

EUREKA STREET

A MAGAZINE OF PUBLIC AFFAIRS,
THE ARTS AND THEOLOGY
Vol. 12, no. 8 October 2002 \$7.50 (inc. GST)

Uncivil Wars

Melissa Lucashenko in Australia

Tony Kevin in Australian waters

Cheryl Saunders in the courts

Anthony Ham in Belfast

The queue in Nairobi

Peter Browne

Ministry and Vatican II

John N. Collins and Andrew Hamilton

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Lay Canon James Rosenthal, Director of Communications for the Anglican Communion

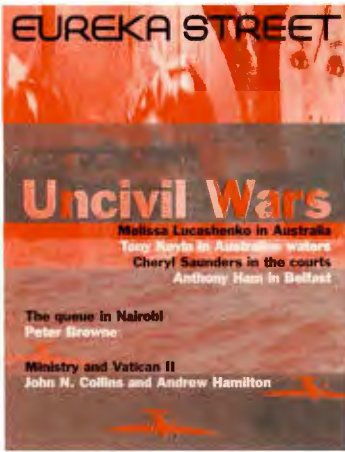
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EUREKA STREET

A MAGAZINE OF PUBLIC AFFAIRS, THE ARTS AND THEOLOGY
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Behind the scenes

THROUGH ALL THE WHITE noise of war soundings it has been hard to keep an eye or mind on other things.

But signs come. A September letter from a friend in New York tells about an 8am New-Orleans-style jazz funeral procession for the vibes player Lionel Hampton:

Behind a white horse-drawn hearse, Wynton Marsalis played trumpet, leading the Lincoln Centre jazz band. They cakewalked from the Cotton Club in Carlton up to Riverside Church with about 100 mourners behind. Johnny Cochrane and several such dudes led the mourners. It was a great experience and set up a sad week on a positive note.

Late on September 11. A poet emails to ask if we are glad the day is over. We are, for complex reasons. Relief. Satiation. Fear confounded for a while. And then comes something by another poet—this time it's Juan Garrido Salgado's 'September 11, 1973':

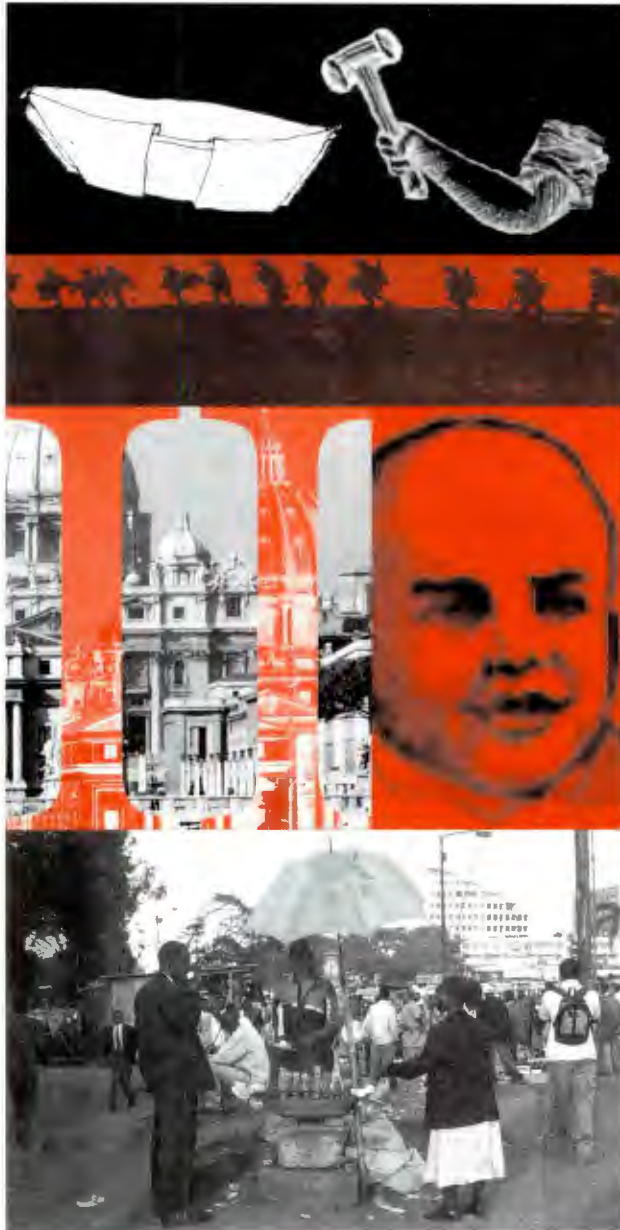
*Santiago, Chile, September 11, 1973
Was a dark spring
Of terror, flames and fumes
Two jets
Flew like the evil wings of death ...*

It is suddenly shocking to think about such a spring, and about the seasonal disconnect between the two Americas, North and South. And the political gulf. Salgado's refrain is *Made in the USA*.

*Victor Jara rehearsed his último poema
In a stadium of pain and howls
One hour before he was shot his broken guitar
was burnt;
And wounds of doves and wounds of words were
embers in his canto.*

Made in the USA.

There is much talk here in Australia about anti-Americanism. Much talk, indeed, in the US (Americans are their own best, most stringent critics). Most



A note for your diary

This year's *Eureka Street* Dinner is on Monday 2 December.

Our guest speakers are Don Watson, historian, speech-writer, and author of *Recollections of a Bleeding Heart: Portrait of Paul Keating PM*, and Lowitja O'Donoghue, former Chair of the Aboriginal and Torres Strait Islander Commission.

Music from Genevieve Lacey and Juliette Hughes.

In this tenth anniversary year of Mabo, join us for celebration.

Enquiries: Kirsty Grant, (03) 9427 7311

of it comes out of the need for clear lines of allegiance, for the comfort of certainty and none of the clumsiness or mess of the world as it is. But Salgado's canto is one with Wynton Marsalis' trumpet blast for Lionel Hampton—a bowing before death and an antiphonal assertion of the glory of life. Made anywhere.

Back home, another poet sends a riff of defiance, 'After Bruegel':

*Let me join the frilled and flying
Damned*

*and live vivid
as a wet dog.*

That's Dorothy Porter, Australian, tenacious about life.

I saw her recently talking on a stage with the Colombian journalist and novelist, Laura Restrepo. In the 1980s Restrepo was part of a Colombian peace-negotiating team. For her efforts she was forced into exile in Mexico for five years. But she has returned now to Colombia, to the city of Bogotá, and lives there with the brio of one whose lot it is to feel, and be, at home. Lucky. So many have a different lot, as Restrepo is the first to acknowledge.

For her part, Dorothy Porter, footloose Australian, was entranced by the dangerous energies of Colombian culture, and drawn by the tension of its play between life and death. But she has other moods, as in this poem, called 'A Walk in Kensington Gardens':

*Solitude is where writers
chatter best*

*a soothing static
the ambulatory, admit it, happy
ticking over*

*like this afternoon
in the sweet green cold London
spring
I watch a tall grey heron
stomping down its reed nest
that's sticking out everywhere
like garden-sheared hair*

*and all my living
and all my dead
run up my arms
like squirrels.*

I thought, reading that poem, and Salgado's 'September 11, 1973', how fortunate we are that in art the physical world and moments of grace are not obliterated by suffering. Both poets note the season. For them—and so for us—it matters. 'Sweet green cold London / spring' and Salgado's 'dark spring'. And the juxtaposition of the two leads to the kind of 'ticking

over' that Dorothy Porter so values, and that all of us need.



This is a year of anniversaries, and what gathers around them.

Andrew Hamilton and John N. Collins write this month about the Second Vatican Council and the ripples that still spread from it. Collins looks particularly at the nature of ministry, at the priesthood, the diaconate, and the role of women in the Catholic Church. Andrew Hamilton speculates about ways of remembering such an event without reducing its influence to a series of opposing agendas.

Tony Kevin marks another anniversary—of the deaths of the 353 men, women and children who were on board the unseaworthy asylum-seeker boat that now goes by the curiously anonymous name of SIEV X. The story of those people is being slowly filled out in Senate Committee hearings, but is far from fully told yet.

From the other side of the Indian Ocean, Peter Browne reports from Nairobi on life for people displaced by African wars and living in hope of a second chance. These people are not statistics.

On a more domestic note, Moira Rayner examines the paid maternity leave debate.

Next month Peter Browne (back in Australia) will be guest editor of *Eureka Street*, concentrating his attentions, and the magazine's, on the way non-government organisations work and what place they have in Australian and international politics and society.

—Morag Fraser

Eureka Street at St Ignatius, Norwood

'The Environmental Challenge'

Talk by **Paul Collins**, writer, ABC broadcaster, environmentalist and author of *God's Earth*.

In response to the Australian Catholic Bishops' Conference Social Justice Statement on the environment.

Tuesday 8 October 2002, 7.30pm

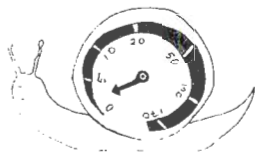
With responses by Ms Angela Hazebroek, member of the South Australia Earth Charter Committee, and Dr Norm Habel, Professorial Fellow, School of Theology, Flinders University of South Australia.

Followed by an open forum.

St Ignatius, William Street, Norwood, Adelaide
All welcome

Enquiries: Kirsty Grant, (03) 9427 7311

Slow-go zone



'The snail is moving forward, but painfully slowly,' said a scientific adviser to the German government at the Johannesburg World Summit on Sustainable Development (WSSD). Why so slow? In the following Snapshots, some of the Jesuit delegates there give their reactions to the sometimes frustrating and mystifying processes involved in hammering out agreements for future survival. Final WSSD transcripts can be found at www.un.org/events/wssd where they'll be posted for several months.

Trade restriction



'We cannot serve two masters, the WSSD and the WTO.'

What was happening at Johannesburg? The WSSD process was largely swamped by existing World Trade Organisation agreements—specifically the ones reached at the last WTO summit held in Doha, Qatar in 2001—and was even being hampered by future ones. Thus, an agreement on eradicating poverty and protecting the environment (i.e. Johannesburg) had to conform to the pre-established rules of the trading system (i.e. Doha). The clauses on trade, finance and globalisation repeatedly make all initiatives towards sustainable development conditional on WTO agreements. Apparently the major powers did not want to come to the next WTO round with their hands already tied by any agreements made in Johannesburg.

So if the NGOs seemed disorientated—and indeed some walked out—it was because they did not expect to be bulldozed in the way they were. Negotiation usually means that both parties give up a short-term benefit in order to attain greater benefits later. 'In here, dialogue

has been replaced with arm-twisting,' said one delegate. Many observers still find it hard to believe that a worldwide conference that was supposed to be about global recovery and reconstruction should be so dominated by the rules of trade.

On the positive side, there are at least some targets and timetables on important issues such as sanitation, fisheries, dangerous chemicals and reducing the loss of biodiversity. And Germany is to host a conference on renewable energy in Bonn in 2003.

Many countries came around at last to signing the Kyoto Protocol on Climate Change. Three of the world's largest countries—Canada, China and Russia—announced their ratification in different ways, leaving Australia and the US as the only hold-outs.

While the Civil Society Forum and many NGOs are disappointed at their inability to sway the negotiations, there is renewed conviction that many small groups, regional coalitions and international networks are determined to keep going without waiting for governments.

And at the end, a colour photo on the front page of the Johannesburg *Star* featured Brian MacGarry sj (Zimbabwe) against the background of a domed tent depicting the globe as seen from space, with those familiar white swirls of cloud against blue sea and green land. MacGarry is lighting his pipe with an ordinary magnifying glass. He represents organisations that are 'pro-debt relief and organic farming', says the caption, 'but not the anti-smoking lobby'.

The wet and the dry



Water was a big item on the agenda at Johannesburg. Once traditionally available to the poor, water is becoming a huge problem in many poor communities, with 40 per cent of the world's population lacking sufficient water. 'More than one billion people are without safe drinking water,' said Kofi Annan, UN Secretary-General. 'And more than three million people die each year from diseases caused

by unsafe water.' In many countries, water has been diverted to large dams and waterways owned and operated by private corporations.

Private interests and pricing mechanisms exclude poorer communities from receiving their share of the water. The rationale behind privatisation is the belief that the private sector can manage resources more efficiently and that the pricing system serves as the safety valve that will control unlimited use. Poorer households do not figure in this argument, and water is now even scarcer than before.

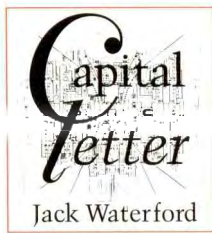
What's in common



At Nasrec, the sports and exposition complex between Johannesburg and Soweto, two Israelis and three Palestinians began discussing the Middle East peace process. Their exchange was of such quality and intensity that a small crowd gathered to listen. When it was over, a Kenyan woman spoke up: 'The Israelis, like the Palestinians, all need peace. Let's be men and women of peace.'

Nasrec was the NGO Global Forum's venue. It was full of booths and displays of every kind. Wandering around it was like surfing the internet: an unlimited range of ideas, urgencies, languages and faces. There was rich variety, but also a sense of fragmentation, even of disorientation. It was almost too apposite, too neat, that the title banner of the Jesuit booth was 'Finding God in all things'.

One delegate found himself labouring to explain to a journalist of the official China News Agency what Jesuits are and why they were at the WSSD. During all this bridge-building, an activist of the banned Falun Gong movement drew near, distributing pamphlets. Meanwhile, as two Chinese environmentalists were visiting the booth, a Tibetan ecologist approached. They found some common ground on environmental issues and, leaving the Jesuit place of encounter, went off together to visit the Free Tibet booth.



Howard the gambler

A BRITISH POLITICIAN LOBBYING in Washington was waxing lyrical about Britain's 'special relationship' with the United States. A senior defence official picked him up on it. 'You talk a lot about this special relationship,' he said. 'And I suppose it is true, with the world wars and common perspectives and all that. But I wouldn't make too much of it. When America is working out what to do, it thinks of Britain about as often as you British think of the Isle of Wight.'

This tale was told to me by another senior American official about 15 years ago when I was asking him about how much store one should put in a special relationship between the US and Australia.

That doesn't necessarily mean, however, that American officials who matter are unconscious of the support Australia gave as the US was drumming up war with Iraq. That support was the more remarkable because Australia stood almost alone and was the last country—after the US even—to see the virtue of involving the United Nations in creating an alliance to take on Saddam Hussein.

Australia was knowingly out of step with opinion in South East Asia, enthusiastic when all of the countries of Europe were cool, careless of our relations with the Middle East, and seemingly unworried even about domestic public opinion. Britain's Prime Minister, Tony Blair, was clearly keen to seem an ally too, but played it much more cautiously.

John Howard may be a risk-taker, but he is not a fool, and he does not gamble without knowing what the risks are, and without having fall-back positions. It cannot have been an accident that Alexander Downer was way out in front of the calls for active intervention, ahead even of all but a few (civilian) hawks in the US Republican establishment. Labor picked it correctly, calling for the UN as an umbrella for any action, but were also careful not to oppose outright any Australian commitment.

Australia has no specific quarrel with Iraq, and many reasons not to want to alienate the Islamic nations of the Middle East. Our trade with them is substantial and has already been threatened. We share the view that Saddam Hussein is a despot whose search for weapons of mass destruction is a threat to peace within his region. Our intelligence has warned that the outcome of a power struggle in Iraq offers little prospect of peace, and the grave possibility of a hostile theocracy substituting for a secular state. Destabilisation of Saudi Arabia and Egypt would then be probable, along with the risk that groups anxious for distractions, or credentials, would aggravate the Palestinian crisis.

If Howard and Downer had been listening to their diplomatic, military and intelligence advisers, they must always

have been cynical about any outbreak of peace after a short sharp war. Cynical too about whether the US could form a coalition for a war without UN sanction. Or about whether they could muster the numbers, or sway the population, on any Australian involvement. John Howard may insist—correctly in constitutional terms—that it is for the executive, not the parliament, to declare war. But it is hard to imagine him miscalculating that it could be done in the teeth of active opposition from the other political parties, the electorate, and a somewhat sullen defence force. I don't believe he has ever contemplated it.

NOW THAT TIMETABLES ARE IN UN hands, that Iraq has given the appearance of caving in, and that even fairly predictable Iraqi prevarication and obstruction will produce a slower full-force response, the question will not be tested, at least for a while. The lull gives even more opportunity for trying to make the loudest noises of support for the United States.

Has Howard been playing the pig-in-the-minefield role that Menzies played at Suez, gulled by Britain and by France to play the peacemaker as a distraction to their own military plans, to which he was not privy? Or is it just sheer sycophancy, the desire to play deputy sheriff to the United States so as to seem a big boy? Those who hate Howard will believe anything ill of him, but they should allow the possibility that he was acting from what he sees as national self-interest, focused presumably on building up the credits in Washington to negotiate a free-trade agreement next year.

There are formidable obstacles to such a treaty. But if it is to be achieved, and if it is in Australia's interest, then Australia needs every brownie point it can get—starting with having the president remember our Prime Minister's name and that we stood beside him at the evil hour.

The real obstacle is not George W. Bush, of course, but Congress. Any moral leverage the president can use on Congress is likely to be more effective than our own direct lobbying, not least as President Bush builds up the legend that willingness to take matters to the brink finally brought the world behind him.

It's a big gamble, and with high stakes, not only in domestic politics, but in terms of rebuilding an already diminished reputation in Asia and in Europe. Indeed, were the gamble to fail, one might almost have to start off again with some of our old friends. But that, if it happened, would be a task for the successor. On the other hand, if Howard did bring it off, the nation might need him for another term. ■

Jack Waterford is editor-in-chief of *The Canberra Times*.

In good voice

After reading Bishop Geoffrey Robinson's panel speech at the recent Catalyst for Renewal Vatican II forum in Sydney (published in *Eureka Street*, September 2002), we are writing to thank him for speaking out. As lay people we often find our frustration level rising. This has been going on ever since the Council showed us what the church could be like. The past 22 years have been especially disappointing, as we seem to be gradually grinding back to the 'old days'.

We are getting old now and reform still seems as far off as ever. We feel that the church is ready for change but the Vatican and many bishops are still dithering about in the secrecy of a museum atmosphere somewhere in outer space.

To have an Australian bishop speak out and treat us laity as adults is heartening. We are able to think, pray and protest but we need a voice and we need leadership.

Patrick and Lois O'Shea
Virginia, QLD

History's hints

Confronted with growing disquiet about their support for George Bush's war plans, our government leaders have promised a debate in parliament before any of us is sent to fight in the war against the Iraqi people. But wars are not fought by politicians, so any armed involvement by Australians should surely be decided by those who would have to do the fighting.

Our 1914–18 war years have given us a powerful precedent for this, when two referenda on the issue of conscription were defeated. The majority of the people questioned the validity for us of that awful war.

So today we must demand justifiable and agreed reasons before any of us is sent to kill and die anywhere, least of all Iraq.

Let's never forget the horrors that ensued when we were dragged against our will into the American war against the poor Vietnamese people.

So, now, our involvement in Bush's manic drive to World War III must be opposed, as is happening now worldwide, and within America itself.

So let's strengthen the people's debate about it all now, not after the killing has begun, with a nationwide referendum, so



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the people, and not just the politicians alone, can decide this vital issue.

Reg Wilding
Wollongong, NSW

On discernment

In the wake of the recent paedophile scandals affecting all Christian denominations, it has been disconcerting to read in letters to Catholic journals, and even hear from the pulpit, oblique references to 'not casting the first stone', etc., and that we should exercise unconditional compassion and love towards these offenders, so that we are practising 'true' Christianity.

I feel that we have totally lost the plot here. There is a marked difference between committing a sin between two consenting adults (adultery) to which Jesus was referring when He made that famous remark, and the references on leading others astray—one in Matthew and one in Luke—which were about children in particular.

Matthew's gospel (18:5–7) reads:

Anyone who welcomes a little child like this in my name welcomes me. But anyone who is an obstacle to bring down one of these little ones who have faith in me would be better drowned in the depths of the sea with a great millstone round his neck. Alas for the world that there should be such obstacles! Obstacles indeed there must be, but alas for the man who provides them!

Luke's gospel (17:1–3) reads:

He said to his disciples, 'Obstacles are sure to come, but alas for the one who provides them! It would be better for him to be thrown into the sea with a millstone put

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round his neck than that he should lead astray a single one of these little ones. Watch yourselves!'

I find those two statements quite clear, every bit as clear in their context as the woman taken in adultery. Why then for the past 30 years or so are we so paralysed with fear to mention this? Or for that matter any of the other tough things that Jesus said? Have we totally convinced ourselves that He said nothing that might be offensive to our collectively delicate feelings, so we skirt away and use only what doesn't upset our peace of mind and gives us a reason to feign love and compassion? What we can surely judge is a person's actions and if warranted he should answer for them to the religious, judicial and social authorities. With these words of Jesus in mind, only God knows all the secrets of the human heart. He, and He alone, is the judge of it. God needs no help from arrogant man, even of the well-meaning variety.

Maureen Federico
Frankston, VIC

Private means

What oracle has decreed that the rest of Telstra must be sold into private ownership, and that country services are the key to this?

Haven't we always had the advantage of the long distances of country telecommunications being subsidised from the public purse? Why not continue this?

Didn't our founders establish the core public institutions of schools, hospitals, roads, railways, airports and communications because each of us couldn't possibly provide them individually?

But the oracles now claim that private ownership is more efficient than public—but look at One.Tel or HIH, or at Enron and WorldCom, or at European privatised telecommunication companies falling over.

And look at what the privately owned banks have done to country people. The original people-owned Commonwealth Bank loaned money for government development purposes (such as the trans-continental railway) at interest rates of one per cent.

We'd be wise to be on guard against being conned on this Telstra issue. When the farm or the business is lost, that's it!

Ken O'Hara
Gerrington, NSW



THE MONTH'S TRAFFIC

Long divisions

AUSTRALIA'S SECTARIAN HISTORIES

SECTARIANISM IS still sexy. Otherwise why would 100 people turn out to the Sydney Institute on a winter evening a few weeks ago, to hear two historians talk about sectarianism 90 years ago?

It wasn't always so. When Michael Hogan published *The Sectarian Strand*, in 1987, it was the first book to look at the overall phenomenon of sectarianism in Australian history. Everyone knew it had been a factor in our history, but people shied off it; it was so smelly, so offensive, so confronting. I remember working on *The Rock* (when I was writing *Rockchoppers* in the old Mitchell Library), with its blaring headlines—DRUNK PRIEST ESCAPES POLICE and NUN HAS BABY ON BUS and the like. People would walk past my desk, take a peep at what I was reading, and then gasp audibly. Among well-bred historians it was a topic to avoid. Then came Michael Hogan. He argued that sectarianism was the pursuit of political/economic/social goals under the banner of, and sometimes in the name of, religion. Religion as weaponry.

At the Sydney Institute talk, Judith Brett pushed a bit further into this territory. Since Hogan, there has been plenty of discussion about why Catholics joined and voted for the Labor Party. Brett asked the cognate question: why did Protestants go the other way?

Her answer was that in ethos, culture and language codes, non-Labor (to save time she called all urban non-Labor parties Liberals) was Protestant. She didn't argue that Protestants were there because they had nowhere else to go. Rather, she argued that Protestants as Protestants created the culture of that side of politics.

Seeing themselves as free in conscience and independent, they could not abide the Labor pledge and its control of an individual's vote. This, they thought, is what the Reformation had been about. As Protestants, they could not belong to a party that coerced their freedom of conscience. So they found more congenial ground elsewhere. She argued:

that Australian Liberals' central values and stories drew on Protestant values and stories, that their virtues were Protestant virtues, and that there was an easy slippage between the vices of the Labor Party, and the vices of Protestantism's historic enemy, the Roman Catholic Church.

Brett was good on the rhetoric her politicians used, showing how it was drawn from old wells:

The masses who once bowed their heads before the ecclesiastical whip now bowed their heads before the whip of the union boss. Knees which would bend to no-one

were contrasted with the knee drill in caucus. The secret caucus room where decisions were made outside the light of day conjured up the secret recesses of the Vatican.

There was more to it than this, of course, and in a 20-minute talk Judith allowed time for many nuances. I found her most teasing piece of information was about the 1933 census, which showed that apart from the very top and the very bottom of the ladder, Catholics and Protestants were fairly evenly spread across the socio-economic levels. If this is so, it upsets the more-or-less generalisations we are used to: Catholics—poor—Labor; Protestant—unpoor—Liberal.

Then the questions started. Former MP Dick Klugman weighed in with country anecdotal evidence from his experience as a doctor in western Sydney, mid-'50s; none of the doctors was a Catholic—too poor, he said—but the four pharmacists were. (As a consequence, you bought your condoms at the service station.) A Jewish woman told a tale of philo-Semitic sectarianism. Arriving here from central Europe, her husband applied for a job as a pharmacist with a government instrumentality, where the boss had only ever given jobs to boys from Catholic schools. Contrarily, her husband got a position there. 'That's OK,' said the boss. 'You're Jewish.' Jeff Kildea, the other main speaker, reported that when he became an articulated clerk, in 1972, he was told that he was the first Catholic ever employed by that firm of solicitors. This reminded me of Bob Hunter's leaving Carroll & O'Dea to go to a 'Protestant' firm and Cecil O'Dea berating him—'You're going to our enemies'—and avoiding a handshake.

