

each a representative of his unit taken as a whole. We have a legislative body with executive powers and an executive with veto and other legislative powers as provided in the original Constitution. In any system operating under the consent of the governed the problem is great because of the effort to deal with the community ends and means. Some may rashly assert that representative agencies have no known use and might better be forgotten. But if they were all destroyed, then conciliar and representative bodies would spring up again; for they serve a very fundamental purpose.

Dr. de Grazia has a tough job which he attacks valiantly—that of defining the concept of representation, tracing the growth of American representation over some three centuries of changing conditions, and finally undertaking to indicate modestly what is coming or what the shape of things might be. The contrasting theories of representation are examined; the trends of thought upon representation are classified, described, and interpreted. The development of lobbies into interest representation over the last fifty years is depicted. Dr. de Grazia employs psychological, social, and magical influences in interpreting the continual struggle in men's minds over representing the whole public or a workable combination of major value interests.

I have wandered over this field for a long time, beginning with a study of representative government in Virginia in the 17th Century, down to the present hour when lobbies, pressure groups, and political parties weave their way through our 150,000 independent governments. I can sympathize with the worthy and energetic doctor in his battle not only with semantics and theories, but with "pluralisms" of various sorts, "integrated" and otherwise. These forms and forces leave him sometimes wearied, and sometimes a little worried. Readers might find aid and comfort in *The Political Community* (1949) by Sebastian de Grazia, a very near relative of the writer.

All scholars in the field of political science and particularly those in the area of representation are under lasting obligation to the writer of this volume for a learned and helpful treatment of one of the major problems of our times. The book will enrich the literature on this very important subject. Fortunately the writer does not attempt to solve all the problems. This is for another day; *speriamo*.

CHARLES E. MERRIAM*

Security, Loyalty, and Science. By Walter Gellhorn. Ithaca: Cornell University Press, 1950. Pp. viii, 300. \$3.00.

This is the first product of a Rockefeller Foundation grant to Cornell University for a study of "the impact upon our civil liberties of current governmental programs designed to ensure internal security and to expose and control disloyal or subversive conduct." It confirms the wisdom of the grant.

Gellhorn's assignment deals primarily with government security activities in fields relating to science—atomic energy, military research and development, and traditional government scientific activities ranging from the Fish and Wild-

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life Service to the National Cancer Institute. Though the author scrupulously limits his inquiry to the effect of security and loyalty programs upon scientists and science (and thereby upon the nation), the reader will be forgiven if he finds the reactions of scientists not mystically different from the reactions of nonscientific government workers.

This nation's present policy decision is that keeping scientific secrets from other nations contributes to our national security. Though scientific truths may be independently ascertained by foreign scientists, our secrecy bars are justified as resulting in some time lag before others discover the same laws of nature. This objective we achieve by simultaneously regulating the flow of scientific information itself, and by limiting the human beings given access to it. The first, subject-matter control, is carried out through the classification of information, documents, scientific papers and the like; the latter through "security" and "loyalty" programs.

First hurdle in the author's effort to study and appraise these programs was the fact that a secrecy program must itself be secret. Perhaps the outstanding contribution of this work is the careful assembly of relevant specifics drawn from a variety of indirect sources which give the author and the reader real knowledge of the workings of these programs without at any point violating the secrecy restrictions under study. In this area of security and loyalty where so much has been written at the one extreme of super-patriotism, or the other of fear of engulfing fascism, Gellhorn supplies us with a wealth of sober fact supplemented with a careful statement of the real evaluation problems which the nation's leaders have not yet really considered.

With respect to control of information, the author first sketches the present classification system, the distinction between secrecy as to natural laws and secrecy as to other facts, and the workings of de-classification boards. He thus explores the virtues of the present program. Against these, he weighs the "predictably unpredictable uses of scientific knowledge," the loss of criticism, the psychological consequences of secrecy, and the effects upon recruitment and training of new scientists which constitute the secrecy programs' adverse effects.

One need only examine these balancing factors to appreciate the difficulty of getting even reasonably dispassionate consideration among government officials. To the nonscientific public any scientific secret is made immensely valuable by the mixture of ignorance, awe, and fear with which the public views science. Against the scientific fact in hand, the public is asked to weigh the loss of other discoveries still in the bush of unrealized scientific achievement. And, since the value of this unknown loss of potential can be argued only by scientists, the public's fear of persons who deal with the unknown militates against their persuasiveness.

The author makes this recommendation:

Secrecy ought not to be readily attached to scientific or technological matters merely because in some aspects they have military significance. It should be attached unhesitatingly if their sole significance is a military one.²

² Page 72.

