BOOK REVIEWS
REVUE DES LIVRES

The Civil Law System of the Province of Quebec. By J.-G. CASTEL, S.J.D., Professor of Law, Osgoode Hall Law School. Provisional Edition. Toronto: Osgoode Hall Law School. 1961. Pp. 470. ($7.00)

Casebooks as a teaching aid, formerly rare, are becoming more and more common at Canadian law schools. Five such casebooks, prepared for use at law schools in Toronto, have been reviewed in the Canadian Bar Review in the last three years.[1] In the McGill Law Faculty, this method of teaching is used in a number of courses and is being extended.

The work of Professor Castel is for the use of students in an optional third-year course in comparative law at Osgoode Hall Law School. It was designed, according to the introduction, to be used "not only by the students taking the course on the civil law, but also by lawyers who, for one reason or another, are interested in the system prevailing in the 'other legal half' of Canada".

It is divided into two main parts. Part one comprises four chapters, the first of which contains a most interesting historical background setting forth the sources of the Quebec Civil Code, and the events leading up to its preparation and enactment; and is supplemented by pertinent extracts from Johnson, *Chapters in the History of French Law.* This is followed by a grand outline of the various matters dealt with in the Code title by title. There is a complete bibliography for each title, — thirty-five major works and articles are cited on delicts and quasi-delicts.

The second chapter accurately sets forth the high lights of the Civil Code in approximately twenty-two pages of text. It is believed that in the final edition this chapter could advantageously be expanded to state that while only two quasi-contracts are specifically

[1] McDonald, Cases and Materials on Income Tax (1957), reviewed in (1958), 36 Can. Bar Rev. 431; Wright, Cases on the Law of Torts (2nd ed., 1958), reviewed in (1959), 37 Can. Bar Rev. 648; Laskin, Cases and Notes on Land Law (1959), reviewed in (1960), 38 Can. Bar Rev. 128; Laskin, Canadian Constitutional Law (2nd ed., 1960), reviewed in (1961), 39 Can. Bar Rev. 132; Castel, Cases, Notes and Materials on the Conflict of Laws (1960), reviewed in (1961), 39 Can. Bar Rev. 474; See also Morton, Cases and Materials on Evidence (1960), reviewed in (1961), 21 R. du B. 250.

mentioned, article 1041 C.C. is in such general terms as to comprise other unspecified quasi-contracts; that negative prescription is interrupted by the service of a judicial demand in proper form, with a reference to *Marquis* v. *Lussier*[2]; and that, with the exception of the pledge of agricultural property under articles 1979a to 1979d C.C., the chattel mortgage is unknown.

The third chapter deals with the interpretation of the Code, and detailed reference is made to the leading cases on the subject particularly *Robinson* v. *C.P.R.*[3] and *Depatie* v. *Tremblay*[4] in the Privy Council and *Meloche* v. *Simpson*[5] and *Tanguay* v. *Canadian Electric Light Co.*[6] in the Supreme Court. The chapter closes with twenty-five pages of selected reading from authors in the United States, Canada and France on the techniques of interpretation.

The first part terminates with a most interesting chapter on stare decisis in Quebec.

The second part deals with the law of obligations and opens with the text of the articles of the Code and the report of the codifiers on the title of obligations. Then follows a detailed study of fourteen topics in the field of obligations generally, a summary of approximately eighty pages of some of the principal problems in the field of quasi-delict, and a brief treatment of the problem of nullities.

An appendix contains a useful list of Quebec law reports and legal periodicals.

The book is well mimeographed and bound in a cardboard loose-leaf binding which opens flat. The text is clearly and concisely written and the cases and authorities reproduced have been selected with discernment. Professor Castel has performed a real service not only to his students but to anyone in Canada or elsewhere who wishes to have an accurate birds-eye view of the Civil Code of Quebec.

It is hoped that the author will be able to find time to prepare a companion volume to deal in detail with the law of Quebec on matters other than obligations.

