BOOK REVIEWS

PUBLIC LAW IN NEW ZEALAND: CASES, MATERIALS, COMMENTARY, AND QUESTIONS, by Mai Chen and Geoffrey Palmer. Oxford University Press, Auckland, 1993. xxviii and 1016pp.
CONSTITUTIONAL AND ADMINISTRATIVE LAW IN NEW ZEALAND, by P.A. Joseph. Law Book Company, Sydney, 1993. lvi and 951pp.

> Since 1913 there has not been a general text for public law in New Zealand. Hard to believe isn't it?

So begins the media release for Philip Joseph's *Constitutional and Administrative Law in New Zealand* ("Joseph"). Now with this text and Mai Chen and Geoffrey Palmer's *Public Law in New Zealand* ("Chen and Palmer") there are two. Whether through luck or good management these books are largely complementary. However, while both are aimed mainly at law students taking the compulsory public law course, they are very different books. Chen and Palmer is designed as a teaching aid and is formatted to inculcate what the authors perceive as the essential tools to understand and practice public law. To a large extent one's reaction to it will depend on whether one shares this perception. In contrast, Joseph is a textbook which aims to provide a commentary on the rapidly changing New Zealand constitution. It covers, although from a specifically New Zealand perspective, similar material to that found in standard English texts such as *O. Hood Phillips*[1] and that of Wade and Bradley.[2]

Whilst Joseph is no slim volume, Chen and Palmer is a veritable leviathan of a book, at well over one thousand (large) pages. While it may appear perverse to criticise a text for being too complete, there are times when one feels that the authors have gone too far in their selection of material. The point of a casebook is, after all, to bring together relevant and related materials and reproduce them in an easily accessible format. The primary function should be utility. The task of the compilers is to strike a happy medium between what is selected and what is rejected.

Chen and Palmer is designed to be used in conjunction with a course taught via the socratic method of question and answer. Material is presented followed by questions intended to provoke thought and analysis. Typically the questions direct the student to consider why a particular decision was reached and by what reasoning, or to compare and evaluate competing ideas. One may have some sympathy for students who are on occasion required to make some fairly

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1 Phillips & Jackson, *O. Hood Phillips' Constitutional and Administrative Law* (7th ed) 1987.

2 Wade & Bradley, *Constitutional and Administrative Law* (10th ed) 1985.

fundamental judgments (for instance "[w]hat role should the law play in democracy?"[3]). However, the questions are deliberately open and the point of asking them is to promote discussion and invite opinions, and if on occasion the reader is forced to question basic assumptions there is no harm in that.

An inevitable result of a book such as this is that the authors, through their selection of material and the questions they pose, may enshrine particular opinions. This is more apparent in some areas than in others. Obviously where there is settled authority and basic cases to be cited the role of the authors is not so apparent; in other areas, however, the hands of Chen and Palmer (and one suspects more Palmer's) are visible. The most obvious example of this is Part V, "Public Law Tools". The section begins with an article by Palmer on alternative methods of public law[4] which makes some highly relevant points. Lawyers are prone to court-centred tunnel vision and should not blind themselves to the range of tools available to them and their clients. As the article points out, often what is desired in public law is a change in policy and usually the courts are not the most effective instruments through which to accomplish this (as is demonstrated by the cases *CREEDNZ Inc v Governor-General*[5] and *Ashby v Minister of Immigration*[6]). Part V is presented in order to correct this legal blindness. Material is presented on the Ombudsman (chapter twenty-six), the Official Information Act 1982 (chapter twenty-seven), the media (chapter twenty-eight), political parties (chapter twenty-nine) and regulatory power (chapter thirty).

What the authors intend to teach in Part V is how to use these new public law tools. This is reflected in the questions they ask. For instance: "[h]ow can lawyers use news to their clients' best advantage?", "[s]hould you speak for your client to the media or encourage your client to speak?" and "[s]hould lawyers write press releases or get public relations consultants to write them?"[7] These are all significant, weighty questions but the material provided gives very little guidance on answering them. The obvious rejoinder is that the authors are encouraging students to think for themselves. This is reasonable enough, but the level of thinking required is far beyond the scope of the material given (which is merely extracts from J.S. Mill and Palmer and a couple of articles on how journalists prepare a news-story) and one feels that this particular issue raises more questions than the authors consider. A significant question which is not asked, for example, is "is it proper for lawyers to manipulate public opinion through the media?" The authors discuss the practicalities of the media serving the law, however no attempt is made to consider the ethical basis of the relationship.

