

other cases and a textbook is still necessary to give a real understanding of the law on a particular point.

However, because of the complete account of the cases there is sufficient exposition of fundamental principles included to allow the volume to be used for a modified system of casebook method instruction. In Melbourne, the 1955 tort class has been introduced to this method and the casebook has provided a valuable basis for class discussion based on pre-lecture reading. But at the time of writing most of the students have not fully comprehended the responsibility for careful study of the casebook that this method places upon them.

The arrangement of the volume generally follows the pattern set by Salmond and gives a wide selection of topics. By means of cross referencing employed throughout, full use is made of the included cases. The production side has been well executed by the Law Book Company of Australasia which has produced a durable and easily readable book. The index is excellent. However, it is submitted that a marked improvement would be made in the Table of Cases if the report citations were included as well as the page references.

There can be few complaints about the cases that Dr Morison has included. Admittedly, the bulk are English authorities but as the book is planned to be used in all Australian states it must maintain a general character and deal with general principles rather than particular applications in the various states. However, a useful addition would have been a section on the liability of the Commonwealth in tort. As it stands the only reference is to the Commonwealth Judiciary Act and no mention is made of the important cases on this topic.

By making the bulk of leading cases available in readily accessible form *Cases on Torts* should soon become one of the law student's indispensable tools of trade and it seems certain that this first edition will not be the last.

ALEX CASTLES

*Crown and Subject*, by A. E. CURRIE, (Legal Publications Ltd., Wellington, New Zealand, 1953), pp. i-xxxv, 1-220. Australian price £3 17s. 6d.

To a Victorian, there is something frustrating and at the same time rather exciting in reading a book about the Crown and its relations with its subjects from a country where the Crown has been made liable in tort. In New Zealand the Crown has been liable in tort, at least to some extent, since 1877; and that liability has been progressively extended until after 1950 the Crown is placed, as it is in England, very much in the same position as it would be if it were a private citizen. Surely in this respect Victoria is the most backward of states, and one suspects that the failure of Victoria to pass

legislation reversing the old Common Law rule of Crown immunity is not merely a matter of dilatoriness or lack of Parliamentary time. Lawyers in this state too well remember recent statements by members of the Government, directed not merely to the preservation but to the justification of the £2,000 statutory limit of liability for negligence enjoyed by the State Railways. That limit was fixed in 1907, when the value of money was very different from its value in the 1950's.

The occasion for Mr Currie's little book was the passing of the Crown Proceedings Act 1950 in New Zealand. But the book is not a mere annotation of or commentary on that Act. It does, it is true, in the last 50 pages reproduce the Act with annotations. The major part of the book (the first 170 pages), however, is devoted to an attempt to state, concisely, the law applicable to the relations between the Crown and subject in New Zealand. The chapter headings sufficiently indicate the scope of the subject-matter treated:

I. The Law Before the Act; II. The Crown and its Agents; III. Officers of the Crown; IV. The Crown and its Servants; V. Instrumentalities of the Crown; VI. The Crown in Contract; VII. The Crown in Tort; VIII. Trusts and the Property of the Crown; IX. The Crown in Relation to Land; X. The Crown and Statutes; XI. Court Proceedings; XII. Acts of State; XIII. Crown Privilege; XIV. The Crown Proceedings Act 1950.

Under those heads Mr Currie with admirable brevity states the law as he finds it from the cases and from the relevant legislation. The treatment is uncritical and at very few points indeed does the author give way to speculation. References are almost exclusively to relevant statutes and cases; references to treatises and extra-judicial writings are few and scattered, and no bibliography is included in the volume.

Unlike published work covering similar subjects in England, this book draws on many jurisdictions for its case law authority. The author collects in support of his propositions cases from most of the major common law jurisdictions under the Crown and he has drawn heavily on cases reported from the High Court of Australia. This is refreshing, and in many cases enlightening. It is a pity, however, that the cases cited from jurisdictions outside New Zealand are on occasions not complete up to the date of going to press. For example, where the author is dealing with the question of the relations between the Crown and its servants, he refers to the High Court cases of *Commonwealth v. Quince* (1944) 68 C.L.R. 227, *Carey v. Commonwealth* (1921) 30 C.L.R. 132, and *Commonwealth v. Welch* (1947) 74 C.L.R. 245; but he does not refer to *Perpetual Trustee Co. Ltd. v. A.-G. for N.S.W.* (1952), 85 C.L.R. 237, in which case judgment was given in March 1952, and the question of the Crown's relations with its servants was given very careful consideration.

In his preface, the author says "To distinguish throughout the text between binding and persuasive authority, and between *ratio decidendi* and *obiter dicta* would have produced prolixity. The legal reader will have no difficulty in distinguishing between the two former, and no more than usual difficulty in distinguishing between the two latter."

As to the former difficulty, in distinguishing between binding and persuasive authorities, this reviewer takes no objection: as to the latter there is cause for complaint. The implication that there will be difficulty in distinguishing between *ratio decidendi* and *obiter dicta* may be accepted. But some lead by the author in a book as condensed as this is desirable. In some places the text is unnecessarily ambiguous. For example, at page 21, it is said: "It has been definitely said in the High Court of Australia that the relation between the Crown and its Civil Servants involves a contract." When Higgins, J., in *Carey v. Commonwealth*, (1921), 30 C.L.R. 132, at p. 137, made the statement referred to, it was *ratio* that he was expressing. Further, the case was one heard by a single judge at first instance, one in which the relevant authorities were not reviewed; and the judgment on this point is scanty and without authoritative strength. The only authority relied on by Higgins J. for this proposition was *Williams v. Howarth*, 1905 A.C. 551, which the author refers to on page 33 of the work, accurately, as being a case in which the question of the precise relationship between the Crown and its servants was expressly excluded from consideration. But the author gives no aid to the evaluation of *Carey's* case. This sort of neutral and in some cases ambiguous reference to case authority is quite frequent throughout *Crown and Subject*, and although it may on occasion lend itself to brevity, it is annoying and at times misleading.

Looked at as a whole, however, the book must be an extremely useful guide for the New Zealand practitioner to the law relating to Crown and subject after the 1950 Crown Proceedings Act. Furthermore, it will be of real value as a handbook to practitioners in Australia for its ease of reference and its collection of leading cases from Common Law jurisdictions under propositions of law which are, for the most part and where the case law permits, stated clearly and concisely. Similarly, it may well be a useful reference text for students who are working in this field. There are occasional misprints, for example, The Mutiny Act, 9 and 10 Vict. c. 11, s. 28, appears in the text at p. 30 as "The Munity Act", and *Carey v. Commonwealth* (1921) 30 C.L.R. 132, appears at n. 30, p. 21, as being (1931) 30 C.L.R. 132. Such blemishes are minor and comparatively infrequent. The work is well organized and well-planned for ease of reference and clarity of reading.