In this reviewer's opinion this test or any test is of limited value unless some special implementation can be devised. So long as there is any restricted information, the declassifier will face the choice between public (and probably wild) criticism for excessive zeal in declassifying, and no worse than secret, measured criticism for not declassifying. Little wonder that he resolves all doubts against sticking his neck out or, at best, becomes extremely dilatory in his decisions. Since information once disclosed cannot readily be reclassified, perhaps especially eminent temporary boards operating under more balanced legislation might be expected to carry out the author's proposed policy by passing upon whole categories of presently classified information thus removing large areas from the routine declassifier's scope of responsibility.

The government's programs with regard to the people engaged in scientific work present quite different problems. Gellhorn's book is a rich source of information about the workings of "security" or "loyalty" programs in the Atomic Energy Commission, in the military departments, in traditional civilian scientific bureaus, in private laboratories and universities engaged in classified work under government contract, and in those engaged in non-secret work.

His studies document the conclusions that the bulk of cases under the federal loyalty program have involved the problem of the employee's associations rather than his overt acts; that application of the standards in the Executive Order to specific cases has often resulted in distortion; that of perhaps 3,000,000 employees checked, less than two-fifths of one per cent were subjected to investigation and of these over ninety per cent were cleared, with most of the balance as yet undisposed of; and that "[i]n point of fact, not a single individual who has been dismissed under the loyalty program has been indicted or prosecuted for traitorous misconduct that the investigation brought to light."² The pages dealing with the indirect effects of government loyalty activities upon purely private research and the consequences of resort to indirect suggestion in lieu of direct loyalty charges are particularly valuable.³

Noting that "the focus upon opinion as a measure of loyalty tends to discourage the holding of any opinion at all,"⁴ Gellhorn points up the likelihood of unorthodox opinion among the more imaginative scientists who are our principal resources for scientific progress. He utilizes for illustration the Nazi experience in which preference for politically conforming scientists resulted in the breakdown of German research.

Nonetheless, the legitimate interest of the government in having loyal workers is recognized. The author suggests that this purpose would be more honestly served, and the government more ably staffed, if efforts to predict future loyalty were limited to employes having access to confidential information, i.e., to those in so-called "sensitive" positions.

Such a change would automatically eliminate the great bulk of loyalty investigations. In the reviewer's opinion, however, it would do little to avoid present abuses in scientific fields. For the fundamental difference made by a

² Page 170.

³ Pages 175-202.

⁴ Page 232.

loyalty order is that it imposes outside standards and intricate procedures upon the responsible hiring official. His discretion on the question of an applicant's "loyalty" is exposed to an examination and an external procedure that do not attach to his judgments on competence, personality, or work habits. Even though "loyalty" at best involves estimates of future conduct, the hiring official has less room for individual judgment on this question than on those which he can measure by concrete work experience.

Even without a loyalty order, it should be possible to have extensive investigations made of employees in "sensitive" positions, to have the reports of these investigations given to the hiring official, and for him to make his decision balancing the "loyalty" prediction along with other attributes of the applicant. Whatever the situation five or ten years ago, hiring officials certainly will be far more politically sophisticated and cautious today.

Return to individual judgments of the hiring official rather than the stigmatizing procedures of a loyalty program might over a period of time restore to government work the status as a desirable career that the nation's best interests require.

BYRON S. MILLER*

The German Penal Code, newly translated into English by von Oidtman and Reade. Bielefeld: Control Commission for Germany (British Element), 1950. Pp. xxiv, 103.

Of all the skills of legal work one of the most difficult to learn and to practice is that of translating legal texts. That the translator must be completely at home in the two languages concerned goes without saying. But that knowledge does not suffice. Legal terms of one system may or may not have an exact counterpart in another; more often than not they have none. It thus becomes necessary to describe and explain the concept of one system in terms of the other. That task is delicate and cannot be performed except by one who is fully conversant with the two legal systems. Only too often the translation of a contract, deed, will, treaty, statute, or other legal text is made by one who does not fulfil the requirements, with often humorous, but mostly sad or even disastrous, consequences.

The present occupation of Germany has created an almost unprecedented demand for reliable translations of legal texts. A peculiar need for the translation of German texts into English has arisen before the High Commission Courts of the United States and the Control Commission Courts of the United Kingdom Zone, which, in their exercise of criminal jurisdiction in cases withheld from that of the German courts, often have to apply German laws, especially the German Criminal Code. The present translation was made especially for the purposes of these courts, but it is of a more far-reaching significance.

The co-operation of a German and a British author, both of whom have had

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