GEORGE S. CHALLIES*

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The Antitrust Laws of the United States of America. By A. D. NEALE. Cambridge: Cambridge University Press. Toronto: The Macmillan Company of Canada Limited. 1960. Pp. xvi, 516. ($7.65)

[2] [1960] S.C.R. 442.
[3] [1892] A.C. 481.
[4] [1921] 1 A.C. 702.
[5] (1898), 29 S.C.R. 375.
[6] (1908), 40 S.C.R. 1.

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Canadians seeking a comprehensive analysis and a perceptive evaluation of the American antitrust laws in a single volume should be well satisfied by Mr. Neale's articulate treatise. Of the many books in this field, this must be considered one of the outstanding. Its strength is in its perspective which undoubtedly arises from the fact that the author is an outsider. Mr. Neale is a British civil servant whose work has been sponsored by the United Kingdom National Institute of Economic and Social Research.

The book appears to have been written with two purposes: first, to inform British lawyers and businessmen of the antitrust problems that they will face in doing business in the United States and, secondly, to appraise the merits of American antitrust experience *vis-à-vis* the possibility of adopting a similar approach to the regulation of competition in the United Kingdom. Mr. Neale's work, however, might just as well have been prepared for consumption in Canada. Our commercial interests are so intermingled with those of our neighbour that many Canadian firms must have some need to become familiar with the implications to themselves of the enforcement of the American laws. The implications to the Canadian economy should also be borne in mind and should be considered, perhaps, from a larger viewpoint. In addition, those who are concerned with the improvement of our combines legislation may wish to examine American techniques in this field and, in this respect, they should find the author's evaluation enlightening.

After an introductory chapter, the book is divided into two parts. Part I is the analysis of the law under the main provisions of the Sherman and Clayton Acts[1] and contains thirteen chapters dealing with agreements between competitors, monopolization, exclusive dealing and tying contracts, price discrimination, resale price maintenance, patents, international cartels, the administration of the antitrust laws and remedies. Part II is the evaluation and has two chapters: "Antitrust as an American Policy" and "Antitrust for Export?"

So far as the analysis is concerned, my chief criticism is that section 7 of the Clayton Act has not been adequately discussed. It has only been given a seven-page treatment in a short chapter which also deals with exclusive dealing and tying contracts and interlocking directorates. Section 7, which was ineffective as a control until the Celler-Kefauver amendment in 1950[2] but which may be in the process of becoming the most important antitrust provision, is designed to prevent mergers of firms, by way of stock or asset acquisition,

[1] 1890, c. 647, 26 Stat. 209, as am., and 1914, c. 323, 38 Stat. 730, as am. See 15 U.S.C.A. ss. 1-33.

[2] See 1950, c. 1184, 64 Stat. 1125.

> . . . where the effect of such acquisition may be substantially to lessen competition or tend to create a monopoly.[3]

Most of the large industrial corporations in the United States have achieved their present status, in part, through mergers. Until 1950, section 7 could be avoided by buying up the assets of a firm rather than its stock and such mergers could only be attacked under the monopolizing proviso of section 2 of the Sherman Act.[4]

The effect of the amended section 7 may be to prevent the growth of companies, through the merger process, into positions of any significant size in their particular industry—even though no intent to monopolize is present. Consequently, section 7 may have tremendous impact on the dynamics of American economic organization. Is this section likely to preserve the existing positions of firms? Will it lead to inflexibility and be an obstacle to the rationalization of industry?

Mr. Neale could well have devoted more space to the case law under section 7 even though its development has just been getting under way in the past decade.[5] He merely mentions, without discussion, the much commented upon *Bethlehem Steel* case.[6] There, the District Court forbade a proposed merger between the second and fifth largest steel producers in the United States. The two companies possessed 15.4 and 4.7 per cent respectively of the total ingot capacity in the industry. Such a judgment must be comforting to other big producers, particularly the largest, U.S. Steel, itself representing more than 200 mergers.