As I well know, when you give a lecture on sectarianism, the anecdotes can take over the



evening. Judith Brett had a good one from the memoirs of Sir John Cramer, Menzies' first Catholic minister. Whenever Cramer entered a room, Menzies would jest, 'Be careful, boys, here comes the papist.' Then I remembered the story in Blanche D'Alpuget's life of Sir Richard Kirby: when Menzies found out Kirby was a Protestant, he told him, 'If I'd known that, Dick, you would have got your knighthood a lot earlier; I thought you were a left-footer.' Menzies' jocular anti-popery didn't disturb us, it was part of the give-and-take of living in a pluralist society.

One interjection really got me thinking. Someone said that the last five Lib-

ethic.' The work ethic, that central dogma of Protestant economic culture, was being eulogised by a Catholic! Would close analysis of the five New South Wales leaders produce similar evidence? Perhaps Judith Brett will follow this up.

Sometimes the best questions are slowest to start. Someone asked whether current anti-Muslim sentiment was comparable to what Brett and Kildea had been talking about; they answered no, the Muslim population was too small. Maybe. If I were writing a book about sectarianism today, I'd want to include the difficulties Buddhist temples have in getting building permissions, or the noise limitations put

not your average weekend. Instead of bushwalking and gardening or movies and shopping, I'm attending a conference organised by Pax Christi Australia (Christian, predominantly Catholic) and the Buddhist Peace Fellowship (Buddhist, largely Zen) at Sydney's University of Technology (UTS) to mark the first anniversary of what has come to be known as 'the Tampa incident'.

In the foyer a small group is quietly creating a mandala on the floor. Traditionally a mandala is constructed from different-coloured sand, but this one is made out of what we eat: rice, flour, lentils, pasta, salt, beans. In the centre is a ship. It is slow, careful, meditative work.

I'm sitting as comfortably as you can on an uncomfortable chair, just listening, taking in what those working in the field have to tell us; all that hard-to-remember statistical stuff: what happened in 1997; how many migrants since 1953; new rules from last October; High Court decisions; international treaties ratified and breached; rates of attempted suicide in Immigration Detention Centres (carefully not recorded by the Department of Immigration and Multicultural and Indigenous Affairs); Pacific and European solutions.

The conference speakers are a line-up of heroes, though they would doubtless be embarrassed to be so characterised: Neville Roach, chair of Fujitsu Australia and Deputy Chair of SBS; Tony Kevin, Research Fellow at the School of Asia-Pacific Studies at the Australian National University; Margaret Piper, Director of the Refugee Council; the Venerable Tejadhammo from the Association of Engaged Buddhists; Moira Rayner, lawyer, writer and currently Equal Opportunities Commissioner for WA; Julian Burnside QC; clinical psychiatrist Zachary Steel; and a great many others.

There are two separate pairs of youthful people wielding microphones and cameras during proceedings. Both are making documentaries. Neither knows what will happen to their work. They're just keeping the record, because someone must.

'The Tampa incident': that defining moment more than a year ago when a passing Norwegian ship received information that it was necessary to rescue a leaky boat which, as it happened, was loaded—overloaded—with desperate people seeking asylum in, as it happened, Australia. The government did its damndest to prevent



eral leaders in New South Wales have been Catholics. I'd been used to saying that the year 1988 was significant in church history because it saw the first Catholic in the 20th century leading the non-Labor side of politics, Nick Greiner. But *five!* In a row! Somehow I'd missed that. What can it mean? If Judith Brett is right, that the Liberal Party is Protestant in its historic culture, then the five leaders might be evidence of the Protestantising of Catholicism, which I've seen as an outcome of Vatican II. I recall the cultural shock I felt years ago when I heard Philip Lynch, an early Catholic Liberal minister, say about some opponents, 'They are trying to destroy the work

on muezzins at the mosque, and especially the state persecution of the Children of God sect a dozen years ago. There's only one way of being an Australian—that's always been the stance of the sectarian, whatever the colours of his current victims.

—Edmund Campion

... and statistics

REPORT FROM THE TAMPA CONFERENCE, 24–25 AUGUST 2002

I BOUGHT A black armband today. Not your average weekend purchase, but it's

the astonished captain from landing the boat's passengers on Christmas Island—at that time part of Australia, but since excised for such purposes—and called in the navy to protect us from this invasion.

And it did not go unnoticed, especially abroad. Eileen Pittaway, the Director of the Refugee Research Centre at the University of NSW, recalled her embarrassment at that moment. That day she was attending an international conference of non-government organisations in Geneva, where politicians and human rights workers were discussing how to deal humanely with the problem of people-flows around the world. Suddenly she found herself deferred to, with some sarcasm, as 'Miss Australia', an expert in draconian solutions.

Now it's history. Before *Tampa*, we didn't really know how many detention camps there were in Australia, nor in which states they were located, nor how many men, women and children were in them, nor who ran them. Did we ever give a thought to the conditions within such places? We barely knew the difference between an asylum seeker and a refugee. We didn't know the difference between the onshore and offshore program, nor the numbers allocated to each. We were honestly, genuinely and disastrously pig-ignorant. A year later, we can have no such excuse. (For those who do not know, and would like to, the Refugee Council of Australia's web site has many facts and figures, together with links to other informative websites. Go to www.refugeecouncil.org.au.)

There are statistics. Despite our government's best attempts to keep us ill-informed, there are a number of people who not only know what is happening, but are willing to warn us of where we are headed. Here are just a few facts, at random, but all completely verifiable:

- Only one in 200 refugees around the world will find placement in a host country.
- 353 people died when the Suspected Illegal Entry Vessel (SIEV) X sank on 19 October last year, in international waters under Australian surveillance.
- By creative accounting, the government managed to reduce our refugee intake when it came to power in 1996. Although the quota appears more or less unchanged at around 12,000 per year since then, there is now a further reduction in real figures when you combine the UNHCR-identified refugees with those similarly identified



Mouthing off

BURIED IN THE VICTORIAN GOVERNMENT'S recent announcement of infrastructure grants was \$3.5 million to help establish a \$20.5 million Centre for Oral Health Sciences. We're talking about mouth, teeth and gums, the health of which many of us seem to have forgotten.

Dental health seems to occupy a lower level of priority than our internal health, our eyes, or even hair care, except when teeth remind us of their existence with excruciating pain. Dental coverage is an 'extra' in most health insurance packages. Even more so since fluoridation. Unlike their father, Archimedes' children have grown up cavity-free—and it's not that they eat less sugar, or clean their teeth more assiduously. So why is Victoria going to spend so much money on dental research?

One answer is that it makes sense financially. Despite the low profile, Australia still spends about \$2.6 billion a year on dental services. And that is probably an underestimate of the true cost of dental disease, because many people do not seek treatment for problems with their teeth.

Not only that, but worldwide the oral health industry is huge. It turns over A\$23 billion in toothpaste alone. The University of Melbourne's School of Dental Science, for instance, recently developed a compound called Recaldent, which has already been included in \$200 million worth of products selling in the US, Japan and Europe. Recaldent strengthens teeth against decay and is derived from casein, a milk protein, using a process licensed exclusively to Australian company Bonlac Foods Ltd. The School of Dental Science is a key player in setting up the new Centre for Oral Health Sciences.

But there's a better reason than commerce. A growing body of evidence now implicates dental disease in more serious health conditions, such as heart disease, diabetes and premature births. It turns out that our mouths, perhaps not surprisingly, are in the front line of the war against infectious disease.

The bacterial film or plaque that grows over teeth and gums harbours many nasty micro-organisms and is resistant to antibiotics, says Professor Eric Reynolds of the School of Dental Science. Bits of plaque can break off and are swallowed, which in turn can lead to infection in the digestive system, even diabetes. And, when decay sets in, disease-causing bacteria can enter the bloodstream through bleeding gums.

'The new centre will take a three-pronged approach to improving dental health,' Reynolds says. 'It will conduct oral health surveys, to determine who is at risk. Then it will study the genes and proteins involved in dental disease to establish the link between the human hosts and microbial pathogens, and to gain information on how oral disease is connected to other conditions. Finally it will develop treatments, conducting major clinical trials in the process.'

Industry is interested. The School of Dental Science is already receiving millions of dollars in funding from pharmaceutical and health-care companies worldwide. It clearly pays to look after your teeth. ■

Tim Thwaites is a freelance science writer.



A telling point

BEFORE BEAN COUNTERS BEGAN to be made editors, the relationship between newspaper editors and proprietors was famously tense. Editors had to deal with proprietors who wanted some stories run and who were furious that others, particularly those contrary to their interests, had not been spiked. Others of us observed from on high the fight between freedom of speech and mogul power.

Anyone involved in publishing, however, knows that this tension is universal. When a group of any colour produces a publication, it expects that what it values and what it believes will be represented in it. And all organisations—churches no less than mogul-led corporations—are uneasy when contrary material appears in their publications.

This is the more so in times of public debate when people wish to influence what happens. A group committed to reform Australian refugee policy, for example, will try to explain its position and encourage its own members to become actively involved. It would naturally resent its own publications being used to advocate arguments in favour of prolonged detention—that would seem to be disloyal or divisive.

So why does discouragement of discussion matter? It would be easy to say that such discouragement involves the suppression of free speech by arbitrary power. But that's a bit too easy, for in any plural society, there are many places in which you can express your opinions. Perhaps more important is the effect that the restriction of free discussion has on the group itself. It is precisely *when* a group is committed to defend and commend a large and demanding truth that it cannot afford to discourage free discussion among its members. And particularly on matters that affect public policy.

The reason is that truth needs exercise, and the natural gymnasium for truth is free conversation. When truth is merely expounded, when opposed positions are represented only in order to be refuted, and when discussion is prohibited, the truth is reduced to slogans and prejudices. From there it is a short step to see issues simply in terms of power and loyalty, with the result that people lose confidence that the truth they defend is reasonable. Ultimately, their position is eroded. And if the position is indeed true, that is sad.

It is therefore the proper business of magazines to promote conversation. This task, which is always difficult within committed groups like churches, is easier in publications that have no direct allegiance to single institutions.

For that reason, the success of *Dialogue* (www.dialogueaustralasia.org), a magazine of religious and values education, sponsored by a number of independent schools, is encouraging. In the May edition, the writers treated marriage from a number of perspectives, outlining issues and arguments calmly and clearly, and explaining differences. In addition, *Dialogue* records news items of ethical interest. Written mainly for teachers and senior students, it provides moral education at its best, encouraging an ethical perspective on public issues. The truths at which its readers arrive will be strongly held because they are considered and are arrived at in open conversation. ■

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by Indonesia and as part of the 'Pacific solution'.

- At the beginning of August this year, there were 150 children detained without trial on Nauru alone.

- Only ten per cent of asylum seekers in detention camps even get an interview with the Refugee Tribunal.

And so forth. One looks to cold hard facts to cool the overheated head, but it is hard to stay cool after seeing videos of detained children, shaking and tearful; after hearing a clinical psychiatrist, who attends patients in Woomera and Port Hedland, admit that it is impossible to treat psychiatric illnesses in detention because detention conditions are so profoundly toxic to mental health; after hearing detainee Farshid Kheirollahpoor describe the cruel mind games played by the guards when one or two lucky inmates are granted visas. Even Villawood, considered the most 'civilised' of our detention centres because of its proximity to Sydney and its consequent exposure to scrutiny, is compared unfavourably to Long Bay by the Venerable Tejadhammo, a Buddhist monk and long-time prison visitor. It reminded him, he said, of the jails he had visited in Thailand. A released detainee confirms that Australia's prisons are 'like paradise' compared with the detention camps.

So what do we take away from two days of very solid review of where we are now? We know that, as a country, we are breaching a number of UN treaties that we have signed and ratified, treaties relating to the rights of the child, to the rights of refugees, possibly even relating to torture. As an international citizen, we are keeping bad company, stuck out there on a limb with China, Burma, Rwanda and all the other flagrant violators. No amount of governmental bluster about 'flawed reports' and 'not being dictated to by bureaucrats in Geneva' can disguise this fact.

On a national humanitarian level, there seemed to be a wistful reliance on what are held to be Australian characteristics of 'fair go' and justice, a feeling that if people really knew what went on behind the razor wire and understood the illegality of our current actions, they would not condone them. Sadly, our history does not support this optimism. I think most people are ostriches and refuse to believe what they don't want to know.

Nonetheless, the least and most we can do is to keep on setting straight the record,

to cut through the fog of specious rhetoric to the heart of the matter. We might stop talking about mandatory detention and talk, more accurately, about detention without trial. We might remind people that it is not illegal to enter a country to seek asylum without a visa. We will need to lobby our backbenchers, some of whom are believed to hold private doubts about current policy. It will be necessary to bring more cases to the courts because, despite all its efforts to limit the powers of the judiciary, the government is constitutionally bound by its decisions.

At the end of the conference we each place a yellow flower round the periphery of the immaculately completed mandala. Now it is white for peace and gold for hope. We form a circle and walk slowly round it three times, join hands, make a wish. It's a sombre conclusion to a sombre conference. But the mandala at least represents light in dark times.

—Caroline Lurie

Comic attack

COMEDY'S RESPONSE
TO GLOBAL TERROR

FESTIVAL TIME IN Edinburgh is a phantasmagoria of theatre, street performers, literature and pageantry that flitters across the stony face of 'auld reekie' to the delight of all except grumps who complain about the traffic and being chested by a loud American leafleting for a rap version of *A Comedy of Errors* on Princes Street. That, plus the aural and visual assault of bagpipes and bongo drums played in concert by a greasy-locked, kilted highlander and a hairshirt-wearing Rasta. Over 300 venues—from a maximum-capacity concert hall to a converted storage room above a delicatessen—play host to the biggest celebration of the arts on the planet.

Yet in the lead-up to this year's performances the variety and scope of the available offerings was ignored by the Edinburgh media in the argument over whether a show by a cross-dressing country-and-western singer called Tina C. should be banned. It was not the high heels and stubble, or the fact she couldn't hold a note if it was strapped to her with six-inch cable, that had the watchdogs of public propriety barking. It was her subject matter: songs, with titles such as 'Kleenex to the World', satirising the outpouring of grief—and its

manipulation—after September 11. When a TV network sought the responses of American tourists at tourist sites in London, one woman told the camera—not the interviewer—that 'you have to understand how terrible this has been for us'.

Asking artists and writers to avoid a generation-defining event is like tell-



ing historians to forget the 19th century. So September 11 and the war on terror was everywhere. In a downstairs bar of the Edinburgh University Student Union, Ray Parker, a short, angry comedian from Leeds, stopped his show when heckled by a member of the audience over a joke about Arabs and flight training. 'I'm a comic, it's what I do!' he shouted repeatedly as he and most of the audience debated what was and was not appropriate comment. The one laugh amid the fraught exchange came when two people claimed to have been in New York when the planes hit and Parker asked, in not quite polite terms, if he was interrupting a reunion.

At the International Television Festival, schlock-TV-presenter-turned-war-correspondent, Geraldo Rivera, was similarly unrepentant defending his unconventional coverage of the war on terror. For Geraldo—notorious for parading 'freaks' on his talk show and for highlights like having his nose broken on set during a brawl with a neo-Nazi, or asking Charles Manson to step outside for a fight during an interview conducted inside Manson's prison in San Pedro—September 11 is a spectacle, not an issue. This is the Rivera who took the Fox News cameras with him into Afghanistan as he set out to hunt down and kill Osama bin Laden. He went armed with a pistol but

bereft of any ethical compunction about remaining neutral on the front line. Geraldo hopes to take his theatre of the absurd to Iraq for the autumn season.

At the Edinburgh book festival, the disputatious Harold Pinter argued that Geraldo shouldn't be given the chance. Pinter reiterated his claim that Blair and Clinton ought to be tried for crimes against humanity in an international court for bombing Serbia. He also suggested that Blair would be hypocritical if he supported an American foray into Iraq. Pinter asked how Blair, a committed Christian, could justify an action that would result in the death of so many innocents.

Some of the treatment of September 11 was crass and not particularly artful, but all of it was important because the subject matter is something of more than ordinary significance—far too significant in fact to be hijacked by politicians and op-ed pages. Across the courtyard from the comics, a pocket-sized lecture hall was the venue for *Nothing to Declare*, a one-woman show about the search for 'crisis chic' at the border of a war-torn country. How much about the life that is lived in countries like Afghanistan can we really know, this archly written piece asks, if our greatest personal crisis in the last year was the spilling of red wine on a designer sofa?

As Jerry Springer noted in an interview after a surprise appearance in Edinburgh, freedom of expression brings the good with the bad.

—Jon Greenaway

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The story of SIEV X

ON 19 OCTOBER 2001, 353 asylum seekers, including 150 women and children, drowned in international waters south of Java, when the vessel carrying them sank during an ill-fated voyage to Christmas Island. Only 44 survived the sinking of the overloaded boat, known now only as SIEV (Suspected Illegal Entry Vessel) X.

We honour the dead of SIEV X and their grieving families if we honour the details of this story.

After the *Tampa* incident in August 2001, the Howard government resolved to stop any more asylum seekers landing at Christmas Island or Ashmore Reef. Detection of boats was not a problem—94 per cent were detected under the old system of interception and taken into custody. Mr Howard's challenge to the Australian Defence Force (ADF) was to make people go back. The new strategy had been planned for months—*Tampa* was merely the trigger.

The government ordered the navy, under Operation Relex, the new border-protection plan announced on 2 September 2001, to deter and repel asylum-seeker boats. Navy ships were initially directed to use all means short of sinking boats to force them to turn back.

Such tactics failed, because asylum seekers were sufficiently desperate to disable their boats, trusting that Australian sailors would not stand by and watch them drown. The Howard government, forced to accept *HMAS Adelaide's* towing of the disabled and sinking boat called SIEV 4 back towards Christmas Island, ordered that the 223 people, including 116

women and children, be kept on board during a 24-hour tow. This order contradicted every Safety of Life at Sea (SOLAS) principle our naval officers have ever learned. As Commander Norman Banks testified, a primary mission aim at this stage was to keep the people *on* their boat—to take them off before their boat sank would have been mission failure (Hansard record of the Senate Select Committee on a Certain Maritime Incident, pp180–2, 186–7).

SIEV 4 finally foundered on 8 October 2001. In the emergency rescue from the sea it is a miracle that nobody drowned. The apparent lack of concern for human life is significant in the light of what happened later with SIEV X.

Adelaide's encounter with SIEV 4 shattered Operation Relex's deter-and-repel border-protection strategy. The outcome proved to prospective asylum seekers that as long as they held their nerve after interception by the navy, they would not be left to drown. The Indonesian government was not allowing forced tow-backs of vessels. The People Smuggling Taskforce in the Department of Prime Minister and Cabinet reported on 7 October 2001:

A strong signal that the people smugglers have succeeded in transporting a group to Australia could have disastrous consequences. There are in the order of 2500 potential unauthorised arrivals in the pipeline in Indonesia awaiting transport, therefore this should be avoided at all costs.

The sinking of SIEV X on 19 October 2001 changed everything. SIEV voyages dried up within days. The Indonesian

government—shocked at the damage to its vulnerable international standing from a sinking reported to have happened in Indonesian waters—decided almost overnight to accept forced Australian navy tow-backs to Indonesia, as a humanitarian necessity. The Indonesian Foreign Minister announced he would host an anti-people-smuggling conference in Bali.

Two weeks later, in his election victory interview on 10 November 2001, John Howard told Kerry O'Brien that the flow of people had virtually stopped, and that this was 'specifically attributable to the action we took on the *Tampa*'. He added, 'Obviously, the more difficult we make it, the less likely they are to come.'

Indeed. But it was the sinking of SIEV X, not the *Tampa* episode, that was the turning point in the campaign to stop SIEVs coming. It sent a terrifying deterrent message to asylum seekers: if you attempt to travel to Australia using people smugglers, you may die on the way.

But Australia seemed, at least according to Mr Howard on 23 and 24 October 2001, to have clean hands. He claimed emphatically that SIEV X had sunk in Indonesian waters. Australia was not responsible.

After five months of painstaking investigative work by the Senate Select Committee on a Certain Maritime Incident, there is now public evidence that prompts serious questions about how much the Australian government and its border-protection agencies knew about the sinking of SIEV X, and what their responsibilities were. Two thousand pages of Hansard testimony and furnished documents make this clear.

The community owes a huge debt to the patient, persistent interrogations by four senators in particular: Peter Cook, John Faulkner, Jacinta Collins and Andrew Bartlett. We also are indebted to Senator George Brandis for his contribution to public transparency, in pressing for previously classified information about the scale and methods of Operation Relex to be made public. His initiative in April—to have the ADF table details of 12 naval interceptions—began a healthy process of public revelation of remarkable facts about Australian intelligence gathering, disruption activity, air surveillance and naval interception, hitherto concealed from the public.

MOST OF WHAT WE KNOW about the ill-fated voyage of SIEV X comes from Don Greenlees' detailed and well-based account in *The Australian* of 24 October 2001.

SIEV X left from Bandar Lampung in southern Sumatra before dawn on 18 October 2001. It was grossly overloaded—397 people on a 19-metre boat. The overloading took place under armed duress by uniformed policemen. The engines failed once the boat got out into the Indian Ocean on 19 October 2001. Greenlees says it sank soon after, at around 2pm, some 50 kilometres south of the western tip of Java. Survivors spent 22 hours in the water before being picked up by an Indonesian fishing boat at midday on 20 October 2001, and taken to Jakarta, where they arrived on 22 October 2001.

This chronology and sinking location were broadly corroborated by survivor accounts and by co-ordinates given to the Jakarta harbourmaster by the fishermen who picked up the 44 survivors. This general location is supported by Senate Committee testimony, which puts SIEV X's sinking location in an area south of the western tip of Java—well into international waters and well within Operation Relex's air surveillance area.

Mr Howard still sticks to his original claim that SIEV X sank in Indonesian waters. Senator Hill has claimed variously that we don't know where it sank, or that it sank in or near Sunda Strait—that is, in Indonesian waters. Jane Halton, who headed the People Smuggling Taskforce in the Department of Prime Minister and Cabinet, says that the difference between territorial seas and Indonesia's nominal search-and-rescue zone was never

explained to her. She was questioned closely by senators on 30 July 2002 as to how her Taskforce reconciled an intelligence report recorded in its minutes on 23 October 2001, saying that the boat was likely to have sunk in international waters, with the Prime Minister's emphatic statements on 23 and 24 October 2001 that it sank in Indonesian waters.

Why is there still so much official evasion and inconsistency about where the boat left from and where and when it sank? The media and survivor accounts since 24 October 2001 have presented a fairly clear picture on these crucial matters. The voyage chronology and sinking location is retrospectively confirmed in the Halton Taskforce minutes of 23 October 2001. Is the system trying to hide something important here about the receipt and handling of earlier intelligence on SIEV X?

During May, the Senate Committee learned much about intelligence reporting to Canberra on the departure of SIEV X. Initial claims in official testimony in April 2002—that nobody knew anything much about SIEV X until they saw news of its sinking on 23 October 2001—were undercut by testimony from Coastwatch Head, Rear Admiral Mark Bonser, on 22 May 2002. Added to this was the (possibly accidental) release, in early June 2002, of detailed summary minutes of the People Smuggling Taskforce.

Senators thereby ascertained that there had been six Australian Federal Police (AFP) reports from Indonesia on SIEV X between 14 and 22 October 2001. They learned also that SIEV X was discussed in the Taskforce in at least six daily meetings, starting on 18 October 2001.

On 22 May 2002, official Senate testimony began to refer to many conflicting reports on SIEV X. It was claimed that nothing could be said conclusively at all about when the vessel had left, or from where, or even if it existed. The nature of evidence shifted dramatically, from claims of zero information to claims of an excess of conflicting information—all offered as explanation for why no SOLAS action over SIEV X was ever undertaken by Operation Relex.

Senators were then faced with an information black hole.

There has been no testimony on the content of AFP reports sent down to Canberra regarding SIEV X. AFP and

Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) witnesses on 11 July 2002 declined to give such information, both on the grounds that it was classified intelligence and that to do so could jeopardise possible upcoming legal proceedings against the alleged people smuggler Abu Quessai.

If some Australian authorities knew by 18 October 2001 of the departure from Bandar Lampung on that day of a small, overcrowded vessel carrying nearly 400 people, why did such a report not trigger a SOLAS precautionary air search of the area of the Indian Ocean nearest to Sunda Strait? That area is in the north-west quarter of the Operation Relex air surveillance zone.

This question about the SOLAS requirement is at the heart of the issue.

But senators were unable to question the ADF's Northern Command about its crucial decisions not to order a SOLAS-oriented air surveillance for SIEV X on 19 or 20 October 2001. Authors of the documents sent in by Senator Hill on 4 July 2002 have not been examined in public hearings of the Committee. Initially promised testimony from Admiral Raydon Gates, who had reviewed all the intelligence and has now replaced Admiral Smith as Chief of Navy, was blocked by Senator Hill, despite repeated Committee requests for Admiral Gates to appear.

The challenge now before the Senate Committee—which has done a heroic job to date—is to account fully for the failures involved in SIEV X. The fall-back would be to attribute the tragedy to administrative failures, shortcomings in communications and divided command structures.

What remains to be seen is how parliament, our political parties, national media, and we the people of Australia will respond to the highly disturbing truths that have already emerged about SIEV X. ■

Tony Kevin is a former diplomat and now freelance writer and commentator.