Another problem with Part V is the chapter on political parties. In his article "The New Public Law"[8] one of the questions which Palmer asks (expecting a

3 At 50.

4 Palmer, "The New Public Law: Its Province and Function" (1992) 22 VUWLR 1.

5 [1981] 1 NZLR 172 (CA).

6 [1981] 1 NZLR 222 (CA).

7 All at 842.

8 Supra at note 4.

negative answer) is "do [lawyers] have available the constitutions of the political parties?"[9] Chapter twenty-nine rectifies this shortcoming. The constitutions of both the National and Labour parties are reproduced in full (all 128 and 267 sections respectively). It is somewhat surprising that students are expected to read them in their entirety. This is akin to teaching someone a language by giving them a dictionary. As with this whole section the idea behind the individual chapters is good but the execution is curious. Questions are asked concerning how policy is made by the two parties and what differences there are between them, and on how candidates are selected, but these only require the comparison of two or three sections, not entire constitutions.

Chen and Palmer's particular conception of public law is further evidenced by their treatment of administrative law. Recognising that it is now a separate topic in its own right, administrative law (Part VI) forms something of an appendix to the book. A large part of this section comprises a case study of *Daganayasi v Minister of Immigration*[10] which reproduces a chain of letters and memoranda from doctors, civil servants, politicians, and lawyers. This is an interesting way of presenting the material which is generally unavailable to students and provides a more "human" perspective on the case. Considering the previous section, it appears that this particular presentation is intended to demonstrate the relevance of the new public law tools. If so, it is a point well made; however, one feels that in order to make it, administrative law has been brushed over somewhat. This is particularly noticeable when Chen and Palmer's treatment of administrative law is compared with Joseph's, for whom administrative law constitutes nearly a quarter of the text, with a chapter on each of Lord Diplock's three heads of review in *Council of Civil Service Unions v Minister for the Civil Service*[11] (illegality, irrationality and procedural impropriety). Joseph's treatment of administrative law is not as encyclopaedic as Taylor's[12] but is more general in its approach and as a result more accessible.

Joseph's *Constitutional and Administrative Law in New Zealand* is a thorough and clearly written text on New Zealand's constitution, from colonisation to the New Zealand Bill of Rights Act 1990. Joseph identifies his audience as being predominantly students, but he claims that the book is possessed of a subject matter which is "amply rich enough to furnish insights and arguments of relevance for legal practitioners."[13] This is an accurate assessment, although for the most part the book does not aim to present a list of legal principles which may arise in practice; rather it is a scholarly discussion of constitutional law, a discussion which inevitably turns at times to the philosophical.

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9 Ibid, 11.

10 [1980] 2 NZLR 130 (CA).

11 [1985] AC 374 (HL).

12 Taylor, *Judicial Review: A New Zealand Perspective* (1991).

13 At v.

The book's general approach is based more on such discussion than on a declarative statement of the law. The format of chapters and sub-headings rather than paragraphs makes it a unified and flowing text, easy and pleasant to read. However, as the sub-headings are not numbered and the contents pages simply lists the twenty-six chapter headings it is often difficult to locate a desired topic – a significant and irritating shortcoming. A possible reason for this is that Joseph sees his book not so much as a reference text but as a commentary on New Zealand's constitutional heritage. It is intended to be read chapter by chapter rather than simply used to discover an isolated point of law. Constitutional law invites this more general style of writing as it is not readily broken down into discrete topics.

No criticism is implied when it is said that Joseph is a basic text. Constitutional law is the foundation on which legal knowledge is built. With this in mind Joseph assumes no legal background and sets out in readily comprehensible terms the issues involved in any particular area. Often this involves lengthy discussion of issues of historical and constitutional (but not necessarily legal) significance. An inevitable result is that from the practitioner's point of view much of the text will appear irrelevant. However, constitutional law is an historical discipline and cannot be fully understood without that context. Illustrative of this is Joseph's treatment of the vexed issue of parliamentary sovereignty and constitutional entrenchment (chapters fourteen and fifteen). Discussion begins with reference to Coke CJ in *Dr Bonham's Case*[14] which is contrasted with nineteenth century Diceyan positivism. This is followed by an historical analysis of the struggle between Parliament and the Stuart kings over taxation and concludes with a discussion of what the current legal position might be. However, after two chapters of in-depth review of authority and history conclusive answers are not provided and the topic remains open (although Joseph clearly subscribes to the "manner and form" school of constitutional entrenchment).

