Reviews and Notices

Law and Social Change in Contemporary Britain. By W. FRIEDMANN. With a foreword by the RIGHT HON. SIR ALFRED DENNING. London: Stevens and Sons Limited. Toronto: The Carswell Company, Limited. 1951. Pp. xxiii, 322. ($8.00)

"This book", says the author, "attempts to apply the general approach to the study of law and society, developed in the second part of my *Legal Theory*, to some vital problems of contemporary jurisprudence". It is a survey of the impact of recent social developments in Great Britain upon various sectors of the common law, and an assessment of the capacity of the traditional English legal system to deal effectively with the new problems arising from the extension of public law. There have been profound changes in England since Dicey.

Twelve of these thirteen chapters have appeared in legal periodicals in England, Canada, Australia and the United States and, perhaps for this reason, they are monographic, a fact that makes for repetition. Most chapters end with an admirable and most useful summary of the author's conclusions.

The opening chapter on "The Functions of Property in Modern English Law" is basic and illustrates the extent to which, in the author's view, English law has met the challenge laid down by Karl Renner when he urged lawyers to "create the legal norm which adequately expresses the trend of social development" (page 11). Karl Renner is the jurist who led the Social Democratic party in Austria after the first Great War and who has been in the forefront of public affairs in that country for many years.

The new norms discerned by Professor Friedmann, both statutory and judge-made, reflect a deep trend in Great Britain. Private property, by virtue of statutory restrictions and a changing judicial attitude, is acquiring "an increasingly public law character", that is, to use the Renner vocabulary, it is performing a social function.

The following chapter on "The Changing Functions of Contract and the Common Law" first appeared in the University of Toronto Law Journal for 1951 at page 15. Most contracts today are standardized; in England there is an increasing imposition of statutory terms and a multiplication of government contracts. "Social Insurance and the Principles of Tort Liability", covering rather more ground than the title implies, stresses the main function of the law of tort as being "the reasonable adjustment of economic risks and not the expression of certain absolute moral principles" (page 97). But there is a curious return to fault liability even in Soviet law. A short chapter on "Public Welfare Offences, and the Principles of Criminal Liability" and another on "Freedom of Trade, Public Policy and the Courts" are characterized by unusual limpidity of expression and clarity of thought.

Cases in England under the head of freedom of business competition arise mostly from some form of labour or trade dispute. Self-organization, self-government and self-defence of economic and group interests have asserted themselves in the *Harris Tweed* case, [1942] A.C. 435. Officials of a union acting with certain mills located on the island of Lewis — where Harris tweed is woven by the crofters from yarn spun in the mills and then is sold around the world under a well-known stamp — caused dockers at Stornoway on the island to refuse to handle yarn consigned to producers not entitled to use the trademark, although their cloth could be sold as Harris tweed. The House of Lords held that the combination was not unlawful, because its predominant purpose was the legitimate promotion of the interests of the persons combining. With some justification, Professor Friedmann is not too happy about that decision; and he is as suspicious of the "theory of the community of interest between employers and employees" as of the contrary "theory of the necessary conflict between capital and labour". Surely, the economic reality is that, given fair and equitable adjustment of these interests, they have a common basis. The only qualification is that the public interest must be safeguarded, but the courts have been hesitant to define the public interest.

The only new, unpublished material is the following chapter on "Trusts, Corporate Bodies and the Welfare State". It contains comparative material on the English trust and its German counterpart, and an informative section on the American foundations, the Ford in particular. Under the heading of "Private Associations, Public Policy and Judicial Control", the author finds that "one of the most important and unsolved legal problems of our time" results from the recognition by certain decisions (*Harris Tweed*, for example) of the compulsion of the closed shop principle or of the blacklisting practices of trade associations without any consideration being given to the wider aspects of public policy. "Freedom to organize is rapidly becoming compulsion to organize." Two valuable contributions to this Review, Professor E. F. Whitmore's exhaustive examination of the *Kuzych* case in the January 1952 issue and Mr. Harold J. Clawson's article on union security clauses in the February 1952 issue, have shown how that paradoxical evolution is taking place within the labour organizations.

