

and prisons as merely formal, adoption of her views would result in a formidable extension of power by the State over the individual once he had been convicted. Thirdly, it is a mistake to assume, as the reformers apparently do, that all crimes can be satisfactorily defined without reference to a mental element. An obvious instance of this difficulty is attempt. The present reviewer can add nothing except that as matters stand at present these criticisms appear to him to be well founded.

The second lecture is chiefly interesting because of the attention drawn by Professor Hart to the strength and persistence of a firmly held but largely inarticulate philosophy of law in the English judiciary. He cites a striking instance of this in the recent statement by Lord Devlin of certain views which had been published by Sir James Stephen as long ago as 1873. The striking thing is that at the time when he formulated his own views, Lord Devlin was unaware of Stephen's book.

COLIN HOWARD

Rights in Air Space, by D. H. N. JOHNSON (Manchester University Press, 1965), pp. 1-129. Australian price \$3.60.

In 1965 Professor Johnson delivered the Melland Schill lectures at the University of Manchester. This short book is an adaptation of these lectures. Although said to be dealing with that part of territory which is called 'air space' (the series being concerned with International Law from the point of view of territory) the book has in fact little to say on this matter. This is fortunate, because the things, chiefly military, about which Professor Johnson writes instead are infinitely more interesting and important than the somewhat sterile matter of territory. The core of the book is about the two World Wars and is principally concerned with the problems of aerial warfare and bombing: the author feels that 'terror-bombing' is unlawful, but in conceding that 'strategic' bombing is permissible he appears to join with Schwarzenberger, whom he cites as concluding that 'under modern conditions the standard of civilization has retreated before the necessities of war'. He refers to the 'rude practice of war' as being a source to be examined in arriving at what the rules of war are, thus adopting a more highly positive position than is common, or, in the opinion of the reviewer, desirable, though it is fair to say that he denies that in so doing he is giving a blank cheque to military necessity. It is a gap in the book, incidentally, that in his treatment of the legality of bombing he does not discuss the nuclear bombing of Japan, though in a short paragraph he refers those interested to some of the instruments which would have to be considered.

Professor Johnson precedes the discussion referred to by two introductory chapters, tracing the development of aviation itself and mentioning the very tentative essays in the formulation of Air Law which preceded 1914. These are interesting, and necessary to his subsequent chapters, but they contain little of great substance as far as Air Law itself is concerned, though they are of value in another respect, as is suggested later. In the final chapter, however, the author turns his attention to some of the problems of contemporary International Air Law, and, very neatly and shortly, sets out all the main arguments on such matters as jurisdiction over crimes committed on board aircraft (one wonders why there has been so little authority on this matter), trespassing in air space, and the Chicago Convention and civil aviation. The texts of that Convention and the Tokyo Convention on Offences Committed on board Aircraft are set out in Appendices.

The text of the book proper is only 79 pages. One wishes that it were longer, but the book is a re-print of a course of lectures, and in five lectures one cannot do much more than explore the potentialities of a subject. This Professor Johnson has done admirably. His concentration on and approach to the law of warfare offer a refreshing difference from that of most writers on the law of the air. But it is not only as an introduction to that topic that the book should be read. As a bonus, he presents a picture of the way in which rules of International Law develop from nothing, by means of analogy, use of the concepts of municipal laws, State practice, and Convention. But it is as a book on Air Law that the book should be primarily read. The result of reading it is a hope that Professor Johnson will not fail to make further contributions to this important part of International Law.

ARTHUR ROGOSON

Cases and Materials on Contract, by R. E. MCGARVIE, Q.C., LL.B. (HONS), C. L. PANNAM, LL.B. (HONS), LL.M. (ILLINOIS), and P. J. HOCKER, LL.B. (The Law Book Company, 1966), pp. i-xxxii, 1-1103. Price \$13.50.

The authors state that this book has been designed primarily as a teaching instrument. It is, therefore, proper that this reviewer should preface his remarks with a declaration that he has never consciously employed the purely case method of teaching. Furthermore, as a student he was never consciously or (for the avoidance of doubt amongst those who favour the somnolently unconscious acquisition of knowledge) unconsciously subjected to that method of instruction. However, even those of us who are wedded to the trilogy of text, case and problem realize that a good case book is an indispensable tool for the modern law student, whether he be a practitioner, a teacher or an undergraduate.

In the respectful opinion of this reviewer, the authors, publishers and printers have produced an outstandingly good case book. Respect for the industry, research and discrimination of the authors will be engendered in all of those who are wise enough to use the book.

The publisher's claim that the book is comprehensive is more than substantiated. Indeed, the inclusion in the text of *The Council of the City of Sydney v. West*¹ (at page 253), which was not published in the reports until the end of January 1966, and the inclusion of the even later decision, the *Suisse Atlantique Case*², as an appendix to Chapter V, must have involved an amazing degree of co-operation between authors, publishers and printers. The book has been arranged in chapters which substantially cover the same ground as the standard texts, thus involving a comprehensive treatment of special appeal to the triologist.

To say that a case book is comprehensive does not mean that it is all embracing. Some cases must of necessity be excluded. The process of selection and rejection is inherently difficult and, in the case of a book designed primarily for the use of Australian students there is the additional complication of having to consider the case law of a number of common law jurisdictions. Having decided upon the various aspects of the subject which must be covered, it is then necessary to decide which of those aspects, if any, call for greater emphasis.

On the question of emphasis the authors have displayed courage and an admirable insight. As they point out in the preface, too much time in the past has been spent on the case law dealing with the formation of

¹ (1965) 39 A.L.J.R. 323.

² [1966] 2 All. E.R. 61.