

The authors have not confined themselves to a dull recital of facts and rules. For example, their remarks on legal aid, law reform and legal education provide an early warning against an uncritical assumption that the legal system is as effective as it ought to be (pp. 46-52). Their description of 'the birth pangs of a statute' neatly explains why it is that, despite the labours of skilled draftsmen, the courts are constantly confronted with problems of interpreting legislation (pp. 134-138). Chapter 10, 'The Facts and the Law', justifies the proposition, surprising to many laymen, that 'the courts' task is not primarily to discover the truth but to decide issues brought before them' (p. 159). Passages such as these give the essays a readable and pragmatic character. This leads me to my one quibble: with a greater infusion of this quality, primarily by a more liberal use of practical examples, and with a slight expansion of the scope of its factual information, the book would be even more attractive and useful to its wide readership.

The preface states that the book is written for those who are contemplating embarking on legal studies and other laymen, as well as for students who use it as a complementary text to the authors' course-book, *Cases and Materials on the Legal Process*. There are signs, however, that the authors have had the latter class of readers, and particularly their own students at the University of Melbourne and Monash University, uppermost in their minds. Chapter 1-3, dealing with the institutions of the law, have a heavy emphasis on the State of Victoria: an outline coverage of such matters as the judicial hierarchy and the reception of English law in the other Australian States and Territories, and, perhaps, in New Zealand, would be appreciated by non-Victorians. In the discussion of precedent, the reasoning of lawyers and the interception of legislation, one would have expected frequent recourse to cases which would not only illustrate the points being made, but also add to the liveliness of the text. For example, the unforgettable fact of *Donoghue v. Stevenson*² and *Grant v. Australian Knitting Mills Ltd*³ are a godsend to painless elementary instruction in the operation of precedent and the use of analogy in lawyers' reasoning. In fact, sparing use has been made of such material, perhaps because the writers assume that most of their audience will be reading each of the essays in conjunction with the corresponding cases and materials in the course-book. One of several signs that this is so is a brief incidental mention of snails in bottles and sulphur in underwear on page 170 which assumes familiarity with the cases in question. They are, of course, examined in detail in the course-book.

An Introduction to Law will be read by many who will not have occasion to use the course-book. By a minor change in emphasis in the editions that will certainly follow, the authors could maximize its value for all of the wide range of readers throughout Australia who will turn to it for their initiation in learning the law.

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The Machinery of Justice in England, by R. M. JACKSON, LL.D., F.B.A.,
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² [1932] A.C. 562.

³ [1936] A.C. 85.

bridge. 5th Ed. (Cambridge University Press, 1967), pp. i-xii, 1-494. Australian price \$9.35.

This is a book that every lawyer should read at least once in his lifetime. Five editions (and two reprintings) in 28 years are evidence of its quality. This success is due partly to its being so different from some 'beginners' books published in England. Instead of confining himself to empty analytical propositions about rules and institutions, Professor Jackson sets about describing how the system works. This is the best way to get students interested. As he wryly observed in the preface to the first edition in 1940, it is necessary—while recognizing the value of some legal history to oppose 'the idea that it is cultural to know what happened in the Middle Ages and not cultural to know what happens in the twentieth century'.

Since the fourth edition in 1964, there have been some remarkable changes in the English system: these are noted and have received due attention. But 'the great change is not in rules of law but in the prospect; the legal world has a different appearance since the creation of the Law Commission' (page ix). Most of his strictures against obstructive procedures are repeated; he still does not subscribe to the popular belief that juries historically have been the valiant defenders of personal freedom (p. 302). He suggests now that there is 'much to be said for replacing juries by assessors' (p. 318). These would be 'drawn from a specially appointed body of men and women, much on the lines of the magistracy but more numerous. The whole court would give the verdict'. Similarly, he thinks that the clerk in the magistrates courts should be allowed to intervene in court when issues of law or evidence arise, and to put a relevant point, even after the justices have retired. This appears to conform to the new attitude of the High Court in England shown in *R. v. Consett Justices*, *ex p. Postal Bingo Ltd* [1967] 2 W.L.R. 84.

