

Les Cahiers de droit



***Elements of Democratic Government*, fourth edition revised and enlarged, by J. A. CORRY and Henry J. ABRAHAM, Oxford University Press, 1964, 827 pages, \$8.50.**

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En premier lieu, on trouve une présentation du sujet, sorte de synthèse générale du problème. Une première partie touche les remèdes à la portée du créancier en matière de liquidation au cas de faillite et la seconde partie touche la faillite elle-même.

Dans la première partie, l'auteur aborde le problème des jugements et de leur exécution ainsi que les cas de fraude. La seconde partie traite de l'historique et de la juridiction en matière de faillite, puis l'auteur étudie l'administration de la faillite pour en arriver par la suite aux ententes et propositions et aux tiers qui peuvent intervenir. Enfin, il termine cette partie par les options, la distribution et la libération.

Nous avons parlé de chevauchement : en effet l'auteur ne fait pas que donner une énumération des arrêts intéressants ; il les présente, les explique en les situant dans leur contexte soit à l'aide de notes personnelles ou soit par de longs extraits d'auteurs réputés.

Remarquons que la partie historique est très intéressante et précise. D'autre part, il faut souligner que le livre a été écrit pour la Province d'Ontario et qu'en plus de la loi fédérale, cette province a élaboré depuis 1967 une législation complémentaire afin de régler les problèmes corrélatifs à la faillite, problèmes qui sont du ressort de la province. Ainsi, il faut être prudent dans la lecture des exposés de l'auteur et se placer dans notre situation particulière.

Quant au reste, nous pouvons affirmer que l'ouvrage possède une présentation fort agréable qui facilite la consultation, quoiqu'un index plus élaboré aurait eu sa place au lieu de celui qu'on y trouve.

Victor CAYER

Elements of Democratic Government, fourth edition revised and enlarged, by J. A. CORRY and Henry J. ABRAHAM. Oxford University Press, 1964, 827 pages, \$8.50.

« This book expresses the views of two teachers on the way to begin the study of government

with students who are — or should be — seriously concerned about liberal democracy ».

One could say — I think with reason — that the authors in introducing the Preface to the Third Edition with these words capture the true spirit of their book. *Elements of Democratic Government* is a textbook but it is much more than that. The text bears the unmistakable mark of two renowned political scientists in the form of acute analysis. There is indeed a "concern" on the part of the authors about their subject matter.

« The book thus has a concern for political theory and analysis on which descriptive work on government often lay little or no stress, and it also has a concreteness of reference that is often lacking in introductory textbooks on political science ». (p. VIII).

The book, in dealing primarily with the study of liberal democracy, first sketches and contrasts liberal democracy and modern dictatorship and then undertakes a description and comparison of the structure and working of government in the United States and Great Britain. Frequent reference is made to French government and the Communist dictatorship of the U.S.S.R. is used for comparison purposes.

Proof of an effort on the part of the authors to escape from the traditional encyclopedic approach can perhaps be reduced to four methods of technique employed.

First, the historical origins and evolution of certain regimes are presented so as to render contemporary political phenomenon more comprehensible. After all, politico-social systems do not spring full grown from the legislator's pen but rather are products of an historical gestation. Thus, for example, in their chapter on "Basic Assumptions of Dictatorships" the authors commence with a lucid discussion of the Fascist and Nazi philosophic negations and Communist economic determination.

Second, in an effort to render the

text as lively as possible, Profs. Corry and Abraham often include political views of colourful thinkers prominent in other areas of human thought. Hence the authors contention that Bernard Shaw understood Communist theory sympathetically once saying that, "democracy was a big balloon put aloft to attract the gaping attention of the populace while the exploiting class picked their pockets" (p. 80).

The third distinguishing mark of this work is the inclusion of contemporary documentation and analysis. In documentation we have recent speeches, reports from Royal Commissions and Presidential Commissions. In analysis we have views such as the recent study of Prof. William Ebenstein on the development of social class in the Soviet Union (p. 82) complementing those of the authors themselves.

Finally the choice of bibliography at the end of each chapter testifies to a serious attempt to "break open" the subject matter for further examination by the student. The books cited covering a multitude of interests and often touching this subject only indirectly should stimulate any student. How could it be else with such authors as Brinton, Niebuhr, Becker, complementing the Chapter on Democracy and such books as Shirer's *Rise and Fall of the Third Reich* or Solzhenitsyn's *One Day in the Life of Ivan Denisovich* bringing to life the "Basic Assumptions of Dictatorship". In the more technical vein, the texts of the constitutions of the United States, France and the U.S.S.R. are included at the end of the book.

It is regrettable that the authors did not choose to employ the Canadian example more. This is particularly true of their chapter on federalism since to-day in Canada federalism is undergoing perhaps its most severe test. Furthermore, it would seem that both under the rubric of "federalism" or "international politics" the problem of international competence in a federal state is today of utmost importance and that Canada again presents a fascinating case study.

All can never be said in one book, however: Without any doubt Profs

Corry and Abraham have produced an extremely readable and informative work — as valuable to the serious student as to the reader seeking self-education. — The book originally under the name of *Democratic Government and Politics* was written at the end of World War II in 1946 an époque when, as the authors point out, everyone was disposed to hope that the democracies would be able to give their main attention to their own internal problems, under conditions of international peace assured by the United Nations. Hence the emphasis of the original publication was on democratic government. Today, again in the words of the authors,

« the gulf between East and West yawns with thermonuclear menace »,

and for this reason the second and third editions have focused more on the dictatorships and the "tragic dilemma of international politics". Here then is material proof of the author's concern that their book have contemporary meaning.

Peter W. HUTCHINS,

Essai sur les donations par contrat de mariage, par Roger COMTOIS, Montréal. Le Recueil de droit et de jurisprudence, 1968, 230 pages, \$8.00.

Continuant sa contribution remarquable au développement de notre droit civil, Me Roger Comtois tente d'établir dans ce volume « Les frontières des donations par contrat de mariage » (p. 11).

Après avoir, dans l'introduction, défini les termes les plus couramment utilisés dans ce domaine, soit : donation entre vifs, donation à cause de mort, codicille, institution contractuelle, biens présents et biens à venir, Me Comtois, dans un premier chapitre, étudie la question très controversée, à savoir si une donation de biens à venir peut être faite entre vifs. L'auteur analyse les opinions de Me Roch Brunet et de Me J.-Emile Billette et fait la synthèse de la jurisprudence sur ce sujet. Pas-