mended by each Chancellor, and in particular his careful study of those recommended by Lord Halsbury, which were so controversial on account of their political overtones and are, therefore, of particular interest in the Canadian context today. He spends a whole chapter dealing with Halsbury's appointments of High Court and County Court Judges and also Queen's Counsel. Heuston, consistent with his sympathetic treatment of all the Chancellors, defends Halsbury, and feels that there were only "four dubious appointments (to the High Court) out of thirty during a tenure of the Woolsack lasting seventeen years".[4] Nevertheless, this reader, for one, was left with a feeling that Halsbury's appointments were in fact too often influenced by political patronage rather than by merit. It is, however, encouraging to find how completely the United Kingdom has been able to break away from this position in the comparatively short period of the last fifty years, so that Viscount Jowitt, as Lord Chancellor in 1950, was able to state in an address to the American Bar Association, that in his five year term on the Woolsack not one member of his party had been appointed to the High Court. Heuston gives us a possible clue as to how this change came about in that he points out that in the case of Halsbury's controversial appointments the various English law journals were forthright in their criticisms, and *The Times* itself did not hesitate to devote leading articles criticising the appointments.[5] Unfortunately, in Canada the public is little informed on the question of political appointments of Judges and Queen's Counsel, and until the press is willing to arouse the public conscience on this matter, as it did in England, there is little hope of the change being experienced here.

In dealing with so many characters and events that naturally provoke controversy, the author is to be commended that he lives up to the promise in his preface to allow the "material to speak for itself with the minimum of comment". With the wealth of material so interestingly supplied throughout the book, the reader is enabled to obtain a new insight into and form his own conclusions on many of the lawyers who have left their mark on our law and constitution today.

C. H. C. EDWARDS*

PROVINCE OF ONTARIO REPORT OF THE JOINT COMMITTEE ON LEGAL AID

Toronto: Queen's Printer. 1965. Pp. 126.

The past few months have seen the publication of several book bargains for lawyers. The new *Pelican* law series (including: Street, *Freedom, The Individual and the Law*; DuCann, *The Art of the Advocate*; Borrie and

4. p. 66.
5. See p. 55.
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Diamond, *The Consumer, Society and the Law*; Lloyd, *The Idea of the Law*, etc.) has become available in Canada at $1.35 a volume. The federal Queen's Printer has made available two inexpensive studies of great interest to lawyers: *The Amendment of the Constitution of Canada* at $2.00, and *Capital Punishment* at $1.00. But the best value of all is the *Report* of the Ontario Joint Committee on Legal Aid. It is being distributed free of charge to those who request it, by the Attorney-General of Ontario, and it will intrigue lawyers, both because of the wealth of information on legal aid that it contains, and the fact that it is likely to have a profound influence on the administration of justice throughout Canada.

Two years ago, a Joint Committee of the Ontario government and the Law Society of Upper Canada was established under the chairmanship of Deputy Attorney-General W. B. Common, Q.C., to study and make recommendations respecting legal aid in the province. It appears from the *Report* that the study was a very thorough one, embracing various types of legal aid schemes from other parts of the country and the world, as well as the existing Ontario plan. The recommendations are sufficiently far-reaching to make Ontario, if it were to implement them, a world leader in legal aid.

The premise upon which the *Report* is based is the Committee's conviction that:

> . . . legal aid should form part of the administration of justice in its broad sense. It is no longer a charity but a right.[1]

Believing that this right cannot be adequately guaranteed by "purely voluntary services of the profession,"[2] the committee was forced to conclude that:

> The major cost of legal aid must be borne by government.[3]

Since it is widely acknowledged that the cheapest form of government financed legal aid would be some type of salaried "Public Defender", it might seem surprising that the Committee did not propose such a system. After an apparently thorough study of existing Public Defender schemes, the Committee emphatically recommended against following them. Its reasons are cogent:

> The chief advantage of the public defender system is that it is cheap.
>
> On the other hand, the system appears to be wrong in principle in that both prosecutor and defender are employed by the same master. Observation of the system in action tends to support the fear that defences will become perfunctory; that little attention can be given to the run-of-the-mill case, that the entire scheme operates on an impersonal, production-line basis, and that its overall effectiveness is not impressive. This is in spite of the best efforts of able and conscientious men involved in its operation. It has the appearance of charity; it is so significantly different from the facilities open to people of means that it must appear a somewhat second-rate alternative made available

1. p. 97.
2. *Ibid.*
3. p. 98.

> only to the poor. Accused persons appear to accept the defender only if there is no possible alternative. It offends the principles of the adversary system. There is little chance for the development of a proper solicitor and client relationship. There is no freedom of choice of counsel. There is little incentive to counsel to exert his best efforts. There is reason to believe that one of the most serious objections to the public defender is its effect on the criminal Bar. Where the defence of accused persons is concentrated so heavily in a few hands, the effect should almost certainly be the shrinkage of the independent criminal Bar.
>
> The system has just been rejected by the Congress of the United States. It has never been seriously considered in England. It has been rejected in Scotland. There is, moreover, almost no support for the idea in Ontario.[4]

The plan favored by the Committee is an expanded and improved version of the scheme that has demonstrated its merit in England since 1949. Under this plan any person with a reasonable cause of action or defence or a reasonable need for advice, concerning most types of legal problem, civil or criminal, would be enabled to consult the lawyer of his choice from a volunteer panel. The lawyer would be paid 75% of his normal fee, and the client would be expected to pay a portion of this fee if (and to the extent that) his financial circumstances permitted. The difference between the fee and the client's contribution, together with the cost of administering the scheme, would be met by the provincial government. Administration of legal aid would, however, remain in the hands of the Law Society. In this way, both the dead hand of bureaucracy and the ego-destruction of charity could be largely avoided, while guaranteeing a virtually universal right to counsel.

The Manitoba government is presently studying the future of legal aid in this province. The *Report* of the Ontario Joint Committee should do much to light its way. Hopefully, it will find the *Report* as persuasive as this reviewer did.

R. D. GIBSON*

CRIME AND THE CRIMINAL LAW

By BARBARA WOOTTON. Toronto: The Carswell Company Ltd. 1963. Pp. viii, 118.

Lady Barbara Wootton was the first member of "the second sex"[1] to speak under the auspices of the Hamlyn Trust. One of the objects of this Trust is to ensure that:

> . . . the Common People of the United Kingdom may realize the privileges which in law and custom they enjoy in comparison with other European Peoples, and, realizing and appreciating such privileges, may recognize the responsibilities and obligations attaching to them.

As Sir Henry Slesser pointed out, in a commentary on the first Hamlyn lectures,[2] this is "an objective not free from the perils of complacency,

4. p. 107-8.

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1. Simone de Beauvoir must take responsibility for these words.

2. Delivered by Lord Denning, and published under the title *Freedom Under the Law*.