



Book Reviews • Revue Bibliographique

***Criminal Procedure in Practice, A Manual for the Defence of Cases in Provincial Court*, P. G. Barton and N. A. Peel, Toronto: Butterworths, 1979. Pp. xxvii, 324. \$32.50 (cloth).**

A common problem facing lawyers with a general practice is whether or not they should "dabble" in criminal law. With the implementation of criminal legal aid schemes in all provinces, with the development of sophisticated public prosecutorial systems and with the high degree of expertise achieved by lawyers practicing exclusively in criminal law, the lawyer who makes only occasional appearances is often at a disadvantage. *Criminal Procedure in Practice* provides a much needed basic text for lawyers not engaged in full-time criminal work but who wish to become more effective in this highly complex and demanding area of law.

As noted in the title, the authors (one a professor of law, the other a practitioner) have produced a work in relation to a specific area of criminal practice, the provincial court. In the introduction, the authors accurately state that, by limiting their manual to procedures in provincial courts, they are covering over 90 percent of criminal cases which go to trial. In the words of the authors "...the book is about criminal procedure, defence oriented, blatantly and unapologetically practical and by our own admission a 'do as we say not as we do' book".¹ To achieve this, the manual is structured to follow a criminal proceeding chronologically from a client's first contact with defence counsel through to counsel's submissions at the sentence hearing. In addition, the authors cover the psychology of the practice in terms of the relationship between lawyer and client and present helpful advice on office management.

All the essential elements of criminal procedure are covered in the first five chapters. Here the authors deal with the extent and importance of the lawyer-client relationship, the necessity of adequate pre-trial preparation and a detailed analysis of procedural considerations. It is to be noted that the areas of law (such as substantive evidence and

¹Barton & Peel, at 2.

sentencing) that are fully documented in other readily available works are not dealt with here in great detail.

In the final chapter consideration is given to the importance of an efficient office system. This is in keeping with the authors firm belief that "to practice law is to run a business".

Two appendices are included — Appendix One contains a collection of forms directed to efficient office management in relation to criminal cases while Appendix Two contains a collection of miscellaneous statutory material covering the establishment of provincial courts, police forces, crown prosecutorial systems and other miscellaneous material.

The manual is an excellent starting point for research on any procedural problem that might be encountered in the practice of criminal law in the provincial court. Certain procedural topics are covered which are not found in other standards works.² For example in Chapter four entitled "Final Preparation for Trial" the authors discuss pre-trial undertakings, preparation of witnesses, counsels duty of aggressive representation and counsels duty to the court not to mislead on matters of fact. Inclusion of these topics make this manual a more useful tool for the practitioner.

It is, however, to be stressed that the manual is more than a basic "how to" book for the practitioner. Certain topics such as included offences, *res judicata* and the problems inherent in the special pleas are given extensive analysis as are other areas currently unsettled in the law of criminal procedure in Canada. For this reason, the manual will be of use not only to practitioners but to law teachers and law students as well. The manual represents a new and exciting approach to criminal procedure and is a very considerable contribution to the advancement of basic knowledge in this area of law. Although not inexpensive, the manual is from this writer's point of view money well spent.

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²See R. Salhany, *Canadian Criminal Procedure* (3rd ed.) (Toronto: Canada Law Book Ltd., 1978).

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