The author does briefly discuss, however, the *Crystal Sugar* decision[7] which is of particular interest to Canadians as it illustrates especially well how much tougher the American laws are than our own. In the *Crystal Sugar* case, a cane-sugar producer acquired twenty-three per cent of the stock of a beet sugar refiner which holding, the court found, signified an intention to merge. In the period 1951-1956, the companies had only 7.3 and 5.9 per cent respectively of sugar sales (refined beet and cane sugar are highly inter-changeable products) in a ten-state area although,

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[3] *Ibid.*

[4] See, for example, *United States* v. *Columbia Steel Co.* (1948), 334 U.S. 495.

[5] For comment on this subject see: Derek C. Bok, Section 7 of the Clayton Act and the Merging of Law and Economics (1960), 74 Harv. L. Rev. 226; Milton Handler and Stanley D. Robinson, A Decade of Administration of the Celler-Kefauver Antimerger Act (1961), 61 Col. L. Rev. 629; and Thomas M. Lewyn and Stephen Mann, Ten Years under the New Section 7 of the Clayton Act: A Lawyer's Practical Approach to the Case Law (1961), 36 N.Y.U.L. Rev. 1067.

[6] *United States* v. *Bethlehem Steel Corporation* (1958), 168 F. Supp. 576 (S.D.N.Y.).

[7] *American Crystal Sugar Co.* v. *The Cuban-American Sugar Co.* (1957), 152 F. Supp. 387 (S.D.N.Y.), affd. (1958), 259 F. 2d 524 (2d Cir.).

together, they would have been the second largest seller. On a national basis, if combined, they would have ranked fourth. The District Court ruled against the merger, pointing to the lack of new entrants in the area of competition. The judge stated:

> In recent years several refineries have been acquired by competitors. Thus the overall picture is of an industry tending toward increased concentration with no significant countervailing pressures.[8]

Such judicial thinking is a long way from that expressed by Williams C.J.Q.B., in *Regina* v. *The British Columbia Sugar Refining Company Limited*[9] where the defendants were charged with being, in effect, a merger detrimental to the public interest under the Combines Investigation Act.[10] There, a British Columbia firm, operating through subsidiaries, was the sole refiner of cane sugar west of the Great Lakes. It was the only seller of sugar in British Columbia and Alberta and had ninety-four per cent of the sales in Saskatchewan and approximately one-quarter of the market in Manitoba. Manitoba Sugar, a beet refiner, made the balance of the sales in Saskatchewan and had roughly one-half the market in its home province. The other one-quarter of the Manitoba market was held by eastern refiners.[11] A merger between the British Columbia and Manitoba firms was found not to be detrimental to the public interest since the acquisition did not suppress competition. The court also pointed out that the Crown should have proved "excessive or exorbitant profits or prices".[12] No wonder there has never been a successful merger prosecution in Canada![13]

Any reader of Mr. Neale's book, who is familiar with the Canadian combines legislation, will come across many other examples of how much more extensive and well-developed are the American antitrust laws. Even with respect to horizontal price-fixing by combinations, where the Canadian laws have been most effective, it is highly unlikely that our courts would ever find it offensive, as has been done below the border, for firms to follow the same price patterns, not by overt collusion, but through "conscious parallelism of action".[14] That there should be such a

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[8] 152 F. Supp. 387, at p. 400. [9] (1960), 32 W.W.R. 577.

[10] *Ibid.*, at p. 640. The defendants were charged with being "a combine" which included, by statutory definition, a "merger, trust or monopoly". R.S.C., 1952, c. 314, s. 2. Since 1960, the Act has dealt with mergers separately, S.C., 1960, c. 45, s. 1.

[11] See Report of the Restrictive Trade Practices Commission Concerning the Sugar Industry in Western Canada and a Proposed Merger of Sugar Companies (1957), p. 173.

[12] *Supra*, footnote 9, at p. 633.

[13] Although the offence has existed since 1923. See S.C., 1923, c. 9, ss. 2 and 26. From 1910 until 1923, mergers detrimental to the public interest were also offensive if an administrative tribunal made a finding to that effect and the arrangement was persisted with after such a finding. See S.C., 1910, c. 9, ss. 2 and 23 and S.C., 1919, c. 45, ss. 2 and 11.

