Reviews and Notices

The Inheritance of the Common Law. By RICHARD O'SULLIVAN, K.C. The Hamlyn Lectures: Second Series. London: Stevens & Sons Limited. 1950. Pp. viii, 118. ($2.50)

The Inheritance of the Common Law is a collection of four addresses delivered by Richard O'Sullivan, Q.C., under the auspices of the Hamlyn Trust, an endowment well known to these review columns. The addresses stress four features of the Common Law: its Concept of Man, the recognition accorded the Family, its ideas of the Individual vis-à-vis the Community, and its relation to Conscience. They are elaborated chiefly as the products of the formative period of that law between the 12th and 14th centuries. This was the age of the great regal law givers, Henry II and Edward I: an age when clerical dignitaries sat as judges in the royal courts: the age of Bracton. It is no slight tribute to Mr. O'Sullivan's zeal and eloquence that that secular law appears clothed in an afflatus derived largely from the principles and conceptions of the Canon law through the ministration of these judges.

The undoubted contribution lay not, however, in substantive ideas: it lay rather in rationalizing and systematizing a mass of customs and unwritten rules, eliciting their principles and organizing them to meet the needs of an expanding national life, the early stages of a ferment that culminated a century and a half later in the Renaissance.

The Canon and Civil laws became basic to Western European systems, but they were resisted by the Common Law in England, and the question may be asked, why? It was on inveterate customs and rules of an insular people, composed of Celtic, German, Danish and Norman bloods, that these influences operated; the geographical position with all its features was significant; and to the resulting political and individualistic character of the people must be credited largely the basic differences between the Common and the European systems. It is the absence of an indication of any such matrix in the fashioning process that constitutes a defect, to this reviewer, of these otherwise arresting expositions.

As early as the reign of Henry III, upon an attempt to introduce the Canon law rule of legitimation by subsequent marriage of parents to the law of the transmission of land, the lawyers of England declared "Nolumus leges Angliae mutare": the laws of England were not to be changed. And that attitude was general. As Maitland has put it: "It is in opposition to 'the Canon and Roman laws' that (if we may so speak) our English law becomes conscious of its own existence. . . . Our English rule is to be maintained in opposition to the canons. . . . Glanvil will have it that the English laws, at least those made by the King with the counsel of his barons, are leges, just as much leges as any that are studied at Bologna."

The subsequent development of the constitutional establishment is alluded to briefly. The "normal man" appears, the free and lawful citizen, a conception properly singled out as a unique creation of the Common Law. But that man cannot be viewed only in his equality before the law; the equally fundamental fact is his equality in making the law: but that characteristic could not evolve from Canon law principles. Its potentiality is seen in the early germanic custom of choosing the king, who seems even to have been "triable" for violation of the tribal code.

Mr. O'Sullivan is out of sympathy with certain features of modern English law. He laments the passing of the age when England's countryside was peopled by uncrowded yeomen and when the royal courts were pronouncing the sentences of pre-existing law such as that of the feudal land system. But the "imperishable" description of an idealized Common Law, as Blackstone has given it, does, in fact, conceal the reality of social conditions that disgraced England until the middle of the 19th century. After quoting William the Conqueror, "I will that every child shall be his father's heir", Mr. O'Sullivan remarks: "It is a work of tyranny (not unknown in our own time) to thrust men out of their own inheritance". Is it a departure from the spirit of the Common Law to exact a succession duty? Land could not generally be devised in England between the time of the Norman Conquest and 1660; and in France, before the revolution, not beyond the extent of one-fifth. Would Mr. O'Sullivan have us return to those restrictions? Between 1700 and the present day, the population of Great Britain has increased from approximately 7½ millions to 45 millions: what would the Common Law do for this crowding people? It was that law that struck off many of the shackles of entailed estates: should we reverse that?

Mr. O'Sullivan says: "The ideal of the Common Law was a moral idea: honest manufacture, a just price, a fair wage, a reasonable profit"; "Everyman is presumed to be a good man (for all his frailty) and a friend at heart to his fellow man: 'There is in man a natural inclination to the love of all men' ". This indeed is the portrait of sweet reasonableness among shopkeepers, craftsmen, landlords and warriors. The Common Law conceived trade and commerce to be free: Natural Law was invoked both in Europe and North America most effectively to put business beyond the intrusions of temporal law. Except as to certain gross features, such as monopoly, restraints and the like, only sentimental moderns have ever endeavoured to impose "honesty, justness, fairness and reasonableness" on trade.

