

A History of the Melbourne Law School 1957-1973, by Ruth Campbell, (Faculty of Law, University of Melbourne, 1977), pp i-ix, 1-174. Price \$3.50. ISBN 0 9094 54 43 4.

I am not sure that it is altogether proper of me to offer a review of a work to which I stood midwife,¹ albeit not alone. I can hardly be expected to have an objective view of it, and, quite frankly, I don't. I like the book enormously. It is packed full of interesting information, much of it made available for the first time, and it is lively and entertaining to read. Such reviews as I have already seen in the ordinary press have been uniformly favourable. Ruth Campbell deserves our congratulations and our thanks.

But it was not an easy book to write. Institutional histories never are, and both author and midwives have a hard time of it. Perhaps the most useful contribution I can make to the discussion of the book is to explain the principal difficulties which were encountered and to note their effect upon the finished product.

In the first place, an institutional history must, in part, be a chronicle of persons and events. It cannot be wholly so, if the author really wants it to be read, because a mere chronicle would be deadily dull. The temptation, in fact, is to scrap the chronicling altogether. But to yield to that temptation would be irresponsible. The solution to the problem is the inevitable compromise, as this book bears witness. For all the detail which it records, it is not, as Professor Derham points out in his Foreword 'a complete history'.² It can be criticized, therefore, as not recording everything which ought to be recorded about the history of the Law School. On the other hand, it can be criticized, and has been, for recording too much. Thus there has been adverse comment on the lists of names in the final chapter, 'Tribute', though for every generation of law students many of these will be extremely evocative, in a Sandy Stone kind of way, however meaningless to the outsider. My personal, if prejudiced, view is that Ruth Campbell has achieved an appropriate balance in her handling of this difficult dilemma. The book appears to me to succeed both as a work of reference and as arm-chair reading.

The second problem about the writing of an institutional history is that there is an inescapable tendency to give much more attention to the early years of the institution than to its present and its recent past. The early years — the founders, the first teachers, the first students, the first buildings, the first courses and so on — have a glamour to which we all easily fall victim. We love to know about these things, and we would be disappointed in a history which failed to satisfy our appetite for curious and if possible entertaining detail. Ruth Campbell's history in no way disappoints us in this respect. Yet the fact of the matter is that from many important points of view the most significant years in the entire history of the Law School have been those since, say, 1950. It is in the last 25 years or so that the modern Law School which we see today has been created — a very different Law School, I suggest, to that which had existed prior to and for some time after the period of the Second World War. The principal characteristics of the modern Law School, I suppose, are a large and diverse student body, both undergraduate and graduate, male and female; a large full-time staff of professional law teachers (large, at least, by comparison with earlier years); a greatly expanded curriculum; a library of its own (however inadequate); and strong international links of various kinds. As one who experienced the transition from the 'old' Law School to the 'new', I can testify that the dynamics, inner relationships and general ethos of the latter are significantly different to those of the former. I hasten to say that I am not sighing for some past 'Golden Age'; I merely make the point that a real change began to occur some 25 years ago. Ruth Campbell has noted this, of course, but she has not

¹ Not necessarily a sexist term by the way. The 'man midwife' was one of the old 'common callings' which lurk behind the modern tort of negligence.

² Campbell, R., *A History of the Melbourne Law School*, vi.

studied it in great detail. I venture to predict, however, that the next person to write on the history of the Melbourne Law School will give more attention to this last quarter century than to the first three-quarters. On those earlier years, Ruth Campbell's writing is likely to remain definitive.

A most notable and commendable feature of this book is its series of biographical studies of the Deans, and of these I would single out for particular mention the splendid chapters on William Hearn and Edward Jenks.

William Hearn was one of this University's great men in the last century. While we have long recognized this, Ruth Campbell has provided us with what I believe to be the first fully rounded portrait of the man and his achievements.

Edward Jenks, on the other hand, has never been sufficiently esteemed here, because his deanship was so short and so tempestuous. Not only did we know little of his subsequent distinguished career, but even the detail of the Melbourne episode was distorted in what Mrs Campbell has called the 'folk memory' of the University.³ Now, at last, we can make a fairer judgment of the man, his problems and his achievements. I share Mrs Campbell's hopes that he may 'now be rehabilitated',⁴ and urge readers, in weighing up the *pros* and *cons* of the Jenks affair, to study that calm, sensitive and dignified countenance, bearing still the marks of suffering, but suffering nobly borne, which regards us across the years from the photograph reproduced opposite page 47.

