

MANSTEIN: HIS CAMPAIGNS AND HIS TRIAL

R.T. PAGET, Q.C., M.P., with a foreword by Lord Hankey. (London, Collins, 1951) \$3.50

The first half of the book is an account of Field Marshall Manstein's military career and in particular of the defeats he inflicted upon the Russians. However for the purpose of this review I propose only to deal with the second half which contains an account of his trial.

This second half is Mr. Paget's account of the trial itself from a defense counsel's point of view. While no attempt is made to hide the author's sympathy for the accused, this account is well and fairly written and not without humourous touches.

The trial court was set up by Royal Warrant which "permitted in the trials of Germans at least a dozen things, which if any one of them had occurred in the trial of an Englishman, would have resulted in the Court of Criminal Appeal quashing the proceedings on the ground that a grave miscarriage of justice had occurred." The warrant commenced by imposing punishment for acts which were not merely non-criminal but not even illegal. Von Manstein was denied both a copy of the indictment and knowledge of the evidence against him; both the right to challenge and the right to be tried by officers of his own rank. Most serious of all, hearsay evidence was admitted "whether it was first, second, or a hundredth hand."

Not only did the warrant thus farcify criminal procedure; the very trial itself was of the most dubious legality. It began after the Universal Declaration of Human Rights had been adopted and proclaimed by the United Nations and was directly contrary to paragraphs 10 and 11 (1) and (2) of that document; those that prevent retroactive criminal legislation and provide "for all human beings, without exception...a fair and public hearing by an independent and impartial tribunal." When we consider that Manstein was accorded probably the most inequitable of all trials we can realize how hypocritical these appeared to the onlooker. For once the Russians were more honest. They simply shot such of their prisoners as they no longer needed.

The seventeen charges of the indictment ranged from genocide to the employment of slave labour and the execution of commissars. Among the evidence relied on by the prosecution were statements of Gestapo thugs which it was essential to discredit. Mr. Paget used a report of an American Commission which showed them to have been guilty of torture. This evidence was made unnecessary when original affidavits were discovered which categorically contradicted the prosecution. The remaining evidence was of the same poor caliber and as a result of this and of counsel's efforts only two of the original charges were sustained. Eight were dismissed and Manstein was held accountable on seven others, but only after they had been modified subsequent to the closing of the case by the defence.

It is not the tale of the technical imperfections in procedure, nor the perjured evidence, nor the qualified acquittal that makes Manstein important. It is the author's claim that such trials are "fundamentally unjust.....fundamentally totalitarian....to impose upon an individual symbolic atonement for a crime of a nation is to deny the individual." Mr. Paget has reported a convenient case. Every lawyer should consider it for himself.

Donald M.A.R. Vince

News Items

As this issue goes to press, we are again conscious of the fact that another academic year is practically concluded. Looking back we feel that it has been a successful year, with the exception of the final examinations which have yet to make their all important mark on our history.

Congratulations are in hand to one of renowned graduates of last year, Mr. Carlisle Hanson, who was recently appointed Assistant Editor of the Canadian Bar Review. We are certain Carlisle will do well in this position as we had a preview of his ability in this field when he was editor of the Law Journal last year.

Extra-curricular activities have all but ceased at this stage of the school year. The Social Committee under the guidance of Jack Stark deserve a round of applause for a very successful year. One of its last functions was arranging the recent tour of one of the more famous industries of Saint John (advertising commitments prevent us from revealing the name of the firm.) Jack has been doing extra research work throughout the year with one Hugh Church that may take them to Nevada after graduation. Robert Allan has shown a recent interest in their work.

Orchids to T. V. Kelly whose efforts as Athletic Chairman have rendered U.N.B. Law not too remote from resembling Notre Dame's campus. The law students had a few sessions of hockey at the local Forum, on one occasion sharing the ice with the renowned "Beavers," who refused the challenge tossed to them by the students. Terry was instrumental in forming what was perhaps the first Canadian inter-collegiate bonspiel which was held at Amherst. Teams from Dalhousie and Fredericton as well as the law school participated. It seems just dessert that Terry skipped the winning team in the school's regular league play, which was decided in a close and exciting game with skip Bob Howie and his team.

The moot courts were run in a well organized manner. They finished much earlier this year thus preventing any possible conflict with the exams. George Noble and the faculty are to be congratulated for their work in this constructive pastime.