dead cat or dissect an established authority. Professor Taggart has in fact done something different from a Simpson, and done it very well.

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Central Issues in Criminal Theory. By WILLIAM WILSON. [Oxford: Hart Publishing. 2002. ix, 361 and (Index) 4 pp. Paperback £20.00. ISBN 1–84113–062–1.]

THERE are many issues relating to criminal theory, but probably the central one is what is the point of it all? At its best, as this book shows, criminal theory can have an explanatory, organisational, critical and predictive function, by providing a framework against which criminal law doctrine can be assessed and, where found wanting, criticised and improved. At its worst criminal theory can engender argument for argument's sake without any constructive benefit and divorced from the reality of the criminal law as it operates in the real world. This tendency too is apparent from parts of this book.

William Wilson's book consists of a collection of essays on a variety of topics which have proved important to contemporary criminal theorists. It starts with introductory chapters which consider the reasons for criminalising wrongdoing (focussing especially on autonomy, welfare and morality) and for punishing wrongdoers. Further essays consider the significance of the distinction between acts and omissions, voluntariness, intention and motive, causation, secondary liability, attempts, the structure of offences and defences.

Certain common themes emerge from the different chapters. For example, Wilson has a general tendency to seek an expansion of the criminal law by the identification of more specific offences. In some situations this argument is well made. For example, the creation of new endangerment offences is convincingly suggested by Wilson as a method of resolving doctrinal problems in a way which is theoretically acceptable. In other areas the argument is less convincing. For example, his suggestion of the need for offences of intentional procuring of harm seems unnecessary when the law of accessorial liability is essentially doctrinally coherent, despite his assertions to the contrary. A further theme is Wilson's belief that one of the main functions of the criminal law is communication of norms of behaviour, although he does not consider whether such a function is effective or even realistic.

Central Issues in Criminal Theory is most useful when it is approached as a reader, consisting of summaries of the works of criminal law theorists. The key arguments and theories of many contemporary theorists on both sides of the Atlantic are carefully distilled. But although Wilson is prepared to reject certain theories, he appears reluctant to introduce his own ideas. This is unfortunate because it is clear from his previous writings that he has much of significance to say about the impact of criminal theory on criminal doctrine. Each essay in this book tends to lack any coherent argument and Wilson prefers instead to restate various, often conflicting, theories. It would have been useful, for this reader at least, if there had been an attempt to pull the various threads together by concluding sections in each chapter and a more coherent attempt at identifying key themes.

Certain aspects of the book seem under-worked and could have benefited from closer attention to detail, amplification of analysis, especially by clearer explanation of the facts and ratios of cases, and clearer expression of meaning.

Judged as a reader there are certain essays and parts of essays which are especially useful, namely those which consider the distinction between acts and omissions (although he is less convincing at identifying why there should be liability for omissions in certain exceptional cases), the nature of involuntariness, different interpretations of intention and the function of defences, especially the significance of justification and excuse. Wilson is also adept at choosing interesting and thought-provoking hypothetical problems and examples, often sporting, to illustrate many of the key issues. But the book needs to be more than this.

The book is affected by a number of weaknesses, many of which affect the nature of criminal theory generally. There is a tendency to focus on theory in the abstract, divorced from the reality of the criminal justice system as a whole. So when considering the nature of rules, the need to communicate their ambit clearly to juries through judicial direction is typically ignored. The function of the trier of fact generally as a mechanism for applying specific offences to particular factual contexts is also not specifically considered, with Wilson appearing to prefer, in some circumstances at least, that the definition of key concepts and specific offences themselves should be context-dependent. But this would cause massive definitional difficulties and surely result in unnecessary complexity. The fact that issues of responsibility are considered at the stage of mitigation of sentence is often ignored as well, particularly relevant to the significance of withdrawal as a potential defence. There is a further tendency to criticise criminal law doctrine for not providing rational answers, but without the theorist providing any solutions. Even when solutions are tentatively suggested Wilson takes the easy option by not providing details. So, for example, he suggests that Parliament should formally legislate for crimes of omission and advocates different offences of intentional procuring to reflect different degrees of causal influence, but he does not engage with the massive difficulties of drafting which this would entail. He also calls for a rewriting of the map of inchoate offences without explaining how this could be accomplished, or even why. Finally, there is a tendency to treat theory as leading logically and coherent to a rational and morally defensible solution, whereas the reality of the criminal law is that it is sometimes, inevitably, pragmatic and policy-driven, especially in the sphere of defences.

These criticisms of this book in particular, and the state of criminal theory in general, should not be taken to deny the importance of theory in challenging the assumptions of criminal law doctrine. Indeed this book succeeds in asking the difficult questions which demand a careful and considered response from the perspective of criminal law doctrine. But theory for its own sake is ultimately sterile, just as the study of criminal law doctrine as a list of rules is only of limited value to our understanding of the criminal justice system. It is only where theory is brought to bear on doctrine that its true value is apparent and it is only by careful consideration of doctrine that answers to key theoretical questions can be

provided. This book asks the questions but we must look elsewhere to find the answers.

GRAHAM VIRGO

Rights, Duties and the Body. Law and Ethics of the Maternal-Fetal Conflict. By ROSAMUND SCOTT. [Oxford and Portland (Oregon): Hart Publishing. 2002. xxxv, 437, (Bibliography) 20 and (Index) 15 pp. Hardback. £53.00. ISBN 1–84113–134–2.]

AFTER a period of increasing judicial willingness to compel competent women to undergo caesarian sections and other medical treatment on behalf of their fetuses against their will, US and English courts have in recent years forcefully reasserted the competent pregnant woman's right to refuse any kind of medical intervention aimed at benefiting the fetus. But for many people, this cannot be the end of the matter. Unhappy with the notion that a woman's rights to bodily integrity and self-determination should trump fetal interests even in the face of fetal death or serious and avoidable injury to the fetus and hence the child who is subsequently born, they question whether—as a society committed to the protection of life and the prevention of serious harm—we can really justify not stepping in where a pregnant woman's choice means that the fetus, whom she has decided to carry to term, will be born with severe and avoidable handicaps, or allow a pregnant woman's refusal to heed sound medical advice to cause the death of an unborn child at the point of birth.

Rosamund Scott seeks to provide that very justification. Her argument proceeds along three separate but interrelated strands. First, Scott looks at the moral rationale behind a pregnant woman's right to refuse treatment on behalf of her fetus. She argues that this right is grounded in our appreciation of the values of self-determination and bodily integrity. The right to refuse medical treatment enables us reflectively to make significant personal choices pertaining to our bodies and the future course of our lives. Allowing a person to make these choices is inherently a good thing, even if the outcome of the choice will detrimentally affect others.

Given the fetus's location inside the womb, treating the fetus necessarily involves some degree of interference with the bodily integrity and self-determination of the mother-to-be. Provided that her refusal of treatment reflects the values which lead us to endorse patient autonomy, that decision has intrinsic moral value and deserves our respect irrespective of its consequences for the fetus.

Second, Scott analyses the extent of the moral obligations a pregnant woman undertakes towards her fetus and/or her future child. In this regard, she argues that "a fetus is of moral interest because of what it is becoming" more than because of what it is: thus fetal interests deserving of protection can be recognised to the extent that they are interests of a future child ("the child that will be born") or of a viable fetus, *i.e.* a fetus who is already capable of being born alive. Such a fetus potentially has a moral claim against its mother for its protection, and moreover its welfare is of legitimate concern to the State.

Recognition of these interests leads Scott to what she dubs "the intersection between maternal rights and duties": Are fetal interests capable