

REVIEWS

tor who becomes 'more of a Chairman, thus . . . ensur[ing] that the rules are being followed . . . and stat[ing] the relevant norms to the parties'.

At law schools, emphasis is always placed on students learning 'the law'. Comparatively little time is devoted to learning the process of the law as it affects clients. Yet this is common practice. And as common as this phenomenon may be, there are few studies examining this role of solicitors. In fact, before Ingleby embarks on examining what solicitors actually do, he explains some of the assumptions made about solicitors, and confronts the conflict of their position — linking it to the gap between the law's rhetoric and reality. Furthermore, he warns that readers themselves bring along their own assumptions about the nature of solicitors' activity. He reminds readers that, in the context of family law, socio-legal research has already shown how empirical data can undermine the authority of conventional wisdom.

Solicitors and Divorce focuses and reports on a study conducted by the author during 1985 to 1987 based on 60 files of five solicitors and field work.

The book deals with interim

requirements of clients first. Interestingly, the first focus of attention is 'physical protection' — the activity of solicitors in protecting the physical security of their clients. There was some level of physical violence reported on 28 of the 60 files investigated (and he goes on to say that this may be an understatement). This is immediately followed by the need for housing the family. Interim arrangements for financial support and childcare arrangements follow. Part II of the book deals with solicitors' activity revolving around final financial settlements and final childcare arrangements. Part III then treats the overall interactions between solicitors and clients; solicitors and solicitors; solicitors, courts and other third parties.

The book rambles through the files linked only by these subject headings. Luckily a detailed index is available if readers wish to return to a point.

The most useful parts of the book are those examples of solicitors' practices which reflect the disparity between formal law and practical realities. For example, Ingleby observes that if a situation is serious enough to lead to a court hearing, it may be too serious a conflict to be resolved by that method. He also observes that the negotiation framework between solicitors may itself be a source of remedies. The effectiveness of 'incremental enforcement' is discussed. This is part of an overall strategy identified as 'litigation' which stresses a continuum of activities on a scale from the top — enforcement proceedings — and down, to the first step taken — self-help. In between are the activities of primary concern to solicitors: contested hearing; door of the court agreement/undertaking; application to use the court; written threat to use the court; telephone threat to use the court; agreement negotiated without expressed invocation of the court; agreement negotiated without legal advice.

This is a slim book and like a recipe book (or a guide to advocacy and cross-examination) it is a useful tool for family law solicitors who feel the need to stop, reflect and assess their perspective.

Ingleby conducted his research in Britain. This means that there are some references to British legislation which, while interesting — especially the section on 'the divorce decree' — should not be relied on.

ANNE THACKER

Anne Thacker is a Melbourne barrister.

A PEOPLE'S COUNSEL

A History of the Parliament of Victoria 1856-1990

by Raymond Wright; Oxford University Press, Melbourne, 1992; \$29.95 hardback.

Did you know that in 1863 women in Victoria were inadvertently given the vote? This disaster occurred when the 1863 *Electoral Act* enfranchised all ratepayers listed on municipal rolls for Legislative Assembly elections. What the Parliament failed to take into account was the fact that local government legislation permitted women ratepayers to vote in local elections. 'Consequently, and quite by accident, these women now had the vote — which they proceeded to use in the general election of October and November 1864'. So writes Raymond Wright in his scholarly and entertaining account of the history of Victoria's Parliament. According to a contemporary Parliamentarian the women who voted back in 1864 were 'generally the worst class of females' and a hasty amendment was put through the Parliament in 1865.

By the turn of the century Vida Goldstein and the suffragists had won widespread support for women's suffrage. In 1904 they organised a Women's Parliament with proceedings conducted along Parliamentary lines with a ministry, Opposition and Labor parties. The women's Parliament first met on Friday, 24 June 1904, in the Assembly Hall in Collins Street,

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Melbourne, with Vida occupying the Chair of Madame Speaker. The topics discussed included early closing of pubs, electoral equality and topics dear to the hearts of suffragists. The topics were debated with at least as much insight as was evident in the 'two other places'. Surprise, surprise the press was not sympathetic and caustic headlines appeared in the Melbourne *Truth*: **Petticoats, Patchouli and Politics: Whimsical Parliament of Women: Majority Want Measures not Men.**

However, times change — not by themselves but because determined women forced change on a reluctant male establishment and by 1908 even Tommy Bent (the very vocal and well known misogynist, rogue, land speculator and MLA for Brighton) conceded 'with an eye to the polls' that it was time to give women the vote. 'I am now ready to concede, on my bended knees if you like, that I have changed my original views', said Tommy but not all his colleagues agreed. Some could not understand why women would want to engage in such an unladylike process as voting and Thomas Langdon of Avoca cited Queen Victoria in considering that women would be unsexed by entering into public life. Raymond Wright tells us that, 'desecration of the motherhood ideal, destruction of family life, immorality, blight of the fine character of the State's women, employment displacement, even the dangers of introducing biological weaknesses and feminine attitudes into the public arena were but some of the arguments raised by worried parliamentarians, particularly in the Upper House'.

Wright's book is, of course, a history of the Parliament not only of women's involvement therein. However, this reviewer has her own prejudices. The women's determined fight for participation is well documented and reminds us that these battles were not simply conceded by men but were fought long and hard. It was not until 1982 that Pauline Toner became the first woman to hold Cabinet office in Victoria, and on 10 August 1990 Joan Kirner was sworn in as the 42nd Premier. But Wright also reminds us that parliamentary democracy has not always been stable

and clashes between the parties and the Houses dominated its early years.

In his review of '*A People's Counsel*' (Age 18.4.92) Rex Harcourt focuses on the early dramas such as the storming and stoning of Parliament by 'mobs of frightening proportions that the police were unable to control'. Geoffrey Blainey (*Australian* 9.5.92) praises Wright for including fascinating detail and writing with zest and clarity. Blainey, however, is mildly critical of the author for suffering 'a little from a political enthusiasm that sometimes comes to the brink of hyperbole'. Blainey chastises Wright for describing the Chief Justice 'Iceberg' Irvine as being a pedant. According to Blainey 'some would say a lawyer with too much imagination should preside over an advertising

agency rather than a supreme court'. Wright, on the other hand, describes Jeffrey Kennett (MLA Burwood — as he then was) as 'creative (he was an advertising agent)'. Creativity, it seems, is the province of the market place and not the courts. Perhaps that is why Victoria still has no women judges!

Wright's book will undoubtedly be a valuable reference work for librarians checking dates of franchise and the like. Students of parliamentary history will find it fascinating and informative in spite of the fact that Barry Jones didn't like it. This reviewer offers no criticism — merely praise for a difficult job well done.

BETH WILSON

Beth Wilson is President, Mental Health Review Board, Melbourne.



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