

William Kaplan, *Canadian Maverick: The Life and Times of Ivan C. Rand* (Toronto: University of Toronto Press for the Osgoode Society for Canadian Legal History, 2009), xvi + 510 pp. Cased. \$55. ISBN 978-1-4426-4070-2.

Like his patron, Mackenzie King, Ivan Rand was a major figure in the wave of modernisation that transformed the Canadian state between the 1920s and the 1950s. Rand's early career bore striking resemblances to King's: graduate studies at a prestigious US university (Harvard Law School for Rand), an early political career (Rand was for a brief period the Attorney General of New Brunswick in the Veniot government in 1924–5), followed by employment in a large corporation (CNR) where he was exposed to industrial relation issues under the leadership of Sir Henry Thornton, who had an unusually progressive relationship with the railway's unionised workers.

When Rand was appointed to the Supreme Court by King in 1943, it had changed little in half a century or more, rigidly applying mechanical rules and the decisions of the Judicial Committee of the Privy Council. While this approach had certain attractions from a private law perspective, it was not appropriate to constitutional interpretation and the nature of the constitution as a 'living tree', which description ironically came from the JCPC. Rand was the pioneer of a very different kind of legal reasoning, stressing principle and public policy rather than precedent, which was rapidly coming to the fore among legal academics in Canada – Bora Laskin, Caesar Wright and F.R. Scott – but had not penetrated the Supreme Court. In this, as Kaplan observes, Rand embodied the 'zeitgeist of the era' (p. 159).

Rand's appointment came as the Duplessis government in Quebec attempted to suppress the Jehovah's Witnesses sect and opened the door for a series of decisions – *Boucher*, *Saumur*, *Switzman* and *Roncarelli* – which effectively created modern civil liberties law in Canada. While Rand was often a lone voice (in his reasoning, if not the result), his was the voice of the future. Rand's other great success was as the arbitrator who settled the Ford strike in 1945 and devised the so-called 'Rand Formula' – an employee could not be forced to join the union but could be required to pay union dues – which became a cardinal feature in Canadian labour law. This also resonated with the views of King, who had transformed the Liberal Party's view of industrial strife by accepting the legitimacy of unions, with a view to co-opting them into abandoning ideas of class war for peaceful bargaining as the representatives of individual Canadians.

Kaplan's biography captures Rand's many achievements, but is no hagiography. He describes Rand's character flaws, 'his first-rate mind accompanied a third-rate temperament' (p. 430) – aloof, self-involved and intolerant at times – and his failures: the shockingly biased handling of the Landreville inquiry in 1966, the 'disastrous investigation' into labour relations in Ontario in 1968 (p. 377), not to mention his undistinguished deanship at the University of Western Ontario law school. If anything, Kaplan goes out of his way to shed light on the bad as well as the good. For anyone interested in the development of legal thinking in twentieth century Canada, this is required reading.

Colin Campbell, Toronto