

BOOK REVIEWS

THE AUSTRALIAN AND THE LAW, by Geoffrey Sawer, Professor of Law, Australian National University. Penguin Books, London, 1968, 288 pp. (including index). New Zealand price \$1.05.

For Oscar Wilde, there was no question that his plays were successes long before any audience, let alone any critic, had expressed an opinion on them. On a first night, the *genius* of his *art* was not in issue, only the quality of the audience. No doubt, Professor Sawer has never been guilty of such immodesty, but this is small consolation to the reviewer. The Professor's standing is such that a reviewer knows that, presupposing anyone bothers to read the book reviews in a legal periodical, most people will approach any criticism of one of Professor Sawer's publications certain that the book is a success but, at most, a little curious to know whether the reviewer will be successful in describing the book's undoubted excellence. The reviewer, not the author, is on trial. This reversal of the normal order of things, together with the doubtful value of publishing in a legal periodical an academic's opinion of a book intended primarily for laymen, makes the reviewing of *The Australian and the Law* a peculiarly daunting experience. I fear that Professor Sawer's multitude of admirers will judge this review as something less than an unqualified success.

The Australian and the Law is part of a Pelican series on the law, which also includes Rubinstein's well known introduction to English law, *John Citizen and the Law*. Professor Sawer's book is intended as a companion to *John Citizen* and not as an Australian edition of it. As the preface acknowledges, it has not been felt necessary to repeat the summaries of common law rules contained in existing Pelican books and particularly frequent reference has been made to *John Citizen*. The main emphasis is on aspects of Australian law which differ from English law. These decisions give rise to the only substantial criticism which I am able to make.

It is true that Professor Sawer ranges over a very wide spectrum of the law, but, in my opinion, the decision to omit, or touch only briefly upon, the many important aspects of Australian law which are similar to English law prevents the book from fully meeting the publisher's claim that it "explains to the man in the street the legal framework of Australian Society and outlines his rights and obligations within it . . . [The book is an] authoritative guide to the main principles of Australian law". My guess is that the man in the street will be disappointed to find that the book is not comprehensive and self-contained. Surely, he would prefer to have "all" the important aspects of his country's law set out in the one book, rather than being forced to complete the picture by culling extracts from *John Citizen*, a much larger book on English law. As an example, the lay reader will want to know something about the making of a will and the duties of executors, administrators and trustees. Apart from a cross-reference to the appropriate two chapters in *John Citizen*, Professor Sawer says

scarcely anything at all on these topics. Thus, the layman who buys only the Australian edition will not only be deprived of any general discussion of topics of great interest and significance to him but will also miss Rubinstein's warning on the dangers of home-made wills.

There are many other parts of the book which are the less useful and interesting because of the decision not to discuss aspects of Australian law which are the same as the English law described in *John Citizen*. I will mention only two further examples. First, Sawyer's chapter on "Employer and Employee" omits, or deals too briefly with, many of the topics which will most directly affect and interest the average employer or employee, e.g. wages during absence on account of sickness, termination of employment, notice, wrongful dismissal and testimonials. Secondly, on his own terms of reference, it is entirely appropriate for Professor Sawyer largely to confine his chapter on "Landlord and Tenant" to special Australian legislation intended to protect the tenant, but the chapter might have had greater value if it had also commented upon the general rules of common law and upon the terms usually contained in Australian leases and tenancy agreements. As it stands, this chapter, and indeed many parts of the book, do not present the whole picture.

Books on law for the layman carry with them varying degrees of danger that the reader will be tempted to regard them as equipping him to become his own legal adviser. For this reason, one would, perhaps, like to have seen Professor Sawyer repeat Rubinstein's abundant warnings against the layman's attempting to decide his own legal problems on the basis of the generalizations contained in *John Citizen*. Further, the layman should be disabused of the notion that by using the book he will be able to determine for himself whether it is worthwhile consulting a lawyer in a given situation. It should be made clear to him that on any matter of importance, in any situation where he suffers harm, or has a prospect of suffering harm or making some gain, it is always worth his while to take competent legal advice. A general book designed for the layman should consciously set out to discuss specific rules of law as illustrations of the ways in which, in some cases, there may be legal difficulties which the layman will not know about, while, in other cases, the law may afford relief which the layman would not, otherwise, have expected to be available. In this way, the book can impart understanding without inducing over-confidence.

