

BOOK REVIEWS

Union Rights and Union Duties. By Joel Seidman. New York: Harcourt, Brace & Co., 1943. Pp. viii, 238. \$2.50.

The title of this book may suggest a moralistic venture somewhat in the nature of a latter-day decalogue for organized labor. Actually, it is far different from that, turning out to be a rather brief but very objective and interesting treatment of the manifest sorespots with which modern management-union relations have heretofore been afflicted, and of suggested remedies. The author is obviously an ardent believer in labor unionism as an essential part of American economic, social, and political life, apparently regarding it as the only institution through which anything like justice may be achieved by the large majority of our working people. But he is most engaging in his frank and open criticism of the many abuses of unionism which have been perpetrated by some of its leaders. Indeed, his objective and honest discussion of outstanding examples of the ruthless and selfish disregard for the legitimate interests of the union rank and file, of employers and of the general public, displayed by many of these notorious leaders, puts the author in a strategic position to tear into some of the equally frightful excesses of employers and of public officials.

The book is well documented, although it is irritating to one who is curious concerning sources to be called on constantly to turn to the appendix in the back of the book in order to consult the footnotes. Occasionally, certain parts of it give the impression of being a series of, not exactly anecdotes or parables, but of illustrative particles of American industrial and political life, gleaned from Senate investigation reports, judicial decisions, newspapers, and miscellaneous reports, official and other. This sort of thing is very easy to read, and it carries the additional advantage of infusing a running authenticity into the text—a refreshing contrast to the abstract accusations and indictments frequently met in this field. Furthermore, this technique is most instructive, since the author gets across what he wishes to establish without the risk of becoming dull. It is possible, of course, that the reviewer's training as a lawyer under the case system may have a good deal to do with this favorable reaction. But perhaps, as a reader, he enjoys being invited in this way to make up his own mind about the subject matter with which the author is concerned.

The author creates a nice balance in the book. He defines union rights and duties in terms of the correlative duties and rights of employers, adhering strictly to what he conceives to be mutually fair treatment of and regard for the interests of both sides. Nor does he neglect the interests of the public and of the union membership in general. After canvassing many of the regrettable excesses resorted to by either ignorant and misguided or vicious management representatives and union leaders and showing how such excesses bred distrust and further excesses, he emphasizes the futility of such conduct and urges a more temperate and responsible course for all concerned. He wisely believes that the infusion of real democracy into those unions which he concedes to be run on autocratic principles, coincident with a growing trust on the part of certain employers, will go far to cure the evils he deplures. He knows, however, that

there are limits to what any employer can trust; but he believes that it is, in a way, a two-sided proposition and that much of the vice in unionism was made possible originally by the attitude of employers and of an employer-controlled government, which drove the unions to violence and placed a premium on militaristic organization and dictatorial leadership. He takes a hopeful view of the possibilities of this mutual trust program, pointing to the practical achievement in some industries, notably in the needle trades, of a mature and sophisticated unionism which operates in much the same way as reputable big business and which has come to command and enjoy the respect and co-operation of employers and of local government.

At the end of a decade which many believe to have been dedicated by the government in power to organized labor, it may seem amusing to find the author saying: "Though many notable exceptions are to be found, labor believes that government officials, taken as a group, tend to accept the point of view of management rather than that of unions where labor disputes are concerned." Yet it is far from amusing to read the instances which he has marshaled to illustrate his point. These instances chiefly concern municipal, county, and state officials who have betrayed their obligations impartially to administer the law; and they are given to show why organized labor as a whole has become distrustful of public officers. The author also attempts to reveal the reasons for the lack of faith which he claims the unions have in our judiciary, contending that most judges reflect in their official acts economic predilections insufficiently elastic to encompass most of the organizing and bargaining techniques as well as the aims of legitimate unionism.