He challenges, too, the omnipotence of parliament. "The effort of successive parliaments to undermine and to undo the independent type of citizen has continued into our time. Is it possible that parliament is intolerant of the idea of a free and lawful man?"; and he concludes: "The ordinary man of the law who is the despair of the Gentleman in Whitehall may yet be the hope of the world".

With preserving independence, initiative and self-reliance we are all agreed. But how will critics, in the presence of self-conscious masses of a world immersed in a competitive struggle for economic and military power and dominated by a savage nationalistic selfishness, meet the necessities of food, clothing and shelter of today? Not through the Common Law of the 12th and 13th centuries which meant indifference to human squalor, starvation and degeneracy, as the inevitable scum and wastage of life. But possibly that may be the only sensible and "natural" means of meeting the problem of population.

Mr. O'Sullivan speaks interestingly on the Family as the object of the Common Law's solicitude. "The law of Succession is in truth an attempt to express the Family in terms of property." Conceivably the Family has deeper and more enduring forms in which to express itself than in property. For whom is there to be a plot for a home? Is the Common Law interested in all people having homes?

In his final address on Law and Conscience, as in the others, Mr. O'Sullivan evinces a broad acquaintance with history generally as well as with the scholarship of law. He places emphasis upon those invisible but felt necessities which furnish the foundation of our law, the postulates of equality, right and responsibility. Natural law underlies his philosophy, and it was the interpretation of natural law in the forum of the conscience that gave us our ameliorating equity jurisprudence.

Altogether these addresses are stimulating, both in the aspects exhibited and in the challenge which some of their confident assertions evoke.

I. C. RAND*

* * *

Engineering Law. By R. E. LAIDLAW and C. R. YOUNG. Fourth edition. Toronto: The University of Toronto Press. 1951. Pp. x, 394. ($4.75)

The first edition of this book, published in 1937, developed from courses of lectures in Engineering Law and Engineering Contracts and Specifications given by the authors to students in the Faculty of Applied Science at the University of Toronto. The purpose of the authors is to make available to Canadian engineers a simple presentation of those phases of the law with which a practising engineer is likely to be concerned. This purpose has been fully achieved: a wide range of topics are discussed simply, clearly and at the same time adequately, but without the fine distinctions one normally finds in a legal textbook. The subjects covered include Duties and Liabilities of the Engineer, Contracts generally, Engineering Agreements and Specifications, Workmen's Compensation, Arbitration, Expert Evidence, Labour Law, Law of Industrial Property, Companies, Railways and Highways, Boundaries, Surveys, Easements and Drainage, and Professional Engineering Legislation. The chapters on Labour Law and Workmen's Compensation have been completely rewritten and the other chapters brought up to date.

The principles stated are frequently illustrated by apt references to English and Canadian jurisprudence. Since the book is based on lectures to students in the province of Ontario it is not surprising that Quebec cases are rarely cited. A number of the chapters are followed by references to the relevant statutes of Canada and of the ten provinces, while all the chapters end with a list of the more detailed legal textbooks on the subject under discussion. The appendix contains forms for a number of the agreements which engineers are sometimes called upon to prepare.

The book is well printed and bound and has an excellent index. But the case references do not correctly use the square and the round bracket: for example, in footnote 42 on page 215 "1937" should be in square and not in round brackets. Also an index of cases could usefully be added.

*Hon. I. C. Rand of the Supreme Court of Canada.

In the preface to the first edition it was stated that "The viewpoint everywhere sought has been that of the engineer rather than the lawyer", and this is still the viewpoint of the latest edition. Although the authors did not set out to write a legal textbook, their book is so lucidly expressed as to make it useful not only to the engineer but to the lawyer in whatever province he may practise.

GEORGE S. CHALLIES*

* * *

The Velpke Baby Home Trial. Volume VII, War Crimes Trials Series. Edited by GEORGE BRAND, LL.B. (London). With a foreword by PROFESSOR H. LAUTERPACHT. Edinburgh: William Hodge and Company, Limited. Toronto: Ambassador Books Limited. 1950. Pp. liv, 356. ($3.75)

The "Double Tenth" Trial. Volume VIII, War Crimes Trials Series. Edited by COLIN SLEEMAN, B.A. (Oxon.), and S. C. SILKIN, B.A. (Cantab.), Barristers-at-Law. With a foreword by the RIGHT HON. THE VISCOUNT SIMON. Edinburgh: William Hodge and Company, Limited. Toronto: Ambassador Books Limited. 1951. Pp. xxxii, 324. ($3.75)

War crimes tend to be forgotten, and already their memory hardly moves public opinion; the newspapers and magazines mention them less and less frequently and tomorrow no doubt they will have become for the general public events as remote and indifferent as the cruelties of the Thirty Years War. It is proper that all the evidence methodically and objectively accumulated during the numerous legal proceedings that followed the Second World War should not be buried in archives or official reports, but preserved, as here, in books which, without being popular, will generally figure in the libraries of gentlemen. The War Crimes Trials Series is akin to the Notable British Trials Series and has the same utility.

