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Cricket and the Law

David Fraser

Sydney: The Institute of Criminology, 1993, 273 pp.

Reviewed by Doug Downey[†]

David Fraser presents familiar arguments in an original format. As a self proclaimed member of the Critical Legal Studies approach, he has succeeded in escaping the normal bounds of legal analysis.

Fraser reinforces the notion that legal concepts can be interpreted through more than one medium. The filter for his analysis is the sport of cricket. The academic point of his departure is established but its efficacy remains uncertain.

In Fraser's own words: "This monograph is an attempt to make Australian legal scholarship less boring and more relevant."¹ It is possible that this volume would be more effective as an introduction to law for the fan of cricket.

The appropriate audience, however, is more limited than either of these two options. One must be familiar with cricket, and related current events, to interpret the significance Fraser gives to situations. Furthermore, one must be interested in legal studies to be captured by the significance of his points. Fraser's audience is therefore perhaps as limited as cricket fans engaged in legal scholarship.

Fraser begins the monograph by positing that there are contradictions in social constructs such as law and sports, even though these contradictions may not be immediately apparent, and that various interpretive bodies attempt to avoid the consequences of them. According to Fraser, when one encounters contradictions in either sport or law, the dialogue becomes one of legal formalism versus moralism.

In cricket, legal formalism is a clinging to the rules of the game, whereas moralism takes the form of an appeal to the spirit of the game. In law, the former is an adherence to the letter of the law; the latter, an appeal to natural justice.

[†] B.A. (Wilfred Laurier), M.A. (Brock), LL.B. anticipated 1997 (Dalhousie).

¹ D. Fraser, *Cricket and the Law* (Sydney: The Institute of Criminology, 1993) at 3.

Fraser outlines the development of rules in cricket as a reflection of its time period. “[C]odification in all sports came about as a result of general trends within Victorian capitalist culture.”² The main trend, he is quick to point out, is that of gambling.

In cricket as in law the rules do not provide a “right” answer; there are only various competing interpretations to consider in light of the rule. Fraser addresses the interpretive filters provided by the players of cricket, the captains, the crowd, the sponsors, the reporters, the societies in which cricket is played, and the umpire’s role in making decisions with regard to these influences. Fraser does not delve into the equivalent filters in law; presumably the reader will be familiar with these.

The position of the umpire is analyzed more extensively than any other role. The title of chapter seven, “The Man in White is Always Right” (but he is not always neutral), refers to his decision-making power. The obvious parallel is that of a judge. He spends a significant amount of time demonstrating the latitude an umpire has and discusses at length controversial decisions that have been made. Fraser further deals with competing opinions of the role of the umpire.

A discussion of the leg before wicket (LBW) rule is indicative of the controversy focussing on legal, factual, speculative and moral issues. As Fraser indicates, every time an umpire rules a player out LBW, issues of an umpire’s competence and neutrality are raised. They are often accused of being nationalistic and racist. Fraser does not back away from these issues.

The accepted role of racial epithets in cricket is dealt with. The exchanges between players and interjections from offensive onlookers are addressed in this book. The different national conventions that develop around the same formal rules are contrasted and other recent developments are debated.

Fraser bemoans the professionalization of cricket as a further indication of the capitalist influence. He is also unsettled by the “virility cult” of cricket and the indisputable female exclusion. Fraser also draws upon what appear to be strange sources to explain the development of cricket. There are references to Madonna, S & M, the Tao, phallic imagery, homophobia and various other as-

² *Ibid.* at 31.

sorted images to explain what is really happening in what I thought was just a game.

Fraser's original intention to utilize the similarities between sport and law sometimes give way to his interest in cricketing events. Perhaps he has used a medium he cares too much for. Fraser dismisses the notion that cricket is "only a game" and states: "In every ball, every cricket stroke, every catch, every over, we can see, know, understand and give meaning not only 'to the game' but to our lives."³

Even as somebody interested in both law and cricket, I find Fraser's use of cricketing events too tangential, and the excerpts selected do not always convey the gravity attributes to them. Following pages of commentary about a particular piece of cricket history Fraser states: "It raises, like all other cricket issues, questions about law, ethics and the meaning of life."⁴

As previously mentioned, the language related to cricket and the amount of cricket content in this monograph requires a familiarity with the sport. If one is not familiar with terminology such as Ashes, Westies, Mankading, LBW, sledging, and bodyline, this is not the work in which to first encounter them. If, however, you are familiar with cricket you may enjoy this brief history and analysis of the game imbued with various hermeneutic backdrops.

³ *Ibid.* at 242.

⁴ *Ibid.* at 211.