coherent view of what has been decided. Questions of double dissolutions, Parliamentary representation of the Territories, the High Court's constitutional role *vis-à-vis* the Privy Council, the seaward limits of the States, the respective offshore rights of Commonwealth and States and the constitutional rights of electors are among the many issues that have since been examined by the High Court and indeed claimed the attention, interest and concern of a wider group than those who normally concentrate on the "Lawyer's Constitution", if indeed that phrase itself is admissible today or ever was. The nation's problems present themselves with new faces.

P. BRAZIL*

Constitutional Law by CHRISTOPHER ENRIGHT, LL.B. (Syd.), B.A. (Newcastle); Lecturer in Legal Studies, University of Newcastle. (The Law Book Company Limited, 1977), pp. i-xlviii, 1-374. Cloth, recommended retail price $21.50 (ISBN: 0 455 19459 9); Paperback, recommended retail price $15.50 (ISBN: 0 455 19460 2).

Mr Enright, a lecturer in Legal Studies at the University of Newcastle, fills a need among Australian teaching requirements with the first ever comprehensive introduction to Australian constitutional studies. He provides some outline of constitutional and legal history as well. Some of the material on statutes and their interpretation, and on judicial decision and the structure of the unenacted law, is also appropriate to courses on legal method or elementary jurisprudence. All this is treated in strict text book fashion, not in the curent vogue by the accumulation of statutes, cases and "materials". He justifies the book on a pedagogical principle which has gone out of fashion among educational experts, though it may well come back into fashion. In his own words: "I believe that one of the best ways of teaching a law subject is to commence by outlining the subject in general terms. This provides the background which gives a student some perspective and a feel for the shape of the subject, so that he can proceed to a deeper study of it where he can examine its principles in more detail, its underlying theory and its social utility".

It is likely that he had in mind the specific requirements of the legal studies courses, not leading to full professional qualification, which have been and will be established in all tertiary institutions, but it will be apparent to law teachers that a book of this kind can be used for a mixture of purposes in the first year of full-scale law courses as well.

The peculiarity of the book as compared with any of its Australian predecessors is that it attempts to pay about equal attention to the two main levels of Australian government—State and Commonwealth —and also to the structure of parliamentary, responsible, cabinet, monarchically based government common to both levels. No previous

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work has attempted to give about equal attention to "State" and "Federal" constitutional law, and few have attempted to do much about the election and internal structure of parliaments and the parliament-Crown relationship within this system. Mr Enright has a clear and pleasant style, has organised his material excellently, and his work is likely to find wide use.

The only criticism I would make, accepting his general aim and method, is that he should have devoted a little more specific attention to the "further reading" problem which an elementary introduction such as this inevitably creates. There should have been a bibliography, not just an alphabetical table of secondary works referred to, but one organised in terms of utility and difficulty as he sees it for his various purposes, and also systematic footnote references from the "further reading" point of view. He has an adequate and well-judged, not overloaded, apparatus of footnotes which to some extent perform the function just suggested, but most of them perform the different and equally necessary function of scholarly verification or source-attribution.

An extreme example is the treatment of the independent discretions of Governors-General and Governors (pages 228-231). Mr Enright appears to take the view that the powers of Governors to refuse dissolutions on the ground that an alternative Ministry can be found in the existing parliament is a distinct and established discretion and not a component of the "reserve powers", which he treats separately. I think this is disputable, and it is not the way in which his chief authority on the point—S.A. de Smith[1]—treats the matter in the work cited. However, on all the propositions which he makes concerning this question, Mr Enright gives only brief "verification" references to statutory provisions, to de Smith at a stated page, and to three pages in the fairly extensive case-style treatment in Fajgenbaum and Hanks.[2] Having regard to the difficult and contentious nature of this topic, I think he should have given some further reading guidance. Perhaps the Fajgenbaum and Hanks material would be considered too intricate and confusingly arranged for students at this stage, but at least some chapters of Evatt[3] might have been recommended, and perhaps the relevant chapter of Marshall and Moodie.[4] The treatment of section 92 of the Commonwealth Constitution is even more cursory; there are two references (pages 156 and 161) telling the student that the provision has been much litigated and is well known, but no more, and not a single reference for either verification or further reading. One can well understand a lack of desire to plunge the innocent beginner into the gothic horrors and theological complexities of this subject. However, a very brief account of the history of the section would be desirable, and some indication of further (though probably still

[1] de Smith, *Constitutional and Administrative Law* (2nd ed. 1973) Ch. 4. Enright cites only p. 105.

[2] Fajgenbaum and Hanks, *Australian Constitutional Law* (1972) Ch. 4. Enright cites only pp. 77-79.

[3] Evatt, *The King and His Dominion Governors* (2nd ed. 1967).

[4] Marshall and Moodie, *Some Problems of the Constitution* (4th ed. 1967), 43-49.

simplified) discussion which can be found both in cases and in secondary works.

The examples just mentioned also illustrate the more general problem concerning such a work which teachers will encounter—how much simplification is bearable; how far history should be considered as history rather than as a depository of ideas. In the section on the Governors and their discretions, for example, when the author comes to deal with the reserve powers in more detail, he suggests very cogently that the simple existence of a "pressing crisis in the affairs of government" is what calls for action, and that the "accompanying resort to precedent and principle" may not be the "first" (perhaps "real" or "genuine" would be better) justification. This, however, is subtle and difficult stuff and needs a good deal more exposition, not least as to the various uses of the word "justification". He then goes on to tabulate four "circumstances and therefore reasons" for the exercise of the reserve powers. Support for all of them can be obtained from the examples and comments of the past two centuries, but between them they cover so enormous a variety of possible cases that they cannot possibly be regarded as a probable guide to what any present day Governor is likely to do. He even includes an intervention by a State Governor "in his capacity as a representative of the British Government" as a residual possibility. His consideration of "double entrenchment" problems in relation to State Constitutions (pages 75-79, 93-101)[5] is well judged for this level of discussion, but mention should have been made of the possibility that related "standing to sue" problems can be simply solved by legislative provision, as they have been in section 10a(7) of the South Australian Constitution Act 1934-1976, which was introduced in 1969.

One could go on indefinitely along these lines. I think that the author can reasonably defend himself in two ways. The first is that although very reasonably priced for its length and quality of production, this is a sufficiently expensive volume. If every teacher's idea of the extra detail or discussion he would like to see were incorporated, it would have to be much larger and dearer. Time may suggest shortening of some parts—I would think the British history, sound though the formal justification for its inclusion still is—and expansion of others. The second is that teachers can and should provide the further exposition and reading requirements which meet their courses and personal judgment. In my student days we were required to read Dicey, and were then told in great detail how wrong he was. Mr Enright's book does not call for this treatment, but is likely instead to be adjusted to changing views and details in successive editions. I wish him long life to supervise the process, and hope that before long he will be able to announce that the formal basis of the Australian constitutional system is not to be found in Britain (as he insists, I think correctly, that it still is) but in some basic norm located in Australia.

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[5] The internal references and index do not clearly relate these passages.

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