by the Communist rulers in the destruction of a free nation.

With evidences drawn from Soviet statistics and from publications in Russian, Latvian, and other languages, Mr. Berzins describes the social and economic consequences that follow from the forcible application of Communist doctrine. The living standards of Latvian workers, relatively high in the years of independence, has been progressively declining for more than two decades and is now miserable indeed. The once prosperous peasants—Latvia since 1922 had been a country of small landowners—were almost immediately dispossessed of their holdings and other property and reduced to a condition of serfdom on the collective farms. The intellectuals fared even worse; they have been deported to various parts of the Soviet Union, along with innumerable others, representing almost all classes of the population. The deportees have been replaced by Russian and Asiatic colonists to be found in every Latvian city and village. Among what remains of the native elements the national consciousness and culture have been degraded almost to the point of extinction. An unceasing effort has been made to brainwash this ancient and once proud Indo-European people into the belief that, as a writer in *Sovietskaya Latvija* put it:

> The power that cements the friendship of our countries is the Great Russian nation. It is the most gifted of all the peoples that belong to the Union. All peoples that inhabit our land are, therefore, unanimously recognizing the Russian nation as their oldest brother, friend and teacher.

Such is the Communist version of the doctrine of the superior race!

Mr. Berzins writes with an ardor for truth and justice and an agonized love for his native country. He makes no pretense of being a scientific historian, but his historical narrative, as far as it goes, is unquestionably authentic. The English translation of his book is admirable in its clarity and simplicity of style. It has already been widely read, but deserves a still wider reading.

Reviewed by H. TICHOVSKIS

Opening the Jail Gates

Gideon's Trumpet, by Anthony Lewis. *New York: Random House, 1964. 262 pp. $4.95.*

OPINION DAY, March 18, 1963, in the United States Supreme Court will be long remembered by law-enforcement officials of the state governments—which, under the Constitution, have primary responsibility for administration of criminal justice. By a five-to-four decision on that day the Court held for two convicted robbers in the State of Washington, although the dissenters protested that the majority "severely limits the powers of the States . . . in dealing with criminal appeals." In another case on the same day six justices vacated a California judgment against two prisoners convicted of thirteen felonies (including assault with intent to murder); in this instance a dissenter warned that "the Court piles an intolerable burden on the State's judicial machinery." Again, a man serving time for murder in New York State won from six Justices a decision which a dissenter called "a staggering blow [at] the effective administration of criminal justice in the State courts." In a fourth case a convicted murderer in Illinois was the beneficiary of a five-justice order which the other four found "to frustrate the fair and prompt administration of justice, to disrespect the fundamental structure of our Federal system and to debase the Great Writ of Habeas Corpus."

It is of passing interest in a time partial to youth and respectful of expertise to note the backgrounds of the minority four in this case and in the Washington State case above. They included the two youngest members of the Court; together they comprise the two who were named to the Court from the Department of Justice and the two who were elevated from the Federal Court of Appeals.

In the most famous case of all that day Justice Black announced for a unanimous Court that one Gideon, a small-time and indigent ex-convict with several burglary sentences in his record, had been wrongfully denied court-assigned counsel in his latest brush with the law—on a Florida charge of breaking and entering.

It is this case of Clarence Earl Gideon against Louie L. Wainwright, director of the Florida Division of Corrections, that Anthony Lewis explores

in an exhaustive and illuminating volume. The decision is worth book-length treatment as one of the bolder pro-defendant innovations of the current Court, repudiating precedents reasserted by the Court twenty-two years before. Mr. Lewis explains how English common law originally denied an accused the right to counsel. Amendment Six to the United States Constitution corrected that injustice—but only to the extent of allowing those who could afford defense lawyers to employ them. The poor man would still have to make his own arguments, if permitted, or to rely on the magnanimity of the prosecutor or the solicitude of the judge to see justice done.

Such assurances, sometimes sufficient, were not invariably so—as fair-minded bystanders as well as undefended defendants could agree. In capital cases particularly, where execution of sentence was impossible to undo by later discovery of error, it came to seem intolerable that poor men might stand in greater jeopardy than the rich. Gradually the rule grew that counsel was to be provided the indigent accused in capital cases and in specially circumstanced non-capital cases. That was the doctrine announced for state courts in the Supreme Court ruling of 1942, now superseded in *Gideon* v. *Wainwright* by a requirement of assigned counsel for indigent defendants in state felony trials, and perhaps more broadly still. The assigned-counsel rule had applied in all criminal cases in federal courts (the criminal law in general being, as already stated, primarily of state concern) for twenty-five years.

Mr. Lewis, who reports the Supreme Court for the *New York Times*, fleshes out the bare bones above in a study setting not only the Gideon case into context, but the whole institution of judicial review. We are taken through the full detail of Gideon's original trial and of his subsequent do-it-yourself petition to the Supreme Court. In a series of skillful asides the author shows us how the high court functions—or as much as citizens may be permitted to know about a tribunal whose business must in large part proceed in secrecy. The art of advocacy in this highest court is engagingly described, with excerpts from interchanges between Justices and counsel in the case of Gideon. Mr. Lewis writes with a newspaperman's objectivity: there are few lapses into the *tremolo* that marks so much discussion of latter-day picaresques with the all too frequent innuendo that because crime may result from social deprivation, the criminal has some derived franchise to retaliate against society. The Biblical allusion in Lewis' title has a net efficacy for sales purposes, but the author attributes few scriptural virtues to his protagonist, and, indeed, makes it clear that these civil-liberties cases in general are apt to star characters of less than total winsomeness.