This is an edited version of a speech delivered at 'The Tampa: One Year On' conference held at the University of Technology, Sydney, on 24 August 2002. For more detail see the SIEV X website, www.sievx.com, or view the three SBS Dateline features on SIEV X.

Trouble in Belfast

A Sunday drive can prove a serious business.

THE JOURNEY BY road from Dublin to Belfast should take no more than two hours. It takes us four. On a gloomy Sunday afternoon in July, it feels more than ever like a journey between two different worlds. Dublin is the capital of the self-consciously confident Celtic Tiger, the economic success story of Europe. Belfast, capital of Ireland's northern provinces and part of an officially United Kingdom, is modern Europe's city of enduring conflict.

We cross the border somewhere north of Drogheda. Under the Good Friday accords, which were supposed to bring an end to the Troubles, the border post is unmarked but remains a physical presence. High on a hilltop overlooking the road is an unmanned military observation post. Next to it stands a communications tower. Towns we pass are republican and loyalist in turn. British flags fly defiantly in one town, flags from the Republic of Ireland in the next, marking out a province still divided into separate communities. Relative peace has silenced most of the guns, but it hasn't made redundant these banners of identity.

I am travelling with Michael and Claire, two long-standing Dublin Irish friends. They are nervous because we are travelling in a car with number plates from the Republic of Ireland. It is true that we see no other cars with plates from the republican south on the road into Belfast. But privately I wonder whether they are being a little paranoid. News from the north has been promising—so many tentative signs of progress towards peace. No-one quite knows what the future will bring, but no-one wants a return to the past.

I also wonder whether Michael's view is coloured by his history with the Troubles. A decade before, at their height, he travelled to Northern Ireland with a friend. They found themselves marooned



A republican mural in Falls Road, Belfast.

in a village late at night, uncertain of whether its sympathies were loyalist or republican, and very aware that his accent betrayed his origins. They were taken in a car to house after house in the dead of night to meet hardbitten foot soldiers of the republican movement. 'Patrick, here, has done time for the cause.' 'Padraic has killed for the cause.' He has been to Belfast since, but has never forgotten the sinister lessons of that night.

On the road into Belfast, occasional Israeli flags fly alongside those of Great Britain. It is the new badge of solidarity, the loyalist Irish finding a connection between two embattled communities at risk of terrorism. Republican houses have also taken to flying the Palestinian flag in recognition of the mutual suffering felt by a people under colonial occupation.

In Belfast itself, we follow signs to the city centre. It is Sunday afternoon and the streets are empty, as if abandoned. Not a

shop is open. There are very few people. We drive around, looking for a coffee shop where we can take stock, justify to each other the long journey here: I am guiltily aware that I am drawn here by a perverse voyeurism: I just wanted to see Belfast, see the place that in my childhood resonated with danger. I suspect that each of us is here for a variation of the same reason.

In the few areas where something is open, Michael and Claire are unwilling to park, unsure of the loyalties of each neighbourhood, aware that our car announces our loyalties to everyone. I wonder again whether our fears are overblown.

Weeks later, I read the following report in the *Daily Telegraph*:

Two Australians who wanted to end an Irish tour with a trip to Londonderry experienced Ulster's violence first hand when they were bombarded with rocks. Judy O'Connor and her daughter Jackie

had unwittingly parked their rented car, which had Irish Republic number plates, next to the staunchly republican Bogside area. But when they returned they found the car had been vandalised and after the police arrived a crowd of youths advanced on them hurling stones. They escaped in an armoured police vehicle.

But I do not yet know this.

Finally, in the tranquil streets near the university, Michael and Claire consider it safe to park. There are a few more people on the streets here and a string of bars and cafés. Michael asks a waitress where we can see some of the murals, the painted facades of buildings where angry communities have given vent to their hatred. She tells him that there are some republican murals north of where we are, but it is too dangerous to go there. We wouldn't know the way, and a single wrong turn could see us deep into loyalist territory. She assures us that with our car, that is not something we should consider. She suggests Falls Road.

WE DRIVE WEST OF the city centre. Most of the streets are still relatively deserted but the Irish flags and signs in Gaelic tell us that we are in the heart of republican Belfast. Just west of Falls Road stands a brooding building, formerly a police station of the Royal Ulster Constabulary. Now abandoned and daubed with graffiti, it remains forbidding, a fortified bunker of hatred—painted black, no windows, rolls of barbed wire which no-one has thought to dismantle. Further up the street, an armoured police car patrols, like a small tank.

Back along Falls Road, the streets are lined with the murals of the republican

cause—memorials to Hunger Strikers, portraits of Margaret Thatcher with blood dripping from vampire-like fangs, hooded representations of IRA fighters with Kalashnikovs, angry denunciations of the Royal Ulster Constabulary.

We stop and ask directions. The man, instantly suspicious, points unsmiling and then fixes his gaze upon us until we are out of sight. One cemetery is overlooked by an equally dark, equally windowless fortress. Its tower is covered with video surveillance cameras, one of which turns slowly, following us into the cemetery. It was here that republican funerals turned into public demonstrations, where a loyalist activist threw a bomb during one such funeral, killing several mourners, where a loyalist spy was torn limb from limb in retaliation during another. The cemetery is deserted.

We return to the city centre and park in the refurbished Hotel Europa, once Europe's most bombed hotel. To reach the car park, we have to detour around behind the hotel, past the offices of the Ulster Unionist Party, over a rise and then hard left at the building-high mural, which announces that 'You are now entering Loyalist Sandy Row Heartland.' It is signed by the 'Ulster Freedom Fighters'. In case we miss the point, a larger-than-life representation of a hooded gunman points his Kalashnikov in the air.

By now, I realise how I have misinterpreted the signs of hope that I've read from afar. News of large-scale casualties might have disappeared from the media, but here there are such visible, unhealed scars.

The vicious turf wars—reflected in battles over the right of Catholic schoolchildren to go to school through Protestant areas, in battles over the right of the

Orangemen to march through republican districts, in revenge-killings—are fuelled by the same hatred that fuelled the long decades of the Troubles. All that has changed on the streets is that new limits have been imposed on the public tolerance of violence.

Northern Ireland is locked, Kosovo-like, in an uneasy limbo. Having secured a relatively peaceful present, no-one knows quite what to do next. But the heady days of hope are gone. I wonder whether, without a viable long-term strategy, Northern Ireland will again descend into violence.

Michael is visibly agitated. He knows, and I now believe him, that his accent and his car could single him out for special treatment.

Later, when we exit the car park, a furtive, frightened attendant looks quickly at our plates and warns, 'Whatever you do, don't turn right. They're burning cars and shops along Sandy Row. They did the same last night.'

We thank her for her advice and career left in a screech of tyres. The start of Sandy Row, marked by the menacing mural we had seen in daylight, is just 20 metres away. As we swerve away, I catch a glimpse of an armoured police car judging to a halt. A door is thrown open, a policeman bursts out. Then they disappear from view.

I don't think Michael breathes until we have left Belfast. None of us relaxes until we have crossed the border into the Republic. We drive through the dark and in silence.

We are in Dublin in less than two hours. ■

Anthony Ham is *Eureka Street's* roving correspondent.



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Meaning streets

NOMENCLATURE IS MORE dramatic in Europe. What I mean is the way you can arrive in a town or village and find yourself walking along the *Avenida of the Hopelessly Incompetent Brutal Revolution of XIV September* towards the *Piazza of a Thousand Split Skulls* at one end of which is your *pensão* and the *Church of Our Lady of the Garrotted and Extruded*. This village would have to be somehow straddling the borders of Portugal, Italy and Spain to achieve that particular mix of naming, but you know what I mean.

In Australia, with a very few honourable exceptions, we have no equivalent. Our British heritage—which gave us language, common law, Shakespeare, the Westminster system (honoured by Australian politicians more in the breach than the observance, to adapt the aforesaid Shakespeare)—did not bequeath such sturdy naming. On the contrary, we are inundated with monsoons of Victorias, Elizabeths, Georges, Princes, Queens, Williams and other faded shreds of Empire, royalty and remittance. Where is the *Plaza of the Constitutional Coup of XI November?* Where is the *Betrayal of the Yes Vote Square?* *The Holy Church of Our Lady of the Lost Republic?* And where the broad and triumphant *Boulevard of the No-to-Conscription Referendums?*

These thoughts were engendered by contemplation of Melbourne's City Square, which is known, curiously enough, as the City Square, and is to be found next to the Westin Hotel. The Westin looks something like the Ark would have looked if Noah had had more time and God had tossed him a few more positives—as we say these days—instead of gnomic instructions, threats, and a catastrophic weather forecast. Bereft of genuine individuality in itself, the Westin might have derived a certain cachet from the City Square over which it looms like a castle above its moat and whose share of morning sunlight it routinely blocks. But the City Square, alas, is not able to lend enchantment to any view because it is officially a failure and will soon undergo yet another metamorphosis. Will it become the *Plaza of the Unspeakable Failure of Burke and Wills?* Probably not.

Yet, all is not lost for the square if only members of the Melbourne City Council's Environment, Community and Cultural Development Committee (ECCDC) are able to recognise when they are on to something big. According to a report in the *Melbourne Age*, the ECCDC recently defended the square, pointing out that it 'has intrinsic value as an open space—with or without activity. As a passive space to walk by, it is working well.'

When I read that description, I immediately strolled up into the vicinity of the City Square and, being careful to approach casually and with a deeply uninterested mien, I walked along one perimeter of the characteristically empty expanse, scarcely giving it a glance. And sure enough, the ECCDC philosophers

were absolutely right. The square ignored me entirely. Not a flicker. Conversely, on the huge Westin Hotel facade above, a curtain twitched and from a top-floor window sunlight flashed inanely. Don't you worry: the Westin knew I was walking past and took note. But from the square there emanated a passivity that would have made the Sphinx look hyperactive.

THE TROUBLE IS THAT THE ECCDC bureaucrats don't seem to realise the profundity and wide ranging significance of their discovery. What they should be doing is flooding that square with a team of experts—psychologists, geologists, anthropologists, podiatrists (well, why not?), historians and so on—whose job would be to isolate and uncover the peculiar quality that makes the square function as a 'passive space' that people simply 'walk by'. Admittedly, the unaccustomed if not unprecedented sight of the square crowded with active, intent people would constitute a dangerous shock for Melburnians (the last person seen in the square—a tourist from Queensland who inadvertently used it as a short cut to the Westin—is receiving counselling), but the risk would be worth taking.

If the Melbourne city square's secret as a successfully passive site that people simply pass by could be extrapolated to, say, the *Big Brother* house wherever it next bobs up, waves of passivity would sweep the nation and no-one would care who was doing what to whom in that mansion of inarticulate mediocrity, to the great benefit of television and the polity generally.

Or, what if the square's secret quality could be somehow endowed upon individuals? How much better would life be, for example, if Alexander Downer could be imbued with 'intrinsic value as an open space'; or Mark Latham be passively walked by?

Meanwhile, the City Square guards its potent secret and yearns no doubt for a grittier name. What can lie at the heart of our national failure at nomenclature? Why do we come up with names like Telstra Dome in slavish mimicry of America? Why was it that, contemplating statehood some years ago, the then Northern Territory government, in a paroxysm of brainstorming, settled for 'The State of the Northern Territory'? Can it be that beneath all our clinging to royal moribund and British place names (Kensington, Queenstown, King's Cross, Grampians, etc., etc.) there lies a subconscious denial of our own history because not all of it would make for comfortable reminders on street signs and squares and buildings? It's a puzzle.

Anyway, I'm off. I'm meeting a friend in the *Avenue of the Myall Creek Massacre*. ■

Brian Matthews is a writer and academic.

Uncivil wars

Conflict can take many forms. In Australia, we are still dealing with the aftermath of an undeclared war against Indigenous people.

ABORIGINAL PEOPLE often don't operate in a very linear fashion, so I'm going to come at this topic in a rather circular way. A couple of months ago I was up in north Queensland, working with a young Aboriginal writer of Cape York. I'll call her Margaret.

I flew in to Weipa on one of those tiny planes you fly around the bush in. About half the other people on the plane were miners, who—while remaining civil—consumed a lot of beer on the one-hour flight from Cairns. We flew in low over huge red mining slashes in the otherwise khaki-coloured landscape. When I got into town, the lawns of the miners' houses were surprisingly green and lush. Weipa has a large air-conditioned supermarket, and several shops selling electronic goods and fishing gear. It has a prosperous, though isolated feel. Walking the streets, I felt I could easily have been in a suburb of Townsville or Darwin.

The next day Margaret, the local writer, took me to the Aboriginal settlement, Napranum, to meet her family and in particular her elderly grandmother. I went expecting to find the 'normal' remote Aboriginal community—smashed houses, burnt-out cars, dozens of starving dogs roaming around. We eventually found the old lady sitting in a camp by the shore with a group of other Aboriginal people.

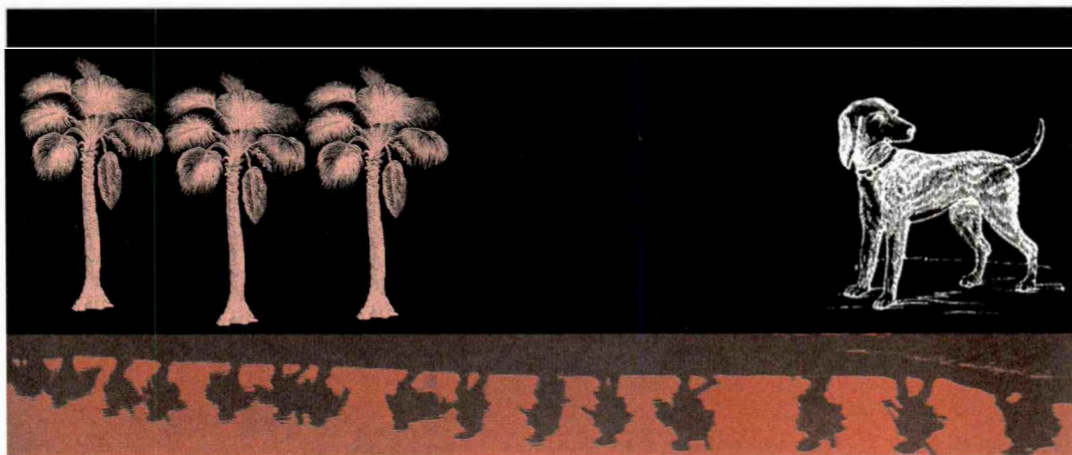
It was a warm dry-season day with a cool breeze blowing off the water, which was an astonishing azure blue. I saw one dog, and no rubbish. The group had put four or five single beds in the shade of a large mango tree, built a fireplace, and were staying there indefinitely. The old lady was paying these people a social visit. They quietly chatted among themselves. Occasionally someone would get up and fish, or go off collecting bush foods. For all the problems that remote communities have with violence and poverty, what I

saw, as an outsider, that day in that camp, was an idyllic scene. If I was a Napranum woman, I thought, I would never want to leave this place.

But Margaret lives not in Napranum, but in the white township, Weipa. Her husband is one of a small handful of Aboriginal men who work for the bauxite mine.

without much aspiration for Western education. Previously these Aboriginal kids attended the small and under-resourced Napranum school.

When I was up in Weipa, I was told that some of the white parents had recently convened a town meeting about this change. These white mothers and fathers



Margaret told me that her husband had had to fight very strongly to get access to a modest better-block company house in Weipa. He took his fight to the head office thousands of kilometres away in Brisbane after the mine manager—a brown-skinned Asian man, incidentally—reportedly told him that the houses in Weipa were not suitable for 'his kind'. The most interesting story that was reported to me, though, was that many of the Napranum kids had recently started going to school in Weipa with the white town kids.

From being an almost entirely white school last year, the restructured Weipa school now has a large minority of very black Aboriginal pupils whose first language is normally Napranum Kriol, a language English-speakers would struggle to understand. These kids come from homes—or from camps—without standard English, without books and normally

had taken up a petition, asking the school, quite simply, to exclude the Napranum kids from the school. This was in the interests, they said, of 'protecting our kids and our town'. When pressed about their fears, they mentioned nits. No doubt the same sentiments were expressed in Little Rock.

The openness of this racist sentiment surprised me, but it didn't shock me. Overt racism is part of the everyday experience of many Aboriginal people. What surprised me more was to hear Margaret report the actions of one of the white teachers at this town meeting. This teacher stood up after listening to the white parents.

'How dare you come in here and ask us to do such a thing,' she said. And she was shaking in fury. 'How *dare* you people think that the resources of this school are only for white children and not for Aboriginal children.' And she told these

parents, who were outraged at the idea of sharing 'their' town, 'their' school with black people, to get out of her sight. Margaret's three daughters, and her nieces and nephews, now attend the Weipa school along with dozens of other Wik and Algnith children. These kids have a better prospect of getting a good education; they have improved prospects of escaping their parents' poverty; they have a little more to hope for.

WHAT HAS ALL THIS got to do with war, you ask? I would make the following three points. First, Margaret's husband struggled mightily to get a house for his family. He can't take for granted the fact that, as a mine-worker, he will be eligible for company housing. He, and Margaret, and their three kids struggle daily against the insults, small and large, of being Indigenous in Australia. Margaret's extended family live in poverty—picturesque poverty perhaps, but poverty nonetheless. What is poverty? Someone once said that the fed don't understand the hungry. But this story might help us understand. I was told while I was there that a new economic practice has evolved in North Queensland. Sometime in the past four or five years, the Victims of Crime Organisation pressured governments to provide compensation for women and men who have been battered by violent family members. So a new industry has sprung up in Cape York—the deliberate battering of friends and spouses for the compensation money, which is then shared among extended families. This money buys food and petrol and pays bills in a community where a mining company takes millions of dollars worth of mineral out of the ground every month. There can be no doubt that most Cape York Aboriginal people live in stark poverty.

This poverty, this living by the fist that so many Aboriginal people are forced to do, is a direct outcome of the unresolved war between black and white in Australia. Our lands have been invaded and our people decimated. We are the dispossessed, and without land and without industry we are poor and will remain poor. No declaration of war was ever made, but a war was most certainly prosecuted in Australia and we are still suffering as a result. There are still Aboriginal people in Australia who will run at the sound of gunshot, and assume that that gunshot

is meant for them. It is time to do what New Zealand and Canada have done long ago. It's time to acknowledge our history, it is time to end the war, it is time for a treaty between Aboriginal and non-Aboriginal people. Then we can finally all get on with being Australians—we can have a different relationship with each other, and a different conversation based if not yet on trust, then at least on mutual respect.

My second point is how little we know of the reality of other people's lives. If I only read the *Courier Mail* or *The Australian*, I would assume that life in Napranum, or Kowanyama, or Aurukun, was a misery of domestic violence, pack rape, and endless alcohol abuse. Now all those things are present in Napranum—don't misunderstand me. Violence and abuse, especially the sexual abuse and rape of kids, are huge issues in all Aboriginal communities, remote and urban, including my own. But alongside these terrors are many Aboriginal people living good, peaceful lives. Our communities contain more people who don't drink than alcoholics; more responsible parents than neglectful or abusive ones. I was struck in Napranum by the difference between what is regularly reported as the life of people in the so-called 'war zone' of remote Aboriginal Australia, and what was apparently the case on that day in Napranum. It reminded me of the importance of witnessing for yourself the situation on the ground, before assuming you know other people's lives. It underlined very strongly for me how damaging well-intentioned outsiders can be, when we presume to speak for others, when we assume that *we know*.

I went to Napranum, as I've gone to many remote Aboriginal communities. And of course, I'm an Indigenous person myself. So when I constantly read about the tragedy of my life, I'm in a position to draw some rough conclusions of my own. But I am struck that I've never been to Iran, never been to Afghanistan. I've never spoken to a Palestinian person, or to an Iraqi parent whose child has died from preventable disease as a result of the embargo against Saddam Hussein. All the information I have about the lives of these people has been mediated for me by CNN, or Associated Press, and by my own prejudices as a person of the West. And that worries me. Australia is engaged in a war, and being further asked to go to

war, against people we have never met and will never meet, in the interests of other people—Americans—we are never likely to meet. Maybe in the realpolitik it makes some sort of sense for Australia to line up with the USA in these global conflicts, and maybe it doesn't. With the limited and partial and biased information we have to go on, it is impossible really to know. Such ignorance inclines me not to war, but to caution. I certainly wouldn't be sending my son to kill other brown people in a foreign desert on the basis of the arguments I've heard so far.

My final point turns on the role played by the white teacher. It takes extraordinary bravery to stand up against racism in a small remote town, and yet this woman stood up and she spoke out, *and she won*. She found after the meeting that the majority of white parents in Weipa agreed with her, and that they too wanted the Aboriginal kids in their school, but had been afraid to speak up. The racist fear that this brave teacher faced and fought in Weipa is the same racist fear that drowned 353 souls off the north Australian coast last October; it is the same racist fear that has some of the world's most desperate kids locked in Australian detention centres watching their parents sew their lips together. It is the same racist fear that helps build support for wars which we don't fight ourselves, but watch on TV from thousands of kilometres away.

I don't want to be involved in a foreign war that I don't understand. I'm already involved in the aftermath of a messy undeclared war on my people here, in Australia. My family and friends live in poverty. My brothers and sisters go to jail. I want a treaty here, at home. I want to feel that I am a respected and recognised part of a greater nation. And if a foreign war is somehow necessary for Australia, I want explanations why, good ones. Until I get that explanation, I will keep remembering the words of the musician Billy Bragg, words which apply equally well in Cape York or in Washington: *War, what is it good for? It's good for business.* ■

Melissa Lucashenko is a Murri woman of mixed European and Yugambeh/Bundjalung descent, and has affiliations with the Arrente and Waanyi people. Her latest book is *Hard Yards*. This is an edited version of a talk given at the Melbourne Writers' Festival, 2002.

In the queue

A woman and her two children waiting in the 'queue' are attacked and the children killed. Despite the apparent urgency of their case, they had been waiting for 11 months. Peter Browne reports from Nairobi.

Refugees mix with stallholders outside the United Nations High Commissioner for Refugees compound in Nairobi.

EARLY ON THE morning of 17 April this year a Rwandan woman and her two children—boys, aged 9 and 10—were attacked in their room at a refugee accommodation centre in the suburbs of Nairobi. The family had been in the Kenyan capital for 11 months and were close to leaving for resettlement in Australia. Both the boys were killed 'with a single deft knife slash to their necks', according to Agence France Presse; their mother, who survived the attack, received multiple stab wounds.

Although the first report in the Kenyan *Daily Nation* described the attack as a 'fight', the evidence that emerged over the next few days suggests that the sleeping children were sedated in some way, then stabbed. Their mother was woken by two attackers who held her down while they attempted to kill her. Police from the nearby Kilimani station say they found no evidence of a break-in; a kitchen knife from the centre, believed to have been used in the attack, was found two days later. Acting on the assumption that

the attackers were among the other 180 or more people housed at the centre, the police eventually arrested two Rwandan men who, it was reported, claimed to be deserters from the Rwandan army.

It wasn't until a week after the attack that the incident was recounted in the international media. The early reports highlighted the fact that the woman was a close relative of the former Rwandan president, Juvenal Habyarimana, a Hutu politician whose death was the pretext for the genocidal campaign against Tutsis and moderate Hutus in 1994. Two (or three, according to some reports) children from the woman's first marriage had been killed in Rwanda, and she had fled to Uganda with the two younger boys in 2000. When it was clear they were not safe there, she was transferred to Nairobi by the UNHCR (the United Nations High Commissioner for Refugees) in May last year.

The interest of the international press was stimulated by a statement from the New York-based organisation, Human

Rights Watch, which was highly critical of the long delay in processing the family for resettlement. 'This case highlights the current failure of the UNHCR in Nairobi to provide speedy resettlement for refugees whose lives are at risk,' said the organisation's refugee policy director, Rachael Reilly. According to Reilly, the process should have moved much more quickly, given the woman's background and her experience in Uganda.

Nairobi isn't necessarily the safest place for people fleeing persecution in Rwanda. The two sides in the 1994 genocide are still settling old scores across eastern Africa, and there has been at least one fatal attack in recent years in Nairobi. But it appears that the UNHCR didn't recognise the potential danger to the family. Although the local newspapers described the facility where the attack occurred as 'a refugee centre', the international news reports called it a 'safe house' or, in one case, a 'special protection facility for high-risk refugees'. If it was a safe house, then it

is puzzling that the men, who had admitted to links with the present government in Rwanda, were placed in the same facility as a woman related to the president of the former regime. If it wasn't a safe house, then that too is evidence that the UNHCR didn't recognise, or at least act on, the potential danger.

The one report about the incident in the Australian media was published in *The Age* on 25 April 2002. The article quoted a spokesman for Immigration Minister Philip Ruddock, who denied that Australia had dragged its feet in dealing

days in Nairobi looking at prospects for a branch office. But the setting—a plain, prefabricated office reached through a maze of corridors and temporary walkways at the UNHCR compound—isn't quite right, and Calle-Noreña's animation as he discusses his work doesn't fit the image either. 'My son was shocked when he first came in here,' he says as we walk across a makeshift ramp from one part of the complex to another. 'He said, "Papa, Papa, this looks like a prison, not an office!"'

Fifteen minutes by car from the centre of Nairobi, the UNHCR's Nairobi branch

process. Nine people, including three Kenyans, were charged with fraud.

