His very real concern for the individual is a natural theme for this last part of the book and gives it coherence and strength.

Most of the provincial labour relations acts have been amended since *Collective Bargaining Law in Canada* was published, and there have been important decisions in the courts, particularly those dealing with the enforcement of the collective agreement. The Rand Royal Commission will soon report in Ontario and the Federal Government's Task Force on Industrial Relations will not be far behind. It is a measure of its value that a second edition of "Carrothers" will soon be demanded by the many people who have come to rely on it.

—INNIS CHRISTIE*

* Associate Professor, Faculty of Law, Queen's University.

JURISPRUDENCE. By B. A. Wortley. Dobbs Ferry, N.Y.: Oceana Publications Inc., 1967. Pp xxi and 473. ($9.00).

Books and articles on Jurisprudence continue to be published at a prolific rate.[1] It does not take long before even the most enthusiastic student of the subject turns to each new contribution with strained eyes and jaded attitude and asks, "Is this book necessary? Does it advance my understanding of the subject?" Unfortunately, the answers to these questions when they are applied to Professor Wortley's book cannot be an unqualified yes.

Not that the book does not have many laudable features. It is refreshing to open a book on Jurisprudence published in 1967 and to discover that it is not just a summary, apologia, or exposition of the thoughts of other jurisprudes. These surveys may be useful to the neophyte but are no substitute for reading the 'real' thing. It is also refreshing to find a recent work on Jurisprudence free from psychedelic language. To be topical may keep up the reader's interest, but fundamental concepts in jurisprudence can be described in ordinary language. Nor has Professor Wortley found it necessary to establish his own terminology with accompanying glossary to baffle or dazzle the reader.

In his preface the author tells us that the book can be summarized in six parts under the headings (1) Law as prediction, (2) Law as order, (3) Law as rule, (4) Law as expectation, (5) Law as a sense of value, and (6) Law as justice.

In the first part, under Law as prediction, the author distinguishes between lawful authority and anarchy or lawyers and anarchists. The definition of anarchists is woolly at best; the reader is never sure whether they are imaginary men of straw or actually existing phenomena. The difficulty may be caused by the author's reluctance to be fashionable. Not only does he shun psychedelic language, but he seems reluctant to point to any more modern examples of anarchists than communists in the 1930's. His examples of the Mafia and teenage street gangs are not exactly apt since both these groups meet the author's own

1 For example, in a three year period between September 1961 and August 1964 the Index to Legal Periodicals lists over 250 items under Jurisprudence. See in general the references collected by Ehrenzweig in the footnotes to his article *Psychoanalytical Jurisprudence: A Common Language for Babylon*, (1965) 65 Colum. L. Rev. 1331.

test for a legal order (i.e. "A system of rules which aims at producing regularity, predictability and order affecting a group or society of human beings. . . .")[2] Perhaps better examples of what the author had in mind would have been the Black Power Movement in the United States or the now familiar flower people.

In the second part, which the author describes as Law as order, the author makes a superficial survey of the world's legal orders, largely relying on Wigmore's classification.

Under Law as rule, Professor Wortley examines the types of Legal rules—i.e. custom, the custom of courts and legislation. While this part of the book has a useful description of when and how the English courts have recognized custom as law, Professor Wortley's definition of custom cannot go unchallenged. He describes custom as initially a practice, neutral in itself.[3] Surely not all custom was devoid of ethical judgment nor did it involve only questions of convenience.

In this third part, Professor Wortley also briefly considers John Austin and restates the old shopworn notion that Austin identified law with legislation. The fact that Austin might have preferred law-making by the legislature to law-making by the courts has nothing to do with his Command Theory—a fact that has been pointed out numerous times.[4]

Under Law as expectation Professor Wortley resuscitates the Field—Cartier debate over the desirability of codification.

Part five, Law as a sense of value, is an uneasy grab bag of ideas, permeated with references to the excesses of Nazism. This section contains a useful collection of references to the various documents which have attempted to define fundamental human rights. The writer makes a great amount of fuss over the question of whether basic rights are human or legal (i.e., whether these fundamental rights are created or only protected by the law). It may be politically more *desirable* to define them one way rather than the other, but neither is necessarily closer to the truth.

This part also contains a short sojourn into Hohfeldland. At least this reviewer's understanding of Hohfeld's much battered terms is not advanced thereby. The chapter on corporate personality is more a minute examination of Rules (e.g., the statutory minimum number of members of a limited company),[5] than the type of overview one expects in a work on Jurisprudence.

The final part on Law as Justice examines the relationship between Law and Equity. While the author does not expressly say so, he implies that the peculiar dichotomy of law and equity found in the history of English law is typical of all legal orders.

In general the book is an uneasy compromise between examinations of the mundane (e.g., procedure for passing bills through parliament and the chapter on corporate personality) and some very difficult fundamental questions (e.g., whether there must be more justification

2 At 29-30.
3 At 46.
4 cf: H. L. A. Hart, *Positivism and the Separation of Law and Morals*, (1958) 71 Harv. L. Rev. 593.
5 At 125.

for law than that it is an expression of the popular will). The pithy conclusions found at the end of each chapter are not always very accurate and do not always do justice to what has been discussed. The book seems to be the transcript of a course of lectures in that it contains numerous asides designed, no doubt, to titillate students (e.g., "The discovery of oil in Oklahoma made many of the Indians of the reservation rich men."[6] and "The first English courts followed the King as he and his entourage moved from place to place consuming the available food there.")[7] but which frequently are of little relevancy. As well, there are frequent references to problems in the Conflict of Laws which are not always apt.[8]

Finally, more careful editing would have avoided such whoppers as "Lawyers have to work within a pre-ordained legal order; it is their duty to see that such a system works with the minimum of injustice and it is not normally their job to alter it."[9] (A comfortable attitude but perhaps a little irresponsible?), or

"A good virtuous judge will be a man in the habit of acting virtuously; . . . ."[10] (Perhaps this is incontrovertible?)

—MARVIN G. BAER*

6 At 34.
7 At 71.
8 E.g., at 164-171.
9 At 303.
10 At 355.
* Assistant Professor, Faculty of Law, Queen's University.

THE JUDICIAL COMMITTEE AND THE BRITISH NORTH AMERICA ACT. An ANALYSIS OF THE INTERPRETATIVE SCHEME FOR THE DISTRIBUTION OF LEGISLATIVE POWERS. By G. P. Browne. Toronto: University of Toronto Press. 1967. Pp. xvii and 242. $7.50).

To publish in 1967 a book on the "Interpretative Scheme for the Distribution of Legislative Powers" devised by the Judicial Committee of the Privy Council for the Canadian constitution is a venture in an already well explored field. Many writers have assessed the performance of that august body as may be gathered from a rapid look at the index of any prominent law review published in Canada and there is a real danger to repeat what has too often been said. Professor Browne's book is stimulating in both the main thesis it advances and the method it uses to explain the complicated scheme applied by the Judicial Committee to the Canadian constitution.

I: Main thesis.

The book is a well reasoned defence, from a strictly technical point of view, of the interpretative scheme applied by the Judicial Committee. Such appraisal, coming from a man who seems preoccupied by the reduction of the federal legislative sphere with which this scheme is associated, gives the whole book a certain quality of gratuitousness.

A study of the various assessments of the Judicial Committee's work made by Canadian constitutionalists reveals that two main currents have, each in its turn, gained high credit among "Canadians" (as dis-