The first of the two volumes under notice is devoted to a trial of German, and the second to a trial of Japanese, war criminals. Both volumes have been briefly prefaced by distinguished jurists: the first by the professor of international law at Cambridge, Professor Lauterpacht, and the second by Viscount Simon. Justifiably, Professor Lauterpacht stresses that in the Velpke Baby Trial, unlike so many other war crime trials, the accused were tried for crimes specified by already existing international conventions. Here the accused were charged with a violation of article 46 of the regulations annexed to Hague Convention No. IV of 1907, which provides that "family honour and rights, individual lives and private property as well as religious conventions and liberty must be respected". Viscount Simon makes the same point about the "Double Tenth" Trial, even though in this case there were no precise written instruments. "The main point", he writes, "is that the law which the tribunal applied was existing international law, hitherto imperfectly vindicated, but now enforced by a judicial conviction as opposed to a merely political condemnation".

* Hon. George S. Challies, of the Superior Court for the District of Montreal.

In the first trial, eight Germans, one of them a woman, were accused of having, between May and December 1944, caused the death through voluntary negligence of Polish children kept in a children's home in the German village of Velpke. These were the children of women employed in work for the Reich. The proof, established during the trial in March 1948, revealed that the children were segregated so that their mothers might continue to work, and that the children were kept in such conditions that their death was inevitable. One of the accused died during the trial, three were acquitted, four were found guilty, and two were sentenced to death.

The "Double Tenth" trial takes its name from October 10th, 1943 — the tenth day of the tenth month — the date on which began, in an internment camp at Singapore, the acts of cruelty that led to the death of at least fifteen persons. In the Far East, October 10th is notable as the anniversary of the effective beginning of the Chinese revolution, the mutiny that broke out among the troops in Wuchang on October 10th, 1912. The anniversary, being the tenth day of the tenth month, is colloquially known as the "Double Tenth". The "Double Tenth" trial itself took place in March and April 1946 and brought before a military tribunal twenty-one accused, of whom the most prominent was Lieutenant-Colonel Lumida Haruzo. The evidence is horrible to read, but one is struck by the spirit of justice and of fair play with which the proceedings were conducted, in the same city of Singapore where the crimes had been committed. Several of the accused were acquitted; others were sentenced to imprisonment, and some, the more guilty, to death.

The usefulness of books of this nature is not only to report cruelties that can please none but sadists; it is more than the statement of steps in the development of international law. It is principally to teach that the conqueror must not seek vengeance, that the vanquished have the right to be dealt with according to law, for otherwise wars would lack even the justification they have.

JEAN-CHARLES BONENFANT*

* * *

Craies on Statute Law. Fifth edition by SIR CHARLES E. ODGERS. London: Sweet & Maxwell, Limited. Toronto: The Carswell Company, Limited. 1952. Pp. cvii, 618. ($21.00)

Lawyers who are familiar with the fourth edition of this standard work, an edition that has been in use since 1936, will find that Sir Charles Odgers has preserved the general arrangement of the book. The preliminary part consists of chapters entitled: Introductory; The Drafting of Statutes; Authentication and Citation; and Classification of Statutes. This is followed by parts headed: Construction of Statutes; Effect and Operation of Statutes; Penal Statutes; and Local, Personal, and Private Acts. While the table of contents remains substantially unchanged, the text has been thoroughly revised and brought up to date. Some 350 additional cases are referred to. The citation of American cases has been dropped, but the Canadian, Australian and New Zealand case citations are continued and enlarged.

The author distinguishes the plan followed in his book from that usually adopted in works of this kind. He states in the introductory chapter:

* Jean-Charles Bonenfant, LL.L., of the Bar of Quebec; Acting Librarian, Quebec Legislative Assembly; Lecturer, Faculties of Law, Social Science and Letters, Laval University, Quebec.

