

BOOK REVIEWS

SHAKESPEARE AND THE LAWYERS, by O. Hood Phillips Q.C., D.C.L., Barber Professor of Jurisprudence at Birmingham University. Methuen & Co. Ltd. London 1972. ix and 214 pp. (including index). New Zealand price \$7.70.

Professor O. Hood Phillips is well known in New Zealand through his books on Constitutional Law but few of our lawyers will know of his eminence in Shakespearean studies—unless they happen to have read his two articles in the *Law Quarterly Review* of 1964 under the title "The Law Relating to Shakespeare". Now we have his book *Shakespeare and the Lawyers* which presents in very attractive form the results of what must have been a lifetime study of Shakespeare's works.

This book appears in a series of volumes dealing with various aspects of Shakespeare. Professor Hood Phillips has distilled into 214 pages the essence of his scholarship—there is no discursiveness in his treatment and indeed the exigencies of space have denied him, and us, the full expression of his views upon the Shakespeare—Bacon controversy. (He is not a Baconian). One of the most useful parts of the book is the bibliography, which reveals to us the vast extent of the literature relating to the references to law and lawyers in Shakespeare's works. This bibliography is in itself a notable contribution to legal scholarship. It is gratifying to lawyers in New Zealand to find a reference to *Cheerful Yesterdays* by the late Mr Justice Alpers, a notable devotee of Shakespeare. It is appropriate to add here that students of English in secondary schools and universities, and their teachers and professors, will find this book essential reading whenever they embark upon the study or discussion of Shakespeare's legal knowledge. There is a full explanation of the interesting problems relating not only to the possibility that Shakespeare had received some instruction or training in law in his youth, but also to the more general topic of his personal contacts with conveyancers, barristers, judges, and the officers and humbler servants of the Courts.

The scheme of the book is to begin with the records of Shakespeare's life and work, then follow to the Inns of Court, with descriptions of lawyers and officers of the law, and references to legal personalities and cases, and from there to the trial scenes, and a full study of the trial in the *Merchant of Venice*. An early chapter on legal terms, allusions and plots, and another on problems of law, justice and government, are appropriately placed so as to supply the background reading necessary for a critical appraisal of the trial scenes. Then follow chapters dealing with criticism of Shakespeare's law, lawyers' contributions to Shakespeare studies, the lawyers and Shakespeare, and finally the examination of the problem whether Shakespeare had a legal training.

The chapter dealing with the trial in the *Merchant of Venice* is one of the most remarkable in the book. The attention of many generations of men and women has been engaged by the subtlety of Portia's argu-

ments, and their minds have been exercised by the dilemma which arises when the claim of Shylock swings in the scales of mediaeval justice, for he embodies the contrasted aspects of legal right and moral wrong. Law is confronted by equity; a divine law transcending human law is appealed to; customary law and natural law are invoked; and all intrude into the Venetian courtroom. The plight of Shylock involves us in feelings of guilt, arising from our knowledge of the recurring sacrifice of the Jew as a scapegoat. These and other reflections are evoked by perusal of the chapter dealing with the Merchant of Venice and the conflict in the trial scene.

The fame of this scene rests not only upon Shakespeare's unerring feeling for dramatic effect, but also upon the intellectual stimulation of the trial. There is the vital confrontation which it raises between law, order and strictly legal justice on the one side and on the other side the rights claimed by the tormented Shylock, with all men turning against him and denying his seemingly just claim to enforce a bargain which was freely arrived at, and which, on the face of it, appears to be legally sound and well within the law of Venice, although equally manifestly an abuse of right, sullied by wrongful motives and criminal in reality.

Worth noting here is the author's discussion of the comments upon the trial by the German jurist, Rudolf Von Ihering, himself a Jew. Ihering's small volume *The Struggle for Law* (2nd ed., Chicago, 1915), although a legal classic, is now almost unknown in New Zealand, perhaps because it has become rare, and is difficult to obtain.

