

cases, reprint. Those who are interested in early New South Wales would like to see Governor King's legal letter book in print, for example, with its lucid Court of Appeal judgments. We also need a bibliography of twentieth century sources to match this one.

The bibliography is a fine work to mark Alex Castle's retirement from the Bonython Chair of Law at Adelaide University. For decades, he has provided us with essential books and articles on the history of Australian law. Few who write on it would not have a copy of his *Australian Legal History* by their side. He was recently elected as the first Life Member of the Australian and New Zealand Law in History Society. No-one has given more to this field.

*Bruce Kercher**

Mark Finnane, *Police and Government: Histories of Policing in Australia*, Oxford University Press, 1994, pp x, 238, \$24.95 (pbk).

One sign that an area of research is reaching maturity is the appearance of a textbook summing up the major themes that have attracted researchers. Mark Finnane's book, *Police and Government*, not only incorporates published research on the police in Australia and overseas, but adds much of his own original research on the Queensland and New South Wales police forces derived from personnel files and other sources. His major aims are to out-line some of the principal forces and characteristics which shaped contemporary Australian policing; to understand present conflicts which seem to represent a crisis in policing; and to open up the field for other research on legal regulation and social order in Australia at the local level. Finnane rightly argues that contemporary arguments about policing in this country could benefit from a good dose of historical medicine and that histories of many subjects touching on social order in Australia could benefit from a greater understanding of the specific contexts affecting the work of policing. He sees this book as a contribution to the perennial debate about the proper function of police in society. The cover photograph of Victorian police massed outside Parliament House to protect the Government from public reaction to unpopular and unjust policies is well chosen. It symbolises the major theme of the close and long-standing relationship between the police and government in Australia, which more often than not served to perpetuate inequalities, instead of furthering the social principles of justice and equality dear to Finnane's heart.

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The book is divided into three sections. Section 1, called 'Police and Government - Public Histories', explores the historical organisation of police forces as important State instrumentalities and examines the political conditions which determined that Australian forces would be consolidated, centralised bureaucracies, rather than local ones. Colonial governments decided to adopt a centralised police system in the mid-nineteenth century. The police forces were headed by one officer called either Commissioner, Chief Commissioner or Inspector-General, who answered to the Colonial Secretary or some other Minister. Finnane teases out factors which led to the adoption of a centralised system including police developments in England and Ireland, the existence of aborigines, convicts, and bushrangers, the gold rushes, and the rapid urbanisation of Australian settlement. He concludes that metropolitan control rather than local control was the most important long-term consequence of the particular formation of police in the colonies.

The only exception to this trend was Tasmania where the preference of the other colonies for central control was reversed. From 1858 to 1898 policing was organised on a municipal basis. Colonists demanded a change from the corrupt and inefficient police forces under the control of magistrates, who were associated with the dreaded convict system. Finnane tends to underestimate financial considerations in determining this choice but it was clear that the early colonial governments wanted to divest themselves of expensive (and unpopular) functions like policing.⁴ But he is right to note that a desire to stimulate local government was a factor in the creation of municipal police. A degree of central direction came from the Inspector of Police, who drew up rules for the guidance of the municipal forces and later was responsible for the Territorial Police in non-municipal districts. As it relates directly to his central theme, Finnane could have said more about the breakdown of the system of municipal police in the 1870s and why centralisation was introduced in 1899.⁵

In Section 1 we are given a chapter on relations between Commissioners and Ministers, especially between 1880 and 1930. This section contains a very good discussion of how Commissioners influenced public policy and the crucial issue of whether the autonomy and independence of Commissioners has ended effective political responsibility for policing. The authority of Commissioners was 'significantly qualified' by the formation of police unions, which

4 Stefan Petrow, 'The Hobart Town Municipal Police 1858 to 1878', *Tasmanian Historical Research Association Papers and Proceedings*, 42 (1995), forthcoming.

