

complete treatment of the topics it addresses. Certainly one must agree with the author that most of the topics could become a book, or a number of books. It would be interesting to hear more detailed suggestions in some of the areas considered, for example, on options to counter the problem of drugs other than heroin or alternate ways of dealing with child sex offenders, without recourse to the criminal law.¹⁰

As a forthrightly independent New South Wales Director of Public Prosecutions since 1994, Cowdery QC is no stranger to controversy. He has drawn from a deep well of experience and knowledge to create a text that manages to be entertaining, despite the serious nature of its subject matter. With the twin aims of dispelling ignorance and promoting debate, the author has eschewed a densely footnoted scholastic approach in preference for a lucid work, which should be accessible to a wide readership. That said, there are facts and figures enough to whet the appetite for more detailed research. The book's topicality, for instance in the consideration of DNA evidence in the final chapter on 'Future Directions', was highlighted by the recent case of Frank Button.¹¹ On 10 April 2001 the Queensland Supreme Court released Button after DNA testing ordered by the court confirmed his innocence of a charge of rape of a minor on which he had earlier been convicted. Button had served 10 months of a six-year sentence for a crime he did not commit.

Whether this book succeeds in its stated aim of silencing the 'shock jocks' and closing the bidding in the law and order auctions remains to be seen. However, *Getting Justice Wrong* is an educative work that takes a big step in that direction. All with an interest in criminal justice should read it.

To return to Foucault, after enduring unimaginable pain and torment, during which six horses tethered to his limbs failed to quarter his body, Damians told the executioners gathered around him 'not to swear, to carry out their task and that he did not think ill of them' and 'begged them to pray to God for him.'¹² His torments continued until his trunk and hacked off limbs were tossed upon the fire. That one human can show mercy in such extreme circumstances inspires hope that it might become a more common quality. Perhaps then more will ask if the punishment fits the criminal and our society, not just whether it fits the crime.

Reviewed by Christopher O'Donnell

- 1 Discipline and Punish – The Birth of the Prison, Penguin (London) 1991 pp 3-6.
- 2 Ibid, p 3.
- 3 Sydney Morning Herald, 27 September 1883 cited in *Getting Justice Wrong*, Allen & Unwin (Sydney), 2001, p 108.
- 4 *Getting Justice Wrong*, op. cit., p 109.
- 5 Ibid., p 1.
- 6 Ibid., p x.
- 7 Ibid., p ix.
- 8 Ibid., p 37-42.
- 9 Ibid., p 136.
- 10 Ibid., p 63.
- 11 R v Button (unreported, Queensland Supreme Court, 10 April 2001 per de Jersey J).
- 12 Discipline and Punish – The Birth of the Prison, op. cit. p 5.

Hell has harbour views

By Richard Beasley

Pan Macmillan Australia, 297pp, \$26.00

This novel - by member of the Sydney Bar - is about life in one of the mega law firms whose lights blaze late into the billable hours, high above the waters of the Harbour.

The firm, Rottman Maughan and Nash and its truly grisly cast of characters, is brought to life through three pieces of litigation: an investment fund fraud where many millions of dollars are at stake; a personal injury case in which a child has suffered terrible injuries; and a partnership distribute within the firm itself. Our hero and narrator, Hugh Walker, is a senior associate with the firm. His position in the hierarchy is indicated by the fact that his office has View No. 3. The partners - and would-be partners - are studies in egotism, pomposity, vindictiveness and - above all - greed.

Early in the book, there is a sharp sketch of the firm's internal conflicts:

Like wars, large law firms spawn special and unique hatreds. There are factions within factions. The corporate people hate the less profitable litigators and their costly overheads. The commercial litigators sneer at insurance litigators. The professional indemnity insurance litigators say they really are commercial litigators. The information technology people think they're superior to everyone. There are North Shore factions, Eastern Suburbs factions, gay factions, WASP factions, Sydney club factions, ethnic factions, establishment factions and poor-made-good factions. They conspire against each other with the constancy of Caesar's will.

Our hero shows scant respect for his colleagues. One partner is described as 'a black belt in time-sheet fraud.' It is hard, however, to go past the senior insurance partner - Brian Owen - who emerges as a wonderfully repellent character. Bearing a considerable resemblance to Jabba the Hut in *Star Wars*, Owen is a menacing mass of malice, spilling out of his food-stained clothes and slobbering over any female office worker who comes within reach of his pudgy fingers.

As for the trust fund litigation, it is given the firm's standard treatment:

Millions of documents had been read and databased. There had been interlocutory fights over discovery and subpoenas and timetables. Witness statements had been drafted and redrafted. Forty monthly bills had been sent to the group of insurers we acted for. Like every big case I had ever seen, it was one part farce, one part drama and 98 parts lawyers' super fund.

