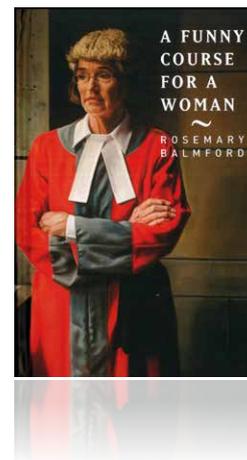
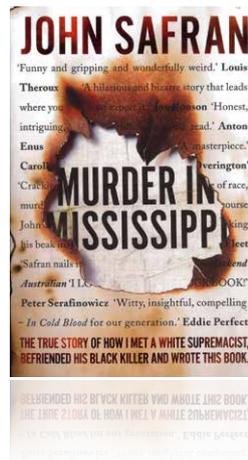
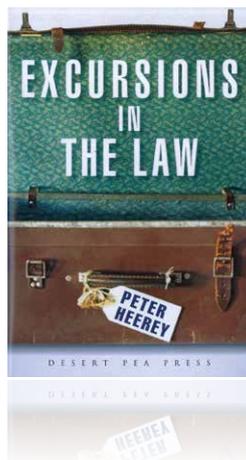
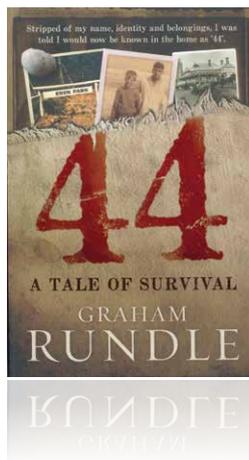
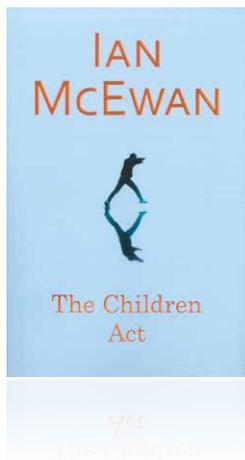


# INPRINT

This month's reviews are a selection of true crime, fiction, biographies and recollections related to the law.



## The Children Act

Ian McEwan, *The Children Act*, 2014, Random House, pb \$30

A High Court judge hearing family law cases in England, with her marriage in a downward spiral, is faced with a hard case. A 17-year-old Jehovah Witness is refusing a blood transfusion that, the experts say, would save his life from advanced leukaemia.

The treating hospital seeks the Court to intervene and authorise an enforced blood transfusion against the wishes of the patient, his parents and their church.

Fiona Maye is a leader in her profession. She has decided difficult cases before, authorising the separation of Siamese twins, saving the life of one of the twins at the expense of the other. Judge Maye invoked the doctrine of necessity to save the life of one, instead of doing nothing and condemning both to die.

These decisions brought her professional respect, but they had taken a toll and left scar tissue in the memory.

The patient too is smart, witty and talented. After hearing the argument of the protagonists, the judge visits the boy in hospital. He recites the judge his latest poem, "The Hammer", of Satan hammering his soul and making a cloth of beaten gold . . . paving the way with golden light to reflect on others and to save him.

The judge is cautiously impressed by his lucid arguments. He is a formulator of

doctrine rather than its recipient. Before she leaves, the patient insists he play her the violin. He had taken it up four weeks ago, leaving the judge with an impression that it was an act of hope, a future. She sings while he plays. They make a connection.

The story is thought provoking and topical. The moral dilemma is explored through the case to be decided and the lives of the participants. McEwan's skilful prose draws out the failings and uncertainties of the childless judge, the bored husband, the self-assured patient and his devout parents.

The law appears to be the easy part. The dilemma, however, is not so easily boxed up.

JAMIE BOLIC  
COLES GROUP

## 44: A Tale of Survival

Graham Rundle, *44: A Tale of Survival*, 2014, The Five Mile Press, pb \$32.95

44 is Rundle's account of terrible physical and sexual abuse during his eight years at The Salvation Army Boys' Home in Eden Park, South Australia.

His time at the home involved regular violence and rape (often both) at the hands of other boys as well as a member of staff known as Sergeant Ellis (who was jailed in 2009 for criminal acts he was found to have committed at the home). The experiences described by Rundle are brutal.

A bizarre rape involving Rundle reading from the Bible is extraordinary.

Interestingly, almost without exception, the only people in Rundle's story who we can admire (apart from the author) are the women: Rundle's Nana; the primary school teacher at the home, Mrs Heinze; and the female cook who stands up to the Salvation Army staff after she witnesses mistreatment. It is the men and boys who commit the violence and abuse.

