

## REVIEWS AND NOTICES

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*Dictatorship and Democracy.* By SIR JOHN A. R. MARRIOTT.  
Oxford: At the Clarendon Press. Toronto: Oxford University Press. 1935. Pp. ix, 231. (\$3.00.)

Montaigne's unpretentious salutation to all those who came in contact with the first book of his immortal essays—"Reader, lo! here is a well-meaning book"—might well have been used by Sir John Marriott by way of inviting us to the feast of learning and wisdom spread over the pages of his latest work. With engaging modesty Sir John tells us in his preface that one of the main objects of his book is "to warn my fellow-countrymen against indulgence in a habit of which I am as guilty as any one. No Englishman has ever been more assured of the superior excellence of English Institutions than I; no man living has spent so much breath and spilt so much ink in the attempt to encourage others to share his own assurance!" But now he is prepared to say that in "the realm of government there is no 'absolute best,' but that the excellence of a Constitution depends on circumstances," and that "if this truth is not writ large over the pages that follow they will have been written in vain."

The book is a comprehensive and illuminating survey of world politics in our day—a period furnishing unique facilities for a comparative study of Dictatorship and Democracy as forms of government. Different types of both are passed in succinct yet lucid review from the days of ancient Greece on to the present age, with the result that the author, while not abating his faith in Parliamentary Democracy as still the best form of government for the British people who brought it to birth, is disposed to say that Democracy, whether direct, representative or presidential, is not necessarily the best form of government for all peoples at all times. Parliamentary Democracy in his opinion "is based, and depends for its success upon three presuppositions: an Electorate coextensive with the politically qualified citizens, a Legislative body representative of the Electorate, and an Executive Committee responsible to the Legislature. The last, its most distinctive feature, gradually emerged in the eighteenth century, and attained to maturity in the nineteenth." The frame and efficiency of democratic government as it prevailed in nineteenth century England so caught the fancy of other progressive nations that they undertook to reproduce it for themselves with varying degrees of success and of hope for permanence. But Parliamentary Democracy is a plant of slow growth, and Sir John reminds us that in England Parliament had four centuries of experience in legislation and taxation before it was entrusted with the control of a responsible executive. "The breakdown of premature experiments in Greece, in Italy, and elsewhere should, accordingly, excite no surprise, still less contempt." Even in England the progress of constitutional monarchy as part of her democratic system was halted by the Tudor and Cromwellian dictatorships, but the effect of these dictatorships was to strengthen and fortify the right of the throne to a place in the political structure of the country. Who can say, then, that the nations which

surrendered after ill-directed experiments the form of government which guarantees liberty under the rule of law will not restore it when the tyrannies which they now endure become intolerable?

Entering systematically upon an enquiry into the merits and demerits of the two forms of government in the light of history, Sir John informs us that the most perfect type of Direct Democracy and the most interesting examples of Dictatorship or Tyranny are to be found in ancient Greece. He cautions us that the term 'Tyrant' in its earliest use carried no stigma as it does today. "A man might be a bad tyrant or a good. All that the word implied was that the individual so styled . . . . . had attained to power by irregular methods." In this connection he instances the salutary rule of Pisistratus at Athens, which intervened between the establishment of democratic government by Solon and its restoration by Cleisthenes some fifty years later when the tyranny in the hands of the Pisistratids had become oppressive. When Sir John Marriott says that the reign of Pisistratus "marked the real beginning of Athenian greatness" he is in line with Dr. Mahaffy (*Survey of Greek Civilization*, p. 98) who speaks of the "moderate and wise tyranny of Pisistratus" which put down "the most crying abuse of that day—the oppression of the poor by the rich, of the peasant by the noble." Further support for this view is to be had in Dr. Glover's recent work, *Democracy in the Ancient World*, at p. 45.

To Pericles, who completed the labours of Solon and Cleisthenes by making democracy another name for liberty in Athens, the book in hand extends praise for an act of statesmanship not always accorded prominence by historians, namely, his attempt to establish Pan-Hellenic unity by inviting all the Grecian States to a congress in Athens to consult on certain matters touching their common interest. The invitation was not accepted; had it been, a federal policy might have been formulated that would have prevented Philip of Macedon from making himself the master of Greece. "Devotion to a city," says our author, "a Greek could understand: to the larger conception he could not rise."

