BOOK REVIEWS

Women and the Law by JOCELYN SCUTT (Sydney, Law Book Co, 1990), lii + 596 pages.[1]

The impact of the feminist movement on law in Australia has been reflected in the periodical literature since the mid 1980s. In the last two years, a further step has been taken with the publication of several books in the area: Scutt's *Women and the Law* (1990), Graycar and Morgan's *The Hidden Gender of Law* (Leichhardt, NSW, Federation Press, 1990), and Naffine's *Law and the Sexes* (Sydney, Allen and Unwin, 1990). These books begin the process of filling a gap in Australian discussion in and about law and its impact on women. Two of them, *Women and the Law*, and *The Hidden Gender of Law* are similar in format: both use law school casebook format, although the extracts included in each book include articles and other sources as well as the usual judgments and legislation, and the authors contribute more text than usual for a casebook. Their similarity in format indicates that both are intended for use in law, legal studies and women's studies courses, but they are very different books.

Another reviewer has contrasted the two books by commenting that the Graycar/Morgan book, written by two legal academics, is 'more academic in approach', while Scutt 'does not labour under the cerebral commitment of Graycar/Morgan only because her writing is eager to meet the practical realities of the battle. It is the distinction usually found between academics and practitioners of the law' (Anne Thacker, Book Review, (1991) 16 *LegSB* 259, 260). *Women and the Law* is one of the few law books published in Australia explicitly intended for student use which is written by a practitioner rather than an academic. The book's character clearly reflects its author's extensive experience in the struggle for legal change in the interests of women, and a 'hands-on' approach to law reform. It collects information and commentary on Australian law in a wide range of areas in which it specially affects women. The book also illustrates, however, some of the difficulties of combining authorship on this scale with the practice of law.

What *Women and the Law* does extremely well is to collect material which provides an introductory view of the law and how it operates in many areas of Australian society and activity of importance to women. This is no easy task, given the complexities of research over seven or eight jurisdictions and the range of areas covered, not to mention that bane of legal writers' efforts, the rapid pace of change in most of those areas of law. Scutt provides a discussion of the law and its reform in areas ranging from sex discrimination and the industrial relations system's approach to equal pay, through many aspects of family law and social security law, to the tax deductibility of the costs of child

[1] I would like to acknowledge assistance provided by the comments of Rick Krever, Denny Meadows and Marcia Neave on draft versions of this review.

care and the reform of laws relating to domestic violence and rape. Her work in assembling so much basic Australian material in a systematic fashion must be applauded — it provides an invaluable resource for anyone looking for a quick reference or a basis for research in this wide range of fields. The nature of the task, together with publishers' page limits, imposes constraints; attempting to cover large areas of the law must lead to selective and fairly limited coverage in many of the areas. While a selective approach is still able to provide a useful starting point for orientation to broad areas of the law, it would nevertheless have been interesting to see Scutt's reasons for her selection of areas which are relevant to 'women and the law' and for her choice of which areas to emphasise.

The book is structured on conventional legal categories — crime, employment and anti-discrimination law, family law and social security law, as reflected in the titles of its ten chapters: Women in Law; Equal Opportunity and Sex Discrimination Law; Affirmative Action and Equal Pay; Health and Safety (as well as abortion law and new reproductive technologies, this includes sexual harassment at work, and pregnancy and parenthood discrimination!); Women, Property and Family Relations; Women, Children and Family Relations; Social Security and Taxation; Women and Crime — Woman as Accused; Women and Crime — Woman as Victim and Survivor; and finally, Women and Law Reform. Scutt writes within the mainstream legal tradition and she can comment from experience on law reform campaigns and institutions. Her reflections on these topics are among the most interesting in the book: for example her discussion at pp 505–8 of the problems of law reform through the mechanisms of law reform commissions and consultations.