Since Calle-Noreña arrived, nearly all the division's staff have been replaced or redeployed. But the shake-up has disrupted operations; work on routine resettlement cases was suspended last year, and even now only 'urgent' and 'emergency' cases are being processed. It's been reported that the backlog of cases from the period of reorganisation still hasn't been cleared. Meanwhile, demand for the UNHCR's services has remained intense.

Something of an oasis in a region convulsed by war within and between countries, Kenya has attracted refugees and asylum seekers from countries throughout north-eastern Africa. According to the best estimates, around 148,000 Somalis, 70,000 Sudanese, 20,000 Ethiopians, 6000 Ugandans and 7000 other refugees—something like a quarter of a million people—are living in Kenya. Most of them are in two refugee camps near the border, and most of the rest are in Nairobi.

The Kenyan government makes life difficult for refugees and for the UNHCR. It requires that all refugees are confined to the camps unless the UNHCR makes a formal determination that they would be in danger there. Most of the refugees in Nairobi are therefore regarded as illegal and, according to Human Rights Watch, are harassed by police and forced to pay bribes to avoid arrest. Living conditions are squalid, and even refugees approved by the UNHCR have had their documents ignored or destroyed by police. According to Human Rights Watch's refugee policy fellow, Alison Parker, who was in Nairobi when the attack at the refugee centre took place, there is persuasive evidence that politically motivated attacks—sometimes by security agents from other countries—are an ongoing problem for a significant number of refugees.

Since 1991, in breach of its obligations under the 1951 Refugee Convention, the Kenyan government has refused to process any refugees itself. In some cases refugees have been returned to their country of origin despite evidence that their lives are in danger. And perhaps most significantly of all, the government won't allow any refugees to settle permanently in Kenya. This deprives the UNHCR of one of the three options it has when attempting to find a 'durable solution' for individual refugees.

'There is quite a gap between how things should be and how they are.'



Eva Maina from the Refugee Consortium of Kenya.

with the UNHCR's request for resettlement. He added—with only slight exaggeration—that Australia is one of 'only a handful of countries' resettling refugees from that region.

From Australia's point of view, the attack on the Rwandan family raises important questions. A woman and her two children, waiting in the 'queue' to come to Australia, are attacked and the children killed. Despite the apparent urgency of their case, it had already taken 11 months for them to reach this stage in the approval process. And, while this shocking crime took place, around 250,000 refugees from surrounding countries—for many of whom resettlement outside eastern Africa is the only safe, long-term option—were waiting in Kenya for the chance at one of the relatively few places in the resettlement 'queue' offered by a small group of countries.

TALL, DARK AND immaculately dressed, Sergio Calle-Noreña could easily be taken for a European banker spending a few

is in a busy part of town, fronting a noisy arterial road opposite the Westlands shopping mall. Across the road, a car park full of battered taxis is standing by for customers; the drivers are smoking and chatting together and look as if they've settled in for a long wait. Like the central city, this part of Nairobi is crowded and run down. Through the louvred office windows, the sound of traffic is constant.

Calle-Noreña has been running the protection division of the UNHCR's Nairobi office—the division that tries to find long-term solutions for refugees—since November 2000. He arrived just after a UN taskforce began investigating allegations that staff in the office had been accepting bribes to expedite refugee applications. Calle-Noreña's job was to begin rebuilding the protection division ahead of the results of the investigation.

The investigation eventually revealed that refugees had been charged US\$25 simply to get in the front gate of the UNHCR compound and up to US\$200 for an initial interview, with some paying thousands of dollars by the end of the

The two remaining options for the UNHCR are to return refugees to their homeland or resettle them in a third country. Where it's feasible and safe, repatriation is in many ways the most desirable option—providing conditions in the home country are safe and stable. But the political landscape in the countries around Kenya isn't encouraging. 'Somalia is still in chaos. Sudan is still in chaos,' says Calle-Noreña. 'The persecution going on in Ethiopia doesn't open opportunities for repatriation. The old cases have already gone back to Uganda but we have new cases; most of them are members of the opposition who are certainly not going to be able to go at this point.' Some refugees have been able to return to Burundi, but Rwanda and the Democratic Republic of Congo (formerly Zaire) have been at war until very recently, with no guarantee that their peace agreement will stick.

Which leaves resettlement. And that's where the 'queue'—which has been such an important image in the Australian government's attacks on boat people—comes into the picture.

THE RWANDAN woman and her two children were waiting in that 'queue'. The family was classified as an urgent case, but it appears the UNHCR didn't realise they faced any immediate danger. 'You must remember,' says Calle-Noreña, 'that the wife and daughter of President Habyarimana are moving around in the streets of Belgium with no problems.' But he concedes that the family had been attacked more than once in Uganda, and for that reason had been shifted to Nairobi.

It's at this point in the story that things become complicated. The accommodation centre is run on behalf of the UNHCR by GOAL, an Irish aid agency. Under an agreement with the UNHCR, no-one at GOAL would talk to me about the case, so I couldn't ask them whether they were alerted to any potential danger. After my meeting with GOAL was cancelled by their deputy director, I tried—without success—to get an answer to this question from the UNHCR.

What information I do have, though, suggests that GOAL staff were not made aware of any threat to the family. This failure on the part of the UNHCR could well be a symptom of the stress the branch is operating under following the corruption inquiry and the clean-out of

Lottery or queue?

OUTSIDE THE UNHCR OFFICE in the late afternoon, there is a stream of peak-hour traffic. Although it's winter, the air is warm and dusty as people queue for crowded, battered old buses. Beside the main road is a market selling food, clothes and fabric, and it's here that I meet three young men who are living nearby while they wait for an appointment at the UNHCR.

These men depend on charities for food and sympathetic locals for a place to sleep. Each has a quite different story to tell about why he left his home country and how he came to be in Nairobi. One of them, a Ugandan, tells me how his father, a member of the political opposition, was jailed in 2000.

'They took my father's documents and then they took my brother on top of that. And then, from there, I managed for myself.' His mother, a businesswoman, had died in 1996, so he was living alone near the international airport at Entebbe.

'I was getting assistance from some other friends. There was a certain man who was a teacher, he was the best friend of my father, so he was the one guiding me. And then recently he was knocked by a vehicle, just an accident, so I became stranded. I don't know where to go. And then on top of that those people, they were still coming there to ask me for my father's documents. So I decided to come to this UNHCR to see if they could give me assistance for my better future—that's just my aim of coming here.

'I came here by a bus, and the transport was given to me by some friends of mine who we had been studying together. It's 21,000 Ugandan shillings. I've now stayed here six-and-a-half months.' The young man first applied for an appointment at the UNHCR in May this year; his first appointment was for 27 August, just a few days after we met.

Although the political situation in Uganda has improved significantly in recent years, it is a one-party state and the government—still at war with rebel movements in the north and west of the country—has a low tolerance for dissent. This young man will need to convince the UNHCR that he has a well-founded fear of persecution if he returns to Uganda. If he succeeds, he'll probably be told to go to one of the camps near Kenya's border, where refugees can't work and—according to a staff member of the International Organisation for Migration—the food being issued to camp residents at the moment 'is not enough to live on', and health problems, including malaria, are rife.

Or the young Ugandan might succeed in convincing the UNHCR that he has an urgent case for resettlement. In which case he'll join the wait for the relatively small number of places being offered by a dozen Western countries and a handful of others.

—Peter Browne

staff. No-one I spoke to questioned Calle-Noreña's competence or his dedication to the job; one non-government aid worker described him as among 'the best' of the UNHCR people she'd met during a long career working in the field, and says he is one of the few senior UNHCR staff to meet and talk to refugees.

Any UNHCR office operating in Africa faces an underlying resource problem. Internationally, the organisation operates in a state of constant financial uncertainty. In June the head of the UNHCR, Ruud Lubbers, estimated that, of the US\$748 million in fresh funding the organisation needs during 2002, there is a shortfall of US\$99 million. (Australia's core contribution to the UNHCR was reduced from

A\$14.3 million to A\$7.3 million in the May 2002 Federal Budget.) The problem for Africa is that a significant proportion of the UNHCR's income is earmarked, by donor governments, for specific countries or regions. The imbalance between funding commitments and need is so great that the average spending per refugee in Africa has been estimated at less than a third the amount spent per refugee in Europe.

Whatever the reason for the failure at the Nairobi office, the warning was not made to GOAL and, meanwhile, the protection division was taking too long to process the application for resettlement.

'The case took a bit longer than it usually takes,' Calle-Noreña acknowledges. 'But they don't take much less

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time either. Let's say an urgent case takes between three and six months and a normal case takes one to two years. This case was submitted, upon her arrival, in May 2001, but for various reasons—people on leave, this and that—the formal submission from the UNHCR to the Australian High Commission was not effectively made until August.' (The Australian government says that the case wasn't brought to the attention of our High Commission until November.) Then, according to Calle-Noreña, there was a delay in obtaining extra information requested by Australia, including a clearance for the woman from the International Court of Justice for Rwanda. 'In November, yes, the case was—in its content—sorted out, and it went to the High Commission until ... January, February, March ... until April, when they decided, which is normal: three months for them to decide on what we call an urgent case.'

CENTRAL TO THE Australian government's case against the boatloads of asylum seekers that have arrived in Australia in recent years is the argument that these people have been taking places away from needier refugees waiting patiently in camps in countries like Kenya. Yet even the Immigration Department's figures suggest that there's something wrong with that argument. In 2001–2002, according to the department's website, 33.2 per cent of Australia's offshore humanitarian visas went to people born in Africa and 32.1 per cent to people born in Europe—far from a true reflection of relative numbers or need on those two continents.

But, as the Minister's spokesman remarked in response to the attack in Nairobi, at least Australia is taking refugees from that region. We are one of only eight countries—the others are the US, Canada, Sweden, Norway, Finland, New Zealand and Denmark—which take most of the estimated 100,000 refugees resettled each year. Another eight or nine countries take up to a couple of thousand refugees between them. The United Kingdom, the former colonial power in Kenya and several neighbouring countries, takes no refugees directly from the region; Africans (or anyone else for that matter) must make their way to the UK to seek refugee status there.

So the sheer shortage of resettlement places—and places for Africans in par-

ticular—is the first barrier for those many refugees for whom repatriation is impossible and local integration ruled out by the Kenyan government. But does the existing process guarantee that the limited places that are available go to the neediest?

'Hit and miss' is how Lena Barrett, policy and advocacy officer in the Nairobi office of the Jesuit Refugee Service, describes the process by which refugees eventually qualify for resettlement. In her office in Lavington, another suburb of Nairobi, she describes to me how the lengthy approval process can lead to immense suffering for individuals regardless of whether, as in the case of the Rwandan family, there is a politically motivated threat. Women in particular are extremely vulnerable to violence and exploitation, and in some cases that means they are never able to complete the approval process.

Although the UNHCR does treat 'women at risk' as a priority group, and several countries (including Australia) have established a similar priority in their own selection process, the resettlement countries put barriers in the way of specific groups of refugees. Anyone with a connection with a rebel group, says Barrett, will find it very difficult to get a place in any of the major resettlement countries, even if they were forcibly recruited.

At the Refugee Consortium of Kenya, set up in 1998 in response to the increasingly complex refugee situation in Kenya, Eva Maina echoes Barrett's comments. There is, she says, 'quite a gap between how things should be and how they are' in the processing system. Because of the backlog of cases, a person arriving in Nairobi in January, for example, will often not be given an appointment at the UNHCR until May, and even then it might be postponed for up to another two months. In the meantime they will be housed in one of the camps—where the UNHCR is struggling to feed refugees adequately and where there's the risk of violence from political enemies—or, illegally, in Nairobi or other Kenyan cities and towns. Once through the UNHCR's procedures, they'll come up against the backlog of cases at the embassies and high commissions of the resettlement countries—a backlog that's grown significantly since September 11 led to a slowdown in US approvals.

To illustrate the difficulties faced by specific groups of refugees, Maina

describes the situation of refugees from the Democratic Republic of Congo (DRC)—officially there are about 2000 of them—living in Kenya. Up until a few weeks ago, the government of the DRC was effectively at war with two neighbouring countries, Uganda and Rwanda, which were each backing rival rebel movements. To get to Nairobi by the most direct route, refugees from the DRC pass through Uganda and Rwanda. But when they seek refugee status they will often be asked why they didn't stay in Uganda or Rwanda, because they are the first countries they passed through. 'Because Uganda and Rwanda are heavily involved in the fighting in the DRC, these are not options for them,' says Maina. 'They come to Kenya because Kenya is the only country around them that's not involved in the war. But for a number of them the principle of "first country of asylum" has been used to disqualify them from being recognised as refugees.'

A large community of people who have fled the DRC are living in the slum area of Kabiria, not far from the consortium's office, faced with a catch-22 situation. They've been told, they say, that they're not refugees because they didn't take advantage of the first country of asylum. Maina says, 'And yet when they say to the authorities, OK, since you've rejected me can you repatriate me, they're told, "There's war in the DRC, so you can't go back home."'

THOSE ARE JUST some of the barriers facing those refugees for whom resettlement is the only long-term solution. Sergio Calle-Noreña outlines for me a few others. Anyone suffering from HIV/AIDS will be rejected out of hand by most resettlement countries, as will people with other potentially expensive health problems. 'At this stage,' he says, 'the United States and Canada have accepted people who are HIV-positive, but the rest of the countries don't.' According to Australia's guidelines, applicants will be refused 'if they have a medical condition which is likely to result in a significant cost to health care and community services or pre-

judice Australians' access to health care or community services'—a potentially large group of needy refugees.

Although the guidelines don't say so, Calle-Noreña says that Australia is reluctant to accept unaccompanied minors as well—or at least through Nairobi. 'That's a delicate point,' he says, 'because we have a lot of unaccompanied children and Australia says, "For us it's very costly, we don't have the infrastructure."' According to Philip Ruddock, though, that's not the case. 'During 2001–2002 there were 74 unaccompanied minors granted visas worldwide. Since 1 July 2002, [the Australian High Commission in] Nairobi has granted 10 visas,' he said in a written response to my question on this point.

When Mr Ruddock says that the boat people are taking the place of the neediest

refugees, he doesn't mention the fact that a significant group—people with health problems—is excluded by our guidelines. He certainly doesn't refer to the UNHCR's perception that unaccompanied minors aren't welcome. Nor does he make it clear that conditions in countries like Kenya can prevent refugees with strong cases from successfully negotiating the UNHCR's procedures and then finding a resettlement country to respond to their need.

Using the 'neediest' as a weapon against boat people avoids facing up to this reality. It avoids admitting that Australia's resettlement program is significantly less generous now—our refugee/humanitarian program is down from 20,000 per year in the early 1980s to 12,000 this year—than it has been in the past. And, by focusing on the victims, it avoids the obvious point that we should be pressuring other Western countries to institute orderly resettlement programs and increase rather than reduce their support for the UNHCR.

AFTER THE ATTACK at the GOAL facility in Nairobi, the Rwandan woman was taken to a city hospital. Calle-Noreña visited her there early that morning when, he says, she still wasn't aware that her sons had died in the attack. After seeing her he asked police to make sure that samples of the children's nightclothes were kept for analysis; to his surprise he later found out that this had not been done.

A few days later she was shifted to a guarded convent, where she was looked after by nuns while the police investigation proceeded. Now classified as an emergency case, her approval for travel had come through from the Australian High Commission. At around the time the two Rwandan suspects were released from custody, she left Kenya for Australia. No further arrests have been made. ■

Peter Browne works at the Institute for Social Research at Swinburne University and is editor of Australian Policy Online (www.apo.org.au).



Using the 'neediest' as a weapon against boat people avoids facing up to the reality of the resettlement process.

Motherhood values

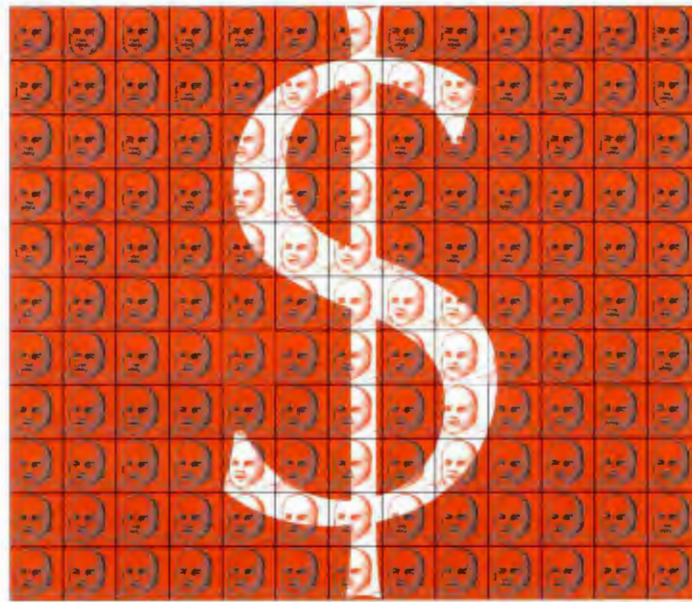
The debate has started, but how likely is it that Australia will endorse paid maternity leave?

WHEN FEDERAL Sex Discrimination Commissioner Pru Goward visited Perth to consult on her paid maternity leave discussion paper, the Acting Commissioner for Equal Opportunity for Western Australia—moi—went along.

As a well-educated statutory officer I was aware that Ms Goward's predecessor, Susan Halliday, had documented widespread discrimination against pregnant women employees in a 1999 report, whose recommendations had never been addressed by the Commonwealth. Those recommendations were meant to make it easier for businesses to sort out the muddle of anti-discrimination, industrial relations and occupational health and safety laws in place across Australia's eight jurisdictions. The muddle made managing pregnancy at work 'confusing' both for the women and their employers, said Halliday. Indeed.

At the first Goward consultation, the local representative of the Australian Chamber of Commerce and Industry (ACCI) repeatedly expressed the view that women employees who got pregnant should simply resign. It was less trouble and less expensive to replace them permanently than to hold their jobs open for return after even unpaid maternity leave. When I summarised his view thus (he agreed such was his position) a small business organisation representative became agitated and said that was a very 'emotional' thing to say. I explained I had been an employer advocate for eight years, and that was what the ACCI representative agreed he meant. Who was 'emotional' here?

The mother-and-baby icon is an emotional one (poor Joseph: always looking on). Unfortunately this has meant



Goward's discussion paper (*Valuing Parenthood: Options for Maternity Leave*) is being read through an ideological lens as often as through pragmatic spectacles. It has also been entirely misread by some business organisations who expect (and thus 'find') a secret feminist plot to make small business and employers pay for tomorrow's workforce and pensions.

Paying mums of young babies because they have young babies or even to have them is not a new idea. It was a 'welfare state' option after World War II. It had even been popular in 1930s Germany (mothers of more than ten children got 'mother medals'). Australia has progressively made it unlawful to discriminate against women (and only women get pregnant) since 1977.

Though Goward does offer five options for paid maternity leave, she makes it clear that they *are* only options, and that the 'employer-funded option' (paying direct to your particular staff, or a levy on all employers) is internationally as well as

locally unacceptable—she offers it only for completeness. The only assumption Goward does make a case for is that paid maternity leave would probably be a Good Thing.

Her options are about who pays. There could be a flat-rate government payment to women in the workforce, which employers could top up. Or government-funded universal payments to all women who have babies whether or not they have ever worked. Or social-security-related payments out of a 'maternity leave fund', created by a levy on employers or out of a kind of contributory superannuation scheme.

None of the options is favoured. All have been rejected by the government—from Senator Nick Minchin ('not the taxpayer') through Minister Tony Abbott ('not employers') to Senator Amanda Vanstone (just 'no'). After all, pregnancy's a personal choice, isn't it?

Well, no, it isn't. Women have babies unless they cannot, decide not to, or are sexually inactive. That's why they are disadvantaged in public life. Motherhood isn't valued. It's not even counted in the GDP.

Why is paid maternity leave being considered now? There are many reasons, not all admirable. Maternity leave might improve the fertility rate, it's thought. Australian women are having fewer babies each year (1.7 per woman and diminishing annually), not enough to replace the current population, and we need to maintain the population for economic purposes. Goward says that the reason for the low birth rate appears to be financial.

Assuming that 'barefoot and pregnant' is not what we really want, women having babies need to be financially secure.

Modern women cannot now, if they ever could, rely on their partner to support them financially for life. Women bear not only the children, but often the financial cost of staying home from work after childbirth. Unpaid maternity leave is available under some awards and in some sectors (for example, government). Flexible working arrangements are largely discretionary, though refusal may be discriminatory in some cases. Women still take on the caring work and find it hard to balance their family responsibilities and their work demands. Many go to less demanding jobs and part-time work to do this. Some employers help them along: on 30 July the Federal Court found that Orica moved, for no objectively sustainable reason, a young, highly skilled mother to a 'significantly inferior job' when she returned from maternity leave. It may be that her supervisor reflected the company's apparently punitive ethos when, having learned that she was pregnant, he yelled that he would 'never employ a woman again' because she was the third to need maternity leave. The Court is being asked to compensate the worker for nearly a quarter of a million dollars for loss of earnings, superannuation contributions, bonus and company car, child-care expenses, and pain and suffering.

Most women don't earn such sums. And unless a work sector is female-dominated, family-friendly working conditions are a rarity. (Female dominance does make a difference—a major clothing manufacturer whose workforce is nearly 70 per cent women has just decided to give 13 weeks' paid maternity leave to all staff employed for two continuous years, just to keep their skills and loyalty.) Some attitudes are disgracefully sexist. For three years, one Victorian government department has defended and appealed against several Tribunal findings that it discriminated against Deborah Schou when, for no good reason, it would not let her work part-time as a Hansard reporter, via a modem, from home after the birth of her baby.

PAID MATERNITY leave is only one part of what needs to be a sustained assault on such attitudes. But it would certainly be a start. It would be a moral beginning.

What are the arguments against paid maternity leave? Well, the fact that it is already provided in Canada, New Zealand,

Japan, the UK, Sweden, Thailand, India, Singapore, Mongolia and Hong Kong does reveal an international trend, which, for some, is the best argument against it. Employment-related payments do 'discriminate' against mothers not in the paid workforce (and who are, by and large, already poor). Paid maternity leave will reward high flyers—many of whom have already got an entitlement to at least some such leave in their employment contracts or conditions of work. (A universal scheme would at least be more equitable.) Paid maternity leave might, as John Howard has suggested, increase discrimination against women. Pru Goward told the Women, Management and Employment Relations Conference in Sydney on 27 July that she had been told that small businesses were using 'paid maternity leave' as a reason for not hiring women. If so—and it sounds like rhetoric to me—it is unlawful and they should be sued.

It is true that no maternity leave scheme can be simple. As Catherine Hakim has pointed out in *Work-Lifestyle Choices in the 21st Century* (which both Howard and Goward have read) about 15–20 per cent of women are home-centred, about the same percentage career-centred, and all the others are 'in the middle'. One size never fits all. But women having babies must be supported, just as parents should be helped to manage family and work balance.

For me, it is an issue of children's rights. Every child is entitled to a family life and to the best possible quality of life and opportunity to develop their full potential. Yet while all agree that work-family balance is a Good Thing, the responses to the paid maternity leave scouting paper are mixed. State governments approve in principle (WA's Geoff Gallop) but perhaps not in practice (Victoria's Schou case). The feds (Minchin/Abbott/Vanstone/Howard) say we should crack down on divorce and encourage mums to stay at home, with maternity leave if it doesn't cost us anything. And some (but by no means all) employer organisations, such as the Australian Chamber of Commerce and Industry, just don't want it 'in my backyard'.

I look forward to a heart-wrenching solution of staggering genius from Our Leader. Perhaps a Mother Medal division of the Australia Day awards? ■

Moira Rayner is a barrister and writer.

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Courting danger

What's an ouster clause, and why does it matter? **Cheryl Saunders** argues that a recent development in migration law casts a long shadow over anyone subject to a federal government decision.

THE CURRENT TENSION over refugees and immigration has one important by-product that is little-known because of its complexity, but important nevertheless. It is the weakening of three key constitutional principles.

The first of these constitutional principles is that parliament may confer all sorts of power on the executive—that is, on ministers, public servants or tribunals—but that in doing so, parliament will use terms that say relatively clearly what it is authoris-

'In a representative democracy those who are subject to the law, those who invoke it and those who apply it are entitled to expect that it means what it says.' —Justice French



ing the executive to do. The second principle is that courts can decide whether the executive has acted within the legal limits of its power. The third principle is that, in reviewing the lawfulness of executive action, courts will assume that parliament intended the executive to act fairly and in a manner that is structured, rather than arbitrary.

For the most part these are common-law rules. They are, however, no less significant for that. The narrow scope of the written Constitution in Australia makes its common-law foundations all the more important. In particular, the second principle—that courts can decide whether the executive has acted within the legal limits of its power—is of such significance and such ancient lineage that it is a cornerstone of the constitutional system.

The recent weakening of these three principles has come about through the successive attempts by the federal government and parliament to inhibit judicial review of migration and refugee decisions.

In an earlier phase, parliament limited the grounds on which the Federal Court could review the

validity of refugee and migration decisions. In particular, this earlier legislation precluded the Court from measuring executive action by the standards of the common-law rules of natural justice (except actual bias) or unreasonableness (see *Migration Act 1958*, section 476). One effect of this legislation was an increase in the numbers of migration applications to the High Court, where these grounds could still be taken into account. This increase created an incentive for the High Court to modify the common-law principles, to make itself a less attractive forum for this type of litigation.

