

BOOK REVIEWS

Victoria's Lawyers II by Margaret Hetherton (Victoria Law Foundation, Melbourne, 1981) ISBN 0 908417 012.

In late 1976 and early 1977 questionnaires were distributed through the Victoria Law Foundation to 2,699 lawyers practicing in Victoria at that time. Responses to the 78 questions on that postal questionnaire were received from 67% of addressees, and an analysis of them was published as 'Victoria's Lawyers' in 1978. The book under review here is the 'second main report' based on that collected data, and had been foreshadowed in the first report as a more detailed analysis of some important areas. In fact book focuses on the areas of lawyer specialization (and construction of lawyer typologies), women lawyers and lawyer's clients. It does this through presentation of 123 statistical tables and several figures, notwithstanding the author's stated concern about the 'limitations of mail survey research'.

It is a sad fact of life that social science research often takes some considerable time to be published, and this book is no exception. It is now over five years since the data was collected and this sorely restricts its current utility though not its overall importance. The author states rightly that 'a benchmark has been established against which it will be possible to assess new developments as the profession moves into the 1980's' (p. 2). The problem is that we are now into the 1980's and those new developments are upon us. For instance an increasing emphasis on legal aid, and higher numbers of female law graduate constitute two developments which make some sections of this book quite outdated. This is not a devastating shortcoming if readers remember that they are reading the 1977 views, attitudes and situations of Victorian lawyers who graduated before 1974. The real difficulty is that many readers may not remember that, and may treat this book as current comment.

This may not matter that much with respect to the lawyer-typologies that are developed, but it is certainly important when considering the discussion about the (even then, unrepresentative) sample of women lawyers. It may no longer be true that practicing women lawyers are of 'a more youthful profile than the men', or that women are still 'much more likely to work part-time'. The call in this book for less-limited data and further research into the issue of discrimination against women lawyers is applauded. Unfortunately, the author's discussion of this issue is generally unhelpful. Similar comments can be made about the brief chapter on lawyer's clients.

The strongest chapters of this book are those in which typologies are constructed. The solicitors' typology comprises the Property Practitioner, the Personal Plight Practitioner, the Commercial Practitioner, the Workers' Compensation Practitioner, the Taxation Practitioner and the residual category (which comprise the largest group and 34% of the sample). The Barrister's typology comprises those active at the Personal Plight Bar, the Commercial/Property Bar, the Criminal Bar, the Esoteric Bar, the Family Bar and the Workers' Compensation Bar. Each of these typologies was generated through the statistical technique known as cluster analysis applied to details supplied by respondent-lawyers of the working hours they spent in a number of different areas.

The bulk of this book comprises an analysis of the differing responses by these lawyer-types to issues raised on the questionnaire. It is here that fascinating glimpses can be gained of the various groups within the profession and the tabular presentation of these enables the reader to explore his own hunches or interests. As an example, conveyancing was in 1976, and is perhaps even more so today, an issue of some controversy amongst lawyers. This book reveals that a higher proportion (56%) of

Property Practitioners than the total sample (46%) agreed that 'too much of my time is taken up by work which does not require a full legal training for satisfactory completion' (p. 45). But in addition, only 9% of them (compared with 20% overall) agreed that 'it would be in the public interest if specially licenced real estate agents were allowed to handle straightforward conveyancing' (p. 59). Thus while the work involved does not wholly benefit their station, Property Practitioners are apparently not willing to let go of it. This group, interestingly enough are least dissatisfied with their remuneration (p. 45) and least in agreement with lawyers advertising their specialities (p. 60). The picture of Property Practitioners that emerges from the above suggests a self-interested group at some odds with the rest of the profession.

The author's analysis of the data tends to be straightforward, however, she does provide occasional intriguing remarks. Numbered amongst these is the comment following from her finding in her first report that Victoria's lawyers 'are drawn overwhelmingly from an Australian born male population with high status family background' (p. 34). Study of the lawyer-types generated in this book indicates that there appears 'to be some channelling of those with differing class and status backgrounds towards particular work roles' (p. 36). In particular, solicitors with high-status backgrounds tend to work as Commercial Practitioners. This seems to confirm the closed-shop nature of some branches of the profession.

Overall, differing views of lawyer-types that are presented in this book constitute a considerable source of information on a wide variety of issues. The differing attitudes of barrister-types towards their articulated clerkships (p. 78), the attitudes towards perceived standards of service to clients (pp. 59, 83) and the predictions of future trends in the profession (pp. 47-53, 84-8) by lawyer-types indicate the richness of the information that is available. The book is most valuable as a source book of information, rather than a policy-oriented document. The author herself remarks at times that her data is 'extremely limited' (p. 151) or her results 'relatively crude' (p. 18), so that she cannot be definite in drawing certain conclusions. It is hoped that those who use the 'benchmark' provided by this book for future research will ensure their data collection allows them to go further than simply providing 'an exploratory overview of the profession' (p. 25).

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Criminal Law by Colin Howard (4th ed., Law Book Co. Ltd, Melbourne, 1982), pp. x-lxi, 1-452. Cloth \$32.50, Limp \$22.50. ISBN 0 455 20457 8.

Having marked Melbourne Cup day in 1965, Bastille Day in 1970 and Ramadan in 1976, Professor Howard celebrates the 880th anniversary of the death of Roger de Hauteville (notable Norman knight and brother of Robert Guiscard (The Astute)) in the preface to the latest edition of his now well-established text, *Criminal Law*. While it cannot be guaranteed that Professor Howard will be remembered in the year 2682, the production of four editions of his book in less than two decades attests, at least, to the short term popularity of his work. It remains the sole comprehensive text on Australian criminal law, radiating its particular vision of the criminal law with a continuing intensity.

The years between the first and fourth editions have seen some important changes in the criminal law, foremost among which is the gradual separation of Australian from English law. This has been caused by legislative changes in both jurisdictions which render decisions more parochial, as well as by a number of decisions of the English courts which Australian courts, despite their traditional deference to English authorities, have found impossible to accept. Australian judicial independence essentially commenced with *Parker v. R*.¹ when the High Court refused to follow *D.P.P. v.*

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¹ (1963) 111 C.L.R. 610.