



## Issues for the Nineties

**Volume 22 — Children's Rights**

**Volume 41 — Sexuality**

**edited by Kate Healey; The Spinney Press; \$14.50 each.**

The Issues for the Nineties series includes over 60 titles on a wide range of social issues such as the environment, racism, genetic engineering and the drug debate. Each title is a compilation of relevant articles from newspapers, reports and journals.

The Spinney Press promotes the series as a resource for students, professionals and community groups. Their aim, as stated in the preface to each volume, is to 'offer up-to-date information about important issues in our world'.

By its very reactive nature journalistic material tends to date quickly. Although *Children's Rights* was published in 1994, many of the articles remain pertinent and provide a good beginners' guide to core material, for example, chapter 1 on the UN Convention on the Rights of the Child.

*Sexuality*, published in 1995, includes sections on teenage sexuality, celibacy, transgender sexuality and homosexuality. These topics do not traditionally receive much space in mainstream publications so this volume is a particularly welcome resource.

Editors of these types of publications are inevitably at the mercy of the quality of the primary material to some extent. The material in volumes 22 and 41 is well selected and juxtaposed. Each volume has a useful index and lists organisations that can provide further information. The series, *Issues in the Nineties*, is a good starting point for senior school students and undergraduates when researching social issues. ● FW

## Stay Out of Trouble

**by Owen Trembath; ABC Books 1996; 134 pp; \$14.95 softcover.**

Friend and confidant of rock stars, occasional thespian and presenter of Triple J's legal talkback program, Owen Trembath is Australia's quintessential 'funky young lawyer'. His casual radio

style translates well into his new book, *Stay Out of Trouble*.

Pitched at the Generation-Xers who inhabit Triple J's demographic, the book starts with an overview of the Australian legal system (*Players in the Legal Game, Tangling with the Law*), looks at law in action across a range of human endeavours and experiences (*sex, neighbours, health, shopping at the mall, running your own business*) and ends with a few oddities (*Silly Laws*). Well researched and extremely readable, *Stay Out of Trouble* gives practical words for specific situations (for example, how to conduct yourself in the courtroom, writing a will) while sketching the wider picture and placing this information in context.

On the whole, Owen Trembath manages to avoid the traps of over-simplification and over-generalisation which are constant hazards in writing for this audience. His skill at including an abundance of interesting digressions while not obscuring his central theme is one of the main strengths of this book.

In his introduction Owen seems to promise controversy and conspiracy — 'there may be some things about the law in this book that some people would prefer that you didn't know. If you are in trouble don't wave THIS book at them.' Unless the system reacts dangerously to threats to de-mystify it, I think his warning is overstated. Sensible advice prevails. What he has done is written a great book for young people with an interest in things legal. It might even (gulp) turn some of them into lawyers. ● ME

## Construction Claims

**by Philip Davenport; The Federation Press 1995; 226 pp; \$40.00, softcover.**

With this book, Philip Davenport has provided a useful compendium of information and issues for anyone seeking to understand the concepts and detail, both legal and commercial, which surround the area of construction claims.

Although the book is intended primarily for students in the legal, building and engineering disciplines, its usefulness is much broader. It provides a good introduction for any professional —

architect, engineer or builder — to the exotic and labyrinthine pursuits which occupy the time of construction lawyers. Being of that ilk himself, Davenport, no doubt draws on his extensive experience in developing a logical framework for the subject matter with many useful examples to illustrate key points.

The various chapters of the book cover most recognised categories of claims, including variations, time related matters, defective work, interest and *quantum meruit* claims. The fundamental issues of available defences to claims and the proper legal analyses to be applied in different situations, are also dealt with in sufficient detail so as to provide a useful reference source.

This book is necessarily limited to what experienced practitioners would consider 'basic' information. However, even for the experts, there is still worthwhile assistance to be gleaned from the manner in which the material is organised, analysed and presented. There are extensive case references and background facts to flesh out the skeletal framework of concepts.

The cover text represents the book as being 'a completely new approach to construction claims'. It is hardly that. Nevertheless, it is a book which all those who are involved in the area of construction claims could find useful, particularly as a starting point. GE

## Associations and Clubs Law in Australia And New Zealand

**by A.S. Sievers; The Federation Press 1996; 164 pp; \$25; softcover.**

There seems to have been a recent surge of books on this topic. This is a welcome phenomenon for the large number of clubs and associations trying to manage their affairs, often with little knowledge of the regulatory framework that governs them.

*Continued on p.198*

***BITS* was compiled by Graham Easton, Michael Easton, Sabina Lauber and Frith Way.**

## Dissonance and Distrust: Women in the Legal Profession

by Margaret Thornton; Oxford University Press 1996; 323 pp; \$34.95; softcover.

