

DESERTION<sup>1</sup>REVIEWED BY MAJOR JOHN E. HARTSELL<sup>2</sup>

*Careful, circumspect, always with one concern and one concern only— how to protect his own derriere.*

*-Author and Vietnam deserter Jack Todd mocking someone else's decision-making process.*<sup>3</sup>

## I. Introduction

Jack Todd's *Desertion* is not just about a man's crime, cowardice, or betrayal. It is also about the colorful life and self-centered choices of a twenty-three year-old draftee who chose to desert to Canada rather than serve as an Army journalist during the Vietnam War.<sup>4</sup> In *Desertion*, Jack Todd colorfully exposes the adventures of an Army deserter as he grew up in Nebraska, fell in lust, went to boot camp, deserted to Canada, and ultimately reveled in a counter-culture lifestyle. The book suffers mortally, however, because Todd appears to have developed a boundless, emotional affinity for the main protagonist: himself.

Throughout the book, Todd offers purposefully selected glimpses of his experiences in an effort to justify his actions to his reader. He states that in 1969 he opposed the Vietnam War, but his true anti-war beliefs were masked by his love for a young girl.<sup>5</sup> When the girl unjustly broke up with him while he is in basic training,<sup>6</sup> Todd explains, he suddenly remembered his opposition to the war and fled to Canada.

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1. JACK TODD, *DESERTION* (2001).

2. United States Air Force. Written while assigned as a student, 50th Judge Advocate Officer Graduate Course, The Judge Advocate General's School, United States Army, Charlottesville, Virginia.

3. Jack Todd, *Teflon Corey Secures His Own Job While Axing Others*, *The Ottawa Citizen*, Oct. 18, 1995, at F3.

4. *Id.* at 97, 113.

5. *Id.* at 12, 14, 60, 97, 110, 112.

6. *Id.* at 99-101.

Todd's endeavor to justify his actions fails because the facts surrounding his sympathetic justifications frame a far different portrait than the one he tries to paint. His attempts to use autobiographical stories to summon morality, exploit his angst, and spin events to his favor are all undermined by his ego-fueled depiction of facts and contradictory recollections. As a result, the book is little more than a boorish collection of self-gratuitous anecdotes, which attempt to explain away a serious offense and lay blame on others.

## II. The Life of a Deserter

Todd tells his reader about his life's fortunes and misfortunes. He grew up in a close-knit family, attended college, and became editor of the University of Nebraska newspaper,<sup>7</sup> but he left college in his senior year to work as a reporter for *The Miami Herald*.<sup>8</sup> In Miami, he covered politics, riots, and a multitude of unsavory crimes.<sup>9</sup> He also became smitten with the *femme fatale* of the book, a Miami native named Mariela.<sup>10</sup>

Todd describes Mariela as a quiet, shy virgin who had been pursued for years by a socially inept suitor.<sup>11</sup> Todd recounts how he successfully took the suitor's girl, and later, in far too much detail, how he intrepidly took Mariela's virginity.<sup>12</sup> Then a letter from the draft board destroyed the professional and personal bliss that Todd was enjoying in Miami.<sup>13</sup>

Todd intended to complete his last semester of college at the University of Miami after he quit the University of Nebraska.<sup>14</sup> Inexplicably, however, he decided not to re-enroll in school once he got to South Florida.<sup>15</sup> Shortly thereafter, he lost his student deferment and became eligible for the draft. Surprisingly, the allegedly anti-war Todd did not evade the draft initially. He did not flee to Canada as a draft dodger; instead, he

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7. *Id.* at 45.

8. *Id.* at 14, 22.

9. *Id.* at 17-22.

10. *Id.* at 100.

11. *Id.* at 14.

12. *Id.* at 106.

13. *Id.* at 22.

14. *Id.*

15. *Id.*

received his draft notice, took his oath,<sup>16</sup> and reported to Fort Lewis, Washington, for basic training.<sup>17</sup>

As with practically every military recruit since time immemorial, Todd disliked basic training. He thought the facilities were Spartan,<sup>18</sup> the training pointless,<sup>19</sup> the food and sleep insufficient,<sup>20</sup> and the training instructors Draconian and sadistic.<sup>21</sup> Todd was terribly disturbed that he was bunked with men who actually snored, coughed, and created even more distasteful bodily noises than those.<sup>22</sup> He paints an extraordinarily bleak picture of his basic training experience, and punctuates it with banal stories about having to march,<sup>23</sup> do push-ups,<sup>24</sup> fold socks,<sup>25</sup> and live in a cold public barracks.<sup>26</sup>

Todd's physical longing for Mariela increased along with the rigors of basic training.<sup>27</sup> He reveals that he became more sexually sentimental with each march.<sup>28</sup> Ironically, he complains of basic training's indignities, yet he unabashedly tires his reader with details of Mariela's intimacies.<sup>29</sup> He recounts his confidence in their relationship and in his future. He learned that he was unlikely to ever see combat, and that he would also probably be an Army journalist doing little more than issuing press releases.<sup>30</sup> He also knew that he had a job at the *Herald* waiting for him once he finished his two-year obligation to the Army.<sup>31</sup> He truly believed Mariela would wait for him and that he was the master of his own destiny; he had no idea

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16. *Id.* at 72. Todd knew that Muhammad Ali opposed the war and refused to take his oath. When it came time for the allegedly anti-war Todd to take his oath, he recalls: "Standing there waiting to step forward, I think one last time about refusing to take the step, following Ali's example. But Ali knew what he was going to do and had lawyers waiting. This is not the kind of thing you do on impulse." *Id.* These are not the convictions of a man with deep-seated, anti-war sentiment.

17. *Id.* at 12.

18. *Id.* at 79.

19. *Id.* at 85.

20. *Id.* at 73-75.

21. *Id.* at 93, 99.

22. *Id.* at 94.

23. *Id.* at 84.

24. *Id.* at 74.

25. *Id.* at 73.

26. *Id.* at 79, 89.

27. *Id.* at 79.

28. *Id.* at 83.

29. *Id.* at 83, 106.

30. *Id.* at 97, 113.

31. *Id.* at 15.

he had doomed his relationship with Mariela even before he departed Miami.

