

servatives will support the Supreme Court out of ideological loyalty. And as for the role of the Bar, a more sustained examination of the constant divisions within the Bar between those lawyers primarily allied with the business community and those leading political reform movements or serving as state political chieftains might suggest that lawyers divide on issues of judicial review almost as much as farmers do about agricultural policy or businessmen on the tariff.

ANOTHER dimension we need for assessing the 1957-60 episode is more of an "inside" look at the Congressional and Administration scene during the struggle. (A look inside the Court, of course, would have to wait several decades at least.) What divisions were there within the Eisenhower Administration about supporting or criticizing the Court? The role of Attorney General, Solicitor General, Vice President, and the President himself would shed needed light. And what about the position of the business community, particularly the National Association of Manufacturers and its campaign for H.R.3? Professor Pritchett treats that bill, dealing with federal pre-emption of various areas from state action, as a crackpot measure drafted by a Southerner. But the real impetus behind H.R.3 came from the NAM.

Finally, we need to know how much the 1957-60 clash was conditioned by a growing temper within Congress between 1939 and 1959 to revise "unwise" and "improper" Supreme Court rulings giving liberal interpretations to federal regulatory statutes. In those twenty years the corporate community went to Congress and secured roughly two dozen Congressional actions overturning the effect of some fifty Supreme Court cases. Over the opposition of liberals and sometimes of President Truman's vetoes, the Republican-Southern Democratic-controlled Congresses developed a practice of analyzing these decisions, often calling them "judicial legislation," and changing the law to wipe them away. As Representative Wilbur Mills commented to the President of DuPont, during a hearing of the House Ways and Means Committee, "It seems that it is becoming more and more almost a full-time job of the Congress to correct the Supreme Court's desire to legislate."

All of these are fields we must have plowed deeply before we can be sure that we really comprehend the 1957-60 fight.

Meanwhile Professor Pritchett has given us a fine "while-the-ink-is-drying" account of these events, one that is most useful as a resumé with contemporary commentary.

"Monopoly on Wheels: Henry Ford and the Selden Automobile Patent," by William Greenleaf (Wayne State University Press. 253 pp. \$5.95), offers a case history of the competitive advantages possible through the patent. Irene Till, an economist and patent expert, is on the staff of the Senate Subcommittee on Antitrust and Monopoly.

By Irene Till

IT IS an ironical fact that the grant of a U.S. patent—a device originally designed to give impetus to the inventive talents of a people—all too frequently has the opposite result. Almost from the beginning the potentialities of the patent as a weapon of the large, powerful corporation against its smaller competitors were recognized and put to use.

William Greenleaf's case history of the Selden patent in the automobile industry is an excellent illustration in point. The story could not have been easy to write, for a complex patent fight invites an author to become bogged down in detail. Instead, Mr. Greenleaf rises above this insidious temptation and imposes perspective and meaning upon his material. As a result the story he tells is fascinating, and in the doing he performs an important public service. It is only if the public becomes informed on the abuses arising out of exploitation of patent grants by the country's large corporations that legislative correction will come. Ultimately the Congress is responsive to public demand for action, but the absence of knowledge by the public means the absence of pressure for correction.

As envisioned by the framers of the patent law, invention arises from the efforts of impecunious individuals, working in isolation, who contribute—with a sudden burst of imaginative insight—a major advance to the industrial arts. For this contribution, it was reasoned, society owes him a debt to be repaid by an exclusive right to exploit his invention for seventeen years. If this situation ever existed, it was short-lived. With the development of modern technology it has become merely a pious myth.

As the author shows, the invention of the automobile was in the air in the

Inventions Make Tycoons

mid-nineteenth century. Dozens of tinkerers on both sides of the Atlantic were hard at work solving the puzzle. The solutions came bit by bit, and one slight advance helped in the formulation and solution of the next obstacle. Thus there was no single inventor of the modern automobile; in a real sense it was a group achievement with the names of the more important contributors, as well as of the pioneering companies, lost in the recesses of automotive history.

Nevertheless George Selden was awarded in 1895 a U.S. patent on a composite automobile. The circumstances surrounding the grant make interesting reading. If Selden had little talent for solving the problems inherent in the construction of a practicable automobile, he had other talents that he put to good use. A patent attorney, Selden was versed in the intricacies of the lore of patent procedure. His original application was filed in 1879; for sixteen years this application was nursed along in the Patent Office, with the employment of every delaying tactic imaginable. Mr. Greenleaf appears to believe that the shadow of Selden lay skulking in the background, waiting for the arrival of the automobile age to cash in on his patent. During this pe-



—Bettmann Archive.

Henry Ford seated in his first Ford Car: September, 1896, in Detroit.