Ancient Rome presented little material for a comparative study of despotic and democratic government. Sir John tells us that at no time was she a pure democracy, and that dictatorship was essentially a Roman institution. It was a constitutional office, carrying the official title of *Magister Populi* in the days of the Republic, and the tenure was limited to six months. After the second Punic war this type of dictatorship seems to have become obsolete. "Sulla and Julius Caesar belong to a different category. Their position was, in many respects, closely parallel with the Dictators who have in our own time emerged." In dealing with the character and achievements of Caesar the author's appreciation of them is almost as enthusiastic as that of Mommsen, who speaks of him as "the sole creative genius produced by Rome, and the last produced by the ancient world."

In the history of the middle ages the author does not find any parallels to the constitutional experiments of the modern world although it affords some material for the investigation of the principles of democracy and dictatorship. Moving on to modern times he begins his survey of democracy, as we understand it, with England where it resulted "in the evolution of a governmental type without precedent or parallel in the history of mankind." In the chapters of the book entitled "Democracy

and Nationalism" and "Parliamentary Democracy" the reader is given a brief but most instructive course in English political history. The remainder of the work is devoted to the review of democratic experiments in other parts of the world, and the return of dictatorships in modern guise.

We began our notice of the book in hand with a quotation from Montaigne, and we close it by adapting another as expressing our deliberate judgment of the value of the book, "Every man according to his capacity or understanding may reap commodity out of it."

CHARLES MORSE.

Ottawa.

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*The St. Lawrence Deep Waterway—A Canadian Appraisal.* By C. P. WRIGHT. Toronto: The Macmillan Company of Canada. 1935. Pp. xx, 450. (\$4.50)

This is an exhaustive and searching inquiry into, and analysis of the facts and history of a gigantic project which has agitated the public life of the two great North American nations for over half a century. The St. Lawrence Deep Waterway is unquestionably the greatest project of national or international importance that has ever yet come before the Canadian people for decision. Neither the rejection by the United States Senate of the St. Lawrence Deep Waterway Treaty of 1932, nor the declaration by the Premier of Ontario that the present is an inopportune time for this development, can be regarded as the end of the story. That being so, the appearance of a work of this character is to be commended. The book is written from a fairly impartial point of view, although at times, the author enters into rather unbecoming attacks upon that organized body which has as its purpose the mobilization of public opinion in favour of the Deep Waterway project. The apparent main thesis of the book, and perhaps its *raison d'être* is stated by the author in the Preface, namely, "to present a plea for a full and impartial consideration of the undertaking itself and of the treaty for its execution; and that purpose still holds good, even though the reasons for holding it have undergone some change. At the time I began writing it appeared quite possible that the treaty might be ratified—as it had been signed—in both the United States and Canada without any such sufficient consideration; and indeed the United States Senate did proceed to a vote on ratification in March 1934 upon no better guidance than had been furnished to it by the biased report of a sub-committee of its own members and some hasty and sketchy studies prepared under the order of an inter-departmental board. . . . (Thus) the original danger that the treaty would be ratified without due consideration has now instead become a danger that the whole project may be *defeated* without due consideration; . . . what is now required at the present time is therefore to take rational action upon that presupposition (in favour of the project) by determining whether the prospective benefits of the undertaking are likely to be commensurate with its estimated costs. To reject a course of action without due consideration may be just as grave a fault of statesmanship as to adopt it without due consideration." (p. ix, x).

With this purpose in mind the author reviews the twentieth century history of the movement for the St. Lawrence Deep Waterway Project. Part I, consisting of the first eight chapters of the book, is entitled "The

Making of the Treaty". It deals with the investigations by The International Joint Commission (1920-21), The St. Lawrence Commission of the United States (1924-6), The Joint Board of Engineers, The Canadian National Advisory Committee (1924-8), The Canadian Senate's Committee of Inquiry (1928), and the negotiations leading up to the signing of the St. Lawrence Deep Waterway Treaty, in 1932. Throughout these chapters the author succeeds in impressing the reader with the proposition that as yet no sufficient economic investigation of the pros and cons of the project has been made on either side of the Boundary line, and that the uniformly favourable reports that have been submitted from time to time have been based upon very inadequate researches.

In the chapter devoted to a searching inquiry of the Beauharnois Project, one might question the wisdom and the utility of the lengthy discussions devoted to allocating responsibility to individual Ministers of the Crown for mistakes made in connection with the granting of concessions at Beauharnois. However, the exposition clearly succeeds in its purpose of "exhibiting these improprieties as an evil that still rankles in Canadian public life". (p. xvi).