Under the general title, "The Place of Public Law in Contemporary English Jurisprudence", there are collected three articles on "Public Law Problems in Recent English Decisions", "The Legal Status and Organisation of the Public Corporation" and "Declaratory Judgment and Injunction as Public Law Remedies". Professor Friedmann is at his best in the exposition of the nature of administrative law, or public law as he seems to prefer to call it, particularly when he compares continental developments with the hesitancy of the common law. He is impatient with the awkwardness of the remedies of the common law system, developed for private law purposes, when applied to problems of administrative law. "Instead of a systematic and scientific development of administrative law, there is a gradual and haphazard adoption of old remedies to new purposes" (page 232). The application of the remedies of certiorari and prohibition, apart from their procedural intricacies, meets head-on the problem of distinguishing, in the powers and functions of a public authority, between what is of a "judicial" or "quasi-judicial" character and what is of an "administrative" character, while mandamus, with Crown privileges and immunities subsisting, is a

limited instrument and can be of little avail to an aggrieved subject in many cases.

It is interesting and profitable to compare Professor Friedmann's general view of this clumsiness of the common law with the analysis of recent English decisions in the field of administrative law contributed to the Canadian Bar Review, page 469 of the 1951 volume, by Mr. Clive M. Schmitthoff, another lawyer with a civilian background. Mr. Schmitthoff describes how the "creative expansion" of the common law has supplied solutions to many new problems arising from the vast social changes that have taken place in England. Much like the process of its absorption of the law merchant in the 18th century, the common law system, Mr. Schmitthoff thinks, is slowly elaborating a process of administering justice according to law as between the governed and the government.

The strength of the common law is its affinity with the Anglo-Saxon temperament. The civil law has an equal strength and a no less admirable record of achievement, because it, too, responds to an affinity. Professor Friedmann's grievance is of the intellect, that is to say, the common law system when operating in the field of public law, with few rules and little defined guidance, seems to leave too much to judicial discretion, and its vagueness and uncertainty annoy him. But I am confident that, so long as the status and quality of the judges of England are maintained, the integrity of the common law will survive yet another revolutionary stage.

Then we come to one of the most significant chapters, "Statute Law and its Interpretation in the Modern State", a 1948 contribution to this Review, to which the author has added, at page 258, some observations on *Canadian Wheat Board* v. *Nolan*, written before the recent Privy Council decision. The National Emergency Transitional Powers Act involved in the litigation is classified as social-purpose legislation and, says Professor Friedmann, in a militant phrase, "in Acts of this type the presumption in favour of protection of private rights should be entirely and mercilessly scrapped" (page 258). The author had just observed at page 253 how British judges have not been isolated for long from "the broad trends of political and social developments" and he marked the long distance covered in twenty years by decisions reflecting the change in public opinion in England. In his article on "Judges, Politics and the Law", published here in October 1951, Professor Friedmann at page 824 condemns "the intrusion of yesterday's politics in today's law" by slavish adherence to old rules. In truth, I submit, what Professor Friedmann and the critics of the Supreme Court decision in the *Nolan* case were advocating was the intrusion of the politics of England into the law of Canada, or the intrusion of the politics that may govern Canada in the uncertain future into today's law. That is propaganda under the guise of legal scholarship. What account did these critics take of the prevailing public opinion in Canada? The majority judges of the Canadian Supreme Court were not isolating themselves from "any broad trend of political and social developments" in Canada when they made their choice of the rule governing the interpretation of the legislation in question in the *Nolan* case. England has given herself a socialist government and may do so again; the Canadian people have not installed socialism in power at Ottawa. Although they may do so at some time in the future, the majority of Canadians today, I suggest, still wish their Parliament to speak clearly when it decrees that property is to be appropriated by the federal government.

There is much to be learned by the ordinary practitioner from this chapter on statutory interpretation and much that is in the trend of things that may come in Canada: for instance, the social purpose of modern taxation legislation, the recognition of that purpose and the effect of that recognition on the traditional rules of interpretation.