In an otherwise comprehensive and impressive work one complaint stands out, namely Joseph's treatment of what Chen and Palmer euphemistically term "the Maori Dimension".[15] In his discussion on the Treaty of Waitangi Joseph is perhaps guilty of spending too much time on where the law has been and not enough on where it stands at present and might go in the future. There appears to be some reticence on his part to make any particular argument. For example, in an examination of *New Zealand Maori Council v Attorney-General*[16] he states only what the judgment says and does not attempt any analysis or criticism; furthermore he refers to only one extra-judicial comment on the case and then only by footnote. What is missing is a discussion of more radical treatments of the Treaty[17] or even any reference to them. In contrast Chen and Palmer provide several sources and a

14 (1610) 8 Co Rep 113b; 77 ER 646.

15 At 293.

16 [1987] 1 NZLR 641 (CA).

17 As is found, for example, in Kelsey, *A Question of Honour? Labour and the Treaty 1984-1989* (1990).

bibliography of Treaty writings. Given the dramatic shift in jurisprudential consciousness which has occurred in recent decades it is surprising (and disappointing) that a text on New Zealand's constitution should devote so little time to the Treaty.

One might also feel slightly cheated by Joseph's treatment of the New Zealand Bill of Rights Act 1990. He offers a general discussion of the procedural interaction of ss 3, 4, 5, 6 and 7, however no attempt is made to consider the substantive rights affirmed in the Act on account of its infancy at the book's publication and the consequent lack of a sufficient body of case law to examine.

These books are long overdue and fill what has been a large and surprising gap in New Zealand legal literature. In both Joseph and Chen and Palmer we have texts which recognise New Zealand's constitutional idiosyncracies and which, despite some shortcomings, should make a significant contribution to legal education. While Joseph will be most suitable for those seeking a broad overview of and commentary on New Zealand's constitution, Chen and Palmer, depending on its acceptance and use by individual lecturers, should form the basis of a stimulating and challenging, if not always ideally well-rounded, public law course.

Thomas Biss

EMPLOYMENT LAW GUIDE. Butterworths, Wellington, 1993. xx, 758, 46 and 20pp.

In the preface to this book, which covers the legal developments under the Employment Contracts Act 1991 (the "ECA"), the authors comment that:[1]

> Whatever one's views as to its content, in style the [ECA] is brief (for a statute), logically organised and simply written.

The same could be said of the *Employment Law Guide*. Having been "prepared principally for students and teachers in courses relating to employment law and industrial relations",[2] brevity, logical organisation and a clear and concise writing style are necessarily important objectives. These objectives have been achieved primarily by the format of annotated legislation which gives the book its well-organised structure and makes referencing extremely quick and easy.

However, this format is not without its drawbacks. Despite (or because of) its inherent logic it may be seen as rather narrow and unrealistic. This is especially

1 At vii.
2 Ibid.

evident in the annotations to sections whose ambit is unclear and seemingly complementary. For example, in a personal grievance action, remedies for future earnings may be awarded under both ss 40(1)(c) and 41.[3] In such a situation the relevant case and statute law is set out in both parts of the text dealing with the two sections in order to avoid the possible connections remaining unnoticed by a reader considering the commentary on just one of the sections. Repetition of issues is a drawback made inevitable by the book's format.

An acceptable compromise which has been reached is to combine the narrow approach of annotated legislation with commentaries which provide an overview of each part of the ECA. Topics covered include bargaining, personal grievances, freedom of association, enforcement of employment contracts, and strikes and lockouts. These commentaries serve as useful summaries of the nine parts of the ECA and will be of great assistance to student and teacher alike.

Of further assistance are the five appendices which together make up over a third of the book. These deal with such topics as the common law principles governing the contract of employment and the law relating to wages, unions and picketing. While in parts they tend to repeat sections of the main body of the book they do so probably for the sake of completeness and are, in any case, extremely thorough and comprehensive examinations.

