

fessor Ramsay Muir is the most persuasive of those who deplore the new "Cabinet dictatorship."

In a specially valuable section of this book Dr. Jennings explains the political realities of Cabinet power. He agrees that the traditional view must be abandoned. Cabinet does control Parliament. The main source of its power is the fact that it controls a homogeneous party majority in the Commons. The party "whips" will generally ensure that party members vote with the Government on every important issue. If a member loses the "whip" he is very likely to lose his seat at the next election. Moreover, the Prime Minister is able to use the threat of a dissolution with any recalcitrant section of the party. It is therefore not surprising that no Government with a homogeneous majority has been overthrown since 1895.

Yet to assert that the Commons no longer controls the Government is not to assert the existence of a Cabinet dictatorship. For no matter how small the opposition, it is still free to direct continuous public criticism against the Government's policy. If this criticism evokes strong support in the electorates, the Government will have to change its line or face defeat at the next elections. The Cabinet control the Commons, but the Opposition can create public opinion, and that opinion controls the Cabinet. "A Government," writes Dr. Jennings, "must perpetually look over its shoulder to see whether it is being followed. . . . It follows that a Government, even with an enormous majority, cannot neglect the feeling of the House." And he quotes the Public Order Bill of 1934 and the Hoare-Laval proposals of 1935 as striking instances in which Governments with huge majorities were forced in the first case to amend, and in the second to abandon, a policy.

Since the Opposition must mainly rely on the newspapers to spread its views in the country, this analysis makes it abundantly clear that the essential safeguards of parliamentary democracy are not to be found in any mechanical constitutional devices, but in the maintenance of a free press and freedom of debate inside and outside Parliament. Dr. Jennings seems hardly to realize the enormous political significance of the role he ascribes to the press. It means that newspapers are given a central place in the machinery of British Government.

W. MACMAHON BALL, M.A.

The King and His Dominion Governors. By the Honourable Mr. Justice Herbert Vere Evatt, M.A., LL.D. (Sydney), Justice of the High Court of Australia. Published by the Oxford University Press, 1936. Price 17/6.

Mention of the prerogative almost invariably provokes controversy and doubt. Doubt usually exists as to what matters are governed by the prerogative and what are not, but even should this difficulty be resolved and it be agreed that a particular matter is to be governed by the prerogative of the Crown, a problem of infinitely greater difficulty next presents itself. This problem is as to the nature of that

prerogative, and to anticipate unanimity of opinion on this matter is usually to display unjustified optimism.

Accordingly, Mr. Justice Evatt's book has been a particularly welcome one, and for a peculiar reason. Any comment and analysis from a person of His Honour's eminence in constitutional matters is always received as a welcome contribution to a difficult subject, and as such, this contribution to the task of ascertaining and defining portion of the prerogative would take its place along with the well-known authorities to which constant reference is made in the work. But this book goes much beyond mere analysis, and in this respect it is perhaps unique. For the writer's concern is not so much to resolve the problem of the prerogative, and thus add one more contribution to a formidable array of controversial views, as to demonstrate the fact that on the present method of approach that very problem is practically insoluble. His Honour probes all aspects of the reserve powers of the Crown and the Crown's representatives in the Dominions in relation to responsible government. He presents in very clear contrast the conflicting views that are held and have been acted on from time to time with regard to such matters as the granting and refusing of dissolutions of the legislature—not, however, with a view to suggesting the correct line of action, but rather to demonstrate that, on the present principle of relying on precedents, no "correct" line of action can be ascertained with certainty. As he himself expresses it: "Amongst the text writers on the subject of constitutional conventions, those interested will usually be able to find support for (or against) almost any proposition." The conclusion that is reached is that the only method which will be ultimately satisfactory, and which will exclude suggestions of partisanship on the part of the King or his representatives, and which will at the same time ensure that the prerogative powers will be properly exercised in times of crisis, is to define the reserve powers precisely in statute, and make provision for the enforcement and testing of the exercise of the prerogative through the established courts of law.

After reading this book, the case which is made out seems almost unanswerable, and yet a moment's reflection brings to mind the widely prevalent and strongly expressed view that the most valuable feature of the prerogative is its elasticity, its very lack of precision and possibilities for development. That opinion is squarely faced in the book, and all that can be said against it and the unfortunate consequences it produces are massed in a formidable plea for the other point of view.

Incidentally, throughout the work, penetrating analyses of most of the important precedents, particularly of the twentieth century, are made. It is not to be expected that all the conclusions, criticisms and viewpoints of the author during the course of these analyses will be conceded by all readers of the book—the matters involving as they do among other things questions of fact and policy. But whatever one's viewpoint, the clarity of the analysis, and the directness of the views expressed must be appreciated. This is particularly so when one bears in mind the comparative scarcity of authoritative utterances

on the whole topic, and for this reason the frank and candid criticisms of views expressed by contemporary commentators are particularly welcome.

The research involved in the work and the admirable and condensed presentation of the facts, in conjunction with abundant references to both original documents and commentators' views, also distinguish the work.

In recent years the attention of students of constitutional matters has been considerably occupied with defining the relationships of members of the British Commonwealth of Nations. Mr. Justice Evatt, by his book, has caused attention to be concentrated on the Crown's prerogatives with a view to similar definition. His treatment has a particular appeal to lawyers, but the plea made in the book is one which should receive the consideration of all who feel that the mode of government under which they live is their vital concern.

C. I. MENHENNITT.

Survey of the Legal Profession in New York County. 1936 Report of the Committee of Professional Economics of the New York County Lawyers' Association.

The Report is the work of a standing committee created in January, 1932, for the purpose of making a comprehensive survey of the profession in New York County. The Committee makes an annual report dealing, by means of statistical tables and graphs, together with comments and recommendations thereon, with general economic aspects of the profession. The information contained in the 1936 Report is of a most detailed and comprehensive nature, and it is difficult to imagine any aspect of professional economics not covered by it.

Of particular interest are the Committee's conclusions and recommendations. It submits two main conclusions reached as a result not only of the 1936 survey but also of its four years of general study. They are (1) That the local Bar is materially over-crowded; (2) that the Bar as a whole has failed to function adequately in rendering to the community the service which the profession should reasonably be expected to perform. Its recommendations include not only the reduction in numbers of lawyers engaged in practice by raising the standards of merit for admission, but the increasing of the field of work by the establishment of legal clinics, the wider employment of lawyers in Government service, employment of Attorneys in Arbitration proceedings, and by publicity campaigns to expound to the public systematically and continuously that it is in their interest to consult a lawyer on such occasions as the signing of a lease, the making of a will, the buying of a house or business, the making of contracts and the like.

The Report has added interest in Victoria by reason of the articles which have appeared recently in the Law Institute Journal on the over-crowding of the profession here. It may be noticed that the survey carried out by the Committee indicates that in the County of