This kind of exuberant cynicism is somewhat reminiscent of Tom Wolfe's *Bonfire of the Vanities*. It is not easy to sustain but Beasley manages to carry it through most of the book. There are also some similarities with Shane Maloney who has written a number of novels about the world of politics, journalism and crime in Australia. It is true that all these books tend to be thin on plots but their real purpose is to capture a slice of contemporary life, if often with a slightly over-the-top style designed to sweep the reader along.

The Bar does not escape unscathed in this cavalcade of legal monsters. Giles Taffy QC is briefed

by the firm in the investment fund case. He is obsessed with his stocks of special coffee, his expensive chocolates and the seating configuration in the first class flight section. Bill Silverman QC destroys the case of the brain-damaged child and then recalls his early days of acting for plaintiffs. Walker is unimpressed:

Maybe there were bad days, days when he didn't feel all that good about putting the boot into some poor bastard, days with little pangs of remorse, days when he thought a little too clearly about what he was doing. I was pretty sure he'd survive though. There was, after all, plenty of upside for him to contemplate. There was the vigorously used couch he was lying on; his single malt scotch; his silk gown, his luxury car which he would drive home in; his house in Rose Bay which he would drive home to; his attractive wife who kept him happy when he wasn't using the couch; his climate-controlled wine cellar; and the \$5,000 that he collected every day of his working life.

In comparison the trial judge in the investment fund litigation is treated almost benignly. After noting that the court room has been set up with IT equipment to look like the NASA control room of the late 1960s, Walker looks past the Bar table:

Soon the judge's associate disappeared. Then there were three knocks on the door, everyone was told to rise, all fell quiet, and in came the judge. He looked a little Neil Armstrong-ish, but he was not from NASA. He had come to the judiciary via a North Shore suburb, the private school system, the third greatest law firm in the universe, and then Phillip Street Chambers.

The ending - which should not to be revealed at this stage - is not the book's strongest segment. In fact, it loses momentum whenever Walker pauses to reflect on the choices confronting him and the meaning of life. Nor are the women characters entirely successful. Walker ditches his long-time partner after falling heavily for one of his colleagues at the firm. But there is a dearth of passion in these romances. Nevertheless, at its best, the book has a hard-bitten humour that is all too rare in modern Australian fiction.

What next for the author? Perhaps a full treatment of the Bar? This is certainly a chilling prospect. One thing seems certain, however - he can't go back to his old law firm!

Reviewed by Michael Sexton S.C., Solicitor General of NSW

Banking Law and the Financial System in Australia (5th edition)

By *W S Weerasooria, Butterworths, 2000*

The author's preface states that the intended audience of this book is: 'bankers and staff of financial institutions; students of banking law and practice; and lawyers handling litigation relating to banking, cheques and other negotiable instruments'. It also states that the author's objective was to be 'clear rather than clever'.

Professor Weerasooria certainly achieves this objective. The book is written in a readable, almost racy, style. It appears to deal with almost every conceivable aspect of the Australian banking system. In addition to subjects traditionally dealt with in texts of this type, the author has included lengthy chapters on the history of reforms in the banking industry, 'the public image of banks', foreign currency loans, money laundering, and branch banking, to give just a few examples. The chapter entitled 'The Public Image of Banks' contains analysis of recent media coverage and events, including the John Laws 'Cash for Comment' inquiry, of which the author states:

These revelations were treated with disgust as they are an underhand and sinister manipulation of the unbiased comment that the public expects from the media.

The author provides a large quantity of background information and history of aspects of the banking system, including the various pieces of legislative reform of the industry. The level of detail provided is considerable: in his discussion of the *Cheques Act 1986*, for example, the author discusses its passage through the houses of parliament and the political reasons for its central provisions. All of this makes the text very digestible indeed for the casual reader, but renders it more difficult to use as a research tool.

When discussing the relevant legal principles, Professor Weerasooria quotes from a wide variety of sources, including sources of a novel nature for texts of this type. For example, in discussing the distinction between 'order' and 'bearer' cheques, the author quotes at length from a National Australia Bank pamphlet (*Your Guide to Personal Banking*) and refers to no other source. This is not particularly helpful for a practitioner (except perhaps when writing cheques to pay bills).

However, most topics appear to have been dealt with in a more thorough way with reference to the relevant authorities. The chapters on the banker-customer relationship, in particular, are comprehensive and well organised.

It is the author's writing style, however, which makes the most vivid impression. The chapter on foreign currency loans, for example, commences in the following manner:

The foreign currency loans saga or fiasco is a sad chapter in Australia's history that banks would be both eager and happy to forget and put behind them. It was one of the most embarrassing ventures where bankers' greed to make a quick profit boomeranged on them.

It continues in a similar style. The surrounding events