In September 2001, however, the legislative scheme changed. During the jockeying for electoral advantage that accompanied the *Tampa* litigation, parliament passed eight bills, one of which repealed these restrictions on the powers of the Federal Court. The new act instead provides (and here I am necessarily simplifying) that certain migration decisions 'must not be challenged, appealed against, reviewed, quashed or called in question in any court' (*Migration Act 1958*, section 474(1)). This is a classic 'ouster' or 'privative' clause, purporting to remove the jurisdiction of courts to deal with legal issues that arise. On its face, it seems to subject both the High Court and other federal courts with a migration jurisdiction to the same regime.

Read literally in application to the High Court, however, the section is flagrantly unconstitutional.

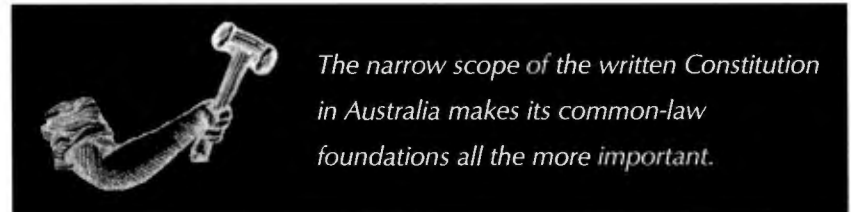
One of the few explicit protections of the rule of law in the Australian Constitution is section 75(v). Stripped of its technical language, its effect is to give jurisdiction to the High Court to deal with claims about the lawfulness of Commonwealth government action. This jurisdiction cannot be taken away without a constitutional amendment. It would be unusual for the parliament to ignore the text of the Constitution in this way—and for the reasons given below, it has not done so, despite appearances. While it is positive that parliament has not ignored this section of the Constitution, the fact that the meaning is not

clear from the legislation itself is contrary to other constitutional principles—namely, the transparency of acts of parliament, and the accountability of governments and parliaments for the rules they prescribe. As Justice French of the Federal Court puts it, in his judgment in *NAAV v. Minister for Immigration and Multicultural and Indigenous Affairs* (2002): ‘In a representative democracy those who are subject to the law, those who invoke it and those who apply it are entitled to expect that it means what it says.’ (‘NAAV’ is a random set of letters assigned to the asylum seeker in this case.)

The ouster provision in the Migration Act—that is, that certain migration decisions ‘must not be challenged, appealed against, reviewed, quashed or called in question in any court’—does not contravene the Constitution. That is so because a particular line of judicial doctrine suggests that such a provision need not be taken to mean what it says. The logic, such as it is, is as follows. The provision cannot be interpreted as ousting the jurisdiction of the High Court, because that would be unconstitutional. On the other hand, parliament has chosen to insert the provision in the statute and the Court should, if it can, give it some effect. This can be done by the Court’s treating the provision as an expression of parliament’s intention about the scope of the power conferred on the government by the statute. The broader, more flexible, less restricted the executive power, the smaller the opportunity for review by the courts.

This doctrine is generally attributed to the *Hickman* case (*R v. Hickman; ex parte Fox and Clinton* (1945)), which was decided shortly after World War II. In *Hickman*, the High Court was dealing with the legality of action taken by a Local Reference Board. The Board was established under coal industry legislation that also included an ouster clause, written in terms almost identical to the one now in the Migration Act. The Court found that the action was invalid, and to that extent the ouster clause had no effect. In coming to this conclusion, however, one of the justices, Justice Dixon, rationalised the presence of the ouster clause as an aid to interpretation of the statute. In a formulation that subsequently proved influential, he suggested that, thus construed, an ouster clause would preclude Court review of a government decision unless the decision was unconstitutional, was not made in good faith, was not ‘reasonably capable of reference’ to the power conferred on the executive by the statute, or did not ‘relate to the subject-matter of the legislation’. Chief Justice Black of the Federal Court applied this formulation recently in the *NAAV* litigation. He accepted that the Migration Act’s ouster clause expressed ‘the Parliament’s intention that the Minister’s satisfaction is to be taken to exist even if the Minister (or the delegate) has identified a wrong issue, asked a wrong question, ignored relevant material or relied on irrelevant material’.

The effect of this approach is to distort the words of the Migration Act. Most obviously, the ouster clause does not mean what it says. Even worse, at least some of the limits placed by the statute on the power given to the executive do not mean what they say, either. It is not unusual for principles of statutory interpretation to modify or augment the words of a statute. But this is different, for at least two reasons. First, the modification of the statute is unusually



The narrow scope of the written Constitution in Australia makes its common-law foundations all the more important.

dramatic and amounts to a redraft. Second, principles of statutory interpretation generally favour individual liberty and the maintenance of constitutional checks and balances. The *Hickman* principle, in its application to the High Court, has the opposite effect.

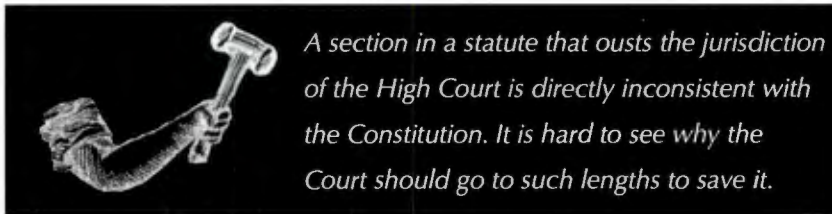
SO WHY HAS THE *Hickman* doctrine survived for almost 50 years? The short answer is that it has been applied and endorsed, by the High Court and by other courts, thus providing a body of precedent on which the Minister relied when including the ouster clause in the Migration Act. However, this short answer begs the question: why have the courts themselves allowed *Hickman* to develop this authority?

The explanation appears to be two-fold. First, the *Hickman* doctrine has sometimes proved quite useful as a tool to discourage litigious nit-picking. Some of the cases in which the High Court has invoked it have involved challenges to decisions of industrial relations tribunals, against the background of a prickly relationship between federal arbitration bodies and the federal courts. Second, the *Hickman* approach has provided an expedient way of controlling the scope of clauses ousting the jurisdiction of state courts or federal courts other than the High Court. The jurisdictions of these courts, unlike the High Court, lack constitutional protection and can be ousted with relative ease. Rather than giving an ouster clause full effect in relation to these courts, *Hickman* enables such a clause to be defused to a degree, by treating it as a statement about the scope of the executive’s power.

Even with these ‘positive’ effects of the *Hickman* doctrine, we are still left with legislation that does not mean what it says. In these circumstances, however, the cost is balanced by the preservation of some remnants of judicial review.

Not surprisingly, there has been a spate of challenges to the validity of this new use of an ouster clause in the Migration Act. These challenges have

exposed the full potential of an ouster clause for effectively limiting judicial review. Five such challenges were drawn together by the Full Court of the Federal Court in *NAAV*. This same litigation was accompanied by a highly publicised (if indirect) exchange between the Minister for Immigration, Philip Ruddock, and Chief Justice Black. In the face of a string of High Court precedents, the Federal Court in *NAAV* regarded itself as constrained by *Hickman*, although differences in analysis and outcome on the part of the five justices involved exposed the uncertainty about exactly what *Hickman* means. Meanwhile, in early September, argument took place in the High Court itself in a group of migration cases, including



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the appeal in *NAAV*. Potentially, this could bring the issue of the validity and effect of such clauses to a head at last.

The High Court may, however, use this opportunity simply to clarify the meaning of the *Hickman* doctrine and in particular the types of errors that will be reviewed by the courts despite the presence of an ouster clause. At first glance, there is much to favour this result: judicial precedent; the government's stated expectations; the convenience of *Hickman* as a way of keeping minor problems out of the courts; the potential of *Hickman* for diminishing the effect of ouster clauses in state legislation. But constitutional principle suggests otherwise. A section in a statute that ousts the jurisdiction of the High Court is directly inconsistent with the Constitution. It is hard to see why the Court should go to such lengths to save it, particularly when, in doing so, the Court falls foul of further, fundamental principles on which the Australian constitutional system is based.

And in any event, there are other ways of dealing with the problems that *Hickman* has been used to address. The courts are well able to distinguish between minor and other illegalities without the complication of *Hickman*. They are able to discourage inappropriate litigation, as the outcome in *Re McBain; ex parte Australian Catholic Bishops Conference* showed, albeit in somewhat extreme circumstances. They have other interpretative tools to draw the teeth of ouster clauses, which have been put to good effect elsewhere in the common-law world.

Those inclined to dismiss these issues as merely another skirmish over migration policy and of no interest to them: take note. The outcome of these cases will determine the extent to which a govern-

ment, through parliament, can restrict recourse to the High Court in all areas of federal decision-making—including taxation, social security, aviation licensing, broadcasting, nursing-home approvals, corporations and securities regulation, and competition policy. If, as a result of these cases, *Hickman*-type clauses are held to mean that governments need not act fairly and may act in an arbitrary fashion, the conclusion has general application.

Of course, even without *Hickman*, it is possible for parliament to pass legislation stating that the government need not give people affected by a decision the opportunity to respond to allegations against them, and that the government may act arbitrarily or whimsically in particular circumstances. But the parliament can be held accountable for such legislation and it is more embarrassing to enact. It is also likely to attract greater attention on the way through parliament than legislation that imposes limits on government power but that also includes an apparently technical statement dealing with the jurisdiction of the courts.

AND THERE IS A final irony: the ouster clause in the Migration Act, with its potentially corrosive consequences, may be less effective in achieving its goals than the government hopes. Two justices in *NAAV*, Justice Wilcox and Justice French, state that the apparent rationale of the legislation is to decrease the numbers of applications for review of migration decisions and thus to decrease the cost of litigation to the Immigration Department. But both justices express doubt about whether the legislation will have this effect. Their doubt is based partly on the increase in litigation following the earlier attempt to restrict recourse to the courts, and partly on the fact that the inherent uncertainty of the *Hickman* principle leaves desperate applicants with some apparent room for hope.

Unusually, both justices note other measures that might be equally or more effective. First, they suggest that better information might be supplied to unsuccessful refugee applicants about the nature of judicial review, and by extension their relatively limited prospects of success. Second, they suggest the introduction of a two-stage judicial process in migration and refugee cases to allow those with no prospects of success to be eliminated after consideration of the relevant documents, without a hearing.

These options, and other alternatives, have the potential to discourage litigation that has no prospect of success, and would be more consistent with what we claim as our constitutional standards. Has the government's hostility to the courts prevented it from identifying alternative solutions? ■

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Getting rights right

Sir William Deane's stance on Aboriginal issues was compassionate and conciliatory. It was also confusing, argues **Duncan Campbell**.

MOST AUSTRALIANS of sufficient goodwill to have crossed a bridge in support of Aboriginal causes would instinctively accept Sir William Deane's approach, as governor-general, to a range of policy matters about Australian Aborigines. They would also accept that self-determination is an indispensable means to solving Aboriginal problems.

The same Australians would generally consider that the Coalition government's policies on the same issue seem mean-minded. It can be argued, however, that Sir William miscued, that self-determination is irrelevant, and that there are related constitutional implications deserving more study.

Prior to becoming governor-general, Sir William was already seen, at least by conservatives, to be bearing some contentious cargo from the Mabo case. Subsequently, he has maintained his gentle rage, with a seeming tendency to err on the side of over-extrapolation. Perhaps he reached the sort of conclusion that, to take a hypothetical case, would attribute public responsibility to a documented bush massacre at private hands in 1841, while overlooking the public role of the then Protector of the Aborigines. There is still much to be settled about the duty of the successor state to apologise for past wrongs. To pursue the example: is it for today's government to respond to a massacre by brutal individuals, or to the failure of a frustrated official protector? Advocacy at the highest level must surely rest on accuracy and the absence of ambiguity. Distant events can be opaque and their significance hard to grasp. But some are becoming more accessible to the general observer. Take the balanced way in which

Inga Clendinnen portrays the 1840s Chief Protector, G.A. Robinson, in her 2000 memoir, *Tiger's Eye*. Or the cold and disturbing objectivity of the portrait of another Protector, O.A. Neville of Western Australia, working a century later, in the recent film *Rabbit-Proof Fence*.

Sir William continues to speak gently, but somewhat generally. More radically, as governor-general and vice head of state, he gave every appearance of taking positions on politics and policies. He acted as if, like the Prime Minister and head of government, he had an elective mandate to do so. Previous governors-general have also upheld or sought to introduce community values, but in circumstances that were, comparatively, more neutral.

Sir William's posture on Aboriginal issues was rightly recognised as compassionate and conciliatory. However, in maintaining it, he was also changing the role of governor-general, and confusing the electorate's comprehension of it, without constitutional amendment or political debate about that change. At precisely the moment when Australians were considering replacing their head of state, the vice-regal incumbent of the day was recasting the position, seemingly without reference to historical context. And these developments also coincided with the centennial commemoration of federation and the Constitution.

There was no mandate from the electorate, Executive Council or government to make such change. Yet Sir William, as keeper of the Constitution, its conventions and the laws of the Commonwealth, extended his role and exploited its wider scope. He did so to the extent that there was little doubt, during and after his term

of office, that he had an agenda for Aboriginal affairs that differed markedly from John Howard's.

So, what's wrong, anyway, with moral leadership from the head of state, especially at a time when many lament that such leadership is not coming from the Prime Minister as head of government? Two questions follow. First, by what right is this leader's mantle, this role of oracle, arrogated by any governor-general? Second, in what light should he or she conceive and communicate a moral position to the rest of us? Bear in mind, this is to be moral guidance for the purposes of governing in a constitutional democracy with compulsory voting.

EMINENT NON-POLITICAL figures who are likely to accept the appointed office of governor-general, and who believe that it is a second role of that office to express or embody our national values, may not be prepared to run for the office of elected president of an Australian republic. Any reluctance to enter the political ring in this way would be understandable. But shouldn't those holding such scruples then feel correspondingly reticent about manifesting the electorate's moral values?

If the Australian head of state reflects a moral judgment at variance with the government's position, relying on some extra-Constitutional prerogative to do so, then that judgment must necessarily be *ex cathedra*, and essentially authoritarian in nature. Democracy abhors such moral certitude to the point of enshrining the right of the majority of the electorate, at any given time, to be wrong. There is no certainty of rectitude or accuracy, even

with judge and jury. We have, for example, discarded the death penalty.

Moral prescription in political affairs is an infection that ought to be resisted by democrats because experience teaches that it is a warning sign of impending intolerance and worse.

Sir William may have inadvertently started us on a slippery slope. With startling alacrity, segments of our electorate have moved from accepting a ceremonial head of state (holding certain discretionary reserve powers and appointed privately by the Prime Minister) to insisting that the office-holder have a track record of commitment to complex contemporary moral and ethical standards. The assault on Dr Peter Hollingworth in this new political environment suggests that public opinion is not only digesting the Deane model, but beginning to take for granted that popular appointment and dismissal have already arrived in advance of an elected presidency. If present trends continue, the criterion for tenure of office will be a media verdict based on compliance with some populist and non-constitutional moral norms. Whether the Hollingworth appointment, ill-considered or otherwise, retards or reverses this process remains to be seen.

MEANWHILE, THE search for alternative Aboriginal policy must move away from Yarralumla. It must also discard self-determination as a point of reference.

Indigenous Australians were dispossessed and, in the spirit of Mabo, it is probably fair to say they were disenfranchised. They are the last indigenous people in the former British Empire, now the Commonwealth, to be denied the right of self-determination—that is, denied the right under international supervision to an unfettered choice between independence, or self-government in free association with an independent state, or absorption into such a state. Self-determination, properly understood, is not an ongoing process but a finite procedural stage.

Peoples colonised by the British in Africa, Asia, the Caribbean and some Pacific Islands have had their acts of self-determination. That leaves the Maoris, who signed an historic treaty and have special representative privileges, and the Canadian Indians, who have collectively rationalised their positions—both well ahead of any comparable outcomes in Australia.

Self-determination has long been a mirage, and misunderstood in Aboriginal Australia. In 1985, at a conference of the International Indigenous Administrators at Uluru, I argued to Charles Perkins and a number of his colleagues among Maori, Hawaiian, and North American Indian representatives, that self-determination gives no guarantee of self-government, let alone independence. UN-sponsored plebiscites can also sanction assimilation, as happened in the Cocos Islands.

Current debate about Aboriginal policy is often misleadingly characterised as occurring between the assimilationists (the Howard government) and those seeking Indigenous policy based on supposed self-determination principles and good governance. The result is an unreal polarisation into opposing camps of assimilation and separation. The badge of separation would be a treaty, bringing in its train the prospect of unlimited litigation. The first remedy should be to acknowledge that self-determination ceased to be an option before federation, and the same therefore applies to any constitutional notions of Aboriginal nationhood, self-governing status or treaty-making authority.

Here are two recommendations that might help all Australians to chart a new course together.

First, erect a permanent monument in the Constitution to the fact that the First Australians were deprived of their right to self-determination. This would be an all-embracing Mabo move. It would recognise that the invading settlers violated other rights and systems besides land rights and tenure. Second, compensate in the Constitution for that deprivation by conferring on Indigenous peoples, in perpetuity, protected representation in the national legislative process. In other words, let recognition, and some restoration, of their unrealised political rights be the foundation of reconciliation. Allow their voices to be heard routinely as federal parliament, step by step, enacts the ways in which we are reconciled. We would have no difficulty, were there to be a national apology, in confirming that the Prime Minister of the day should make it. And surely the first parliamentary representatives elected from Aboriginal and Torres Strait Islander communities would be the most appropriate recipients.

We spend, as we should, much thought on the human and legal rights of refugees

seeking to come to Australia. However, the refugees created by Australia in their own land and displaced in it for 200 years have a prior claim on our attention.

To echo Frank Brennan (in an interview on ABC Radio National, 6 April 2002) we haven't yet found the 'recipe' for reconciliation. Reconciliation is a process, not a one-off gesture. A critical factor, in fact a catalytic one, must be the introduction of Indigenous legislators, to participate particularly at the federal level. Just look at the impact on John Howard of Senator Aden Ridgeway's arrival in parliament: the Prime Minister was drawn promptly into dialogue and negotiation.

As a transitional measure, the Coalition and the ALP could agree to place Indigenous candidates in safe positions on their senate tickets in, say, two states. The immediate effect would be to provide five Indigenous senators (including Ridgeway). It can safely be assumed that, across party lines, they would soon force a new and broadly representative national Indigenous affairs agenda on the government and opposition. Ridgeway's position in the Democrats suggests how much influence could be brought to bear.

Simultaneously, there could be a constitutional study of a nationwide Indigenous electoral roll, to provide an alternative to Aborigines and Torres Strait Islanders voting from the general roll. The study could also advise on the numbers of Indigenous parliamentary members who might be elected nationally based on the size of the Indigenous roll. Such a study would find numerous variants and options—and undoubtedly objections and obstacles.

It could, however, mean setting out on a new path. We could restore to the First Australians an assured say in the management of their land, provide constitutional compensation for the deprivation of the right of self-determination, and clear away the angst about assimilation and apartheid. Nor would it be the 'ameliorative discrimination' earlier contemplated by distinguished constitutional lawyers like Professor Geoffrey Sawer. Rather, it would mean bestowing a legitimate right in place of one stolen. Could 'No reconciliation without representation!' become a rallying cry? ■

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Taking orders

It's time to take a fresh look at the nature of ministry.

FORTY YEARS AGO, the Second Vatican Council opened. A colourful but minor player there was Cardinal Bacci, whom it may not be unfair to caricature as the last of the Renaissance cardinals. In fact, at the time of the Second Vatican Council, people were still speaking of cardinals quite undemocratically (and untheologically) as 'Princes of the Church'.

This prince was a Latinist of note, and throughout endless General Sessions of the council he had to sit through painful dialectical variations put upon his beloved language by German, Spanish and—God pity them all—Oxford-trained linguists. Topping that, he endured the indignity of complaints by US bishops that they did not understand what he was talking about.

At one point of an early debate on the Constitution of the church, he reverted momentarily to Italian. The aspect of the church then under discussion was the introduction of married male permanent deacons—that is, deacons who would not be on track for ordination as priests. This idea was meeting with a hostile reception from certain quarters. Cardinal Spellman of New York led the charge. The notorious Cardinal Ottaviani, head of the Holy Office (today's Congregation for the Doctrine of the Faith) was more or less outraged by the proposal. (In the end, it got up fairly easily, with 1558 votes to 525.) Marriage was the hurdle. Spellman put it this way: the Council had the option of creating a situation of 'fewer priests along with permanent deacons, or more priests without them'. (What would he think today?)

Bacci, on the other hand, got poetic. Horrified at the prospect of anyone who had received the sacrament of matrimony going on to receive the sacrament of orders, he evoked the image of the church as a building fitted with large and little



windows. Inside were the celibate clergy, and outside were the laity, including the women who were the prospective partners in the matrimonial stakes. The 'finestrella' (little window) of married deacons, warned Bacci, would become the 'finestra' (large window) through which aspirants to the higher celibate order of priests would flock out of the church.

In the 40 years since that debate of 1963, much has disturbed the once-settled and seemingly immutable hierarchical order of the Roman Catholic Church. In more recent years, of course, the authority of the hierarchy has been undermined, under blazing publicity, by the sexual crimes and misdemeanours of bishops and priests, and by the inept or duplicitous responses from the hierarchy and even the Vatican itself.

A force at work in the ongoing destabilisation has been the increasing role of non-ordained women and men in pastoral roles and activities that were once sedulously reserved for priests and bishops. The new levels of pastoral involvement stemmed in the first place from new

ecclesiology implicit in much of the *Dogmatic Constitution on the Church* of 1964 and in later conciliar documents. Thus, pastors 'should ... assign duties [*officia*] to them in the service of the Church' (*Lumen Gentium* 37).

To push that theological line, however, is still to stir up a hornets' nest. In 1997, the Vatican issued the instruction 'On Certain Questions regarding the Collaboration of the Non-Ordained Faithful in the Sacred Ministry of Priests', under the signatures of no fewer than eight heads of departments. The London *Tablet* characterised the document as 'a sort of ecclesiastical apartheid', and dubbed it 'a rebuff to the Catholic laity'. The reality remains, nonetheless, that the theological issues have long since been overridden by what goes on in parish life, with the blessing of bishops in dioceses increasingly deprived of fit priests. In these situations, non-ordained men, but mainly women, administer parishes or collaborate intimately in the range of pastoral activities historically rooted in the sacramental and pastoral theology of priesthood.



SHAPING CHANGE

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*Shaping Change Conference is organised by
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As well, and unavoidably in the context of modern ecumenism, what goes on in one church profoundly and increasingly affects understandings in another. Without doubt the most significant illustration of cross-pollination of this kind is in the divisive issue of the ordination of women, particularly as the issue works its way through pre-Reformation churches. Roman Catholics with irons in this fire look most closely, naturally, to the way this issue was developed in the Anglican communion. Although the agenda there contains a deal of unfinished and untidy business, the Church of England itself legislated for women to be ordained deacons (in 1985) and priests (in 1992). As this process got under way, Pope Paul VI promptly informed the Archbishop of Canterbury in their correspondence of 1975 that ordaining women priests would introduce 'an element of grave difficulty' to dialogue between the two churches. Just how grave this was to be became clear in John Paul II's Apostolic Letter of May 1994, *Ordinatio Sacerdotalis*. This short document taught 'definitively' that even the church does not have the authority to ordain women to the priesthood.

In Catholic circles, this declaration brought an abrupt end to long-standing public debates about the theological possibility of women priests. Indeed, the declaration proscribed discussion of the question, and bishops were required to do nothing that might foster women's aspirations for ordination. For years these aspirations had been ardently expressed, especially in response to the Declaration of the Congregation for the Doctrine of the Faith of 1976 'that the Church ... does not consider herself authorised to admit women to priestly ordination' (the phrase taken up 20 years later by John Paul II). Theologians who favoured the ordination of women, as well as lobbyists of the cause, felt particularly aggrieved by this decision in the light of the prior advice to the Congregation by the Pontifical Biblical Commission that on biblical grounds it saw no obstacle to the ordination of women.

Not unexpectedly, movements for the ordination of women emerged. In places, these movements owed much to similar earlier movements in the Anglican communion, which had been so effective in giving the issue a public profile and in the 'conscientisation' of enormous numbers of women and men. For many others it

was feminism pure and simple that forged a new resolution. The organisations themselves are normally of a national character, but smaller groups operate, and an international umbrella organisation is also in place. You can see the range and style of the groups on the website www.womenpriests.org.

INTERESTINGLY, a significant part of the Anglican strategy has not been broadly applied in the campaign by Roman Catholic lobbyists. The Anglicans set up a first target in the ordination of women deacons. In many Roman Catholic circles, however, especially proactive English-speaking ones, the diaconate holds little appeal. In those countries where the male permanent diaconate is prominent (pre-eminently this means the United States, where over 11,000 permanent male deacons have been ordained, although geographically they are spread unevenly) the prevailing image of the deacon is of a liturgical assistant. The image is inadequate and inaccurate: deacons, in fact, are required to offer and develop a specialist area of social service, although for almost all of them this is a part-time and unpaid contribution. Members of the congregations, however, are mainly aware of deacons in their midst when they see them vestmented and distributing communion during Sunday Mass.