The survey continues with a chapter on "Statute Law and the Privileges of the Crown" and ends with "The Planned State and the Rule of Law", written on the highest plane of thought and conviction. Professor Friedmann is a social democrat with an abiding and staunch loyalty to the principles and institutions that are at the base of democratic freedom. But perhaps there is some kind of sectarianism in the final words of this quotation from page 282:

> "Usually, the term 'rule of law' is given an ideological connotation. It is identified with a specific ideal of justice. In democratic society, most people understand by 'rule of law' a state of affairs in which there are legal barriers to governmental arbitrariness, and legal safeguards for the protection of the individual. This political conception of the rule of law applies to what we may broadly call 'democratic' society. It differs from Fascist or Communist, or Catholic ideas of justice."

In an endeavour to understand what Professor Friedmann meant by his reference to "Catholic ideas of justice", I referred to *Legal Theory*, his impressive survey of the field of legal philosophy. There, I find a part entitled "Modern Political Movements and their Legal Thought", in which are successively analyzed socialist, Fascist and "modern Catholic thought on law". This will be to many an offensive labelling of Catholicism as a political movement. The analysis of "Catholic thought" rests on what appears to this reviewer to be but the sketchiest of material, quite inadequate when compared to his much fuller and more sympathetic treatment of the socialist position. Understandably, but mistakenly, the author seems to have taken the political action of certain European statesmen, who are Catholics, for the activity of the Church itself. The social democrats in Germany and Austria, the socialists in France and Italy, have to contend with these men and their parties. They are political opponents and, even if "Catholic thought on law" is anything specific and definable, I suspect that it was not apt to fare well at this appraisal. Be that as it may, I was unable to ascertain from Professor Friedmann's writings just how "Catholic ideas of justice" differ from that conception of the rule of law in which "there are legal barriers to governmental arbitrariness, and legal safeguards for the protection of the individual". One thing is certain, this reviewer and many other Canadian lawyers who have a Catholic faith will not allow themselves to be excluded by the author's dictum from the community of the supporters of that democratic society in which the individual is at liberty to work out his human destiny as his free conscience guides him, under the "rule of law" as Professor Friedmann understands it.

In many parts of this book there runs a neat thread of comparative analysis of the common and civil, and often of the Soviet, systems of law. The author received his early training in the civil law, he has studied at close range the common law in England and Australia, and has won a very high place as a legal scholar. He is now teaching at the University of Toronto. It is from the distinguished scholar he is, rather than from a disciple of Karl Renner, that the Canadian legal profession are waiting to hear. His will be

an outstanding contribution to Canadian jurisprudence and national life, when his experience, his inclination for synthesis, and the gift of a persuasive style and engaging manner of exposition are applied to the comparative study of the common and civil law within Canada.

LÉON LALANDE*

* * *

Local Government in Canada. By HORACE L. BRITTAIN, PH.D. Toronto: The Ryerson Press. 1951. Pp. x, 251. ($6.00)

"For forms of government let fools contest;
Whate'er is best administer'd is best."

Pope's couplet kept recurring to my mind as I read Dr. Brittain's book: every possible form of local government seems to have been tried in Canada, but the author, while explaining and criticizing each of them, resists the temptation to say that any one is better than the others.

For those who want to know how municipal affairs are managed in Canada, including Newfoundland (which has a special chapter to itself), this small volume gives the information. There is a wide variation among the methods of organization in the provinces—even among the common law provinces—and within each the systems are by no means uniform. The reader gets the benefit of Dr. Brittain's long and intimate experience of such topics as town planning, the city manager form of government, the apathy of electors, the application of the American principle of the separation of powers, the absorption of surrounding areas by metropolitan centres, among many others. One gathers that his general reaction to local government as we have it in Canada is favourable: that, on the whole, we get as good service from our mayors, reeves, aldermen, councillors and school trustees as we have any right to expect.