"It has been usual in treatises on the interpretation of statutes to distinguish between strict and liberal construction, and to specify what kind of statutes are commonly construed strictly, and what kind are construed liberally. The rules on this head are extremely vague, if, indeed, it can be said that there are any rules at all; the truth being that, 'The judges have perpetually taken refuge in the clouds and mist of strict and liberal interpretation whenever they have been pressed by the hardship or injustice of a particular case' [Sedgwick 307]; and, as Lord Hobart said in *Sheffield* v. *Ratcliffe* [(1616), Hob. 334, 346], 'If you ask me by what rules the Judges guided themselves in diverse expositions of the self-same word and sentence, I answer, it is by that liberty and authority which Judges have over statute laws according to reason and best convenience to mould them to the truest and best use.'

"In this treatise a different plan has been adopted, namely, in the first instance to lay down as precisely as possible the rules which regulate the construction of all statutes, the language of which is clear and unequivocal, and then, in the next place, to state in what way the meaning of obscurely worded statutes may legitimately be arrived at. By dealing with the subject in this way, it is hoped that it will be found that all the various rules which exist with regard to the interpretation of statutes are stated as plainly as the nature of the case will permit."

The chapter formerly known as "Subordinate Legislation" has been renamed "Delegated Legislation", the space occupied by it doubled, and the text re-written in an endeavour to keep up with this rapidly developing field of law. In connection with the redrafting of this chapter it is interesting to note that the author has had the help of Sir Cecil Carr, Q.C., the well known British authority on delegated legislation.

Now that the Conference of Commissioners on Uniformity of Legislation in Canada has prepared and recommended an act similar in principle to the Crown Proceedings Act, 1947 (Imp.), which has been enacted already in Nova Scotia, Ontario, Manitoba and Saskatchewan, and which fundamentally affects the position of the Crown in litigation *vis-à-vis* the subject, the chapter on the effect of statutes on the Crown should be of particular interest to Canadian lawyers. This chapter has been given special attention, as have those on "Enabling Acts" and "Statutes Creating Duties".

Craies is a practical book that expounds and illustrates the rules of statutory interpretation and arranges the material in orthodox fashion. It is in no sense a philosophic or analytical treatise. The author is not concerned with what the law ought to be and he makes no attempt to rationalize the law as he finds it.

The lawyer who wishes to acquire an all-round knowledge of how to interpret statutes, statutory regulations and orders, and the like, should not, of course, cease his studies with an understanding of the principles enunciated in this book. He must turn from the standard texts to the general literature on the subject and peruse such articles as "Statute Interpretation in a Nutshell" by Professor John Willis in volume 16 of the Canadian Bar Review, "Administrative Law and the Interpretation of Statutes" by Professor J. A. Corry in volume 1 of the University of Toronto Law Journal, "A New Approach to Statutory Interpretation" by E. A. Driedger, Q. C., in volume 29 of the Canadian Bar Review, and any of the many others on the subject he can lay his hands upon. After such a programme, but only then, can he ap-

preciate the difficulties, complexities and uncertainties of the law of statutory interpretation.

A good illustration of the differences in the views of judges on questions of construction is to be found in *Magor* v. *St. Mellons Rural District Council and Newport Corporation*, [1952] A.C. 189, which was decided in the House of Lords just too late for inclusion in this edition of *Craies*. Although this case appears to limit courts to interpreting the words used by the legislature and forbids the filling in of any gaps disclosed, contrary to the views of Lord Justice Denning in the same case in the Court of Appeal, it may perhaps be said, with respect, that this conflict of opinion between the strict and liberal doctrines of interpretation will continue to be a matter of argument for years to come.

Sir Charles Odgers has done a competent job in bringing this useful text-book up to date, and by doing so has given further service to the bench and bar of the English-speaking world. *Craies on Statute Law* will continue to occupy a place of respect in its field.

L. R. MacTavish*

* * *

Selection for Parole: A Manual of Parole Prediction. By Lloyd E. Ohlin. New York: Russell Sage Foundation. 1951. Pp. 143. ($2.00)

Lloyd E. Ohlin's book is a manual of procedures based on the research of sociological actuaries working in the Illinois state prison organization. The manual describes in a clear and interesting manner the procedure followed in establishing a method of tabulating the more obvious and to some extent significant personal and environmental factors in a prisoner's situation. The purpose of this tabulation is to produce a figure that represents the prisoner's likelihood of success or failure on parole. To use the author's term, the book is an attempt to place the prediction of human behaviour during parole on the same neat actuarial basis used in writing "life insurance".

