

which still retains the old form of setting out the text of the Act with the appropriate commentaries and footnotes section by section. Both methods have their advantages as well as their drawbacks. Mr. Atiyah's method is certainly the more stimulating, but it may possibly be somewhat confusing to the uninitiated by reason of his rearrangement of the subject. It might be helpful if future editions could contain the text of the Act itself as an appendix. Be that as it may, Mr. Atiyah has certainly put the commercial legal community in his debt by producing a book in narrative form on this important subject at a time when there is no other such modern text available, and when the standard work, *Benjamin on Sale*, has been out of print for so long.

C. H. C. EDWARDS*

THE GOVERNMENT OF MANITOBA

By M. S. DONNELLY. Toronto: University of Toronto Press.
1963. Pp. 185. \$6.00.

The line dividing constitutional law from political science is very hard to define. In fact, I suspect that it doesn't exist. Probably these are not different "fields" at all, but simply the same subject looked at through the eyes of observers with different types of training. And since there is probably some truth in the frequently voiced allegation that the legal profession suffers from intellectual inbreeding, it is likely that the lawyer will benefit from occasional exposure to the political scientist's point of view. (Indeed, it is even possible that the converse is also true, since the fortifications surrounding other disciplines appear to the reviewer as formidable as those which isolate the law, but it is hardly the place of a lawyer to say so.) Manitoba lawyers will find Professor Donnelly's excellent little book, *The Government of Manitoba*, particularly valuable.

The book is a concise account of the growth of the principal institutions of government in Manitoba from pre-Confederation times to the present day. The historical side of the study amounts to a capsule history of the province, which I think every reader will find interesting. Perhaps of even more appeal to the lawyer is the description of the modern organs of government. A great deal of the information, of course, will be familiar to him, but I think that he will also encounter much that is not. Those who are actively engaged in politics will be interested in the recurring idea, apparently the theme of the study, that vigorous inter-party competition is essential to good government, and that the period of coalition and non-

*Recorder, Manitoba Law School.

partisan government in Manitoba saw a decline in the effectiveness of the province's political institutions.

Professor Donnelly tells his story well. His prose is easy to read, and he makes liberal use of anecdotes, some of which will be read with particular relish by members of the legal profession. For example, there is the story of the time Chief Justice Dubuc and a murder jury were saved from the ravages of a Lake Winnipeg storm by the accused,¹ and the account of admission to the provincial bar in 1871 of two men of questionable qualifications who were then immediately appointed to the bar examining committee.² Another story sheds some light on the administration of justice during the reign of the Hudson's Bay Company:

The settlement was divided into four districts and a magistrate or justice of the peace was appointed in each to hold court four times a year. An appeal to the governor-in-council sitting as a court was provided in criminal cases "of a serious nature" and in any case involving a sum of more than £10. The procedures of the court were regularized in 1839 by the appointment of Adam Thom as Recorder of Rupert's Land and Assiniboia. Thom's position became most important since he was, at that time, the only person in Red River trained in law and frequently was not just Recorder, but judge and attorney as well . . . For example, the Quarterly Court Records of the case of *Foss v. Pelly*, in 1850, begin with the following remarkable statement: "The defendant, Mr. Pelly, stated that he objected to the present formation of the Court as Mr. Thom was allowed to sit as judge in a case where he had already acted as attorney for the plaintiff." The following entry recorded that the objection had been overruled by Thom.³

The lawyer will, however, notice a few errors in the description of the institutions with which he is most familiar. The tortious and criminal jurisdiction of the County Court is ignored by the statement that the court is:

. . . competent to hear actions arising out of contract and personal actions for the recovery of personal property.⁴

and the 1958 amendment⁵ increasing the County Court's monetary jurisdiction from \$800 to \$2,000 has also been overlooked.⁶ The section dealing with the reception of English law into Manitoba⁷ is confusing, in that it makes no reference to the statutes establishing July 15, 1870 as the date of reception,⁸ and may leave the mistaken impression that English law has been received as altered from time to time since then. A minor inaccuracy occurs in the passage on legislative privilege, where it is stated that:

No member is liable for civil action for debt or other cause while the assembly is in session.⁹

1. P. 152-3.

2. P. 151-2.

3. P. 5-6.

4. P. 156.

5. S.M., 1958, c. 9.

6. P. 156.

7. P. 149-51.

8. See J. B. Coyne, "Memorandum on Law in Federal Matters in Manitoba Prior to 1888," in J. Ollivier, *British North America Acts and Selected Statutes 1867-1962*, p. 204.

9. P. 87.

In fact, the member's immunity extends only to actions based on his activities in the legislature, or to civil "arrest, detention or molestation" for other matters while the legislature is in session.¹⁰ An ordinary civil action against a member of the legislature while the legislature is in session is quite permissible.

In addition to these positive errors, there are a number of strange omissions. The salary of Surrogate Court judges is discussed,¹¹ but the salaries of other types of judge are not mentioned. The number of Justices of the Peace, Magistrates, County Court judges and Queen's Bench judges is listed,¹² but not the number of Court of Appeal judges. (In fact, the Admiralty Court, which has yet to render a decision, is given considerably more attention than the Court of Appeal). Mention is made of appeals to the Supreme Court of Canada in criminal cases,¹³ but no reference is made to civil appeals. It is unfortunate, too, that only passing reference¹⁴ is made to the political appointment of judges. A study of this delicate question in the light of the author's thesis that the effect of partisan politics on all organs of government is beneficial might have been very interesting.

On the whole, it must be said that Professor Donnelly's apparent failure to collaborate with a lawyer on these matters was unwise, and has resulted in an inadequate and sometimes misleading treatment of the judiciary.

But the lawyer's hypersensitivity about errors in the realm he likes to call his own should not be allowed to blind him to the virtues of the book. It will be a welcome addition to the bookshelves of anyone interested in the facts of political life, lawyer or layman.

R. D. GIBSON*

DICKENS AND CRIME

By PHILIP COLLINS. Toronto: MacMillan of Canada, 1962.

Pp. xiii, 371. \$6.00.

Charles Dickens was not content to be England's second greatest creative genius. To satisfy a vast ego, he set himself up as an authority on a wide variety of subjects. He was, of course, within his rights. In a democratic society, any man, whether an ignoramus or an Einstein, is entitled to his own opinion on any subject—with the qualification that his opinion, on the open market, is entitled only to the respect which it deserves.

10. R.S.M., 1954, c. 141, s. 46-7. This is the present counterpart of the "statute of 1937" to which the author refers.

11. P. 156.

12. P. 155-7. The number of County Court judges is incorrectly stated to be nine. In fact there are ten.

13. P. 157.

14. P. 153.

*Associate Professor, Manitoba Law School.