

confused with the political ones. Unfortunately the political outlook of this author completely overshadows his juridical analysis. Mr. Stoll's theses in this connection are that the act of unconditional surrender of the German forces was neither a legal nor a political act, but only a purely military one without any political or legal consequences, and that the Potsdam Agreement is a *res inter alios acta* to which the Germans are in no way bound. On the basis of these theses the author concludes that the transfer of the German population from the territory east of the Oder-Neisse Line was illegal and that all those who remained in Poland should be regarded as German citizens, despite any formal expression on their part that indeed they considered themselves to be Poles.

Stoll has disregarded certain facts, legal and historical, greatly to the detriment of his study. The main one is that "unconditional surrender" was never considered by the Allies to be a "purely military" act. The Allies assumed supreme authority over the territory of Germany as a consequence of the total German defeat; the German signature beneath the act of capitulation was no more than a formality. The Potsdam Agreement is a legal and formal expression of the supreme authority of the Allies, in this case determining future obligations of the Germans regarding denazification, reparations, and so forth. The Potsdam provisions concerning the Oder-Neisse Line therefore simply implement the decision of the Allies to transfer the German population from the Western Polish territories. Finally, the "right to the Heimat" should hardly be denied to the Poles born during the last twenty-five years in their new "Heimat."

Stoll's conclusions seem best classified according to H. Rasch's formula: Juridical Legends. Yet legends, including the juridical variety, are not capable of solving problems.

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SOKOL UND ARBEITERTURNVEREINE (D.T.J.) DER WIENER TSCHECHEN BIS 1914: ZUR ENTWICKLUNGSGESCHICHTE DER NATIONALEN BEWEGUNG IN BEIDEN ORGANISATIONEN. By *Monika Glettler*. Veröffentlichungen des Collegium Carolinum, vol. 23. Munich and Vienna: R. Oldenbourg, 1970. 116 pp. DM 18.

DER DEUTSCH-TSCHECHOSLOWAKISCHE SCHIEDSVERTRAG VON 1925 IM RAHMEN DER LOCARNO-VERTRÄGE. By *Manfred Alexander*. Veröffentlichungen des Collegium Carolinum, vol. 24. Munich and Vienna: R. Oldenbourg, 1970. 212 pp. DM 25.

DIE DEUTSCHEN IN DER SLOWAKEI IN DEN JAHREN 1918-1929: EIN BEITRAG ZUR NATIONALITÄTENPROBLEMATIK. By *Egbert K. Jahn*. Veröffentlichungen des Collegium Carolinum, vol. 25. Munich and Vienna: R. Oldenbourg, 1971. 186 pp. DM 23.

These monographs, originally doctoral dissertations, form part of a current in German scholarship that is subjecting Czech and Slovak history to increasingly dispassionate scrutiny. The first volume, by Monika Glettler, examines the Czech community in pre-1914 Vienna, when the imperial capital, growing into a modern metropolis, offered jobs to laborers from Bohemia and Moravia. The Vienna Czechs

were an island in a German sea. Facing urbanization and assimilation, they established branches of two physical culture associations to preserve and improve their national characteristics: the bourgeois-nationalist Sokol and the socialist Workers' Gymnastic Union (*Dělnická tělocvičná jednota*). The author contends, rightly in my opinion, that stalwart Czech support of both organizations was facilitated by socioeconomic conditions at Vienna's lower status and class levels which offered no real barriers to Czech upward mobility solely because of nationality. Membership in the Sokol and DTJ provided immigrants with the security of group identification without incurring undue societal penalties. Dr. Glettler draws a nice distinction between the nationalism of the permanent Czech community, expressed mainly in actions around specific grievances, and the doctrinaire opposition to things German often found among Czech deputies to the Reichsrat. Her work, based on organizational records and publications, adds to our knowledge of the acculturation process in the Habsburg Monarchy, but she might profitably have fleshed it out by devoting more attention to that unique alternative to Vienna's official educational system, namely the Komenský private schools, which in her judgment formed "die wahre Festung der Nationalität" among the Czechs.