While this is meant to be a tale of survival, we are told nothing of how the abuse impacted on Rundle's life after he left the home. In fact, the book ends abruptly upon his leaving Eden Park at the age of 16. We can only guess at the difficulties Rundle has had to face during his life due to what he had to endure as a child and young man.

Rundle has been a participant in a South Australian government inquiry into children in state care as well as the continuing Royal Commission into Institutional Responses to Child Sexual Abuse. He was also the plaintiff in litigation against The Salvation Army. There is much more to his story that could be told, but isn't told here.

Perhaps the most frightening aspect of this individual account is that it is one of many. The Royal Commission recently asked the commonwealth to allow it to continue its work beyond next year because of the large number of abuse allegations currently before it.

DARIO MUJIK  
NATIONAL UNION OF WORKERS

## Excursions in the Law

The Hon Peter Heerey AM QC, *Excursions in the Law*, 2014, The Federation Press, hb \$59.95

*Excursions in the Law* is a voyage across a broad terrain, from Knopwood's in Salamanca to the King's Inn of Ireland, following the journeys of the Hon Peter Heerey AM QC.

This is not an autobiography – it is a collection of talks, articles, odes and recollections.

The role of Andrew Inglis-Clark in Federation and a revisitation of the case of Professor Sydney Sparks Orr in *Orr v University of Tasmania* (1957) 100 CLR 526 bring a Tasmanian flavour to this work.

The work is, however, entirely international in its view. Along with the succinct travel guide to Hobart provided by way of Hobart – a Guide to Innocent Mainlanders, there are reflections of time south of the Mason-Dixon line, a brief to appear before the Privy Council, and as an acting judge in the republic of Vanuatu.

There are some inside tracks into what appears to be a fascinating career at the bar including a conference with a Mr Chicken.

For those who want an overview of the Victorian Bar, included in this collection is a chapter based on a talk given to the new barristers of the September 2012 Readers' Course explaining inter alia the ins and outs of the bar including the clerking system, chambers and negotiating with phantom phone calls.

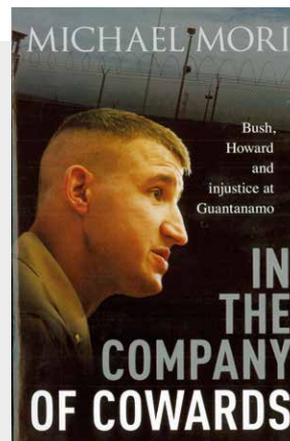
Along with writing on Abraham Lincoln, Sir Owen Dixon and Justice Antonin Scalia, there is a piece on the art of writing judgments "like any piece of writing, be it a

## In the Company of Cowards

Michael Mori, *In the Company of Cowards*, 2014, Viking/Penguin, pb \$30.00

Announcing the recent suite of proposed counter-terrorism measures, the federal Attorney-General indicated that the government "is particularly concerned about Australians who travel to conflict zones and return to Australia with skills and intentions acquired from fighting or training with proscribed terrorist groups". Following a review of national security legislation, the Attorney-General had formed the view that the existing law "does not sufficiently address the emerging and unique domestic security threats posed by the return of Australians who have participated in foreign conflicts". Consideration of how the law may have previously applied is certainly prompted by Michael Mori's excellent book *In the Company of Cowards*.

As most practitioners will know, Michael (Dan) Mori was the US Marine assigned to represent David Hicks following his capture in Afghanistan in 2001. Dan now works as a social justice consultant at Shine Lawyers in Melbourne. While his book details the course of his defence of Hicks, its substance has a much broader theme – how the Bush Administration enlivened and adapted the use of military commissions in the aftermath of 11 September, and how the



Australian government acquiesced in the treatment of Hicks during his incarceration at Guantanamo Bay.

Notwithstanding its serious subject matter, the book is an enjoyable read which should be of interest to lawyers and non-lawyers alike. It is both informative and thought-provoking, particularly in the context of current legislative changes regarding national security and counter-terrorism. Whatever view is taken of the activities and conduct of Hicks and other detainees, the book serves as a timely reminder that "whoever the defendants were and whatever they had been accused of, they were entitled to proper representation and due process". It is of course the hope that this remains of fundamental importance to all governments and lawmakers.

