Chapter 3—'All able-bodied persons over the age of fifteen years residing within the Community/Reserve shall unless otherwise determined by the Manager perform such work as is directed by the Manager or person authorized by him'.

Chapter 4.1—'A person . . . shall not . . .
(h) carry tales about any person so as to cause domestic trouble or annoyance to such person'.

Chapter 6.10—'A householder shall wash and drain his garbage bin after it has been emptied by the collector. If necessary disinfection of the bin by the householder may be directed by an authorized person'.

Chapter 8.3—'The occupier of a building shall not use the building nor permit the building to be used for any improper, immoral or illegal purpose'.

Chapter 9.3—'A person using a gate or any other opening in a fence capable of being closed shall close it unless instructed by an authorized person to leave it open'.

Chapter 10.1—'A person swimming and bathing shall be dressed in a manner approved by the Manager'.

Chapter 13.2—'A person shall not use any electrical goods, other than a hot water jug, electric radio, iron or razor, unless permission is first obtained from an authorized officer'.

Chapter 14.5—'A person shall so conduct himself in the community area and in any building so as not to annoy other residents'.

Chapter 24.3A—'Parents shall bring up their children with love and care and shall teach them good behaviour and conduct and shall ensure their compliance with these By-laws'.

And there is more, much more!

Professor Nettheim is entitled to our gratitude. His book is a most useful setting-out of sources for those who actively seek to better the aborigines' lot. But, even more significantly, its dry, matter-of-fact presentation of this legalized set of atrocities will serve to remind practitioners of law that they have a duty to the administration of justice over and above that of serving their paying clients to the best of their ability. Smug 'knowledge' that our traditions will automatically cause the Rule of Law to be respected has been proved, systematically by this book, to be unfounded. The book will also serve notice on academic lawyers that those who poo-pooh courses such as Law and Poverty, Law and Aborigines, on the basis that they are band-wagon courses, containing no real law, might well be more irresponsible than those who advocate such courses.

This is a very important book. I hope that it will be widely read.

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A Casebook in the Law of Crimes, by PETER BURNS, LL.M., (2nd Edition Sweet and Maxwell (N.Z.), 1972), pp. i-xxviii, 1-556. Price $17.85.

Despite the generality of its title, this casebook can only have been intended for use in New Zealand law schools. It contains a selection of extracts from English, Australian and New Zealand cases. Comment on the extracts is sparse. There are, however, helpful references to textbooks and periodical literature at the conclusion of each chapter. The casebook will no doubt assist in the conservation of law libraries in those law schools where it is used. It provides, for the Australian reader, a sampler of judicial prose from the New Zealand courts. No other virtue is immediately apparent.

The value of this book as a teaching aid may be doubted. My first complaint may be one merely of personal taste. But the arrangement of material seems highly

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likely to cause confusion for students approaching Criminal Law for the first time. The first seven chapters of the book contain extracts from cases relevant to the 'general part' of the criminal law. The concepts of *actus reus* and *mens rea*; strict, vicarious and corporate liability; matters of justification and excuse as automatism, mistake and intoxication; accessorial liability and attempts, are all treated before the student gets his first taste of law dealing with a particular offence in Ch. 8, which deals with unlawful homicide. The task of a teacher who attempts to elucidate the mysteries of *R. v. Ramsay*[1] or *Ryan v. The Queen*[2] before commencing the law of homicide seems a particularly daunting one.

The second cause for concern lies in the use of confusing analytical labels both in the explanatory comments and as an organizing principle of the text. Chapter 3, 'The Elements of an Offence', is divided into two sections: '*Actus Reus*' and '*Mens Rea*'. It is necessary, of course, for students to have an understanding of the uses to which these terms are put in the cases. Nothing but confusion can result from the attempt to use them as analytical tools however. '*Actus reus*' is defined as including 'all the relevant external circumstances of the offence'.[3] The term 'external', 'refers only to those factors external to the mind of the accused, but not necessarily to anything else'. (What else *could* it refer to?) Later on the same page it appears, however, that there is no *actus reus* if D's act, or omission to act, was involuntary. Is the fact that D acts voluntarily an external circumstance of an offence? The definition of *mens rea* runs into the same kind of difficulty. 'Mens rea', it is said, 'introduces the notion of moral culpability and means whatever *mental state* or fault is expressly or impliedly required to be proved in the definition of the offence charged. These mental states or fault are, broadly, (a) Intention, (b) Recklessness, and (c) Negligence'.[4] As Professor Burns describes negligence it is 'essentially a course of conduct'.[5] An external element of the offence perhaps? Perhaps it would be possible to save the conceptual structure which rests on the distinction between *actus reus* and *mens rea* in a full scale treatment of the subject. But these short introductory comments do little more than expose the decadence of traditional analysis. The case for abandoning these concepts has been ably made by Professor Howard.[6] It is disappointing to see these bits of Victorian bric-a-brac on display once more.

There are other examples of misleading analytical terminology. Recklessness is given a thoroughly confusing treatment.[7] Reference is made to 'status offences' as if the notion had a useful *analytical* role to play[8] But it is a shorthand term for one of the grammatical forms which statutory or common law prohibitions may take. Or it is sometimes used as an alternative means of expressing the conclusion that an offence is one of absolute liability. As an analytical tool it can safely be relegated to Professor Stone's 'Legal Category of Meaningless Reference'.

The extracts from the cases are generally well chosen. (Though the omission of the dissenting judgment by Haslam J. in *R. v. Donnelly*,[9] seems hardly justifiable.) But the usefulness of the enterprise of selecting and publishing them may be doubted. For this reviewer at least, the style of Brett & Waller's *Criminal Law—Cases and Text* (3rd ed. 1971) is much to be preferred. It is a thoroughly idiosyncratic book which has the considerable merit (among others) of exposing the authors' prejudices and preconceptions. Professor Burns, on the other hand, is inscrutable. Any selection and ordering of extracts from cases will inevitably distort that understanding which comes from fuller study of the cases. There is little sense here that what is being presented is an illuminating—or even an idiosyncratic—distortion of reality.

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1 [1967] N.Z.L.R. 1005.
2 (1967) 40 A.L.J.R. 488.
3 Burns, *A Casebook in the Law of Crimes* (2nd ed. 1972) 32.
4 *Ibid.* 67.
5 *Ibid.* 73.
6 Howard, *Australian Criminal Law* (2nd ed. 1970).
7 Burns, *op. cit.* 71-3, 81.
8 *Ibid.* 32, 63.
9 [1970] N.Z.L.R. 980.

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