

issues of guardianship. These tribunals, termed 'an experiment in popular justice', operate within an informal and somewhat flexible framework when compared to courts. Informal justice and diversion are increasingly being used in a variety of settings throughout the Western world to divert individuals from courts. Guardianship, however, is an area that has not been so quick to embrace these diversionary legal processes. One notable exception is Australia, where substitute decision-making forums have been set up to deal with guardianship. This has provided Carney and Tait with an opportunity to evaluate the effectiveness of the performance of tribunals as compared to courts.

*The Adult Guardianship Experiment* offers a concise history of guardianship laws from numerous national and international jurisdictions, providing the reader with a snapshot of the complexity of citizenship issues related to guardianship of vulnerable adults. However, in attempting to be inclusive of a vast range of jurisdictions, some of the material presented becomes too dense and somewhat difficult for the reader to digest. Nevertheless the discussion of legislative development and evolution is useful because it focuses on the basic legal principles of autonomy on the one hand and protection on the other. This provides both a philosophical and practical base from which to examine issues of citizenship within competing frameworks of freedom and control.

A comprehensive range of citizenship issues are explored including financial and property management, access to accommodation and services, personal wellbeing and bodily integrity, family contacts, and medical issues. From within these areas case studies are presented dealing with issues of regulation of fertility, protection from self-harm and money management, providing a range of comparisons between jurisdictions. While case studies are used effectively to demonstrate a range of ethical dilemmas that arise in the case of guardianship applications, the examples used tend, in parts, to be repetitive and thus detract from the overall presentation.

According to the authors, concerns from opponents of 'popular justice' that informal processes compromise basic freedom and autonomy, are unfounded. In the area of adult guardianship, Carney and Tait have found that tribunals, despite operating from numerous

theoretical positions, are likely to provide outcomes which are more equitable for the individual than decisions resulting from the largely impersonal court process. One of the significant differences between courts and tribunals is the requirement that the tribunals take account of the wishes of the individual who is the subject of the guardianship application. It is also apparent that other non-professional parties including relatives and supporters are included in the tribunal process, unlike the court process which is likely to include professionals and largely exclude 'non-experts'. It seems that, as with other informal legal processes, the opportunity to play an active part in the decision-making process of the tribunal impacts on the perceived success of this forum for the 'key players': the subject of the hearing, family and supporters. These informal tribunals tend to minimise intervention as opposed to the

court tendency to maximise intervention.

Overall Carney and Tait provide a credible argument for the continuation and expansion of tribunals in relation to adult guardianship. Implicit in this work is the suggestion that the harshest critics of informal and popular justice processes are likely to be those who have the most to lose in the expansion of this area — the 'professionals'. This book is a thought-provoking read for those with an interest in citizenship issues. It will be useful for practitioners who are involved in informal legal processes and tertiary students exploring the viability of alternative legal forums.

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## If Divorce is the Only Way

by John D. Bieber; Penguin, 1998; 188 pp; \$16.95 softcover.

This is possibly the best 'how to' book that I have read on the subject of managing the divorce process. Usually divorce manuals lead the reader through what they need to know about family law and the legal process. This book does more. In addition to providing sound legal advice, it engages with the emotional experiences of the divorcing couple and provides not only a catalogue of the emotional stages of separation and divorce, but also a positive path through what can often be a painful and destructive process. I expect that people going through divorce will identify with Bieber's recognition of their emotional reactions and feel less isolated than they might otherwise have been without this book. It will also be useful for family court counsellors, social workers and mediators.

Although Bieber is a respected international divorce lawyer, he practises in London and so refers to the requirements of English law. However, Wendy Broun, a Sydney family law practitioner, has helped prepare the content for Australian readers. The language of the book is accessible and jargon-free and the tone conversational. Each chapter is also headed with pertinent and catchy quotes from literature which not only focus the mind on what is to follow but also serve to remind readers, in a gentle and sometimes humorous way, that

their problems at this time in their lives are neither unique nor new.

The book is divided into five sections which are designed to lead readers from the decision to separate through to the establishment of another chapter in their lives. Section one asks six questions which require readers to articulate their reasons for ending their marriages and what they expect will happen in the future. Sections two to four then provide lists of emotional do's and don'ts for getting through the separation and divorce process such as not seeking advice from too many people (p.38) and trying not to be vindictive or to give in to guilt (pp.57-63).

Sections five to eight deal with legal representation, children's issues, law and procedure and costs. Bieber has a novel approach in these sections because his presentation of 'facts' is never dry or clinical. He knows how people feel when they are ending marriage relationships and he deals sympathetically with the inevitable pain and fear which is involved. He does this without negating the need for hard-headed decision-making, for self-discipline and for taking responsibility rather than blaming the other party. For example, he warns of emotional involvement with lawyers (p.81), of not involving children in parental fights (p.88) and not abusing the legal process for personal ends (p.107). Sections nine

to twelve include consideration of mediation for solving disputes rather than courts. They also include tips for going forward into the future with a positive frame of mind rather than with backward-looking regrets (p.129). By reference to cases, he also cautions about the dangers of marrying on the rebound (p.131).