Local Government in Canada is not a legal textbook and one finds no reference in it to reported cases. The author's summary solution of the problem of real property assessments by the application of the concept of "earning power" would sweep away a line of decisions of our highest courts. He warns us against easy remedies reached by tinkering with the statute and then, in dealing with "value" for assessment purposes, disregards his own advice and finds a panacea in the 1946 amendments to the Ontario Assessment Act, which authorize assessors to look to present use, replacement value, revenue, and so on. One is tempted to refer to *Assessment and Rating* by H. E. Manning, Q.C. (reviewed in the January issue of the Canadian Bar Review by Mr. J. A. R. Mason, Q.C.), where these amendments are condemned on the ground that they removed the small amount of objective precision that, it could be argued, formerly existed in the language of the statute. A lawyer will agree with Mr. Manning. Although the courts are called upon to interpret the statutory provisions on assessment, there seems to be a tendency for assessors to disregard the decisions and set up novel and quite un-legal standards.

Let me hasten to repeat that *Local Government* is not intended as a law-book and to concede that it should not be judged as such. As a compendium

* Of the Montreal and Ontario Bars. Member (1943-45) of the National War Labour Board.

of facts about municipal institutions in this country, with apposite comments by a seasoned observer, the book is a valuable one; it shows great industry and solid research in a somewhat limited, but none the less important, field.

D. E. MCTAGGART *

* * *

The Law of Income Tax: A Treatise Designed for the Use of the Taxpayer and His Adviser. Twelfth edition by E. M. KONSTAM. London: Sweet and Maxwell, Limited. Toronto: The Carswell Company, Limited. 1952. Pp. lxxxv, 441. ($35.25)

The Income Tax Act, 1952, Annotated. By MISS H. G. S. PLUNKETT, Barrister-at-law. London: Sweet and Maxwell, Limited. Toronto: The Carswell Company, Limited. 1952. ($7.75)

Current Law Income Tax Acts Service (CLITAS). London: Sweet and Maxwell, Limited. Toronto: The Carswell Company, Limited. Pp. 1,258. 1952. (£3 10s.) (Service subscription: £1 10s.)

The first law in the United Kingdom to receive royal assent in the reign of the new Queen — a distinction befitting the status of the topic in the realm — was the Income Tax Act, 1952. Since the three publications under review deal with this Act it is pertinent before considering them individually to understand its nature.

A product of two years work by the Board of Inland Revenue, the new law represents solely a consolidation and re-arrangement of the Income Tax Act, 1918, and the mass of amending legislation passed in the last thirty-four years. This was made clear by the following excerpt from a preliminary note in the first draft of the bill made public in the spring of 1951:

> "This draft is intended to do no more than consolidate the provisions of the Income Tax Acts, contained in the Income Tax Act, 1918 and some fifty subsequent Acts. It does not purport to be a codification of the Income Tax law. . . . It does not purport to correct anomalies or remove ambiguities. . . . The aim has simply been to collect the existing statutory provisions, to make in them the amendments effected (whether expressly or impliedly) by subsequent provisions, to improve their wording so far as might be practicable without risking altering the law, to omit inoperative matter and to arrange the result in a reasonably convenient and logical order."

It will be recognized that this is a considerably more modest undertaking than the codification of the income tax law worked out (but never adopted) by a committee in 1936. It is also more restricted than the scope of the 1948 revision of the Canadian income tax law, which involved a complete rewriting of the statutory provisions, in the course of which several significant alterations were introduced (for example, the arm's length concept) and most existing administrative practices were codified.

* D. E. McTaggart, Q.C., of Vancouver, B.C. Lecturer on Municipal Law at the University of British Columbia and formerly Corporation Counsel for the City of Vancouver.

The new United Kingdom statute was made public in draft form in the spring of 1951 as a government white paper. In November it was introduced in the House of Lords and, in December, considered by a joint committee of both houses. Minor amendments were made as a result of these hearings, and the measure was passed in the new year by both houses in time to come into effect for the current taxation year, which in the United Kingdom commenced on April 6th.

