secondly in preventing the disguise of transactions to bring them within more desirable periods.

In addition to the rule against perpetuities in the strict sense the book also deals with the rule against accumulation and the rule in *Whitby* v. *Mitchell*. The references to Australian cases as far as the writer's checking goes is complete. One minor infelicity has been noted. On some occasions references to reports of cases decided in the High Court appear as "Com. LR", in other cases "C.L.R.".

F. C. HUTLEY*

Sexual Offences, A Report of the Cambridge Department of Criminal Science. Macmillan & Co. Ltd., London, 1957. xxvii and 533 pp. (£4/18/9 in Australia).

This is the sixth volume to appear in the series "English Studies in Criminal Science", published by the Department of Criminal Science, Faculty of Law, University of Cambridge. It summarises the results of a survey, initiated in 1950, into the incidence, prosecution and punishment or other treatment of sexual crime occurring in fourteen districts of England and Wales over a period of several years. The districts were so selected as to provide a fair representation of both industrial and agricultural areas, although the former predominated. An endeavour was made to cover every aspect of the problems. The authors of the report are anonymous, but it appears that the work fell largely upon the shoulders of Messrs. F. J. Odgers, F. H. McClintock, J. H. Bagot, and G. van Dulken. The broad results of the survey are summarised in a preface contributed by Dr. L. Radzinowicz, the Director of the Department.

The survey covered in all something over 3,000 cases of both indictable and non-indictable sexual offences. It appears to have been carried out by a careful examination of available records. These were of four types — police records, court records, probation records, and Children's Department records. The latter includes the surprising sub-title "Records of Legal Proceedings taken against Juveniles as a result of their being victims of Sexual Offences"; this is no doubt capable of explanation but that explanation ought surely to have been given. The information obtained from all these records was classified under various headings and the results are fully set out and summarised. In addition, in many instances a number of illustrative cases are added.

There are, of course, considerable difficulties inherent in the adoption of such a plan of research. One is almost driven to adopt the classifications which are adopted by the police and the courts in compiling their respective records. But these are often determined by factors which may have little or no bearing upon the social implications of the problems presented by sexual criminals. For example, the offence of indecently assaulting a female may be either very grave or comparatively trivial. In the former case it may have been adopted by the police or the prosecution merely because some necessary piece of evidence required to support a charge of rape or attempted rape (which may have been the offence intended by the offender) was thought to be lacking. Again, a change in the law or in the prosecution methods may result in a change in the statistical information available. These difficulties were, of course, fully known to the researchers and are emphasised by them at various stages through the report.

It is essential to bear this matter in mind when reading the report. Failure to do so may well result in the drawing of conclusions which are not warranted by the facts. That this should be so is not a criticism of the Department's

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work. They have done the best that they could with the no doubt limited resources at their disposal. And while it is true to say that greater resources, and a wider casting of the net, might have provided information which would have led to greater enlightenment, it is no less true to say that in this field any knowledge, however slight — and there is a great deal to be culled from the pages of this report — is better than none. For during the last century the efforts of the legislature and the executive to deal with sexual crime in England appear to have been dictated rather by idle speculation or by panic than by knowledge.

Many of the results obtained by the researchers parallel results obtained by workers in other countries studying the same problems. For example, it is pointed out that sexual crime tends to increase during warm weather and to decrease during the colder months; and that it is proportionately higher in the country areas than in the large cities. The latter fact might be taken as lending support to Lecky's thesis that the existence of prostitution is a necessary safety valve for morality. Again, the report confirms the prevalent impression that sexual crime has disproportionately increased during the post-war years.

Much more important is the finding of the report that, while sexual offenders show a fairly strong tendency to recidivism (the repeating of their crimes), they do not tend to go from bad to worse; in other words, they do not progress from comparatively trivial to extremely grave sexual offences. There is a widely held popular belief to the contrary. As a result of this belief, a number of legislatures in the United States have passed statutes providing for the indeterminate incarceration of persons convicted of sexual offences. These well-meaning legislative efforts are based on the assumption that a sexual offender is necessarily mentally abnormal; and that if he is detained in an institution for a sufficiently long period he can be cured of his abnormality, presumably by psychiatric means. These assumptions are, however, largely unwarranted. In fact, a large proportion of sexual offenders appears to be suffering from a lack either of knowledge of sex matters or of the opportunity to satisfy their sexual instincts in a manner approved by our society. And even in the case of those sexual offenders who are clearly suffering from some form of psychological abnormality, there appears to be little support, in the shape of the concrete results obtained, for the claim put forward by some psychiatrists that these abnormalities can be cured.

Nevertheless, once legislation of this kind finds its way into the Statute Book, public apprehension suffices to ensure that it will stay there. In this connection, it may be pointed out that in Queensland, South Australia and Tasmania, legislation of this kind has in recent years been enacted; but it does not seem that it has been used to any great extent in practice. In the United States, the situation is quite different. At one time, there was a tendency there to embrace this type of legislation, and a number of comparatively harmless people were imprisoned for very long periods, and found that their hope of obtaining release was small. They perhaps derived some consolation from the reflection that they were undergoing what was euphemistically termed treatment, not punishment, in institutions, not prisons. At present, the trend in the United States appears to be to turn away from these measures.

After its survey of the offenders, their offences, and their victims, the report very properly enters upon a full examinations of the present state of the English law concerning sexual offences. That this branch of the law contains a number of startling anomalies is well known to all who have studied the matter albeit superficially. But this section of the report serves to expose a number of difficulties which have hitherto been known only to those who have studied the matter with great care. It concludes with an examination of a number of proposals which have been made from time to time for amendment of the existing law.