[14] See Chapter III.

difference in approach appears to lie with the judiciary rather than to be any fault of the legislation. In both countries, the main statutory rules are in general language which is quite similar. However, Canadian judges have shown no inclination to become "trust-busters".

Why should judicial policy in the two countries be different in this field? The author points out that the *raison d'être* for the American antitrust laws is political rather than economic. There is a public distrust of too much concentration of economic power in private hands. Co-existent with this fear, of course, is the economic belief (not unqualifiedly held by Mr. Neale, who is a proponent of "workable" competition) that the more competition there is, the more efficient industry will be. But it is the fear which is dominant and makes antitrust as much a part of the American way of life as baseball and Coca-Cola. And, perhaps, it is the lack of such a public concern in Canada that is responsible for the judicial attitude here.

To conclude, the book has few shortcomings. The author could have touched upon the constitutional problem. The federal laws do not reach intrastate transactions and the overall picture would have been more complete if readers were given some idea of the extent to which the Supreme Court has generously applied the federal antitrust law to what appear, on the surface, to be purely intrastate arrangements. Some information on the degree to which state antitrust laws take up the slack might also have been included. However, one of the difficult tasks of authors is to decide on the precise scope of their work, and Mr. Neale may well have felt that the inclusion of such matters would have made his book unwieldy. On the other hand, his failure to include an index is more open to criticism. Although there is a fairly detailed table of contents and an indexed table of cases, an index is essential if the book is to be readily used for reference purposes. Should there be a second edition, it is to be hoped that the author will remedy this omission. The same applies to the citation of cases, which the author felt was unnecessary since the book was not primarily designed, he says, for legal experts in this field.

On the whole, however, Mr. Neale is to be congratulated for an admirable piece of work. He has mastered the detail of a difficult subject without losing his perspective. It is doubtful if an American could have written such a book so well.

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Government Supervised Strike Votes. By F. R. ANTON, Professor of Political Economy, University of Alberta. Toronto: C.C.H. Canadian Limited. 1961. Pp. 179. ($9.00)

For Canadian labour relations lawyers, this book is at once an example and an embarrassment. It is an example because it demonstrates that the objective evaluation of evidence is far more useful in analysing controversy than the slogans and shibboleths hitherto employed; it is an embarrassment because a non-lawyer is the first to write upon the highly controversial subject of strike-vote legislation.

The author defines the object of his study as an evaluation of compulsory, supervised strike-vote legislation in terms of:

(a) Experience under the legislation, and under the union practices alleged to make necessary the legislation;
(b) The viewpoint of union members and leaders; and
(c) The arguments advanced in favour of the legislation.

He concludes that "questionable practices" in union-conducted votes are rare, that experience under the legislation holds little promise of improved industrial relations, and that the fundamental controversy between those who favour and those who oppose the legislation depends "to a substantial degree on their beliefs and attitudes regarding the functions of trade unions in the 'free enterprise' capitalist system and the significance of collective bargaining to employer-employee relationships".[1]

Available evidence, Professor Anton suggests, does not appear to support a "clear-cut *prima facie* case justifying the proposed extension of strike vote legislation . . . into the labour legislation of those provinces which are under pressure to adopt such a requirement".[2] This conclusion must be qualified in several respects. Firstly, as the author suggests, many arguments for or against the legislation cannot be empirically tested. Secondly, although he has analysed the legislation at work, the evidence available to him is fragmentary, being largely confined to the brief wartime experiment,[3] the truncated Michigan experience,[4] and that of two provinces (Alberta and British Columbia) whose industrial structure might be atypical. Thirdly, insofar as Professor Anton has premised his conclusions on an evaluation of practices actually followed by unions in Alberta and (partially) British Columbia, these conclusions may or may not be exportable to other jurisdictions.

