

regrettable because most of the locally published literature is concerned with peculiarly Hong Kong aspects of the law, and much valuable insight on truly 'local' law is lost as a result.

A final concern of a general nature which must be expressed is that the book was unacceptably out of date at the time of publication. Not only is there no treatment or even mention of leading House of Lords authorities from 1994, there is also a failure to identify and discuss important legislative developments in Hong Kong in the year preceding publication. For instance, there is no mention of the 1994 amendments to the Employees' Compensation Ordinance, which widened the ambit of 'course of employment' and therefore of the field of persons brought within the protection of the ordinance (see eg Ordinance No 75 of 1994, in effect July 1994; and Ordinance No 1 of 1995, in effect 1 February 1995). Moreover the long-awaited Occupational Deafness (Compensation) Ordinance (No 21 of 1995) was finally passed into law in April of 1995, creating for the first time in Hong Kong a compensation regime for occupational deafness. Even with publishers' deadlines, such an important piece of legislation required discussion and analysis at least in its Bill form.

In fairness to the authors, a comprehensive work on the tort law of Hong Kong is no mean undertaking, and they are to be commended for the ambition and magnitude of their attempt. The strengths of this book are in its breadth of coverage, and in its easy-to-read and succinct style of writing.

However, the main challenge in such a project is the development of a theory of Hong Kong tort law that justifies the writing and publication of such a work. Otherwise, the end product, however comprehensive, adds little to the existing body of knowledge and risks becoming little more than a facsimile of the generic English tort law textbook, with which the market is already flooded. For this reason, and despite the pioneering effort of its authors, *The Law of Tort in Hong Kong* falls short of justifying its publication. It is to be hoped that this deficiency can be addressed in subsequent editions of this work.

Richard Glofcheski

Sentencing in Hong Kong by I Grenville Cross QC and Patrick W S Cheung [Hong Kong: Butterworths, 1994. xxxii + 128 pp, hardback, \$575]

Sentencing is no longer an art. Solicitors, counsel, and judiciary engaged in the sentencing process need easy access to relevant principles of sentencing law and practice. According to this book's back cover, it is designed to be of particular value to all such persons.

The best things about this book are that it is much needed and provides comprehensive reference to just about all Hong Kong cases relating to sentenc-

ing law and practice in Hong Kong, both reported and unreported. The worst things about it are its alphabetical rather than conceptual organisation and its dearth of discussion and analysis. Indeed, it seems to be an attempt by its publisher to make a double use of materials designed for the *Hong Kong Halsbury's*, without doing any additional work. One therefore suspects that if the authors, who have the experience and resources of the Attorney General's Chambers at their disposal, had been blessed with a little more time, they could well have written a much more thoughtful and less-fragmented book on sentencing law and practice in Hong Kong. However, if the authors' aim was merely to make comprehensive case references on sentencing available for practitioners in Hong Kong, then this book has achieved its aim admirably. Either way, an expanded and reorganised second edition of this book would be highly desirable.

In their preface, the authors lament the fact that practitioners have hitherto had to grope in the dark for answers to sentencing questions — and doubtless, often, they do. However, it is also suggested that the manner in which 'students of law currently go about the process of understanding the arcana of sentencing in Hong Kong must remain a matter of conjecture — perhaps they give it a wide berth.' In fact, this is not a matter of conjecture and the authors may take heart from the fact that, for the last decade, the topics of sentencing options, procedures, and principles, as well as pleas in mitigation generally, have been a significant part of the criminal procedure and advocacy courses in the PCLL at the University of Hong Kong. Moreover, most of the significant and relevant cases have been on the reading lists for these courses for all that time — though, obviously, it is impossible to expect students to come to grips with much more than the basics in the few weeks available for this topic in their PCLL studies. There are other sources of sentencing law and practice in Hong Kong. Two chapters are devoted to sentencing in the main teaching text on criminal procedure in Hong Kong and there have also been various articles, notes, and comments on sentencing principles and procedures found in the *Hong Kong Law Journal* and various other legal publications in Hong Kong, not to mention the continuing source of reference to new cases found in the sentencing digest of the *Hong Kong Law Journal* for many years.

However, perhaps regrettably, there are no references or cross-references to any other sources at all in this book (except to a report on probation in the United Kingdom at p 88). Even highly desirable internal cross-referencing — given the alphabetical organisation (discussed below) — is quite rare.

On the other hand there is quite liberal quoting of legislative provisions which account for many pages of this already rather thin volume. Although comprehensive quoting of legislative provisions is sometimes useful (despite the possibility of their amendment), such extracts in this book tend to stand on their own and are not often followed by discussion of controversial or ambiguous aspects of the legislation.

