to bring knowledge of the proceedings to the debtor. It is said (at page 47) that a bankruptcy notice requiring payment of some amount less than the amount in fact due is invalid, whereas it would be more accurate to say that a notice to pay part of the money due, and leaving any balance to be subsequently claimed, is bad. It is not really correct to say that payment of the petitioning creditor's debt will not cancel a debt after the presentation of a petition (page 28) ; what is meant is that after the presentation of a petition a creditor cannot be required to accept payment.

An even more serious criticism is that in some instances there has been a somewhat uncritical reference to authorities that are not apposite in the context in which they are cited. Perhaps the worst example is the statement (at page 40) that under section 40 (1.) (d) a debtor commits an act of bankruptcy if execution against him under process of a court is returned unsatisfied after a demand by the sheriff to pay, and the reference to *Hamilton v. Warne*[2] as authority for the proposition that the sheriff's officer must demand the precise sum remaining unpaid under the judgment. In fact section 40 (1.) (d) does not say that to constitute this act of bankruptcy there must have been a demand by the sheriff—demand is not mentioned in the subsection—and *Hamilton v. Warne* was decided on the different words of a Victorian statute which did require a demand. It was perhaps a brave prediction to cite (at page 54) *In re A Debtor*[3] on the question of the delivery of interrogatories before the hearing of the petition, when the Rules dealing with interrogatories had not yet been made—the Rules have now appeared and they are not the same as the English Rules discussed in *In re A Debtor.*

Notwithstanding some blemishes of this kind this edition of *Lewis* does on the whole satisfactorily achieve its purpose. It provides for students, for whom it is primarily intended, a clear exposition of the main principles of the law of bankruptcy. Besides students, practitioners and others concerned with the administration of the Bankruptcy Act are likely to find it a useful introduction to the new and unfamiliar provisions of the Bankruptcy Act 1966. Especially valuable is a table which shows the corresponding sections of the repealed and the new Acts ; it is a matter of regret that the early publication of the book made it impossible for the editor to prepare a similar table of Rules.

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Isaac Isaacs, by ZELMAN COWEN, Vice-Chancellor of the University of New England. (Oxford University Press, 1967) pp. i.-viii, 1-272. Price $6.00.

Judgments of the High Court of Australia on constitutional questions are usually devoid of any political interest to the layman. They are written in highly technical language ; they often lack the stirring phrases

[2] (1907) 4 C.L.R. 1293.

[3] [1910] 2 K.B. 59.

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and moral " commitment " evident in the opinions of the Supreme Court of the United States; they are rarely used—or usable—by politicians, historians or social essayists to illustrate any aspects of our society.

The form of argument adopted in various judgments of the High Court in the *Bank Nationalization Case*,[1] for example, told the man in the street as much about the political attitudes of the judges as a judgment concerning the rule against perpetuities. All this is a triumph for that " legalism " of which Sir Owen Dixon is so proud and which he regards as the rock upon which the respect of Australians for their courts of law rests.

Yet, if the above is a valid description of the vast majority of constitutional judgments and opinions of the High Court, it was never true of those of Isaac Isaacs. Passionate, dogmatic and with what Cowen has called an " unshakeable conviction of rightness ", his judgments seem to the student to provide a much greater insight into his character and general attitudes than is usually the case. This view is confirmed by Professor Cowen's biography.

For a large part of Isaacs' life, the centre of his intellectual interests and the main object upon which he exerted his extraordinary energy was the Australian Constitution. Nearly a half of Cowen's book is concerned with Isaacs and the Constitution—its creation, its interpretation and its reform. To some extent, this may reflect what the author found interesting in his subject's life : but it seems impossible, after reading this book, to deny the fascination the Constitution had for Isaacs. For example, at the age of 84 he was writing newspaper articles calling on the government and people to " modernize " the Constitution; the year before his death—when he was 91—he wrote a further series of articles in support of the federal government's proposals for amendments of the Constitution.

From Isaacs' judgments there emerges a man who is nationalist, imperialist and royalist. He was by conviction (although not by ancestry) both Australian and British " to the boot heels ". Like Sir Robert Menzies, he would have denied that there was any contradiction or " divided loyalty " involved in his attachment to both the Australian nation and the British Empire.