One very important achievement of such a work is to facilitate 'mainstreaming' of women's perspectives in law courses. Because Scutt's material is structured in terms of legal categories similar to those found in law school curriculums (at least those designed before the late 1980s) it is easily integrated into the subjects taught. No longer can lecturers (whether male or female) who disclaim expertise in feminist approaches but teach classes where half the students are women, rely on the excuse of lack of available material for failing to consider the effects of law on women. There remain, however, many areas of law where even introductory work remains to be done: feminist analysis of the Australian Constitution, commercial and company law and broader areas of taxation law. With the development of the field, a 'feminist analysis of s 92' will not sound as far-fetched in ten years as it might today.

I found a few errors and omissions of detail in the discussion of areas of law with which I am familiar, which is probably unavoidable in a work of this scale. In Chapter 2 Scutt discusses the problem of indirect discrimination and extracts the 1985 decision of the New South Wales Equal Opportunity Tribunal in *Najdovska* v *Australian Iron and Steel* (1985) EOC 92-140, but fails to mention that the decision was upheld on appeal to the NSW Supreme Court, the NSW Court of Appeal and, in 1989, the High Court (pp 61–2). In

the discussion of abortion, Scutt extracts a press report of a case at pp 179–80 without giving the title of the case. It would be interesting to know whether it is an appeal against the decision in *K* v *Minister for Youth and Community Services* [1982] 1 NSWLR 311, in which a single judge of the NSW Supreme Court overturned the Minister's refusal to consent as guardian to an abortion sought by a 15½ year old ward of the state detained in a state institution. When discussing the regulation of IVF by *Infertility (Medical Procedures) Act* 1984 (Vic), Scutt has extracted those sections concerned with embryo experimentation, rather than those dealing with access to IVF, which limit access to married heterosexual couples only. This choice of emphasis is unexplained; the policing of acceptable family structures by the legislation is among its most significant practical effects, but has been overlooked in public debate in favour of the 'glamour' area of embryo research. In the discussion of surrogacy, there is no reference to the well-known Kirkman surrogacy case in Victoria. In general the book is well produced, but I found the format of the extracts from other sources frustrating: I like to know whose views I am reading, but this information is not given at the start of an extract, so it is necessary to flip through several pages to the end of an extract to find it.

Scutt's focus on practical aspects is understandable: for a practising (or non-practising) feminist lawyer, who regularly encounters the practical consequences of the inequity of law in relation to women, recourse to law reform is a constructive, and indeed necessary, response. There is no doubt that Scutt's record in the field of law reform is a measure of her commitment to improving women's position. For law reform to be successful, however, in my view it is essential to team practical experience and reforming zeal with a theoretical analysis of the problem and possible responses to it. It is here that the book's weaknesses occur: a lack of familiarity with theoretical approaches and their importance, and with recent research in feminist legal thought. Like the book's strengths, these weaknesses seem to flow from Scutt's focus on practice. Although they could reflect the notion that theory is not directly relevant to legal practice or law reform activism, it seems more likely they show the difficulty faced by a writer who is not based in a university in keeping up with current literature and development of thought in a rapidly growing area.

The role of theory would be to provide a link between the practice of law and law reform, and the social context in which such practice takes place. An examination of issues such as the gender organisation of Australian society, the social position of women, and the social effects and functions of law would provide a framework for analysis, by suggesting mechanisms by which laws or legal changes might affect social relations, which is ultimately the primary concern of a consideration of 'women and the law'. These issues have been investigated in the research and theory produced by feminists (and others) in law and other disciplines, but this work is largely overlooked. Even within legal writing, the development of feminist legal scholarship and theory throughout the English-speaking legal world in the last few years has made it one of the most dynamic and interesting areas of legal scholarship. The development of this area of thought, and in particular the inclusion of perspectives

which provide a theoretical and contextual basis for evaluation has paved the way for the movement from courses on 'Women and the Law' to courses on 'Law and Gender' or 'Feminist Legal Thought'.

