

far-sighted ideas on prisons and prisoners which he had developed in his turbulent early years in Van Diemen's Land and first enunciated in his report to the London Society. Fettered by official opposition to what was regarded by many as an idealistic, unreal and dangerous theory of punishment; lacking the opportunity to apply the fundamental principle of his scheme of prison administration, that the prisoner should earn his release by his conduct, in effect, 'keep the key of his prison'; and given an appallingly bad group of convicts on whom to test his theories, Maconochie demonstrated the wisdom of his methods to all who will honestly study his work on Norfolk Island. It is a moving story of a man's vision and humanity, of his successful application of ideas of great significance in the face of deeply entrenched opposition—Mr Justice Barry tells it superbly.

Alexander Maconochie's theories were the foundation and his application of them the prototype of the reformatory movement in prisons throughout the world. He was an inventor in social science. His ideas have influenced, and influenced much more than they realize, penal administrators throughout the world, and his words have passed into the accepted language and clichés of prison administration. Yet he and his life were known to few people. Mr Justice Barry has rescued a great man from undeserved obscurity, pointed many lessons for the present and future from a study of his life and ideas, and performed this task in a highly readable and frequently moving way. To be an inventor in the social sciences, to oppose current prejudices, particularly on a subject so fertile in prejudice as the punishment of criminals, requires a relatively rare form of personal courage. Both the subject and the author of this book have, in their lives and writings, manifested this courage. Maconochie had this courageous integrity in full measure, and his life was saddened by the response it provoked from his society. He was not, apparently, embittered by the frequently cruel opposition he encountered. To the end he preserved a kindly demeanour, a prolific and determined advocacy of his ideas, and a firm courage in personal and public adversity.

In the final chapter of this biography, Mr Justice Barry assesses Maconochie's achievements and relates his ideas to current theoretical problems in criminology. This work is therefore a judicious combination of biography, of vignettes in Australian history, and of studies in the history of ideas (which is, perhaps, the most important form of history); there is no doubt that it will live as a basic text in the literature of the social sciences.

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Evidence in Criminal Cases, by FRANK L. BUNN, O.B.E., of Gray's Inn, Barrister-at-Law, 3rd ed. (The Law Book Co. of Australasia Pty Ltd, Melbourne, 1957), pp. i-xi, 1-115. Price 14s. 9d.

The stated aim of Mr F. L. Bunn's book *Evidence in Criminal Cases* is to provide police officers and others with knowledge and understanding of the rules of evidence in criminal cases.

It is to be regretted that the author's book is hardly likely to achieve his aim.

The principal defect of the book is the lack of any apparent system in

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the development of his exposition of the law of evidence. At first sight the table of contents suggests an ordered though on the face of it somewhat inadequate, plan—chapter headings being respectively

1. Introductory.
2. Proof (Burden of Proof).
3. Cogency.
4. Documentary Evidence.
5. Examination of Witnesses.

But when one reads the chapters concerned, one discovers that the order involves tackling all sorts of unrelated matters in a chapter. To take the instance of the chapter on Proof, one finds that after a discussion of the general and particular burdens of proof, the author passes on to deal with Evidence by Certificate, Evidence of Insanity, Drunkenness as a Defence, Evidence of Impressions, Evidence of Footprints, Evidence by Photographs, Evidence of Identification Parades, Evidence of Identification-Marks, Figures, *etc.* on metal or wood, Evidence of Blood stains, Dust, Hair, Mud, Evidence of System, Similar Facts and Conduct, Confessions, Form of Confession, Objection as to Admissibility of a Confession, the Caution to be administered to a Prisoner after he is Charged, the Judges' Rules, Silence of an accused Person after Caution, Judicial Notice, Presumptions.

The chapter heading 'Cogency', will be found to include Corroboration, Competence and Compellability, Evidence of Attempts to Commit Crime, Evidence of Opinion—Expert Evidence, Evidence of Character, How Previous Convictions *etc.* are proved, Method of Securing Attendance of Witnesses, Oath and Affirmation, Res Gestae (in that order!).

Such a method of attack can hardly conduce to an understanding of the rules of evidence. Those rules are often under severe criticism from those impatient of the rules which exclude evidence otherwise material and relevant. Such critics often assert that the law with respect to evidence is merely a patchwork, 'a thing of shreds and patches', without any underlying principles.

The book under review would do nothing to dissipate such criticism.

There are various minor points of error. One reads for instance,

A witness who is conversant with the rules of evidence and testifying as to any action taken by him on the strength of hearsay, commences by stating: 'In consequence of something said to me' or 'In consequence of a communication made to me' or 'From information received'.

One must conclude that if the premiss is correctly stated, the witness concerned would appear to be deliberately violating the rules of evidence. And precisely because police witnesses are often the worst offenders in this respect, it is disturbing to have this (definitely wrong) formula recommended in a manual specifically designed for the instruction of police witnesses.

However from the point of view of police officers engaged in the investigation of crimes, the book contains many useful hints on modes of preserving evidence of material things—for example, footprints *etc.* A solicitor for the defence, retained at a sufficiently early stage of the case would, no doubt, derive similar advantage.

From a law student's point of view, the book would have no real advantage.

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