Todd's sexual bravado led to his downfall. He writes that back in Miami, when he deflowered Mariela, he was quite pleased with himself. He felt like a "conqueror,"<sup>32</sup> but Mariela confided to him, "So that was sex huh? So what's the big deal?"<sup>33</sup> Her comments "crushed, humiliated, and disgraced" Todd.<sup>34</sup> As a result, he sought the advice of a friend to improve his sexual abilities and mend his bruised ego.<sup>35</sup> Meanwhile, the vengeful, socially inept suitor re-entered the story while Todd was in basic training, telling Mariela that Todd sought sexual pointers for her benefit. She was outraged, and ended the relationship when Todd later called her from Fort Lewis.<sup>36</sup>

Todd's reaction to Mariela's rejection was monumentally excessive: he decided to desert to Canada. He knew that he would not go into combat,<sup>37</sup> that he had a job waiting for him,<sup>38</sup> and that he could at least try to go to Florida to talk to Mariela.<sup>39</sup> Instead, Todd desperately proclaims, he suddenly remembered that he had always been against the war and, as a result, he deserted to Canada to follow his conveniently rediscovered moral conviction.<sup>40</sup> Todd paints a self-serving picture of an emotional catharsis, and he tries to hoodwink the reader into believing that Mariela's rejection awoke his sleeping morality concerning the war. On the contrary, the reader concludes, Mariela obviously hurt his pride and he reacted in the most infantile of ways: by running away.

When Todd left Fort Lewis, he did not act like a man with awakened anti-war morals; instead, he acted like a drunken frat boy on a panty raid. He writes,

I buy a dozen chocolate bars. Now I unwrap the candy bars and place them carefully here and there inside the footlocker, which happens to sit right next to the radiator, which is always red-hot

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32. *Id.* at 107.

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.* at 107-08.

37. *Id.* at 13, 97.

38. *Id.* at 15.

39. *Id.* at 111.

40. *Id.* at 111-12.

to compensate for the open windows. When the MPs figure out I'm gone, they'll have a nice mess of gooey melted chocolate to clean up. Not much as gestures of defiance go, but it's the best I can do on short notice.<sup>41</sup>

He did not paint peace signs on the installation, did not conduct a sit-in, and never once told his training instructors that he was a conscientious objector. Instead, Todd played a juvenile prank and then ran off in the exact opposite direction of Miami: Canada.

In Canada, Todd engaged in a lifestyle that can, at best, be described as unusual. While "on the lamb," he landed a job with the *Vancouver Sun*,<sup>42</sup> which legitimized his immigration status. A week later, however, he joined a strike against the very paper that helped him remain in Canada.<sup>43</sup> Thereafter, Todd deserted the *Sun* and became a vagabond. He drifted into towns, jobs, and other peoples' lives. At different points he was: a reporter,<sup>44</sup> a dishwasher,<sup>45</sup> a drunk,<sup>46</sup> a pornographer,<sup>47</sup> a leech,<sup>48</sup> a hitchhiker,<sup>49</sup> a poet,<sup>50</sup> a celebrity-gossip writer,<sup>51</sup> a recipient of Canadian unemployment payments,<sup>52</sup> and an ex-American.<sup>53</sup> Interestingly enough, aside from his criminal efforts to desert, he never became an active war protestor while in Canada.

### III. Blame of Others

Todd blames three sources for forcing him to abandon his parents<sup>54</sup> and his country. First, he blames the Nixon Administration for continuing

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41. *Id.* at 120.

42. *Id.* at 179-80. The peaceful Todd boasts that during the job interview he got angry at the managing editor and secretly desired to punch him out.

43. *Id.* at 192.

44. *Id.* at 179.

45. *Id.* at 229.

46. *Id.* at 201.

47. *Id.* at 232.

48. *Id.* at 251.

49. *Id.* at 220.

50. *Id.* at 203.

51. *Id.* at 239.

52. *Id.* at 250. "The lax Canadian rules make it possible to live on unemployment for a full year (I've learned they won't deport me if I apply), and I figure that's a year I can devote to serious writing." *Id.*

53. *Id.* at 263.

an immoral war.<sup>55</sup> Second, he blames Mariela for her failure to understand why he publicly revealed the details of their sex life.<sup>56</sup> Third, he blames the cruel and oppressive drill sergeants at Fort Lewis who polarized him against the United States Army.<sup>57</sup> Ironically, Todd himself, through his complaints and justifications, demonstrates that these three sources unwittingly played only a very limited role in his crime. The primary cause of Todd's desertion was his own selfishness. He chose desertion; desertion did not choose him.

Todd waxes pathetic about how he loves America and how Nixon was the real traitor.<sup>58</sup> He argues that the war was wrong, and that fleeing to Canada was one of the few ways to be right.<sup>59</sup> He adamantly maintains that moral conviction drove him north, and moral conviction forced him to desert.<sup>60</sup> His own book undermines his explanation, however, and it demonstrates that his Johnny-come-lately blame of the Nixon administration is disingenuous.

Although Todd insists that he was against the war, he fails to cite a single article, demonstration, protest, or editorial to corroborate his claim. Todd subjects his reader to incredible tales of his experiences in sports,<sup>61</sup> drinking,<sup>62</sup> reporting,<sup>63</sup> and sex.<sup>64</sup> He prattles on endlessly about events he reported,<sup>65</sup> a tooth that was pulled,<sup>66</sup> a party he attended,<sup>67</sup> meals he ate,<sup>68</sup> people he met,<sup>69</sup> songs he heard,<sup>70</sup> weather he endured,<sup>71</sup> cigarettes he

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54. *Id.* at 259. Todd's lamentation that he was unfairly separated from his family is curious in light of how he acted. When his father visited him in Canada, Todd became impatient with him within twenty-four hours. Todd reacted to his father's farewell advice as follows: "I understand that he's trying to tell me something about life, but I'm in no mood to listen to this bizarre old man in a bus station. I just want to see him back on the bus before he does something outrageous." *Id.*

55. *Id.* at 13, 97, , 149-50.

56. *Id.* at 107-13.

57. *Id.* at 74-106.

58. *Id.* at 13, 97, 149-50.

59. *Id.* at 112.

60. *Id.*

61. *Id.* at 57-58.

62. *Id.* at 70, 201.

63. *Id.* at 21.

64. *Id.* at 70, 131, 203, 214, 249.

65. *Id.* at 17-21.

66. *Id.* at 115.

67. *Id.* at 123.

68. *Id.* at 169.

69. *Id.* at 136-41.

smoked,<sup>72</sup> a lesbian that he bedded,<sup>73</sup> threesomes he shared,<sup>74</sup> police he scammed,<sup>75</sup> and pornography he wrote.<sup>76</sup> He fails to detail any active participation in the anti-war effort, however, or any real basis for his purported anti-war beliefs.

