

BOOK REVIEWS

Kenny's Outlines of Criminal Law, by J. W. C. TURNER, M.C., M.A., LL.D.; of the Middle Temple, Barrister-at-Law, Fellow of Trinity Hall, Cambridge. 19th Ed. (Cambridge University Press, 1966), pp. i-lxxv, 1-1680. Price \$12.50.

In a review of a previous edition of this book¹ in 1963 the present writer expressed himself as follows. 'Roscoe Pound says somewhere that each generation should rethink its law. In practical terms this ought to mean, among other things, that each generation should write its own textbooks, but in law we are as yet far from attaining this ideal. Somewhere in the legal world there is a body of opinion which regards the name on the outside of a textbook as more important than the small print on the inside, and which translates this belief into action by perpetrating the absurd custom of producing edited versions of books which derived their original value from the quality of a now deceased author. Why it should be supposed that a scholar who apparently regards himself, and is seemingly regarded also by publishers, as unworthy to write a book of his own, is nevertheless well qualified to revise the work of a distinguished predecessor, is beyond the comprehension of this reviewer. No less difficult to understand is the assumption that lawyers prefer to buy an out-of-date book by a famous author who happens to be dead rather than an up-to-date book by a less well-known scholar who retains the advantage of being alive; and yet this assumption must underlie the widespread practice of producing now books under old names of which both *Kenny* and *Russell on Crime* are outstanding examples.'

After some observations to the effect that one would have supposed Dr Turner to be capable of writing his own book, the review continued as follows. 'Whatever one thinks of the policy of controlling the living author by the dead hand of his predecessor, this new edition is entitled to be judged on its merits. The book was not written for use in Australia and Australian cases are referred to only in an occasional footnote, apparently more by chance than selection. It would therefore be unfair to judge the work by reference to its almost total irrelevance to the requirements of students and practitioners in this country. As a short account of the modern English law it is interesting and useful if this is what you happen to like. The present reviewer must confess, however, that, owing no doubt to some irrational personal bias, he does not much like it. The text seems to him to suffer from much avoidable obscurity which is added to by an unsatisfactory use of sub-headings. The general air of muddle is not reduced by a choice of type which insufficiently distinguishes the main text from quotations, headings and footnotes. As to the typographical layout of the book, the intending purchaser is invited to look almost anywhere, but he will find a particularly wearisome intermingling of text, case summaries, extracts from statutes, and footnotes in the chapters on homicide and stealing. As to the text itself, space forbids the lengthy critique to which one is tempted, but surely the manner in which it is written must be as discouraging to the student as it is irritating to the teacher. In the present reviewer's respectful opinion, the text is unduly discursive, fails adequately to distinguish the general from the particular, and is occasionally simply irrelevant.'

¹ (1963) 2 *Adelaide Law Review* 137-8.

The point of reproducing the foregoing observations is not merely their antiquarian interest. What was said of the 17th edition in 1963 is applicable in at least equal measure to the 19th edition in 1968.² *Kenny* should be allowed to slip into honourable retirement and make way for more modern books expressed in a manner more consistent with modern thought about the criminal law. This opinion is expressed all the more firmly because no-one who takes the trouble to compare any of the editions of *Kenny* written by the original author with the editions produced by Dr Turner can doubt, notwithstanding Dr Turner's great learning and considerable labours, that what passes now for *Kenny* bears no resemblance to the beautifully lucid and exciting book that it used to be.

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Principles of Public International Law, by IAN BROWNLIE, of Gray's Inn, Barrister-at-Law, Fellow of Wadham College, Oxford (Clarendon Press, Oxford, 1966), pp. i-xxxi, 1-646. Australian price \$9.80.

The formidable increase in all kinds of material published during the last generation in the area of public international law has led most writers in this field of law to increasing specialisation. It is rare these days to find an English writer attempting in a single volume a textbook covering at some depth the most important part of public international law. In his *Principles of Public International Law* Dr Ian Brownlie has, in the reviewer's opinion, succeeded in this attempt. Dr Brownlie in his Foreword referred to the need of making choices, in order to keep the work within manageable limits. Thus the law of war is not covered. The major parts of the international law of peace, however, are treated by the author: the sources of law, the relationship between international and municipal law, international personality and recognition, territorial sovereignty, the law of the sea, jurisdiction, the place of the individual, nationality, human rights, international claims, state responsibility, international treaties and other transactions. The chapter on international organisations and international adjudication is greatly assisted by the texts of the Charter of the United Nations, the Statute of the International Court of Justice and the Organisation of the International Labour Office which are added to the book as Appendices.

This reviewer fully agrees with the author's concentration on the law of peace. In any case, Dr Brownlie can refer students to his own, well-known *International Law and The Use of Force by States*. His decision to keep state succession out of full treatment in the text, and to leave it to a student's private studies, assisted by the author's special bibliography, can also be fully understood. What appears regrettable is the omission of diplomatic and privileges immunities and privileges from proper treatment; the author appears to think (p. 516) that the conclusion of the Vienna Convention of 1961, and the incorporation of the Convention's rules into recent English legislation, settles the matter. However, would not a brief survey of the rules, and a comparison with the law applied in various municipal jurisdictions, be of particular interest to the student?

If the question of space is decisive, it might be suggested that the pages devoted to a person's nationality and other means of linking him to a state

² Or 1966, which is the date of the present edition.