Not only must the reader be reminded of the need to seek legal advice and of what the law can do to him and for him, but he must also be convinced of the comparatively low cost of obtaining "preliminary" advice from a solicitor. Many citizens must be deterred from seeking advice because of their fear that they cannot cross the lawyer's doorstep without irrevocably committing themselves to virtually unlimited expense. They should be told that it costs very little to ask a lawyer whether or not a particular problem is one on which he can help, and that such preliminary advice can be obtained without the enquirer's being committed to taking the matter any further. It is a

disappointment that Professor Sawyer has not deliberately set himself the task of informing his readers on such matters.

Another function which books on law can perform for the layman is to give guidance on matters which, in themselves, might not be sufficiently important to warrant consulting a solicitor, or on which the layman needs general guidance rather than specific advice, or in respect of which there may be little opportunity to consult a solicitor until after the event. *John Citizen* offers a considerable amount of useful discussion on such matters but, again, because of the limited terms of reference which he has accepted, Sawyer is not as forthcoming on them. Nevertheless, he does give some excellent guidance. For example, he sets out very clearly the way in which a customer should conduct a transaction with a retailer in order to obtain the benefit of the conditions implied by the Sale of Goods Act. The reader should find this both interesting and of practical use. The learned author also carefully describes the means by which the customer can ensure that a manufacturer's guarantee will be enforceable by him against the manufacturer. It is surprising, however, that he does not, at the same time, warn the customer that, depending upon the particular wording used, the conversion of the guarantee into a binding contract may be contrary to his own interests, because the rights which the document confers on him may be significantly less valuable than the rights which it takes away from him. Also worthy of comment is Professor Sawyer's suggestion that a person who receives unsolicited art union tickets through the mail need not go to any trouble to return them and can safely ignore all correspondence. Perhaps the recipient would come to no harm in following this suggestion in the particular instance given, but I prefer Rubinstein's more general advice that a person who receives an unjustified claim through the post should never ignore it, because, if litigation should ensue, the recipient may well regret his folly in not repudiating the charge when it was first made. Finally, Sawyer's chapter on police powers and civil liberties also gives helpful warnings of the dangers which the citizen may encounter if he is idealistic enough to act in reliance on the general theories of liberty of the subject.

Perhaps the chief aim of a book on law for laymen is to excite the reader's interest in the legal system and rules which govern his society, to compare what the system and rules actually achieve with what they might achieve. Although the fact that *John Citizen* ran to five editions in sixteen years is adequate refutation of the common assertion that the rules of law cannot be made interesting to non-lawyers, it is, nevertheless, true that the writing of a law book which will appeal to laymen is a most formidable task. It is most difficult to condense the whole range of the law into one book without reducing it to a worthless collection of technical rules. Professor Sawyer is superbly equipped for these tasks and, within the limitations of his terms of reference, accomplishes them magnificently.

First among his attributes is a tremendous depth of learning. His book reveals the mature consideration and courage of the true scholar who has thoroughly digested a multitude of complex legal rules and

can now re-state their essence in a manner which should be easily followed by everyone. Not for him dull refuge in minor detail or technicality. Yet he is not so engrossed in lofty principles that the reader feels that what he says is of no real significance to the ordinary citizen. The author is no narrow, legalistic don, remote from reality. He reveals breadth of vision and a learning and experience not confined to the law or the university. Without affectation or condescension, he displays an awareness of what is going on in the world and establishes a rapport with his readers by unobtrusive references to such matters as the availability of state lottery tickets in Canberra, the significance of pre-post betting odds on racing in Victoria, the manoeuvrings of Cabinet Ministers in Queensland and the political reasons for the elongated and grandiose title of the Commonwealth's Income Tax and Social Services Contribution Assessment Act. He knows the difference between legal theory and practical application. For example, he demonstrates that the general theories that the citizen is entitled to resist arrest where there is no warrant and to refuse to answer police questions have been undermined by the creation of special powers and exceptions so that it is quite unsafe for the citizen to act in reliance on the general theories. The book abounds with common sense.

Professor Sawyer saves his readers from the discouraging struggle to understand rules which appear inconsistent with other rules, or without purpose or justification. In many cases, he puts a rule in perspective with a brief, pointed sketch of the historical, political or social background. In other cases, he demonstrates that the reason the layman cannot understand a particular rule is the fault of the rule and not the reader. The non-lawyer, suspicious that lawyers form a mutual protection society, will be re-assured by the candour with which Sawyer discusses such deficiencies in the legal system as out-moded case law and statutes, obscure, or even hypocritical, legislation, inconsistencies between the legislation of various states, the conservatism and elements of self-interest in the legal profession, the undue multiplicity and complexity of Australian judgments, and a tendency towards one law for the rich and another for the poor.