ADRIAN STONE  
GOLDSTONE FAMILY LAWYERS

**MTC** MELBOURNE  
THEATRE  
COMPANY

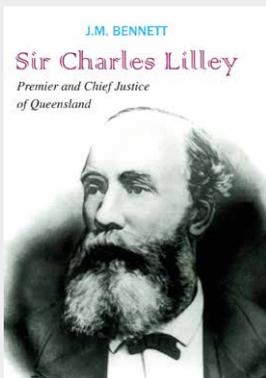
Colour your world  
with theatre

Youth 3 play packages  
on sale now from \$34 per play

f t i # mtc2015 mtc.com.au/2015

Alison Bell in *Betrayal*  
by Harold Pinter





**Sir Charles Lilley,  
Premier and Chief  
Justice of Queensland**

J M Bennett, *Sir Charles Lilley, Premier and Chief Justice of Queensland*, 2014, The Federation Press, hb \$64.95

Sir Charles Lilley was born in England in 1827 and died in 1897. He lived a remarkable life. Born in Newcastle, raised by his maternal grandfather and aunty from the age of four, he was fortunate to receive a decent education. He started (but apparently never really finished) articles where his legal talent was recognised. He moved to London as a young man and seemed to enjoy life a little too much before moving to Australia. Arguably he played an important role in the development, establishment and growth of the colony/state of Queensland. He was a lawyer, journalist/newspaperman, politician, premier and finally its second Chief Justice. Not to mention he had 11 children, and was forthright in publicising his strong opinions, even while Chief Justice. He made political enemies and some were quick to raise questions over the apparent success of his lawyer son. In fact, it was one such case that lent ammunition to his political enemies to taint his record. Sir Charles retired soon after due to ill health.

The writer was careful to provide a rounded view and interpretation of events that occurred and goes some way to explain many misconceptions

about Sir Charles. You will be impressed with the strength of will, forward thinking and personal beliefs that defined Sir Charles. He did much to reform the practice of law, bring forward free public education and break the domination of the so-called squatters in parliament. Given another time and better support, he may well have been one of Australia's best and most progressive politicians.

This is a well written and researched book. The reader is left in no doubt as to Sir Charles' progress through the law and politics. The writer has provided numerous quotes from the public record to carefully illustrate Sir Charles' views, beliefs and character. Unfortunately, there is not much left of his private correspondence to provide a deeper insight into his colourful life. There are times when the reading can feel dense as you traverse through the intimacies of cases and political jousting. However, it is an enlightening read and does provide a deeper and fuller appreciation of the historical practice of law and the development of the profession.

**STEVEN MILICEVIC**  
GENERAL COUNSEL, THE PAS GROUP LTD

**Forensic  
accounting services**  
Commercial and family law

- > Valuations of shares, units and businesses
- > Business investigations
- > Court appearances
- > Qualified arbitrator
- > Taxation advice on dispute settlements



Contact Mark Lipson CA Sothertons Melbourne  
Level 6, 468 St Kilda Road Melbourne Victoria 3004  
Telephone 03 9820 6400 Facsimile 03 9820 6499  
advice@sothertonsmelbourne.com.au  
www.sothertons.com.au

ABN 88 081 186 450

Sothertons: An association of independent accounting firms throughout Australasia

**Trust Account  
Audit Services**

- > Competitive costs
- > Timely
- > Compliant
- > Quality service
- > Over 30 years experience
- > Streamlined process passing savings back to you



Contact Vick Fak or David Lissauer at Sothertons L.L.P.  
Level 6, 468 St Kilda Road Melbourne Victoria 3004  
Telephone 03 9820 6400 Facsimile 03 9820 6499  
advice@sothertonsmelbourne.com.au  
www.sothertons.com.au

ABN 88 081 186 450

Sothertons: An association of independent accounting firms throughout Australasia

play, novel, plumbing specification or beer commercial, a judgment has its own target audience, terminology and personal style”.

Finally, a selection of the works of a mysterious friend of the author's, Publius, appears. These works have been seen in the Commercial Bar's newsletter and cover bracket creep, colonising language, historical dating and Latinophobia, “Jacit un brickbat que narrowly missed”.

TASMAN ASH FLEMING  
BARRISTER

## Murder in Mississippi

John Safran, *Murder in Mississippi*, 2013, Hamish Hamilton (Penguin Books), pb \$30

This book is both an account of a murder, and an odyssey of the authors' investigations into the motives for what appears to be a racial murder in Mississippi. The story is further complicated by the investigator/author being Jewish: a point not lost on Mississippians. The murder, as with most cases, does not have a single proximal cause but, rather, is complicated by circumstances and history. The issues of racism, sex, money, and the like are all considered. As such, the author attempts to come to grips with the notion of competing explanations. To help our understanding a list of the *dramatis personae* would have been helpful.

On the positive side, it is a first-hand account of the authors' pursuit of various characters relevant to the case. It is an insightful set of questions that are addressed and rendered in bite-sized chunks. The insights that it conveys are a valuable addition to an understanding of murder.