Nonetheless, the technique employed by Professor Anton is

[1] P. 150. [2] P. 151.

[3] (1941), P.C. 7307 (Can.); War Labor Disputes Act (1943), 57 Stat. 163 (U.S.).

[4] State jurisdiction over labor relations being largely preempted by the passage of federal legislation.

basically sound: identify the evil sought to be cured by the legislation; by gathering evidence, determine its existence or non-existence; and assess the legislative remedy in terms of the disease. One might expect this technique to be the contribution of lawyers to labour relations, immersed as they are in an awareness of the value of evidentiary fact be it probative or legislative. Unhappily, detachment and objectivity do not seem to be the hallmarks of practice in this field.

So much for the book as an example. It is also something of an embarrassment for lawyers in that, as a legislative study, it lacks in several respects the sort of analysis that lawyers are uniquely equipped to make. For instance, assuming that union-conducted strike votes are undesirable, what legislative devices are available to be applied? Recent Ontario legislation[5] implicitly assumes what Professor Anton's study discloses: the virtually universal provision for a strike vote found in union constitutions. The Ontario legislation is addressed to the danger that zealous union officers or a vocal minority might coerce an indifferent majority, by social pressures or propaganda, into voting for a strike they do not favour. Accordingly, the remedy applied is not government supervision, but rather the secret ballot, internally conducted. Again, given compulsory strike vote legislation, what consequences attach to its breach? Obviously, failure to conduct the strike vote in compliance with the legislation is, in itself, an offence. Whether or not this illegality pervades the whole strike is a more substantial question. Not surprisingly, Ontario—with its minimal secret ballot requirement—has taken a much less serious view[6] of non-compliance than has, for instance, Nova Scotia.[7] If any trend can be ascertained from the few reported cases[8] in British Columbia, it is that absolute procedural rectitude is the price of legality. Professor Anton has not touched upon these problems, as perhaps a lawyer might have.

The author concludes by accidentally raising (but not pursuing) a basic problem in our labour relations legislation. He notes that "a number of the arguments are subjective and as such must therefore remain in the realm of value judgments where differences of view may be condoned".[9] Legislation is thus seen both by the opposing parties and by the public as a pro-management or pro-

[5] Now s. 54(3) of the Labour Relations Act, R.S.O., 1960, c. 202.

[6] *Industrial Wire & Cable Ltd.* and *Local 24825, Canadian Labour Congress*, March, 1961, Monthly Report, Ontario Labour Relations Board 451 (strike not illegal).

[7] *Keddy* v. *Regina* (1961), 130 C.C.C. 227 (N.S.C.A.) (strike illegal; conviction quashed on other grounds); *Jacobson Brothers* v. *Anderson* (1961), 30 D.L.R. (2d) 733 (N.S.S.C.).

[8] *R. ex rel. O'Keefe* v. *McRae* (1958), 27 W.W.R. 332 (B.C. Co. Ct.); *R.* v. *Hume & Rumble* (1958), C.C.H. L.L.R. P. 15,200 (B.C. Mag. Ct.).

[9] P. 151.

labour value judgment of the legislature rather than as an even-handed adjustment of competing interests. This image brings legislation into disrepute and if evasion is not actually condoned at least obedience to the law is achieved in an atmosphere unlikely to produce industrial peace. One wonders whether labour legislation might not better achieve its objectives if (on the Scandinavian model) it followed consensus between labour and management, rather than being imposed on one party at the behest of the other.

H. W. ARTHURS*

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The Detection of Secret Homicide. By J. D. J. HARVARD, M.A., LL.B., M.B., B.Chir. London: MacMillan & Co. Ltd. Toronto: The MacMillan Company of Canada Limited. 1960. Pp. xv, 253. ($6.00)

This book is Volume XI in the series *Cambridge Studies in Criminology*, and presents a fascinating study of the English practices for the detection of homicides, with a small chapter on a few foreign systems. As the author points out in the Preface, all statistical information on murder and manslaughter is of little use unless the number of deaths attributed to crime is reasonably accurate. It is not surprising that so little study has been made of this aspect of criminology. Given the body, medical knowledge is such that a pathologist can tell with reasonable certainty whether murder has been committed or not. Given a murder, our police detection is such that the murderer will usually be found. This aspect of criminology is concerned with the problem of ensuring that a body is not disposed of without at least the opportunity of examining whether there has been homicide or not. It falls into a nebulous area of medicine, law and police detection into which few have penetrated. In this virtual pioneer work, the author writes with interest, clarity and humour, in which his combined legal and medical background becomes apparent.