In Australia, which has only some 50 deacons across a handful of dioceses, the deacon has a low profile in local parish life. This is largely because professional lay pastoral roles were already in place—filled mostly by women—before some bishops moved to introduce the permanent diaconate. In the eyes of most women, accordingly, ordination to diaconate appears to be an irrelevancy. What's more, they mostly reject what ordination as deacons appears to imply—converting pastorally active women into minor and subservient members of a clerical caste.

The picture has been very different for women of other cultural groups. In particular, Germany, which is the home of the modern diaconate, has had a vibrant movement for women deacons since the 1950s, supported by male and female theologians and sponsored by some bishops. Even earlier, in the 1930s, Edith Stein (the Polish philosopher who became a Carmelite nun and was executed as a Jew in Auschwitz) argued the case independently. And after

the brilliantly orchestrated campaign for male permanent deacons, to which Karl Rahner lent his weight in the lead-up to the Second Vatican Council, women seized the opportunity created by what men had achieved at the Council and advocated their own cause with increasing confidence.

The case of the German women was, however, simpler to argue because of the type of diaconate that the German men had described and promoted. Although the Second Vatican Council was to lay down a broad platform for a diaconate 'of the liturgy, of the Gospel and of works of charity' (*Lumen Gentium* 29), what the German founding group had envisaged and worked for was a diaconate of works of charity, expended especially on areas beyond the normal reach of traditional pastoral activity.

The group had an inspiring leader in the late Hannes Kramer. Collaborating with his wife and other female friends, he supported efforts for the inclusion of women in the kind of diaconate he and his peers were practising. Since its defining function was service to the needy, women and their supporters could easily develop theological justification for their inclusion in a diaconate of that kind. Although initiation into it would mean women receiving the sacrament of orders, as deacons of service they would not be encroaching upon the field of sacramental ministry exclusive to male members of the hierarchy.

Support was widespread. In 1969, the International Diaconate Centre was established in Freiburg im Breisgau (of latter years located in Rottenburg). The centre has sponsored international seminars on the issue, and its journal, *Diaconia Christi*, continues to publish studies by respected theologians. Prominent among these has been Professor Peter Hünemann, who has also been associated in similar endeavours elsewhere with Herbert Vorgrimmler and Yves Congar. From the 1970s onwards, several German and Swiss synods formulated sympathetic recommendations. Bishops like Cardinal Höffner of Cologne encouraged women to take the initiative in promoting their cause or, like Bishop Walter Kasper (now the Cardinal Secretary of a Vatican congregation), undertook to promote their cause in Rome.

The published papers of the First International Congress for Women's Diaconate

in Stuttgart in 1997 provided over 400 pages of theological and historical studies. Published shortly afterwards, Dorothea Reininger's magisterial study, *Women's Diaconate in the One Church (Diakoniat der Frau in der Einen Kirche, 1999)* mounted a comprehensive argument, with a foreword by the president of the German Bishops' Conference, Bishop (now Cardinal) Karl Lehmann.

In light of such a powerfully developing momentum, it is puzzling to see recent shifts in official thinking on the question of women deacons. In September 2001 Cardinal Ratzinger, who is himself on record as seeing no theological barrier to the ordination of women deacons,



issued a Notification requiring the closure of courses designed to prepare women for the diaconate. Such courses, it was noted, aroused 'hopes which are lacking a solid doctrinal foundation'.

If this has an ominous ring to it for advocates of women deacons, recent leaks from the International Theological Commission are even more dismaying. The Commission is a large international body of theologians which prepares briefings for the Congregation for the Doctrine of the Faith on matters relevant to its concerns. In 2001 it was asked to prepare a study on the diaconate. The outcome is confidential. Nonetheless, more than one member appears to have flagged the way opinion is developing. Significant are the comments of Gerhard Müller (professor in the Catholic faculty of theology in Munich), who has publicly indicated that, on theological grounds, the sacrament of orders is beyond the sphere of women.

Müller had previously rehearsed the theological grounds of his argument in two small books of 1999 which, in 2000, he brought together in a revised single volume called *Priesthood and the Diaconate: The Recipient of the Sacrament of Orders from the Perspectives of Creation Theology and Christology*. Included in his presentation of tight systematic theology and of a looser reading of biblical and patristic material is a dismissive critique of Dorothea Reininger's volume.

With her scholarship out of the road, he launches into the main argument based on the essential differences between woman and man. The clinching argument, however, is that the sacrament of orders—at whatever hierarchical level—is intrinsically orientated to priesthood, an orientation that puts that sacrament out of the reach of women. In regard to the diaconate this is indeed an odd position to advance, especially as the Second Vatican Council cited the ancient dictum that deacons are ordained 'not unto the priesthood, but unto the ministry' (*Lumen Gentium* 29).

Over recent years, theology of the diaconate has been attracting considerable attention, most of it directed at establishing new understanding of the order. In the Roman Catholic context, in addition to the German colloquium alluded to above, *Ein Amt für Frauen in der Kirche* (1997) and Reininger's major study, *Diakoniat der Frau* (1999), there are: Phyllis Zagano's *Holy Saturday* (2000), which elaborates an argument for women deacons; a major Belgian colloquium, *Diakoniat XXIe Siècle* (1997); and John Wijngaards' *No Women in Holy Orders! The Women Deacons of the Early Church* (due November 2002). In the Orthodox context we have Kyriaki Karidoyanes FitzGerald's *Women Deacons in the Orthodox Church* (1999), which follows the heroic initiatives of Elisabeth Behr-Sigel in the 1980s.

In the Anglican context, there is last year's report to the General Synod, *For Such a Time as This*. On the ecumenical front: the Hanover Report of the Anglican-Lutheran International Commission, *The Diaconate as an Ecumenical Opportunity* (1996); the imminent third volume of the Anglo-Nordic Diaconal Research Project (1999-2002); and my own *Deacons and the Church* (due October 2002). Not all of this is in perfect harmony, but it could at least be said to be open-ended.

Roman Catholic women should take heart at the opening of many windows upon possibilities for them to enrich the life of their church through being called to the sacrament of orders. That certainly is the direction in which this sampling of the literature is pointing. But open windows work two ways. You can go in or you can go out. ■

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Forty years away

But never forgotten. The Second Vatican Council resounds through the life of the church, still disturbing, still animating.

WRITING ABOUT anniversaries can be an invitation to boredom. Because anniversaries mark distance as well as summon memory, their recorders often try to close the distance by portentousness. So it is well to ask first what kind of anniversary we are dealing with, and why it should be remembered. Or so ran the admonition from friends when I began to write about the Second Vatican Council on the occasion of its 40th anniversary.

There are, of course, as many anniversaries as there are events. And each year more are added. It is, for example, 48 years since Footscray won its first and only VFL premiership. For me it was a significant event: I supported Melbourne, the defeated team, and this was the first Grand Final I attended. Not a happy occasion, and made worse by a garrulous Footscray supporter determined to anniversarise the event in florid and bad prose even as it was happening. Forty-eight years on, it remains an event unique of its kind whose narration will interest those who were involved in it, but no-one else. Most anniversaries, including that of the Second Vatican Council, are generally told as stories for participants.

For many, however, the anniversary of the Council has more in common with Wordsworth's reminiscences of his first visit to revolutionary France in 1790:

Bliss was it in that dawn to be alive,
But to be young was very Heaven! O times,
In which the meagre, stale, forbidding ways
Of custom, law and statute, took at once
The attraction of a country in romance!

Wordsworth could not dissociate the Revolution from his own youth and from his surmise that the world could be changed for the better. Many whose religious formation preceded the Council will resonate with his nostalgia. They were

enlivened by the Council, and found in it a revolutionary program for living in a liberated and attractive church. When they celebrate the anniversary of the Council, they focus on its agenda, which they view as an emancipation from 'the meagre, stale, forbidding ways of custom, law and statute'. And because those concerned with agendas quickly turn their attention to those who control the agenda, the Council and its aftermath naturally come to be seen as a struggle between conservatives and liberals. This is the participants' way of celebrating the anniversary of the Council: as an event which animated the survivors. But as in the celebration of battles, the survivors grow older and diminish, and those who come later are little interested in the celebration.

Wordsworth's memories of the Revolution were complex. He returned to France in 1792, when he confronted the Revolution's murderous side and his own terrors. He wrote of Paris as he saw it from his upper room:

The place, all hushed and silent as it was,
Appeared unfit for the repose of night,
Defenceless as a wood where tigers roam.

For some, the Vatican Council brings memories of a dangerous event whose consequences left the church 'as defenceless as a wood where tigers roam'. They believe that even though it did not intend it, the Council led to a pathological theory and practice in the church. As a result of the Council, they would argue, the Catholic Church has been betrayed either by its participants or by its interpreters. Those of this mind will mark the anniversary of the Council as a cautionary tale. Like those who look back to it as a liberating event, their focus is on the Council's agenda, and on those who struggle to control it. They set in opposition those who

defend the tradition of a faithful church and those who wish to pervert it. This form of remembering is also a game for insiders and offers little to those who are not partisans.

Significant events can also be remembered because their documentation shapes institutions. The anniversary of Australian federation offers a useful example. Like other celebrations of the kind, it produced much discursive comment on the significance and the limitations of the Australian Constitution. But it aroused little excitement. At the heart of this kind of celebration lies painstaking scholarship that investigates the historical context of the Constitution and its influence on Australian development. The Council, too, left a collection of documents, around whose interpretation and historical context a large body of scholarship has grown. This work goes on all the time; it is merely popularised by anniversaries, and finds a market during them. Commemorations that focus on this aspect of anniversaries are usually heavy and didactic. The distance between texts and people is so evident that it readily provokes solemnity.

But beyond mere noting of an occasion, beyond partisan response and beyond documentation, there may be another way of remembering Vatican II. It may be celebrated as a cultural event that revealed how much the world had changed, and that continues to influence further change. Australian events like Gallipoli or even the response to the Beatles when they first came to Australia were of the same kind. Gallipoli etched war and the martial virtues into Australian identity, and, by the loss of so many young men, shaped the national life. The Beatles showed that young Australians form a group and a market distinctively different

from their elders, one ripe for recognition and exploitation.

It may be as such a cultural event that Vatican II is more worth noting—an event which introduced ideas and processes that are still at work and that continue to influence the directions of further change within the Catholic Church.

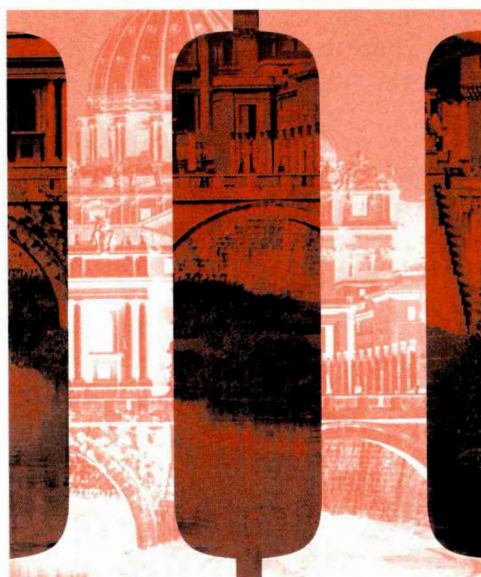
Events that reveal large change are often domestic and apparently trivial. The sight of farm after farm ploughed by ageing men on tractors, for example, might indicate the depopulation of the countryside and the stress felt in rural communities. Visible church events are inherently domestic and local, but can be equally telling. Take, for example, a funeral in a suburban church. The parish priest asked one of the women in the church if there were enough consecrated breads in the tabernacle to ensure that the large congregation could receive Communion. She took the key, checked the tabernacle, and reported back, 'She's chockers, Father.'

An everyday and undramatic event, but one whose ordinariness shows how greatly and irreversibly everyday relations and expectations have changed. A generation or two ago, no priest would have sent a lay person to inspect the tabernacle. This was the most sacred of places, and reserved to priests to inspect and to handle. That lay people, including women, could be asked to attend to it indicates changed patterns of relationship between clergy and laity. Before the Council, the preferred image of the church was that of a hierarchical society. The Council documents gave precedence to the more democratic image of the People of God. The more equal relationships between laity and clergy suggested by this image have been generally accepted as normal. Clerical dress, the assumption of clerical authority by right, and the defence of clerical spheres of influence have become the exception, not the norm. While these directions have been resisted, those who wish to restore older patterns have to carve out the territory they wish to defend. When they move on, the newer patterns of relationship are quietly and quickly resumed. Furthermore, the sharing by clergy with laity of roles and work which were previously confined to priests will continue to shape the ways in which Catholics imagine the church.

The second set of relationships involved in this story are evoked by the woman's colloquial reply, 'She's chockers,

Father.' A generation ago, such language about the tabernacle would have been felt to be irreverent. Tabernacles, sacred vessels, and consecrated breads were uniquely privileged places of God's presence, before which one walked and talked circumspectly. Priests and religious, committed to a life of holiness, might be at home there. But everyone would walk reverently in churches, particularly when receiving the sacraments of confession and Communion.

THE FORMS OF reverence have changed. Churches are not uniquely privileged places of God's presence, and even in churches God is sought and found in ordinary human relationships as well as in silence. As a result, reverence is expressed



less by mandatory quiet, and more in moments of heightened awareness. The language of address to God is more colloquial, and more attuned to the rhythms of daily life. These directions are embodied in the adoption of vernacular languages in the liturgy. But they are also seen in the popularity of communal services of reconciliation which emphasise the ordinary rituals of shared life. Individual confession of sins, with its emphasis on the individual's relationship to God in the solitude of the heart, is much less used.

These are sea changes which many have felt as loss. Some have complained about them, lamenting a felt loss of mystery in the Mass which they associate with a broader loss of transcendence. The proscription of the third rite, which means that communal celebrations of reconciliation cannot be seen to have equivalent

force to the individual confession of sins, also marks a reaction to what has been done. But nothing suggests that this genie can be put back in the bottle, because most Catholics have not experienced loss but a change of pattern. Individual confession, visits to churches and rituals that encourage a sense of transcendence will retain a place, particularly for young adults who discover them afresh, but they will never regain the importance they had in a church where the individual's inner relationship to God was privileged over the communal and everyday facets of that relationship.

If as a result of the Council, the everyday has been taken into the divine in Catholic life, God has also been understood to be more urgently interested in the everyday. Boundaries between sanctuary and public buildings have changed. This difference needs to be carefully delineated. The older church was just as interested in politics, but the point of engagement was closer to the centre. The feature of the post-Vatican II church is the priority given to the joys, sorrows, struggles and oppressions of ordinary people. This change of focus has been lethal in many countries, where numbers of catechists, community leaders and religious have been murdered. Their crime: to defend the dignity of ordinary people.

In Australia, as in other Western societies, the change is reflected in the natural association that young Catholics in particular see between faith and social justice. The path to an adult faith often passes through working on soup vans, tutoring asylum seekers, accompanying young people in juvenile justice institutions and periods of more extended voluntary work. Reflection on belief follows such commitments.

What Vatican II did elude capture in agendas. The world youth celebration, recently held in Toronto, saw a frail old man arousing the enthusiasm and affection of a huge gathering of young people. Yet Pope John Paul II's concerns were not the concerns of many of the young; his vision of the church differed in many respects from their vision. But both the happiness of the meeting and the differences between the protagonists represent the continuing working of the Council. ■

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THE SHORTLIST



Black Chicks Talking, Leah Purcell. Hodder Headline Australia, 2002. ISBN 0 773 61070 6, RRP \$29.95

Leah Purcell's second book boldly goes where no-one has dared go before: inside the lives and minds of nine contemporary Aboriginal women who are willing to share their stories of success and survival.

They are: Cilla Malone, mother of six, who lives at Cherbourg Mission in QLD; Deborah Mailman, AFI award-winning actress, who talks about her mixed Indigenous heritage; Frances Rings, talented dancer and choreographer with Bangarra Dance Company; Kathryn Hay, a former Miss Australia from Tasmania who reveals the complexities some Aboriginal people face over issues of identity; Liza Fraser-Gooda, a 21st-century businesswoman and the brains behind the first Indigenous Model Calendar; Rachel Perkins, proud Aboriginal woman, successful film-maker and daughter of the late Charles Perkins; Rosanna Angus, community police warden and tour guide in her beloved community of One Arm Point, WA; Sharon Finnan, former wing attack and goal attack for the Australian netball team; and Tammy Williams, lawyer and humanitarian, who aspires to work one day with the United Nations.

Purcell goes to great lengths to get what she wants from the nine women. She interviews them individually in their homes. She arranges a dinner for them in Sydney so they can all meet and chat. She has an artist paint a portrait of each of them.

Black Chicks Talking is a fascinating read. The only qualm I have is that the majority of the women are from NSW and QLD. Purcell could perhaps have interviewed women from all over the country, so we could have more of a cross-section of women and experiences. I also felt that Purcell needed her own chapter, with someone interviewing her, because at times the interviews focused as much on her as on her subject.

But that aside, *Black Chicks* is engaging from beginning to end. The women are just so different, yet so alike and so intriguing.

—Tracey Rigney

Timepieces, Drusilla Modjeska. Picador, 2002. ISBN 0 330 36372 7, RRP \$22

Drusilla Modjeska is an opener of windows and a knocker-down of walls. The *Timepieces* essays are about, among other things, honesty, subjectivity, reality and the work of writing. Context is important: not only time and place, but the confusions of history, politics, family, nationality, age and choice of influences.

Modjeska shows a natural relationship between the circumstances of a person's life and what they write. She advocates a free and deliberate movement between different genres and time periods that allows emotional connections to be seized by the intellect. She is unusually positive about the word 'I': finding a valuable honesty and specific context in saying, 'I thought this / felt this / this happened to me.' At times she takes this further than I, personally, would. But her point is not that you *should* write like this, but that you *can* write however seems most appropriate to you.

Timepieces also looks at the evolution of memoir, with its new possibilities, and the increasing popularity of non-fiction. What

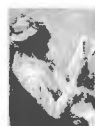


does it mean to be an Australian writer when you're sitting at your desk? What about when you're trying to publish overseas? The feminist perspective is striking: Modjeska thinks both within and beyond her generation.

But you'll have to read the book. She is too precise to be paraphrased without butchery, and is willing and very able to speak for herself.

—Susannah Buckley

Lydia Cassatt
Reading the
Morning Paper
A Novel



HARRIET SCOTT CHESSMAN

Lydia Cassatt Reading the Morning Paper: A Novel, Harriet Scott Chessman. Viking, 2002. ISBN 0 670 04027 4, RRP \$29.95

Aunt Ethel used to say with a mixture of embarrassment and defiance (like half a million other Australians): 'I don't know much about art but I know what I like.'

Well, I like Mary Cassatt (1844–1926)—one of the most talented American artists. Her work appeals as delicate, intimate and vigorous with warmth. Coming from a wealthy family,

Cassatt studied art not only in America but also in France, Italy and Spain during the 1860s and 1870s. In 1877 her parents and elder sister, Lydia, came to live with her in Paris. Cassatt was associated particularly with Degas as well as Berthe Morisot, Manet and Renoir. Many of her paintings feature Lydia Cassatt.

This unusual and charming little novel has five chapters each centred upon a painting in which Lydia posed for Mary (known in the family as May) in the years 1878 to 1880, when Lydia was chronically ill. She died in 1882.

Chessman stresses this is a work of fiction about Lydia: 'I have thought, imagined and dreamt my way into her world.' For example, she has Lydia, while ill, posing at crocheting in a country garden in September 1880, thinking: 'This is an island, composed of May and me, her brush and my gloves, my aching and her gaze. On her canvas, I become a healthy woman in blue and white. Sun and brush heal me, and French birds in a French garden.'

The author's themes of art, love, heartache and beauty impress with their elegance.

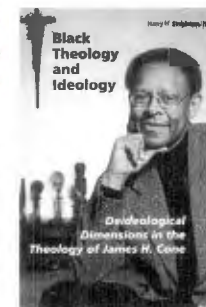
—John Sندی

Black Theology and Ideology: Deideological Dimensions in the Theology of James H. Cone, Harry H. Singleton III. Michael Glazier-Liturgical Press, 2002. ISBN 0 81465 106 2

In this book, Harry Singleton, a young theologian who was brought up in a warm church background but reacted against its political detachment, deals with the theology of James Cone. Cone, one of his mentors, is the best-known black theologian.

He offers a good account of Cone's theology, emphasising its critical aspects. Cone showed how the Western intellectual and theological tradition, and its interpretation of texts, helped the subjugation of black to white and corroded the self-respect of black Americans. Singleton uses the insights of the Uruguayan theologian, Juan Luis Segundo, who insisted on the effect that our changing social reality has on us, and particularly on the way in which wealth and power shape the way we see our world and tell stories about it.

Black Theology and Ideology is a good and modest book, which marks a personal and intellectual journey.



New tools, old tactics

Future Active: Media Activism and the Internet, Graham Meikle.
Pluto Press Australia, 2002. ISBN 1 864 03184 4, RRP \$34.95

THE INTERNET—according to so many breathless pronouncements of not too long ago—was going to deliver us into a new century of active, engaged citizenship. All we had to do was log on.

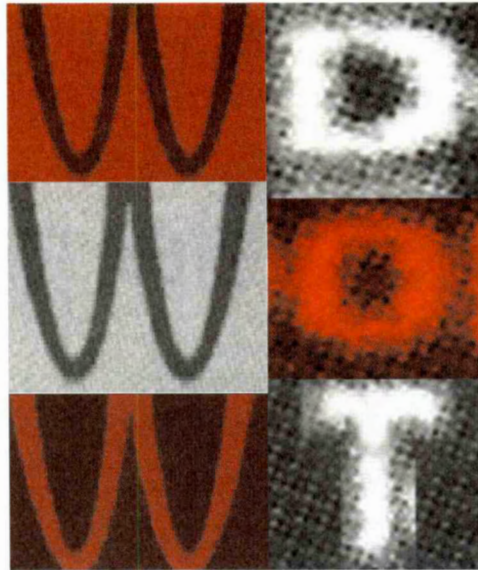
Does anyone still believe that? Not really, and that's a good thing. We've been guilty before of trying to change the substance of politics by changing the process of participation. Most of us come back down to earth when we realise that, even dressed up in the latest gadgetry, politics is still a content-driven enterprise.

But we'd be wrong too to dismiss the web as just another corporate outpost, more akin to shopping mall than town square. The internet connects all kinds of people in new and different ways. The real story of what goes on online is more complicated than the reductive headlines—positive or negative—concede. Luckily, Graham Meikle has boiled it down to a compellingly simple idea in his well-written book on internet activism: it's the ideas, not the technology, that matter.

Meikle, a lecturer in media and communications at Macquarie University, identifies three forms of internet politics. There's the evolving drama of how the internet will be governed. Will open-source software continue to exist? What constitutes spam and what can be done about it? How about hackers? Closely related, there's the question of how existing debates about ownership, control and censorship of radio and television will translate to the internet. And finally, there are the various political uses of the internet as a tool to effect change in the offline world.

It's this third use that most interests Meikle, and his book is part scholarly probing of the emerging field of internet activism, part primer for activists.

The use of the internet to organise the 1999 anti-globalisation protests in Seattle is perhaps the best-known case of internet activism at work. For Meikle there is nothing ironic about the fact that the web made it possible for disparate, globally dispersed



groups of people to organise their opposition to the global reach of capital. What is incongruous is how much the 'Battle in Seattle' resembled its sister protest movements from the 1960s. The success of the anti-globalisation movement was measured not by how many hits its various websites got, but by the coverage it received from mainstream newspapers and television and by how many World Bank dignitaries got held up in traffic snarls caused by street protests.

Meikle calls this *backing into the future*: the use of new technology to exploit old tactics. He writes:

The whole repertoire of tactics developed throughout the twentieth century, from the Suffragettes to Civil Rights, from Greenpeace to ACT UP, from Gandhi to Greenham Common, have found their digital analogues, as social activism moves into cyberspace. Letter-writing, phone and fax trees, petitions. Newsletters, newspapers, samizdat publishing, pirate radio, guerilla TV. Ribbons and badges, posters, stickers, graffiti. Demonstration, boycotts, sit-ins, strikes, blockades, sabotage, monkeywrenching, outing. Even online benefit gigs and virtual hunger strikes.

Other old-world tactics that Meikle recommends for online activists include imagination, wit and a willingness to work harder and longer than the opposition.

Some tactics work better online than others, as anyone who has received multiple copies of an email petition can attest. All these online iterations from the existing armoury of protest gestures might tempt us to dismiss internet activism as a poor substitute for the 'real thing'. But the case studies speak for themselves, reminding us that the web combines low-cost publishing with low-barrier access, immediacy and intimacy to powerful effect. There's the case of B92 (www.b92.net), Belgrade's independent radio station, which switched its broadcast to the internet after Slobodan Milosevic seized control of the airwaves. Stations around the world picked up and played the netcast, enlisting musicians and DJs to hold virtual 'FreeB92' benefit gigs. Another site contributed the Kosovo Privacy Project, which masked the online identities of locals sending and receiving news from abroad.

Then there's the McSpotlight website (www.mcspotlight.org), with its vast repository of information that the Golden Arches would prefer you not to see. The site provides case studies for community groups trying to keep out the chain—including a successful block by residents of Katoomba in New South Wales—and hosts an active discussion forum for McDonald's workers. By hosting on several different servers around the world, the site has so far eluded McDonald's bullying tactics to shut it down.