A criticism which can be levelled at the book is that its content and approach is purely technical and comes at the expense of a more wide-ranging discussion of the policy issues behind and arising from the changes wrought by the ECA. While this is not necessarily a major shortcoming given the unsettled state of employment law and the uncertainties which the ECA itself seems to have created, any discussion of recent legal developments should arguably include a consideration of their social ramifications. Discussion is generally limited to comparing current statutory provisions with provisions of the now repealed Labour Relations Act 1987 and then apparently only for the purpose of determining the applicability of precedent for interpretation and application of the current provisions. Depending upon the importance placed on such discussion in different employment law courses, this shortcoming may or may not detract from the book's appeal to students and teachers, to whom it is primarily directed.

On balance one can safely conclude that the *Employment Law Guide* has fulfilled its aim of providing "an up to date summary of legal developments under the [ECA]".[4] However, it is unfortunate that its technical merits are not complemented by a discussion of the policy issues relating to employment law.

Michael-John Loza

3 However see now *Telecom South Ltd v Post Office Union (Inc)* [1992] 1 NZLR 275 (CA).

4 At vii.

FAMILY LAW POLICY IN NEW ZEALAND, Henaghan and Atkin (Editors). Oxford University Press, Auckland, 1992. xiii and 311pp.

Although there is a considerable literature on family law in New Zealand, much of it ignores the underlying factors which motivate the development of the law. This compilation of ten essays which approaches the subject from a specific policy perspective thus fills a significant gap in family law scholarship.

In the foreword Sir Ivor Richardson indicates the book's general approach:[1]

> The various chapters usefully place the [family] legislation ... and particular family law topics in their historical, economic, and social setting.

Readers interested in the assumptions and values which underlie family law will find the essays particularly rewarding; however the book will be useful in a practical as well as purely academic context. If people are aware of the policies behind the law, they will be better informed about the direction in which family law is heading. Furthermore, a discussion about policy considerations is essentially a discussion about the intention of Parliament, invaluable for those in the legal profession. *G v G*[2] is an interesting example of the importance of understanding policy considerations in family law. In that case an applicant for a non-molestation order was the mother of the respondent, her son. The question at issue was whether the phrase "living together in the same household" contained in the Domestic Protection Act 1982[3] was wide enough "to include relationships such as parent and child".[4] After a careful examination of the authorities McGechan J found that it was not. The conclusion may have been different if his Honour had interpreted the section purposively, for it is clear that such a situation was intended to be covered by the statute.[5]

One of the strengths of the book is that the authors are not only lawyers. Social workers, anthropologists and pediatricians have also made valuable contributions. This is important because in an area as subjective as policy it is useful to have a multidisciplinary approach. Since the essays are strongly based upon the values and experiences of the writers, the reader should be prepared to challenge the conclusions drawn. The book does not seek to provide definitive answers to the questions raised but rather aims to determine the issues and provide informed commentary on them. Furthermore, each author has canvassed a wide range of references before drawing his or her conclusion. Since the content is by nature quite subjective the large bibliography allows the work to be seen as more of an authority on the issues it discusses.

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1 At ix.
2 (1988) 4 NZFLR 492.
3 Section 4.
4 Supra at note 2, at 497.
5 At 34.

The authors have all provided a probing and thoughtful analysis of the policies important in family law and it is heartening to see that many of the subjects dealt with are controversial. Matters discussed include the rights of same sex couples, surrogacy, abortion and de facto relationships. The chapters are devoted to the main areas of family law, such as financial support, family protection and matrimonial property, and each offer thought-provoking conclusions about the current law.

The book begins with an introduction to family law and definitions of the family unit. Interesting comparisons are drawn between the current "New Right" economic policies and how the government chooses to define the family unit. By drawing this comparison the authors of chapter one make the point that family law reflects the wider social, political and economic values of the time.

New Zealand family law text books frequently omit reference to Maori. This book attempts to redress the imbalance by including an essay on family law policy from a Maori perspective. The essay (chapter two) illustrates important differences between Maori and Pakeha culture and the effect these differences have had on the Maori family. There is also a well structured and detailed analysis of seven leading family law statutes from a Maori point of view; and the authors' conclusions reveal the extent to which the law has recognised – or rather failed to recognise – the Maori culture.

Arguably, however, there is room for further cultural analysis in the book, for New Zealand is no longer merely a bicultural nation. The family values of other cultural groups are becoming increasingly more important in our society and it may have been interesting to include a discussion of the significance of some of these values.

