimes such as unrestricted submarine warfare (Vol. 9, p. 79), use of enemy uniform as a ruse (Vol. 9, p. 92), maltreating prisoners of war, and subjecting prisoners of war to unnecessary dangers (Vol. 11).

In his introduction to Volume Ten, Lord Wright notes the difficulty in presenting many of the cases because of lack of full transcripts, or because of the bulk of the record (as in the Nuremberg Trials) requiring rigorous selection of materials. The full record of the original Nuremberg Trial has been published in a series which has reached forty-two volumes and the records of the later Nuremberg Trials are in process of publication by the United States Department of the Army. These records are undoubtedly the most important from the point of view of establishing international law. Nevertheless the presentation of cases from numerous jurisdictions manifesting considerable variations in procedure and concepts of international law is of value because it indicates the great diversity of legal thinking in the world which it is the task of international law to integrate.

International law has undoubtedly increased in tangibility through the work of the War Crimes Tribunals. Students will find in these reports enlightenment on many branches of that law. As Lord Wright says in the Foreword to the History:

“The whole status of war crimes has thus been put on a firm and definite basis. It has followed that the concepts of sovereignty and of acts of state, when tested and examined under the jurisdiction of the international courts have been reduced to their proper limits. War is seen to be subject to law and rules; it is a natural consequence that the planning and initiation of a war, with its inevitable concomitants of slaughter, atrocity and devastation cannot claim a chartered liberty and immunity. . . . The difference between a just war and an unjust war, a distinction which is ancient enough, has been reinstated. The Pact of Paris has at least made that as well as much else plain. The consequences of all this are apparent in the doctrines of crimes against peace and crimes against humanity.” (vii)

The editing of these volumes is on the whole carefully done, though there is some evidence of haste resulting from the necessity to end the work of the Commission. A curious error occurs on p. 50 of the History. It is said that only 44 states were parties to the Pact of Paris and that these did not include the Soviet Union.

The report of Justice Robert H. Jackson on the London Conference of 1945 supplements the volumes already discussed. It presents the documents and the minutes of the Conference which drafted the charter for the trial of major war criminals in the summer of 1945. Of particular interest are the various proposed definitions of aggressive war and other war crimes and the indications of the general differences which had to be resolved because of divergent national points of view on questions of evidence, procedure, and legal concepts such as conspiracy. Soviet desire to have the tribunal take a positive role in the inquiry was often in conflict with the Anglo-American “contest theory” of judicial procedure. There were also important differences in regard to the sources of international law. The Soviets were reluctant to accept customary international law. A discussion of the concept of “criminal organizations” is also significant. Considering the differences among the four countries

represented, the Conference manifested able diplomacy in that agreement was reached and that the Nuremberg Tribunal, established by that agreement, functioned successfully.

University of Chicago

QUINCY WRIGHT

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THE CHALLENGE OF PARENTHOOD. By *Rudolf Dreikurs, M.D.* Published by Duell, Sloan and Pearce, Inc., New York, 1948. Pp. 334. \$3.50.

Doctor Dreikurs states in the introduction to his new book that there is, unfortunately, "no way to guarantee that a reader will extract from a book what the author intends to convey." However, I feel that we must at once contradict and commend him. His "Challenge of Parenthood" is, in my opinion, so clearly, simply, and interestingly done that no person of the kind who would be likely to be concerned with reading the book could fail to comprehend his message, the methods he proposes, and the explanations he advances.

The purpose of this book, as stated by its author, is to "give information and encouragement" to parents. Certainly the purpose is accomplished in lucid prose, unmarred by the usual perplexing pomposities of professional patter that so often ruin a good doctor's otherwise good book for the alert, but untrained layman.

Another abyss in which many find professional men are lost to their potential friends and students is by-passed by Doctor Dreikurs in a manner deserving praise. I am referring to the unfortunate estrangement of parents by many workers in child guidance through the guidance people's broadsides of righteous indignation or scintillating irony; through autocratic or bored categorizing of parents as incredibly stupid or criminally negligent. The author has here, instead, been able to use cold words on paper to express a truly sympathetic and comprehending attitude as well as a most valuable background of experience. Surely any parent reading the introduction cannot fail to be receptive to the detailed, but simply presented information that follows in the body of the book.

We are in complete agreement with Doctor Dreikurs' hope that such information as is available in his book will be used in the future in high schools to train adolescents in the understanding and handling of little children.

A few of the concepts stressed for parents (which we also have found valuable in aiding parents to understand their children more fully) are:

- 1) the lack of realization of the extent to which we ourselves, as parents, contribute to the difficulties encountered in rearing children;
- 2) recognition of the basic concepts governing the formation of the child's personality rather than too great an awareness of the incidental behavior patterns exhibited in various phases of development;
- 3) the great importance to the child's future in the development of his social interest;
- 4) the advantage to the parent in perceiving the true nature of guilt feelings.

There is no point in itemizing the contents of Doctor Dreikurs' book. Suffice it to state here that he manages to convey a vital sense of the importance and excitement of the challenge of parenthood; and that he

covers the important aspects of the field in a sound and workmanlike fashion.

Orlando, Fla.

LOWELL S. SELLING, M.D.

PROGRESS REPORT, DELINQUENCY CONTROL INSTITUTE. University of Southern California Press, Los Angeles, California, 1949. Pp. 111, 46.

Since the roaring days of '49 the State of California has been the scene of some of the most incongruous and fantastic schemes and claims. Hollywood to the Easterner was and is the symbol of the *papier maché* Utopia that sprawls on Malibu Beach and invades the sacred purlieu of the Chamber of Commerce. From the Four Square Gospel to Alcatraz, from Mentalphysics to old-age pensions, from assorted phonies to a dynamically progressive penal system, from obvious crackpots to outstanding executives, from aged starlets in long pants to Esquire models in Hawaiian shorts, California is surely a land of strange beliefs, fads, cults, movements, and unblushing braggadocio. Despite the many contradictions, California in the field of prison reform and her handling of offenders is today setting the pace for the rest of the country.

The brief Progress Report of the Delinquency Control Institute reveals a well-integrated and sharply defined program for understanding and controlling, and as far as humanly possible preventing, juvenile delinquency. Three years ago such a plan was only a general awareness of the problem. Today ninety-seven law enforcement officers have had the benefit of excellent training in small classes by technical experts both from the theoretical and practical standpoints. The curriculum provides instruction in such obviously useful fields as Social Treatment Aspects of Delinquency Control, Special Police Techniques, Conditioning Factors in Juvenile Delinquency, Delinquency Prevention Techniques, etc. The philosophy which guides the Institute appears to be that juveniles become delinquents for some ascertainable reason or reasons and a technically trained personnel can ferret out the reasons and formulate a program of prevention and treatment with more social intelligence than the ordinary police officer. Just as *modus vivendi*, fingerprint and ballistics identification require specialized training, so does the handling of juveniles. The problems confronting police officers assigned to juvenile work are far more difficult to solve than blood analysis, radio communications, or identifying tire treads.

This report should be read by all persons interested in the problems of crime prevention. They should then get the money and the staff and go to work. It can be done, and here is the proof.

University of Pennsylvania

J. P. SHALLOO