The most conspicuous alteration in the arrangement of the new act is the embodiment of the well known schedules A to E, and the General Rules thereunder, as part of the statute itself, thus restoring them to their position in the law as it existed before 1918. (It has been pointed out that the curious anomaly existed in the 1918 act that schedules A to E were in themselves sub-divisions of the first schedule to the act, there being six other main schedules.) The other changes were dictated mainly by the necessity of bringing together provisions relating to a similar subject hitherto widely dispersed through annual Finance Acts. For example, sections 341 to 346 of the new act relate to allowances for losses, and bring together section 34 of the Income Tax Act, 1918, section 33 of the Finance Act, 1926, certain provisions of section 27 and section 29 of the Finance Act, 1927, and section 19 of the Finance Act, 1928. In view of the limited character of this revision the main problem for taxpayers and their advisers will be the fairly mechanical one of becoming familiar with the new section numbers and relating them quickly with the multifarious provisions of the old law, rather than the more troublesome job of digesting a whole new statute.

The three publications under review will be not only useful for this purpose but offer a range of literature on the United Kingdom income tax that can be adapted to many requirements. The widest known and most general of these works is Judge Konstam's, now in its twelfth edition. The author admits that he has not undertaken any wholesale revision of the arrangement of his work to conform with the general set-up of the new act, but he points out that his own arrangement of material has always been in a different order from the statute's. For example, his work commences with a general introduction to the nature of income tax and a discussion of the allowances granted under the United Kingdom law, whereas the opening sections of the statute contain only administrative provisions. But the very considerable job of revising all the statutory references has been done, so that the work may be read in conjunction with the new law. The book remains, therefore, an up-to-date, readable and accurate standard text on the United Kingdom income tax, of value to the tax practitioner because of its voluminous footnotes and references and of interest also to the general reader because of its relative simplicity and clarity.

The two other publications are companion-pieces in a literal sense, being designed for use, through cross-references, in conjunction with *Konstam*. Both seem to be new works, prepared to be issued with the inauguration of the consolidated act. The general content of each is the same, the principal difference being that the Annotated Act is a bound volume, and therefore probably to be issued only once a year, while the *Current Law Income Tax Acts Service* (which the publishers abbreviate to the inelegant expression CLITAS) is a looseleaf service in a single volume. The latter of course will have the advantage of being constantly up-to-date, and is also broader in coverage than the bound version, having been expanded since its appearance in April to

include sections on the profits tax and the excess profits tax. It also reproduces the regulations issued under the Income Tax Act, which presumably will be kept up-to-date, and contains the complete text of the treaties for avoidance of double taxation between the United Kingdom and other countries. It would appear from the nature of some of the subsequent material received for filing in the binder that random items of information, such as explanatory pamphlets or bulletins issued by the Board of Inland Revenue, will also be provided to subscribers.

To be more precise about the exact nature of the contents of these publications, it need only be explained that the material on the income tax law as such follows a form familiar to users of North American tax services. Each section of the act is reproduced in full, and following it is given a fairly detailed discussion of that section under the headings Derivation; Relevant Provisions; cross-references to Konstam, and Commentary. The "Relevant Provisions" are related parts of the act that should be consulted, while the "Commentary" usually points out any peculiarities of the wording that are not self-evident or explains the effect of any regulations or court cases that may be significant. The Commentary is far from being simply a restatement of the section itself, which one encounters in some publications, and is easily read and has the appearance of having been done with care and competence. This part of the two volumes is identical, the material in the Annotated Act being simply a reprinting in bound form of the basic material in the looseleaf service.

In general, without expressing an opinion on the absolute and final accuracy of these works in a field of law with which few Canadians are familiar in detail, they appear to be valuable additions to the tax practitioner's bookshelf. The bound volume would fill the needs of anyone having only an occasional call to refer to the act, in the same way that a bound volume of the Canadian act, issued once a year complete with a commentary, would be useful in these circumstances. For any person requiring material that is up-to-date at all times the looseleaf service has a great deal to offer. It is more compact and less expensive than the Simon's Income Tax Service, being contained in one volume, and would answer the needs of an office where occasional reference must be made to the latest position in the United Kingdom. Experiments with the index, always a problem with looseleaf services, indicates that it is reasonably easy to use. The one serious mechanical drawback, of most concern to clerks and stenographers, is that the binder itself is of the bar type, requiring the removal of all intervening material for the insertion of new material, rather than the more accessible ring type now generally in use in North American tax services.