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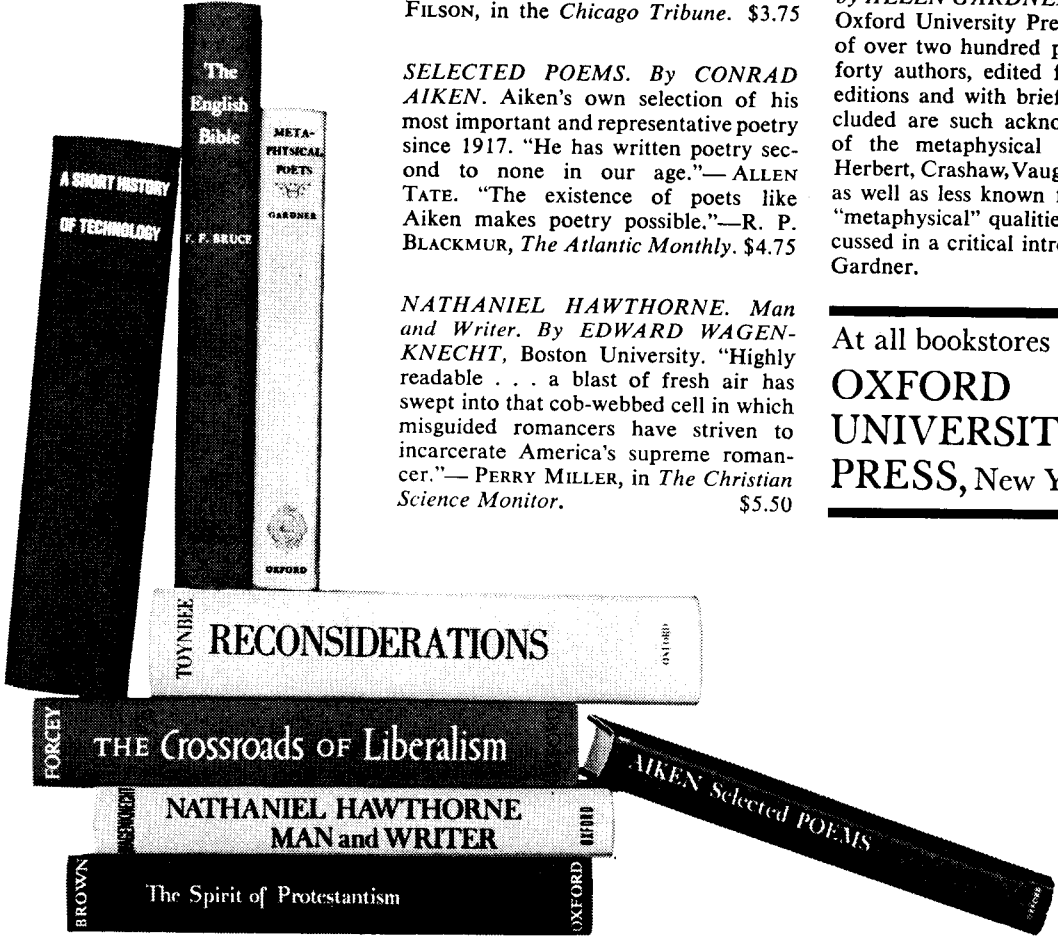
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riod he continued to make slight amendments in his application, embodying new improvements as they were made by others. There appears to be merit in this view, and it gives further evidence of Selden's talents of a nonmechanical order.

But with the issuance of his patent Selden appeared for a time to be no better off than before. In the trade his grant was an object of derision. It was not until Wall Street financiers entered into a partnership with Selden that apprehension began to develop among the automobile manufacturers. The chronicle of events makes clear again that the patent grant in essence contains nothing more than an invitation to litigation, and in a legal struggle the financial strength of the combatants too frequently determines the outcome. The structure of the automobile industry at the turn of the century was particularly susceptible to attack. A number of small, independent companies, most of them involved in financial difficulties, were engaged in a struggle to put a new industry on its feet. None appeared to have the resources for a prolonged litigative bout with entrenched industrial power. A number succumbed to the inevitable and were licensed under the Selden patent.

A hardy minority, however, still remained. With no belief in the validity of the patent, they were keenly perceptive of the business use to which it could be put. As a device for limiting competition—by determining the number of entrants into the industry, limiting the volume of production, and decreeing the character of the vehicles to be built—the patent promised real usefulness. On these terms several of the remaining companies joined the trust. Now the structure of monopoly in the new industry appeared to have strong foundations.

But, unlike most of the histories of economic empires constructed upon strategic but often worthless patents, this one has a happy ending. The monopoly reckoned without the courage and tenacity of Henry Ford, who earlier had been refused a license under the Selden patent. A long, litigative battle followed. Of vital importance was the spectacular ability within the Ford group for reaching the public and winning its ardent support in the fight. In this respect Mr. Greenleaf is carrying on the good work. More of these case studies are needed to create the public opinion essential for a reform in the area of patent abuses that currently envelop much of our economy.



