BOOK REVIEWS

LEGACIES OF THE NINETEENTH CENTURY LAND REFORMERS FROM MELVILLE TO GEORGE; (The John Murtagh MacCrossan Lecture, 1974): by the Hon. Mr Justice R. Else-Mitchell. University of Queensland Press, 1975. 28 pp. A$1.00.

The question of agrarian reform has, until recently been regarded in the main, as relevant only to certain ex-colonial "oligarchies" within what is now called the third world. The Common Law, in particular, seems to have been content merely to debate the fringes of land law reform or to tinker with the contractual aspects of leasehold tenure. This is perhaps no real criticism of the Common Law, which seems to have been able to develop some anti-bodies which if not thwarting land monopolies have nonetheless checked their growth (see Morris and Leach, *The Rule against Perpetuities* (2nd ed. 1962) pp. 11-12). Such checks have, however, allowed the growth of commercialism in land, but with rising land prices, speculation in land, and the increasing public control of land use, this commercialism is now itself being challenged and a mood for more significant land reform is being felt within the Common Law. This growing concern with the status of land, whether manifested towards recognition of the land rights of indigenous people, or the more fundamental questioning of the nature of land — as a resource or as a commodity — may perhaps, be no more than an indication of a general re-emergence of the community interest, which had been eclipsed by two or three centuries of insistence on private rights.

Thus, it may be that the Common Law with its basic insistence on seisin of an estate subordinate to the Crown's overriding interest contains the seed of a compromise solution to the present evolving controversies. On the other hand however, the Common Law as it has evolved equally contains the germ of the controvery itself, and cannot, at a time of rapid social and economic change, escape from the new world-wide reappraisal of the social values of land. This may be particularly so in Australia and New Zealand where the concept of fuedal grants of land, capable of careful evolutionary development when planted in the eleventh century, may have been less appropriate when carelessly transplanted in the nineteenth century.

The idea of land reform, contrary to appearances, is however not new in either Australia or New Zealand; nor for that matter in England itself, and in this 1974 MacCrossan lecture, Else-Mitchell J. examines the two waves of land reform activity in Australia, separated by approximately a century and suggests a connection between the two. He describes the early system of Crown grant and land settlement and traces the discontent resulting from the manipulation and maladministration of this system culminating in the reform movement which appeared most strongly in the decade or so following 1870. Although

this movement had some success in the Canberra leasehold system, in the author's view the aims of this land reform movement are only now beginning to find positive expression in the recent taxing legislation designed to restore to the community its interest in the value of land. This then is the true legacy of the nineteenth century reformers which they have bequeathed to the modern world, although there is the enigmatic penultimate suggestion that: "It may be that the origin of the principle truly lies in the Mosaic laws relating to the use and cultivation of the soil and that Leviticus is as significant in the evolution of the theory of economic rent as Ricardo, Mill or George."

In expounding his theme, the learned Judge presents a neat survey of the history of Australian land settlement, thus adding to the literature on this branch of Australasian legal history, and at the same time states in concise terms the background for the present changed social attitudes to land.

Although the booklet is concerned exclusively with Australia, and the law and policies of land settlement may have been different in New Zealand, it must clearly be of interest in New Zealand. A parallel land reform movement appeared here, briefly in the 1870-1880s, and the ideas of land tax then postulated to secure the community interest in land, are now likewise, coming to fruition in this country with the Property Speculation Tax Act 1973 and the equally recently enacted s.88AA of the Land and Income Tax Act 1954 (Land and Income Tax Amendment Act 1973).

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REPORT ON FAMILY LAW, by the Law Reform Commission of Canada, Ottawa. Information Canada, 1976.

The publication of a major report on divorce law by a leading Commonwealth nation is especially timely for New Zealand. In view of the National Party's electoral commitment to review New Zealand's divorce laws and in view of recent statements along similar lines by the Minister of Justice, the likelihood of reform legislation during the present term of Parliament must be considered great and the Canadian report is therefore worthy of close study by family lawyers and those interested in law reform. It also follows on the heels of the radical changes brought into force in Australia by the Family Law Act 1975.