The author's prose is pithy and lucid. He enlivens his text with anecdote, trenchant opinion and wit. Thus, a popular fallacy is exploded:

The heroines of the old melodramas, whose plight was caused by villainous mortgagees and their foreclosures, either lacked adequate legal advice or suffered from a Freudian desire to be foreclosed.

And, thus, the discussion of two statutes on dogs is summarised:

In [South Australia] animals are more equal than people, except in the street. In Queensland, dogs retain their common law right to one bite, provided they don't advertise their intention of taking it when opportunity arises.

Finally, the fact that *The Australian and the Law* has an order and arrangement which is far superior to that in *John Citizen*, leads one to the conclusion that, if Professor Sawyer were to widen the scope of his second edition, we could, at last, have a truly successful book on general law for the layman. It would also serve as valuable introductory reading for students starting the law course. The book is not, of course, intended primarily for those outside Australia, but there is much of interest to New Zealanders in the workings of the federal system, the diversity of the laws in the various states, the innovations of the Australian legislatures and courts and in the views of a world-renowned legal thinker on the problems of present day law. A New Zealand edition would be assured of a receptive market.

J. C. Thomas

THE JURY, by W. R. Cornish. London. Allen Lane The Penguin Press, 1968. 298 pp. (including index and notes). New Zealand price \$6.65.

Since the early years of this century juries have suffered a steady decline in popularity in all the countries that make use of this cumbersome and rather antiquated procedure. In spite of this fact it is only within the last decade or so that any serious research has been undertaken into this area and even today it is fair to say that our knowledge of the way juries, both civil and criminal, perform their functions is rudimentary to say the least. Mr. Cornish has been involved for some time in a jury project which is being carried out under the auspices of the Psychology Department at the London School of Economics. Mr. Cornish is a lawyer and thus his analysis of the problems inherent within the jury system is an authoritative amalgam of both the legal and the scientific approach. Unfortunately the L.S.E. project, as with the earlier and much more far-ranging Chicago Jury Project (see Kalvan and Zeisel *The American Jury* (1966)) and the current research being undertaken by the Penal Research Unit at Oxford, suffers from a lack of basic hard information. At one stage it was hoped that Mr. Cornish would be allowed to tape-record actual jury-room proceedings, as has in fact been done in some American jurisdictions, but it soon became clear that this would be impossible. Thus the researchers were thrown back on interviews with ex-jurors and mock trials run with mock jurors in mock legal surroundings with all the methodological problems that these procedures imply. The result is, of course, that we still have very little hard data on which to base an assessment of this venerable institution and Mr. Cornish's book, which sets out to be a clinical exposure of the vagaries of this system, suffers as a result of the subjective nature of his material. This is not in fact a criticism of Mr. Cornish who has produced a lively and authoritative book against enormous odds, but is rather a comment on the hypocrisy inherent in a legal system in which on the one hand a judge can extol the jury as "the lamp that shows that freedom lives" but in which this same jury is only used in 4% of the indictable

criminal cases and in an even lower percentage of civil cases. Mr. Cornish makes the best possible use of his material, it is scarcely his fault that the judges see fit to keep the palladium of liberties shrouded in its primeval mystery.

In this book the author subjects the jury in all its bizarre manifestations to a clinical and dispassionate analysis, presenting the arguments for and against the system together with a wealth of research material culled from both his own researches and the earlier American ones. The bulk of the book is, naturally enough, concerned with the criminal jury and the effect of this institution on the rules of evidence but the author does examine the civil system in detail and even deals with such oddities as the coroner's jury and such obsolete monstrosities as the jury-in-lunacy which was at one stage used to decide whether wealthy relatives were insane or simply in the way. Much of what Mr. Cornish has to say on the civil system is of particular interest in New Zealand, especially when he deals with the use of the jury in personal injuries cases. In England such use is very rare indeed and in the last fifteen years only twenty or so cases have been reported in which a jury was used. This is, of course, the opposite to New Zealand where juries are ordered as a matter of course in such cases and the decision is not in the judge's discretion. It is thus interesting to note that Mr. Cornish sees as the two main criticisms of juries in this area first lack of training and secondly, the likelihood of wildly inconsistent awards, the two being inter-related. The experience in New Zealand would seem to suggest that jury awards are not particularly inconsistent and do provide a sufficient element of certainty to enable parties to settle their claims satisfactorily without resort to the courts. Whether a judge sitting alone or a panel of experts would give a more realistic amount remains an open question. Similarly, the untrained nature of the tribunal is seen as a safeguard against undue rigidity in awards and a valuable point of contact between the courts and the community whereby public opinion can be given some role in shaping legal policy. Unfortunately, without research it is well-nigh impossible to assess the weight of these various viewpoints, a point which Mr. Cornish makes clear.

