

Mark Findlay, Stephen Odgers and Stanley Yeo,
Australian Criminal Justice

Oxford University Press, 1994, ISBN 019 553 4875

The major problem that textbooks on criminal law present for the reader are unfathomable structure and academic writing style which may have relevance to the classroom, but rarely provides assistance to the practitioner or other persons seeking information as opposed to opinion. *Australian Criminal Justice* is a welcome departure from the norm and provides for the practitioner, the student, the judicial officer and anybody else in the community with an interest in criminal justice, a logical overview of the criminal justice system, from basic concepts such as aims, functions and sources of the criminal law through the investigatory phases (both traditional and inquisitorial) to the trial, sentencing and appeal processes. That is not to say the work is without analysis, the final chapter "And justice for all" deals with a number of controversial social issues highly relevant to any examination of our criminal justice system. As his Honour Justice Michael Kirby observed in his foreword to this work, "it seeks to put together, in manageable form, the pieces of the mosaic which is Australia's criminal justice system".

The authors state "we have endeavoured to make available to a wide readership an accurate and well rounded discussion of Australian Criminal Justice, warts and all." (p7) This is an objective they have achieved with this work. The book commences with the foundation stone of the criminal law, an outline of "criminal responsibility", by reference to categories of crime, sources for the criminal law and how criminal responsibility is defined both legally and socially. There is a useful summary of the basis of complicity, defences and liability for "inchoate crimes" such as "attempt" and "conspiracy". It moves through investigation, examining both the law related to arrest, search and seizure and interrogation, as well as examining issues relevant to the detection of offenders such as "eye witness identification" and the use of informers. While examining traditional forms of investigators, the authors have also written a chapter in relation to the "new investigators" whose powers and authorities have risen from specific statutory schemes falling outside the ambit of traditional criminal investigation. Reference is made to the operation of the New South Wales Independent Commission Against Corruption, the National Crime Authority and the Australian Securities Commission by way of example. Of necessity the review is cursory however, the authors provide sufficient detail to enable both practitioner and student alike to understand the criminal law context of these authorities.

There is an examination of the "pre-trial" process, not only in relation to the operation of Courts, but also examining police discretions and prosecutors' pre-trial decision making. There is a brief examination of the role of "Legal aid" and the role of the lawyer acting for an accused person in pre-trial proceedings. It is at this point that the authors provide valuable information for the practitioner relevant to the practical aspects of practice, commencing with committal proceedings through to the appeal process for indictable matters to the various Courts of Criminal Appeal.

The authors usefully rely not only upon the gathering of relevant statutory provisions, authoritative judicial pronouncements and academic writings upon the subject matter, but also supplement these sources with relevant Parliamentary, Royal Commission and Reports, from other sources such as the New South Wales ICAC Report on "Investigation

into the use of informers". If there be a criticism of the book's coverage of practical aspects of practice, it is the very brief coverage of "summary hearings", particularly given the acknowledgment by the authors of the significance of magistrates courts in determining the guilt or otherwise of citizens with more than 90 per cent of "criminal trials" in Australia determined by summary proceedings. That is not to say "the Lower Courts" are ignored, however the practical aspects of proceeding in courts of summary jurisdiction are in the reviewer's mind neglected by comparison to the examination of proceedings in "higher courts". Practical aspects of the criminal law are balanced with discussion of the social and philosophical contexts of the trial and sentencing process which provide a theoretical frame work which it must be acknowledged our criminal justice system operates.

The deficiency of limited examination of summary proceedings is reflected in the chapter on "Appeals", which concentrates upon appeal processes to Courts of Criminal Appeal and beyond. Practitioners particularly would have been assisted by a brief examination of avenues of appeal from courts of summary jurisdiction, not only to District and County Courts (or Supreme Courts in small jurisdictions) but also with an outline of statutory and prerogative writ relief available in respect of magistrates courts determinations and orders. Similarly more information for the practitioner concerning remedies in the Federal Court for relief in respect of proceedings relating to Commonwealth prosecutions would have been a useful addition to the valuable information contained in the book. On balance however, these criticisms are minor ones given the significant new ground covered this attempt to provide a holistic examination of the way in which the administration of criminal justice operates in Australia.

Professors Yeo, Findlay and Mr Odgers have each taken responsibility for particular parts of the work however the collaborative effort is reflected in the capacity of the book to relate the various aspects of law and procedure to one another in a highly readable form. In that regard the text is unique in Australian legal literature and has the added strength that whilst its contents are highly readable it has sufficient depth of discussion of relevant legal principles (not to mention excellent footnoting) which will provide great attraction for the practitioner either researching the law or seeking a concise statement of principle on matters relevant to everyday practice. The index is accessible, although somewhat short in detail, however the logical structure of the work provides ease of reference to information in proper context. While the work of the authors does not represent the definitive work in Australian criminal legal literature it provides a blueprint for a further more detailed reference work. This excellent work is highly recommended to all those who are concerned to know the facts about the practical operation of our system of criminal justice.

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