

DUE PROCESS OF LAW

— Stanley A. Cohen, Carswell, Toronto, 1977,
429 pp. \$29.00

by PAUL TESKEY*

Mr. Cohen has done an admirable job of traversing through various fields of the law (criminal procedure, evidence, civil liberties) to compile a thoughtful and thorough examination of the concept of due process within the Canadian criminal law system. His efforts should go far to clarify, albeit not always with optimistic conclusions, the origins and standing of this often spoken, seldom understood concept.

The book provides an analysis of due process in relation to its historical development, the Canadian Bill of Rights, the duties, conduct and powers of the police, the role of the Crown Prosecutor, judicial discretion and control of the trial process and a lengthy discussion of the doctrine of Abuse of Process. The issues are canvassed in the light of both strict legal and broader policy considerations. The examination of the nature of discretion itself (Chapter 4, Part 1) is particularly interesting and one can only wish that our Supreme Court might have had recourse to Mr. Cohen's examination of the Abuse of Process doctrine before rendering judgment in *R. v. Rourke*.¹ It should be noted that many of the arguments raised by Mr. Cohen in defence of the doctrine were not considered by the Court and, hopefully, might yet prove useful at some future time when the issue is again raised.

The author's style is both readable and clear and there is much of both practical and jurisprudential import to interest both practitioner and academic. I recommend it highly.

* Student, Faculty of Law, University of Manitoba.

1. *R. v. Rourke* (1977), 35 C.C.C. (2d) 129.