The author devotes the latter part of his book to a discussion of what can and what should be done about it all. An inordinately large part of this discussion is given to the question of whether or not unions should be forced to incorporate. This discussion, while interesting, somewhat overbalances the succeeding chapter concerning other proposals to increase union responsibility, such as regulation based on the assumption that unions are affected with a public interest and should be made to conduct their affairs on an open and above-board basis, so that all may know what they are up to. The author apparently suspects any attempts at regulation of this sort, at least before a particular union has completely organized the industry within which it operates, as not very subtle undertakings to insure disclosures of internal union affairs in order to facilitate the combatting of further organization.

It is well to keep in mind that the author of this book has no doubts concerning the social desirability of unions, nationally affiliated or other. His book is not intended to go into this matter; and he confines himself to discussing the place in American industrial and political society of labor unionism much as it exists today, freed from such discordant elements as the occasional hoodlums, racketeers, and dictators who have fastened on certain parts of it. One might be tempted to suggest that the author lost an opportunity to question or to defend the social utility of unions at all when judged from the perspective of one or another brand of economic theory. But in the book which the author started out to write such a discussion would appear to be out of place. His thesis is, rather, that responsible unionism has become a very real part of contemporary American life and that, from here out, it is the job of the unions and of industry—indeed, of all society—to establish a definite and a respected place in that life for labor unions.

The reviewer finished the book with the feeling that the author had, perhaps,

focused too much attention on the occurrences of the 1930's. After all, much of what employers and employer controlled public officials did before the National Labor Relations Board was firmly established by the Supreme Court in 1937 has become a thing of the past. It is possible, of course, that the author is apprehensive about the future of labor relations during the post-war period. He may fear the recurrence of an organized anti-union movement at that time and may seek to warn his readers by recalling the unfortunate excesses and more unfortunate consequences which such a movement then precipitated. At any rate, the book is sufficiently contemporary to give its readers plenty to think about and to make them consider the author's thesis seriously.

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The Prevention of Repeated Crime. By John B. Waite. Chicago: Callaghan & Co.; Ann Arbor: University of Michigan Press, 1943. Pp. xi, 221. \$3.00.

In appraising our social structure few facts stand out so clearly beyond the possibility of contradiction or even of doubt, as that of our complete, egregious failure in our efforts to prevent, or even to minimize, repeated criminal conduct by those who have once offended. Over and over we are given unneeded demonstrations of the certainty with which offenders come back again and again, with only brief intervals of liberty barely long enough to provide time to get into a new scrape, usually very similar to those of the past. Equally beyond dispute is the statement that such a state of affairs is the absolute opposite of what is desirable. Faced with these two facts the usual reaction of society has been to continue doing the same things as before, only more energetically so. Where severe punishment was imposed (though only a rare offender was convicted), even more severe penalties were set up (and in consequence even fewer were convicted). The conclusion drawn from failure was, and largely is, the need of relying with yet more fanatic zeal on the discredited means already being used. This, it was said, was the approach of the "realist," while he was a mere "theorist" who believed that several centuries of constant failure were enough to show that something was definitely wrong and that it was high time to try something else—something that at the worst could hardly fail any more thoroughly. This sort of "theory" is the starting point for Mr. Waite's book. It asks, what is wrong, and (in broadest outline only) what shall we do about it?

Anyone who has read the same author's *The Criminal Law in Action* will know how realistic his approach is and how fully all positions taken are backed by firsthand knowledge. These same characteristics are found in the present book and are what give it its authority. Turning now to a description of its contents, it opens with an analysis of why treatment (call it "punishment," if preferred) is imposed on a wrongdoer. If vengeance is our purpose (and it still very often is), there is little more to be said. Vengeance looks only to the past. As a purpose of punishment it is utterly sterile, because, by its own admission, the future does not concern it. And so today, whatever the reality may be, we are at least enough advanced in thinking to say that we punish to provide social protection. We look to the future and we seek to make that future more secure by taking protective measures today. This, we say, is why we punish. But here is where the problem becomes a double one. In part we hope, by the

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