The proposals contained in the Report fall into three categories — substantive changes in the grounds for divorce, accompanying procedural changes and recommendations on ancillary matters. It is the first two which will be of primary interest to New Zealanders, although it is worthy of note that the philosophy of economic readjustment contained in the Report is very similar to New Zealand trends in that the

family unit is treated "as a joint venture, both spouses as equals, and the role of each spouse as having equal value". Thus the Commission recommends that property disputes should be resolved by a process of equalisation of the economic positions of each spouse, and maintenance should be received not as of right, but in accordance with needs and the aim of rehabilitation.

Clearly the most controversial aspect of the Report is its recommendation of a system which at first sight amounts to divorce on demand. It is fundamental to this that the notion of fault as the exclusive, or as an alernative ground for divorce, is rejected entirely as being outdated and damaging:

> In its search to attach the blame, the law fixes on a handful of occurrences that are overt, while the events of real significance to the success or failure of a marriage almost invariably remain hidden in the psychological interaction between the spouses. Continued reliance on the idea that someone can or ought to be labelled as being 'at fault' for the disintegration of the personal relationship of a husband and wife will accomplish nothing more than ensuring that law and reality continue to shout their contradictions across a vacuum. (para.2.5)

Furthermore, the "fault-system" has repercussions at the procedural level, on which the Commission has some strong things to say: "Legal concentration on grounds for divorce, such as fault, clearly reinforces the adversary and accusatory elements of a crisis situation. Anybody who lives in a family or any other close relationship knows that this is no basis for arriving at a mutual understanding." (Introduction p. 3) The Commission therefore proposes that the only basis for dissolution of marriage should be "marriage breakdown", i.e. "the failure of the personal relationship between a husband and wife", which will be non-justiciable, and conclusively established by the evidence of one spouse. No remnants of a divorce by consent requirement would remain, dissolution being granted merely at the request of one of the spouses. Subject to the admittedly important procedural formalities to be mentioned later, this is divorce on demand in all but name.

The terminology used by the Commission is not unlike that of the Australian Family Law Act 1975 in that both talk of "breakdown" as being the test for divorce. They must, however, be carefully distinguished, since the Australian criterion for breakdown, twelve months' separation, is one which is not advanced by the Canadian Report. The main reasons for this rejection, more fully explored in the Working Paper on Divorce (Working Paper 13) (1975) which preceded the final Report, are twofold. A separation requirement encourages the parties to live apart, yet the prospect of reconciliation is smaller if the couple are living apart than if they are still together. Secondly, a separation requirement operates against the interests of a dependent wife who is normally in no economic position to initiate a separation. This latter argument is not all that convincing in the New Zealand

context, where there is ample welfare assistance for the wife who is unable to maintain herself.

The similarities with the Australian system reappear when the procedural recommendations are fully considered, for in both the Australian and Canadian schemes there is a very clearly discernible movement away from substantive legal rules for obtaining a dissolution towards satisfying conditions of procedure. While the Canadian Report recommends a system akin to divorce on demand it does not call for immediate divorce on demand. In fact by the time the formalities have been concluded, divorce Canadian-style might well take longer than divorce Australian-style.

The cornerstone of the Canadian proposals is the provision of an alternative method of dispute resolution to the traditional adversary system. This would be done by the establishment of a family court whose judicial functions would be overshadowed by a "service function" or "social arm", the aim of which would be to provide the means both during the course of marriage and at the termination of a marriage, whereby parties can reach "consensual solutions to family difficulties". The dissolution process itself would be begun by one or both spouses filing a notice of intention to seek a dissolution. No actual dissolution would take place however for at least six months, during which time attempts at reconciliation or conciliation on matters in dispute could be made. Where there are children of the marriage or where temporary court orders for ancillary relief are sought, the court would be required to call "an assessment conference". This would be a meeting between the spouses and a third party appointed by the court, with the purpose of making the couple aware of the counselling services available and of reaching initial agreement on ancillary matters (particularly the question of the custody of the children which is to be given "first priority"). At the expiration of the six month period, provided the parties can agree on ancillary matters, the court would hear the evidence that the marriage has broken down and grant a divorce. As already mentioned the evidence of one spouse would be sufficient for the purpose. If on the other hand ancillary matters remain unresolved, the court may adjudicate without delay or it may defer proceedings for another six months to allow further conciliation, but after the second six months have passed the court must adjudicate if required to by either spouse. Despite the policy shift away from adversary techniques, at all times during the proposed dissolution procedure parties are entitled to legal representation.