Lack of space precludes discussion here of the other plays. But from amongst the many subjects which the author introduces brief mention may be made of only one. Shakespeare's last will dated 25th March 1616, about a month before his death, has aroused considerable controversy amongst Shakespearean scholars whether lawyers or laymen. In this will he left nothing expressly to his wife, except "my second best bed with the furniture". From this and the records of other legal transactions in which Shakespeare was a party, it has been inferred that he was grasping, hard hearted and lacking in affection for his wife. Such a conclusion is untenable. Only erudite lawyers can truly assess the weight of evidence derived from the study of such ancient legal documents. All the relevant commentaries on the matter have been adequately summarised by Professor Hood Phillips and we may draw our own conclusions as to Shakespeare's provision for his wife if we follow the author's exposition of the law of property at the time the will was made. Suffice it to say here that part of the answer is to be found in the old law of dower, and in other legal matters which require specialised knowledge of late sixteenth and early seventeenth century law. This book makes our task easy, and all students of Shakespeare, whether they are lawyers or not, will rate it as essential reading.

It must always be borne in mind that our answers are usually merely provisional, for the genius of Shakespeare is unfathomable. Perhaps the most illuminating comment is that of Keats, who wrote "Shakespeare led a life of allegory: his works are the comments on it".

The book is attractively produced and is pleasant to handle. The dust jacket is happily chosen. It depicts "Macklin and Mrs Pope as Shylock and Portia", Byrne and Nutter, 1790. The author hopes to publish later a book dealing with the recurring controversy as to whether Shakespeare was the author of the plays and poems which

are usually attributed to him, or whether Bacon or other contemporaries were responsible, wholly or in part. One looks forward eagerly to reading whatever Professor Hood Phillips chooses to publish on this entertaining topic.

A. C. Brassington

A CASEBOOK IN THE LAW OF CRIMES, by Peter Burns, LL.M. (N.Z.) Second edition. Wellington. Sweet & Maxwell (N.Z.) Ltd. xxvii and 556 pp. (including index). New Zealand price \$17.00.

The second edition of this casebook, like the predecessor, is primarily designed for use in New Zealand law schools. It may be that Professor Burns has also done a service to teachers and students in other common law jurisdictions in that he has included in this volume a broad cross-section of references from New Zealand, Australia and even Canada, as well as the stock English decisions to which the English casebooks seem limited. For the student in his first year of full time legal study the ready access which this book provides to a wide range of material must be of great assistance not only as an aid to understanding the basic principles of criminal law but in relation to the general problem encountered by students at that part of their course in developing the facility for legal argument with reference to decided authority. Where the authorities appear to conflict a sampling is provided so that the student is left to work out a resolution for himself, a process which is the integer of legal training. Of necessity the casebook can provide only a lead-in to the law reports and every teacher of criminal law is bound to emphasise that there are aspects of some of the cases referred to which are not adequately covered by the excerpts included. Equally, the personal emphasis placed on an individual course may not find a very direct reflection in the arrangement of this volume. By and large though, cases which are not included in excerpts are at least referred to by way of footnote and the footnotes themselves are replete with reference to the journals. The utility of such a collection largely depends on its currency. Professor Burns is to be congratulated on keeping this work up to date.

I. A. Muir

EMPLOYEES' MISCONDUCT As Cause for Discipline and Dismissal in India and the Commonwealth, by Alfred Avins, B.A. (C.U.N.Y.), LL.B. (Columbia), LL.M. (New York Univ.), M.L., J.S.D. (Chicago), Ph.D. (Cambridge). Allahabad, India. The Law Book Co. Ltd. cxxiv and 731 pp. (including index). U.S. price \$8.00.

This book is publication of a dissertation for which the author was awarded the degree of Doctor of Philosophy from Cambridge University. The purpose of the dissertation, according to the Introduction, is to demonstrate that there are a great many fixed rules as to what constitutes employee misconduct and that these can be classified in an orderly and logical fashion. This study has been made from a sociological