Sydney's Independent Media Centre (sydney.indymedia.org) creates free web-publishing software and bills itself as 'part of the software liberation movement'. The software allows people to publish their own online newspapers, filled with links to noteworthy items and comments from readers. These do-it-yourself pages—also known as weblogs—are now hugely popular and have sparked considerable

discussion about who controls the news-gathering and editing processes.

Word Perfect (*sic*) (www.e-2.org/word_perfect.html), a WordPerfect spoof developed by a UK digital arts collective, is more inward-looking, asking us to think critically about how word-processing programs impose a 'standardized corporate language onto our writing'. Click the 'undo' button on this version and a pop-up window appears, chiding you to take responsibility for what you've written. Another icon suggests it may be time for a cup of tea.

Meikle contrasts these examples with the passive websites offered up by corporations and media oligarchies. He labels the two kinds of user experiences (do-it-yourself versus pre-programmed) Version 1.0 and Version 2.0. The taxonomy is tricky, since 2.0 suggests an improved version of 1.0, but Meikle would have it the other way around. Version 1.0 sites, with their unfinished, anything-goes ethos, are far more interesting than their slick and unspontaneous 2.0 counterparts.

Some sites resist categorisation. Amazon.com is classic 2.0, but the site's use of reader-contributed book reviews is very 1.0. Other sites that talk up interactivity, like those of political candidates, turn out to confuse 'interactivity' with 'fundraising'. Most candidate websites are remarkably dull and formulaic. Meikle points out that there's little incentive for politicians to deviate from a closed, or at least tightly controlled, system of broadcasting. A notable exception was One Nation's website. The party capitalised on its supporters' mistrust of the media: 'You are on the web page the media do not want you to know about' was the message that greeted web visitors. The site featured sprawling discussion forums, occasionally visited by Pauline Hanson herself. Meikle writes that 'it's one of the many ironies of One Nation that a social movement rooted so deeply in conservatism and nostalgia should simultaneously make so much of their use of new technology'.

Future Active, like the websites it profiles, is Version 1.0. Meikle raises several open-ended questions without claiming to have all the answers. How can internet activists work with established media without being misrepresented or marginalised? Does dialogue on the web work? What is alternative media? Though he reminds us that internet activism should be only one part of a larger media strategy,

Meikle is an internet enthusiast and it's hard not to share his zeal for the impact a few creative, committed people can have. The problem is that stricter regulation may make Version 1.0 websites increasingly difficult to pull off—Meikle is not entirely optimistic about the prospects for an open web in the post-September 11 world. Before we can talk about internet-

based politics, we'll have to tackle the politics of the internet. ■

Joanna Mareth is an associate editor at *Australian Policy Online* (www.apo.org.au). She is the former director of the Electronic Policy Network in Boston and was recently a visiting fellow at the Institute for Social Research at Swinburne University.

BOOKS:2

PETER MARES

Who gets here

Don't Tell the Prime Minister, Patrick Weller.

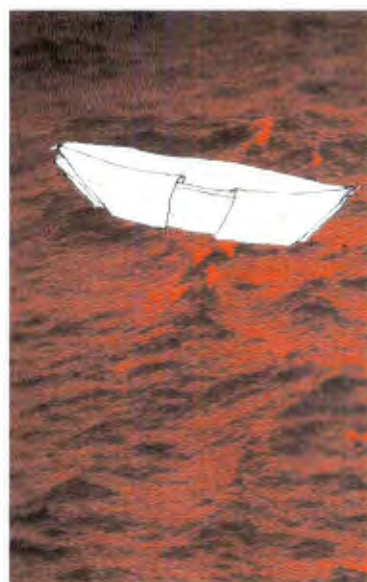
Scribe Short Books, 2002. ISBN 0 908 01176 8, RRP \$14.95

From White Australia to Woomera: The Story of Australian Immigration, James Jupp.

Cambridge University Press, 2002. ISBN 0 521 53140 3, RRP \$29.95

WHEN GOVERNMENT ministers failed to correct the false report that asylum seekers had thrown children overboard prior to the November 2001 federal election, their excuse was that they had not received 'formal' advice that the story was untrue. If this were not so sad, then it might be funny, since the original 'advice' that gave life to the kids-overboard affair was the fifth-hand reporting of a brief early morning telephone call.

On 7 October 2001, a distracted Commander Norman Banks aboard HMAS *Adelaide* had a short telephone conversation with his Darwin-based superior, Brigadier Michael Silverstone. The purpose of the call was to find out the latest from Operation Relex, so that the Defence Minister could be briefed before appearing on Sunday morning television. During the phone call, Commander Banks was supervising efforts to turn around an asylum boat called the *Olong* and send it back in



the direction of Indonesia. He described what was going on to Silverstone, including how an asylum seeker held aloft a child in a lifejacket as if threatening to throw her overboard. Silverstone says he came away from the conversation with the impression that a child *had* actually been thrown into the water. The Brigadier then reported this to his superior, Air Vice Marshall Titheridge in Canberra, who in turn rang Chief of Defence Force Admiral Chris Barrie, the Defence Minister's chief of staff,

Peter Hendy, and the civilian bureaucrat at the head of the government's people-smuggling taskforce, Jane Halton. By the time the matter was discussed at a taskforce meeting later that morning, 'child' had become 'children'. During the course of the taskforce meeting, Immigration Department Secretary Bill Farmer took a call on his mobile from Immigration Minister Philip Ruddock. Farmer shared the kids-

overboard story with the Minister, who wasted no time in sharing it with the rest of Australia.

Those dedicated few who have closely followed the progress of the Senate Committee of Inquiry into a Certain Maritime Incident will not find a great deal that is new in *Don't Tell the Prime Minister*, but Patrick Weller has done the rest of us a favour. He cuts through the swathes of obfuscation and arse-covering that constituted much of the evidence to the committee, to winnow out kernels of essential detail. The result is a concise and lucid account of what happened, and of who subsequently said what to whom and when. For example, when the photos purportedly showing 'kids overboard' were shown on the *7.30 Report* on 10 October 2001, senior defence figures realised immediately that they depicted a different event. Admiral Barrie was told this by two of his top officers—Chief of Navy, Vice Admiral David Shackleton and Commander Australian Theatre, Rear Admiral Chris Ritchie. The next day Barrie had a 'testy' telephone conversation with Defence Minister Peter Reith. In describing this call to the Senate committee, the Chief of the Defence Force said: 'I told him [Reith] I had been advised that the photographs he had put out did not describe the events as he portrayed on the *7.30 Report*.' Yet, astonishingly, in the course of this talk, the two men managed *not* to broach the topic of what should be done to correct the public record.

This is an example of the many selective discussions that characterise the kids-(not)-overboard affair. As when defence adviser Mike Sraffton told the Prime Minister that the video from the *Adelaide* was 'inconclusive' but 'did not mention the doubts about the whole affair that he had heard one month before'; or when international affairs adviser Miles Jordana provided John Howard with an 'intelligence' report from the Office of National Assessments, but failed to raise with him the likelihood that the report was based on nothing more

substantial than the public comments of the Prime Minister and members of his cabinet. (In Robert Manne's memorable phrase, 'the dog had caught its tail'.) In these situations it is hard to see how public servants were observing the requirement of the *Public Service Act 1999* that they provide 'frank, honest, comprehensive, accurate and timely advice'.

WELLER DOES NOT pursue other issues that have come up at the Senate Inquiry, such as murky questions about why the huge surveillance effort mounted under Operation Relex failed to spot the overloaded Suspected Illegal Entry Vessel (SIEV) X before it sank and claimed 353 lives. Nor is he particularly interested in the rights or wrongs of Operation Relex and the 'Pacific solution' (though one can guess where his sympathies lie). Weller's specific intent is to investigate the following proposition:

The Australian public was told a story that was untrue. That story was not corrected before the election, even though a wide range of people in and around the government knew it was untrue. If everyone acted properly and professionally, and we were still not told, something is seriously wrong with our system of government.

Unfortunately, a Senate inquiry is rather inadequate for this purpose. Ministers cannot be called to give evidence, and nor, by convention, can their ministerial staffers. Public servants can be compelled to appear, but they cannot comment on government policy. As Weller puts it: 'Consequently Senate committees examine one group of people, the public servants, in order to discover what another group of people, ministers and their staff, actually did.' What Weller extracts from his investigation is not a conspiracy to withhold the truth—at least not on the part of bureaucrats—but an 'attitude of mind'. Public servants were 'too keen to serve' the government of the day (and the government of the foreseeable future) and 'not sufficiently

sceptical and alert to warn'. They failed to speak clearly the truths that ministers did not want to hear.

Weller suggests that there are a number of factors that have brought our political system to this point, and he calls for their urgent reform. First, he notes that the shift to employing senior public servants on contracts of five years or less means that 'the trapdoor is an ever-present threat if the minister has become unhappy with their performance'. As a result, some advisers may decide that 'if the ministers do not want to hear bad news or contrary advice they will not give it'. Second, the intense pressure on modern public servants to be flexible and responsive means that they are no longer able to maintain 'a paper trail' of their actions. 'Combined with email, yellow stickers and message banks, the changing culture is producing a new style of record keeping.' Detailed file notes are becoming a thing of the past. Future historians may have loads of material, but 'little that tells us how the significant decisions were made'.

Finally, Weller says we need a new system of accountability for ministerial staffers, who have increased enormously in numbers and influence, but who remain 'in a constitutional sense ... out of control'. Under established practice, ministerial staffers are seen as an extension of their ministers and ministers are accountable for their actions. This means that information given to a staffer is, to all intents and purposes, information given to the minister. Clearly this is no longer adequate, since in the kids-(not)-overboard affair, ministers were able to claim that advice never reached them. It is habitual now for ministers to preface almost every statement with the words 'I am advised ...', and to defend inaction with the words 'I was not advised ...', giving the impression that they are 'in the hands of officials'. Yet these are the same officials—the advisers—for whom the minister is supposed to take responsibility. So where does the buck stop? In

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Weller's words, ministerial staffers have become the 'black hole of government'. All the more regrettable then that the Labor Party shied away from testing the convention that ministerial staff cannot be compelled to testify before the Senate.

IF WELLER GIVES US the detail of the kids-(not)-overboard affair, James Jupp puts the event in its historical context. His survey of the last 30 years of immigration in Australia—*From White Australia to Woomera*—traces the shift from 'policeman' to 'parson' and back again. The 'policeman' controls entry across the border while the 'parson' looks after the welfare of those who have arrived. After the abolition of the White Australia policy, the influence of the parson steadily increased, reaching its peak under Immigration Ministers Michael MacKeller and Ian Macphee, appointees of Malcolm Fraser who were both Liberals and liberal. MacKeller and Macphee emphasised family reunion and humanitarian settlement in immigration and extended the policy of multiculturalism initiated by Al Grassby under Whitlam. Policy was characterised by a high degree of bipartisanship, so that when Macphee went out to explain and defend multiculturalism at sometimes hostile public meetings, he was frequently accompanied by his Labor 'shadow', Mick Young.

Jupp mounts a vigorous defence of multiculturalism, swatting away the myth that the policy is evidence of the subterranean influence of some 'powerful ethnic lobby'. In fact, as Jupp notes, the specific Australian version of multiculturalism (quite different from the version in Canada, where

the term was coined) is less about 'cultural maintenance' than about smoothing the process of settlement for new migrants. Implied in this is an element of social justice and equity; if migrants are to become effective members of society, then they should have adequate access to social services and an adequate understanding of their social responsibilities. At times this will require spending on the kind of targeted programs, like language services, that critics label 'ethnic payola'.

Jupp also dismisses those who would portray multiculturalism as an attack on fundamental Australian values, or as an endorsement of cultural relativism. Sure, multiculturalism defends the decision of a Muslim woman to wear (or not to wear) a headscarf; but the primary intention of the policy is not to defend her rights, it is to make her a more productive citizen. As Jupp notes: 'Government policies have normally been directed at improving human capital or enhancing commercial contacts, rather than supporting immigrant cultures.'

In the years since Macphee was Minister, the immigration parson has been eclipsed by the immigration policeman, a shift Jupp sees reflected in departmental restructures and changing budget priorities. The process was given a major kick along by the 1988 FitzGerald Report, which was 'the most important single influence on the Immigration Department for the next decade'. The FitzGerald Report criticised multiculturalism and family reunion, 'shifting emphasis from humanist concerns ... to an economically rational focus on the "quality" of immigrants' and presaging the introduction of a 'user pays' system in immigration and settlement

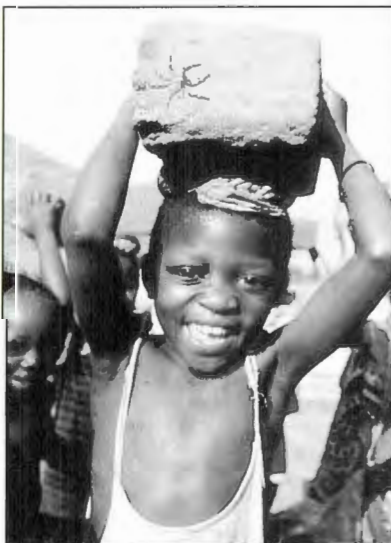
services. This trend has accelerated since the election of the Howard government, which has cut family intake more sharply and given preference to skilled and business migrants.

Nevertheless, what emerge most strongly from Jupp's history are the continuities in policy across governments, rather than the differences:

the reduction of family reunion, the denial of welfare for new arrivals, the stress on business and skilled migration, and a stronger policy towards undocumented or illegal arrivals were common to the Coalition and the previous Labor government.

Alarming, this 'bipartisanship' extends to policy proposals from One Nation. The temporary protection visa and the excision of Christmas Island from the migration zone were both recommended by One Nation before they were introduced by the government and given Labor's parliamentary nod.

Jupp's chapter on refugees and asylum seekers is not the strongest section of the book and includes a couple of minor errors. There is some confusion about the arrival of refugees from East Timor, for example, suggesting that they were boat people. A few were, but most came as 'plane people' during a brief period in which the Australian consulate in Bali was inexplicably generous in granting visitors' visas to applicants from East Timor. Jupp is also incorrect in stating that 'Port Hedland provided adequate space' for the detention of unauthorised boat arrivals from 1991 until 1997. In fact, the Curtin airbase near Derby was first used as an immigration detention



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centre in 1995, when Nick Bolkus was Immigration Minister under the Keating Labor government. It was recommissioned by Philip Ruddock in September 1999 and Woomera was opened soon after. Jupp is right to emphasise that 'the need to regain the 1 million votes which went to One Nation in 1998' was a primary motivation of Coalition policy on refugees and asylum seekers. In doing so, however, he risks letting Labor off the hook too lightly. After all, Labor's introduction of mandatory detention prepared the ground for such a hardline approach.

These are minor quibbles. Overall, Jupp has written an instructive and engaging history that serves as a timely corrective to the many myths that surround our immigration program. His book affirms the

view that policy could change for the better. Indeed, he predicts optimistically that it must:

As long as Australia continues to recruit immigrants and to be open to student, tourist and short-term arrivals in large numbers, it will continue to be multicultural and to witness large numbers of Asians in metropolitan streets. It cannot, therefore, enjoy the luxury of xenophobia. ■

Peter Mares is a journalist with Radio Australia's *Asia Pacific* program and a visiting fellow with the Institute for Social Research at Swinburne University. A revised, post-*Tampa* edition of his book *Borderline*, on Australia's treatment of refugees and asylum seekers, is due out this month from UNSW Press.

BOOKS:3

PETER CRAVEN

Dark glasses

Of a Boy, Sonya Hartnett. Viking, 2002. ISBN 0 670 04026 6, RRP \$26

EVERY SO OFTEN, even in Australia, a novelist of the first rank crops up and yet goes unheralded. Sonya Hartnett is such a writer. At 34, she has written a string of novels that, because she began writing in her early teens, have been classified as fit only for adolescents. Nothing could be further from the truth. Sonya Hartnett is an adult novelist of great formal power, with a vision of tragic intensity. There are high and mighty reputations (and deserved ones) in contemporary Australian literature that are the possession of writers who are not her equal.

Hartnett is capable of finding the contour of drama in the detail of mute everyday life, in the pain and wonder of a lonely child, and in the colliding kindness and brutality of suburban living. She grabs hold of the kind of experience that might lurk in the vicinity of anyone's background (and that could, in extremity, yield the pathos of a tabloid story) and invests it with the patterning and tonal contrast of a great artist.



I first read her only because I had to, in order to do a television audition. I found myself face-to-face with a vision analogous to what Thomas Merton discerned as the Sophoclean quality in Flannery O'Connor. Hartnett's writing has a sweeping, keening sense of the catastrophe and grief that can lurk in the tangles of the commonplace, which she transfigures (without losing the blackness) into an exhilarating representation of grace and truth.

Of a Boy is the story of a primary-school boy, Adrian, whose mother, Sookie, is incapable of looking after him and whose father can't be bothered. Adrian has been placed in the care of his grandmother, Beattie, a responsible battleaxe who feels too old for the task but does it anyway.

Adrian is not especially bright or troublesome, but he is a sensitive child in danger of being torn asunder by the lovelessness he partly intuits and partly imagines. On the sidelines, there's an intelligent, sensitive, agoraphobic uncle in his 20s, who is haunted by a car accident.

There is also the apparitional presence (which works with the force of symbol though it's also integral to the realism of the plot) of a group of children who have gone missing and made headlines, and have possibly met with terrible deaths.

Just near Adrian's home there is a group of children, new arrivals, who form what looks like a fearful symmetry with the kidnapped children. The hypothetical atmosphere that shadows them gives the novel part of its mysterious propulsive power, so that a 1970s story of schoolyard disturbance and getting into trouble with grandma takes on the looming spectral quality of a first-rate thriller.

Hartnett manages to work symbolically and realistically at the same time. The action of the novel (which is in no way fanciful) is full of intricate Catherine wheels of miniature drama, while the overarching plot is ravishingly shaped and the language so footsure that we feel we are in the hands of a master of poetic form.

This is a short novel with bare dialogue, and Hartnett unpeels character in unspectacular action like so many layers of clothing or skin. It is also a novel by a writer who is capable of justifying the boldest kinds of effect. Hartnett can turn a problem child at a primary school—Horsegirl as she is known, replete with self-adorning bridle—into a kind of riveting somersault show of expressionist effect, without for a second losing a sense of the human personality behind the terrible facade.

Of a Boy harrows the soul. At the same time, it presents an engrossing image of life that will give shock after shock of recognition as the reader has her nose pushed up against the glass of a forgotten childhood. It is as enlivening a literary performance as I can remember by an Australian writer since the heyday of Patrick White and

Christina Stead, even though one might query the note of stark elegiac lyricism that Hartnett hits right at the end of the novel, which contrasts with the wrenching power of what has preceded it.

I should emphasise that *Of a Boy* is not a highbrow novel, difficult of access. It is a short novel in which a likeable quiet boy pines mutely for love while a dark imp-like girl next door pushes and punishes him by bending him to her will. It recapitulates the earthiness and livableness of the recent past with such embodied sensuousness and sharpness of eye and ear that Australia in the 1970s takes on a kind of transfigured painterly reality (all the more real because so deeply imagined).

Of a Boy is a book of transfixing enchantments, though its vision is ultimately very dark indeed. Sonya Hartnett has a bit in common with Helen Garner, in the clairvoyance of her dialogue and the effective flawlessness of her prose. She works in deliberately small compass, close to the consciousness of people not bent on articulation. She has something in common, too, in the patina and formal finish of her work, with the photographer Bill Henson: she is dramatic and poetic in the way he is painterly, and she has the same air of driving almost to the point of violence at a thing of beauty or innocence in order to feel the hot breath of what you could die for. *Of a Boy* is the story of a boy who dreams of

a sea-monster and dives into the depths of himself. Hartnett's vision is constantly lit by comic lights but ultimately has an effect of elegy and tragedy.

And Sonya Hartnett is ultimately unlike anyone else. The great writers of the American South would have understood her, but she's not netted by their influence. If a Martian possessed of literary judgment were to fall on this book he would find passage after passage that didn't simply read like the work of a fine Australian fiction maker, but like the work of one of the great writers of our age. ■

Peter Craven is the editor of *Quarterly Essay* and *Best Australian Essays*.

BOOKS:4

PHILIP HARVEY

Searching high and low

Anglicanism in Australia: A History, Bruce Kaye, Tom Frame, Colin Holden, Geoff Treloar (eds).
Melbourne University Press, 2002. ISBN 0 522 85003 0, RRP \$69.95

THIS BOOK is the first of its kind. No complete history of the Anglican Church in Australia exists, or has ever been attempted, leaving a void often commented on by Anglicans, who have an intense understanding of their own traditions. The parish history is a standard production, ranging from the most modest pamphlet and reverent roll-call, right through to highly wrought analyses of personalities and vestry meetings. The oral record is a continuous buzz, and it is true to say that the practices of the church week by week admit an historical grasp that goes far beyond books. The diocesan history enjoys a respected place, frequently teetering just this side of triumphalism. Biographies of bishops and legendary clergy meet a market, yet any comprehensive presentation remains elusive.

A book written by a committee looks modishly postmodern. In this instance, there was probably no other way. The historical agreements and divergences of those same traditions cause us to ask, can any single author be found whom everyone agrees is impartial to the variations within the Anglican Church? Is any history sure to be bound by a thesis or prejudiced by the

odium of churchmanship? Is all the source material readily available? Where does one start?

One contributor starts with the first church, a wattle-and-daub structure destroyed by arson in 1798. The next was of more durable stone and we are told also that 'meanwhile a church of better proportions, named St John after the second governor, had been constructed at nearby Parramatta'. I beg your pardon? Fortunately this is the only howler in the book. There are, however, many assumptions treated as simple facts. Prime among these is the persistent use of differences between Evangelicals and Anglo-Catholics as a natural divide in our understanding of how Anglicans think and act. This easy recourse graphically delineates doctrinal stand-offs or liturgical attitudes, but creates the false picture of two teams in their own guernseys toppling about with the football of Correct Interpretation. Experience teaches that religious practice and belief is much more open to choice and change, that humans are infinitely adept at throwing off things that don't work any more and at finding the 'mansion' that suits their needs. Historians in this book also often

take the soft option, whereas an attempt to describe the interchanges and subtleties of individual practice would give a deeper, cohesive picture of Anglicanism.

The narrative half of the book covers, really for the first time, 200 years of diverse church history. Strain shows; the scale of the undertaking forces selectiveness, meaning we hear more about bishops' barneys than we do about parish life, for many the heart of Anglicanism. More statistics, less colourful humanity. Some givens in the narrative do bring into relief, though, again for the first time, the special circumstances of the English Church on this continent. First among these is the essential fact in Australian history that the Church of England has never enjoyed the true status of an established church, as it did back home. Although the Anglican Church was identified with the colonial establishment powers, Governor Richard Bourke's Church Act (1836) meant the church had to vie with the other denominations for adherents and funds. Anglican hegemony was never assured.

A second crucial factor was the creation of dioceses. Australians were probably the first in the world to form local synods, and

although Anglicans know themselves to be 'of Australia', their identity is formed within local regional practice, to such an extent that Ballarat is sometimes viewed as the last refuge of the spikes, while some Sydneysiders are branded 'Anglo-Baptists', barely Anglican at all. None of these caricatures helps relationships, but they do indicate a history that is not just one of preference. Diversity of belief and church life is the norm. There are Anglican churches filled with the outward display of sacramental imagery, others where the congregation won't let a cross into the building. Local dioceses continue to contain all the conflicting ambitions of the Tudor Church, with many of its concomitant squabbles as well as its more gracious forms of reconciliation. From out of this diocesan character comes the resistance to, even the failure of, a national church. There is a General Synod, but where disputes are irreconcilable the decision is left to the local synod, which is why a handful of Australian dioceses, for example, still do not ordain women. There is a General Synod Office, comprising a secretary with support, but when in the early 1980s a research officer was appointed, there were, as David Hilliard records, cries of 'galloping bureaucracy and centralism'. Unsurprisingly, then, regional collaboration remains not only a feature but also an essential.

Whether you are Elizabeth I, Elizabeth II, or any of the monarchs in between, you don't like extremists. The Anglican 'middle way' between Roman-style authoritarianism and Puritan zealotry has, at its best, been the means to a widely diverse and welcoming Christian practice. The book touches throughout on the possibility of understanding between conservative and liberal positions, sacramental and evangelical emphases, the encouragement of private and public forms of life and worship—all things that have been brought to Australia by the Anglicans.

When Leicester Webb said in 1960, 'by the test of numbers Australia is next to England the most Anglican country in the world', he was not dealing in delusions. Until recent times it was taken for granted that a goodly half of Australians were C. of

E., and even the nominal ones had absorbed the life of the Church of England in some fashion. The meaning of this for historians has been ignored for too long. Its meaning for the national character should not be lost on anyone. The attempt to address issues of Anglican identity and national character is the genius of this book, its real originality. Bruce Kaye points to William Grant Broughton, the one and only 'Bishop of Australia', who in 1839 fought for a distinctive Anglican school system, the results of which stretch across the landscape. Kaye points also to the ambivalence toward ecumenism of a church that puts high value on its own distinctiveness, a desire for



Anglican Archbishop Rayner and the first women ordained as priests, 13 December 1992.

union always checked by a need to maintain traditional continuity. The Anglican Church owns its share of fault in regard to sectarianism, while itself being a conciliarist church with synods that are democratic. It is an inclusive body that has never been dominated by its clergy. It has always been cautious of nationalism. Another formative characteristic is the inclination of Anglicans to go their own way. Brian Fletcher quotes Bishop George Long of Bathurst stating that the Anglican Church is the 'roomiest ... in Christendom', 'possessed of a "wise and liberal spirit" and an "evangelical witness".' According to the *Australian Churchman*, also quoted by Fletcher, it is 'tolerant and indulgent beyond example'.

