use a steam-hammer to crack a nut. This is not the place to canvass alternative methods of preventing touting. My point is that the Bar has been so concerned with protecting its own professional interests in this matter that it has entirely neglected to take account of the public interests involved.

The late Mr Justice Robert H. Jackson, who not long since graced the bench of the Supreme Court of the United States, once told a story which not only bears repetition but provides an appropriate end to this review. It concerns a man who found himself passing a large group of workmen engaged on a project. He wanted to know what was keeping them so busily engaged, and he approached a workman and asked him what he was doing. The man replied, 'I am earning my living'. This was scarcely a helpful reply, so the man approached another worker nearby with the same question. This time the answer was, 'I am shaping this rough piece of stone into a cube'. Still unsatisfied, the man addressed his question to a third worker. And this time the reply was, 'I am building a cathedral'.

Those who have not learned that they are building a cathedral should read this book, for they may find out in the process. Those who have learned that much should also read it, for they will find within its pages much that may aid them.

PETER BRETT*

Introduction to Jurisprudence—With Selected Texts, by DENNIS LLOYD, M.A., LL.D. (Cantab.), of the Inner Temple, Barrister-at-Law, Quaine Professor of Jurisprudence in the University of London (Stevens and Sons Ltd, London, 1959), pp. i-xxiii, 1-482. Price £3 3s.

In a review of Orvill C. Snyder's *Preface to Jurisprudence*,[1] in 1957, I said, among other things, that it had always seemed to me

> that the book which collects, chronologically and by subject, snippets from the great legal philosophers and jurists, . . . is likely to be a snare for the teacher and a delusion for the student. Such books do less than justice to the authors they quote and, . . . pay unwarranted deference to a 'case method' mystique which prohibits the use of a text-book. The purposes of the 'case method' are not served by substituting for a text-book a book which is made up of snippets from many texts.

An interested reader on first reading Professor Lloyd's *Introduction to Jurisprudence* might well take the view that those words should be eaten by the author of them; for Professor Lloyd's book is certainly not a snare for teachers nor a delusion for students. It is one of the most useful English books available to undergraduate Jurisprudence students. But perhaps those quoted words need not be retracted in such an unpalatable way after all because, as Professor Lloyd himself takes care to say in his Preface, the aim of this book is not the same as that of the collections which I was criticizing and in it most of the vices which prompted my criticism have been avoided. Professor Lloyd says in his Preface:

> this is not a book of readings on the American pattern, though it obviously owes a good deal of inspiration to that familiar transatlantic

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[1] (1957) 1 *M.U.L.R.* 127, 128.

> aid to learning. Where it differs principally is in the fullness of the accompanying commentary, by which I have striven to give a coherence to the book as a whole, and thus enable it to be read through as a self-contained text book, . . .

As a self-contained textbook, which enables the student to savour 'the distinctive flavour of the particular writers' whose ideas are to be understood, it is a very successful publication.

This is not a big book. By American standards it is a small one. Inevitably Professor Lloyd had an 'anxious' task selecting which authors should be awarded a place among the texts reproduced. It would be profitless for a reviewer, the size of the book being given, to argue that some texts, from the riches available, should have been included which are not, in place of some which are included. Suffice it to say that Professor Lloyd's selection, speaking generally, satisfies this reviewer very well within the limits of the chapter headings chosen. Those limits are severe however.

In his first two chapters he deals with the 'Nature of Jurisprudence' and the 'Meaning of Law'. He then proceeds to deal with the various schools of Jurisprudence—Natural Law, Sovereignty and the Imperative Theory, the Sociological School, American Realism, the Scandinavian Realists, Marxist Theory, the Pure Theory of Law, Custom and the Historical School. He completes the book with a chapter on 'The Judicial Process'. In passing it is pleasing to note that the Scandinavian Realists are given fair recognition in Chapter 7.[2]

It will be seen from those chapter headings that the 'stuff' of analytical jurisprudence, the cases and materials which show the way in which positivist theory works out in the actual processes of the law, have little place in this book. As a course book for a class in Jurisprudence in the later years of preparation for an LL.B. degree, therefore, this book will need to be supplemented by additional materials amounting probably to about the same in bulk as the contents of this book. It is proper therefore that Professor Lloyd entitled the book an *Introduction to Jurisprudence,* and as such it is excellent.

