

by asking whether litigants really expect justice or whether they do not rather hope for victory? Whether the world of business and commerce, which provides many disputes for the courts, is organised on a higher or lower moral plane than the legal profession?

It is submitted, rather, that to get hot under the collar about the failure of the lawyers to measure up continuously to an entirely academic standard of good conduct and justice is to beat the air in vain. Indeed, society owes a debt to the legal profession on that very score, for it so easily and readily can make the profession the scapegoat for its own incompletely developed yet potent desires to be both cunning and clever, and yet remain within the circle of the law. For it should never be forgotten that in the final analysis it is the public that makes law, whether by legislation or custom or, in individual cases, by insisting on its rights. Again, at least in theory, law is entirely capable of existence by human effort alone, with no assistance from natural science, philosophy or religion. It is this factor that often causes a call for reform in the law to be preceded by the assertion that the existing state of affairs is a goldmine for lawyers, whereas one feels that an assertion in similar terms, persuasive and weighty as it might seem when dealing with common employment, might come very low on the list of grievances against the common cold.

In conclusion, then, it may be said that here is a lively newcomer to the lawyer's bookshelf which will provoke, amuse, irritate and annoy in turn. If it makes him uncomfortable, the author will be satisfied. If it does not disturb him at all, then the author will be surprised and disappointed: and if one may hazard a guess, the cup of surprise and disappointment he may expect to drink under the Southern Cross will be deeper than that of sweet satisfaction under the Plough.

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The Development of the Treasury (1660-1702) by Stephen Baxter, London, Longmans Green & Co., 1957. viii and 301 pp. (£2/16/3 in Australia).

Scholarship in depth would perhaps be a fitting description for the remarkably thorough work of Dr. Stephen Baxter in his book *The Development of the Treasury (1660-1702)*, which gives a very full account of the growth of this most important government department in response to the forces and needs of a crucial period in British history. As the author himself points out in his preface,¹ there are many gaps in our knowledge of the Restoration, but none more obvious than that relating to the history of day-to-day administration. Hitherto, constitutional principle has been fully treated, administrative practice often largely ignored. Dr. Baxter's own book goes a long way towards filling this gap.

The theme of the book is that during the years under review, the Treasury office grew from something approaching the personal retinue of a magnate² into a professional body of civil servants. This central theme is brought out by a consideration of the relations between the Treasury, the King and Council,³ and the other departments of State,⁴ and by a very full treatment of the expansion of the business and organisation of the Exchequer and Treasury. The author

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¹ At vii.

² No further appointments to the office of Lord High Treasurer were made after the accession of the House of Brunswick in 1714. Its place was taken by the Treasury Board consisting of a First Lord and a number of Junior Lords of the Treasury. Further, for nearly half of the period between 1660-1714 there was no Treasurer, and during the vacancy the office had been performed by a Treasury Board.

³ Of the Treasurer's relations with the Crown it is said: "If the King wished to go bankrupt the Treasurer could not stop him". (78).

⁴ The department with which the Treasury had the most trouble was the Navy. For an interesting account of this see 71-74.

shows how, largely through the work of successive Treasury Secretaries, the Treasury had become, by the end of the period, a recognisably modern administrative organ, supervising the operation of the entire revenue system, the Exchequer's own special functions being too complex and important to fit it for this supervisory work. Without disregarding the general political scene, or the personalities of the Treasury Lords or Treasury Secretaries involved,⁵ the author throughout succeeds in emphasising the growth of the business and technique of administration within the department. From the point of view of the legal historian, Chapter 6 of Dr. Baxter's work is perhaps of most interest, since it deals not only with the judicial functions of the Exchequer Court,⁶ but also with the system of accounting and auditing employed on the administrative side of the Upper Exchequer.⁷

The provision of revenue is perhaps the most fundamental problem of internal government in any age. In the seventeenth century the nature and scope of the right to tax was probably the most material cause of the constitutional conflict between Crown and Parliament, and the dramatic events of this conflict have tended to obscure the ordinary pattern of administrative principle (or lack of it) and the growth of administrative offices in this regard. Yet administrative inefficiency was at least a contributory cause of the constitutional upheaval within England herself in the seventeenth century, and in the eighteenth century was to contribute to the loss of the American colonies.

It would be wrong, however, to judge the functioning of seventeenth- and eighteenth-century administration by the efficiency standards of the twentieth century, as Dr. Baxter himself points out,⁸ and there were many factors which cut down the efficiency of the emergent Treasury office. Of these, by far the most important was that to collect the revenues properly would have been to risk another rebellion by the "political", or taxpaying, nation — the gentry and aristocracy. For them the theory that no taxes should be paid unless they had been voted by Parliament, did not bring the corollary that because Parliament had imposed a tax, it should be paid. As if this limitation were not enough, the seventeenth century Treasury Department, like all others of the period, had to make room for a whole series of "placemen" whose sinecure offices were performed by poorly controlled deputies. The contemporary attitude towards office in the Treasury is clearly expressed in the *Spencer House Journals* "Everybody had a mind to get into the Treasury. They looked upon the best side of it; charmed with the name of the place where money groweth, forgetting the drudgery and the danger of it".⁹ The real administrative problem facing the Treasury in this period was not one of devising sets of rules, but merely to see that any set of rules was enforced every day of the year.¹⁰

It is surprising that "under these bizarre conditions, political and economic, for which it was not responsible"¹¹ the Treasury functioned at all, and even more surprising that it "somehow managed to provide that last piece of gold which was to win the struggle against Louis XIV."¹²

In all, this is a most scholarly and well-written book in which, despite the amount of detailed material it contains, the main theme is clearly and interestingly displayed. It is a very real contribution towards knowledge and understanding of a difficult but fascinating age.

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⁵ The author frequently comments with frankness on the personalities and lives of the office-holders with whom he is concerned. For instance it is said of Sir Robert Howard (Auditor 1673-98)...: "Even in the 1680's he does not appear to have done anything and in the Spring of 1691 he had a bad case of gout in his stomach". (At 127).

⁶ At 109-111.

⁷ At 111-121.

⁸ At 264.

⁹ *Spencer House Journals*, 28th March 1689. See p. 19.

¹⁰ At 70, 262.

¹¹ At 264.

¹² At 264.

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