

Correspondence

What is a Jew?

TO THE EDITOR:

In Mr. Stubbs' article on Sir George Jessel, published in the February 1951 issue of your journal, I read with astonishment that Farrer Herschell became the first Jew to hold the Great Seal as Lord Chancellor in Gladstone's administration of 1886 (pp. 160-161). While extending my warmest approbation to the spirit of liberalism and fairness which animated the writer's narrative, I cannot refrain from drawing attention to the generally conceived opinion that Jews and Roman Catholics are, in constitutional law, ineligible for the position of the keeper of the King's conscience. Jessel's career, of course, illustrates that the office of Master of the Rolls has not equally withstood the demands of religious toleration. The point is adequately illustrated by events in 1893-1894 when Mr. Gladstone vainly attempted to alter the law so as to permit Sir Charles Russell, who was a devout Roman Catholic, to assume the highest judicial position in the land. Instead, Russell had to be content to succeed, initially, Lord Bowen as Lord of Appeal and, shortly afterwards, Lord Coleridge as Lord Chief Justice of England. It is inconceivable that the same Prime Minister who found himself unable to break the constitutional obstacle on behalf of Russell should some six years earlier have encountered no difficulty in this respect as regards Herschell.

The explanation of course is, as a glance at the Dictionary of National Biography (vol. 22, pp. 838-9) will readily reveal, that Farrer Herschell was "bred in a form of strict dissent" and in later life embraced the faith of the Church of England. His mother was a Scotswoman of no Jewish connection and his father, the Rev. Ridley Haim Herschell, born of Jewish parents in Prussian Poland, had become baptized after his migration to England, where he distinguished himself by missionary work for the conversion of Jews to Christianity. I do not believe that in these circumstances Baron Herschell can, with any claim to accuracy, be designated as a Jew.

JOHN G. FLEMING*

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TO THE EDITOR:

Dr. J. G. Fleming joins issue with me on a point which can only be resolved by settling upon an answer to the question: What is a Jew? Is a Jew one who adheres to the Jewish faith? If so, then Dr. Fleming is right, and Lord Herschell cannot, with any claim to accuracy, be designated as a Jew. If, on the other hand, a Jew is a person of Hebrew race, as the word is defined

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by the Concise Oxford Dictionary (third edition), then I am right in claiming him for the Jews.

Lord Herschell was sprung from the seed of Abraham. In his veins flowed the blood of the Hebrew race, though he did not accept the faith of his Fathers. Had he been an orthodox Jew, he would not have been Lord Chancellor, but that is not our problem. As to religion, he was a Christian, and yet, as to race, a Jew. The persecutors of the Jews in all ages (and in particular in the dark age just past) have not accepted any narrow definition of the word. If the Jews are defamed and persecuted on the wide basis of race, let us then give them credit on the same basis.

Something of the struggle of the Jews for their place in the sun is suggested by these words of Albert Einstein: "If my theory of relativity is proven successful, Germany will claim me as a German and France will declare that I am a citizen of the world. Should my theory prove untrue, France will say that I am a German and Germany will declare that I am a Jew."

In more serious vein, Dr. Einstein, in his book, *Out of my Later Years*, attempts an answer to the vexed question: Just what is a Jew? "What are the characteristics of the Jewish group?" he asks. "What, in the first place, is a Jew? There are no quick answers to this question. The most obvious answer would be the following: A Jew is a person professing the Jewish faith. The superficial character of this answer is easily recognized by means of a simple parallel. Let us ask the question: What is a snail? An answer similar in kind to the one given above might be: A snail is an animal inhabiting a snail shell. This answer is not altogether incorrect, nor to be sure, is it exhaustive; for the snail shell happens to be but one of the material products of the snail. Similarly, the Jewish faith is but one of the characteristic products of the Jewish community. It is, furthermore, known that a snail can shed its shell without thereby ceasing to be a snail. The Jew who abandons his faith (in the formal sense of the word) is in a similar position. He remains a Jew."

I rest my right to refer to Lord Herschell as a Jew on this statement of Dr. Einstein's. Disraeli, who was baptized as a Christian at the age of thirteen; Spinoza, who was excommunicated from the Amsterdam synagogue for his too relentless pursuit of truth; Karl Marx, who declared that religion is the opium of the people — these men are claimed for the Jews, on the basis of their race, not of their religion, or lack of it. Why then not Lord Herschell?