Of interest to the lawyer are the observations upon the Water Powers Reference Case before the Supreme Court of Canada. The author appears to doubt whether sufficient consideration had been given to the question whether the water powers of navigable rivers are actually "sources of revenue assigned to the Provinces" over which the only right of the Dominion is one of 'appropriation'. (p. 154). One would have welcomed at this point a discussion of the character mentioned. However, the book is not a treatise on the legal aspects of the St. Lawrence Waterway Project, and consequently the author more or less allows the point to remain as moot as ever.

In Part II of the book the author advances certain lines of investigation which in his opinion are basically necessary before a reasoned opinion can be arrived at upon the economic feasibility of the Project. In Chapter IX, he confronts us with the stark realization that the New Welland Canal was not built to a sufficient depth. He tells us that "the adoption at the outset of a depth of water adequate to the requirements of shipping over the next fifty to one hundred years will be, far above all else, the predominant factor in determining the ultimate success or failure of the St. Lawrence Deep Waterway as a commercial undertaking of national importance to Canada". (p. 281). In Chapter X, he applies the microscope to the arguments which have been advanced from time to time in favour of Canadian need for the Project, weighs them in the balance, finds them wanting, and then tells us to go and search for others, suggesting that we travel south to find them.

In Chapter XI, we get a very interesting discussion of the allocation of financial obligations contemplated by the Treaty of 1932, and concludes that Canada bears too large a share thereof. "The evident reason for this was the fear of Canada that any expenditures by the United States government for the construction of any part of the waterway lying within Canadian territory would be followed, sooner or later, by some assertion of political rights". (p. 397).

In Chapter XII, we have presented a good critical analysis of the provisions of the Treaty of 1932. In the opinion of the author, the two shortcomings of the Treaty are its failure to make specific provision for

adequate overdepth in the various channels at the outset and for a general deepening at some future time. The author declares himself in favour of an international commission or commissions for the control of the St. Lawrence Great Lakes Deep Waterway, and one of the principal responsibilities of the commission would be that of deciding upon the time and extent of the general deepening or successive deepenings of the navigation channels.

The provision in the Treaty of 1932 that the abstraction of water from the Great Lakes basin by the Chicago Drainage Canal should be restricted to 1,500 cubic feet per second was one of the reasons why the treaty was rejected by the U.S. Senate. The author suggests that it be deleted from the treaty, and that negotiations for the separate settlement of this matter should be commenced at once. He submits further that in such deliberations Canada might well consider economic and equitable considerations rather than legal rights. "It may reasonably be asked whether a small flow of water may not be productive of far greater economic benefits when it is abstracted from the Great Lakes at Chicago, than when it is employed to raise the water levels of the St. Lawrence by another inch or two". (p. 424).

The work is certainly the first really satisfactory Canadian work upon the economic and political aspects of the St. Lawrence Deep Waterway Project. In this respect it fills a real need, and the author is to be commended for the careful and painstaking manner in which he has marshalled his information and for the interesting and readable form in which he has presented his reasoned conclusions. Nevertheless, without in any way detracting from the uniform excellence of this book, it must be stated that there still exists a vital need for an exhaustive treatment of the Legal Aspects of the project. Legal problems at least as important as the economic problems involved loom large in this gigantic undertaking, and a legal treatise on this subject would, it is submitted, be highly desirable, before any further decisions are made by either government.

MANNIE BROWN.

Toronto.

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*A Political and Cultural History of Modern Europe. Volume II (1830-1935).* By CARLTON J. HAYES. New York: The Macmillan Company. Toronto: The Macmillan Company of Canada. 1936. Pp. xiv, 1215. (\$4.50)

There is a considerable number of persons—largely, we hope, outside the legal profession—who cannot think of history (if, indeed, they think of it at all) dissociated from rather unpleasant memories of their school days. To such persons the antics of countries and peoples foreign to themselves must seem merely silly, or, more probably, inconsequential. What, after all, do we know of Europe? And yet the destiny of the present generation certainly, and future generations probably, lies there.