The other biographies to which Mrs Campbell has generously allowed her research students to put their own names, are all revealing and interesting. Those of former Deans who are still alive are, naturally enough, a little inhibited in their approach, but how could it be otherwise? The admirable chapter on Zelman Cowen will be a boon to those who wish to know more about the Governor-General-elect; having just re-read it with that in mind, I believe it can do him nothing but good.

Many who read this review will know Ruth Campbell personally, as a colleague, a teacher or a friend. If so, they may be reassured that the book conveys much of her refreshing personality and highly individual style; much, but not all — it was necessary at times to suggest to her that she should tone it down a bit. A pity, in a way, but then this *was* to be an institutional history.

Finally, many of us have been touched and delighted by Mrs Campbell's decision to dedicate her history to the memory of the late Professor Peter Brett. He was a key figure in the 'new look' Law School of the 1950s onwards, and matured with it. He would have enjoyed this book immensely.

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³ *Ibid.* 99.

⁴ *Ibid.* 102.

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Commission of Enquiry into Poverty — Poverty and the Legal Profession in Victoria — Research Report, by Jeffrey M. Fitzgerald.

The aim of the report by Dr Fitzgerald is a commendable one. Much of the material in it should give serious food for thought to members of the profession in this State. The relevance of many of the questions to the profession's role in providing assistance to the poor is great indeed.

However, there are, in my opinion, a number of matters which reflect upon the accuracy of the picture which the report purports to present.

I do not propose to canvass the whole report in detail and dissect the various questions and answers.

One serious gap in the report occurs because country practitioners were not surveyed. There are now approximately 650 country practitioners in Victoria and these practitioners have had and do have a great experience in providing services for the poor. Their experience is important because they practice in more close-knit communities than many of their urban and suburban brethren. Speaking from my own experience as a country practitioner, I can point out that the information that could have been ascertainable from country practitioners would have been of great significance. It is not possible to do an adequate report on poverty and the legal profession in Victoria and ignore approximately one-fifth of the practitioners in the State. The report, because of this omission, becomes a report on poverty and the urban legal profession in Victoria only.

Secondly, the report, by an omission to interview practitioners who are engaged fully in work for the disadvantaged (I prefer that word) — including both the destitute and the poor by other definitions (namely practitioners employed in the Australian Legal Aid Office in Victoria, by the Legal Aid Committee and in the Public Solicitor's Office) misses the benefit of the views of a significant part of the profession. The report is therefore one on the private sector of the legal profession in Victoria, and not on the whole of the legal profession. The importance of the opinions of the salaried practitioners involved in the provision of legal aid and their views is reflected by the reference by the then Commonwealth Attorney-General Mr R. J. Ellicott in his second reading speech in support of the Commonwealth Legal Aid Bill, in which he said:

I would also like to emphasize that it is the Government's intention that the provision of legal aid through salaried Officers should continue. Many of the initiatives in legal aid have come through the work in recent years of salaried Officers in the Australian Legal Aid Office.

To give a fuller picture, there ought to have been an accompanying report setting out the views of 'the poor' on the services provided by the profession to them. This would have given a double faceted and more valid view of the professions role in relation to the poor.

I would also take issue with Dr Fitzgerald's assertion on page 3 of the report that, with a high degree of confidence, the results of the survey can be generalized over the whole legal profession in the Melbourne and Metropolitan area. . . . The sample of 237 solicitors of a total population of 2,315 and 49 barristers from a total population of 440 is, in my opinion, too small to enable the results to be of sufficient significance in the drawing of conclusions.

Nor can I agree that the minor imbalance in favour of city practitioners compared with suburban practitioners is not statistically significant.

Of the sample interviewed, 71% are from city practices, 21.4% from suburbs and only 4.6% from the western and northern suburbs where, as the report itself points out, there are many more low income persons. The picture revealed would have been more significant had a greater proportion of practitioners from western and northern suburbs been interviewed.