In the area of the criminal jury the author questions the value of juries in certain special situations while admitting that for the usual serious criminal case the jury is probably the most satisfactory tribunal. However, as he points out, jury behaviour in long and complex fraud cases has by now become a cliché. Similarly, where there are multiple counts and several defendants the result is apt to be total confusion with the jury acquitting and convicting blindly in every direction. The recent English case of *R. v. Griffiths* (1965) 49 Cr. App. R. 279 highlights this sort of problem. Other problems also arise where expert evidence has to be assessed, an obvious example is in a case where a defence of insanity is put forward. In this situation it is fairly clear from the results of the Chicago Jury Project that the jury is generally completely out of its depth and thus prone to follow its own prejudices. Lord Goddard's view that "a jury can always be trusted to do justice,

where it might be impossible to bring the case strictly within the McNaghten rules, but everybody would say that the man's acts were the acts of a lunatic" is hardly helpful. Mr. Cornish suggests the use of an expert panel of lawyers and medical men in order to obtain a more authoritative and coherent judgment in such cases but this raises the inevitable fear that experts will abuse their power in certain situations. The merits of this proposal are thus far from clear and the situation is compounded by the additional feeling that the jury, at least in those cases of a serious nature where there is some doubt as to the strength of the evidence, does provide an impartial tribunal which prevents collaboration between the police and the judiciary. What is clear is that any alteration in the powers of the jury in this area must be supported by adequate research and that any new proposals must ensure that public confidence in the administration of justice is retained. It is thus a pity that the English decision to introduce majority verdicts in criminal trials in 1967 was undertaken without any real research at all and any real consideration of the fundamental issues involved.

Mr. Cornish, then, has produced an immensely readable and valuable book which summarises most of our present knowledge on this subject without resort to the usual clichés involved in this argument. Although his conclusions are cautious and, to a certain extent, based on subjective material, they are nonetheless extremely valuable and will serve as the basis for future research and discussion. Some day perhaps the doors of the juryroom will be thrown open to researchers but until that day *The Jury* is an example of the best we can hope for and should be ranked, along with *Trial by Jury* and *The American Jury*, as a major contribution to a vital discussion.

N. Cameron

THE LAW OF OWNERSHIP FLATS, by A. E. Karmali. Bombay N.M. Tripathi Private Ltd. 1967 with supplement 1968 XVIII and 255 pp. including index: Supp. 86 pp. Price Rs 12-50 (Supp. 3-00).

One of the important problems facing the law of real property, that of own-your-own flats, is world-wide, and stems from the need to concentrate residential units in high-rise buildings, rather than to allow a continuing urban sprawl. Increasingly the problem is becoming manifest in New Zealand, where lawyers are focusing their attention on the main question raised by flat development: how to dispose of flat and office units on an ownership basis, so that the occupiers can have title to their units with all the powers and privileges that pass with title.

So inadequate has the traditional "company held" system of flat ownership become in New Zealand, that both lawyers and politicians (the latter of all parties) are showing concern for some reform. Indeed, it is understood that the government has already prepared a

draft strata-titles bill, which, but for the untimely death of the Hon. Mr. Hanan, would no doubt have been introduced to Parliament in the last session.

With these developments taking place, the time is perhaps ripe to consider solutions to the problem in other jurisdictions. Most lawyers interested in own-your-own flats will be aware of developments in the Australian States, England and the U.S.A., but the wider the field of comparative study, the better for any future legislation in the subject in New Zealand. It is therefore with considerable interest that I approached this short book by A. E. Karmali on the flat ownership legislature of the Maharashtra province of India. Unfortunately, because the book arrived in Wellington only a very short time before this issue of the V.U.W. Law Review was due to go to press, I am unable to give this useful and interesting book as full a review as it deserves.

