

Again, Lundstedt's *Legal Thinking Revised* receives a date in note 1 on page 37, but not in note 2 on the preceding page; while in note 1 on page 12 two of the works quoted are quoted with the date of publication and two are quoted without. A few infelicities which appear to have escaped the proof reader have been noted; thus there is a reference to the Behavioural Sciences in the Preface on page vi; in note 3 on page 346 the *Boilermakers' Case*<sup>4</sup> (which is accorded a full citation in note 1 on page 295) has become the '*Boilermaker's Case*'; the *Rutgers Law Review* is referred to in Roman numerals in note 4 on page 268 and again in note 1 on page 504, while the *Law Quarterly Review* (which until Volume 60 used Roman numerals on both title page and spine, as the *Rutgers Law Review* still does) is throughout referred to in Arabic numerals. But these are small complaints; in general the book fulfils the high standards we have come to expect of the Clarendon Press and reflects the pains which Professor Derham must have taken with his difficult task. One can confidently predict that the new edition will continue to be as popular and as widely used in jurisprudence classes as its predecessors. One may perhaps repeat the wish expressed earlier that law schools generally would insist on its being bought and used for background reading throughout the whole of the law course.

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*Studies in Criminal Law*, by NORVAL MORRIS and COLIN HOWARD (Oxford University Press, 1964), pp. i-xxxiv, 1-270. Price £4 4s.

*Strict Responsibility*, by COLIN HOWARD, LL.B., LL.M., Ph.D. (Sweet & Maxwell Limited, 1963), pp. i-xx, 1-220. Price £4 1s.

*A Casebook on Criminal Law*, by D. W. ELLIOTT, LL.B., and J. C. WOOD, LL.M. (Sweet & Maxwell Limited, 1963), pp. i-xxx, 1-453. Price £3 13s. 6d.

In recent years criminal law has, after having for long been in the wilderness, undergone a welcome revival as a field for respectable academic study. Among the many facts which bear witness to this is the appearance of three important new contributions to the discipline within a space of twelve months. As the names of these three books indicate, two of them are studies on various topics of the criminal law, while the third is a newcomer to the increasing array of English casebooks.

The book by Professors Morris and Howard consists of a series of seven essays on different criminal law topics. Three of them are concerned with aspects of the law of homicide, a fourth with insanity and automatism, a fifth with the problem of penal sanctions, a sixth with that of strict responsibility, and the final essay deals with *res judicata* and issue estoppel. A perceptive preface is contributed by the Honourable Mr Justice Barry, of the Supreme Court of Victoria, in which the importance of criminal law as a field of study is stressed and emphasis is laid on its close connection with problems of morality and justice.

Some of the studies in this volume have already appeared in the law reviews, but they have all been brought up to date and they are well worth preserving together in a permanent volume. It is not to be expected that any one reader will agree with every one of the positions taken by

<sup>4</sup> (1957) 95 C.L.R. 599.

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the joint authors of the book. For example, I am not myself persuaded, at the present moment, by their argument that an intention to inflict grievous bodily harm (as a form of malice aforethought) 'ought to be discarded as concealing a form of constructive murder' (page 12). Again, while I recognize the force of the arguments put forward by the authors concerning Australian decisions on the law of strict responsibility, I doubt whether those decisions do, in fact, go quite so far as the authors believe. There are other points on which one might question their views, but this can be said of any book that is worth writing. It is more profitable to mention the undoubted excellences of these *Studies*, and I would draw the reader's attention in particular to two matters, namely, the discussion of the problems which arise in applying common law notions of provocation to indigenous native races living under a common law system (at pages 93 ff.), and the section dealing with the threat to human rights inherent in an over-enthusiastic approach to the reformation of criminals (at pages 163 ff.). This is not to say that these two passages are the highlights of the book, but rather that they, in particular, draw attention to problems which are usually glossed over in silence.

The law is evolving so rapidly at the present time that almost any book is likely to be overtaken, in the process of publication, by new decisions. Unfortunately, therefore, we are not able to have the authors' views on the recent decision of the House of Lords in *Connelly v. Director of Public Prosecutions* [1964] 2 W.L.R. 1145, or on the two decisions of the Supreme Court of Victoria in the case of *The Queen v. Tikos* [1963] V.R. 285 [1963] V.R. 306. One may suppose, however, that a book of this excellence will go through more than one edition and that when the second edition is being prepared these decisions will doubtless come under scrutiny. Meanwhile, I would strongly recommend this volume to anyone who is interested in any part of the criminal law.