ROY ST. GEORGE STUBBS

Books Received

The mention of a book in the following list does not preclude a detailed review in a later issue.

Annuaire suisse de droit international. Volume VI, 1949. Zurich: Editions Polygraphiques S.A. 1950. Pp. 292. (No price given)

The Ardent Exile: The Life and Times of D'Arcy McGee. By JOSEPHINE PHELAN. Toronto: The Macmillan Company of Canada, Limited. 1951. Pp. x, 317. (\$4.00)

Benjamin on Sale. Eighth edition by THE HON. SIR DONALD LESLIE FINNEMORE and ARTHUR E. JAMES. London: Sweet and Maxwell, Limited. 1950. Pp. xlix, 1091. (£5, 10s. net)

- British Nationality: Including Citizenship of the United Kingdom and Colonies and the Status of Aliens.* By CLIVE PARRY, M.A., LL.B. London: Stevens & Sons Limited. 1951. Pp. xix, 216. (30s. net)
- Canada and the United Nations.* Department of External Affairs, Ottawa, Canada, Conference Series 1950, No. 1. Ottawa: The King's Printer. 1951. Pp. xiv, 190. (50 cents)
- The Changing Commonwealth.* Proceedings of the Fourth Unofficial Commonwealth Relations Conference held at Bigwin Inn, Ontario, Canada, September 8-18, 1949. Edited by F. H. SOWARD, with a foreword by R. M. FOWLER. Toronto: Oxford University Press. 1950. Pp. xiv, 268. (\$2.50)
- La Crise de l'Etat aux Etats-Unis.* By ROGER PINTO. Paris: Librairie Générale de Droit & de Jurisprudence. 1951. Pp. 248. (No price given)
- A Guide to the Microfilm Collection of Early State Records.* Prepared by the Library of Congress in association with the University of North Carolina. Collected and compiled under the direction of William Sumner Jenkins. Edited by LILIAN A. HAMRICH. Washington: The Library of Congress. 1950. Pp. xxxviii, 308, 206, 44, 101, 56, 9, 38. (\$5.00)
- International Aspects of Atomic Energy.* By MAURICE P. DAVIDSON, Chairman of the Committee on Law and Legislation, New York Committee on Atomic Information, Inc. 36 Broadway, New York 6, N.Y. 1951. Pp. 19. (Mimeographed, 50 cents)
- Joint Torts and Contributory Negligence: A Study of Concurrent Fault in Great Britain, Ireland and the Common-Law Dominions.* By GLANVILLE L. WILLIAMS, LL.D. (Cantab.). London: Stevens & Sons Limited. 1951. Pp. 1, 558. (£3, 3s. net)
- De Jure Praedae Commentarius* (Commentary on the Law of Prize and Booty). By HUGO GROTIUS. Volume I, A Translation of the Original Manuscript of 1604, by Gwladys L. Williams, with the collaboration of WALTER H. ZEYDEL. Volume II, The Collotype Reproduction of the Original Manuscript of 1604 in the Handwriting of Grotius. Publication of the Carnegie Endowment for International Peace, Washington. Oxford: At the Clarendon Press. 1950. (Two vols, 84s. net)
- Justice and Administrative Law: A Study of the British Constitution.* By WILLIAM A. ROBSON, Ph.D., LL.M., B.Sc. (Econ.) Lond. London: Stevens and Sons Limited. 1951. Pp. xxxiii, 674. (30s. net)
- Nathan's Equity Through the Cases.* Second edition by O. R. MARSHALL, M.A. (Cantab.), Ph.D. (Lond.). London: Stevens & Sons Limited. 1951. Pp. lx, 588. (35s. net)
- Ontario Statutes (1859-1950) Judicially Considered, including Index of Regulations in Force.* By LEONARD G. WRINCH. Toronto: Burroughs & Co. (Eastern) Ltd. 1951. Pp. 674. (\$22.50)
- An Outline of Local Government and Local Finance in England and Wales (Excluding London).* By SIR CECIL OAKES, C.B.E., and W. L. DACEY, LL.B. Ninth edition. With a foreword by SIR ARTHUR HOBHOUSE. London: Sweet and Maxwell, Limited. 1950. Pp. xv, 497. (£2, 5s. net)
- Practical Points on Planning Law.* Edited by HAROLD J. BROWN, LL.M., D.P.A., L.A.M.T.P.I. London: Sweet and Maxwell, Limited. 1951. (15s. net)