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Book Review: Code Civil - Civil Code 1866-1980, Édition historique et critique - An Historical and Critical Edition, edited by Paul-A. Crépeau and John E. C. Brierley

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Code Civil—Civil Code 1866-1980. Édition historique et critique—An Historical and Critical Edition. Établie par—edited by PAUL-A. CRÉPEAU and JOHN E.C. BRIERLEY. Montreal: Société québécoise d'information juridique. 1981. Pp. cvii, 1304. (\$250.00)

Civilists, legal historians and comparativists owe a great debt of gratitude to Professors Paul-André Crépeau and John Brierley for having published “a complete and accurate text of every provision of the Civil Code as it stood on 1 August 1866 and as it has since become by reason of successive legislative amendments”¹ until 31 July 1980.

Since the publication of the Queen's printer edition of the Civil Code of Lower Canada in 1866, there has been no subsequent official edition of this fundamental part of the law of Quebec. Although many private editions

¹ P. ix.

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have been published since that time, they vary greatly in accuracy. Thus, there is a real need for a reliable text of the Civil Code containing the legislative history of each of its provisions. To add to its value, the present edition will be kept up to date by way of annual cumulative supplements until the full implementation of the new Civil Code of Quebec as further modifications to the Civil Code of Lower Canada are enacted in the future.

The authors describe their work as an *historical* and *critical* edition of the Code, useful for tracing the evolution and ascertaining the present state of the law.² The words "historical" and "critical" are given a very narrow meaning as the book does not contain an historical introduction to the Civil Code or a critical analysis of its provisions. All we have is a chronological list of the amendments to the original provisions of the Code. Although the legislative history is the very *raison d'être* for the book, it falls short of a true "historical" analysis of each provision of the Code. The "critical" analysis is also limited to an *exposé* of inaccuracies, misprints, errors in style or grammar and inconsistencies. This is achieved mostly through the use of symbols. The authors did not intend to criticize the substance of the Code provisions which would have been a major task outside the scope of their project. Thus, it is as a reference book that this work is truly original. It should be of great value to the practitioner or judge who wishes to find out the state of the civil law at a particular point of time. It should also be a precious tool for legal scholars and students. However, it is unfortunate that the price of this book places it out of reach of those most likely to use it. As a heavily subsidized project, one could have expected it to be available at a more reasonable price.

From a sociological point of view, it is interesting to note the extent to which the civil law has changed since 1866 by the repeal of some out-moded rules or institutions and their replacement by new ones, particularly with respect to the rights of married women. On the other hand, some archaic rules still remain in the Code, for instance, those dealing with duel.³ The new Civil Code of Quebec will remove these vestiges of the past.⁴

The lack of uniformity in legal terminology and in the translations from one language to the other, especially in the subsequent amendments to the original provisions of the Code, clearly demonstrate the difficulties inherent in piece-meal amendments of a code, as well as the extreme care required when preparing a new one. The Law Reform Commission of Canada should consider these pitfalls when drafting the new Criminal Code. Actually, the lack of uniformity in legal terminology and in the use of ordinary words is quite understandable since legal institutions and the

² P. xi.

³ Art. 1056.

⁴ See Report on The Quebec Civil Code (1977) and L.Q. 1980, c. 39.

French and English languages have evolved since 1866. Many words in common use at that time are no longer popular today.

In the future, the legislator, when amending the new Civil Code of Quebec, will have to be more careful than in the past in order to avoid inconsistencies and anachronisms. If there is a lesson to be learned from this book, it is the need for a *permanent* Office of Revision of the Civil Code or at least a periodic review of the provisions of the Code.

When the Civil Code of Lower Canada will be replaced entirely by the Civil Code of Quebec, this work will stand as a monument to the past. Today it is an invaluable work of "legal art".⁵

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⁵ A supplement to the work has now been published: see, Code Civil—Civil Code, 1866-1980, Supplément—1980-1983—Supplement (1983).

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¹ See preceding book review.

² 1866.

³ L.Q. 1980, c. 39, which came into force on April 2nd, 1981.

⁴ Report on the Civil Code (1978), Vol. I, Draft Civil Code, Vol. II, Commentaries.

⁵ This explains why some provisions of the Civil Code of Quebec are not yet in force, eg., those dealing with divorce are printed in smaller type.