Another difficulty is the alphabetical organisation of the chapters. It is somewhat disconcerting and quite unhelpful to the reader seeking rapid access to relevant principles. The book commences with a discussion of appeals of sentencing decisions and near to the end discusses review of sentences, when one would have thought that, conceptually, the two should be discussed together - preferably towards the end of the book. Also, even when the reader seeks to rely on the alphabetical organisation of chapters, there are various problems as this approach has not really been strictly followed and there are other oddities. For example, there is a chapter called 'classical principles of sentences' dealing with the concepts of deterrence, rehabilitation etc positioned at C, after a chapter entitled "Clang of the prison gates" sentencing dealing with the effect of short prison sentences. Likewise, chapter 39 is the 'One transaction rule' under O which really deals with the application of the single transaction rule in determining whether or not a concurrent rather than a consecutive sentence should be imposed, though 'Concurrent and consecutive sentencing' are discussed much earlier at chapter 9 under C. Further, the 'Totality principle' which governs the overall impact of consecutive sentences is discussed under T not C where concurrent and consecutive sentences are discussed. There are other examples. All are traps for the unwary practitioner relying solely on this book as his or her source of law on sentencing. Important points may be overlooked.

This alphabetical approach, fragmenting the consideration of aspects of a topic which are normally discussed together, causes problems a number of times in this book. This is a matter to which the publishers and authors are apparently indifferent or which they are prepared to accept in order to follow the traditional Halsbury's system of organisation. Even very useful short chapters seem misplaced, such as that dealing with the 'Role of the prosecutor' which is found under R when anyone wanting to know about the prosecutor's role — as distinct from the defence role — would look under P for prosecutor rather than R for role.

On a more positive note, some quite interesting but short sections have been included such as those dealing with the role of prosecutors, use of statistics in sentencing, and even preventative detention — though once again, there has been a not-always-perfect match between the chapter title and its content, as in the last-mentioned, where there is some mention of cases affecting the sentencing of recidivists.

In general, the chapters are rather short, ranging from one paragraph to a few pages, which is of course a natural consequence of an approach which minimises case analysis and discussion, but concentrates on cryptic statements of principle followed by a case reference. There are no footnotes. A book of this nature would ordinarily have some breakdown of sub-topics within each chapter. Even though the chapters here are quite short, the discussion ranges

over various sometimes unrelated issues and over the different principles applied in the different courts in the hierarchy. Sometimes the transition from one set of issues to another is unclear; for example, when appeals against sentences are being discussed, there should be a clear demarcation such as a sub-heading between the discussion of magistracy appeals to a single judge of the High Court, and District and High Court appeals to the Court of Appeal.

Finally, there have been a number of specific relevant legislative changes even since this book was written, notably those found in the Administration of Justice (Miscellaneous Provisions) Ordinance (No 13 of 1995) and the Administration of Justice (Miscellaneous Provisions) No.2 Ordinance (No.68 of 1995) which, regrettably, have added to the general complexity and lack of coherence of law and principle governing sentencing and criminal procedure in Hong Kong — though this is no fault of the authors. Doubtless, relevant updating of applicable legislation will occur when the *Hong Kong Halsbury's* section on sentencing appears in due course. By that time, however, it is to be hoped that the authors will provide Hong Kong practitioners with a much expanded and reorganised second edition of this well-researched and essentially worthy book.

Gary N Heilbronn

International Arbitration in the People's Republic of China: Commentary, Cases and Materials by Cheng Dejun, Michael J Moser, and Wang Shengchang [Hong Kong: Butterworths Asia, 1995. x + 874 pp, hardback, HK\$1,095]

In the preface the authors indicate that the aims of the book are two-fold: (i) 'to provide an overview of the salient features of the law and practice of international arbitration in today's China,' and (ii) 'to contribute to the comparative study of international arbitration law by filling a gap in the existing literature in this area.' The finished product may have exactly achieved those targets.

The book is divided into five parts. Part I is a commentary which provides an overview of international commercial arbitration in China. It is subdivided into eight chapters and covers broad areas including the arbitration institutions, applicable law, awards, and enforcement. Of note is the inclusion of conciliation as a dispute-settlement method, how to combine conciliation and arbitration, and cases involving conciliation.

Part II comprises case summaries which constitute four categories on the basis of subject matter. Sale and purchase of goods, processing and assembly and compensation trade, joint ventures, and finally maritime disputes make up the foursome. The cases are kept anonymous to preserve their confidentiality, but