5 John O'Sullivan, *Mounted Police of Victoria and Tasmania* (Rigby, 1980), remarks upon the advent of centralisation but is not cited by Finnane.

fiercely protected the working conditions of their members. Section 1 ends with a chapter on the policing of dissent and political policing as well as the use of private police, which is not the new development some have claimed.

In Section 2, 'Governing By Police - Social Histories', Finnane assesses 'the historical role of police in social life in Australia'. He gives welcome attention to fingerprinting, the use of informers, and the practice of obtaining confessional evidence by detectives. The unsupervised nature of criminal investigation opened the way for inefficiency, oppression of individuals, and corruption. Tasmania was not immune from such developments as former Victorian Chief Commissioner Alexander Duncan reported in 1955. Duncan found that Tasmanian detectives sought convictions 'by the fastest possible means' and that meant getting confessions by intimidation, which was the norm in most Australian police forces.

From his study of the policing of public order (drunks, larrikins, vagrants, and motorists), Finnane concludes that the police have 'played their part in reproducing inequalities, or even in enhancing them'. While police have spent most of their time policing order in public places, they have been less inclined to interfere in the private sphere in areas like domestic violence. Police attitudes, however, varied. For example, in 1874 the much maligned Superintendent Richard Propsting, head of the Hobart Town Municipal Police, won support for his efforts to help women prosecute violent husbands but the women rarely appeared in court to press the complaint.⁶ Another area where local and regional variations were evident was the policing of aborigines. However, despite benign exceptions, the police were typically 'agents of government presiding over dispossession and attempting to reconstruct or eliminate by assimilation the whole Aboriginal population'.

Section 3, 'Governing the Police - Hidden Histories', covers areas of policing which were 'the most politically and organisationally sensitive of all: the histories of indiscipline and of corruption'. Here we find critical insights on police training and recruitment, how discipline was enforced by requiring adherence to rules devised by Commissioners, and on some of the historical forms of police corruption, which arise from the interaction of the law, police practices, and the organisation of police activities.

As can be seen from this brief summary, Finnane covers much densely packed ground in a mere 189 pages and manages to say something sensible, interesting or provocative on aspects of police forces in every State from the early decades of settlement to the

6 Petrow, 'The Hobart Town Municipal Police', note 4 above.

1980s. This book can thus be recommended as an introductory guide to courses on policing, on criminology, or on the history of criminal justice in Australia.

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Philip Alston (ed), **Towards an Australian Bill of Rights**, Centre for International and Public Law, Australian National University, Canberra, and the Human Rights and Equal Opportunity Commission, Sydney, 1994, pp xv, 383, \$19.95 (pbk).

This publication is a collection of articles from legal academics, members of the judiciary, politicians and other senior public figures working in the sphere of human rights protection and promotion. Whilst it is entitled *Towards an Australian Bill of Rights*, the discussions are wide-ranging, surveying Australia's support for and application of international human rights initiatives, in addition to discussing the domestic and comparative aspects of Bills of Rights. This broad base provides a platform for an informed debate on the question of a Bill of Rights for Australia.

The text is introduced by Philip Alston who gives a general survey of the possibilities for the creation of a Bill of Rights in Australia and the methods by which it might be achieved. This is an excellent introduction to the debate, providing a basic reading for students in the area, and is thoroughly referenced. This introduction would serve as an ideal basis for a seminar on the subject for students, and is also clearly aimed at the informed general reader, an objective which is admirably achieved.

The main body of the text is divided into three parts. Part I, 'Putting the Debate in Context', presents a variety of writings on the particular minority rights and interests likely to be fundamental to a Bill of Rights. The outstanding contribution to this section is the article by Professor Charlesworth entitled 'The Australian Reluctance About Rights', which is a thoughtful, lucid and thorough critique of the development, and present status of, human rights in Australia. Further in Part I, Elizabeth Evatt treads carefully through the minefield that is 'Cultural Diversity and Human Rights'. This is a problem that will not go away, and needs to be evaluated carefully if a future Australian Bill of Rights is not to be an instrument of division.

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