Because Scutt does not give the reader access to this rich and diverse body of writing, and instead relies on a rather limited range of research sources, she provides no explicit theoretical or contextual framework for many of her criticisms of law, the legal system and law reform. But the absence of express discussion of these issues does not mean that theory has no role in her work. Some understanding of society, women's position, the legal system and the role of law and law reform will inevitably be implicit. The problem with not articulating the theoretical foundation for the analysis is that it is left unexamined, and it may be based on assumptions which would not stand up to critical scrutiny. Scutt's failure to state her framework and justify her position, or even explore some of the basic concepts on which she relies (such as equality and discrimination, discussed below) leaves her reasoning process opaque.

Why is such a theoretical framework necessary? The claim made by women to fair treatment in law and in society does not arise within the legal system; it is based on external criteria which provide a basis for asserting that treatment of women is not fair but oppressive. Although the claim arises outside the legal system, reformers often seek to use law as the major instrument for achieving social change. Seekers of social change resort to law because it appears to be capable of achieving change, and to be faster in its operation than other avenues such as community education. But the instrumental use of law is not straightforward, and successful law reforms need to be based not merely on a knowledge of law and its operation, but on a proper understanding of the social activity involved and the relationship between law and social change. Treating a social problem as solely a legal problem can mean dealing with its symptoms rather than its underlying causes. Unless causes are considered, a wrong treatment for symptoms may be pursued; law reform which results from such a diagnosis may have little effect on the social problem.[2] To maximise chances of success then, law reform needs to be based on analysis of causes as well as legal problems. *Women and the Law* tends to stick with legal rules and law reforms, giving the reader little information on such questions as the basis of women's disadvantaged legal and social status, the mechanisms which perpetuate it, and the ways in which law reform or legal change could hope to affect or alter the situation. These questions have been discussed in a range of disciplines, and some useful and interesting theoretical accounts have been developed, which attempt to systematically describe the social phenomena they are concerned with, and to develop accounts of their mechanisms and causes.

In relation to the position of women, the body of theory which is clearly relevant is feminist theory. But in *Women and the Law*, the word 'feminism' hardly appears; references to 'feminism' in the index are to the names of organisations, and to feminism in legal education. Similarly, the concepts

[2] Rick Krever suggested the causes/symptoms metaphor.

of equality and discrimination, fundamental to considering the position of women in society and in law, are important background concepts in many chapters, but Scutt never clearly states what she means by them, nor to what model of equality or discrimination her reform suggestions are directed. In some places she seems to accept that equality for women means treating them the same as men. Thus, she tends to concentrate on the ways in which women can gain equal access to the existing system and its benefits. But if the existing system is unable to take women's life patterns into account, it is hard to see how this strategy can be a successful one for the majority of women in the long term. Readers of the book are not introduced to the argument that a full implementation of equality for women would necessitate changes in social organisation at a fundamental level, so that social arrangements are changed to suit women's life patterns as well as they suit men's; the underlying issue is how much of the status quo is to be taken for granted in fleshing out our own, or the law's, conceptions of equality and discrimination, and how much it is to be challenged. A theoretical background to this point comes from discussion of the implications of post-modernism for feminism.[3] This suggest that although there are different interpretations, descriptions or experiences of reality, these represent characterisations of the world from different standpoints or perspectives, and cannot lay claim to being absolute truths. The ability to have one's own understanding of the world accepted as reality by others can be seen as a question of power and politics: it is an exercise of power to define and describe. Traditionally the social world has been defined in terms of men's understandings of it, and their perception of women's role in it, which has been accepted by women to the point where it is widely accepted as 'reality', not just one particular standpoint. To identify and articulate a competing feminist view of social life (or several competing visions) is one of the most important tasks of feminist theory, including feminist legal theory. It is a difficult task which demands considerable imagination. The extent of the mental step required is put with characteristic vividness by Catharine MacKinnon, in her discussion of two concepts of discrimination which she calls the 'difference' and the 'dominance' models. She points out that claims for affirmative action for women are seen as special pleading which needs special justification, while in reality the status quo amounts to an affirmative action scheme for men, for which no justification is seen to be needed:

> 'virtually every quality that distinguishes men from women is already affirmatively compensated in this society. Men's physiology defines most sports, their needs define auto and health insurance coverage, their socially defined biographies define workplace expectations and successful career patterns, their perspectives and concerns define quality in scholarship, their experiences and obsessions define merit, . . . their image defines god, and their genitals define sex. For each of their differences from women, what amounts to an affirmative action plan is in effect, otherwise known as the structure and values of American society. . . . Why should you have to be the same as a man to get what a man gets simply because he is one? Why

[3] Clare Dalton 'Where We Stand: Observations on the Situation of Feminist Legal Thought' (1987) 3 *Berkeley Women's Law Journal* 1.

> does maleness provide an original entitlement . . .? . . . Simply by treating the status quo as 'the standard', [the difference approach to sex discrimination] it invisibly and uncritically accepts the arrangements under male supremacy.'[4]

Because she does not discuss theories of equality or discrimination, Scutt does not introduce her readers to these conceptual issues, which have important practical consequences. This also limits consideration of law: for example she does not explore the potential for challenges to basic social organisation (the status quo) to be made through equality and anti-discrimination laws. To take a specific example, Scutt's discussion of discrimination in employment (pp 45–63) focuses on the stereotyping of women and the way in which this is used to exclude them from access to the benefits of the existing employment system. The current system of employment is largely based on the assumption that workers are without family responsibilities (on the traditional male model) and marginalises women because this is not, in general, true for them. The sex discrimination laws reinforce the male norm by requiring a woman to show she has been treated less favourably than a man to establish discrimination. Treatment of men is taken to be the neutral standard. Scutt discusses discrimination in terms of the legal definitions only. Thus she considers the definitions of direct and indirect discrimination, but overlooks the problem of systemic discrimination (the male norm) and does not explore whether the legal definition of indirect discrimination could extend to it. Failure to consider the need for challenge to the status quo might leave the reader with the impression that the legal mechanisms for anti-discrimination law and equal pay are sufficient to achieve equality and more fundamental challenges are unnecessary. It might be inferred that Scutt's concept of equality is one which does not require adjustment of the status quo — but she has not stated or defended this position.

How are women to achieve equality in employment? Existing anti-discrimination laws do not challenge the fact that workplace success is only on offer to those workers who conform to the 'male' model by not having family responsibilities. It is difficult for women to find 'wives' who will care for their children; in reality women who achieve workforce success (or 'equality') can only do so by adopting a model very different to that which applies to men: many successful career women have pursued their careers instead of having children (or more recently have done both at the expense of any leisure time), whereas most successful career men have always taken it for granted they can have both. Scutt does not point out this catch-22 for women, or help her readers think about approaches to the dilemma.[5] She does not take up the opportunity to build from past experience a basis for thinking about future directions, and the strategies women should pursue in relation to law.

[4] 'Difference and Dominance: On Sex Discrimination' in *Feminism Unmodified* (London, Harvard University Press, 1989) 32 at 36, 37, 43.

[5] Since Scutt wrote, the Federal government has ratified International Labour Organisation Convention 156 on Workers with Family Responsibilities. Legislative implementation of this Convention could potentially make significant improvements in the position of women in the workforce.

Scutt's reluctance to go beyond the legal system to examine the causes of problems means that she treats them as legal problems, rather than as social problems whose resolution might be achievable through law. At several stages in the book, for example, Scutt relies on the assumption that the presence of women in roles from which they have been excluded will make a difference — the 'add women and stir' approach. This occurs in Chapter 1, which examines in both historical and contemporary contexts the exclusion and inclusion of women from various legal rights, such as ownership of land; ability to enter universities and professions, to hold public office, to vote and participate in politics; as well as contemporary representation of women in legal language, and their numerical representation in public office, the judiciary and the legal profession. The same assumption is also made in discussing affirmative action at pp 134–5 and in the final chapter where Scutt points out that reforming law on the books may not turn out to reform law in practice, because it must be interpreted by those in positions of power, who are predominantly male (pp 502–3).