It is a pleasure to put before the legal profession a book such as Professor Hayes'. This is not a history confined solely to military struggles or dynastic ambitions. It is what any history worthy of the name should be, a survey

of man's progress—or is it retrogression? Such a history must of necessity deal with the thought of man as exemplified in art, music, and literature just as much as politics and industry. Professor Hayes has woven all these into an exceptionally lucid and fascinating book.

With most of us full of snippets of information culled from the newspapers, the present volume, in unrolling dispassionately the story of the war, its background and its aftermath, the rise of "democracies and dictatorships", cannot help but give us a panorama that can become horribly confined by the demands of the law, and badly warped by the practices of the modern press. The author states that the work was planned "mainly though not exclusively as an introductory survey for college students". In the reviewer's opinion it should have a much wider appeal. Europe today, more than ever before, is the central thought in the minds of persons concerned with the future of civilization, and yet, do we try to know Europe? The present general survey can at least furnish us with a background without which the happenings of today lose all meaning.

The present volume is not only extremely readable, but contains excellent plates, typifying developments in art, and maps, which for clearness cannot be equalled. Canada and the developments within the Empire are treated fully and accurately. Beginning with the Industrial Revolution the present volume takes us down to the Italo-Ethiopian war. People whose names have been screamed from newspaper headlines, here fall into proper perspective and take their place with musicians and artists of whom some of us have never heard, but whose influence on civilization may far surpass that of the popular hero. Professor Hayes does not preach. This is not an interpretation of history. That is for the reader. He has, however, painted on a big canvas with a full brush. Whether, in terms of his last chapter, the result be "cosmos or chaos" depends on what the individual can learn from the picture.

Undoubtedly the extremely reasonable price for a volume in whose preparation the greatest care is everywhere apparent, is due to the fact that the sales will be extremely large. We can do no more than recommend the volume to all persons in the slightest degree interested in Europe of the last hundred years. In the words of Professor Hayes, "The wise need not be reminded that man without man's past is meaningless."

C. A. W.

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*Index of Canadian Cases Judicially Noted (1929-1936).* By LEONARD G. WRINCH, Assistant Librarian, Law Society of Upper Canada. Toronto: The Carswell Company. 1936. Pp. viii, 357. (\$12.50)

The present volume, while not providing entertaining reading, is one of the indispensable tools of the practitioner's art. It should become an unvarying practice for every counsel before citing a case to a court to check his reference in this and the previous volume produced by Mr. Wrinch. Unless this be done, there is always the possibility of a cited case having been overruled or distinguished in some later decision. As it is the duty of counsel not to mislead the court, the citation of an overruled case would

seem to fall into this category. In addition to that, the book should be extremely useful for finding additional authority on a given point, because it is the writer's opinion that one of the most effective methods of "finding law" is to proceed from a known case. This is one of the tools of his craft with which students of law should become acquainted in their first week at a law school.

Mr. Wrinch deserves the thanks of the entire profession; for the preparation of such a book as the present requires the utmost accuracy and yet fails to afford the compiler the mental satisfaction which accompanies the writing of a text book. His work has been done carefully, and exhaustively. The printers have provided an excellent service both in clear type and durable paper—an item of no small importance in a book that will be thumbed often and hurriedly.

In glancing through the cases cited during the last few years, while one finds courts in the Maritime Provinces citing decisions of the western courts, and western courts in turn citing those of all the other provinces, there is practically no western or maritime case referred to by an Ontario court. As such cases form the foundation for appeals to the Supreme Court of Canada equally with those of Ontario, we wonder why.

C. A. W.

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Dean MacDonald's Review of Davie: *Common Law and Statutory Amendment in Relation to Contributory Negligence in Canada.*

(14 CAN. BAR. REV. 368).

EDITOR, THE CANADIAN BAR REVIEW.

SIR :

When an author produces a book devoted to no professional subject, he expects criticism, good or bad. But when an author produces a professional text-book he expects competent criticism devoted to the objective of the work. Your reviewer, Dean Vincent C. MacDonald, of Dalhousie Law School, has been assigned the task of reviewing my recent law book *Common Law and Statutory Amendment in Relation to Contributory Negligence in Canada*. I am led to write this letter for the benefit of your readers, not because your reviewer condemns my work as a bad and dangerous one (which criticism I would accept unhesitatingly had the reviewer produced a foundation for his condemnation), but because he has produced a man of straw, set him upon a pedestal, and then knocked him down. In other words, your reviewer has not applied himself to the main theme of my work, but has condemned the book as a whole upon an academic discussion of a