

But what of the man himself, Dr John Anderson Gilruth? He is presented here as a man of high intellect who made ‘silly’ decisions, while facing never-ending struggles against unionists and Vestey’s conspiracy theorists. The much-repeated claims of the Gilruth urban myth are examined and critiqued, and often found to be wholly lacking in evidence. It seems that the myth has indeed become bigger than the man, and Mr Egan has gone back to the

primary sources to locate, as far as possible, an accurate account of those tumultuous years.

Overall, this book is an insightful and important contribution to the history of the NT. It throws into sharp relief some of the differences between frontier life and our modern day political dramas, while at the same time reminding us that some things never change (the recommendations of the 1920 *Ewing* Royal Commission

into the Gilruth administration hit particularly close to home: ‘cruel and wicked’ gaol sentences being handed down; ‘unacceptable irregularities’ concerning conduct of prison officers, sly grogging, and ‘unforgivable’ treatment of Aboriginal people—what’s changed nearly 100 years later?). This book is definitely required reading, and is highly recommended to all.

Book review:

Legal Professional Privilege in Australia

Authored by Dr Ronald J Desiatnik

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Dr Ronald J Desiatnik’s *Legal Professional Privilege in Australia* is a well-constructed resource for anyone who strives to understand the doctrine of Legal Professional Privilege (LPP) in the here and now of Australian jurisprudence. As a relatively recent graduate, I

have had fresh experience of many, many textbooks. No doubt you can recall the weight and value of the Law School book bag, the awkward twangs of the back and shoulder while lumping those things from A to B. You won’t mind those twangs with this particular set of 352 pages—not

only is it bound in an attractive green with silver lettering, but this modest volume is concise and informative. It is not dense with paragraphs that make your grey matter contract and give rise to that small voice bubbling up from your subconscious with that existential question of ‘why the heck

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did I study law' while you wonder if it's ok to be in the foetal position under your desk more than once a day. So please dear friends, let's send a round of hoorays for Dr Desiatnik in bringing us this third edition of his book, ten years after his second edition, with great style and purpose.

LPP, also known as Client Legal Privilege by the *Evidence (NUL) Act* buffs, is one of those doctrines that seems to throw up a merry dance for someone every now and then, and the evolution in case law and practice can occur sharply, such as it did with the 'sole purpose attribute' shifting to the 'dominant purpose attribute'¹ for example. One needs to be up on such things when the time is nigh—it's the thing that we all sometimes may fear: not knowing something when one ought to and getting into a whole lot of bother.

To recap for those who are unfamiliar, the basic premise is that some communications with your client are forever confidential, in the interests of that client, with varying effect dependant on the circumstances. For effective legal practice, legal practitioners must be aware of what Dr Desiatnik describes as 'the inevitable conflict between two powerful tenets'² being that the court should have access to all of the information versus the right of individuals to seek advice freely. The privilege belongs to the client, however they may rely on the guidance and skill of the legal practitioner in order to protect the integrity of their cause in this regard.

Some of the recent relevant matters I have been alerted to that have drawn attention since the publication of this book have been the tug of war playing out in the media between (mainly federal) government ministers who decline to share their advice on the basis of LPP, and journalists making FOI requests attempting to extract information on matters of public interest pursuing the goal of 'shining the light' on important matters. You may also have read the recent case of *Aucare Dairy (Aust) Pty Ltd v Huang*³ where, in contrast but less controversially perhaps, LPP was found not to exist where communication sought protection to further an illegal object. You won't find either of these examples in Dr Desiatnik's publication, however my point here is that this most recent publication provides great assistance in breaking down either occasion with the understanding that while purpose is relevant to establish the existence of LPP; LPP is "itself the product of a balancing exercise between competing public interests"⁴ Dr Desiatnik helps us to make sense of this mad, bad, sad world in this particular area of client/practitioner relations.

Dr Desiatnik's study sets out the History of Legal Professional Privilege and the Definition, Application, Basis, Qualifications of the Doctrine. There are also chapters on Common Law and Statutory Exceptions, Express and Implied Waivers, the *Evidence Act 1995* and an enticingly titled chapter called 'A Parallel Privilege'.

This chapter works through the *Evidence Amendment (Confidential Communications) Act 1997* (NSW) which I am now thankfully aware of. I hope knowing these chapter headings encourages you to reach for these chapters when the time is right, as I clearly have.

As it happens, I think I might have developed a glimmer as to the question of why I studied law. I think it was so that I can help a few people out of strife by knowing something about how to apply all this stuff that I've been studying for so many years. Revisiting the fundamental doctrine of LPP has been uplifting in drawing pragmatic contemplation of the purpose of the higher principle of service to the court and to the client. The learned Dr Desiatnik clearly is an expert in this area and has conveyed the relevant facts on LPP in a way a mere beginner such as myself has found benefit from, and so I appreciate the opportunity to convey this with my best regards.

1 *Aucare Dairy (Aust) Pty Ltd v Huang* [2017] FCA 746.

2 *Commissioner of Australian Federal Police v Propend Finance Pty Ltd* (1997) 188 CLR 501 at 583.

3 *Esso v Australia Resources Ltd v Commissioner of Taxation* (1999) 201 CLR 49.

4 Dr Ronald J Desiatnik, *Legal Professional Privilege in Australia* (Lexis Nexis Butterworths Australia, 3rd ed, 2017)