

THE TRIAL OF ADOLF EICHMANN. By Lord Russell of Liverpool. [London: William Heinemann. 1962. xxviii + 324 pp. 30s.]

From the point of view of the lawyer, Lord Russell's account of *The Trial of Adolf Eichmann* will prove somewhat disappointing.

The summary of the trial itself is an admirable condensation of a paper jungle, re-emphasising that any account of the horrors of the concentration camps will hold its own with the most foul 'horror comic' caught within the purview of the Children and Young Persons (Harmful Publications) Act, 1955. As regards the ordinary public, in so far as they are likely to read any report of the Trial, Lord Russell has provided a most adequate account.

In view of this, it is unfortunate that a number of easily avoidable errors have escaped the eye of the proof reader: the Jewish World Congress (p. xxii) should be World Jewish Congress; presumably the German Foreign Minister in Stockholm (p. 140) is really the German Ambassador; it is most unlikely that Dr. Gruber persuaded the 'Minister for Food to allow sufficient *bread* to be imported for the making of unleavened bread' (p. 189); according to Lord Russell, summarising the judgment, 'the Nazi and Nazi Collaborators (Punishment) Law of 1950 did not conflict with the rules of *national* justice' (p. 273) — in fact, of course, the judgment refers to *natural* justice; Lord Russell rightly indicates that the Caroline Case is not really a case, but he wrongly gives as an alternative name for this incident

*People v. McLeod* which is a case — 25 Wend. 483 — while the *Caroline* is famous in international law for its relevance to self-defence rather than self-preservation (p. 274) and was cited at Nuremberg to this purpose; finally, it comes as a surprise to find Lord Russell citing the All England Law Reports as A.E.R. (p. 277), and saying that the Argentine-Israeli communique settling their dispute about the kidnapping indicates that ‘it had, indeed, been “much ado about nothing”’ (p. xvii).

The interesting legal problems arising from the kidnapping, the claim to jurisdiction, the operation of retroactive law and the other issues in which the lawyer is primarily interested tend to be dealt with briefly in the words of the judgment and without giving sufficient account of the other side of the coin. For the main part the entire approach is on an ethical and moral level, adequately summarised in the comment: ‘It may be a new principle of law that a nation by means of retroactive legislation can try offences committed against its people before they became a State, but without it Israel would have had no means of retribution whatsoever and this, in all the circumstances, would seem inequitable’ (p. xxviii).

It is only when dealing with the defence of superior orders, a fundamental problem of military law, that Lord Russell allows himself objective and critical comments, indicating that the statements which appeared in pre-war editions of the British and American Military Manuals were wrong, and that wrong statements in books without ‘legislative authority’ (p. 312) cannot be taken as declaratory of the law — ‘the fact that for some reason a mis-statement of the law remained so long uncorrected is no justification for such [wrong] argument’ (*ibid.*).

Any militarist who wishes to protect himself under the umbrella of his commander, any German who wishes to criticise war crimes trials, and any apologist or misguided humanist for Eichmann would do well to ponder Lord Russell’s quotation from Goebbels: ‘No international law of warfare is in existence which provides that a soldier who has committed a mean crime can escape punishment by pleading as his defence that he followed the commands of his superiors. This holds particularly true if those commands are contrary to all human ethics and opposed to the well-established international usage of warfare’ (p. 314).