Todd claims that he loves America,<sup>77</sup> but his sincerity must be measured against the insults he hurled at Americans in Canadian newspapers:

- With typical head-up-the-keester Yankee savoir fair, the editors of “The Sporting News” have succeeded in proving only that when it comes to sophistication, your average American falls somewhere between Gomer Pyle and Homer Simpson.<sup>78</sup>
- Americans think Formula One is what you give your kid instead of breast-feeding.<sup>79</sup>
- St. Louis has more fat people per square inch than you’ll find at the cheesecake counter in Lester’s.<sup>80</sup>
- The Indy 500 is a shadow of the race it used to be, but it does still draw rednecks. One of them locked his keys in his pickup at this year’s race, and it took two hours to free his brother and uncle.<sup>81</sup>
- [Describing Cincinnati] What Indianapolis would be if they nuked the place.<sup>82</sup>
- [Describing Buffalo] Cincinnati without the class of Marge Schott.<sup>83</sup>

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70. *Id.* at 124, 144.

71. *Id.* at 78.

72. *Id.* at 82.

73. *Id.* at 146.

74. *Id.* at 214.

75. *Id.* at 157.

76. *Id.* at 242.

77. *Id.* at 111, 265.

78. Jack Todd, *Rating as Least-Best Sports Town Rankles Montrealers*, THE OTTAWA CITIZEN, Aug. 9, 2001, at C3.

79. *Id.*

80. *Id.*

81. *Id.*

82. *Id.*

· The Leafs are ours, [Boston] fans get drunk and throw up on their shoes on Crescent St., and don't understand hockey anyway.<sup>84</sup>

· [Describing fans attending the Canadian Grand Prix] This is no beer-soaked IndyCar crowd with its ration of six teeth, three six-packs and 60 IQ points per fan.<sup>85</sup>

The book is a monumental failure because Todd loves himself far too much. His clear disrespect for America merely parallels his disrespect for his former girlfriend.

Todd's descriptions of Mariela demonstrate that he viewed her as little more than a sexual object for whom he maintained a constant, lurid interest. Nonetheless, he sophomorically blames her for breaking his heart and causing him to desert. The first time he mentions Mariela, she is portrayed like a mindless Playboy bunny, not a soul mate who supposedly supplanted his deep moral convictions. He writes:

Mariela dressed for work, me in jeans and a work shirt, ready for a three-day drive to Nebraska. Drained from one last night together, fresh out of ways to say good-bye. Even now, with no make-up after a sleepless night, she is one beautiful woman, my Cuban lover, tantalizing in a crisp white blouse and a short green skirt. I reach too far across the table and brush her left nipple with the backs of my fingers. She pushes my hand away.<sup>86</sup>

His description of their "emotional" farewell is equally sexual.

It's time to go. The waitress brings our checks. I start to pay but Mariela says no, she'll buy. We splash through the rain to my old white Plymouth and drive the flooded streets and kiss, one last frantic kiss good-bye at the door of her office. Then she is out of the car and gone, the flash of one long, tanned leg under her tight green skirt the last thing I see.<sup>87</sup>

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83. *Id.*

84. Lance Hornby, *Leafs Watch*, THE TORONTO SUN, Feb. 24, 1997, at 68.

85. Dan Proudfoot, *Villeneuve Walks Where Others Fear to Tread*, THE FINANCIAL POST (Toronto), June 18, 1996, at 56.

86. TODD, *supra* note 1, at 12.

87. *Id.* at 15.



Todd shrugs his criminal responsibility for desertion onto Mariela because she had the audacity to break up with him. Yet, his recollections of her are prurient not pure, leering not loving, and sordid not sentimental. When Todd bid farewell to the girl he claims broke his heart, he did not say, "I love you," "I'll miss you," "See you soon," or anything of the sort. He kissed her and then caught one last salacious look at her from behind. Todd should be more honest with both himself and his reader; Mariela simply broke up with him, but he alone broke the law in response. Ego, not Eros drove him to Canada.

Todd's ham-handed efforts to blame the Army instructors for his desertion are as weak and hollow as his efforts to blame Nixon and Mariela. He blames the drill instructors because they tried to change him, teach him about camaraderie, and give him a sense of purpose. They tried to show him that the sum is always greater than its parts, but their lessons were lost on Todd.

Todd refers to Fort Lewis as a "hell-hole."<sup>88</sup> He relates how basic training ignored his personal needs. He complains that there were "no women, no Cokes, no candy bars, few cigarettes, and very, very little conversation."<sup>89</sup> He wanted to be alone and to read.<sup>90</sup> He wanted to smoke.<sup>91</sup> He wanted to masturbate.<sup>92</sup> He wanted to daydream about Mariela and talk to her on the phone.<sup>93</sup> He wanted a great many things, and he ran when he did not get them.

*Desertion* illustrates that the military did not make Todd desert; he simply wanted to desert. Todd even confides that he could have stayed in the military if he had been given the kind of training that he preferred. He writes that one particular drill sergeant was a "cool hard-ass."<sup>94</sup> The "cool" drill sergeant entertained him. The "cool" drill sergeant sang during marches, and had the ability to "turn a morning march into a Mardi Gras parade."<sup>95</sup> Todd writes that if the "cool" drill sergeant ran the whole U.S. Army, "It might almost be tolerable."<sup>96</sup> Because the U.S. Army didn't

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88. *Id.* at 80.

89. *Id.*

90. *Id.* at 95.

91. *Id.* at 82.

92. *Id.*

93. *Id.* at 99.

94. *Id.* at 84.

95. *Id.*

96. *Id.* at 85.

perform to his personal satisfaction and instead challenged him with self-improvement, however, Todd rebelled, deserted, and pointed to others for his own failures.

#### IV. Conclusion

The supreme irony of Jack Todd's book is that he was even drafted in the first place. Todd was drafted because he "decided" not to complete his last semester of college, thereby losing his draft deferment.<sup>97</sup> If he truly opposed the war and sincerely loved Mariela, he could have easily avoided the draft for the Vietnam War. His decision not to re-enroll at the University of Miami speaks volumes about the strength, depth, and timing of his feelings and convictions.

The story of Todd's life is mildly entertaining. As a journalist, he has a passable gift for storytelling, and he tries to keep his reader entertained. Unfortunately, his narrative writing style is littered with distractions. He continually drops the names of counter-culture heroes and events in a transparent attempt to associate himself with them.<sup>98</sup> His unending awe for his own achievements is equally distracting.<sup>99</sup> Finally, the greatest distraction is Todd's unrelenting effort to distance himself from the crime of desertion, and to blame others for his actions and their consequences.

