

Appellate Courts in the United States and England, by DELMAR KARLEN.
(New York University Press, New York, 1963), pp. i-x, 1-180. Australian price not stated.

This book, whose author is Professor of Law at New York University and Director of the Institute of Judicial Administration, records the interim results of a somewhat unusual experiment. In July 1961 an American team, comprising a number of well-known judges and lawyers, went to England in order to observe and discuss the English way of handling appeals. In January of the following year a return visit was paid by an English team. After the visits had concluded, the members of the respective teams prepared papers recording what they had seen and suggesting possible improvements in their own systems, and these papers were discussed and exchanged. In some instances, suggested changes were put into operation for a trial period and it has now become possible to evaluate their success.

Whether further changes will be made in the future remains to be seen. Meanwhile Professor Karlen, who was a member of the American team, has prepared this book, which is a detailed account of the way in which American and English Appellate Courts function. He first considers four different American Courts—the Appellate Division of the New York Supreme Court (First Department), the New York Court of Appeals, the United States Court of Appeals for the Second Circuit, and the Supreme Court of the United States. In each case he discusses, first, the Court's jurisdiction in regard to appeals, secondly, the detailed steps which have to be taken by the parties on either side before an appeal is heard, and lastly, the manner in which the appeal is heard and dealt with. It is not his concern to discuss the principles of law which are used by the Court in deciding the appeal, but rather to describe the mechanics of the Court's functioning—how many judges will sit to hear the appeal, what kind of discussion among them follows the Court hearing (or precedes it), how the responsibility of preparing the opinion is allocated, and so on. The discussion of the American Courts is followed by a similar treatment of appeals in the (English) Court of Appeal, the Court of Criminal Appeal, the House of Lords and the Judicial Committee of the Privy Council, and the Divisional Courts. In a final chapter, the author assembles the main points of difference for easy reference, but he has been careful to avoid any attempt to suggest that one Court's method may be 'better' than another's.

The book is commended in prefaces by Mr Justice Brennan of the United States Supreme Court, and Lord Evershed. Each of them points out that the work is one which should prove of lasting value to the legal profession. No-one could deny the correctness of this assessment. Within the confines of its pages there is a great deal of material which is worthy of discussion and evaluation, and for this purpose alone it can be warmly recommended to every lawyer who is interested in the efficient working of his country's legal system.

It is only right to add that the book provides material for a good many fascinating questions which the author does not attempt to discuss because they would lie outside the bounds which he has set himself. One theme which is implicit throughout its pages is that the decision of an appeal performs a double function; it settles the rights of two conflicting parties who have come before the court asking it to resolve their dispute, and it also provides a guide for the shaping of the law for the future.

It is reasonably clear that these two objectives are not easy to reconcile within the limits of a single operation, and that they may indeed pull in different directions. From the parties' point of view what is needed is a decision which should be given as quickly and as speedily as possible. From the point of view of a legal system, what is needed is a decision which should be reached after the most careful preparation and research. It would seem that on the whole the American method of deciding appeals, which relies largely upon written arguments and allows a great deal of scope to the judges to carry out their own individual research upon the problems involved, is well-suited to the task of laying down law for the future, but likely to involve the parties in both expense and delay. In contrast, the English system, with its predominant characteristics of oral argument followed by an immediate extemporaneous decision, is well-suited to providing a quick and comparatively cheap decision for the parties, but far less suitable for the task of shaping the future pattern of the law. One may wonder whether it is possible to devise a system which would adopt the best features of each of these two methods of deciding appeals, while eliminating some of the less desirable features which are revealed in these pages. In this connexion it might be of interest to have in the not-too-distant future a similar interchange scheme between English and Australian lawyers on the one hand and American and Australian lawyers on the other, since our own appellate system stands almost midway between the English and American systems.

This is an interesting and thought-provoking book, which can be warmly recommended.

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Legislatures, by K. C. WHEARE, F.B.A., (Oxford University Press, London, 1963), pp. i-v, 1-247. Australian price 15s. 6d.

Dr Wheare has written this small volume for the very useful Home University Library series. His subject is those bodies—sometimes called parliaments, sometimes called congresses, sometimes called yet other names—which are commonly known as legislatures. As he points out in his opening paragraph, this term can itself be misleading; for much of the work done by these bodies is not devoted to law making, but rather to acting as a 'grand inquest of the nation'. The task that the author has set himself is to describe in broad outline the different patterns, found in the various countries of the world, according to which these bodies perform their various tasks.

The book does not set out to be a great work of scholarship replete with meticulous detail, but rather to give its reader a working picture of the ways in which legislatures are created, how they work, the relations between them and the governments of their respective countries, and particulars of a like nature. This objective has been completely attained. The book is easy to read, extremely interesting, and likely to prove of great benefit to everyone who is interested generally in political problems, whether or not he may be a lawyer.

There is no point in summarizing in detail the contents of the book, and I have already given a sufficient indication of its scope. It contains many valuable lessons for the reader. Here he will find that many tasks which

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