Dr. Harvard begins with a most fascinating historical account of the mediaeval inquest, and traces the development of the office of coroner. The rest of the book is a critical examination of the machinery for minimizing the incidence of secret homicide, the registration of births and deaths, the post-mortem examinations and the coroner's inquiry. The author, in his last chapter, suggests

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several reforms and pleads for greater understanding of the problems involved in this area of the law.

ALAN W. MEWETT*

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Motor Claims Cases. By LEONARD BINGHAM. Fourth Edition. Toronto: Butterworth & Co. (Canada) Ltd. 1960. Pp. xlvii, 775. ($15.00)

The Fourth Edition of this work is further sad commentary upon the law of our times. The very usefulness of the work to the solicitor contributes to this commentary. It is said in defence that the book is meant to be a solicitor's working tool and not an academic ordering of the subject; accordingly, the style of a digest is employed to allow the setting out, in more than usual digest completeness, the few lines of a case most applicable to the point at hand. The author cannot be criticized for leaving out important cases: he has been careful and thorough. Nor was he wrong to expunge a series of cases now overruled or irrelevant. But he cannot be justified in employing the style and order of mechanical jurisprudence simply because such a work is in demand and useful. Such careful work as this should not merely cater to the weaknesses of our legal system. It should make some small attempt to bring about an improvement.

The mechanical approach demands the excision of every *obiter* dictum, the impatient disregard for judicial discussion of principle. Instead, only a brisk statement of result deserves a place. Order becomes unimportant and within a chapter successive headings are "Novus Actus Interveniens", "Pensions", "Practice", "Shock", and "Some Specimen Awards". Skillful use of Contents and Index should lead one through this alphabetical maze to the case one is seeking. Since facts which are four-square bolster mechanical usefulness, the heading "Servant Smoking" is applied to a case in the division on "Fire Damage" and the section is indexed under "Servant" and "Smoking"; and under "Servant", the sub-description is "Smoking—Causing Fire". No place is given to the vicarious liability problem involved. The case is included in a volume on motor claims apparently because the servant does his smoking in a garage.

Similarly another garage case is headed "Servant Making Tea" and it is a surprise to find no index reference to the case under tea or even coffee. Instead it is indexed under "Paraffin" and "Fire Damage" since the use of paraffin, in the process of the

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tea making, caused the trouble. Scope of employment is mentioned in the text but the case is obviously intended for use by a solicitor with a paraffin or fire damage case. This honour paid to the elimination of fact irrelevancies in raising the value of a precedent demonstrates most clearly the inability of our solicitors and judges to cope properly with what irrelevancies remain. This is the disease of mechanical jurisprudence—the relying on results instead of principles and on bare words instead of true intended meanings.

This criticism should not be allowed to obscure the usefulness of this book in leading one to the cases. Its thoroughness is its great asset. Such long sections as it contains on specimen awards in personal injury and fatal accident cases may help to introduce certainty into the law where uncertainty causes so great a cost of time and effort for no sufficient return. So long as we deem it necessary to assess damages suitable to each particular case instead of using averages or minimums as an arbitrary schedule, such treatment as this is invaluable.

In the main, the pattern of previous editions is maintained, and the solicitor, especially the solicitor who finds the preceding remarks irreverent if not irrelevant, will continue to find this book a guide to the quick, if rough and ready answer.