If Todd accepted some degree of responsibility for deserting, he could have shown that he has grown wiser over the years. At the very least, he could have attributed his actions to youth. But thirty years have passed, and Todd still has not matured. One cannot help but wonder what would have happened if Todd had been caught and court-martialed. If he provided the text of *Desertion* as his unsworn statement at the court-martial,

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97. *Id.* at 22-24.

98. *Id.* at 15 (Peter, Paul and Mary), 17-18 (Altamont), 23 (Woodstock), 24 (*Abbey Road*), 54, 70 (Muhammad Ali), 79 (Rolling Stones), 98 (Jerry Rubin), 150 (Bobby Kennedy), 214 (Haight-Ashbury), 221 (Bob Dylan), 222.

99. *Id.* at 240. "I am full of myself, bragging about the *Herald* and Mariela." *Id.* at 55. "Above all he is a good listener; I am full of myself and inclined to blab, and it will be months before I discover that he knows infinitely more than I do about almost everything." *Id.*

his defense would have been hard pressed to argue that he was rehabilitated or even remorseful.

It is ironic that Todd criticizes the Nixon Administration for misleading the public when Todd himself misleads prospective book buyers. Todd's book jacket reads, "Jack Todd is an award-winning columnist for the Montreal Gazette." The jacket fails to note that he is a sports columnist. Does anyone really care if he is a sports writer rather than a political correspondent? Apparently Jack Todd cares. One can only wonder why Todd felt it necessary to omit a complete description of his job; perhaps he thought it would diminish his credibility. Once again, Todd's actions speak louder than his words.

Regardless, Todd wasted a valuable opportunity to engage in honest self-analysis. Without expressing a single regret, his decision to anoint himself a hero and concomitantly distribute blame to everyone who disturbed his special little world in 1969 truly diminishes the book's value and its credibility. Todd neglected to employ any true introspection and as a result, he defeats his own work. Todd, and Todd alone, is solely responsible for his refusal to serve in the military. He is also solely responsible for failing to attempt to credibly legitimize his justifications after three decades of reflection.

**TRAITORS AMONG US: INSIDE THE SPY CATCHER'S  
WORLD<sup>1</sup>**

REVIEWED BY MAJOR R. PATRICK HUSTON<sup>2</sup>

*Traitors Among Us* provides a fascinating glimpse into the secretive world of counterintelligence. The book immediately thrusts readers into Cold War Berlin where the excitement quickly builds. Readers find themselves peering out the window of a nineteenth century German building, scanning the dimly lit street below:

Barely visible in the darkness, the unmistakable figure of a man on crutches lurched past the window in the direction of a nearby lakeside restaurant—exactly as instructed. . . . Once inside, the carefully coached double agent would sit facing the door as instructed and await his dinner partner, an English-speaking officer of the Soviet KGB. The trap was set.<sup>3</sup>

As the title reveals, the book is about catching spies. The “trap” above resulted in the arrest and interrogation of three KGB agents. Although successful, this case was relatively minor. The rest of the book focuses on the Army’s two most infamous spies: Sergeant First Class Clyde Conrad and Warrant Officer James Hall. The author provides shockingly candid and vivid details of these two cases.

The author, Stuart Herrington, is a retired intelligence officer who commanded the Army’s elite spy catching unit, the Foreign Counterintelligence Activity (FCA), during the Conrad and Hall investigations. Colonel Herrington’s thesis is that these investigations serve as “textbook example[s] of close cooperation between the military, the CIA, and the FBI.”<sup>4</sup> Unfortunately, Herrington fails to prove this thesis. Both investigations were successful, but their success came in spite of the differences between these agencies. Although Herrington’s thesis is unconvincing, the book is strongly recommended as a riveting, suspenseful thriller, filled

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1. COLONEL STUART A. HERRINGTON, UNITED STATES ARMY (RETIRED), *TRAITORS AMONG US: INSIDE THE SPY CATCHER'S WORLD* (1999).

2. United States Army. Written while assigned as a student, 50th Judge Advocate Officer Graduate Course, The Judge Advocate General’s School, United States Army, Charlottesville, Virginia.

3. HERRINGTON, *supra* note 1, at 5.

with valuable lessons for intelligence professionals and lawyers. This review discusses the book's organization and content, and analyzes its strengths and weaknesses.

### I. Organization & Content

The book is well organized with three main sections—the introduction, the Conrad investigation, and the Hall investigation—which prove interesting and informative. Herrington starts by introducing readers to basic intelligence principles and tactics. He uses real-world examples from Cold War Berlin. One case involved Sergeant Lowry Wilcox, a soldier assigned to the Berlin Field Station with a Top Secret security clearance. One day, Sergeant Wilcox's bank calls to remind him that his car payment is overdue:

It was the kind of conversation that happened almost daily to underpaid GIs stationed around the world. But this conversation was different. Crouched at a console on the communist side of the Berlin Wall, a Soviet KGB signals intelligence technician was listening. . . . Intercepts revealing well-placed Americans with personal problems were fed to KGB case officers.<sup>5</sup>

Within days, a KGB agent called Sergeant Wilcox with a “lucrative business opportunity.” Sergeant Wilcox reported the suspicious phone call to his boss, and the intrigue thickened. Army counterintelligence officials identified this as “a classic Soviet approach,” and recruited Sergeant Wilcox as a double agent.<sup>6</sup> He was the man on crutches who lured the KGB agents into the “trap” at the Berlin restaurant. The author uses this and other stories to show basic Cold War tactics. These spy tactics help readers understand the two complex investigations that follow.

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4. *Id.* at 399. The FBI is responsible for counterintelligence (CI) investigations within the United States. The CIA is responsible for CI operations abroad. Army Intelligence is responsible for CI investigations involving Army personnel or programs. These jurisdictions often overlap.

5. *Id.* at 15-16.

6. *Id.* at 17.

A. Code Name *Canasta Player*

In 1978, the CIA delivered sobering news to the Army's FCA: NATO's war plans for Europe have been compromised. According to CIA sources behind the Iron Curtain, the scale of the leak was devastating. The Soviets received updated copies of war plans within days of every NATO's change. The hunt for the traitor was code-named *Canasta Player*. This investigation lingered for eight years before the FCA got its first solid lead. In 1986, an FCA agent read Clyde Conrad's Army personnel file, and realized that his assignment history fit the profile of the suspected traitor.