Still, Lewis leaves his reader with some sense of disquiet. It is true that, unlike some of the contemporary Court's innovations, the Gideon ruling has commanded a broad support. Most of the states had already moved to the same position of their own accord, and, as noted, the assigned-counsel rule had prevailed in the federal courts for a quarter century. Yet consider merely one result of *Gideon* v. *Wainwright* that Lewis mentions almost casually and without adequate reference to the considerations raised by dissenting Justices in other cases decided on the same day or earlier: In the State of Florida alone 976 prisoners convicted without counsel were turned loose in the nine months following the Gideon ruling, in part because prosecutors despaired of reassembling witnesses, evidence, and so on, for new trials. Gideon himself was retried with counsel and acquitted. Meanwhile in the brief interval between Gideon's petition for review in January, 1962, and the Supreme Court's grant thereof in June, the national crime rate rose 3 percent, according to the FBI figures. A direct relation between jurisprudential trends and crime statistics can hardly be argued; but the dissenting Justices of 1964 merely echo alarms raised in even more urgent and fundamental terms by equally or more eminent commentators long before the lavish current expansion of safeguards for the accused.

Almost sixty years ago William Howard Taft was protesting that

> . . . our supreme courts generally, instead of restricting the operations of . . . constitutional limitations, have given them, whenever occasion arose, a wider scope than the letter of limitation seemed to require, in the interest, it was said, of the liberty of the individual. . . . We must cease to regard [the limitations] as fetishes to be worshipped without reason and simply because they are. . . . It is not too much to charge some of the laxity in our administration of the criminal law to the proneness on the part of the courts of last resort to find error and to reverse judgment of conviction. . . .

In 1921 Roscoe Pound traced the constitutional limitations to a day when "all crimes of any consequence were [in the English common law] felonies punishable with death. [But] the reform that led to milder sentences and more humane punishments came after the principles and even the detailed rules of [the older] criminal procedure

had been well established. . . . These rules and the spirit in which they were conceived were projected into a time in which they were not merely inapplicable but downright harmful." Thus, as Judge Learned Hand was to insist from the Federal bench two years later,

> Our dangers do not lie in too little tenderness to the accused. Our procedure has been always haunted by the ghost of the innocent man convicted. It is an unreal dream. What we need to fear is the archaic formalism and the watery sentiment that obstructs, delays and defeats the prosecution of crime.

In 1954 the late Supreme Court Justice Robert H. Jackson summarized for his predecessors and all his later brethren in dissent:

> The due-process clause and other provisions of our Constitution must not be discredited by an interpretation to mean liberty without law. Nothing can do the cause of liberal government more harm in the long run than to give the American people the impression that our Bill of Rights . . . is a mere refuge for criminals. . . .

Justice is due of course to the Gideons in our midst, but it is due to the community as well—to families in their households, pedestrians in the streets and saunterers in the parks, workers and proprietors in shops and offices. The Lewises and others must beware of "the fox hunter's reasons—that it is right that the criminal or the fox should have a little start." The criminal law is not a sporting exercise; and if "a little start" was bad when Taft, following Bentham (by no means an invariably safe guide), spoke as above, how much more perilous are the progressively heavier handicaps imposed nowadays on the community's defenders!

Reviewed by C. P. IVES

The Last Plantagenet

St. Thomas More: The History of King Richard III, edited by Richard S. Sylvester. *New Haven: Yale University Press, 1963. cvi + 312 pp. $12.50.*

THE ENGLISH and Latin versions of More's *Richard* come down to us in an uncompleted state and by devious channels—the English text imbedded in the works of others (the chroniclers Harding, Hall, Grafton, and Holinshed) as well as in the posthumous edition of More's English works (1557)—and the Latin in the *Opera* issued from Louvain (1565) and in a quite different text that stands closer to the English (the Arundel Manuscript). Which is the true text of each version; and, of the two, which version is the "original"? Is one a translation of the other; and, if this is so, is More his own translator or simply the author of the original (whichever that is) or of the translation (rendering, e.g., the Latin text of Cardinal Morton)? Richard Sylvester, general editor of the Yale Complete Works of More (of which this Volume II), attacks these questions in an introductory one hundred pages of fine literary detective work, proving (in most cases beyond reasonable doubt) that More composed the two texts himself simultaneously, if sporadically; pushing ahead now in one language, now in the other; polishing what he had written in successive drafts (so that the later Latin becomes less vivid as it is worked away from the Anglicisms of the Arundel draft toward the more "correct" Latin of the Louvain text); probably never finishing the work because he had given up the idea of publishing it (lest it serve as Tudor propaganda, which was not his intention in taking up the story).

Sylvester maintains that the *History/Historia* was composed in the years 1514-18—busy years when More was abroad twice on royal missions and was completing the *Utopia*. He offers as its primary literary models Tacitus and Sallust, though he seems to me to underestimate the importance of Seneca. The three great debates of the book—on sanctuary, on the young Duke of York's departure from Westminster, and on Edward's marriage—resemble the tragic *agon* in its rhetorical treatment by Seneca. The deathbed speech of Edward and Buckingham's *protrepticon* in the Guildhall also have a Senecan ring.

The dramatic thrust of More's narrative is extraordinary. There are places where Shakespeare dilutes this effect rather than heightening it, as in the witty crowd scene in which the people see through Richard's ruse of the elaborately prepared proclamation (better call it a *prophecy*, as one in the crowd remarks) of Hastings' death. Shakespeare has the proclamation's scribe appear by himself, mumbling that the ruse cannot work. Elsewhere, compressing his over-rich material, Shakespeare can only say "And thither bear your treasure and your goods," where More paints his bustling, energetic scene thus: ". . . he found much heaviness, rumble, haste and busyness, car-