Scutt acknowledges that adding women is not the whole solution, but beyond commenting that '... problems in law reform go way beyond the identity of those enforcing or interpreting the law. The difficulties lie in the cultural, social, political and economic notions and realities of Australian life' (p 503) she does not discuss in any detail what these realities might be or what is required beyond adding women. The reader is left at the edge of the lawyer's terrain with no guide to the wider field of feminist strategies in law reform. As the foregoing discussion suggests, the presence of women may make a difference if they are able to articulate women's specific interests and secure adjustments in social organisation which recognise different life patterns and social experience. Their presence probably will not have great impact if they act like honorary men by 'adhering to patriarchal ideologies'[6] and failing to question the prevailing organisation of society.

A note of caution must be sounded on identifying 'women's' interests: the category of 'women' is extremely varied, ultimately defined only by biology. In many situations the interests of different women may be very diverse and even in conflict with each other. Liberalism can obscure this by its focus on the individual independently of gender, class or race. Although liberal feminists may depart from abstraction sufficiently to consider a gendered individual, they still tend to overlook class, race or ethnicity, and other sources of diversity. The view of a white, middle class professional woman of 'women's' interests may well be very different from the view of Aboriginal, migrant or working class women. This does not mean that analysis which uses the category 'women' must be abandoned, but that we should be cautious about broad claims to speak on behalf of others. Scutt does not overlook this problem in practice, and pays some attention to the position of Aboriginal women, and rather less to the problems of migrant women.

Scutt's approach to law reform follows the pattern already mentioned, of

[6] Prof Elizabeth Sheehy, 'Feminist Argumentation before the Supreme Court of Canada: R v Seaboyer — The Sound of One Hand Clapping' (1991) 18 *MULR* 450.

basically accepting the existing social order and the male norm. She assumes that law reform in women's interests is both possible and desirable. We have seen that identifying the interests of 'women' in order to design reforms can be problematic. In addition, feminist engagement in law reform can have unpredictable results.[7] Scutt does point this out: she gives the example of changes during the 1980s to the laws concerning intervention in cases of domestic violence, which was intended to improve protection of women victims (pp 446–65). In response to women's calls for adequate legal protection from violent husbands, the powers-that-be accepted the police answer that their legal powers were inadequate, and that it was necessary to change the laws to increase their powers. Although this could be seen on its face as law taking account of women's concerns, in fact what occurred was the validation of police attitudes of resistance to interfering in 'domestics'. It was officially accepted that the reason for the unsatisfactory situation was the inadequacy of the law, not police reluctance to intervene in a 'man's castle' to protect his wife. But this reluctance is also based on a view of society and sex roles which accepts that husbands should have some degree of power over their wives, rather than seeing women as individuals entitled to the full protection of law in their homes. By not addressing this reason for lack of police action, the reforms suggested it was not a problem and did not need to be changed.

Ultimately, it is not clear whether the law reforms have led to better protection for women from domestic violence, as there is little evidence about whether police are now more ready to intervene than in the past. There are indications in Victoria that police are still arguing that they have insufficient legal powers, and they may well rely on this argument until the law makes it clear that police protection of life is not to be based on sexist attitudes. The existing law reforms may actually have worsened women's practical legal position by delaying police intervention until the second incident of assault or threats of violence occurs, as the first incident may be treated as a basis for obtaining a domestic violence order, rather than for immediate police intervention and criminal charges. Although Scutt is aware that this type of reform is problematic, she does not help the reader to understand what characteristics made it a 'bad' reform, and how feminist activists can identify those reforms which deserve their support and effort. The underlying problem seems to be that law reforms which reinforce stereotypical ideas about women and their roles are counterproductive in the long run, and may not even produce short term gains for women. As this example shows, unless a problem is properly analysed and its underlying causes understood, effort directed to reform can be wasted, or even undermine the position of those it seeks to advance.