On the negative side, it is an interwoven account that gives so much in such chunks that one readily loses sight of the chronology. Further, the tenses change in the text. In the main it uses the past tense but, on occasions goes to the present tense (mercifully avoiding the continuous present). The book ends without a clear concise conclusion.

For those with a penchant for discursive discovery, insights, and investigative journalism, this book should have appeal: for those with a penchant for continuous chronological narrative, with appropriate conclusions, this work will be less so.

RONALD D. FRANCIS  
COLLEGE OF LAW AND JUSTICE, VICTORIA UNIVERSITY

## A Funny Course for a Woman

The Hon Rosemary Balmford, *A Funny Course for a Woman*, 2013, Australian Scholarly Publishing, hb \$45

The Hon Rosemary Balmford has achieved a number of significant distinctions during her

life: the first woman to be appointed a judge of the Victorian Supreme Court, the first woman in Victoria to preside over a murder trial, the first director of the Leo Cussen Institute (LCI) and the first woman to lecture in law at Melbourne University.

She has now written a book about her life – a book which she has very interestingly called *A Funny Course for a Woman*. The title comes from the response to a question about what course she was doing at university.

The book can be accurately described not only as autobiography but reminiscences and a social history of growing up in Melbourne in the 30s, 40s and early 50s. The book covers all aspects of her life. It is clear from the book that she has done many varied things. As she says in the introduction: “Many women lawyers have, like me, had more interesting and varied professional careers than many male lawyers”. In this way her book differs from other judicial biographies which are often about the judge's education, successful career at the bar, description of cases won and lost, followed by appointment to the bench, distinguished judicial service and life after retirement.

The chapters specifically devoted to her time at the LCI, the commonwealth Administrative Appeals Tribunal (AAT) and the County and Supreme Courts do not occupy a large part of her book. On one level I found this disappointing as these were to me, as a lawyer, the most interesting parts of her book. At the LCI she and the late David Ross developed a course of legal training that was very practical and for which the profession owes her much gratitude. Of her time at the AAT, what I found fascinating was the way federal administrative law developed, particularly in the area of social security law. At the County and Supreme Courts the other judges made her very welcome and very much part of the Courts. She did not have a background in criminal law, but found the Courts' criminal jurisdiction both interesting and valuable and enjoyed hearing cases in the valuation and planning jurisdiction of the Supreme Court.

Social historians and women lawyers of the author's generation will find much that is interesting in the book given the author's detailed reminiscences. However, it was this level of detail that I found made some of the chapters hard to read. I suspect that many readers will find the same. Having made that criticism of the book, I consider *A Funny Course for a Woman* will add to the legal and social history of this state. ●

SCOTT WHITECHURCH  
LECTURER, COLLEGE OF LAW, MELBOURNE

### REVIEWERS WANTED

If you are interested in reviewing books for the *LJ*, please email your contact details and areas of interest to Libby Brown at [lbrown@liv.asn.au](mailto:lbrown@liv.asn.au).



LAW  
INSTITUTE  
VICTORIA

## LIV Bookshop

LAW FORMS, BOOKS & TEXTS

### Law of Costs

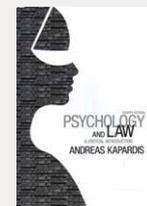


By G E Dal Pont, 3 edn  
**\$285**

Provides a comprehensive overview of the Australian law of costs in both lawyer-client and the party-party contexts. It also covers security for costs, solicitors' liens, costs orders against

non-parties plus much more. This reference book addresses all Australian jurisdictions (state and federal), as well as costs in criminal matters, relevant statutes, court rules and case law.

### Psychology and Law: A critical introduction

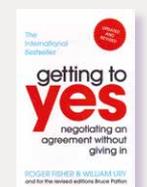


By Andreas Kapardis,  
4 edn **\$80**

Explores contemporary psycho-legal issues both in and out of the courtroom, from eyewitness testimony, investigative interviewing, jury decision making, and sentencing as a human

process, to restorative justice, terrorism, police prejudice and offender profiling. It suggests ways of minimising undesirable influences on judicial decision making, and discusses procedures for dealing with witnesses and suspects.

### Getting to Yes: Negotiating an agreement without giving in



By Roger Fisher & William Ury  
**\$20**

In print for more than 30 years, this best-selling guide to negotiation has helped millions of people secure win-win agreements at work and in their private lives. Includes principles

such as not bargaining over positions, separating the people from the problem and insisting on objective criteria. It simplifies the whole negotiation process, offering a highly effective framework that will ensure success.

Order online [www.liv.asn.au/bookshop](http://www.liv.asn.au/bookshop)  
Shop in person 470 Bourke Street, Melbourne  
Contact the Bookshop [bookshop@liv.asn.au](mailto:bookshop@liv.asn.au)