The Conrad story is the most intriguing part of the book. The massive, complex investigation was a joint effort between the FCA, the FBI, and the CIA. The team used the full arsenal of investigative techniques, including wiretaps, undercover agents, hidden cameras, and electronic surveillance devices. The book examines the hard work, mistakes, and luck that affected the case. The legal issues encountered during the investigation are also fascinating. Lawyers were deeply involved at all stages, including the complex task of deciding whether to prosecute Conrad in federal court or at a court-martial. In an interesting twist, the case ended up in a German court where Conrad was convicted and sentenced to life in prison.

B. Code Name *Paul*

The day before Conrad's arrest, an unrelated espionage case surfaced. A reliable source said that an American soldier was giving NATO intelligence plans to East German Intelligence. The East German source did not know the soldier's identity, but the soldier's code name was *Paul*. FCA agents then searched for soldiers fitting Paul's profile, and Warrant Officer James Hall's name soon surfaced. Hall's sudden wealth was one of several factors that raised eyebrows. Although his 1988 salary was a mere \$20,000, he had a new home in an upscale neighborhood, and two cars in the driveway worth over \$40,000. Identifying Hall as the prime suspect was only the first step. Agents continued to uncover evidence for several months.

In December 1988, the FCA and FBI organized an elaborate sting operation to put the nail in Hall's coffin. An FBI agent posing as a KGB agent from the Soviet Embassy met with Hall at a Days Inn in Savannah, Georgia. There, Hall bragged about his past spying exploits. His shock-

ingly detailed confession was caught on video. After Hall's arrest, he pleaded guilty at a court-martial, cooperated with investigators, and was sentenced to forty years in confinement.

## II. Strengths

Readers will find *Traitors Among Us* both enjoyable and enlightening. Its three main strengths are the author's credibility and writing style, the book's intelligence lessons, and its legal lessons.

### A. Credibility & Writing Style

Leading the FCA during the Conrad and Hall investigations makes Herrington uniquely qualified to tell these stories. Moreover, Herrington does not glorify his role. He notes that spy catching is rarely exciting, and freely admits several mistakes during the investigations.<sup>7</sup> Herrington's candor and humility bolster his credibility.

Herrington's flowing writing style imparts the book's greatest strength. The well-written thriller captivates with stories of media leaks, blown covers, and other near disasters that keep readers on the edge of their seats. Herrington's brilliant use of suspense and foreshadowing leaves readers thirsty for the next page, offering a pleasant reminder that truth can be better than fiction.

### B. Intelligence Lessons

Herrington does a fantastic job of extricating real-world intelligence lessons from the investigations. For example, high-tech surveillance equipment is useless unless agents are trained to use it properly.<sup>8</sup> Also, surveillance teams may find it difficult to blend in to their surroundings without female agents.<sup>9</sup> Another lesson is that polygraphs are very useful for preventing and solving espionage crimes.<sup>10</sup> Herrington provides these

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7. *See id.* at 179. Herrington improperly authorized the use of a Top Secret "Maximum Marvel" document (which was so sensitive that the Army would not allow it to be used at trial). This caused major problems at the DOJ.

8. *Id.* at 151. The FCA surveillance photos were so bad that the FBI had to train the Army agents.

9. *Id.* at 9. This was true in Berlin, where the FCA had to "recruit" an agent's wife to help out during an operation.

and other valuable lessons for counterintelligence agents and their immediate supervisors.

At the macro level, Herrington demonstrates the need to anticipate security leaks, and prepare contingency plans for them. Secrecy is a fundamental problem that plagues all spy cases. There is an inherent tension between maintaining secrecy, and conducting necessary interagency and international coordination. Herrington notes several close calls that demonstrate the compelling need to “compartmentalize” investigations. For example, investigators were caught off-guard by a media leak, but they convinced a *New York Times* reporter to voluntarily hold the story until after Conrad’s arrest. Also, an Army general nearly caused a disaster by making an unauthorized “courtesy call” to tell another general about the Hall case.<sup>11</sup> Another bizarre twist was that a West German intelligence officer involved with the Conrad case turned out to be an East German double agent. Herrington makes it clear that supervisors must take steps to ensure secrecy, but must also be prepared for inevitable leaks.

Herrington also urges intelligence supervisors to take a balanced approach to solving problems, and discusses two common counterintelligence dilemmas. The first surfaces when a source comes forward and volunteers information. Agents must determine whether he is a reliable source, or a double agent planted by the other side. Herrington encourages the use of polygraphs in such cases. The second dilemma is more fundamental: At what point do you arrest a suspect? In the Conrad case, military commanders wanted an early arrest to stop the flow of war plans, and to ensure that Conrad did not defect.<sup>12</sup> On the other hand, Department of Justice (DOJ) prosecutors wanted to wait until the case was a “guaranteed winner.”<sup>13</sup> Intelligence officials were caught in the middle, trying to balance these concerns. Although there is no perfect solution, Herrington convincingly argues that a balanced approach is essential.

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10. *Id.* at 36. Lawyers may be shocked by the routine use of polygraphs in intelligence cases for a variety of legitimate purposes. Intelligence agents use polygraphs far more frequently than criminal investigators.

11. *Id.* at 272. This leak was eventually contained without damage.

12. *Id.* at 201.

13. *Id.* at 167.



### C. Legal Lessons

Judge advocates will appreciate Herrington's candid discussions of lawyers throughout the book. Four lessons emerge. Lawyers must be involved in intelligence investigations, make realistic demands, provide accurate legal advice, and understand the complex jurisdictional issues in spy cases.

Herrington states that "when the question of proof surfaces, a true counterintelligence professional knows that it's time to get the lawyers involved."<sup>14</sup> He seems to welcome the presence of lawyers at meetings,<sup>15</sup> and even compliments his staff judge advocate for on-the-scene advice provided immediately before investigators met with Hall at the Days Inn motel.<sup>16</sup> But Herrington is clearly not impressed with all lawyers. In fact, he is very critical of the DOJ prosecutors, whom he perceived as willing to prosecute only airtight cases.<sup>17</sup> He also criticizes Pentagon international lawyers for bad legal advice that caused the FCA to violate Austrian neutrality laws by conducting intelligence operations in Austria.<sup>18</sup>

Although Herrington is not a lawyer, he does a remarkable job of identifying and explaining a myriad of legal issues. He accurately describes the complex *mens rea* element in national security crimes<sup>19</sup>, and he details the jurisdictional issues underlying the decision of where to prosecute Conrad. He skillfully analyzes the advantages and disadvantages of federal courts and courts-martial, and explains how the Conrad case ended up in German court.<sup>20</sup> These timeless lessons should be of great interest to lawyers involved in spy investigations or prosecutions.