Related to the lack of reference to theory, the book's other major problem is its failure to refer to a broader range of writings in the area. Scutt has made extensive use of her own previous writings: in the final chapter on Women and Law Reform, for example, six of the 14 extracts are from her earlier work. These extracts show her significant contribution to developing the literature

[7] Carol Smart, *Feminism and the Power of Law* (London, Routledge, 1989).

about women and law in Australia. Nevertheless, this approach can suggest that her own writings and approaches are the sole or major ones in many fields, and that there is only one point of view on women and the law. It needs to be balanced by mention of and referral to the work of other writers on feminist legal problems and theory. But such references as exist are fairly limited: in her linking text Scutt tends not to refer to the works of other writers, and the 'Further Reading' lists given at the end of each chapter are far from comprehensive, even on Australian sources. Giving the impression that there are few other relevant sources unjustifiably overlooks many excellent articles. It also makes the book much less valuable as a means of accessing the growing body of Australian and international discussion in feminism and law than Graycar and Morgan's *The Hidden Gender of Law*, which contains extensive cross-referencing to current literature on virtually all topics.

Overall, my reaction to *Women and the Law* is mixed: it has some major strengths, and some significant weaknesses. The book covers some very important aspects of Australian law and legal culture which previously have been almost completely overlooked in legal writing. It is most successful as a means of making basic legal materials accessible to a broader legal and non-legal audience. Its breadth of scope displays the author's extensive expertise gained from involvement in law reform campaigning. But its focus stays largely within the legal system, and by doing this it provides only a partial basis for an understanding of the effects of law on women. Its major limitations are failing to introduce its readers to the significance of theory (and its vital importance for practice) in this area of study and activity, and to the vitality and breadth of the work being done in Australia, as well as around the world in feminist analysis of law.

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Law and Society in England 1750–1950 by W R CORNISH and the late G de N CLARK, (London, Sweet & Maxwell, 1989).

This book is by Professor Bill Cornish, Professor of Law & Fellow of Magdalene College at Cambridge University and the late Geoffrey Clark. Professor Cornish is well known for his book on The Jury (1968) and for his writing on intellectual property. According to the Preface of this book, it had a gestation period of twenty years during which Geoffrey Clark finished drafts of some chapters before his untimely and premature death in 1972. The book in its completed form bears the stamp of Professor Cornish's meticulous research and elegant and concise style. It is also a testimony to its long gestation period in terms of its depth and breadth of coverage.

The book is modestly described in the Preface as 'only a work of survey and ordering', 'written primarily with the law student in mind'. In fact the book

positions the development of the main legal institutions in the chosen period of industrialisation, and post-industrialisation, into an accurate and detailed historical and social context. As such, it is an invaluable starting point for any student or scholar of the social sciences, including the legal scholar, whose research interest requires knowledge of a legal institution. It will also be of interest to past and present students of law who wish to put their knowledge into a perspective which includes the historical. At a time when the curricula of many (if not most) law schools ignores legal history, this book is a welcome addition to legal historical literature as it provides a concise and accessible historical introduction to most areas of the law. At the same time it provides a much broader perspective than the traditional literature.

