

BOOK REVIEWS

Police in Australia. Development, Functions, Procedures written and edited by KERRY L. MILTE, LL.B., Dip. Crim., Barrister of the Supreme Court of Victoria; Senior Lecturer in Criminology, University of Melbourne, formerly Superintendent of Police, Australian Commonwealth Police Force, assisted by THOMAS A. WEBER, LL.B., Dip. Crim.; Research Assistant in Criminology, University of Melbourne. (Butterworths, 1977), pp. i-xxi, 1-511. Cloth, recommended retail price \$22.50 (ISBN: 0 409 49291 4); Paperback, recommended retail price \$18.50 (ISBN: 0 409 49290 6).

I am puzzled as to the purpose of collecting and publishing this particular pot-pourri of materials, cases, essays and articles. Intellectual perspicacity is evidently not its *raison d'être*; neither does it provide access to sources which are otherwise unavailable; nor is it linked by any particular thread or theme. To be frank, it is a hotch-potch—and one which lacks many of the ingredients necessary to season and thicken it.

In the introduction the authors state that “[t]he fundamental concept underlying this study is that the police . . . must become and remain the community’s police and not be the agents of temporary governmental capriciousness usually reflected in the enactment of hasty, ill-conceived or oppressive laws” (page 1). This is an enormously important theme, one which will become ever more important as populations increase, as the interdependence of various segments of society becomes more crucial, and as accordingly the desire for predictability in community interaction grows. But the authors do not, in their compilation of this collection, hang on to or develop this theme.

For instance, the sections on forensic science though fairly interesting in themselves are irrelevant to this theme. Again, the chapter on Criminal Investigation, instead of addressing itself predominantly to the delicate problem of balancing the interests of the suspect, the police and the public, deals with such matters as what police should do on arriving at the scene of a crime to preserve the evidence, *etcetera*. This is the sort of information which is central to in-force training at a detectives’ school but is at best peripheral to the theme the authors have purportedly chosen.

Pursuing this point a little further, the authors do perceive the need to pursue the theme of criminal investigation in the sort of way I describe. But instead of including in the materials a summary or a discussion of the Report on Criminal Investigation by the Australia Law Reform Commission¹ and an analysis of the Criminal Investigation Bill 1977, they present the reader with some tired and dated debates about the Human Rights Bill of 1973.

¹ *Report No. 2 (Interim), Criminal Investigation* (A.G.P.S., 1975).

This leads one to make the general point that too many of the articles are published as originally written and have not been up-dated for 1977 publication. It matters less that, as with the articles by Teh and Raeburn, they were excellent when first written than that they are now somewhat out-of-date.

Next, whilst police industrial activity is central to their theme and whilst the piece on the Victorian police strike of 1923 is very interesting, the fact of the matter is that this book was published in the year 1977, more than half-a-century after that strike. During the sixties and seventies police industrial muscle has increased enormously. Not only have wages and conditions of employment improved dramatically (as to which see, for example, the work of Wilson and Western² and the arbitration decision following that) but also the "workers" have started to participate actively in what were previously accepted as "management" decisions (for example, in Queensland where the decision whether police should carry firearms was in 1973, following union pressure, left to individual officers). How much more informative to the modern reader it would have been to read an essay on these sorts of things.

There are glaring omissions too in areas where materials are readily available. Although I have a vested interest in this, I fail to see that it can be regarded as an adequate treatment of force in arrest to set out the Police Instructions of New South Wales and other police forces when the *practical* question is whether those instructions are in reality obeyed. There is, of course, copious evidence that they are not.³ Nor do I see that a discussion of police use of computers is of any great utility if it does not take account of issues raised in the Ward Report on the Computerisation of Criminal Data.⁴

Other important materials which are ignored or insufficiently discussed are: on alleged police corruption, the Moffitt Report⁵ and the Norris Report;⁶ on abuse of powers, the Lucas Report,⁷ the Beach Report,⁸ the Laverton Royal Commission Report⁹ and the Bright

² Wilson and Western, *The Policeman's Position Today and Tomorrow: An Examination of the Victoria Police Force* (1972).

³ Harding, *Police Killings in Australia* (1970); Harding, "Changing Patterns of the Use of Lethal Force by Police in Australia" (1975) 8 *Australia and New Zealand Journal of Criminology* 125.

⁴ *Report of the Committee on Computerisation of Criminal Data, presented to the Attorney-General of Australia, August 1973* (A.G.P.S., 1975).

⁵ *Report of the Royal Commission of Inquiry in Respect of Certain Matters Relating to Allegations of Organized Crime in Clubs* (New South Wales Government Printer, Sydney, 1974).

⁶ *Report of the Royal Commission into matters surrounding the administration of the law relating to prostitution* (Government Printer, Western Australia, 1976).

⁷ *Report of the Committee of Inquiry into the Enforcement of the Criminal Law in Queensland* (Government Printer, Brisbane, 1977).

⁸ *Report of the Board of Inquiry into Allegations against Members of the Victoria Police Force* (Government Printer, Melbourne, 1976).

⁹ *Report of the Laverton Royal Commission 1975-1976* (Government Printer, Western Australia, 1976).

Report;¹⁰ on police complaints procedures, the Maloney Report;¹¹ on police organisation and powers, the Carmody Report¹² and the Hope Report.¹³ At least I think these are all omitted or inadequately covered but as there is no bibliography and the index is inadequate, something could have slipped under my guard.

In summary, it is a disappointing concoction.

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Die Kompetenzstruktur des modernen Bundesstaates in rechtsvergleichender Sicht by MICHAEL BOTHE. (Springer-Verlag, Berlin, 1977), pp. i-xiv, 1-352. Cloth, recommended retail price U.S.\$54.60 (ISBN: 3 540 08111 9).

Dr Bothe, a fellow of the Max Planck Institute for Foreign Public Law and International Law at Heidelberg, has written this survey of federal constitutional structures as part of a study of co-operative federalism undertaken by his Institute. An historical introduction referring to very many federal and quasi-federal states shows an enviable familiarity with documentary sources in many languages. The author then narrows his view to the U.S.A., Canada, Australia, Switzerland and West Germany, and sets out in an admirably clear, concise manner the main features of their federal structure, but concentrating more particularly on the distribution of legislative, executive and financial competence between centre and regions.

The last-named topic is the original and highly analytical core of the work. It has several tables which bring to attention with unusual vividness the important differences between the five chosen systems, and the interrelation of these differences. The discussion of financial competence is particularly valuable, with its discussion of input and output questions in a manner familiar to German constitutional scholars, but not so well known to those of the British-derived systems.

Dr Bothe worked under distinguished scholars, American (at Ann Arbor, Michigan) and in Germany, and I would not presume to criticise any of his observations save the Australian, and those only on fairly fine points of interpretation or expression.

¹⁰ *Report of the Royal Commission on the September Moratorium Demonstration* (Government Printer, Adelaide, 1971).

¹¹ *Report to the Metropolitan Toronto Board of Commissioners of Police: Review of Citizen-Police Complaints Procedures* (May 1975).

¹² Carmody, *Minute Paper, Report to Attorney-General, National Law Enforcement Authority* (N.P. April 1974).

¹³ *Royal Commission on Intelligence and Security, 1st, 2nd, 4th Reports* (A.G.P.S., 1977). Whilst the Hope Report only became available after publication of this book, the issues it is concerned with have been a major matter of concern to students of policing since at least August 1974 when the Royal Commission was set up.

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