Cowen shows how the theme of nationalism runs through his judgments. Isaacs could always be found on the side of those wishing to enhance Commonwealth power. In the decade before his retirement from the Bench—the 1920's—his views became dominant. During those years, the High Court offered the Commonwealth more power than it had before and more than has been available to it since. The *Engineers' Case*[2] freed the Commonwealth from the doctrines of reserved powers and the immunity of instrumentalities; *McArthur's* case[3] declared the

[1] (1948) 76 C.L.R. 1.
[2] (1920) 28 C.L.R. 129.
[3] (1920) 28 C.L.R. 530.

Commonwealth not subject to section 92 of the Constitution; *Clyde v. Cowburn*[4] established the dominance of Commonwealth industrial awards over State legislation and launched the " covering the field " doctrine. What the late Ross Anderson has called Isaacs' " flame of aggressive nationalism " is so apparent in his judgments that Cowen's book presents no surprises to the constitutional lawyer in this regard.

In many other respects however, material presented in this work makes clear and positive many characteristics of Isaacs which a person who studied his judgments carefully could only suspect. Even in relation to these matters, it is interesting to note how much of himself Isaacs presents in his expression of legal opinions.

Isaacs' deep attachment to the Empire and the values he thought inherent in British institutions came out clearly in many of his judgments, particularly those during World War I. His opposition to Zionism and the establishment of a Jewish State reflect this attitude. Cowen says (at page 232):

> He saw himself as a British subject of Jewish religion for whom Zionism posed the unwanted and undesirable complications of a dual loyalty, since it implied a Jewish nationality which he wholly repudiated.

In the early 1940's, he entered into a bitter public dispute on this question with Professor Julius Stone. Isaacs' view is summarized in a letter he wrote in 1939 (page 232):

> There is I hold a stern duty to perform in order to preserve the Jewry of this country of Australia from the strain of ingratitude to the glorious Empire that is the greatest bulwark of tolerance and freedom in the world at this instant . . . .

Zionism he described as " Un-Australian " and opposition to it " is our simple duty to our King and Country ".

In this controversy, as in all others, Isaacs regarded all those who disagreed with him as, at best, dangerously misguided and, at worst, evil. Whether in legal or political controversy, Isaacs painted lurid and exaggerated pictures of the horrors which would follow if his opinions were not adopted. He was never the man to say " I disagree with you, but I would not describe your opinion as an unreasonable one ". The opposite view, even if honestly held, was not only wrong, it was stupid and would invariably lead to a perilous situation. Cowen concludes that, even on the Bench, Isaacs never ceased to be an advocate. The author sums up his technique of argument (at page 150) as " to put up a straw man and then with massive rhetoric to knock him down and trample over him ". Many of his judgments in relation to the conciliation and arbitration power and the defence power provide excellent illustrations of this technique.

The lengths to which he would go in marshalling every possible argument to support a decision is best shown in the Zionist controversy

[4] (1926) 37 C.L.R. 466.

when he compared the principles of Zionism with the doctrines that Hitler set out in *Mein Kampf* as justifying anti-semitism.

Cowen's book contains some fascinating material on Isaacs' relations with others. If Isaacs was an extraordinary man, his mother was in some respects an even more extraordinary woman and her influence on her son was great. His colleagues, whether in the fields of politics or law, felt no warmth or affection for him. By contrast, others who were not in this category (such as doctors, clergymen, his assistants and personal friends) remember him with the greatest affection and recall his courtesy, kindness and unselfness in helping others. Cowen informs us that these persons invariably found it shocking that others could have spoken harshly of Isaacs.

This book is written with the clarity that one usually associates with the writings of Professor Cowen. He has tried hard to give a full and accurate picture of all aspects of Isaacs' character—and has succeeded. The last paragraph of this biography sums up the man as he finally emerges from its pages (at page 261):

> He was a master lawyer, and one of the greatest judges in our federal history, and he brought to his work and to the whole of his public life an unflagging and almost inexhaustible energy and a mind of great strength, power and range. He was big in his qualities, and it is unfortunate that some have dwelt so strongly on the defects. For it is certain that he ranks as a major figure in the history of the Australian nation.

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