The main theme of the book, which is to be found in Chapter 1, is the reconciliation of individual freedom and private interests to the collective or public interest. This is a theme which could be broadly restated as the balancing of private and public interests. As such, it is a theme of continuing relevance and one which cannot be underestimated as a contributing factor in the development of our current legal and social institutions. Chapter 1 also makes it clear why the period 1750–1950 was chosen and how that period relates to the theme. The chapter is broken into two parts: the period of industrialisation from 1750–1875 and the 'passing greatness' of 1875–1950. The year 1875, as all law students will know, was significant for the passage of the Judicature Act. It thus heralded the beginning of a new period of unity and coincided with an upsurge in 'collectivist' tendencies. The reader leaves Chapter 1 with a 'weary but victorious Britain' in the post World War II period, ready to 'harness the resources of the state towards a true collectivity'. The stage is thus set for a discussion of legal developments in the context of the balance of private and public interests, a theme to which Professor Cornish repeatedly returns in the subsequent chapters. This theme clearly anticipates the tendency of legal development in the post-1950 period.

The book is however much more than a history of the impact of industrialisation upon society as reflected in the legal system. A number of subthemes which are introduced in Chapter 1 recur throughout the book. One such sub-theme is the role of the judiciary, another is the influence of constitutional theory and political philosophy upon legal developments. Yet another is the role of economic theory. Also included in each part of Chapter 1 is a description of the social structure relevant to each period. Each chapter integrates discussion of the main legal theoretical concerns with social conditions. For example, the chapter on Labour Relations (Chapter 4) is subdivided into two parts: Service and its Regulation 1760–1875 and Employment 1875–1950. A particularly successful example of this integrated approach is the chapter on Land (Chapter 2) which is divided into four parts: Agricultural Exploitation 1750–1850; Urban Conditions and Land Values; Land as Industrial Resource; Gradual Transformation: 1870–1950. It is this integrated approach combining the different theoretical perspectives with legal doctrine and social and economic factors which is the special quality of this book. It also ensures its value for students and researchers. This is secured

by the fact that at the end of each chapter there is a bibliography for further reading.

The main body of the book deals with the following subject areas: Land, Commerce and Industry; Labour Relations; The Family; Poverty and Education; Accidents; and finally, Crime. The book thus breaks away from the usual pattern of discussion of legal concepts under their legal titles, such as Tort, Property, Contract. However, Professor Cornish builds discussion of relevant legal concepts into his writing. For example, at page 492, the tortious immunity of public authorities is put into the context of vicarious liability doctrine and rules about the extent of an authority's statutory powers in Professor Cornish's usual succinct style. Very roughly, one could say that the order of treatment of the subject areas corresponds chronologically to their historical and social significance. The chapter on Land contains, as one would expect, a description of settled estates and the development of the trust. It also contains a discussion of legal controls over land which were introduced to meet the needs of industrialisation. The chapter on Commerce and Industry begins with a 'whole view of contract' which draws on P S Atiyah's *The Rise and Fall of Freedom of Contract* and other writers, including M J Horwitz. It also includes a concise discussion of the impact of equitable principles upon the law of contract. The chapters on Labour Relations and The Family contain interesting discussion of the development of legal concepts and ideas in the context of these social institutions. Some of the material is novel and startling — such as the description of wife-selling (see pp 380–1). The material in the chapter on Poverty and Education (Chapter 6) will be familiar to all whose education included a dose of British history. But its inclusion in this book recognises its significance to the development of attitudes of public or community responsibility. For students of torts, Chapter 7 (Accidents) is essential and includes a discussion of systems of statutory compensation. Likewise, the chapter on Crime (Chapter 8) provides a background for students of criminal law.

The book contains a biographical list, a table of cases and a table of statutes which tend to make up for the rather general index.

Although the book describes developments in English law, it is of relevance to the Australian student, researcher or reader who needs to understand the English background to an area of law. Moreover, the treatment of the chosen areas is not always confined to English developments. In some areas (for example, the development of patents, see pp 275–9) comparison is made with other legal systems which increases the book's universal appeal.

Its general universal and enduring value lies in its broad theme of the struggle between private and public interests at the intersection of law and society. The book is a reminder that law is a social science. Professor Cornish's hope that the book will inspire others to more specialised studies of legal history is bound to be satisfied.

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