

Book Reviews

The Law of Criminal Conspiracy, Peter Gillies. 2nd Edition

The Federation Press, Sydney
Recommended Retail Price \$50.00

Commonwealth Criminal Law, Deborah Sweeney and Neil Williams.

The Federation Press, Sydney
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As case law in the criminal jurisdiction proliferates the place of the specialised criminal text in the criminal lawyer's library is a secure one. The more so when the most recent additions to this criminal lawyer's library are the two texts reviewed here.

It ought not be assumed that in reviewing them together that they are related other than in the most general way. They share the same publisher, a matter I will return to later, and they are of principal interest to the criminal lawyer although certainly not confined to those who practice exclusively in the field. Those links aside, the works have any number of points of distinction deserving of separate attention.

Mr Gillies' work, *The Law of Criminal Conspiracy* is, as one would expect from a second edition ten years in the making, a material advance on the first edition. This is perhaps to be expected given the much greater currency given to the charge of conspiracy in both Federal and State criminal prosecutions in the last decade. While Gillies has followed much the same format as in the earlier work, he has undertaken a more detailed analysis of the substantive law of conspiracy in Australia sourced as it is both in statute and at common law.

The legislative changes in both the State and Federal context in recent years have seen the inclusion of statutory offences of conspiracy where the offence was otherwise one charged at common law. This has warranted an extended treatment of the substantive law of conspiracy generally although, as Gillies says himself in the preface, this fact alone has not brought about significant changes in the way in which the offence is charged and proved.

Equally as important to an understanding of the law of conspiracy is an understanding of the quite particular procedural issues that are encountered in even the most uncontroversial of prosecutions. Mr Gillies has addressed the issues of procedure both practically and critically.

The notion of a conspiracy to commit a crime may be plain enough, given that the notion of an agreement is not unfamiliar to the lawyer whatever his or her area of practice. However, in analysing the agreement to commit a crime in the limitless range of circumstances in which it may be charged, even the most assured of criminal practitioners can be unwittingly led into error in failing to identify the issues and the problematics of proof. Mr Gillies offers a ready identification of the issues and a path, albeit at times somewhat meandering, towards resolution.

If the work is to be criticised it should in my view be laid at the feet of the publisher. While it is true that the esoteric nature of the subject matter and the author's determination to cover the field in all its complexity may have made the task of editing a difficult one, still it is remarkable that the work survived the editor's eye, replete as it is with spelling and transcription errors. This is disappointing and detracts from the quality of the work. Equally, while style and formatting is

something for which the author is principally responsible, editorial assistance may well have produced a work that enabled internal cross referencing to be accomplished at greater speed by the reader. Having said this, the work is an important one and, with no other Australian text on conspiracy available, a valued reference.

Williams and Sweeney's text, *Commonwealth Criminal Law*, also serves to fill a gap that has been obvious to practitioners in crime for many years. While The Law Book Company's service *Australian Criminal Law* is a comprehensive source of relevant statutory law in an annotated service, it is of limited assistance to the practitioner when coming to grips with the principles and procedures that obtain to the prosecution of federal offenders in particular contexts. It is of even less assistance to the practitioner when searching for an understanding of the pretrial investigative processes that may have been called in aid of prosecution, often producing significant evidence for tender at trial.

Williams and Sweeney's work offers the combined advantage of being a source of both the statutory source for the relevant law and the application of relevant principle, as it is for the law that governs pretrial investigation. Four chapters are devoted to evidence gathering techniques available in the prosecution of offenders. The particular focus given for example to investigative powers under the *Social Security Act* and the *Income Tax Assessment Act* is, in my researches, not dealt with in any of the annotated works otherwise available. Whether it be in the course of dealing with principle, procedure or pretrial process, the work is accompanied by the citation of significant case law reference which is, as the authors claim it, to date as and from November 1989.

Equally as there has been a measurable upsurge in prosecutions for conspiracy in recent years, so too has there been an increase in the number of federal prosecutions over the same period. Moreover, federal prosecutions over recent years have been seen to cover a range of conduct not otherwise encountered by the criminal bar. This might be as much a result of the creation of office of the Director of Public Prosecutions and the range of matters over which prosecutorial control is now exercised, as it is responsive to shifts in the community's perception of criminal conduct and the community's perceived expectation of how that conduct ought be dealt with.

Implicitly, it might be thought, Williams and Sweeney take the current experience of the growth in Commonwealth Criminal Law on board. The work is not in its terms apparently directed to a readership well versed in criminal law nor to a readership encountering the complexities of the criminal process for the first time. This is the strength of the work. It will be a guide to the under-informed equally as it will serve to direct the more experienced to discourse and judgment on more discrete subjects of enquiry. The text and the format is accessible to both.

It is all the more remarkable then that both Gillies *The Law of Criminal Conspiracy* and Williams and Sweeney *Commonwealth Criminal Law* should be published by the same publisher. Where Gillies' work suffers from a lack of judgment at editorial level, Williams and Sweeney's work, whether it was compiled for final publication with or without editorial assistance, has all the hallmarks of textual attention. This is not meant as an indictment [sic] of Gillies' text, but rather a charge [sic] to lay at the feet of The Federation Press. □

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