BOOK REVIEWS

The Machinery of Justice in England, by R. M. JACKSON, LL.D., 4th ed. (Cambridge University Press, 1964), pp. i-xiv, 1-456. Price £3 10s.

This is the fourth edition of a well-recognized text. Dr Jackson's first and subsequent editions were hailed as works which brought a much needed new emphasis to their subject matter. They provide a detailed and comprehensive survey of the machinery available for the administration of justice in England. But Dr Jackson's work is not a mere description of the existing institutions for the administration of justice. He seeks to assess the merits and utility of the institutions he has described in regard to the functions they should be performing, the administration of justice in contemporary England. Dr Jackson seeks to rebut what he believes to be the academic tradition in some law schools 'that it is cultural to know what happened in the middle ages and not cultural to know what happens in the twentieth century'.

Both the aims of this book are well met. In its chapters 'Historical Introduction', 'Civil Jurisdiction', 'Criminal Jurisdiction', 'The Personnel of the Law', 'The Cost of the Law', 'Special Tribunals and the Outlook for Reform' there is to be found a most complete and perceptive account of existing English legal institutions and their procedure. The account is elucidated by tables and statistical material.

Dr Jackson's evaluation of the institutions he has described is challenging and thought-provoking. While no one will agree with all his views, it is most refreshing to read a book about the common law which is free from any notion that there are certain 'sacred cows' beyond all discussion or criticism. For example, in his discussion of the role of the jury in civil and criminal litigation, Dr Jackson finds that there is little foundation for the traditional view that in the late-eighteenth century trials for seditious libel, the jury provided a real safeguard against oppression. In his view, if one read the State Trials and substituted verdicts of 'guilty' for 'not guilty' and vice versa, one would not notice anything odd. Again one cannot fail to agree with his comment on the strangeness of expecting a jury to follow a long case without any of the help that counsel and the judge rely upon. When members of a jury are not provided with pencil and paper, let alone the transcript or a shorthand note of evidence, it is difficult to see how their judgment of issues of fact in a long case can be more than an informed guess.

In his discussion of 'Special Tribunals', Dr Jackson is again provocative. He points out that some administrative tribunals developed to provide a less expensive procedure for what was previously done by Private Act of Parliament. The trend of legislation and administrative action following the Franks Committee Report has been to bring special tribunals and ministers' decisions nearer to lawyers' conceptions of the way adjudication ought to be conducted. Dr Jackson wonders whether this is an unmitigated blessing. 'As the processes have become more judicialised they have become slower, subject to delays and uncertainties, and far more expensive.'

The reviewer's comments merely scratch the surface of the bulk of informed and interesting discussion in this book. Benthamite in its approach, it is a welcome specific to the complacency of common lawyers and much of its comment is as relevant to Victorian as to English common lawyers.

Some printing errors were noted: on page 51, line 5, 'trail' for 'trial', on page 106, note 1, 'Table V on p. 119' for 'Table V on p. 117'; on page 163, note 2, 'cause' for 'case'. To the uninformed, the listing on page 87, note 1, of Privy Council appeals from 'New South Wales' separately from those from 'Australia' may suggest that the former is a separate state independent even of the bonds of federalism.

J. D. FELTHAM*

Anson's Principles of the English Law of Contract, edited by A. G. GUEST 22nd Ed. (Oxford University Press, 1964), pp. i-xliv, 1-635. Price £3 15s.

'Elementary textbooks might be necessary to a student of Law, but not a rare edition of Littleton's Tenures for eight or ten copies of the present text-book.' This statement in the latest edition of *Anson*, in its section on 'Infants', involves an obscurity which is notably absent from the rest of the text. It leaves the reader unenlightened as to whether the editor considers that one copy of the textbook could reasonably be regarded as a necessary, and if so, whether it is by reason of its being an elementary textbook. But it is probably merely diffidence that makes him leave it to the reader to determine for himself that a copy really is a necessary, without its being elementary. Yet, when Sir William Anson first published his book in 1879, he proffered it as an elementary text book, and when he last edited it in 1906, the 11th edition, the conception had not altered.

The further statement that 'infants are liable for "necessaries" and not merely for "necessities"', not only draws attention to a very proper distinction sometimes obscured in this branch of the law of contract, but introduces a useful basis of comparison for the consideration of the place of *Anson* in law studies in recent years, at all events in Melbourne. Forty years ago, *Anson* was a necessity for the student of law in the University of Melbourne. That was because it was the only text book used in the law of contracts. Lectures centred around it, and were amplified only to the extent of introducing some of the most recent English decisions and a few of the local ones. Now, with the development of the case book method, and the availability of more textbooks on the subject, it has ceased to be a necessity. But a student who bought it for the purpose of using it to keep up his studies in Contracts, would almost certainly find he would have to pay a reasonable price for it as a necessary, and that a reasonable price would be that charged.

There was always a crispness in the statement of propositions in the book and it is still there. The selection of cases and of the excerpts from the judgments, to illustrate the propositions, have always appeared apt for the purpose. These are particularly useful qualities for the student, who is attempting to grapple with the subject, and they are satisfying for anyone concerned to remind himself of the principles applicable to some particular branch of it. But to the latter, there is also apparent an up-to-date-ness (if such a term can be permitted) which conduces to confidence that care has been taken of the most recent developments.

It has sometimes been suggested that the attempt to engraft on to the original structure of *Anson* the developments in the law of later times has resulted in the lack of homogeneity associated with plastic surgery.

* M.A. (Oxon.), B.A., of Gray's Inn, Barrister at Law.