Professor Howard's monograph on *Strict Responsibility* was originally written as a Ph.D. thesis for the University of Adelaide, and in that capacity it was awarded the Bonython Prize. I do not know the terms on which this prize is awarded but from the book one may suppose that it is given only for works of the highest merit. Professor Howard has written a detailed study of the topic of strict responsibility, concerning himself not only with the law as it is reflected in the decisions but also with the law as it ought to be; and again one may say that this volume should be studied by anyone who is really interested in criminal law problems. In particular, the first (introductory) chapter is a first-class discussion of the morality of imposing strict responsibility in criminal law, in which all the arguments put forward in favour of strict responsibility are most carefully examined and, I may add, refuted. Thereafter the author turns to a detailed study of the cases and also carefully considers the provisions of the Australian Criminal Codes and the American Law Institute's Model Penal Code. His discussion of all these matters meets the highest scholastic standards and repays careful reading. This is not the first study which has appeared on this topic, but I venture to predict that it will rapidly become the definitive one.

The casebook of Professor Elliott and Mr Wood differs from the previous English casebooks in criminal law in including both commentaries on the cases extracted and some excerpts from the periodical and textbook literature. It is, I think, an improvement upon its English predecessors, and one welcome feature is that occasionally a case from the United States

appears on its pages. It is not, however, what the Americans would call a casebook, but rather a book of cases, and its approach is, in my opinion, basically one of reproducing authorities for easy consultation by the student. In refutation of this remark the authors might well point to passages where they have criticised some of the English decisions, but on the whole they treat these decisions as authoritative. One feature which must inevitably detract from its appeal to Australians is the failure to include any extracts from the better known decisions of the High Court of Australia, let alone any Australian State Court. *The King v. Thomas* (1937) 59 C.L.R. 279, certainly rates a brief mention on page 94, but there is no reference to *The Queen v. Howe* (1958) 100 C.L.R. 448, or *Stapleton v. The Queen* (1952) 86 C.L.R. 358, to take only two other of the major High Court decisions. This is a pity, for courts of criminal appeal are not bound by their earlier decisions, and it is at least conceivable that if the more important Australian decisions were more widely known in England, the English Court of Criminal Appeal might be willing to reconsider some of its existing doctrines.

At the present time, the costs of printing and publishing a law book are such that it is impossible to produce a relatively inexpensive volume which, at the same time, adequately reproduces a large number of cases. Professor Elliott and Mr Wood have met this problem by editing a large number of the cases reproduced almost out of existence, and I would venture to suggest that one would produce a better book by including fewer cases but longer extracts from the cases reproduced. Occasionally, the editing produces some curious results. It is by no means clear, for example, that *Rex v. Bailey* (1800), R. & R. 1, is authority for the proposition that ignorance of the existence of a statute does not excuse a person who offends against that statute, although the extract of the case makes it appear that this is its result. Again, at page 215, the speech of Lord Tucker in *Board of Trade v. Owen* [1957] A.C. 602, is heavily cut and unfortunately omits his scathing reference to *Regina v. Whitchurch* (1890) 24 Q.B.D. 420, which itself appears on page 221. All in all, however, this volume will provide a useful quick book of reference to most of the well-known English decisions and to some of the more important literature in the field, and on these grounds alone, if no other, its appearance is to be welcomed.

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*The Life and Death of John Price: A Study of the Exercise of Naked Power*, by The Honourable Mr Justice JOHN VINCENT BARRY. (Melbourne University Press, 1964), pp. i-xiv, 1-204. Price £2 10s.

John Price was born in England in 1808 and murdered in Victoria in 1857. In the intervening forty-nine years he played a prominent part in the administration of penal establishments in Van Diemen's Land, Norfolk Island and Victoria. Against stiff competition he acquired an outstanding reputation for cruelty. His eventual murder at the hands of some of his victims was well-merited. This biography of John Price, as one expects of the author of *Alexander Maconochie of Norfolk Island*, is a fine piece of work. Within the limits of the subject-matter, and except for a small number of obvious and trifling inaccuracies listed in an errata slip,

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