The reader is introduced to the subject by a brief discussion of the fundamentals of parole and some special problems that have to be considered in parole prediction. The method of selecting the factors that will be significant, their use in creating the experience table, and its application to practice are all presented clearly, and illustrated generously with charts, examples and an excellent appendix.

The prediction method described is not sufficiently different from similar work done during the past decade to warrant special comment. Statistically it is a good method. The usefulness of what it measures, the way in which it is suggested the experience table should be used by the parole board, and the field to which it is applied are, however, different matters and worthy of careful thought.

The fact that a man stays out of reach of the law during a period of legally limited activity immediately following imprisonment has little relationship to whether he is reformed. This fact is stated by Ohlin with the Gluecks' work as a reference. The conclusions reached are, therefore, only valuable as a means of saving prison cell space. We could just as soundly

* L. R. MacTavish, Q.C., Toronto, Legislative Counsel for Ontario.

suggest that an accused citizen should be tabulated in the same actuarial manner to judge the probability of his guilt or innocence for the purpose of saving the expense of courts of law.

Few people object to mass statistical methods when the calculated loss is an insurance dollar. It is a different matter to suggest the use of actuarial methods when the calculated loss is human life and liberty. Christianity, and our present way of life on this continent, would not be recognizable without the concept of the essential worth of the individual. Social work as we know it today would have no motivation without it. To use an actuarial method for a problem which clearly concerns personal liberty and to attempt to obscure or justify the approach by saying that a parole board member will adjust the prediction is unsound. Surely it is obvious that if the member of the parole board had the time and the knowledge adequately to adjust the prediction he would not need it in the first place. The results of proper classification suggest that a prediction table at best cannot be considered in any way as a substitute for an adequate assessment by professionally trained and experienced treatment staff.

Actuarial methods may appear to serve a useful purpose as a temporary expedient when trained and experienced staff are not available. They are, however, a dangerous practice because they suggest our unwillingness to be concerned about the individual we inevitably misjudge. In using actuarial methods we not only challenge our social philosophy but also undermine the only foundation from which successful methods can evolve. Sound prognosis will be found to require a personalized approach by a person or team trained to consider the individual personality as a whole and in relation to all facets of environment to no less a degree than does diagnosis and treatment within the institution. These functions are indeed frequently considered to be part of the same process.

Ohlin's book represents an approach that no person interested in welfare can afford to overlook. It is a challenge to the social worker to prove the greater effectiveness of his methods instead of being too busy to conduct evaluative research, which might take the magic from his art. It is a challenge to use such valuable research as Ohlin's without which our treatment methods will indeed be limited. We must give this very fine piece of research its due, but we must be sure that in our enthusiasm for a new invention we do not overlook something more important: the way it is put to the use or abuse of man.

HUGH G. CHRISTIE*

* * *

Principles of Australian Administrative Law. By W. FRIEDMANN, LL.D. Carlton, Victoria: Melbourne University Press. Toronto: The Macmillan Company of Canada Limited. 1950. Pp. 118. ($2.40)

When the author, as Professor of Public Law in the University of Melbourne, was teaching administrative law there, he quickly became aware of the inadequacy of the English books on the subject for Australian needs. The teachers of administrative law in Canadian law faculties will understand the

*Director of Corrections for the Province of Saskatchewan; presently on leave of absence to lecture in applied criminology and probation methods at the University of British Columbia.

point, for they too know from experience that English books, invaluable though they are on certain aspects of the subject, do not provide a suitable foundation upon which to base instruction of Canadian law students. Since Canada, like Australia, has a federal system of government, it has administrative law problems that do not exist in England and, naturally, are not touched upon by English authors. There is also in Australia and Canada much case law which has not been incorporated into English books. A study of Australian administrative law was therefore needed. The author describes his book as "an attempt to provide a guide through an increasingly important and complex branch of Australian law, for students as well as for public servants and others concerned with the legal aspects of public administration".

The table of contents indicates its very wide scope. There are twelve chapters, beginning with the background material necessary for a proper understanding of administrative law (the rule of law, the doctrine of separation of powers, the influence of the changes in the social function of the state), followed by such matters as delegated legislation and the status of subordinate law-making bodies, the legal liabilities of public authorities, the remedies available against the Crown and public authorities, the supervision of administrative authorities and tribunals by the ordinary courts, and a final chapter on the problem of administrative justice.