So much for the general character of these publications. How useful are they for Canadians? *Konstam*, being a work of long standing and good repute, is probably familiar already to any Canadian lawyer who requires general information on the United Kingdom Income Tax. It presents, for example, most of the relevant considerations bearing on the question of residence and explains the general scheme for the taxation of non-residents. The index shows no specific reference to Canada, but under the heading "Dominion" reference is made to any relevant statutory provisions and the chapter on "Reliefs from Double Taxation" explains the general nature of the act and treaties in this respect. The text of the treaties is not given, however.

The Annotated Act is useful within the limitations that it is a good presentation of the statute with competent commentary on the statutory provisions. These provisions are well indexed under such headings as Resident, Non-Resident, Double Taxation Relief, Foreign Company, and so on. The CLITAS looseleaf service reproduces this identical material, but, as mentioned earlier, has the additional advantage of presenting the complete text of all the tax treaties at present in effect between the United Kingdom and other jurisdictions. The section on regulations also gives any orders that are pertinent to the taxation of non-residents.

On the whole, depending on the particular need, these three publications have much to offer for Canadian use. This may be said in particular of the looseleaf service. Although less exhaustive than the large and undoubtedly authoritative Simon's Income Tax (to the knowledge of the reviewer the only other general looseleaf service on the United Kingdom income tax), the wealth of material it compresses into a single up-to-date volume makes it a welcome addition to any library of tax literature.

One final observation of a more general nature. Probably the most interesting result of bringing together in one act all the statute law of the United Kingdom relating to income tax is in revealing its truly monumental proportions. The new act has some five hundred and thirty sections, the majority of them quite long, and in addition there are twenty-five schedules. The detailed character of some of these provisions is surpassed only by the wording of the Internal Revenue Code of the United States. Although it is readily conceded that statutes can be trimmed too closely, by comparison the present Canadian Income Tax Act seems the essence of clarity and condensation.

J. HARVEY PERRY*

* * *

Roscoe's Criminal Evidence. Sixteenth edition by HIS HONOUR JUDGE A. A. GORDON CLARK and ALAN GARFITT, LL.B. London: Stevens and Sons, Limited. Toronto: The Carswell Company Limited. 1952. Pp. 1068. ($26.50)

This long overdue edition of *Roscoe* surpasses its predecessors, as might naturally be expected. It is as close to a definitive work on its subject as there is in the field of legal literature. Since 1920, the year of the fifteenth edition, many changes have been made in both substantive and adjective law in England, and these changes are reflected throughout the new edition. No attempt has been made by the editors to deal with "that large and troublesome body of Statutes and Regulations known as 'Emergency Legislation' ". It is the editors' pious hope that the system of controls bequeathed to us by World War II is ephemeral and will vanish in due time. In any event, they state that their attention is confined in the meantime to "legitimate" crime. As in earlier editions, the large part of the work is devoted to an alphabetical digest of subjects, which makes for easy reference. The sub-chapter on the judge's summing up is, as it has always been, invaluable to judges, whose most difficult and complex task in a criminal case must be the charging of a jury.

* Director of Research, Canadian Tax Foundation, Toronto, and author of *Taxation in Canada* (1951).

Definitive as the work is, however, care must be taken to avoid the indiscriminate application of English decisions to Canadian law. The statutes are not the same and, in some instances, differ so much that an English decision will have no authority in Canada. Then, too, the modern Canadian trend of favouring the accused is not apparent in the English authorities. An unfortunate, though probably intentional, omission is any reference to driving while intoxicated, and other traffic offences such as are set out in section 285 of the Canadian Criminal Code. The editors would probably justify the omission by saying that, in England, those offences are set out in the Road Traffic Act, and are not to be considered "*legitimate*" crime.