Also of merit is chapter four, "Protecting the Family". The chapter is divided into two parts. The first part severely criticises the way in which the Children, Young Persons, and Their Families Act 1989 operates with respect to child rights, however the criticisms are not adequately backed up. For example, the comment that the Act evolved due to pressure from certain groups is not substantiated and overlooks the influence of the general community during drafting. The second part of the chapter takes a new approach to domestic violence, comparing the rights of adults under domestic protection legislation with the rights of children. The authors' argument is that too often under the present structure it is the children who are being ignored. It is of note, however, that since this chapter was written there has been some important academic writing on the subject of domestic violence, for example the Busch report.[6] This indicates how quickly a book such as this can become of lesser authority.

It is encouraging to see the rights of children being discussed, for that is an area in which academic writing is lacking. In addition to the discussion in chapter four,

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6 Busch, Robertson & Lapsley, *Domestic Violence and the Justice System: a Study of Breaches of Protection Orders* (1992).

Bill Atkin's essay "Financial Support: the Bureaucratization of Personal Responsibility" (chapter five) considers the financial responsibility of parents under the Child Support Act 1991. Furthermore, in chapter three, "Legally Rearranging Families", Mark Henaghan discusses the vulnerability of the child where there are problems of family disunity. However, although Henaghan offers an insightful examination of the Family Court process his emphasis is on the adults in the process rather than the child, and whilst he discusses controversial issues, for example the imbalance of the negotiation process, he fails to note the problems of inequality of power with respect to a dispute between children and adults.

A feature of this collection of essays is that not only does each chapter fulfil its purpose of providing a critique of existing family law policies, but also alternatives and reforms are recommended where necessary. The reviewer was impressed by the commitment shown by the authors to put forward positive suggestions for reform; unfortunately, however, at times the tendency to criticise strongly outweighs comments in support of the positive aspects already present in the system. A notable example of this is the somewhat one-sided assessment of the Children, Young Persons, and Their Families Act 1989 in chapter two. The reader may therefore finish the book without a recognition that there are elements of the present family law structure which do provide consistency and fairness.

An important theme which runs throughout these essays is that there is no coherent family law policy. Rather, the writers suggest that family law develops in an ad hoc manner, depending upon the needs and values within society. As a result family law has a tendency to change rapidly, which means that this book will not be the last word on family law policy. Nevertheless it is refreshing to see such a comprehensive text on policy considerations, and for those who read it, it will provide an invaluable understanding about why family law has developed as it has, and how it may develop in the future.

Marcus D. Hinkley

FREEDOM OF INFORMATION IN NEW ZEALAND, by Ian Eagles, Michael Taggart and Grant Liddell. Oxford University Press, Auckland, 1992. lxiv and 661pp.

Since it came into effect, the Official Information Act 1982 (the "OIA" or "the Act") has had a major impact on the openness of official decision-making and action in New Zealand. This book, which comprehensively reviews the workings of the Act, is long overdue and should establish itself as the standard text on the OIA. The reason for its long genesis is quickly apparent: this is not an "introduction" to freedom of information. The authors have covered the key provisions

of the OIA in exhaustive detail and at great length. It is directed more at those who wish to use the Act than those who wish to familiarise themselves with it. To this end the authors have tried to anticipate any and all of the issues which may arise from the operation of the OIA. Whether they have succeeded or indeed gone too far is likely to become apparent only with extensive use of the book. However, they appear to have left no stone unturned.

Since s 4 of the Act creates a presumption that "information shall be made available unless there is good reason for withholding it", the greater part of *Freedom of Information in New Zealand* is devoted to the "good reasons" for withholding information, namely the criteria set out in ss 6 and 9. When discussing the exemptions individually the authors consider any interpretation issues, try to identify the nature of the interest protected by the exemption and present their analysis of the extent to which that interest is or should be protected. They also provide useful discussions of the exemptions generally and of the "public interest" balancing required by s 9. As one might expect, the authors are supportive of an expansive freedom of information regime and give well reasoned arguments for adopting a strict interpretation of the exemptions.

It is perhaps a credit to the drafting and administration of the Act that there is very little New Zealand authority (case law or Ombudsman's reports) relating to many of the exemptions. The book therefore relies to a considerable extent on comprehensive citation of authority from other jurisdictions (particularly the United States) and contexts other than freedom of information. This approach works better for some exemptions than others. The discussions of the s 9 exemptions are for the most part supported by relevant authority and should be reliable guides to the approach adopted by the Ombudsman or the courts in balancing the protected interest against the "public interest" in access to information. On the other hand, the treatment of the s 6 exemptions and some aspects of the s 9 exemptions, where the authors can cite little or no authority directly relevant to the freedom of information context, is necessarily speculative. For example, it is difficult to justify the length at which "security, defence and international relations" (chapter five) and "maintaining the law" (chapter six) are discussed. The chapters on mechanics of access and the role of the Ombudsman and the courts are on more secure ground as there is sufficient New Zealand case law to support the arguments made.