Poetry Quarterly

Continued from page 30

Toronto, \$2.50) speaks darkly at times, too, but there is much more in her book than the fascination of what's difficult. She knows the mica-glinting sidewalks and the winter pigeons of Toronto, the subtleties of the seasons and the complexities of her own mind. She writes with wit ("Earth, air, fire-water"), with an accurate eye ("lambs/Four-braced in straw, shivering and mild"), with a musical ear and a sense of contrast ("The gang-plank banging vertical./ And all the tumbling convex of the planet"). Her diction and her figures astonish; they demand of their reader what the world has demanded from her: "Nobody stuffs the world in at your eyes./ The optic heart must venture." She controls a wide variety of forms and shapes them inventively to what she sees and feels, but the poem most likely to become widely known is a dazzling sonnet called "Tennis," which is concerned, oddly enough, with tennis and which ends like this: "Clay blurs the whitewash but day still encloses/ The albinos, bonded in their flick and flow./ Playing in musicked gravity, the pair/ Score liquid Euclids in foolscaps of air."

The most surprising, the most ambitious, and the most successful of the new volumes of the quarter is "Horatio," by Hyan Plutzik (Atheneum, \$4), a philosophical narrative of some 2,500 blank-verse lines. It is the story of Horatio's effort—and failure—to persuade the harsh world of Fortinbras and his successors that Hamlet had killed in purity of mind and justice. To Richard the ostler, Hamlet is a mad lecher and a murderer. To Faustus, still a philosopher in Wittenberg, he is the occasion for improvising a set of variations on the relationship of *sein* and *werden* to "to-be or not-to-be." To Carlus, the prime minister, he is a regicide, indefensible by laws of evidence ("What's his credibility? A ghost?"). To the folk, whose voice Horatio hears at a sheperds' campfire in the north, he has become Ambleth, a vengeful sea-demon, an Oedipus-figure in a dark fantasia where Claudius is Fang, the prince's true father, and the prince is the unwitting ravisher of his mother.

Horatio's meditations on his failure bring him to doubts of Hamlet, of his own loyalty, and even of his motivation, to questioning of the nature of truth, to a belief that the mad untruth of the folk tale has told him truths about the nature of man, and finally to a kind of peace through the mystery of a lark's song and the apparition of a stag on a moonlit field. But the essen-



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tial strength of the book does not lie in its philosophic meditations, rich and mature though they are. Nor is it in the blank verse, though that has remarkable authority, transparency, and flexibility: "How shall I mark the slow obliteration/ Which time works, or, in the brains of men,/ That drunkard, memory?" Those virtues are integral elements in a *story*, a story which could not have been told except in meter and metaphor, but, above all, a narrative invention so compelling that this new Faustus briefly eclipses all the older ones and for a moment Hamlet and Claudius are less real than Ambleth and Fang.

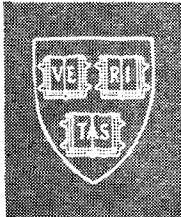
Pacemakers

Continued from page 28

book. They have excerpted various years of the "Poor Richard" to give us a fair sampling, and have reprinted, along with some choice new material, a number of well-known items, including the speech that Franklin concocted and ascribed to one Polly Baker, the virgin who felt enjoined to obey "the first and great command of nature, and of Nature's God, 'Encrease and Multiply.'" That so cynical a piece could come from the pen of the same man who wanted to have his Academy

erected in a country town, as less corrupting to students' morals than Philadelphia, attests to the complexity and seeming contradictions in Franklin's character. Counseling industry and thrift for others and speculating feverishly himself, concerned about the moral upbringing of the young but at home himself in the uninhibited society of the Paris salon, Franklin managed to maintain a temperate and balanced course. His cosmopolitanism was tinged with an appreciation of the steady Puritan and Quaker virtues. He never allowed the question of wealth to stand in the way of his intellectual interests or his dedication to the public service, nor did he permit that attachment to the Empire, so manifest in this period, to impede his developing sense of American nationalism.

BOOKS TO AND FROM GOVERNMENT



The great public interest in the literary and intellectual quality of the Kennedy administration has led us to look over our publication lists in a new light. No fewer than nine men now prominently connected with the national government have expressed important aspects of their thinking on public matters in books we have published over the past several years. The books and the positions now held by their authors are:

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The Constant Loser

"Hamilton Holt: Journalist, Internationalist, Educator," by **Warren F. Kuehl** (*University of Florida Press*, 303 pp. \$7.50), records the many achievements of a pioneer for world federation. **Jacob H. Jaffe** is chairman of the Department of Journalism at Long Island University.

By Jacob H. Jaffe

OF HAMILTON HOLT, Mr. Kuehl remarks that "few men fail so well and in defeat achieve so much." Holt, indeed, was a fabulous failure. His significance today is manifested primarily in the grim paradoxes that were so large a part of his life.

For a quarter of a century he served as managing editor, then owner-editor of *The Independent* magazine, which had been founded in 1848 to expound Congregationalism as well as doctrines in opposition to slavery, and was gradually reconstructed into a comparatively successful but stuffy reformist organ that shunned the sensationalism of muckraking and boasted of having government leaders as contributors, including every President since 1896. Yet Holt was to retreat from his desk in the face of intensifying financial problems and a public with which he had apparently lost touch. In 1927, five years after he had separated from the declining magazine, he lamented, "I haven't the heart to read it any more."

Over much the same span of time he pioneered for a world federation that would enforce the peace, only to have men and parties of decisive power reject or ignore him at critical moments.

From such disappointment he moved on to the presidency of Rollins College, where he concluded his career after ini-