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14. *Id.* at 114.

15. *See id.* at 199. The author mentions many lawyers, including the Army's Judge Advocate General. Lawyers may take such inclusion for granted, but it is noteworthy since intelligence officers seem to shroud their work in secrecy.

16. *Id.* at 317. Colonel Fran O'Brien was Staff Judge Advocate of the Army's Intelligence and Security Command.

17. *Id.* at 188. Herrington says, "I thought their conditions were overly demanding and probably unattainable."

18. *Id.* at 240-41.

19. *Id.* at 114.

20. *Cf. id.* at 204-24.

### III. Weaknesses

Like the characters that line its pages, *Traitors Among Us* has weaknesses. The most significant problem is the unsupported thesis, but there are also minor problems with Herrington's loss of objectivity and lack of documentation.

#### A. Unsupported Thesis

Herrington asserts that the Conrad and Hall investigations are "text-book example[s] of close cooperation" between the Army, the CIA, and the FBI.<sup>21</sup> This unconvincing thesis is inconsistent with the facts that Herrington provides. First, an intriguing incident revealed that the CIA-Army relationship was not a model of cooperation. The CIA received a letter from a writer claiming to be a Hungarian intelligence agent, and offering information about *Canasta Player* in exchange for money. Rather than coordinating with the Army, the CIA went behind the Army's back to pursue this lead on its own.<sup>22</sup> Second, the CIA-FBI relationship seemed very strained, and the FBI tried to exclude the CIA from the *Canasta Player* steering committee.<sup>23</sup> Third, the Army also clashed with the DOJ (the FBI's parent organization). "We were encountering serious problems with the Department of Justice's hard-nosed attorneys."<sup>24</sup> These incidents illustrate the lack of cooperation that sometimes existed between these intelligence agencies. The cases provide valuable insights into interagency coordination, but to say that they are models of cooperation is inaccurate and unnecessary.

#### B. Loss of Objectivity

Although Herrington humbly describes his own role in the investigations, he seems to lose his objectivity when he describes the FCA and its personnel. He appears overly complimentary of all FCA personnel, including subordinates who failed to get results, and a superior who nearly

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21. *Id.* at 399.

22. *Id.* at 112. This mission turned out to be an embarrassing failure for the CIA. The CIA gave the potential double agent over \$145,000, but never received any information in return. Years later, the CIA found out that the "Hungarian intelligence agent" was actually Clyde Conrad scamming them!

23. *Id.* at 145-46.

24. *Id.* at 183.

compromised the Hall investigation.<sup>25</sup> He calls the FCA “the finest corps of intelligence professionals,”<sup>26</sup> and says that his “elite unit had performed with its usual brilliance.”<sup>27</sup> Overall, readers get the impression that Herrington is an old soldier: prone to fondly reminisce about the good times, and forget the bad.

One omission by Herrington is interesting. The Army discovered that Conrad was responsible for safeguarding NATO’s war plans for over two years after his security clearance expired. Apparently, Conrad had been overlooked due to a backlog of security investigations. The media was widely critical of the Army for this oversight,<sup>28</sup> yet Herrington fails to discuss it. This omission underscores Herrington’s hesitance to criticize Army Intelligence.

Herrington also loses some objectivity by implying that Conrad and Hall were the worst spies in American history.<sup>29</sup> He fails to make any meaningful comparisons to other American spies, such as Navy Warrant Officer John Walker or CIA Agent Aldridge Ames. Herrington’s assertions seem somewhat exaggerated in light of his Army background and the absence of any meaningful comparison to other spy cases.

### C. Lack of Documentation

The book is also weakened somewhat by Herrington’s lack of supporting documentation. The book contains only one footnote, and no reference list or bibliography. Admittedly, Herrington bases most of the book on his personal involvement in the events, which requires no documentation. There are several events, however, that Herrington could not have known firsthand. For example, two scenes contain interesting narrative descriptions of Conrad’s personal thoughts.<sup>30</sup> The source of these revealing details is unclear as Herrington states that Conrad died in a German prison, “without ever having spoken of his espionage to investigators of any nationality.”<sup>31</sup> This leaves the reader questioning Herrington’s ver-

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25. *Id.* at 272.

26. *Id.* at xiii.

27. *Id.* at 74.

28. For a representative article, see Molly Moore & R. Jeffrey Smith, *U.S. Ex-Sergeant Accused in Spy Case Not Given Mandatory Security Check*, WASH. POST, Aug. 27, 1988, at A21.

29. *Cf.* HERRINGTON, *supra* note 1, at 139, 252, 332, 343.

30. *Id.* at 122-26, 157-60.

sion. The opening pages of the book contain a similar lack of documentation regarding the thoughts of a KGB agent.<sup>32</sup>

#### IV. Conclusion

*Traitors Among Us* is beautifully written, enjoyable, and enlightening. It provides a rare glimpse into the secretive world of spy catching. The riveting thriller critically analyzes the Conrad and Hall investigations, and provides valuable lessons for intelligence professionals and lawyers. Although the book has weaknesses, including an unsupported thesis, these weaknesses are not fatal. Colonel Herrington leaves his readers thoroughly satisfied and much wiser. In short, *Traitors Among Us* is strongly recommended.

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31. *Id.* at 400.

32. *Id.* at 3-5.

## JUDGEMENT AT TOKYO: THE JAPANESE WAR CRIMES TRIALS<sup>1</sup>

REVIEWED BY MAJOR MARK D. POLLARD<sup>2</sup>

Hundreds of Japanese war crimes trials were held in the Far East following World War II. Were they nothing more than “victors’ justice” and revenge for Japanese war victories? Were they “kangaroo courts” directed and controlled by General Douglas MacArthur as part of his plan for the reconstruction of Japan? Or were these trials a sincere effort on the part of the United States and its allies to punish war crimes committed by the Japanese to the extent that justice would allow?

In *Judgment at Tokyo: The Japanese War Crimes Trials*, author Timothy Maga<sup>3</sup> attempts to answer these questions as he decisively responds to the many politicians and scholars who have attacked these trials as shameful examples of “victors’ justice.”<sup>4</sup> In doing so, Maga presents a strong case that the Japanese war crimes trials were not only honorably motivated, but were also skillfully executed. Maga persuasively argues that these trials provided true justice for some of the more horrible atrocities committed by the Japanese during World War II.

