Book review

PUBLIC PROSECUTIONS IN AUSTRALIA: LAW, POLICY AND PRACTICE

Public Prosecutions in Australia: Law, Policy and Practice by Christopher Corns (Thomson Reuters, Sydney, 2013), 623 pp with index and detailed Table of Contents; $125 in paper or ebook; $162.50 for both formats.

If you are a criminal practice specialist then this book is a must. It is a "whole of Australia", comparative, well-organised, interesting distillation of so many issues that arise in prosecutions whether conducted by a police prosecutor, Director of Public Prosecutions (DPP), Crown Counsel, an Attorney-General on a politically driven frolic, or a myriad of regulatory bodies.

A New Zealand book about prosecuting was published in 2008, and I'm told that many years ago an interesting collection of conference papers on prosecution issues was published in Australia, but for those of us in need of something current, this book is the welcome answer.

The coverage ranges over expected topics such as "the decision to prosecute"; division of responsibilities between police prosecutors and DPPs; what should happen at trials, sentencing and appeals; and relations between prosecutors and victims/witnesses. But it then goes further into individual and organisational accountability, relationships between DPPs and the large number of regulatory bodies (some 2,000 agencies with "several hundred involved in compliance and enforcement"), and even the role of prosecuting authorities in coronial investigations.

Each topic is discussed by breaking it up into a number of salient points and presenting the approach of each State and Territory and the Commonwealth. This might seem to promise great tedium; however, the contrasting approaches and consequences generally make for an interesting read. An example is the variable treatment of "each way" offences: what offences, by whose election, may be tried summarily or only on indictment.

Readers of this review who have time in their busy lives to watch such programs as the ABC's television series *Janet King* (set in the Office of the DPP) will find this book useful to confirm or demolish their preconceptions. For example, it is true that, almost always, an Attorney-General retains the power to present an indictment regardless of the DPP's wishes (*Janet King*, Series 1, Episode 2), but the scriptwriters or their advisers let fantasy run amok when the solicitor-advocates rush off with the police to the "crime scene" to walk through the police hypothesis before anyone is charged (ditto). Imagine the joy a defence advocate would feel, calling his or her opponent as a witness during the trial – purely to let the facts reveal that a fair trial is impossible because prosecutorial detachment and independence has all too obviously gone awry.

Later editions of this book – and that is its certain future – might further distil some material into tables. Unsurprisingly, given the multiplicity of jurisdictions, there are errors, some of which are legal points, others are matters of practice. Those are easily fixed by knowledgeable readers emailing a useful correction to the author who is at La Trobe University.

While the following tidbits may be "old hat" to the most knowledgeable specialists, they demonstrate to the rest of us the value of this book. There is no particular order:

- Because a DPP has no "detention" power it is incorrect to name the DPP as a respondent to a writ of habeas corpus.
- Anyone who engages in charge bargaining/plea agreements should keep detailed notes of what happens, with what results.
- In some jurisdictions (sadly not all) police are expected to notify the DPP if new information comes to light – even post appeal.
- Multi-agency action flows from a defendant's conduct being within the purview of more than one agency. An example is an errant solicitor in Victoria who was successfully pursued by the DPP, State Revenue, and the Legal Services Board.
- The means for removal of DPPs vary: for example, the Attorney-General (even a non-legally qualified one) can remove a Director in one jurisdiction, while elsewhere it takes an address in both Houses of the Parliament. There is, however, another way that the author has forgotten: a

very short Act of Parliament that says "[t]he holder of the office of Director of Public Prosecutions holds no office" – much less messy than public debates, and so cheap because no compensation is payable to the former office holder.

The author has clearly expressed views about the desirability of "doing away" with police prosecutors, achieving a common approach to "prosecutorial guidelines" and the proper response to alleged victims across the range of Australian prosecuting bodies. He admits when his solution lacks political legs (for example, it is much cheaper to run a police prosecution service than to replace it with law graduates who lack the hard nosed practical experience and who will leave for "greener pastures" all too soon). He has probably gauged the trends correctly. Whether one agrees with him or not, it is helpful to practitioners, politicians, would be reformers and students to have all the information accessible and so reasonably explained.

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