It will be obvious that, while the substantive proposals in the Report make the legal grounds for divorce radically simple, the procedural rules would ensure both a check against abuse of the system and a delay mechanism for those whose marital differences are not irreconcilable. In stubborn cases, it could be over a year before a marriage is dissolved but at least during that time the law would give no encouragement to mutual mud-slinging in preference to seeking an amicable settlement of outstanding difficulties. At the same time, there

would be no requirement that the parties live separately following the filing of a dissolution notice, and from the children's point of view, this could be important in preserving familial stability until questions such as custody and maintenance are worked out.

While the Commission's suggestions are coherently advanced, the reader is nevertheless left wondering about the answers to one or two questions. First of all it might be asked whether the evidence of one spouse is indeed in all cases sufficient by itself to establish irretrievable breakdown. A suggestion put forward in Working Paper 13 that if the non-petitioning spouse objects to dissolution, proceedings are to be adjourned to allow conciliation or independent investigation, appears to have been dropped from the final report. The Commission is of the view that if one spouse says the marriage has broken down, that means that the marriage has broken down and must be dissolved. The other spouse is given no further comeback. But the opposite viewpoint is also tenable, namely that if one spouse wants the marriage to continue, then there is hope that the marriage is in fact still viable.

Furthermore, it might be wondered whether marriage is now becoming a purely subjective relationship or whether society as a whole is still to be regarded as having an interest in its preservation. If the latter is the case, then the Commission relies heavily on the success of conciliation and counselling services to satisfy the public interest and clearly a far greater financial commitment to such services will have to be made by the community in the future. Such a commitment is recognised in the 1976 Annual Report to the National Marriage Guidance Council of New Zealand where it is said: "Proposals to change the functions of the Domestic Courts and to reform the law under which divorces are granted would need to pay attention to the large increase of marriage counselling work which would be required if all divorces were to be preceded by conciliation" (Director's Report, p. iii). The acceptance by the New Zealand public of liberalised divorce laws may well depend on the increased provision of conciliation services, which in turn will depend on the willingness of government to finance the administrative costs.

Finally, reference should be made to a factor not canvassed in the Report but which may become significant in any future debate in this country. De facto relationships are receiving more legal and social recognition as time passes and greater numbers of people are not bothering to marry. If the conditions for legally terminating marriage remain tough and costly by comparison, even fewer people will regard marriage as a desirable option. So long as society continues to treat marriage as the preferred institutional framework for regulating family life, it will have to take such changing social circumstances into account in revising its divorce laws.

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PERMISSION TO BE SLIGHTLY FREE: A STUDY OF THE GRANTING, REFUSING AND WITHDRAWING OF PAROLE IN CANADIAN PENITENTIARIES by Peter Macnaughton-Smith, Law Reform Commission of Canada, 1976, 307 pp. (incl. 172 pp. appendices and tables). $6.50 (Can.).

Over the last five years the funding of major items of criminological research has, at least in North America, undergone considerable change. In crude terms the large private foundations have slightly withdrawn from the area and mainline causational correctional research has, as a result, fallen upon hard times. At the same time, government agencies have increasingly entered the field, headed in the United States by the ubiquitous Law Enforcement Assistance Administration with its federal millions, and this has brought about a new concentration of research on police and administrative studies. Although this shift in research priorities has resulted from a number of factors it is evident that one of the major reasons has been the failure of traditional research to produce the sorts of answers required by politicians, bureaucrats and dispensers of philanthropic largesse. Furthermore, up until fairly recently the fact that such research was prone to throw up results that challenged traditional 'bad man' explanations of crime and that questioned the efficacy of innovative penal measures was generally concealed behind a smokescreen of calls for more research, more facilities and more understanding. Since the late 1960s however the fashion has changed and dispensers of research funds have been increasingly confronted with reports containing trenchant criticisms of the whole system, the assumptions on which it is founded and the bona fides of the administrators and dispensers themselves. Such filial impiety reached its nadir in 1972 when the State of New York was forced to disgorge a report which it had specially commissioned and subsequently rapidly suppressed on discovering that the findings were flatly contrary to those expected.[1] In such circumstances it is scarcely surprising that what can be loosely called 'the Establishment' has become rather more cautious about criminological research and the people who do it.