The excellent chapter on 'Special Tribunals' remains much as before. He repeats his earlier view that some confusion could be avoided if 'a sharp distinction should be made between ministers and the other deciding agencies' (p. 410). The truly 'special' tribunals, consisting of persons with particular expertise in the area, seem generally to have carried out their work competently in interpreting the legislation. Ministers, however, have to carry out a *policy*; policy decisions must be controversial and subject to attack, above all in Parliament. Provided the members of special tribunals are not mere 'stooges of the Minister' they can, without fear or bias, 'act judicially': it is not for them to have a 'policy' in the above sense.

Professor Jackson continues to hit out against legal complacency, notions that only lawyers can provide justice, the costs and delays and frustrations of litigation. His Table XI (on p. 469) shows that trials in the Queen's Bench Division in recent times take at least twice as long to dispose of as they did thirty years ago. This Table had appeared in the 4th edition, and Mr. A. S. Diamond, in reviewing it for the *Law Quarterly Review* (82 L.Q.R. 446) had taken Professor Jackson to task for the conclusions he had set out. Mr Diamond suggested that these figures related only to the business of the Queen's Bench Judges in London, and left out their work on Assize he added that Professor Jackson had failed to understand the statistics from the *Civil Judicial Statistics* (p. 447). Professor Jackson remains unrepentant on this point in his latest edition, repeating that 'the data in Table XI can of course be explained in various ways, principally by asserting that cases are more complicated these days.' And he adds a footnote.

'A contribution to the Law Quarterly Review found refuge in asserting that I do not understand the Civil Judicial Statistics. I am tempted to give a rude reply, but what is the use of replying to those whose concern is to justify the present state of affairs.' (466)

He goes on with his attack on many aspects of the administration of the law, not only its delays and costs, but also the whole organization of the profession. Reform there must be by others . . . 'The peculiarity of the legal profession is its blind devotion to its own short comings' . . . (467) ' . . . Law and its administration is a far too serious business to be left to lawyers' (468) And he ends his Preface: 'the need is as great now as any period of our history for the process of the superior courts to be recast and made fit for the Society in which we now live' (XI.) Here he probably speaks for many solicitors.

The outsider can only gaze at the combat with detached interest. He will, however, find in the book much useful matter and sparkling comment on the law in general which is equally pertinent here. It is a pity that, because of its proper emphasis on details of English institutions and because it does not fit our Law courses here, it cannot be prescribed for students in our law schools.

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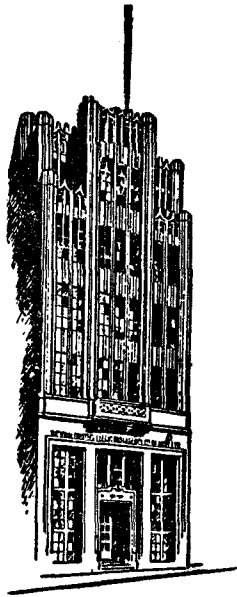
BOOKS NOTED

Cases on Torts, by W. L. MORISON, R. L. SHARWOOD, and C. L. PANNAM.
3rd Ed. (The Law Book Co., 1968), pp. 1-1160. Australia Price \$17.50.

This soft cover new edition of the standard casebook in the subject in University Law Schools adds a highly distinguished author to the old formula. The casebook is 200 pages longer than its predecessor and twice the price. It is to be wondered how long the present edition remains current.

Basic Documents in International Law, by IAN BROWNLIE (Oxford University Press, 1967), pp. 1-240. Australian Price \$4.25.

A concise collection of basic documents in International law, the scope of the work includes, International Organisations, the Law of the Sea, Outer Space, Diplomatic Relations, Permanent Sovereignty over National Resources, Human Rights and Self Determination, the International Law Commission, and the Judicial Settlement of Disputes. The influence of the work is away from case law towards the political and juristic influences in the area. The book, available also in a paper cover, is a useful addition, to the student's materials in the subject, and, as such is reasonably priced.



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