Nonetheless my reading of the book has indicated that it would be good reading for anyone, practising lawyer, or student, who has an interest in future development in flat ownership. A. E. Karmali provides, in a short compass, an excellent study of the Indian legislation, describing both its merits and its defects.

The book is divided into three broad parts. The first part comprises the text of the Act, together with a very full commentary on the Act and on the Bombay system of management of flats, through Co-operative Housing Societies. The second part is a collection of recent cases, reported and unreported, on the Maharashtra legislation, and the final part contains a set of precedents.

The system of flat ownership which emerges from the Act is that the promoter of the block, having made a full and open declaration of his title and had the plans approved by the local authority, enters into agreements to sell flat units in the block. As soon as there are sufficient purchasers, the promoter must start the necessary procedure to create and register a co-operative society comprising the potential flat owners. Title may then be passed to the individual flat owners who share the management of the flats through the co-operative society on a partnership basis. The society is then able to return its profits to the flat owners. The principal Act, The Maharashtra Ownership Flats Act 1963 (its full short title is, by the way, much longer) details the relationship of the promoter to the purchaser and the society. It is interesting to observe that the promoter who disregards the strict provisions of the Act and its rules is liable to be charged with a criminal offence.

The relationship between the flat owners, who, in fact, acquire less than a freehold to their unit, and the co-operative society is governed by the approved registered by-laws of the society. This is very well explained in chapter 2 of the book. Such a system has the merit of simplicity, but there are defects as Karmali points out, particularly in respect of section 12 of the Act, which deals with the formation of the co-operative society. However, many of these defects arise from the administration of the Indian Act.

In conclusion, it may be stated that, while this Indian system of flat ownership may not, for a variety of reasons, be adopted in New Zealand, the book provides a good summary which should be useful background reading to anyone interested in the total question of own-your-own flats.

B. H. Davis

SOURCES OF LAW, by Helen Silving, Buffalo: William S. Hein and Co. Inc. 1968. Pp. viii, 404. Price in U.S.A. \$20.00.

The "sources of law" have long been considered a fertile field of jurisprudential harvesting. The phrase itself is "chameleon hued" and many writers have offered different definitions. Intertwined are notions of the material which goes to make up the content of law and rules of recognition provided by the particular legal system for ascertaining the validity of law. Most British writers in jurisprudence, while criticising his definition, appear to restrict their examinations of the sources of law to Salmond's "material sources" and indeed to his sub-category of "legal" sources in which he placed legislation, precedent, custom and agreement. Their treatment of these "material legal" sources varies considerably in ambit and depth but they seem to assign questions of legal validity to a different area of legal theory.

Professor Silving deals with the familiar materials of legislation, precedent and custom but also delves into areas quite foreign to the accepted category of sources of law. The essay "The Unknown and Unknowable is Law" in part examines the law of religious beliefs and one whole part of her book deals with positive and natural law theories which one more normally found in expositions on legal validity. The rationale for the inclusion of a considerable array of unusual material would seem to be that the author views certain assumptions of legal philosophy as a kind of source and believes that it is necessary to critically review these assumptions. The author quotes Sir John MacDonnell: "Philosophy quits its province, and becomes an intruder, a disturber and author of confusion, when it enters the domain of law" and she comments at page 144 "Yet, only knowledge of jurisprudence affords the skill necessary for a separation of the domains of philosophy and law. The less lawyers know about jurisprudence the greater its influence upon them".

The book is made up of a collection of previously published articles covering a time span of over twenty years. They have been reproduced without change. Difficulties immediately become apparent in such a collection. With the exception of a valuable introduction no real attempt is made to link or systematise the articles and consequently there is a lack of cohesion in the presentation. In addition, there is a considerable degree of overlap and repetition in the articles and this can be a little confusing. Another difficulty inherent in the fact that the articles have not been revised or amended is that several important recent contributions from other writers have been omitted.

This is especially true in respect of the article, "The Twilight Zone of Positive and Natural", first published in 1955 which would have benefited from an examination of the Hart-Fuller controversy.

