

BOOK REVIEW

CREDIT REPORTING AND PRIVACY. By John M. Sharp. Toronto: Butterworths. 1970 pp. xv, 111, \$6.95.

This book, an elaboration of a pamphlet produced by Professors Sharp and Gibson of the Legal Research Institute of the University of Manitoba, disclaims any intention of being "a scholastic treatise" on the subject of credit reporting and privacy, but purports to explain "for the benefit of those millions who are affected by the credit reporting profession in the North American continent" (p. vii), the workings of credit reporting agencies and the legal framework in which they operate. It must be hoped that sales are reflecting this magnanimous populist educational aim.

The book briefly describes the various kinds of credit reporting agencies, their history, and present operating methods. It then sketches in the law on defamation, privacy, confidentiality and negligent misstatement in so far as any of these heads may give rise to a possible cause of action in a person wrongly prejudiced by the issue of a credit report. Legislative developments in the field are also briefly sketched. The book then sets out some case histories designed to point out the dangers to citizens in allowing free rein to credit reporting agencies in their investigative and reporting activities. The book concludes with a short chapter (eleven pages) dealing with some "possible" reforms in the law.

The book serves a useful purpose in so far as it provides a narrative of where we are now at, both in terms of what credit reporting agencies now do, and in terms of what the law now generally says about them. It may be that, as the preface implies, the author had no more lofty ambition than this. Certainly beyond this, the book seems to have limited value. Its tenor is almost entirely descriptive rather than critical. Readers looking for a thoroughgoing analysis of what privacy should involve here, for an historical, social or philosophical framework for the concept against which the activities of credit reporting agencies might be measured, for a detailed exposure and critique of, and position on, the underlying policy issues raised in judicial and legislative developments in the field to date, are likely to find themselves disappointed.

For example, in the first two chapters which purport to set the scene for the book by describing the use, functions and social utility of credit bureaux, it seems to be suggested that the dangers created by their activities are purely those deriving from inaccurate reports, *e.g.*, "what the law has to guard against is the deliberate or negligent damaging of . . . reputations" (p. 10). In other words, defamation and negligently false statements have to be sanctioned. At page 18, where the author is discussing investigating, *e.g.*, personnel, agencies, the problem again seems to be stated purely as being one of ensuring accuracy in the information which such an agency obtains and disseminates. Surely the right to privacy involves much more than that.

Indeed the author later acknowledges this when he sets out the law on privacy and confidentiality, but in terms of what the right to privacy, as a concept, ought to entail in our society, almost no insights are provided at all.

Also, while the book is apparently intended to have a populist appeal, and to arouse popular awareness of the dangers inherent in the activities of credit reporting agencies, the author seems constantly to stress the magnanimity of those who run credit bureaux and the dangers of over-reacting to the problems credit bureaux present. This, in the course of the book, tends to have an anaesthetizing effect on the reader rather than the opposite, and presumably intended, effect. For example, the author states that "the majority of [credit reporting agencies] are not solely money-making concerns for their proprietors. It is important not to underestimate this when the law is scrutinized and possibilities for reform are considered" (p. 13). The only evidence that the author offers for this view of credit reporting agencies as charitable institutions is that the Retail Credit Company of Canada promoted a series of articles on *road safety* (?) and that another company has published statistics on mercantile failures. Again, the author's case histories—Horace, Boris, Maurice, and Norris—are approached altogether too quaintly and clinically to convey any sense of urgency about the dangers to privacy in this area. Other recent populist accounts (*e.g.*, *Newsweek*) have been far more successful in this respect. The Alberta Parliamentary Report on Privacy (1970) also presents a much more convincing case for action.

Finally, the author has one or two irritating and distracting stylistic quirks. He often quotes previous publications of his own as though he is quoting some independent authority in support of one of his propositions. Only the footnote disabuses the reader. For example, "As has been written . . ." (p. 2). "One of the papers presented called for . . ." (p. 21). A number of other infelicities of style or expression occur throughout the book. For example, at page 101, the author states that fears about the activities of credit reporting agencies have been voiced not only by "many honest and stable consumers, but have been voiced by sober and responsible bodies—in the report which accompanied Senate Bill s. 823 to the House of Representatives, [and] the research report of the Legal Research Institute of the University of Manitoba . . ." (of which the author is Director and of whose report he is co-author). In another part (p. 56), the proposition that "an awareness is growing in Canada of the need for new law in this area" is supported only by the following footnote: "See footnotes 4. 51. 96. 150. 151, 155, 174, 228."

Thus, in summary, if one wishes simply to find out, in a general way, where we are at, as opposed to where we ought to move to, the book will prove useful. If on the other hand, one expects a clarion call to action and a blue-print as to what that action ought to be, and why, one looks in vain.

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