Peter Macnaughton-Smith's study of decision-making at the Canadian National Parole Board is a good example of such a piece of research. It is the sort of study that dispensers of research funds, especially government funds, are likely to see as a horrible example of irresponsible, egg-headed self-indulgence. *Permission to be Slightly Free* is, quite simply, a thoroughly unpalatable document. It offers no comfort and has not even the grace to apologise for being unable to do so. In fact it commences by describing the whole of what is called the "contra-crime" system as ridiculous, and ends by assuring the reader that "he has to come to terms with the fact that contra-crime exists, is

1. See Lipton, Martinson and Wilks, *"The Effectiveness of Correctional Treatment: A Survey of Treatment Evaluation Studies"* (1975). The report which forms the basis of this book was only returned to its authors as the result of being subpoenaed as evidence in a case in the New York Supreme Court.

objectively useless, is nasty, and is beyond his power to reduce or abolish". (p. 128). The fact that the contra-crime bureaucracies, amongst whom must be counted the Law Reform Commission of Canada, have not appreciated the significance of the sort of approach that underlies this conclusion is amply illustrated by the delightful little prefatory note that introduces this study. This note, in the usual patronizing way of such notes, describes the study as a "provocative account of decision-making at the national Parole Board"—which it is not—and then goes on to announce that "reform of sentencing within our criminal law must of necessity look at the results of the process of incarceration and release. It is with this in mind that we present the author's views". Having read the study, one can only assume that the author of these comments is either a committee, an incorrigible satirist or simply has not read it himself.

The research on which the study is based is only loosely connected with the actual decision-making process. It makes no direct attempt to say how or why decisions are taken. Its concern is rather to explore the statistical relationships between the mass of data that the Parole Board has available to it and the decision whether to grant parole or not and whether to terminate it once granted. The object of this exercise is essentially to try and see whether, in deciding to grant or refuse parole, the Board is rationally pursuing a set of objectively beneficial goals or whether it is in fact acting in some other way.

Macnaughton-Smith himself starts from a viewpoint which regards all contra-criminal activity as "nasty and without any objective benefit to society" (p.125). This is a stance which, phrased somewhat differently, is fast approaching the status of a cliché. However it is also one which I suspect needs constant, strident reiteration if it is to have any effect outside the incestuous world of professional criminology. The argument here is twofold. At its most general it amounts to an assertion that the contra-crime industry cannot and does not confer any objective benefit on society or on the individuals who are exposed to its ministrations. This is based on a view of the system as selecting people for punishment who are objectively identical to other non-selected people and who have behaved in an objectively similar fashion. Thus Macnaughton-Smith suggests that there is a

> lack of serious evidence that in any relevant, consistent, describable way the people that we treat as criminals are different, other than consequentially, from those we don't so treat, or that their behaviour, their needs, and society's objectives needs with regard to them are different from those found with other people. (p.31)

This being so, it is difficult to see what objective benefits in terms of rehabiliation, deterrence or crime prevention can possibly emerge from such a system. Futhermore, the traditional justifications that have been advanced for the nasty things which society does to some of its more unfortunate members in the name of contra-crime are not, in Macnaughton-Smith's view, descriptions of objective benefits derived, likely

to be derived, or even hoped to be derived. They are instead faddish, cyclical excuses:

> human society as a whole, over nearly all of its geography and history, has done very similar things in the name of law and has offered whichever reasons happened to be in fashion at the time. When the reasons change and the activity remains, the reasons begin to look like excuses. (p.33)

This view, then, which is heavily based on labelling theory and which owes a considerable and fully acknowledged debt to the work of Austin Turk,[2] sees the criminal as the recipient of undeserved nastiness produced by a system which provides no real benefits. It rejects the study of the 'causes of crime' in the traditional sense and concentrates instead on processes involved in the legislation, detection and handling of crime and criminals.

At a more specific level Macnaughton-Smith's argument results in an assertion that the agencies responsible for the processing of offenders are likely to act bureaucratically rather than in a goal-oriented manner. That is, they will generally process people in such a way as to keep themselves in business, render their lives comfortable and orderly and prevent or resolve conflicts between different agencies and aspects of the system. Such agencies are not, whatever their officially stated goals and whatever the values and beliefs of their individual members, engaged in seeking the objectively beneficial goals of crime prevention, reformation or whatever. It is this aspect of the argument that the study sets out to test on one rather insignificant sector of the criminal justice system. At least insofar as the Canadian Parole Board is concerned the material presented here provides considerable support for the stance taken.

