

many decisions of which they disapprove. Moreover, the real criticisms are concerned with the 'self-denying ordinance' of some English appellate courts and not with the more usual situation in which lower courts are following the decisions of higher courts (page 254). It is misleading, too, to be overimpressed by the difficulties in the 'fringe cases' and to forget that they constitute only a small fraction of the total.

The problem of interpretation of statutes is treated as part of the general judicial technique; here again the arrangement and discussion are excellent. There is the same clear analysis of cases, balanced comment, criticism within reasonable limits. Dr Cross generally has kept to his brief; he has produced a work of lasting value on which every reader can draw profitably. If he has said little that is novel, has not attempted to say the last word on anything, this does not detract in the least from the value of a work so well ordered, clear and helpful.

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Oxford Essays in Jurisprudence, A Collaborative Work edited by A. G. GUEST, Fellow of University College, Oxford (Oxford University Press, London, 1961), pp. i-xviii, 1-292. Australian price £2 6s. 6d.

This book covers a wide field. It is a collection of ten essays by members (or, in one case, a former member) of Oxford University, in which the authors tackle some of the more important problems which vex our legal system at the present time. The essays cover various aspects of constitutional law, criminal law, and torts, as well as much more general topics such as the roles of logic and precedent in the common law system.

All the essays are worth reading; but, as is to be expected in a work written by several different hands, some are much better than others. The editor—who contributes an excellent essay in which he dissipates some hoary misunderstandings about the nature of logic and then clarifies its use and limitations in legal reasoning—has chosen to call the book a collaborative work. I feel, however, that this sub-title is a little misleading. It would seem, from reading the book, that a group of dons decided to publish a set of essays on various topics, and that the result is a collaborative work in the sense that each writer covers a field allotted to him and that the various fields make a coherent whole. But the essays show very different approaches to some problems, and there has apparently been no effort to attain a consistent theory throughout the book.

What I have in mind appears most clearly in the first two essays. In the opening piece, on 'Voluntary and Involuntary Acts', Mr Fitzgerald (now Professor Fitzgerald, of the University of Leeds) discusses the problem of defining an act and the nature of involuntary action, mainly with reference to the criminal law. He adopts the standard distinctions between mind and body, *mens rea* and *actus reus* which are to be found in any of the standard texts, and endeavours to refine them. My own view of such attempts is that they are doomed to failure, for they start with an uncritical acceptance of Cartesian dualism in a form which no modern philosopher would support. The point is highlighted by a reading of the second essay, on 'Negligence, *Mens Rea*, and Criminal Responsibility', in which Professor H. L. A. Hart neatly and briefly punctures this bubble and demonstrates the crying need for a complete re-casting of the basic

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criminal law theory enunciated in current English cases and textbooks. The only disappointment which I felt about Professor Hart's essay arose from the fact that he did not give us more on the same theme. But if he had done so, he would have distorted the whole framework of the book.

Among the other essays, I particularly enjoyed the discussions of 'Possession' and 'Ownership', by Messrs D. R. Harris and A. M. Honoré respectively. The former of these two pieces is slightly marred, to my mind, by the author's refusal to quarrel with any of the decisions. For my own part, I cannot see how anyone can accept *R. v. Hudson*¹ as a correct decision on larceny. And the extent to which the Court of Criminal Appeal misconceived the criminal law in that decision is fully revealed in its handling of the count for false pretences.² An English text-writer on criminal law may perhaps feel himself compelled to treat the case as an authority, since it has never been overruled. There is, however, surely no need for a writer on jurisprudence to accept the decision as correct. Let me hasten to add that this attitude to the authority of case law is only a slight blemish on a most illuminating essay.

I would mention one other essay, that on 'Sovereignty' by Mr R. F. V. Heuston. I am not sure that the new approach to the problem which he expounds is a sufficient guarantee against abuse of power. And the case law which he discusses is by no means new to an Australian lawyer. It is, however, most useful to have it coherently expounded as a whole. And I know of no words adequate to praise sufficiently the writer's style. This essay is a polished little gem, which of itself would make the book well worth reading.

This book provides a rich feast. It should be bought, read, and pondered, not only by students and academics, but most of all by practitioners. For it will enable them to pause for a moment in their mundane labours to scan some distant vistas; and at the same time as it proves much food for thought, it serves it up in a most palatable form.

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Essays in Constitutional Law, by R. F. V. HEUSTON, M.A. (Stevens and Sons Ltd, London, 1961), pp. i-x, 1-187. Australian price £2 19s.

In this collection of essays, Robert Heuston of Pembroke has given a wider audience the opportunity to enjoy his stimulating Oxford lectures in constitutional law. He does not pretend to have prepared a textbook. He has chosen subjects that interest him, and has lectured on them in a style which combines erudition, wit and grace, and has fortunately survived the transmutation to the printed (and foot-noted) page. It is old-fashioned stuff, as he candidly admits in his Preface, but he is right to emphasize that it is basic. It is so easy to forget that every generation of law students must learn it over again.

His opening chapter is a *bravura* piece on 'Sovereignty', full of 'quotable quotes' which give something of the flavour of the whole: 'The doctrine of parliamentary sovereignty is almost entirely the work of Oxford men.

¹ [1943] K.B. 458; [1943] 1 All E.R. 642.

² Reported only in [1943] 1 All E.R. 642, 644.

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