Any work on Jurisprudence, of course, may be made the basis for endless discussions and criticisms, so various are the views of those who are likely to read it. I shall permit myself only two complaints—one of disappointment and the other of criticism.

Professor Lloyd knew Wittgenstein. He attended his seminars in Cambridge. Although he disclaims any qualifications or standing as a philosopher, and asserts that he writes only as a lawyer, it is clear that he has been greatly influenced by the thinking which is currently connected with Wittgenstein's name. There is, it is submitted, no doubt that the methods of linguistic analysis attributed to Wittgenstein are of very great value indeed to the lawyer faced with puzzles in legal theory. Professor Lloyd subscribes to this view in his Preface wholeheartedly and he introduces in Chapter 2 (the 'Meaning of Law'), when he is dealing with the nature of definitions, a thoroughgoing Wittgenstein approach. With the exception of Chapter 8 (Marxist Theory of Law and 'Socialist Legality'), however, Chapter 21 is the slightest in the book and, although the style

[2] They receive 7 pages in Chapter 19 of Dias & Hughes' *Jurisprudence* (1957) but elsewhere in English Jurisprudence texts for students they have virtually been ignored.

of reasoning there explained is used occasionally in later commentaries,[3] this reviewer at least was left with the feeling of disappointment that there was not more; and that there were not perhaps some examples of lawyers working with definitions, and some discussion of their methods in the light of the analytical methods proposed.

The criticism referred to relates to the rather odd placing of Chapters 4 and 9 in relation to each other. These chapters deal with the Austinian Theory of Law and with Kelsen's Pure Theory of Law respectively. The texts quoted in these chapters would seem to hang together and the value of separating them by the chapters between is difficult to see. But the oddness does not stop there. The author's commentaries seem to reveal some basic misconceptions about the relations between the two theories. He quotes passages from the South African *Dönges* cases[4] and of the Australian cases, *McCawley v. The King*[5] and *Attorney-General for N.S.W. v. Trethowan*,[6] as involving problems of Austinian sovereignty whereas, properly understood, it is submitted, they involve problems relating to Kelsen's 'basic norm'.[7]

Similarly Professor Lloyd's discussion of Kelsen's 'basic norm' reveals certain confusions. He satisfies himself in his chapter on Austin that Austin's sovereign is divisible. He applies the same kind of reasoning to assert that Kelsen's 'basic norm' may be not one but many. The difficulties which he encounters on pages 302 to 304, where he is discussing Kelsen's notion of a 'basic norm', are sufficient to indicate a degree of confusion in the mind of the writer, particularly when read against the passages from Kelsen which are quoted in the following pages. After all Kelsen's very recognition of a legal order presupposes one 'basic norm' and denies the possibility of a multiplicity of such norms. It is one thing to reject Kelsen's theory, it is another to accept his notion of a 'basic norm' and then to take the inadmissible step of multiplying it.

DAVID P. DERHAM*

Criminal Law, by J. P. BOURKE, M.A., LL.B., one of Her Majesty's Counsel, with D. S. SONENBERG and D. J. M. BLOMME, LL.B. (Butterworth & Co. (Australia) Ltd, 1959), pp. i-lxix, 1-509. Price £6 2s. 6d.

In recent years Butterworth & Co. have published a number of annotated Acts of Victoria. Although *Criminal Law* is the latest in this series it is by no means the least important of these publications. This comprehensive book comprises an annotation of the Crimes Act of Victoria 1958, and the Commonwealth Crimes Act 1914-1955.

His Honour Mr Justice Monahan of the Supreme Court of Victoria pointed out in the Foreword to this book that 'lawyers who have practised regularly in the criminal courts in Victoria have long lamented the absence of a book of general reference on the subject' (of criminal law).

This book is undoubtedly proving to be a most valuable acquisition to

[3] Particularly when discussing the Scandinavian Realists at pp. 241-242.

[4] *Harris v. Minister of the Interior* (1952) 2 S.A. 428 (A.D.) *sub nom. Harris v. Dönges* [1952] 1 T.L.R. 1245; and *Minister of the Interior v. Harris* (1952) 4 S.A. 769 (A.D.). [5] [1920] A.C. 691. [6] (1931) 44 C.L.R. 394.

[7] It is perhaps revealing that in selecting passages from *Trethowan's* case the author chooses to quote from Rich J. and Starke J. and to avoid the subtleties of the judgment of Dixon J. which are really much more instructive.

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