The authors have performed a valuable service by bringing together (in chapter sixteen) other legislation affecting access to official information. It is unfortunate, therefore, that the book falls victim to bad timing. The enactment of the Privacy Act 1993, as the authors prospectively acknowledge in their preface, introduces new procedures for the access of individuals to personal information. However, since Part IV of that Act duplicates many of the exemptions of the OIA, much of the material in *Freedom of Information in New Zealand* will remain useful to Privacy Act applications. The OIA will continue to apply to corporate bodies seeking access to personal information.

The book's major fault is its lack of user-friendliness, particularly for readers unfamiliar with the details of the Act. Despite its close reliance on the statutory provisions of the OIA, readers have to search hard to find many of the relevant provisions set out: reproducing the entire Act by way of appendix would have been convenient. Furthermore, although the book's chief merit is its detail, this at times forces the reader to wade through pages of (often hypothetical) discussion to find answers to relatively simple queries. The introductory chapters fail to give a clear overview of the purpose, structure and working of the Act; for instance, one would have expected an explanation of the distinction between personal and other information (instead one has to wait until chapter seventeen). The book would also have benefited from a more substantial discussion of the constitutional significance of the Act. A number of these shortcomings are perhaps symptomatic of a lack of editorial finishing which also manifests itself in the occasional missing footnote, errors in the page citations in the table of legislation and misleading section headings.

In summary, *Freedom of Information in New Zealand* will be an indispensable reference tool for anyone using or advising on the use of the OIA, but a little further effort could have made it more easily accessible and useful for readers coming to it with no background in the area.

Scott Mataga

CRIME AND DEVIANCE, by Greg Newbold. Oxford University Press, Auckland, 1992. 8 and 158pp.

Greg Newbold prefaces his book by noting that in New Zealand scholarship there is a dearth of information concerning crime and deviance.[1] Analysing crime from a sociological perspective, and in only 158 pages, Newbold goes a long way to alleviating this dearth.

Crime and Deviance addresses a broad spectrum of New Zealand criminology. It is divided into seven chapters, within which the author provides sociological explanations of serious crime and outlines their statutory proscriptions. He also provides much relevant detail, showing recent trends in New Zealand deviance and supplying a mass of current statistics, occasionally enlivened with personal anecdote and Kiwi vernacular.

Newbold explains the book's approach in chapter one. It is written in accordance

1 At 7.

with "mainstream [as opposed to Marxist] deviance theory".[2] This acknowledges:[3]

> [T]hat the creation of norms and the identification of deviance have nothing to do with inherent morality. As activities fundamental to social control and the maintenance of social order, law-making and law enforcement are seen as political processes.

Consequently, modern deviance theory takes a "relativistic" stance, arguing that whether or not an activity is condemned depends on the subjective viewpoints of the condemners.[4] The question which arises here is not why people commit deviant acts but why society makes them deviant in the first place.[5] Deviance is therefore "the obverse of social control: it is what happens when control mechanisms fail".[6]

The analysis of "crime" as a social construct is especially evident in chapter six, "Drugs". The author notes that New Zealand drug laws originated largely because of international prejudices and hysteria directed not at particular substances but at various minority user groups. Examples given are the Chinese (opium), Hispanics and Blacks (marijuana) and Hippies (LSD). In sociology this process can be termed "status domination".[7] The prevalence of "status domination" in drug laws is apparent from the numerous harmful yet legal drugs available (for example, tobacco, alcohol and pharmaceuticals) which are controlled by the dominant power interests in society:[8]

> [D]rug use which is unacceptable is determined less by logic than by power, money, and culture. It is not science which dictates the acceptability of one compound over another, but ideology.

In this context, marijuana and heroin dealer Terry Clarke is contrasted with beer baron Douglas Myers.

Chapter six also provides a good example of the inconsistent fervour with which Newbold writes. Whereas the chapters on emerging ideas about deviance, and women and deviance at times seem laboured, here he is in rampant form. The chapter begins with a nonsensical parable about four blind men evaluating the separate parts of an elephant. Their inability to comprehend the multi-faceted nature of the beast, Newbold professes, reflects the complexity and diversity of drugs, although just how it does so is unclear. At times the author's colourful examples appear to come at the expense of a more balanced consideration of drug-related problems. For example, there is little reference to the devastations of hard drug taking or the depravity of drug dealers.

