

ments to idle superannuation funds.

In keeping with this narrow view of the subject, is a confined treatment of the ways in which the existence of large and powerful bureaucracies might be reconciled with such notions of democracy as purport to give the citizen some say and influence over his life. The remedies treated are the obvious and legal ones, such as judicial review at common law, the various statutory reforms and actions in tort and contract. However, there are a range of other remedies — public discussion before an area of activity comes under bureaucratic control, representation for the citizen in the management of a bureaucracy, participation by the citizen in some of its policy making, access to information so that informed discussion and criticism is possible, financial audit, managerial and efficiency audits, an appraisal of the economic, social and environmental impact of a bureaucracy, enquiries and commissions, and sunset legislation. All of these should be considered as ways by which the bureaucracy might be controlled and reconciled in part anyway, with notions of democracy. However, in taking a narrow view of the subject which outlaws treatment of these matters, Professor Whitmore has merely followed the prevalent ways of Australian academics. I, therefore, do not criticise Professor Whitmore for his treatment of the subject. Rather I criticise the tradition to which he has been loyal.

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The System of Criminal Law: Cases and Materials: New South Wales Victoria, South Australia, by A. P. Bates, T. L. Buddin and D. J. Meure, Australia, Butterworths Pty. Ltd., 1979, lvi + 984 pp. (including index). \$32.50 paperback, \$42.00 hard cover.

Until this book appeared late in 1979, the only casebook on criminal law in the common law states was *Criminal Law: Cases and Text* by Professors P. Brett and L. Waller, which first appeared in 1962. Both the late Professor Brett and Professor Waller were, with respect, Victorian academics, and the emphasis of their book on aspects of the common law relating solely, or particularly, to Victoria, is very evident.

It is pleasing therefore to find in Bates, Buddin and Meure's new casebook, a New South Wales complement to Brett and Waller's "Victorian" text. The authors have, as they say themselves "use

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N.S.W. as [their] model", and their book clearly reflects this. However, an intending reader from Victoria or South Australia need not be discouraged on this account alone, for the authors have taken some pains to indicate where the law is different in those states, and have where necessary compared or made reference to relevant Victorian or South Australian statutory provisions.

Chapter 1 of the book, entitled "The Nature and Limits of Criminal Law", is grist for philosophers. In 70 pages it examines the scope and purpose of the criminal law and the aim of the penal system from various jurisprudential viewpoints.

Chapter 2 deals in 169 pages with "The Processes of Criminal Law". It examines the whole operational process of the criminal justice system, starting with police investigation, arrest and bail. It describes the conduct of the trial, and discusses the respective functions of the prosecutor, judge and jury, and a number of incidental matters such as territorial jurisdiction, double jeopardy, and the place of unlawfully obtained evidence. There is also some limited discussion of sentencing principles and of the various avenues of criminal appeal.

The larger part of the remainder of the text, being 605 of the 969 pages, is concerned with the classical aspects of substantive criminal law: offences against the person, offences against property, offences of strict liability, secondary liability and general defences. The book also devotes 125 pages to three groups of offences which the authors describe as being "of overwhelming practical importance". These are drug offences, offences relating to public order and motor traffic offences. The authors express the hope that an examination of these offences will enable students to master the skills of statutory interpretation.

The arrangement of the individual chapters of the book is somewhat uncertain, in terms of their various subdivisions. Each chapter is divided into numbered paragraphs or rather numbered sections, and independently into a miscellany of labelled and unlabelled parts and subparts with headings of various sizes and styles, whose relative prominence bears no relationship to the relative importance of the subjoined material. It is therefore no small task to discover where one is at any particular point in the book. Fortunately, the index is reasonably adequate, so that material can be located provided one begins the search from outside the text.

Appended to many of the subparagraphs of the book are a number of questions. In some cases, the reader is referred to a case or an article where the answer may be found. Many of the questions however are moot, and among these a student of criminal law should find plenty of material to stimulate his imagination and his enthusiasm.

The book is of course a casebook rather than a textbook, and in works of this kind one must beware lest overenthusiastic editing of

reported cases grounds legal misconceptions. On the whole, the cases in Bates, Buddin and Meure's book are competently extracted: the editing is acceptable, or at least, not unacceptable. In all, 164 cases are extracted, which compares most favourably with the 61 cases extracted in Brett and Waller's *Criminal Law*.

The book contains a sprinkling of misprints, and a number of errors and omissions. Thus it is said on page 77 that the felony/misdemeanour distinction is now of little practical importance: whereas *Dugan v. Mirror Newspapers Ltd.*¹ makes it clear that, in New South Wales at any rate, the consequences of a conviction for a felony are very far-reaching for the incarcerated felon.

On page 112 it is suggested that the use by the Supreme Court of its facility to grant leave to a private citizen to prosecute an indictable offence may no longer be justified. The authors rely upon *R. v. McKaye*.² But they neglect to mention *Gouldham v. Sharrett*,³ where Wolff, C.J. refused to acknowledge the existence of any definite rule that the Court would never give leave to a private prosecutor.

On page 219 it is said that the imposition of a suspended sentence is a much more frequent practice in South Australia than it is in either Victoria or New South Wales. In fact, New South Wales Courts have no power at all to impose suspended sentences.

On page 559 the authors say that all assault offences are created by the various Crimes Acts, there being no remaining common law offences. It is certainly not accurate to say that common assault is an offence created by statute. It is a common law offence for which the Crimes Acts merely prescribe the penalty.

Despite these and other minor deficiencies, the book is sufficiently comprehensive to recommend itself to students and practitioners. It is on the whole an excellent book, and a welcome addition to criminal literature in New South Wales.

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¹ [1976] 1 N.S.W.L.R. 402; (1978) 53 A.L.J.R. 166.

² (1885) 6 N.S.W.L.R. 123.

³ [1966] W.A.R. 129.

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