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## Book Reviews

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# Book Reviews

WAR CRIMINALS: THEIR PROSECUTION AND PUNISHMENT. By Sheldon Glueck. New York: Alfred A. Knopf, 1944, pp. viii, 250, xii.

At the end of the last war we wanted to hang the kaiser, but we didn't. Professor Glueck, Professor of Criminology at the Harvard Law School and non-resident member of the commission on the trial and punishment of war criminals at London, tells the story of the fiasco which resulted from the attempt to punish the perpetrators of war crime in World War I. It is a story which was not widely known in this country at the time and which has been largely forgotten in the interim. Lesser penologists than Professor Glueck have been convinced that the methods employed at that time have proved unsatisfactory—if the test of sound criminal jurisprudence is the successful deterrence from similar crime, and there seems a general concurrence of opinion that a different approach should be tried on this occasion.

When Professor Glueck wrote, the war had not been won. The definition of a war crime was still to be drawn, the procedure of trial still in the process of debate. The book under review is directed to these questions. Today some of these issues have become moot, for whatever the theoretical difficulty of solving them may be, it is historical fact that perpetrators of military outrages on the European continent are in the process of trial and there is little doubt that their Japanese partners will shortly face the same experience. Nevertheless, it behooves every thoughtful citizen, especially every lawyer, to consider the implications of what is being done.

One does not need to be an international lawyer to appreciate the points made by the American members of the Commission on Responsibilities set up at the close of World War I. How can one be punished for doing that which was lawful by the mandate of his country? Particularly, how can the head of a state be punished when, by virtue of his position, his act was *ipso facto* lawful. In the amorphous field of international criminal law, is not the punishment by one nation of the citizens of another *ex post facto* law making? The author answers these questions by the application of that same common sense which has been the bulwark of the common law. Exact precedent need not be cited to justify judicial conduct which condemns a way of life no person can justify.

International law has consisted largely of convention for which there was no peaceable method of enforcement. No discussion of international trial can fail to remind the reader of the imperativeness of a more clearly defined and more positive international society with jurisdiction over the individuals of the several nations. The implications inherent in the problems which this book discusses are more important than the specific problem to which it is directed. What happens to Goering and Hirohito may not be important. The jurisdiction of an international tribunal to try and punish is very important.

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