*Dissonance and Distrust* is a goldmine of anecdotes about women in the legal profession. The word 'anecdote' may sound derogatory but it is not intended to be. The technocentric, pseudo-scientific masculine discourse of law, that Margaret Thornton critiques so well, would have us believe that anecdotes or brief stories are a lesser form of knowledge. They are subjective, specific and in this book, feminine, as opposed to real knowledge which is objective, non-specific and masculine.

Once we dismiss this false hierarchy of knowledge we can appreciate the enormous value of Margaret Thornton's documentation of women's experiences in the Australian legal profession. Thornton's central thesis is that while women have been let into the legal profession in ever increasing numbers, legal knowledge has remained unchanged. 'Add women and mix' is not an adequate recipe to alter the masculinist institution of law and its attachment to the Western intellectual tradition 'in which the feminine has traditionally been debased'.

Thornton begins her book with an account of the early attempts by women to enter the profession and the resistance that they encountered. She then focuses on the contemporary profession examining various sites of legal knowledge. She argues that law schools operate as education for corporatisation with their focus on technocratic or 'hard' law and their denigration of 'soft' or non-commercial, non-masculine law. She draws on the experience of women students who to greater or lesser degrees experienced law school as a sexist, racist and/or classist assault on their psyches. She documents the all too familiar figure of the confident, private school boy for whom legal education is an hereditary privilege.

Thornton then examines law schools from the other side — the perspective of women academics. As an academic this chapter is fascinating, though somewhat disturbing when you recognise yourself in one of the categories of women she defines. Thornton argues the relatively undisputable point that while women have been employed in law schools, they are still not accepted as 'legal knowers' in the way that their

male colleagues are. They are predominantly employed in junior positions, teaching large compulsory courses that leave them little time for their own research. When they do have time to research, their work, particularly if feminist, may be trivialised and dismissed by their colleagues because it is different from the benchmark male scholar's.

The exception to this general rule is the Queen Bee, the token woman who has made it in a man's world and has been co-opted by the organisation to up-hold its masculinist values. She is the 'I made it, what are you complaining about?' woman. It has to be said that Thornton displays real courage in her description of academia. The political is of course personal, so that while her comments about the Queen Bee make a general political point, they must also relate to individual women that Thornton knows and possibly works with.

In the final half of the book, Thornton examines women's experiences as judges, barristers, solicitors and public servants. Anecdotes from practising lawyers illustrate the exploitation of women in all kinds of legal practices, large, small, corporate and community. Women practitioners are expected to be docile and accepting of the benchmark male. Any attempts to step outside this role are not tolerated.

For women who have spent any time in the legal profession, none of the anecdotes are surprising. We have heard it or experienced it all before. But that is the value of this book. It actually documents all those things that, God forbid, we may have begun to take for granted. It records all those insidious acts of discrimination that we know most male lawyers are oblivious to and would dismiss as paranoia were they brought to their attention. Perhaps the best example of this is Thornton's discussion of the role of sport in cementing homosocial bonds in law firms. Most men simply would not accept that their rugby fraternity adversely affects the careers of their female colleagues. The existence of this book will not change this, but at least it represents an authority we can refer to when trapped in a dinner party argument with a successful male

solicitor with the IQ and imagination of a rock.

Overall, *Dissonance and Distrust* is a satisfying read. Thornton's argument is well-structured and thoroughly documented. It could be said that the book lacks subtlety but that is probably inevitable given the subject matter. Discrimination in the legal profession is anything but subtle — it is obvious, all-pervasive and shows few signs of changing.

The anecdotes from women make for a distressing, anger-provoking but sometimes highly amusing read. One that could not fail to raise a smile from women in the profession stuck in my mind:

I think there were only about three women [at the Bar] and I felt uncomfortable in social situations because it was all men and you know how men stand in groups with their hands in their pockets and they flex their buttocks and they rock backwards and forwards. They're so big and it's very difficult to muscle your way into the group. I think that's just men, or maybe male lawyers are an extreme example of how men behave anyway.

So, beware men of the profession, you may be trying to keep us out, but remember, we are laughing at your buttocks.

**CATHY SHERRY**

*Cathy Sherry teaches property and equity at the University of New South Wales Law School.*

*BITS continued*

This book is written for a broad audience — it hopes to meet the needs of lawyers, professional advisers and those individuals actually running the associations and clubs. Overall, it succeeds in this difficult task. The language and format are simple, but the content is sufficiently detailed to resolve relatively complex legal issues.

The chapters cover general information on the implications application to both forms of association. Each head of discussion has a helpful in-depth analysis of statutes and case law relating to the relevant area.

One of the best features of this book is that it deals with relevant laws in all States and Territories in Australia, and New Zealand. Anyone trying to deal with associations interstate will find the comparative table of statutes a helpful companion. SL