documents until several days after registration. Since it is practically impossible in most Land Titles Offices to search the Day Book, the only safe course would seem to be to wait until a Certificate of Search can be obtained, dated after the thirty-day holdback period.

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## COMMON MARKET LAW

By ALAN CAMPBELL and DENNIS THOMPSON. London: Stevens & Sons. 1962. Pp. xx, 487.

Lawyers, perhaps considering themselves beset with enough problems of their own, have tended to dismiss the European Economic Community (or, in short, the Common Market, or the Six) as a playground for the economist and industrialist, and a battle-ground for the politician. The very title of this book, however, should help to bring home to the legal profession that such a dismissal is, to say the least, a little short-sighted. If Britain should join the Community we would face a situation with legal issues affecting many established common law concepts.

At the Messina Conference in 1955, the representatives of the Six (France, West Germany, Italy, Belgium, Holland and Luxemburg) declared that it was their object:

> to achieve a united Europe through the development of common institutions, the progressive amalgamation of national economies, the creation of a common market and the gradual harmonization of their social policies.[1]

These objects are certainly more far-reaching than the establishment of a simple economic union, which some seem to regard as the only effect of the Treaty of Rome, which created the Community. In fact, the institutions of the Community which have already been established are the European Parliamentary Assembly, the Council of Ministers, the Commission and the Court of Justice. A cursory glance at these names may serve to jolt the lawyer out of a lethargic dismissal of the Market as a mere economic union. As the authors of this book say:

> the field of the Treaty is vast and its framework provides ultimately for international legislation on a plane which has never been seen before.[2]

In Chapter 1 the authors trace how and why the above six countries came to form this new Community, and then give a brief survey of the scope and general application of the Treaty of Rome. Even if the reader gets no further (though it is hoped he will) this chapter, in its short compass

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1. Quoted at p. 4. 2. P. 9.

of twenty-seven pages, furnishes an invaluable insight into the *raison d'etre* and the tremendous potentialities of the Common Market. One small blemish in this chapter is the statement that:

> in common law countries, no treaty signed by the government concerned can affect the legal rights of its citizens until there is domestic legislation passed which translates the terms of the treaty into an Act of Parliament.[3]

This is certainly not quite accurate so far as at least one great common law country, the United States of America, is concerned, where treaties may be self-executing. A statement to the same effect unfortunately appears again on page 57, but as the authors' main pre-occupation in the book is with Europe, such slips are pardonable.

Chapter 3 deals (among other matters) with two subjects of particular interest to lawyers. First, there is the question of restrictive trade practices and monopolies, contained in Articles 85 and 86 of the Treaty. These provisions are wide in their scope, and affect agreements made not only within the Common Market countries themselves, but also with persons or companies in third countries such as Canada. If such an agreement contains a restrictive clause the firm concerned might well find itself unable to enforce the agreement within the Common Market area. There is provision for registration of some such agreements, and details are given in Appendix II. In view of the comparatively early deadline set for such registrations (November 1, 1962 was eventually substituted for August 1, 1962) it might have been better to have emphasized this in the main text itself. Secondly, there is the question of the "approximation"[4] of conflicting laws. Article 100 of the Treaty provides that the Council may, under certain conditions, "issue directives for the approximation of such legislative and administrative provisions of the Member States as have a direct incidence on the establishment or functioning of the Common Market."[5] This is, of course, aimed at what one writer has so aptly termed "conflict avoidance," and would obviate some of the problems which at present have to be solved by resort to the rules of Private International Law. Article 100 will certainly become of tremendous importance if Britain becomes the first common law country to join the Community.

Chapter 5 deals with the four institutions, mentioned earlier, which have been set up by the Community. Constitutional and international lawyers in particular will find these institutions most thought-provoking. For example, the set-up of the European Parliament, with its emphasis on party groupings rather than on national blocs, and the proposals for a system of direct elections, are surely indicative of the basic desires of the founders for a European Community in the fullest sense, rather than the mere economic association which is found in the European Free Trade

3. P. 11.

4. The meaning of this term is not entirely clear. As the author points out at p. 9, the Treaty has "a jargon of its own", which has not yet been fully defined. They explain at P. 255 that "Approximation goes further than harmonization or co-ordination, but stops short of unification."

5. P. 255.

Association of the Seven (Britain, Austria, Portugal, Denmark, Norway, Switzerland and Sweden). At the same time, the Court of Justice is given comprehensive jurisdiction over the other organs of the Community, and member states are under an obligation not to submit any dispute concerning the interpretation or application of the Treaty to any other method of settlement. The Treaty says nothing of the substantive law to be applied, and the Court therefore has wonderful opportunities of developing a "European Law" by extracting principles which are common to the legal systems of the member states. Again, if Britain joins it will be fascinating to watch the European stream of law which will be produced by the flowing together of the waters of the Continental and Common laws. This theme alone could have been developed to most interesting lengths, but the authors are to be commended on adhering to the principle they set out in their preface of resisting "the temptation to warm to any particular theme on these interesting topics." All the way through, the book keeps to its professed course of being a legal commentary only.

The remaining chapters of the first part of the book concentrate on topics of practical commercial interest (for example, company formation within the Market countries, restrictive trade practices and monopolies, patents and trade marks) with a comparative study of the municipal laws of the member or potential member countries. These chapters therefore will not, on the whole, be of such direct interest to the reader on this side of the Atlantic, but they are illustrative of the painstaking research and attention to detail which characterize the whole book.

The second half of the book contains the appendices, the most important of which is that setting out the unofficial English translation of the full text of the Treaty of Rome. The various articles of the Treaty are carefully annotated with a reference to the appropriate paragraphs of the text where they have been treated in detail.

All in all one can certainly re-echo the words of Lord Denning in his preface that, "it is a good thing that Mr. Campbell and Mr. Thompson have produced this book so quickly and so well." If it awakens the legal reader on this side of the Atlantic to some of the problems and potentialities of the Common Market it will have achieved much.

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## THE JUDICIAL PROCESS

By Henry J. Abraham. Oxford University Press. 1962. Pp. xii, 381.

In this book, a paperback, the author touches on a wide range of topics, starting with the nature of law and proceeding through the function of courts, juries, lesser courts, foreign courts and judicial review. The scope

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