The arbitration treaty arranged at Locarno between Germany and Czechoslovakia receives its most intensive study to date in Manfred Alexander's book. The sole interwar political treaty concluded between these powers, the Locarno agreement represented, despite Beneš's outward optimism, a weakening in his country's position. Czech historiography in the 1950s depicted Locarno as a harbinger of Western betrayal at Munich; lately it has conceded that Czechoslovak foreign policy had reached an impasse, because altered international conditions precluded other courses of action at the time. Alexander has scoured unpublished documents in the Political Archive of the Foreign Office at Bonn, particularly the dispatches of Walter Koch, German minister in Prague. By holding up a lens through which republican Germany viewed Czechoslovakia, the author enables us to perceive another aspect of the fragile relations upon which Beneš based his policy. Alexander sees the treaty as reflecting the transitional nature of Berlin's relations with Prague, starting as "correct" and becoming "good, frank, and loyal"—qualities notably manifest in Berlin's restraint from officially intervening on behalf of the Sudeten Germans. For the broader perspective on Czech-German nationality relations and on the negotiations that culminated in the arbitration treaty and other Locarno agreements, however, one must still consult the writings of J. W. Brügel and Piotr S. Wandycz.

Egbert Jahn's study depicts awakening nationalism among the 150,000 Germans who resided in Slovakia in the immediate postwar decade, when the seeds of a German national identity, sparsely planted under Magyar rule, sprouted into a variety of ethnic societies and political parties. He uses archives and German-language newspapers in the three major regions of German settlement—Bratislava (Pressburg), Spiš (Zips), Hron-Nitra (Hauerland)—and meticulously details the Slovak Germans' political exploitation of anti-Semitism, rejection of Hungarian revisionism and Slovak autonomy, and cold indifference toward the Czechoslovak Republic. Correlating census data with election returns, Jahn infers that in the 1920s the Germans voted in relatively larger proportions for the Communist Party of Czechoslovakia than any other nationality in Slovakia, a point ignored in party histories. In relating how integral nationalism, issuing from the Sudetenland, penetrated the German settlements rather slowly, until the onset of economic depression and the Nazi ascent in Germany, the author deepens and basically reinforces ob-

servations made at the time by C. A. Macartney and others on the complicated situation in Slovakia between the wars. Of the three volumes, only Dr. Jahn's has an index.

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DĚJINY STÁTU A PŘÁVA V ČESKOSLOVENSKU DO ROKU 1945. By  
*Václav Vaněček*. 2nd revised edition. Prague: Orbis, 1970. 536 pp. Kčs. 46.

Václav Vaněček, historian of law at the Charles University in Prague and a scholar already known in the thirties for his work on the legal position of monasteries and monasterial estates in the old Bohemian state, has published the second edition of his textbook, a basic work on the history of state and law in Czechoslovakia to 1945.

The author's stated goals in this volume are to explain the present through an exposition of the past and to provide ideological tools for the lawyers, who occupy a significant place in the building of socialism (p. 9). Vaněček stresses the Marxian principle that the state, the law, and all political and legal institutions form the superstructure whose base lies in the mode of production. The state, through its origins and development, is closely linked with the class struggle. Consequently the laboring classes will always be of interest to us. We will side with the masses of working people and be openly biased in their favor, but this bias will reflect a profound objectivity. Nevertheless, the law and the state are not a passive, blind product of the economic forces. The superstructure has an active part to play—in the past it was largely a conservative and negative role, but under scientific socialism it is an active one. Clearly, the author's Marxist determinism is not absolute.

Vaněček deals at first with primitive society on the territory of Czechoslovakia from the pre-Slavic and Slavic period until the eighth century A.D. The ensuing long period of feudalism has five subperiods: early feudalism to the middle of the eleventh century; feudal decomposition and its demise until 1419; the Hussite revolution, especially the years 1419–34; the feudal monarchy until 1618; and the absolute monarchy until 1848. The modern period of capitalism (1848–1945) includes subperiods: the revolutionary years in the Habsburg monarchy (1848–49), the monarchy's reorganization (1849–71), Czech and Slovak provinces in the Habsburg monarchy (1871–1918), and the Czechoslovak state (1918–45).

Vaněček brilliantly analyzes the history of civil, penal, and administrative law and the procedures of feudalism. His contributions to this field include a number of shorter books, articles, and conference papers explaining some of the most intricate problems, such as *vdáni* and *kobyli pole*. In the realm of constitutional law and in reference to the capitalist period the author quotes too frequently from Marxist classics (and even politicians) and accepts their authority without question. As a consequence, many of the reader's critical doubts are not satisfied.

Some smaller mistakes and omissions should be mentioned. Vaněček's judgment of enlightened despotism is excessively harsh: Leopold II was not so much opposed to reform as he was hindered by the feudal opposition in Hungary and revolt in Belgium. The March Constitution of 1849 could not be decreed under the protection of the gendarmes' bayonets, for the gendarmes were not organized until 1851. Post-1867 Hungary was ruled not only by the capitalists and magnates