Maga sets out in some detail the most contentious issues of the Japanese war crimes trials. His treatment of individual responsibility, command responsibility, and the differing evidentiary standards used by the tribunals is fascinating. Legal scholars may be disappointed, however, if

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1. TIMOTHY P. MAGA, *JUDGMENT AT TOKYO: THE JAPANESE WAR CRIME TRIALS* (2001). Maga has also written *THE COMPLETE IDIOT'S GUIDE TO THE VIETNAM WAR* (2000); *HANDS ACROSS THE SEA? U.S.-JAPAN RELATIONS, 1961-1981* (1997); *PERILS OF POWER: CRISES IN AMERICAN FOREIGN RELATIONS SINCE WORLD WAR II* (1995); *JOHN F. KENNEDY AND NEW FRONTIER DIPLOMACY, 1961-1963* (1994); *THE WORLD OF JIMMY CARTER: U.S. FOREIGN POLICY 1977-1981* (1994); *JOHN F. KENNEDY AND THE NEW PACIFIC COMMUNITY 1961-63* (1990); *DEFENDING PARADISE: THE UNITED STATES AND GUAM* (1988).

2. United States Air Force. Written while assigned as a student, 50th Judge Advocate Officer Graduate Course, The Judge Advocate General's School, United States Army, Charlottesville, Virginia.

3. Maga is currently the Oglesby Professor of American Heritage at Bradley University, Peoria, Illinois. He previously served as a coordinator in the House of Representatives Subcommittee for Asian-Pacific Affairs. His book, *John F. Kennedy and the New Pacific Community 1961-63*, was a 1990 finalist for the Pulitzer Prize in history.

4. MAGA, *supra* note 1, at 7. See JOHN W. DOWER, *JAPAN IN WAR AND PEACE* (1993); RICHARD H. MINEAR, *VICTORS' JUSTICE: THE TOKYO WAR CRIMES TRIAL* (1971).

they anticipate in-depth coverage of the legal arguments highlighting the judicial precedents set at the Japanese war crimes trials. Maga also makes no comparison of the Japanese war crimes trials with the more famous Nuremberg trials because he believes the Japanese war trials should stand on their own. Still, *Judgment at Tokyo* provides an intriguing look at the war crimes trials of the Far East.

In an exhaustively researched account, Maga begins his story by documenting the basic facts, the common myths, and the political intrigues surrounding the trials administered by the U.S. Army in Tokyo.<sup>5</sup> He initially focuses on the trial of Tatsuo Tsuchiya, a young prison guard and the defendant in the first war crimes trial held in Tokyo, and then contrasts that case with the trial of General Tomoyuki Yamashita, the first Japanese senior officer to be tried. Through these trials, Maga explores the arguments used by the defense attorneys and those who felt the trials were nothing more than racist Japan-bashing. He then contrasts those arguments with the arguments used by the United States, the American allies, and the prosecutors at trial.

Although Tsuchiya's trial was overshadowed by the later trials of the eighty Class A war crimes suspects, Maga argues that the case was as important for the legal precedents it set for future Japanese trials as it was for the justice it meted out.<sup>6</sup> Tsuchiya was charged with the death of one American prisoner and the torture of many other prisoners through "cruel, inhuman and brutal atrocities."<sup>7</sup> Tsuchiya denied killing the American prisoner, and alleged his brutality resulted from the Japanese wartime culture.<sup>8</sup>

Tsuchiya's attorney argued that low ranking Japanese soldiers were simply products of "the pro-war hysteria" and "Emperor worship" prevalent in Japan at the time.<sup>9</sup> According to Tsuchiya's attorney, the Japanese military was an inherently brutal organization. Japanese officers often

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5. The International Military Tribunal for the Far East (IMTFE) took over responsibility for the Tokyo trials on 3 May 1946. The term IMTFE, however, is sometimes used to refer to all of the Japanese war crimes trials held in the Far East. *MAGA*, *supra* note 1, at xi.

6. The Class A suspects included former Japanese premiers, foreign ministers, war ministers, generals, ambassadors, economic and financial leaders, and other senior military officers. *Id.* at 2-3.

7. *Id.* at 10.

8. *Id.*

9. *Id.*

slapped subordinates, and Japanese soldiers were taught that any soldier who accepted capture was beneath contempt. Given this wartime atmosphere in Japan, the defense contended it was unjust to hold Tsuchiya to vastly different “Western” standards.<sup>10</sup>

Not surprisingly the court convicted Tsuchiya, and sentenced him to “life imprisonment at hard labor.” Maga notes that the court’s rejection of the “differing cultures” argument had a tremendous impact on later trials, forcing the defense attorneys to search for other ways to use the Japanese military culture as a shield to prosecution. Also important from a legal perspective, Maga explains that the Tsuchiya trial was the Far East’s first test of the use of affidavits rather than the more stringent hearsay rules followed in military courts-martial and the American civilian trial system.<sup>11</sup> Unfortunately for those readers looking at these trials from a legal perspective, Maga never explores the use of affidavits in detail.

To the press and the public, the Yamashita trial was the first Japanese war crime trial of any importance. General Yamashita, one of Japan’s most revered generals, was charged with 123 counts of war atrocities. Most of the charges were related to the more than 60,000 Filipinos killed by Japanese soldiers under General Yamashita’s command. The prosecution had little or no evidence that General Yamashita ordered the killings. Instead, the prosecution’s theory was that General Yamashita was criminally responsible for the war crimes under a theory of “command responsibility.” The theory supposed General Yamashita’s guilt because he knew the killings were taking place, yet did nothing to either prevent them or to discipline those responsible. Additionally, the prosecutors argued, Yamashita should have known that soldiers under his command were committing war crimes.<sup>12</sup>

Maga also rebuts the critics who allege Yamashita’s prosecution was nothing more than General MacArthur’s revenge for the devastation of his beloved Philippines.<sup>13</sup> Maga explains that, whatever affect General MacArthur’s personal animosity toward Yamashita may have had on Yamashita’s prosecution, General MacArthur was serious about the theory of

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10. *Id.* at 4-17.

11. *Id.* at 17, 19.

12. *Id.* at 18-25.

