

REVIEWS

VICTORIAN CRIMINAL PROCEDURE State and Federal Law

by Richard G. Fox; 7th Edition,
1992, Monash Law Book Co-opera-
tive Limited; \$30.00

With all the recent State and Commonwealth legislation affecting criminal procedure in Victoria, particularly the *Sentencing Act* 1991, the *Children and Young Persons Act* 1989, the *Magistrates' Court Act* 1989 and numerous amendments to the Commonwealth *Crimes Act*, you might think an up to date guidebook had become necessary. Fortunately, with the timely publication of the 7th edition of Richard Fox's *Victorian Criminal Procedure*, we have been given one.

The great virtue of this publication to a practitioner is the clear and concise explanation and drawing together of provisions in the relevant legislation. If nothing else, it provides a means of checking that you have not missed anything when trying quickly to come to terms with the new and sometimes complex provisions. There's something reassuring about confirming that you did get it right, especially by consulting the work of one of the leading experts in the field.

An extensive table of contents, which at first sight is a bit overwhelming, makes it easier to find one's way around the book, especially once the logic of its structure is appreciated. The inclusion of diagrams on the prosecution and various appeals processes together with samples of key documents is an added advantage, particularly for those who are less experienced in the jurisdiction.

The first three chapters provide a general introduction to the operation of the criminal law system which is of use to students and practitioners alike. Many topics of practical importance

are covered such as: persons who may be proceeded against, territorial jurisdiction, time limits, disclosure of witnesses' identity and statements, payment of legal costs and the jurisdictions of the various courts.

From Chapter 4 onwards, the book progresses in a chronological fashion from the stage when a prosecution is merely a twinkle in a police officer's eye until a convicted defendant's last hopeful tilt at an appeal. On the way it covers arrest, investigation, the laying of charges, bail, the various hearings and sentencing.

The emphasis on logically following through the criminal process is reflected in the way that federal law is covered topic-by-topic alongside the equivalent State law rather than in a separate block. So, instead of dealing with federal sentencing law in one go, it is covered under each type of disposition. While this would assist someone dealing with a combined State and Commonwealth prosecution, the novice to federal criminal prosecutions may find it more difficult to gain an overview of the Commonwealth provisions.

The coverage of this very broad area of law is astonishingly comprehensive. As one example, while most of us would have been amazed to hear that a person successfully challenging Phil Cleary's qualification for office could retain all or part of any penalty imposed on him, anyone who had read pages 37-38 of Richard Fox's book would have not been surprised.

While its coverage of the legislation is one of this book's strong points, the references to case law are less comprehensive. It provides a useful starting point for research but cannot be solely relied on for relevant cases.

However, this is not a significant drawback and, at a recommended retail price of \$30, anyone who practices in the criminal jurisdiction would be crazy not to buy a copy.

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CHILDREN AND THE STATE Social Control and the Formation of Australian Child Welfare

by Robert Van Krieken; Allen and
Unwin, Sydney, 1992; \$19.95.

What people think and what people do are important — and this must be acknowledged by those researching and studying child welfare systems. This is one of the main messages of Robert Van Krieken's new book *Children and the State*.

The book provides a short history of child welfare in Australia up to 1940. In doing so, it explores and evaluates various perspectives on the character of State intervention in children's lives — and provides an empirical history of major turning points in the development of child welfare from 1800 to 1940. The aim of the book, therefore, is not to simply set out the 'facts' of child welfare history; it questions both the selection of relevant 'facts' and the role of established theoretical frameworks in sociological and historical work of this nature.

The book is divided into two main parts. The first part outlines the work of writers who are critical of the operation of power in the welfare state — such as Platt, Lasch, Donzelot and Myer. According to Van Krieken, mainstream sociological and historical approaches to the development of State regulation of family life have been dominated by the 'social control' perspective. This perspective, it is argued, exaggerates the role that State action has played in constituting the social order. It also tends to reduce human beings to the status of 'objects' who are acted upon by the State, rather than 'subjects' who contribute to their own history. Instead of seeing history as a straightforward relation of dominance between the State and the family, the author wants us to deal with