Confronted with this impressive list of contents, and noting that the book contains only 118 pages, including a table of cases and an index, I wondered how so much could be successfully treated in so small a space. Brevity is an admirable quality. But brevity at the expense of depth in a book on such an important subject is unfortunate. In my opinion this admirably short book is lacking in depth. The author has given a comprehensive and lucid statement of the principles of Australian administrative law. But the principles of law and his discussion of them are given in such general terms that the book will be of little value to a practising lawyer; and I doubt whether law students should read it for any other purpose than a quick review of the subject in preparation for an examination. It does, however, provide a good outline of the legal problems of public administration, and for that reason it will no doubt be found useful by public servants.

A few of the statements in this book seem to me to be misleading and in need of some amendment. At page 33, for example, it is stated that "the maxim '*delegatus non potest delegare*', which has some significance in private law, does not apply to delegated legislation". This suggests that a person who is given a statutory power may without restraint delegate it to anyone he pleases. That, of course, is not so. The author himself realizes that, for at page 34 he concludes that "in the absence of specific provisions, a public authority cannot transfer the bulk and substance of its power to another authority . . .". But he also reaches the conclusion that it can "sub-delegate specific technical functions". It should have been made clear that the right to sub-delegate a statutory power depends upon finding that sub-delegation is authorized by the enabling statute — and this applies equally to the sub-delegation of specific technical functions. It is solely a question of statutory interpretation; and in construing a statute the courts start off from the point that *prima facie* a power given to *A* must be exercised by *A* personally (that is, *A*, a delegate, cannot sub-delegate). As Professor Willis made clear in an article published in (1943), 21 Can. Bar Rev. 257, "The maxim . . . enunciates a rule of construction".

I question too the statement at page 38 that in the British courts there are "two main tests of invalidity of subordinate legislation: excess of power and abuse of power. The first means checking legal acts by the terms of the enabling statute, the second means a check on administrative discretion where motives alien to the legitimate administrative purpose have prevailed." Is abuse of power by itself a ground for invalidating subordinate legislation? Can the courts declare an *intra vires* act invalid because it is an abuse of power? If it is admitted that *A* has the power (that is, the legal authority) to do something, how can his exercise of that power be invalid? I know that judges have at times spoken as though they had some overriding supervisory jurisdiction over the exercise of statutory powers; but I think that the correct view is that all judicial review is based simply upon the doctrine of *ultra vires*. If the court declares some exercise of statutory power invalid because it is unreasonable, it does so only because the statute does not authorize an "unreasonable" exercise of that power. This view is the only one that is consistent with the doctrine of the supremacy of Parliament. If Parliament is supreme, then surely it can authorize unreasonable conduct on the part of public authorities. I am glad to learn that the Australian courts base their powers of review upon the doctrine of *ultra vires* alone.

A factor that seriously impairs the usefulness of this book to Canadian lawyers is the absence of references to Canadian and American cases. Two or three Privy Council decisions in cases on appeal from Canada are mentioned, but I saw no reference to any decision of a Canadian or American court. And, perhaps an even more serious weakness, the wealth of Canadian and American literature on administrative law is almost entirely ignored. I remember only one reference to the Canadian Bar Review (an article written by a non-Canadian) and one reference to an American law review, the Yale Law Journal (an article written by a non-American).

My impression from reading this book is that there is a remarkable similarity between the administrative law of Australia and Great Britain. Notwithstanding that Australia has a federal constitution under which the powers of government are divided between the Commonwealth and the States, administrative agencies in Australia seem to have faced substantially the same problems as have the English agencies. In Canada, on the other hand, administrative agencies have had to meet peculiar problems; they have had to face attacks, based on the B.N.A. Act, which similar agencies in England, where there is a unitary system of government, have escaped. Australian administrative law evidently is free from these constitutional difficulties. For example, there is no indication in this book that delegated legislation in Australia has been attacked, as it has in Canada, on the ground that it is an abdication of legislative powers by Parliament (really the doctrine of separation of powers in disguise); or that the creation of administrative tribunals there has been attended by the difficulties experienced in Canada because of section 96 of the B. N. A. Act (the appointment of judges). This does not mean that Canadian lawyers and public administrators have nothing to learn from Australian experience. Professor Friedmann's book makes it clear that there are many valuable judgments in the Australian law reports on the administrative law problems that are common to all the Commonwealth countries. Indeed, its chief value for us in Canada is that it widens our knowledge of Australian literature and case law on this subject.

C. B. BOURNE*

*Associate Professor of Law, University of British Columbia.