However, there are some difficulties for Australian readers with this publication because it presumes that lawyers will be necessary to the divorce process. This does not take into account the high rate of DIY divorce in Australia which is facilitated by the family court and the provision of free classes by Legal Aid Commissions. Bieber also advises people never to have an inexperienced or incompetent lawyer to represent them (p.75) but I am not sure how ordinary people would know how skilled a lawyer might or might not be until after the event. Consulting a lawyer for advice on divorce may be the first and only time in people's lives that they do so, and without an existing knowledge of the process it is hard to see how they would know whether or not their lawyer is competent. Even if there are feelings of dissatisfaction in initial interviews, obtaining a second opinion is likely to be daunting, expensive and possibly confusing.

This brings me to another minor criticism of Bieber's work. I am not sure that people who eventually divorce

are necessarily thinking of that when they separate. It would thus be difficult to give this book to a friend who would find it very useful for coping with separation but not yet be ready to face the finality of their relationship. There is a gap, I think, between the decision to separate (not always mutual) and the institution of divorce proceedings — at least one year according to law — but this book tends to treat them as inevitably and closely linked despite the late chapter on mediation. Many of the decisions about property and children are necessarily made by the couple at the time of separation and this could be usefully distinguished in the structure of the book.

Nevertheless, this is a very timely and useful guide to the terrors and pitfalls of divorce for the increasing numbers of people who decide that permanent separation is the 'only way' to end their relationship. It is respectful of the marriage bond, compassionate and sensitive to the pain caused by divorce. It is also a legal handbook for managing the process and, as such, a distinct improvement on other 'how to' manuals. Unlike other legal books on divorce, it never forgets that divorcing couples are whole human beings not just parties to the conflict.

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must not be ignored by those commenting and educating about the law.

This is certainly not a 'how to defend your legal rights as a consumer' book, but it would be a helpful resource for people who are able to read about the law. It is logical and accessible in its structure and provides a readable and reasonably in-depth discussion of the relevant statutes and cases. After considering the quirks of consumer protection law in a federal system in chapter two, the following chapters examine contractual remedies against sellers and suppliers, and manufacturers' liability standards for goods and services. The next group of chapters examines occupational and professional licensing and laws relating to deceptive consumer practices. Consumer credit and remedies make up the last two chapters and they include a summary of recent federal and State procedural reforms such as class actions.

The chapters also keep the reader interested. For example, comparative material from England and the USA is used to illustrate alternative legal solutions. Many chapters also include helpful tables comparing similar statutes. In addition, relevant Australian and international research is considered at a number of points. Finally, many chapters provide a historical context outlining the origins of the law in that area.

Despite these many strengths I was also surprised by some things. First the index at five pages is really too brief for a book of over 400 pages. This sounds picky, but one of the consequences is that things are hard to find. For example, after reading the discussion of small claims/consumer claims tribunals and courts I tried to refine it using the index. Unfortunately the term 'small claims courts' is not listed although in fairness 'consumer claims tribunal' is listed, and includes reference to small claims. But why isn't the term 'small claims courts' listed separately and cross-referenced? In general large, detailed indexes containing plenty of cross-references are a must for large books such as this.

I also identified an error of fact. While Goldring *et al* discuss small claims in South Australia they failed to notice the legislative change in 1991. Minor claims, as they are referred to, are now dealt with in the Magistrate's Court not the District Court, under the Magistrate's Court Act 1991. That Act also lifted the financial limit from \$2000 to \$5000. I must admit this made me wonder if the book had been rushed

## Consumer Protection Law

*by J. Goldring, L. Maher, J. McKeough, G. Pearson; The Federation Press 1998; 5th edn; 436 pp; \$60 softcover.*

Books about particular areas of law often share a fatal flaw with manuals for computer software. As any novice computer user has discovered, the authors of these manuals invariably fail to distinguish between all that could be known about a piece of software and what is actually important for the average user to know in order to be able to use it. Law books also run the risk of degenerating into discussions of technical legal questions from long forgotten cases or obscure sections of legislation. And while these discussions may have important consequences for the future of civilisation it is often very difficult to know because frankly the authors have lost sight of the wood for the trees. One way to think about the latest edition of *Consumer Protection Law* is to ask: does it read like a computer manual? I answer that question below but first I

summarise what is covered in the book and consider a number of minor issues.

*Consumer Protection Law* is undoubtedly a comprehensive discussion of the law and policy relating to consumer protection law in Australia. While it examines federal and State legislation in detail it does more than this. At the outset there is a useful introductory discussion that provides a context for what follows. Here the authors consider issues including the purpose and relatively short history of Australian consumer protection law. More importantly they vigorously defend the role of state regulation in consumer protection arguing: '[w]e do not accept that, as a general rule, self-regulation as the only or principle form of consumer protection, is effective or desirable'. Law books often ignore these important value questions and yet they cannot and