The initial contention that the system is characterised by its 'nastiness' is, of course, valid. It is especially important that it be made, and made repeatedly, in the context of devices like parole which can so easily be seen as benificent, humanitarian and thus able to be used with impunity, free from the usual protections. In this area Macnaughton-Smith's dismissal of the idea that a man released on parole is free is timely, if rather trite. Thus he says:

> We cannot call a man free who has to seek permission to marry, to leave town, to leave his job, to buy a car, or to incur any major responsibility including a hire-purchase debt; and who may well have his chosen friends, including girlfriends, forbidden to him, as also may be the right to drink beer, wines or spirits. Whether these facts greatly limit his day-to-day activities is not the point; a man who lives subject to these constraints, however lightly used, is not free, and if we think he is, then the concept of freedom has fallen on hard times. (pp. 27-28)

2. See A.T. Turk *"Criminality and Legal Order"*, (1969), especially chapters 1-3.

Nevertheless I do have some difficulty with the statement that the system of contra-crime is without objective benefit. Even if one accepts that the clientelle of the criminal justice system are the same as the rest of us and have behaved in similar ways and even if one believes that the system does no real good in terms of the prevention and cure of unacceptable behaviour, it is still possible for it to be seen as conferring objective benefits. The problem is, I suppose, in the definition of the term 'objective' and in what is to be seen as a 'benefit'. In this regard the only real discussion, in a footnote on p.53, is woefully inadequate in that it seems to assume that 'benefit' must be assessed in the light of the publicly articulated goals of the present system and that a 'benefit' can be 'objectively' said to exist when it is conferred on some nebulous body called 'society' or the 'whole society'. This analysis is both incomplete and naive. One does not need to be a conspiracy-theorist to see that the publicly articulated objectives of any system are unlikely to be a particularly good guide to its true function. By limiting his discussion to this overt level Macnaughton-Smith ignores the whole political dimension of contra-crime. Whatever else it is, contra-crime is certainly a part of a number of wider systems of social control. In its definition and handling of criminality it plays a significant role in the construction and definition of the official reality. It contains useful statements of the sort of people we are and the sort of society we live in. It reinforces the existing social and economic structure, confirming the dominant and their view of the world and protecting their power. In this sense it is itself about the exercise of power and, as Macnaughton-Smith himself says in the opening sections of the study, "power is used for the good of its possessor, not for the man subjected to it, unless coincidentally" (p.22). This being so it is surely rather strange to regard the exercise of such power as being objectively goal-less and without benefit. What is needed instead is a recognition of the partiality of the system in protecting and advancing sectional interests and an examination of precisely who it benefits, why, and how. The infuriating aspect of this study is that it does in fact begin to broach such questions towards the end. Macnaughton-Smith concludes with the remark that:

> If over the whole literate world for six thousand years there have been governments practising contra-crime, such a phenomenon has reasons for existing. This is not denied but emphasised by its objective uselessness and by the variety of philosophical rationalisations used to justify it. (p.128)

The paradox evident in this statement surely highlights the central question. It is unlikely, as Macnaughton-Smith himself comments, that the whole thing is a mistake and that the system is without social function.

However at the more specific level there can be little doubt that the study is largely successful. The author's concern is to demonstrate that the parole system does not product the results, and indeed does not seriously seek the goals, which it publicly proclaims for itself. After an extended analysis of the data available to the Parole Board and of the

relationships between this data and the decisions made by the Board he is able to conclude that:

> we find that the Parole Board's actions are predictable and irrelevant to any . . . objective benefit: in fact the Parole Board does not even attempt to collect the information necessary to estimate the objective consequences of their actions or inactions. (p.126)

The mechanics of the study are in outline quite simple. A sample of cases in which a final grant or refuse decision had been made was drawn at random from all the decisions made by the National Parole Board of Canada between 1st January 1962 and 31st December 1964. This sample was in turn divided into a "study" sample and a "replication" sample. All the available information contained on the personal files of the cases selected was then coded and processed. Information was only excluded if it could not be satisfactorily coded. In all, information was collected on 92 items. All these variables were then dichotomised — that is, broken down into questions answered by yes or no — and the relationships between these dichotomies and the answer yes or no to the questions "Did this inmate receive parole?" and "Did this inmate, having received parole, have it terminated?" was examined. This enabled the author to isolate the most important variables in the release and termination decisions and to categorise their sources and nature.