13. *Id.* at 24.

command responsibility. As Maga notes, MacArthur personally lobbied President Truman to add the theory to U.S. military law.<sup>14</sup>

Maga next briefly examines the U.S. Supreme Court's determination that charges based on command responsibility were legitimate in the context of war crimes. In its first foray into the Japanese war crimes trials, the Court upheld the theory that a commander's failure to control his troops could be a violation of the law of war. It also validated the more relaxed evidentiary procedures of the Tokyo tribunals.<sup>15</sup>

Maga spends a substantial portion of *Judgment at Tokyo* contrasting the Army's Tokyo trials with the Navy's version of the Japanese war crimes trials held in Guam. The Navy trials were the responsibility of Rear Admiral John D. Murphy, whom Maga clearly admires. Maga initially notes that, when compared to the trials in Tokyo, the trials held in Guam operated in a near vacuum as far as press coverage was concerned. As Maga points out, Admiral Murphy understood that the lack of publicity, coupled with the fact that the more famous, higher visibility suspects were tried in Tokyo, made the Navy's job much easier than the task faced by the Army. Still, Maga documents that Admiral Murphy was openly critical of the Tokyo trials while trumpeting his own agenda to administer what he considered to be the fairest war crimes trials ever conducted.<sup>16</sup>

Admiral Murphy made several substantive departures from the Tokyo procedures to correct what he believed were inequities in the Army system. He first ensured that the Navy trials would not routinely relax the rules of evidence to accept affidavit testimony. Instead, he insisted they stick to the much tougher courts-martial hearsay standard with a few exceptions. Another major difference between the Army and Navy trials was the Navy's lack of enthusiasm for the imposition of the death sentence based solely on the theory of command responsibility. The Navy was also much more likely to give credence, at least as mitigation, to a subordinate's claims that he was influenced by his superiors, was "ignorant of the law," or was "a victim of cultural misunderstanding."<sup>17</sup> The result, at least in Admiral Murphy's view, was the best war crimes trial system ever devel-

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14. *Id.* The U.S. Army later recognized the rule of command responsibility. See U.S. DEP'T OF ARMY, FIELD MANUAL 27-10 ¶ 501 (July 1956).

15. MAGA, *supra* note 1, at 23. The case was *In Re Yamashita*, 327 U.S. 1 (1946).

16. MAGA, *supra* note 1, at 94-95.

17. *Id.* at 97.



oped, for which the Navy never received due recognition. Maga clearly agrees on both counts.<sup>18</sup>

Maga provides a fascinating description of some Guam trials where the Navy had to confront charges of cannibalism and sadistic torture. The case of Lieutenant General Joshio Tachibana was representative of numerous cases in which the defendants faced cannibalism charges. General Tachibana was the commander on Chichi Jima, a small island not far from Japan. As the war neared its end, General Tachibana developed a tendency to behead American POWs and eat their flesh. “Human flesh, he had boasted to his men, toughened him up, making him strong for battle.”<sup>19</sup>

Maga points out that the law had never previously considered “the place of cannibalism and torture in war.”<sup>20</sup> With the absence of any legal precedent, the Navy chose not to pursue torture convictions. Maga contends that Admiral Murphy, unwilling to take the risk that some technicality would result in an acquittal, instead settled for convictions on simple murder charges.<sup>21</sup> It was not until 1980 that a U.S. court finally addressed torture as a war crime.<sup>22</sup>

Between his examination of the trials administered by the Army and the Navy, Maga pauses to explore the controversial process that placed defendants on the list of Class A category war crimes suspects. In particular, he documents the extremely controversial decision not to prosecute Emperor Hirohito.<sup>23</sup> Although Maga notes that these decisions were often more political than legal, any attorney who has exercised prosecutorial discretion in the face of intense publicity should find them fascinating.

Maga’s detailed account of how these decisions were made provides a behind-the-scenes look at the post-war administration of Japan. He not only details the opinions and actions of the major players, but he also describes the roles of the international press and the lobbying efforts of certain congressmen and American allies. His sympathetic presentation of this period from the Japanese point of view makes it one of the most rivet-

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18. *Id.* at 96-119.

19. *Id.* at 97.

20. *Id.*

21. *Id.*

22. The case was *Filartiga v. Pena-Irala*, 630 F.2d 876 (1980).

23. MAGA, *supra* note 1, at 34.

ing portions of *Judgment at Tokyo*. His account of Emperor Hirohito's flirtation with abdication and suicide is particularly enthralling.<sup>24</sup>

MAGA ENDS *Judgment at Tokyo* by advocating the establishment of a permanent war crimes tribunal. This was something the judges of the International Military Tribunal for the Far East believed was a necessary and desirable "legacy" to their work. Maga obviously concurs, and he bemoans the fact that in 1998 the United States did not support the establishment of the International Criminal Court. He describes the Rome summit in detail, and gives a summary of the arguments both for and against the position of the United States. In doing so, Maga makes no attempt to hide his position.<sup>25</sup> It is clear that he has little regard for the reservations put forth by the Clinton Administration.

Interestingly, *Judgment at Tokyo* fails to address one of the most troubling aspects of the post-World War II war crimes trials—the fact that only the vanquished were tried. Neither the Nuremberg trials nor those held in the Far East ever attempted to investigate alleged Allied war crimes. Certainly many Allied servicemen who committed war crimes were tried by their respective national or military legal systems. Maga, however, misses the opportunity to comment on this important aspect of the "victors' justice" argument. His conclusion that the trials in the Far East meted out true justice and just punishment for horrible atrocities never completely answers the question of whether the trials represented "victors' justice."

Maga does make a strong case against the popular belief that the only fair and legitimate war crimes trials after World War II took place in Nuremberg. His spirited defense of the Japanese war crimes trials should go a long way to correct the historical record. More importantly, Maga demonstrates that the true legacy of the World War II war crimes trials is that they failed in one crucial respect. Over fifty years later, the world is still struggling to determine "proper accountability" for the horrible atrocities of war that have occurred in the past and will assuredly happen in the future.<sup>26</sup>

*Judgment at Tokyo* has its shortcomings, particularly if you expect an in-depth legal analysis of the Far East war crimes trials. But Timothy Maga is a historian after all rather than an attorney. He never promises or

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24. *Id.* at 34-42.

25. *Id.* at 140-45.

26. *Id.* at 151.

attempts to provide a legal treatise. Instead, he has exhaustively researched the historical record to provide a fascinating and thorough account of these often overlooked war crimes trials. Anyone interested in the historical and legal aspects of war crimes will find *Judgment at Tokyo* an intriguing book.