

Archbold v Blackstone's

Who dares wins...unless it's a draw. **John Cooper QC** reflects on the battle for compulsory courtroom reading



There has probably been no other controversy like it in recent years.

Clearly not in the category of the great Brexit debate, the annual head-to-head between *Blackstone's Criminal Practice* and *Archbold* has become even more acute since the judicial powers that be decided that both were acceptable texts in the crown court and that neither should have precedence over the other; a sort of revocation of Art 50 granting a reprieve for *Archbold*, which hitherto had been the only acknowledged text, no doubt on the principle that when a small panel of judges decided that *Blackstone's* should replace *Archbold* as the standard crown court text, they might not have had all the information in front of them that they needed.

That information was the dismay with which such a unilateral decision was taken, without consultation and by a small group of judges. Since then, both the Law Society and the Criminal Bar Association have expressed their concern about the decision, which brings us right back to where we started. Both books have preferred status in the crown court, which begs the question: preferred over what? The Nutshell Guide to Criminal Law?

John Frederick Archbold could never have predicted this when he launched his tome in 1822, around the time when most sentencing guidelines ended with 'death'. *Blackstone's* did not enter the market until 1991, but clearly the Judicial Executive Board felt it had achieved a meteoric rise—rare in the legal world, where most things

have to be rotting before they are adopted as 'sound'.

I recall my conversation in a previous chambers in the 1980s when I revolutionarily suggested that the Bar should adopt business cards, like most business people. A senior barrister told me in no uncertain terms: 'They are business people; we are gentlemen'. I took that as a no and so *Blackstone's* rise to preferred text, in such a short period of time, was astoundingly impressive.

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Not that *Archbold* took the matter lightly, and although it does not seem to have come to anything, High Court actions were being mooted.

Winner takes all

The positive result of this spat is that both texts have risen to the challenge, and the winner in all of this is the practitioner.

First, *Archbold* has a new general editor, His Honour Judge Mark Lucraft QC, who also happens to be the chief coroner of England and Wales, which I observe in passing makes

the absence of a heading for inquests in the index somewhat disappointing given the overlaps with the criminal justice system, not the least an explanation of the precedence of a criminal investigation over a coronial one. But that is a minor criticism, because the text is impressive in many ways.

A number of chapters have been completely revamped, including that on investigatory powers, the mental element in crime, offences against the person and sexual offences. This has an immediate impact upon the reader with an easy-on-the-eye, sharper analysis than of late, especially important in the cut and thrust of the crown court. I was pleased to see that the Data Protection Act 2018 has been incorporated into the text, as offences under this subject area are becoming increasingly a feature of criminal practice.

As always, the sentencing guidelines supplement excels, taking on other competitors with a verve which leaves them in its slipstream; easily accessible and right up-to-date, this supplement deserves a status of its own.

Professor David Ormerod QC, that favourite of Criminal Bar Association away days and respected academic, continues his role as a general editor of *Blackstone's* along with David Perry QC. Like Lucraft, he recognises the relative dearth of criminal law legislation as Parliament remains fixated with Brexit (my words, not his). That said, he rightly acknowledges that the volume of secondary legislation continues unabated, citing for instance the Policing and Crime Act and the Criminal Finances Act, both of 2017. Importantly, the text also grapples with the new Police and Criminal Evidence Act Codes which were published last July, and continues to publish in full the Criminal Procedure Rules and the Criminal Practice Directions. This is an example of the fiercely practical approach that *Blackstone's* takes to its content, as it is no secret that much of our criminal law is now produced without the input of Parliament, but rather through invitation-only committees. Like it or not, from a purely practical point of view, the service *Blackstone's* provides upon this aspect of criminal law is absolutely essential.

So, it is indeed the practitioner who is the main beneficiary of the *Archbold/Blackstone* judicially created soap opera and in an unplanned, but highly enjoyable way, we are grateful to them.

NLJ

- *Archbold: Criminal Pleading, Evidence & Practice* 2019, Sweet & Maxwell.
- *Blackstone's Criminal Practice* 2019, Oxford University Press.

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