This is perhaps the most disappointing part of the report. For the most part, the proposals which are examined consist of attempts to patch defects rather than to enter upon a major task of reconstruction. And there are some unfortunate omissions. For example, the report examines at some length the question whether, on a charge of an offence of having carnal knowledge of a girl under 16, the defence of reasonable belief that she was over that age should be permitted. Yet no reference is made to the well-known case of *The Queen* v. *Prince* ((1875) L.R. 2 C.C.R. 154). It is true that that case was concerned with an offence which was not specifically sexual in nature. Yet it has been treated, and rightly so, as being a decision applicable to the offence of what is termed in the United States "statutory rape". The decision itself is open to considerable criticism. The majority judgment, delivered by Blackburn, J., appears to have adopted what the present Chief Justice of Australia has elsewhere termed "the principles of the Mikado" ("the statute says nothing about mistake, or not knowing, or having no notion, or not being there"). And the opinion of Bramwell, B., in which seven other judges concurred, appears to confuse what may be termed the immutable distinction between good and evil with his own particular brand of Victorian moralistics. Alone among the judges who took part in that decision, Brett, J. held fast to the basic principles of English criminal law. But his voice went unheeded.

The report, of course, gives a full account of the different views which were advanced in 1885, when by statute the defence of reasonable belief was first introduced, and again in 1922, when the then permitted defence was to some extent whittled down by a further statute. But those views were necessarily advanced on the assumption that *Prince's Case* correctly stated the law as it would have been in the absence of special legislative provision. It is one thing to introduce a new defence which the normal principles of law would not permit, and quite another thing to abolish a defence which those principles would recognise. It would seem fair to suggest that the aim of legislation on this subject is to protect young lambs from the depredation of wolves. The result of *Prince's Case*, coupled with the subsequent statutory provisions on the subject, has been that the protection was at first extended to vixens, then withdrawn from them, and then restored to them except in cases where they were the victims of young wolves who had shown no previous vicious propensities.

The failure of the report to attempt to rethink through the proper bases of the law on this matter is offset to a great extent by the chapters which follow. These contain valuable summaries of the law and practice in regard to sexual offences in Norway, Sweden, Denmark, Belgium and the United States. Each summary is contributed by a noted authority from the country concerned. They serve to show that the Scandinavian countries in particular have reconsidered the whole problem of sexual offences and have endeavoured to proceed on a basis of providing protection to the young who are incapable of fending adequately for themselves. The whole emphasis is on preventing major harms to society, while permitting those unfortunates who for some reason or another deviate from the normal practices to indulge their proclivities, provided that they do so with persons of full age who are willing to assist them. One may be permitted to wonder, however, whether these welcome intentions of the legislature concerned have had fruitful results in practice. For on one matter the Scandinavian countries permit themselves a degree of self-deception which leads the reader to wonder whether they may not be doing the same elsewhere. I refer, of course, to the question of castration for sexual offenders. This is permitted in each of the Scandinavian countries but it is emphasised by the writers concerned that castration is a voluntary measure and in no way a punishment. It must be requested by the person concerned, and official permission for the operation must be obtained. It appears, however, that the request is often made because the person concerned knows that to

undergo the operation offers him the only possible hope he has of obtaining release from an indefinite detention. In such circumstances, the distinction between punishment and voluntary medical treatment must appear to him somewhat tenuous.

One word of criticism may be offered concerning the form in which the report is issued. There is a full table of its contents at the beginning, but no index. This is a handicap to the reader and it is to be hoped that any further report of this kind which may be prepared will be equipped with a detailed index.

Sexual offenders present a perennial challenge to our social order. Some of them, such as the advanced sadist, are so dangerous that their activities must be prevented at all costs. Others, such as the exhibitionist, are comparatively harmless nuisances whose activities cause annoyance but no great social danger. Between these two extremes lie a host of different types of offender whose activities, if they need to be resisted at all, will call for considerable differentiation in treatment. Too often, in the past, our attempts to meet this challenge have resulted from a temporary mood of panic caused by some particularly serious case which has been played up by the popular press. In no field of our criminal law and criminal science is the need for a major overhaul so apparent as in this. This report is a considerable contribution towards the making of such an overhaul. Its appearance is to be welcomed, and it is to be hoped that further reports on similar lines will appear in the future. Meanwhile, those responsible for the present work are to be greatly congratulated upon their efforts.

PETER BRETT*

Industrial Relations in Australia by Kenneth F. Walker, Cambridge, Harvard University Press, 1957. xviii and 389 pp. (£3/18/9 in Australia).

Even for an Australian trained in the law, the systems of industrial relations in Australia are complicated. For example, how can workers in one State be employed under a federal award while their "opposite numbers" in an adjoining State are under a State award or even under the rules of a wage board ? This is only one of the complications involved in understanding the Australian procedure. Such matters plus the vastness of the country make generalisation upon economic and legal institutions difficult indeed. How then can industrial relations be described ? A writer can generalise or he can examine the institutions under a microscope.

Professor Walker of the University of Western Australia has chosen the latter procedure and has done it well. Some of his critics, I am sure, would ask how he could call his book "Industrial Relations in Australia" when he has examined so few industries. To such critics he would probably say that unless one understands some industries well, the kaleidoscope which is labour relations for all Australia is too blurred to be of any value.

In this book, his doctoral dissertation at Harvard University, Professor Walker does not entirely avoid generalisation. A brief history of the development of arbitration both in the Commonwealth and in the several States, is followed by a short but adequate description of the operation of the several systems. Shortly after this book was published the Commonwealth law was changed. In an article in *The Economic Record* of April 1957 Professor Walker describes these changes.

Presumably some readers will think those twenty-four pages of general description too few to enable a reader unacquainted with Australian arbitra-

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