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‘Paula Jane Byrne, Law in the New Democracy’

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Paula Jane Byrne, *Law in the New Democracy* (ANU Press, 2026), 290pp. Online. ISBN: 978-1-7604-6714-2.

Law in the New Democracy offers an original and valuable account of law, locality, and power in pre-Federation 1850s New South Wales. Byrne is a historian, not a legal scholar who revisits the archive of depositions, this time focusing on criminal depositions that went to trial. As she carefully points out, depositions are more than the cases to which they relate. They are distinct objects, revealing not only what went before a court of law, but also how legal accounts were constructed, what notations were made, by whom, and with what effect. The book is not a case book for lawyers and should not be treated as such. It is an important work of legal history adopting an ethnographic approach, where the question of who constitutes law, and under what cultural conditions, is central.

The “new democracy” of colonial 1850s New South Wales is not simply the book’s subject but the context in which Byrne conducts her inquiry into how power operated in the interior of the colony. Her concern is not only what the law formally was, but how law was constituted locally: by whom, through which institutions, and under what cultural conditions. For Byrne, power is embodied: it appears in how bodies are constrained, restricted, harmed, comported, or able to resist according to local custom. This reminds us that each deposition represents a body, likely subject to some form of restraint, surveillance or incarceration.

This ethnographical framing is one of the book’s strengths. Depositions are treated not merely as legal records of disputes, but as constructed objects shaped by statutory requirements, local habits, official practices, evidentiary assumptions, and the social relations of the people who produced them. Byrne is interested not only in official allegations and defences, but in how accounts originated, were elicited, authorised, edited, classified, excluded, and transmitted. Details such as whether defendants were warned before arrest and how closely depositions complied with law, matter because they show legal authority being constituted and documented in local colonial settings.

The book also has a clear geographical structure. Byrne argues that moving across geographical areas shows law’s “footprint” in different places, mediated through constables, magistrates, and the ordinary population. The regional organisation reflects the assize jurisdictions through which serious criminal matters moved: Maitland, Goulburn, Bathurst and Brisbane, later joined by Armidale and Deniliquin. This approach resists any simple centre-periphery account in which colonial law is either dispersed evenly from above or loses strength the further it is practised from the centre. Law appears instead as something made operational through local custom, bench practice, policing culture, social relations, and patterns of settlement.

The analysis of First Nations people and colonial legality is particularly important. Byrne does not present colonial law as a neutral or consistently applied system. The archive instead reveals unstable and often violent boundaries between inclusion and exclusion. First Nations people appear as actors within and alongside colonial society: as members of the Native Police, complainants, witnesses and accused persons; as neighbours, labourers, employees and family members living among settlers; and as people whose social and cultural lives remained visible, if unevenly and imperfectly, in settler accounts of regional life. At the same time, their presence in the legal record is deeply mediated. The law might be invoked in relation

to First Nations people, but it might also be withdrawn by colonists or resisted by First Nations people denying jurisdiction over their bodies and lives.

The closing Indigenous reflections at the end of chapters are a major strength. They prevent the legal archive from appearing self-sufficient. These responses ask where Indigenous voices are, what stories remain in families and Country, and what colonial law failed or refused to record. They expose the limits of the archive while still allowing it to be read critically and productively.

If the book has a limitation, it lies in the tension between its geographical organisation and its comparative possibilities. The analysis invites comparison across regions, but Byrne does not always apply a consistent set of categories across each locality. This produces a narrative and exploratory style that suits the richness of the material, but it can leave the reader working harder to identify what is being compared and why. This limitation should not be overstated. A rigid comparative grid might have flattened the local particularity that gives the book much of its force.

Law in the New Democracy will be of clear interest to historians of colonial Australia, legal historians, scholars of legal geography, and researchers interested in law's everyday institutions. Its great value lies in showing that nineteenth-century colonial legality was not a uniform emanation from Sydney. It was made locally, procedurally and unevenly producing records that continue to speak and show silences.

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