

COMPARATIVE CONSTITUTIONAL LAW : CASES AND MATERIALS. By Harry E. Groves. [New York: Oceana Publications Inc. 1963. xxv + 628 pp. M\$45.00.]

A reviewer of a casebook must begin with the presumption that the customer will be right, and he must then attempt the almost impossible task of placing himself in the customer's shoes. But one may assume that many of Professor Groves' customers will be his own advanced students in the University of Singapore; and if they are dissatisfied with what he has offered them they will indeed be hard to please. To the rest of us this will be an extremely interesting and useful compilation. Nothing like it has been published before, and we shall all learn something new from the materials that Professor Groves has marshalled from the law reports of eleven countries.

Substantial in its dimensions, the book nevertheless does not purport to offer a comprehensive coverage of the main issues that arise in constitutional jurisprudence, even in the common-law jurisdictions. It is a selective survey, divided up into five chapters. The first includes a fair amount of introductory editorial comment and deals with general principles of constitutional interpretation, with particular reference to the concept of due process. Extracts from eight cases, six of them American, are given; one may express doubts whether the sole representative of Privy Council appeals, *Lanier v. R.*, is aptly chosen, and one would wish to have seen an exposition of the principles of interpretation of the Canadian Constitution, which contrast so sharply with the methods of approach followed in the United States.

The second chapter, on the equal protection of the laws, is of cardinal importance. As well as the most celebrated recent American decisions, such as *Brown v. Board of Education* (on educational equality) and *Baker v. Carr* (on equality in constituency delimitation), we meet again some of the leading Indian cases with which we have a nodding acquaintance, and we are also introduced for the first time to leading cases from Pakistan and Burma. In this chapter, as elsewhere, editorial comment is terse, but is generally sufficient to set the decision in its context and to guide the reader through subsequent developments. There are many helpful references to further reading, particularly in the lesser-known American law reviews.

The third chapter deals with emergency powers. It is by far the longest in the book, and reflects Professor Groves' own special interests. It covers three kinds of emergencies: the warlike, the subversive and the economic. When those who effectively control the machinery of government feel the foundations of the social order to be threatened they will acquire and assert authority that transcends normal constitutional boundaries. Express provision may well be made, as in the Indian constitution and the majority of other recent constitutions, for the circumstances in which an emergency may be proclaimed and the limitations upon which the exercise of the powers so conferred. There may also be explicit provisions for the making of preventive detention orders against security suspects under conditions falling short of a full-scale emergency, and for the subordination of the regional units in a federation to the will of the central government. In the United States the constitution has little or nothing

to say on the matters; judicial discretion is not necessarily foreclosed by legislative or executive declarations, and it has been left to the courts to delimit the permissible range of governmental action. In the Commonwealth of Australia, too, the scope of federal emergency power has to be determined by reference to creative judicial interpretation of an unhelpful constitutional text. The illustrations of the variant approaches adopted by the highest courts of these two countries towards legislative attempts to deal with the problem of Communist activities are instructive; the scene would be made still more interesting if translated extracts from the monumental judgment of the West German Supreme Constitutional Court on the dissolution of the Communist Party had been incorporated, although (or perhaps because) this would have led the reader far from the familiar fields of Anglo-American legal concepts.

Granted that a government must have wide powers to sustain the existence of the social order, there remains the problem of affording reasonable safeguards to persons whose personal freedom is restricted in what is conceived to be the general interest. Several of the decisions here collated turn upon this issue. The remainder of the book is concerned to a very large extent with conflicts between the atypical, often awkward, sometimes anti-social individual, on the one hand, and governmental authorities on the other. There are conflicts arising out of denial of citizenship, deprivation of citizenship, withholding of passports, and refusal of permission to emigrate, immigration restrictions, deportation orders (here a reference to the recent Soblen case in Britain, where the distinction between deportation and extradition was blurred, would be apposite) and the treatment of enemy aliens. And then there are the manifold problems posed by government employment, problems which have produced a rich crop of litigation, especially in South East Asia. To what extent may civil servants exercise normal civic rights? When is it constitutionally justifiable to discriminate in favour of or against a particular class of person in offering employment? What safeguards (if any) are available to civil servants against discretionary dismissal? In Britain issues such as these are almost entirely non-justiciable; elsewhere they swell the cause-lists and the case-books.

Professor Groves, viewing the field of constitutional law through the eyes of an American in Asia, has compiled a uniquely informative book of cases and supplementary materials. It should be on the shelves of every self-respecting law library, and many of us will often turn its pages for illumination and guidance.