

In that society, always provided he was a citizen, there was no question of the dignity and the importance of the individual. In this, as in so many things, we have moved far and downwards from the Greeks.

JOHN V. BARRY

*The Criminal Law Review*, Number 1, January 1954. Ed. JOHN BURKE and PETER ALLSOP, M.A., Barristers-at-Law. London, Sweet and Maxwell; Melbourne, Law Book Co. of Australasia Pty. Ltd. Annual Subscription (Australia) £2 2s.

The Criminal Law Review is intended by the publishers "to put into the hands of all those intrusted in the practice and administration of the criminal law a monthly periodical which will cover every aspect of the subject in detail."

It is hoped by its sponsors that the journal will follow a middle course between the dullness of the law reports and the ignorant sensationalism of the daily press.

The format is that of the various digests that cater for those to whom the labour of reading an article except in an eviscerated state is insupportable. Initial repugnance is, however, overcome by a perusal of the contents. The editorial pages contain brief notes upon matters of interest, such as the trial of a deaf mute, evidence by a mechanical aid (a tape recorder, in this instance) and the Home Secretary's observations on homosexual crime. As might be expected, the quality and interest of the articles vary. Professor Glanville Williams writes authoritatively and lucidly about the requisites of a valid arrest, upon which subject he permits himself the just observation that "there is perhaps no part of the law in a more confused and difficult state than this, and none that it is more important should be clear and comprehensible".

The note upon *R. v. Roberts*, a deaf mute who was tried at the Cardiff Assizes in March 1953 by Devlin J., affords an instance of judicial ingenuity in escaping from a potentially unjust state of affairs created by the Criminal Lunatics Act 1800, from which Section 426 of the Victorian Crimes Act 1928 is taken. I am by no means persuaded that it is the correct view, legally, that the issue of fitness to plead can be taken with a plea of not guilty which raises the general issue. If, however, the Court requires the issue of the prisoner's fitness to plead to be tried first, and the jury find he is unfit to plead, the Court must order detention during the Governor's pleasure, and this irrespective of whether there is an answer to the presentment. It may be that part of the difficulty arises from the remarkable decision of an English Divisional Court in *McKing v. The Governor of Stafford Prison* [1909] 2 K.B. 81, wherein it was held that a deaf mute, though not in fact insane, was nevertheless insane

for the purpose of the Criminal Lunatics Act 1800. The question invites much fuller examination and discussion than is given in the note. Incidentally the note does not disclose that the case discussed is accessible in the law reports (see *Reg. v. Roberts* (1953) 37 Cr. App. R. 86).

The article "The Psychopath and the McNaughten Rules" makes illuminating, though not comforting, reading. "A Day in a Police Court" is an interesting presentation of the day's work in a stipendiary magistrate's Court. Notes on a private prosecution, on practice and procedure and a digest of cases with comment complete the publication.

The first issue is not particularly impressive. Footnotes are scanty; it is to be hoped that the publishers are not afraid that to have them would give the review a discouragingly learned appearance. As it stands it seems likely to suffer the fate of those who try to follow a middle course in that it will please nobody. There is room for the periodical, however, and as it matures it may take on a character, a breadth and a weight which it lacks as yet. If some obvious improvements are made the venture will deserve support and encouragement.

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*Legal Theory*. By W. FRIEDMANN, LL.D. (London), Dr. Jur. (Berlin), LL.M. (Melbourne), Professor of Law, University of Toronto. London: Stevens & Sons, Ltd. 1953. xx, 520 pp. Australian price (£2 2s. 3rd edition. (The Law Book Company of Australasia Pty. Ltd.)

Since Professor Friedmann's "Legal Theory" first appeared in 1944, it has been made prescribed reading for students in countless Law Schools throughout the common law world. This is now the third edition of the work, and its popularity in the Law Schools, at least in those which concern themselves with the teaching of Jurisprudence, is undiminished.

Except for the inclusion of some important additional American material relating to the development in American jurisprudence of natural law notions, no great changes have been made in the survey of legal philosophies which fills the first half of the book. Part VI, under the heading *Legal Theory, Social Ideals and Legal Practice*, has been re-written and expanded. In particular, the sections dealing with precedent and legal development are different in their content from previous editions. Chapter 29 (*Search for Absolute Ideals of Justice*) is largely new writing and reveals more clearly and directly the writer's own beliefs than had been done before. At many other points in the book there is evidence of revision and the inclusion of new material and recent case-law authorities. The over-all result is a definitely improved work which can only add to the already high reputation of its author.