

“had not” and “need not” are in some places abbreviated while in others they are not. Even if it is felt that modern times justify less formal conventions on such matters they should still be applied consistently, which is not here the case. (See, for example, p. 51.) To the present reviewer even less attractive is the unhappy mixture of colloquialisms (e.g., “got in first” (p. 17); “up for grabs” (p. 67), etc. etc.) with occasional old-fashioned words exemplified by the title of the book which, though appropriate in the time of Sir John Fortescue (*circa* 1450) and still excusable in 1914 when Sidney Low wrote his homonymous work, appear dated and incompatible with the style of the book. Distorted metaphors (for example, at p. 41 “the machinery of the party . . . had ground out to the end” instead of the more orthodox, if not more accurate, “ground to a halt”) are also not uncommon.

To conclude: it is not easy to look upon Sir Harold now as a back-bencher. So long as the times remain difficult and there is talk of a coalition government the possibility of his return to the front bench, if not the premiership itself, cannot be excluded. And if this happens, he will no doubt be tempted to give us an account of Wilson Mark III (to paraphrase his own words) and, perhaps, to produce the classic book on British Government. But until that happens Bagehot remains securely on his throne despite the growing number of pretenders.

B. S. MARKESINIS.

Discretionary Justice in Europe and America. By KENNETH CULP DAVIS, John P. Wilson Professor of Law at the University of Chicago, and European Associates. [Urbana, Chicago, and London: University of Illinois Press, 1976. viii and 203 pp. \$9.95 net.]

UNTIL Kenneth Culp Davis published his pathbreaking book, *Discretionary Justice: A Preliminary Inquiry* (1969), the study of the American administrative process had focused almost exclusively upon formal administrative decision-making and judicial review of administrative action. Although scholars recognised that informal decision-making constituted more than three-fourths of the work of the federal administrative agencies, the difficulty of studying these processes—of learning, in the absence of written decisions and transcribed records, how discretionary action is actually taken and of constructing an analytical framework by which to assess it—too often discouraged inquiry. Professor Davis' book demonstrated that the exercise of administrative discretion could be studied systematically and that informal administrative decision-making could be evaluated with provocative results.

Seeking to discover whether Europeans have advanced further than Americans in controlling administrative discretion, Professor Davis has now supervised a group of European scholars in the production of eight studies of the performance of specific governmental functions in five continental nations, including the decision to prosecute in Germany, the enforcement of the Nuisance Act and the provision of general public assistance in the Netherlands, the administration of construction grants to industrial corporations in Italy, and the awarding of tax relief contracts in France. The essays are primarily descriptive, as perhaps must be expected of pioneering forays at the frontiers of scholarship; their method

Discretionary Justice In Europe And America

Karin Nielsen-Saines



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