O. E. LANG*

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Principles, Politics, and Fundamental Law. By HERBERT WECHSLER. Cambridge: Harvard University Press. Toronto: S. J. Reginald Saunders & Co. Ltd. 1961. Pp. xvi, 171. ($5.50)

All but the first of the four occasional papers which make up the book were first published periodically. Each without exception (for the first was one of the Oliver Wendell Holmes lectures at Harvard) made a stir among the *cognoscenti* as a major contribution at the time of its appearance. Their collection within a single volume is a real service since few if any private libraries would have in them all the journals of original publication.

Yet it may be doubted that its contents will have any great reader appeal in this country. They are quite without specific relevance to the Canadian scene. Mainly relating to American constitutional law, they deal with an area which admits of being so treated as to be fruitfully suggestive, whether for direct comparison or for elaboration of a constitutional ethos, for consideration of the British North America Act; but Professor Wechsler—

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properly enough, for he was addressing himself to an American audience—chose neither of those modes of treatment.

The titles of two of the papers—"Toward Neutral Principles of Constitutional Law" and "The Political Safeguards of Federalism"—look promising, but the papers when examined are so rooted in the American soil that almost nothing in them is transplantable to Canada. Were this review being written for American readers, I should venture a more extended appraisal of some of the views expressed. As it is, it seems enough to wonder what "principles" the former proposes—whether indeed the "principles" do not fade out into a mere attitude—and to comment that the latter gives dusty answers to various of the questions it propounds.

A third reviews admirably the constitutional contribution of Chief Justice Stone. The one non-constitutional paper, on the Nuremberg trials, is a compact and, to me, convincing justification of those much-discussed proceedings; its peculiar merit traces to Professor Wechsler's profound orientation in criminal law which he uses as a frame of reference.

The principal value of the book for a Canadian reader not especially versed in American constitutional law would seem to be less in what the author says than in how he says it. Highly organized though never formal, detailed yet economical, elegant but clear, and never pedantic, the discussions are models of written legal discourse. Perhaps only the specialist can read them with profit but almost any one could read them with pleasure.

ALBERT S. ABEL*

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Gentlemen of the Law. By MICHAEL BIRKS. London: Stevens & Sons Limited. 1960. Pp. xl, 304. ($4.75)

This book, by Michael Birks, the Principal Clerk to the Registrars of the Chancery Division of the High Court in England, is one of the most complete ever written on the social history of solicitors and attorneys—men who undoubtedly have exerted a strong influence on the attitudes and economic conditions of the country. Such absorbing topics as the origin of court robes, the system of legal education, the relationship with the Bar, the effect of the lawyer on the development of banking, investment brokerage and accountancy, the early days of the profession in the civil service and in government, and the thorny subject of solicitor's fees are discussed with an abundance of reference from many

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authentic sources. With insight the author comments upon the present nature, the problems and the future prospects of the solicitor's vocation. There is also a brief chapter devoted to the transplantation and emergence of the attorney in America and Australia.

More than a general outline of the evolution of the legal profession, *Gentlemen of the Law* gives a detailed account of the types of men who practised law, the lives they led, the kind of work they did and how they "fit"—or did not fit—into the social pattern of England through the centuries.

One interesting aspect of the book is the battle against the social stigma gained through the unscrupulous and unqualified men who acted as attorneys. In the eighteenth century conscientious and respectable attorneys began calling themselves solicitors in an effort to escape this unfavourable reputation. The need for reform fostered the formation of the Law Society, and the regulation of the profession through examinations. The title "Gentlemen of the Law" refers to the fact that when an attorney was admitted to court, he became an officer and was entitled to be called "gentleman". The social implications of this title was for some time, by no means certain.

The author has a lucid style of writing, reasonably free of legal terminology, with an obvious comprehension of his subject. Although some passages of the book seem to indulge in needless repetition, the extensive period of time covered (from 1200 A.D. to the present) might make this not only understandable but necessary. The author's frequent use of quotations is sometimes distracting but serves to give a more complete picture of his subject. Any person with an appreciation of history and an interest in the evolution of the legal profession will find this book informative and enjoyable.

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