

at large but it certainly makes for a much more lively narrative. His choice of individuals is extremely wide and clearly reflects most careful research. His bibliography ranges from the Year Books and other contemporary records through biographies and parliamentary papers to modern books, reports and periodicals. The result is a book which is eminently readable and should be of interest not merely to members of the legal profession but also to laymen who are interested in social history.

It is to be hoped that someone will now be encouraged to write a similar history of the Victorian legal profession as the little which has already been published indicates that the material is available. All that is required is industry and interest. I suggest it would make an excellent subject for a thesis.

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An Introduction to Criminal Law, by RUPERT CROSS, D.C.L., and P. ASTERLEY JONES, LL.B., 4th ed. (Butterworth and Co. Ltd, London, 1959), pp. i-lxvi, 1-472, and Index [1]-[35]. Australian price £2. 19s. 6d.

The publication of the fourth edition of a work within the space of twelve years indicates that it has surely 'arrived', and is probably on its way to being described as a classic. Without making any pretentious claims to trail-blazing, Dr Cross and Mr Jones continue to produce what is generally a lucid and well-written textbook on English criminal law and procedure, which is attractively produced by their publisher.

When a book has passed through a number of editions without major changes it might seem that a criticism of its presentation is pointless; it has survived trial by ordeal. However, the authors' receptiveness to comment and stated willingness to listen, emboldens this reviewer to launch two attacks.

What might be called the 'Diceyan' mode of presentation has been used and is still adopted; that is to say, the authors formulate rules or principles as concisely as is possible, set them out, and then follow them with an explanation of and commentary upon them. The reviewer doubts whether this mode is really helpful to the reader, even to the greenest law student meeting criminal law as his first legal subject. The principle or rule stated is not meant to be an absolute; it is often qualified as well as clarified in the explanatory text. For instance, to be told in Article 31 on attempts that 'an attempt to commit an indictable offence . . . is committed if an act is done . . . with intent to commit that offence, and such act . . . is a step towards the commission of that offence which is immediately connected with it . . .' (page 107-108) is not very helpful; the explanatory text with its clear discussion of *R. v. Robinson*¹ and *Hope v. Brown*² considers the admitted difficulties in this area where discrimination (or lack of it) between preparations and attempts prevents the reader thinking that the matter is as simple as the rule stated above would have him first believe. The book would lose nothing if these too facile rules disappeared.

This book is, as are the great majority of English texts, concerned solely with English cases and comments upon them; an Australian reader

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¹ [1915] 2 K.B. 342.

² [1954] 1 All E.R. 330.

finds no mention whatsoever of leading Australian cases wherein the criminal law in this country has been moulded somewhat differently than it has been in England, and in many cases somewhat better, it might be argued.^{2a} The authors are admittedly mainly devoted to giving English university students what they call a 'bird's eye view' of English criminal law within a reasonable compass and without too expansive a canvass of controversial material.

But Dr Cross himself has shown in his work on Evidence³ that it is possible not only to refer but to consider (at least as authorities which would persuade an English Court) Commonwealth and even American authorities and discussions thereon, in a book aimed mainly at the university or professional law-school student. Australian courts of high authority have solved some questions of criminal law in ways which are at least worth consideration if not emulation. Some reference to cases like *Thomas v. R.*,⁴ *Proudman v. Dayman*⁵ and *Bergin v. Stack*,⁶ on the question of strict liability and mistake, and to *R. v. Porter*⁷ and *Stapleton v. R.*⁸ on insanity and the shaping of the M'Naghten Rules would benefit the English reader and make the book more useful to the Australian. There are the important decisions of *R. v. McKay*⁹ and *R. v. Howe*¹⁰ on homicide in self-defence, which consider closely a question which has not received any serious attention in an English court this century. It would be helpful to point out that the decision in *R. v. Ward*¹¹ now in receipt of a complete *imprimatur* from the House of Lords in *D.P.P. v. Smith*,¹² was shortly but completely rejected by the High Court of Australia in *Smyth v. R.*¹³ English judges are more ready now, it seems, to refer to and to be persuaded by cases decided in the other common law jurisdictions; English students should be aware of the more important of such decisions. Of course the above sort of criticism is the Australian reviewer's perpetual *cri de coeur*, moved about equally by a desire to see an English work made more useful to Australian readers and Australian authorities brought to the notice of English readers. It may be that today it is a cry which will evoke a more ready response from English authors.

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Causation in the Law, by H. L. A. HART, Professor of Jurisprudence in the University of Oxford, and A. M. HONORÉ, Rhodes Reader in Roman-Dutch Law in the University of Oxford (Oxford University Press, 1959), pp. i-xxxii, 1-454. Australian price £4. 9s. 3d.

This new work is, so far as I am aware, the first treatise to appear which devotes itself entirely to an examination of the concept of causation in the different branches of the common law. It represents an expansion and development of certain ideas which were first advanced by the authors in a series of articles which appeared in the *Law Quarterly Review*

^{2a} However an oblique reference to *Stapleton v. R.* (1952) 86 C.L.R. 358 appears on p. 62, without title or citation.

³ Cross, *Evidence* (1958).

⁴ (1937) 59 C.L.R. 279.

⁷ (1936) 55 C.L.R. 182.

⁹ [1957] V.R. 560.

¹² [1960] 3 W.L.R. 546.

⁵ (1943) 67 C.L.R. 536.

⁶ (1953) 88 C.L.R. 248.

⁸ (1952) 86 C.L.R. 358; n. 2a *supra*.

¹⁰ (1959) 100 C.L.R. 448.

¹³ (1957) 98 C.L.R. 163.

¹¹ [1956] 1 Q.B. 351.

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