In the first article "A Plea for a Law of Interpretation" under the heading "Statutes", the author finds the most controversial problem in what is meant by the "meaning of a statute". She asks is it the subjective intention of the legislator, "legislative intent", or an objective meaning of the statute itself independent of the will or intention of the legislator. She repeats the jurisprudential truism that realistically speaking there is no such thing as a subjective intent or "will of a legislator". In the second article "In the Nature of a Compact" the author develops this point and shows that the search for "legislative intent" is not an ultimate end in itself but merely a supplementary source of interpretation. The objective meaning of the words used, with no attempt being made to look behind them, she suggests is the approach used in England and although this may be generally true there are cases in which the court may search for legislative intention when the possibilities of using the "plain meaning rule" have been exhausted (cf. Jollowicz *Lectures on Jurisprudence* (1963) 283 ff.). Professor Silving states that the choice between these two methods "has been shown to be realistically reducible to choice between the policies of admitting or not admitting evidence of preparatory works" (page 4).

To enable the judge to understand the meaning of the document intended to be conveyed by the draftsman and to increase legal certainty Professor Silving proposes the adoption of specific legal rules of interpretation to serve as a code. While conceding the difficulties of interpreting rules of interpretation she concludes that no suggestion has been advanced for a constructive substitute for them.

During the article "Stare Decisis" in the Civil and in the Common Law" (published in 1966), Professor Silving examines the problem of determining the ratio of a case and enters into the dispute with gusto but without reference to the contribution of Cross, *Precedent in English Law* (2nd ed. 1968). This was an excellent, if somewhat brief discussion, of the protagonists in this area. Inclusion of Wasserstrom's investigation of the justifications of *Stare Decisis* (the four major ones being certainty, reliance, equality and efficiency: *The Judicial Decision* Stan. U.P. 1961 Chap. 4) might also have been of some assistance in this particular article which ends with another plea for legal rules to solve the problems of determining ratio. [The author states] "It is highly unlikely that any individual attempt such as Goodhart's or return to the 'classical view' can succeed in bringing at least a modicum of order into the present chaos, as long as opposing lawyers continue to urge divergent methods of case analysis and find support for them in the existing methodological reservoir" (page 118).

She sees the common law methods as being extremely flexible and allowing too much uncertainty within the bonds of *stare decisis*. It is doubtful whether the problem of determining ratio allows for the degree of flexibility suggested by an extra-judicial statement attributed to Lord Asquith on the distinction between "ratio decidendi" and "obiter

dictum": "The rule is quite simple, if you agree with the other bloke you say it is part of the 'ratio': if you don't you say it is 'obiter dictum', with the implication that he is a congenital idiot" (Journal of the Society of Public Teachers of Law (N.S.), Vol. 1 (1950) page 359). This and somewhat more serious statements in the same vein must be balanced against the "judicial regrets" which abound in the law reports when English judges have reluctantly found that they have run out of room to manoeuvre around *stare decisis* (Cross, *Precedent in English Law* page 32).

Professor Silving apparently does not see this limited flexibility as being a virtue worth pursuing and sees the way out of "the present chaos" in codification, an approach she supports in a number of the included articles.

The whole book of essays is pervaded with a search for certainty through legal rules or codifications as the panacea for a number of troubled areas, two only of which have been discussed in this review. This appears to be linked to the ideal of the "Rules of Law" or "Government of Laws" referred to by the author in several of the articles. The case for codification and the links with Rule of Law could have perhaps been developed more fully and with more strength had the separate articles been moulded together into a complete unity.

One interesting article "Ideologies and Practices: Records, Reports, Rules of procedure and 'Legal Science'" includes discussion of comparative law reporting, the style of written judgments and the publication of dissenting opinions between the civil and common law countries. She suggests that "self deception" that the common law courts do not legislate has been partly accomplished by use of a distinction without much of a difference; the distinction between "substance" and "procedure". This is traced through a series of American Supreme Court decisions. A minor point of criticism here, arising from the problem of trying to read a collection of articles as a whole, is that this particular article might well have preceded discussion of *stare decisis* as it is accepted that precedent depends on an efficient system of law reporting and the practice of judges in dealing with previous decisions.

The last three articles under the heading of "Positive" or "Natural" Law" include a detailed discussion of the Eichmann Trial and the argument permeating these articles would appear to be that natural law theories and notions of morality do not just influence the material content of law but may be a source of law in the stronger sense of imparting validity to law. This is an open ended area of jurisprudence and no such treatise can hope to be complete without reference to the recent contributions of the proponents in the Hart-Fuller debate.

Some of the material in this collection of essays may be a little strange to readers brought up in the British tradition of jurisprudence but the articles are an interesting, informative and at times provocative addition to the continuing search for the "Sources of Law".

B. S. Travis