No library of any judge or practitioner of criminal law should be without this excellent work, an unoriginal compliment perhaps, but in this case a genuine one.

S. TUPPER BIGELOW*

* * *

Short Forms of Wills. By HENRY BRIGHOUSE. Sixth edition by EDWARD F. GEORGE, LL.B., and JAMES H. GEORGE, LL.B. London: Sweet & Maxwell, Limited. 1951. Pp. xii, 106. (15s. net)

This is a book of forms with a very practical utility. The first edition appeared in 1910, designed "to amplify the number of precedents available to meet the many different kinds of instructions . . . received by a lawyer and especially by a country lawyer, from his farming clients". The full title, still retained in the current edition, emphasizes the original plan: "Short Forms of Wills adapted to the Requirements of the Middle classes, Traders and Farmers". But the content of the book is by no means devoted solely to traders and farmers. There are, initially, fifty-one common form clauses followed by thirty-two will precedents, of which only the last eleven relate specifically to traders or to farmers. The book is, to-day, useful for all general types of practice, and, more important, the forms have been adapted to modern conditions of taxation, smaller estates, immediate distribution rather than complicated life estates and long drawn-out administrations. Practically no statement of the law accompanies any particular clause or precedent; an important exception is the useful note to precedent No. 8 (p. 32) as to when such a will may be a mutual will, and the effect of it.

Throughout, a commorientes clause, in varying form as needed in each situation, is provided under which, generally, any beneficiary who fails to survive the testator by "one calendar month" "shall be deemed to have predeceased me". This reviewer prefers what seems to him the more exact "thirty days", in order to avoid all doubts as to, for example, the end of "one calendar month" from January 31st, or March 31st. Form B.16 (p. 21), for situations where the testator is not sure whether a beneficiary is alive or dead, probably belongs not in Part B (dealing with trusts), but in the general and miscellaneous forms in Part A, for example, after the commorientes form, A.31 (p. 11). A continuity of numbering of forms in Parts A and B would simplify reference — a suggestion adopted in the second portion of

* Magistrate S. Tupper Bigelow, Q.C., Toronto.

the work setting out the will precedents. No one can pass in the abstract upon the forms suggested. Each must be carefully read and adapted to the particular case in hand. Subject to this caution, and with one exception, however, this set of forms meets this reviewer's desire for simplicity, directness and suitability for a large number of situations. It is suggested, though, that precedent 10 (p. 37) of a will in contemplation of marriage might be slightly enlarged. The precedent provides for three alternatives: (a) gift of all to wife-to-be; (b) gift to the children of the marriage if the wife fails to survive the testator; and (c) gift over if no marriage. If it is remembered that this form is for a person contemplating marriage, and that the usual commorientes provision as to survival by one calendar month is present, there is probably an important alternative not provided for — death of the wife before the husband, or at the same time as the husband, or after him but within the first calendar month, with no issue. A young couple entering marriage will not normally have children at this stage, yet provision for the death of the spouse without issue is a distinct possibility in this mechanical age. The same suggestion can be made for the next few forms also — forms which contemplate a young testator about to be or not long married.

In addition to the table of forms, which are themselves logically arranged, there is a short, but useful, index. On the whole, we are very glad to welcome this new edition of a book designed merely to save a draftsman labour in the small or average situation. For large settlements or finer points, supplemented by references to the legal problems involved and the relevant law, reference is of course still necessary to *Sheard* or *Hayes and Jarman*.

GILBERT D. KENNEDY *

The Revision of Trade Mark Law

A draft Trade Marks Act was introduced in the Senate on June 12th, 1952. The Trade Mark Law Revision Committee, which prepared this draft for presentation to Parliament, has a limited number of copies, in English or French, for distribution to interested persons. The Committee will welcome criticisms and suggestions for amendment, provided they are received not later than August 31st, 1952. Communications should be addressed to Harold G. Fox, Chairman, Trade Mark Law Revision Committee, Canada Life Building, 330 University Avenue, Toronto, Ontario.

* Of the Faculty of Law, University of British Columbia.