

Book Review

Luc J. Wintgens (editor), *Legislation in Context: Essays in Legisprudence*, Ashgate (2005). Hardback; 362 pp (ISBN-978-0-7546-2667-1)

This is a collection of ten essays tackling the question of the existence and nature of a theoretical framework for law and legislative drafting, both topics often viewed through the prism of positivism and black letter law. The book is successful in its first aim and proves beyond doubt that theory in legislation applies to the passing and drafting of legislation. Whether the book is equally successful in its second goal, namely to detail and describe the nature of this application, is subject to some debate.

The book contains three parts and ten chapters. Part 1 on the Theory of Legislation introduces a bridge which links legal theory and the study of legislation. The editor examines patterns of legitimation by use of Hobbes' and Rousseau's theories. Wojciech Cyrul argues that the transition from legal discourse into legal text is such that the burdens set on legislative drafting nowadays are in essence unattainable. Tatsuo Inoue traces legitimacy in the pluralism of society. This is the strongest part of the book, whose link to the general thread of the book is clear. Unfortunately, part 2 of the book suffers from a lack of clarity in structure thus questioning the contribution of its four essays to the general debate of the collection. Peter Wahlgreen's legislative techniques are more of a typology of alternative theoretical strategies than an expose of legislative techniques per se. Philippe Thion tackles alternatives to legal regulation, and Pauline Westerman discusses the effects and results of aspirational and result prescribing norms. Hanneke van Schooten discusses primacy of the legislature in post war constitutional theory. The connective factor between these essays is not visible to this reviewer and its apparent lack harms the central debate promoted by the book. This lack of connectivity does not take away from the value of the individual essays which are original and refreshing in their arguments and approach. Part 3 is structure justifiable as it examines the contribution of some disciplines in the study of legislation. Thus, Bruce Anderson and Philip McShane report on the contribution of law and economics, Marie-Francine Moens on legislation and informatics. It is not clear why the editors selected these two disciplines alone and left out of the equation linguistics, politics, sociology, anthropology or social policy. The choice seems to be unilateral and dependent upon the availability of good authors. It is also difficult to understand what the last chapter on EU criminal law does to elucidate the book's subject of study.

If one were to comment on the quality of individual essays, there would be no doubt that the book would have raving reviews. The authors are authorities in their fields, they are aware of the debate in the study of legislation and they advance this debate further with original ideas and new concepts often borrowed by legal theory. In that, the editor is a true maestro. However, the book is plagued by a lack of structure, often seen in collections of essays of this type. It is unfortunate

that the editor did not seek to open and close the debate with introductory and concluding chapters guiding the reader through the thinking behind the inclusion of the specific essays in the specific order. Perhaps the thread of the book would have been better served from a larger number of contributions. Whatever the weaknesses of the book are, if it is viewed as a collection of seminars on topics largely relevant to the study of legislation, the book is worth reading and indeed worth recommending to any academic or practitioner in the field.

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