Chapter five examines the major types of violent crime (assault, robbery,

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2 At 18.
3 Ibid.
4 At 9.
5 At 7.
6 At 9.
7 At 122.
8 At 131.

homicide and rape) and explains them pursuant to the Crimes Act 1961. Here Newbold acknowledges that despite media persuasions, encountering violence in New Zealand is still comparatively unlikely:[9]

> New Zealanders are more likely to be run over or drowned than murdered.

However, despite such assurances, violence is defined sociologically as "normal": it exists in all societies.[10] Discussing "normality" in this context introduces the curious and specialised use of sociological nomenclature. For example, rape, as a "usual" behavioural trait, is identifiable "not so much [as] a *deviant* act [but] as an act of *overconformity*".[11] Normal gender relationships, which emphasise male aggressiveness, domination, and forcefulness, are seen to take "exaggerated" forms.[12] It is emphasised, however, that such acts nowadays are mostly unacceptable, exceptions being times of warfare and traditional Christian marriage.

A minor criticism which can be made of *Crime and Deviance*, and which is especially appropriate after reading the "Violence" chapter, is that Newbold repeats and stretches some "causal" connections. For instance, the oil shocks of the early seventies, it seems, are still answerable for some domestic, narcotic and property crimes. Furthermore, the abundant use (in chapter two) of class conspiracy theories, which acknowledge that the powerful do in fact control society, borders on the paranoid.

In addition to rationalising "crime and deviance", this book also locates the incidence of deviance in New Zealand. Examples set out and explained include a section on homosexuality and the associated law reform, and the beginnings of prostitution in New Zealand:[13]

> Late eighteenth century sealers and seafarers paid Maori women for sexual services, and periodically paid their menfolk as well .... By the 1890s ... 8 per cent of ... [women aged between 15 and 40] living in Auckland, were estimated to be supporting themselves by prostitution.

Trends in New Zealand deviant behaviour are also explained. Newbold notes that the increased incidence of sexual abuse is most likely "a function of higher reporting", citing, as a good illustration, the seventy-two per cent increase of reports in Napier following the murder of Teresa Cormack.[14]

Newbold links recent increases in violence with expanding urban unemployment: forty-five per cent of unemployed live in our four main cities.[15] Here he points out that the pursuit of laissez-faire economics inevitably breeds winners and

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9 At 82.
10 At 83
11 At 96. The author cites Russell, *The Politics of Rape* (1975).
12 At 96.
13 At 74.
14 At 65.
15 At 101.

losers. One result is the increase in ad hoc violence which stems from the "depressed urban sectors ... where conventional morality is weak".[16]

Also of note is chapter three, "Women and Deviance", in which the author examines statistical differences between the sexes in relation to deviant behaviour. Discrepancies are set out in terms of the types of crime committed and judicial treatment of offenders. They are then explained in terms of traditional gender roles:[17]

> If violence is required, it is the man's job. Women expect, sometimes demand, that men use violence, for example, to retrieve their property if it is stolen, or to restore their honour if they are offended .... Where financial crimes are involved, women may be aware of the activities of their men and they may encourage and consciously benefit from their gains.

It is apparent that Newbold is writing for a broad-minded audience. He uses and explains colloquial deviance speak, describing, among other things, "wolves" and "hocks",[18] "closet queens",[19] "rap parlours"[20] and "kicking ass".[21] Despite the international flavour of much of this jargon, the book's focus remains, for the most part, firmly fixed on New Zealand. In one typically quirky anecdote, Newbold describes an incident in a New York bar in 1990. Praising the comparable safety of New Zealand, he was interrupted by a television report of the Aramoana massacre.[22]

In sum, *Crime and Deviance* covers a vast amount of material – statistical and ideological – in condensed form. It contains excellent references and would provide an invaluable introduction to criminological research; furthermore, like any sociologically-oriented text, its suggestions and theories invite criticism and discussion. The issues covered are wide-ranging, such that the reader, whatever his or her bent, is guaranteed to find something of interest.

Grant Williams

16 At 101-102.
17 At 57-58.
18 At 71.
19 Ibid.
20 At 77.
21 At 93.
22 At 82.

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