In very general terms the result of this analysis was that the dichotomies most strongly associated with the decision to grant or refuse parole were found to be drawn most heavily from sources within the Parole Board itself and were oriented towards the prisoner's past criminal career. They were not oriented towards the "reformation" of the offender or even his progress within the institution. Now, as the author points out:

> the Parole Board sees itself as dealing with men who in the past did a bad thing because they were bad. The role of both prison and of parole is seen as social defence, which is best achieved by turning the bad men into good ones so that they won't do more bad things. (p.57)

This being so one would expect the Board to demand information from those persons intimately associated with the inmate and from which accurate predictions could be made about likely future behaviour. Instead it obtained information from its own servants which emphasised the inmate's past criminal behaviour and the previous judgments of various other bureaucracies about him. Furthermore, the more the data was analysed the more evident it became that the Parole Board paid little effective attention to the actual information that was produced, rather it looked to the source and assessed material on that basis. In short the behaviour of the Board was simply inconsistent with the view of it as a goal-oriented body seeking to provide some objective benefit. Instead the evidence suggests that

> whatever values are held by individual members of the Parole

> Board or proclaimed on behalf of the Board as a whole, at the period under study the decision to continue a man's imprisonment or to grant him a limited freedom was determined almost entirely by bureaucratic considerations. (p.67)

Insofar as the connection between granting parole and the parolee's chances of retaining it is concerned, the data again support the bureaucratic rather than the goal-oriented view of Parole Board activity. If the Parole Board were concerned to select between those likely to have their parole terminated and those who would be a "success" on parole then one would expect the criteria used by the Board for selection to be good predictors of the likelihood of success or failure on parole. In fact this study shows that the significant criteria at each stage are different. Thus:

> We can very greatly improve the prediction of who will be granted or refused parole; and . . . the more we improve this prediction, the less it predicts whether a paroled man will keep or lose his partial freedom, until our best predictor of the granting or refusal or parole is in an almost zero relationship with whether a paroled man keeps his partial freedom or not. (p.117).

Accordingly,

> yet one more analysis has failed to reveal any orientation towards, or achievement of, any other goal than purely bureaucratic ones. The Parole Service would appear to subscribe to a myth that shapes their selection activities in a way that may or may not be comfortable for them but which shows no relevance either to their stated goals or to any objective benefit to prisoners or to society. (p.119)

This sort of conclusion about one part of the Canadian criminal justice system is of considerable significance both in other countries and in other parts of the system. There is no real reason to suppose that the decision to grant parole is structurally much different from any other decisions in bureaucratised contra-crime systems. Large contra-crime organizations are likely to make decisions in a bureaucratic manner and for bureaucratic reasons and no amount of general philosophising about the goals they should be pursuing will effect this. Furthermore cleaning-up the organization, employing better motivated and better trained personnel and doing more research — all the traditional panaceas of the reformist stance — will achieve little. The problem is basically a structural one, not a transient organizational pathology.

Having said that, of course, the other implications of this study are far from clear. At one level it simply adds further fuel to the current controversy over the validity and effects of sophisticated parole systems. At a rather more general level it drives another nail into the coffin of the rehabilitative ideal and indeed into the image of the contra-crime industry as a whole. The problem lies in finding a suitable

response. At the micro-level it is perhaps legitimate to respond by demanding the abolition of specific contra-crime bureaucracies but this becomes rather inappropriate when applied to the system as a whole.

Macnaughton-Smith's vision of a criminal justice system composed of sophisticated interlocking bureaucracies intent on pursuing their own internal goals and shrouded in a smokescreen of enlightened, humanitarian philosophy is a real one. To some extent New Zealand has, by dint of its size and isolation, been able to avoid the full implications of such developments. It is unlikely that this state of affairs can continue much longer. The police, the courts and the penal and social welfare systems are becoming increasingly bureaucratised and are increasingly being afforded the discretionary power necessary for them to take full control over their clientelle. The only rather weak-kneed response that can be made at this stage is to demand that we begin to ask ourselves why we wish to develop the system in particular ways? What goals are we seeking? How do we see these goals as being achieved? What costs will we incur in the process? What benefits, hidden or otherwise will we obtain? These questions are often asked but rarely answered. They must be answered and the answers must be sceptically received. In New Zealand we tend to trust people with good intentions — the lesson of Macnaughton-Smith's excellent study is that that trust should be the first casualty in any discussion of the contra-crime system.

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