A JOURNALISTIC cliché is to place church and society at odds, as though they were polar opposites. It takes too much work to see church as integral to Australian society, an essential part of the equation. We are fortunate to have writers

here who have done too much work. Be it protector of respectability or home to radicalism, the symbol of an old world or the forger of national futures, the Anglican Church carries weighted meanings and is not easily defined. The other half of the book foregrounds the knowledge that any history of a church is about culture and tradition. Bruce Kaye's view is that 'Australian Anglicanism's social manifestation is a community of people', and that the way to treat the tradition is '[not as] a snapshot of the detritus from the past, but rather the dynamics of the habits, values and beliefs sustained over a period of time by a community of people'.

The sense that we are concerned with much more than the story of an institution is keenly felt; it is a guiding principle. Relations with the Communion and the other churches, relations with the Aborigines, gender issues and art history are among the subjects given closer study. I would have hoped for more about the spiritual life of Australian Anglicans, their worship and prayer life, more of their spirituality as expressed in sermons, poetry and other writings—a seriously

neglected area in our self-understanding. Anglican definitions of sacred space would start revealing conversations. It is a delight, though, to read Bill Lawton's piece on Australian theology, compulsory reading for anyone who doubts that theologians have had a significant impact on Australian life. Lawton selects four churchmen whose theology he uses as paradigms of different Anglican ideals.

Bishop Ernest Burgmann of Goulburn saw God as indwelling creation. His incarnational theology finds Christ 'in all of nature, in other religions and in the land of Aboriginal possession'. Burgmann was a social activist who contended that 'God is not interested in the church as a private society existing for the welfare of its members'. Similarly, Bishop John Moyes of Armidale, a broad churchman distrustful of party, promulgated enculturation and appealed against individualism in religion and in national life. Moyes even challenged the Labor Party to develop 'a philosophy of man as a doctrine ... The other crowd just



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have a doctrine of property.' In the 1940s, Moyes moved to liberalise immigration laws and abolish the White Australia policy. Dr David Broughton Knox of Moore College, Sydney, placed preaching at the centre of ministry, the charismatic call to 'repentance and rededication'. For Knox, the church is an interactive community based in obedience to Scripture.

This Reformed influence has resulted in what Colin Holden elsewhere describes as a 'tendency to maintain a definite distinction between the community of the faithful and "the world" as opposites'. This and other analyses in the book help elucidate that unique phenomenon, many would say quandary, within the Anglican Communion—the diocese of Sydney. A profound contrast is the theology of Archbishop Peter Carnley of Perth, the current Primate. For Carnley the Bible is a construct of 'tradition and design' edited 'to make a theological point'. Justification isn't just about human salvation but 'has to do with the putting right of the world ... A just and equitable sharing of the world's resources and a just distribution of well being is also part of God's justifying activity in the world.' It is notable that all four theologies are shaped by a common passion for justice.

Another journalistic cliché is that the church is in decline. One reviewer of this book even argued that this is its one theme, a position reached by following the rule of that 19th-century clergyman Sydney Smith: 'I never read a book I am reviewing, it prejudices one so.' This book is not a history of decline but of creative adaptation, of listening to the spirit. It initiates a more varied appreciation and deeper internal questioning of a community of faith. It touches on several subjects that deserve full-scale studies of their own. For example, a history of the Australian parochial clergy, their behaviour, attitudes and values, is long overdue. Again, I watched High and Low for reports of worship, one thing we can safely say all Anglicans have in common. A practical history of worship that is more than reportage or sociology would tell us much generally about Christianity in this country.

If, with Louis McNeice, we are to see the world as 'incorrigibly plural', this too is how we should read the Anglican Church. If multiculturalism is something that the church is thought not to have come to terms with, we then have to reckon with

David Penman, Archbishop of Melbourne, who wrote one of the first theologies of multiculturalism, and with the fact that the first use of the word in federal parliament came in a speech written by an Anglican clergyman, Jim Houston.

If the national disgrace which is the Europeans' treatment of the Indigenous Australians can in part be traceable to the church's neglect and cultural blindness, we also have to consider the sorts of activities described by the excellent John Harris. In some parts of Australia the missionaries' main task, achievement even, was to protect Aborigines from extermination by the settlers, and in latter days the church worked in a more self-questioning way with government programs and reconciliation.

If the church can be seen as stuffy and irredeemably patriarchal in its attitudes toward women, promoting bourgeois forms of domestic Christianity and consciously denying them their expressed vocational calling, we have then to explain the enormous number of leaders, activists and other women in social roles who have attributed their achievements to their Anglican religion. And we have to reason out how an internal debate over women's ordination achieved a balanced outcome that placed the church in a better pastoral position and avoided a major split. These and other issues have been opened up for yet more challenging and adventurous exploration.

Yet a deeper question about religious history in Australia is hinted at by Colin Holden, when he refers to Drusilla Modjeska's study of the artist Grace Cossington Smith. He observes that while Modjeska 'referred to a sense of vocation', and 'acknowledged that Cossington Smith was a devout and regular worshipper, she did not invite the reader to consider that the contemplation that lay behind her art might have been an extension of her life as a regularly worshipping Anglican'. Life as a regularly worshipping Anglican, the faith life of humans generally, could be seen as the foundation of religious history. A challenge to the future historian is how to present this life and its multiple manifestations, how to learn and extract meanings from the private and public lives of the Australians described as, in the book's best oxymoron, 'ordinary Anglicans'. ■

Philip Harvey is a poet and librarian at the Joint Theological Library, Melbourne.

Wilson's friends

ONE FINE DAY IN early spring, by accident or design, a schoolboy who was working Saturday mornings pricing canned goods in a supermarket got a \$2.25 sticker stuck to the sleeve of his shirt and headed off home after work without realising. On the tram the man opposite asked him was he for sale and the schoolboy for a joke said he was. The man gave him \$2.50, the schoolboy gave him 25 cents change, and the man took him home to his house, which was not very far away.

The man set the schoolboy to work straight away, hardly believing his luck at having come across such a ridiculously good bargain on the tram like that. This man, whose name was Wilson, had never been one to count good luck among his blessings and was determined to make the most of this. The schoolboy was put to work restumping Wilson's house and was found to be more than adequate to the task. Wilson brought the boy glasses of cold cordial and invited his friends around to watch the boy work: they all lay on their stomachs, Wilson shone the torch, a beast could have taken them all and they would not have even known. Everyone asked Wilson to please tell them where they could get this kind of help for such a ridiculously good price, but Wilson did not want to tell them. If they found out which tram these boys were on they would have been riding it every day and Wilson himself would not be able to get a second when the first one died on him, which it surely would.

But of course no such secret could be kept for long and soon these bargain-hunting friends of Wilson's were riding that tram every day and impolitely inspecting the shirtsleeves of every passenger on it. Because there were no tram conductors any more to temper this kind of activity Wilson's friends could go at it wholesale, which they did, carrying off teenagers who were not even for sale and installing them under their houses for long hours and with few scheduled breaks.

There seemed to be something really wrong with the whole situation, something dare we say even morally repugnant, but thankfully the public transport operator eventually saw fit to do something about it. It was announced via a press release that people would no longer be allowed to be taken from the tram and set to work under Wilson's friends' houses unless these people first registered with the operator and paid a small administrative fee. Clear records could then be kept of all the transactions

that took place and these records could then be matched against the previously agreed quotas and notices might then be placed in the trams informing the public whether or not these targets had been reached.

This was all very well for the tram operator and the public, but the parents were up in arms. We've been deliberately putting our children on this tram, they said, at great personal cost to ourselves, so that they can work under Wilson's friends' houses, and now you tell us there are quotas set that will limit the number of children taken? What sort of high-handed tactic is this? In protest the parents occupied all the trams they could until they were hanging out of the doorways and scooting along on the running boards and given that no business could be conducted while this protest continued Wilson's friends began looking elsewhere for children to help with the restumping of their houses and this is how the arrangement with the schools came about.

A child of school-leaving age and of average intelligence from the mid to low range of the socio-economic scale has little chance of finding gainful employment, much less of starting a 'career'. It was on this basis that Wilson's friends approached the authorities with their new and in some ways revolutionary idea of setting *all* these schoolchildren to work under people's houses. The government didn't take much convincing, for reasons too obvious to explain. Wilson's friends formed a cartel and secured exclusive operating rights. Everywhere old houses were restumped and made ready for renovation; everywhere the parents of wayward teenage children breathed a collective sigh of relief. Wilson's original schoolboy who had since died of pulmonary pneumonia became something of a folk hero to the newly invigorated citizens of the city and a statue was erected to him in the old supermarket car park holding a can of baked beans in one hand and a short-handled shovel in the other.

That all happened some years ago now, but the statue is still there today. ■

Wayne Macauley is a freelance writer.





Family snap

Yi Yi (*A One and a Two*), dir. Edward Yang. Eight-year-old Yang-Yang (Jonathan Chang, above right) takes photos of the backs of people's heads in order to help them see what they cannot. A moving notion and arguably a not too shabby definition of art.

Yi Yi is a simple story about complexity—an irony not lost on the director, Edward Yang. Tiny mistakes and endless uncertainties, small joys and heartbreaking revelations crowd his film with a life that is uncanny and true.

NJ Jian (Wu Nienjen, above left) works for a computer company that is staring down the barrel of bankruptcy. Min-Min's mother has just had a stroke. Yang-Yang needs McDonald's to feel better about being bullied by a bunch of flower girls. And Ting-Ting is afraid she might be to blame for her grandmother's stroke because she forgot to take out the rubbish. NJ, Min-Min, Yang-Yang and Ting-Ting are all members of a middle-class family living in a small Taipei apartment—all negotiating life in different ways for the same ends, each looking for the clarity one hopes that love (in all its manifestations) will bring.

The plot is meandering and rich but not the point. Yang's characters are not shaped by what the world throws up at them, but

by how each of them deflects the blows.

Yi Yi, in its bones, is about love. The sort of love whose beauty lies not in heaving heroics but in the uncertainties and fragility of ordinary life. Not everything in the film works: it has its clunky moments and uncertain performances, but its central thread is exquisite.

Wu Nienjen, as NJ Jian (the father), gives a performance as quiet and aching as any I can imagine. Directing that performance alone makes Yang a deserving winner of the Best Director prize he won at Cannes in 2000. But *Yi Yi* is full of this quiet aching; whether a character is waiting for lift doors to open or mourning the loss of a first love, it is there, disarming every frame.

—Siobhan Jackson

Family highs

Orange County, dir. Jake Kasdan. This is more than just a teen movie. It has Jack Black in a supporting role as Lance, the doped-out brother of brilliant student Shaun, played by Colin Hanks, son of Tom. The plot is light but not flimsy. Shaun's school is shown up as inefficient and bumbling when he fails to get into Stanford because the poor results of another student are entered instead of his excellent ones. The rest of the film is about his efforts to

get the decision reversed, and brings in his relationships with friends and family and his love of writing. There are a surprising number of cameos: Kevin Kline as a famous author; John Lithgow as Shaun's divorced millionaire father; Lily Tomlin as a loopy careers counsellor; Chevy Chase as the school principal. There is a wonderful performance from Catherine O'Hara as Shaun and Lance's mother, perpetually at the end of a short tether, and dangerously prone to seeking comfort in booze.

All the performances are good, but anyone who casts Jack Black had better make sure the rest of the cast measures up: he is a rampant and hugely enjoyable scene-stealer. There is no violence, and hardly any sex unless you are desperate enough to lust after Jack Black in well-worn Y-fronts. I enjoyed it: harmless, amusing, occasionally sharply observed for a mainstream American movie. If you miss it in the cinemas, it'll be a great video hire for the whole family, as long as they don't mind laughing a bit.

—Juliette Hughes

Landscape view

The Tracker, dir. Rolf de Heer. *The Tracker*, set in 1922, follows a party of white police hunting down an Indigenous man accused of killing a white woman. The Aboriginal tracker of the title (played by veteran actor David Gulpilil) leads the party. Though the film's treatment of white brutality towards the Indigenous people of Australia is obviously significant and important, the film is really about the European response to the Australian landscape, both in painting and in film. At significant points in the film, especially those showing the murder and massacre of blacks by the white police, de Heer uses paintings (painted on set by local artist Peter Coad) to depict events, rather than show them directly on screen. Though one could argue that white Australia's inability to look directly at its own violence towards Aboriginal people is one of its problems, this aesthetic choice at the very least asks us to consider the role of art, and film, in the representation of Australia for and by the white imagination.

A theme that runs through much of white Australian painting and film is the sense of the Australian landscape as something alien, horrific and dangerous to European 'civilisation', the sense that 'we' do not belong here. *The Tracker* draws on this

tradition both visually and thematically, and identifies the 'natives' so completely with this alien and dangerous landscape that they are often literally invisible in the film. When the white party comes under attack, the spears that assault them appear to come out of nowhere, out of the landscape itself. De Heer identifies Aboriginality absolutely with the landscape and draws our attention to the hostile and frightened response of the white imagination to that landscape. You could argue that he is in this oblique way asking us not to look at a specific event of violence on film (this massacre that happened over there, over then), but rather the inherent violence in the white European imagination of 'Aboriginality' itself.

I'm not absolutely convinced that this works. The film uses schematic, stereotypical characters (the 'Fanatic', the 'Follower', the 'Veteran', the 'Tracker'), relies on less-than-subtle reversals (though the Fanatic has the Tracker in chains, the Tracker's really the one doing the leading), and uses Coad's paintings to aestheticise and distance. Any genuinely political edge to the film is left in the realm of generalities, no more than a fable or parable, and as such easily ignored. The soundtrack (by Archie Roach) is pretty good though.

—Allan James Thomas

Performance issues

La Pianiste (The Piano Teacher), dir. Michael Haneke. When I started to describe the plot of this movie to my husband, he said, 'I don't think I'm old enough for this.' I'm not sure I am either. A lot of people will feel either too young or too old for this film. It certainly requires a wide frame of reference, and I'd advise against taking in popcorn and choctop; you'll need a strong stomach for some of the scenes. There is a discourse going on in the movie, and it centres around what reactions we have when we see women appropriating behaviours that are usually peculiar to men. But the problem is that the behaviours seen in the movie are peculiar in the other sense: weird and dysfunctional by any standards or for either sex.

Erika Kohut (brilliantly played by Isabelle Huppert) is fortyish, and a highly regarded pianist who teaches at a conservatorium. Her specialty is Schubert, and she guards him jealously from mediocre stu-

dents. She is icy, unsmiling, uncompromising, brutally uncaring in her criticism of her students' playing. We do not have to wonder why because the film opens with her mother confronting her furiously because she has come home late. You realise that we are far beyond the boundaries of healthy family relationships in the ugly physical fight that ensues, to be followed by an even more unbearable reconciliation. With love/hate thus established as the basis for Kohut's relationships, we see her abuse others and herself, often horrifically.

She has dark and distasteful routines of self-gratification: she spies on a couple copulating in a car at a drive-in, while urinating beside the car. She goes into a sex shop to watch porn films in a private booth. (Be warned if you are likely to be offended: there are short examples of hard-core pornographic films in this scene.)

A young male student, Walter Klemmer (Benoit Magimel), falls for her and has enough presence and talent to make an impression on her. But she demands that he read a letter in which she details what she requires him to do: it is the usual dreary litany of masochistic minutiae, and he is revolted. The tables are turned, as his rejection transmogrifies into the powerful sadistic abuse that she wants. The ending is abrupt and inconclusive.

Some people will love this film, and there is no doubt that its bleak, bright cinematography and Huppert's extraordinary performance are commendable. But somehow the self-abuse, one nasty incident after another, seemed to be like something from a psychology casebook rather than a deeply felt piece of art.

—Juliette Hughes

Chile con carnal

Y Tu Mamá También (And Your Mother Too), dir. Alfonso Cuarón. The teenage sex comedy follows a simple but reliable narrative: horny boys come of age via the ministrations of an older woman. Thankfully, the Mexican director Alfonso Cuarón is a cinematic alchemist. In *Y Tu Mamá También* he has taken these worn-out conventions and woven them into a golden work of art that commemorates the joy and melancholy of life.

Having farewelled their Italy-bound girlfriends, Tenoch (Diego Luna) and Julio (Gael García Bernal) are faced with a long hot summer of teenage ennui, recreational

drug use and regular masturbation. But then they meet Luisa (Maribel Verdu): married, sexy and ten years their senior. Boldly they invite her on a road trip to 'Boca del Cielo' (Heaven's Mouth)—an idyllic beach, which to the best of their knowledge doesn't exist. When Luisa discovers that her husband has had yet another affair she astounds them by agreeing to come along.

By turns bemused and annoyed by her travelling companions, Luisa looks upon them like puppies—adorable but not yet trained. When she does eventually have sex with them it is over so quickly she doesn't know whether to laugh or complain.

Cuarón uses this basic plot to create a film of rare depth. He rejects the comedy of embarrassment that infuses films like *American Pie*—his sex scenes are exuberant, unashamed and truthful. Then, just as importantly, he surrounds the central *ménage à trois* with a vivid portrait of Mexico in a time of political change. As our lusty trio drive to the ocean, protected by their wealth and class status, they encounter Mexico in all its tumultuous strangeness.

And finally, Cuarón allows Luisa's story to dominate. At its end, when the true nature of her motivation is revealed, the whole film instantly takes on new colour.

—Brett Evans

Too little

Stuart Little II, dir. Rob Minkoff. I loved *Charlotte's Web* as a child. It made me cry. I never read *Stuart Little* (also by E.B. White) but if the films are any guide I am now retrospectively nervous that all that buttermilk and wise spiderly advice was just a cover for saccharine twinset philosophies and revoltingly soppy love stuff. How could I have been so stupid?

But perhaps I am too hard on myself and E.B. White. After all, how often is a book translated gently to the screen by a Hollywood studio? And, to add insult to injury, this is a sequel.

Stuart Little II has too many gadgets and not enough belly laughs. Snowbell (voiced by Nathan Lane, who could make Kafka sound funny) gets all the best lines but can't rescue the film from the rubber-duckie plot and bubble-bath humour. Kids deserve more, and their adult companions should demand more. Films can remain suitable for children *and* be insanely funny; *Shrek* did it.

—Siobhan Jackson



At bleeding edge

IF YOU WANT TO LEARN humility, take a leadlighting course. Dragged along by a loved one who wanted company, I have had to get used to coming last. You buy, for about 40 hard-earned dollars, a thing that looks like a large biro and that claims to cut glass. You fill it with kerosene and roll the tiny tungsten wheel over the sheet of glass. 'No, you're not making that nice scoring noise,' says the teacher, and takes it off me and does it with one hand tied behind her back. I used to think I was a rather nifty type in the yartz department: a spot of singing here, a soupçon of pottery there, a dab of painting, a snatch of doggerel. But I'm typing this with a fistful of Band-aids, a renewed sense of my limitations and a boundless admiration for Dale Chihuly, albeit he blows glass and I try to cut the stuff.

The ABC rescreened a documentary about Chihuly in September, and I was open-mouthed with respect. Granted, he wasn't doing much with glass himself any more: one eye gone and a dicky shoulder mean that he delegates, much as do the likes of Jeff Koons and Mona Hatoum. But somehow he feels more real than straight conceptual artists, coming as he does from a solid background of craft and making. Glass is bloody-minded stuff to work with and often bloody anyway if you make a mistake. His pieces are flowing, huge, glorious, phantasmagorical, organic, ethereal. Mine are all done in straight lines because I can't cut curves without threatening my current tally of fingers and thumbs—and although I'll never play the violin again anyway, it would be nice to know I still could if my family hadn't burned it while I wasn't looking.

Most families have some sort of serial night-class taker in their ranks, and I keep mine in order by threatening to take the one that helps you write the family saga.

Sagas are strange mixtures of comedy, tragedy and just plain story. Perhaps in olden days they were the precursors of the soap opera, except that sagas eventually come to an end and soaps never do. When John Galsworthy wrote *The Forsyte Saga*, he was working in a firm tradition: a family establishes itself and the cast of characters gradually increases as marriages are contracted, children grow up and themselves marry and reproduce. Names persist: Jolyon in all its different forms: Jo, Old Jolyon, Young Jolyon, Jolly.

I read the books along with other, less well-regarded sagas when I was a teenager: the Canadian writer Mazo de la Roche and her vividly readable Whiteoak saga; the Anne books; Trollope's Palliser series, with its wonderful BBC adaptation; Sergeanne Golon's fascinating Angélique series. Galsworthy's work was of much higher order than these, of course, although some of de la Roche could stand beside any book

you care to mention that isn't Dickens, Tolstoy, Austen or Brontë. The ABC is showing the BBC's latest version of *The Forsyte Saga* and in a curious and felicitous juxtaposition, Optus cable is showing the version that was made in the mid-'60s. Looking up the old cast list on the net (www.imdb.com) made me gasp; it was a who's who, an Olympus of fantastic actors, many now of course dead. Try these for starters: Nyree Dawn Porter as Irene; Susan Hampshire as Fleur (Hampshire was later the pluperfect Glencora Palliser); Kenneth More as Jo; Fay Compton; Margaret Tyzack; June Barry. The current version is much shorter, brisker, compressed-er than the earlier one. But there is a lovely Irene in Gina McKee, and Damian Lewis is an excellent Soames, although I remember that Eric Porter in the same role had a kind of heavy, threatening presence that Lewis lacks.

IT WAS A SHOCK TO SEE the 1960s version of Marjorie Ferrar's slander trial, however. It demonstrated that the differences between the two versions went deeper than simple casting or even script adaptations. Caroline Blakiston as Ferrar was magnificent as she stood in the witness box in the 1960s at the cusp, the intake of breath the West took before women's liberation, and argued for sexual freedom as a valid moral choice. It was of course set in the 1920s, and the mid-'60s mindset was much closer to that than to 2002. The cross-examination was brutal, making me think of Richard Neville's real-life Oz obscenity trial not much later.

The 21st-century *Forsyte Saga* is very different, because there is an inescapable flavour of those battles having been won in the very way it treats Soames' rape of Irene. All sympathy is (rightly) with her; one expects her to leave; it is the done thing if one's husband abuses one. Things were not so clear-cut in the book, which, as I remember, rather ironically referred to Soames' 'assertion of his marital rights' or some such construction of thought. There was some sympathy for him, even while he was depicted as the tight, unattractive personality that he is. The 1960s *Forsyte Saga* was discreet about the rape, and much more conscious of the social threat to Irene as she fled her marriage. Maybe the ABC could get hold of that version and give everyone the opportunity to compare.

But as I look around at the freedoms that baby boomers' daughters enjoy, it's nice to reflect that some, if not all, babies have come a long way since *The Forsyte Saga* was written, or first screened. ■

Juliette Hughes is a freelance writer.



Eureka Street Cryptic Crossword no. 107, October 2002

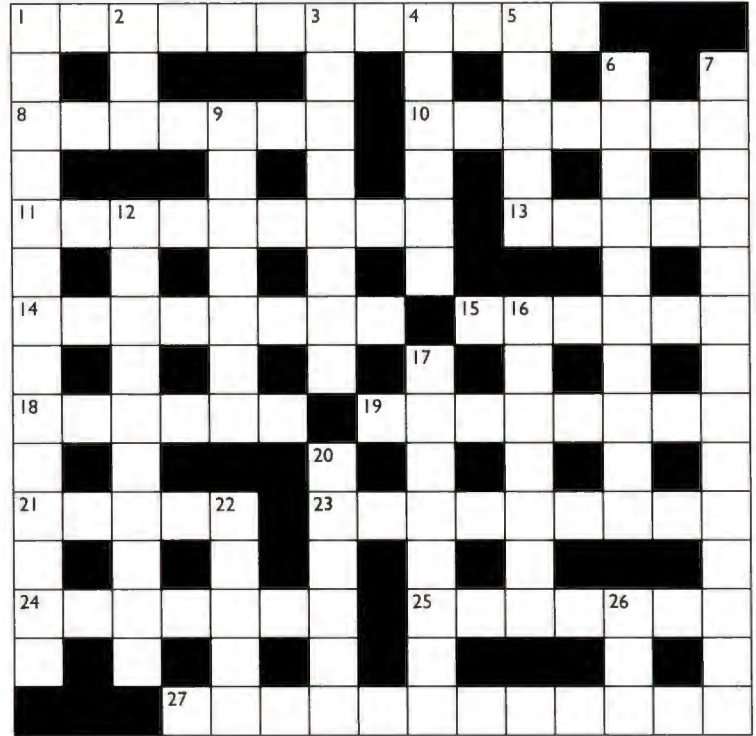
Devised by
Joan Nowotny IBVM

ACROSS

1. Wandering, without responsibility, he is not a collector of flowerless plants. (7,5)
8. Capable of giving repeated thanks for musical performance. (7)
10. Fighter has speed enough to fly to another country. (7)
11. Did one's bit in preparing to dine—incongruously—on the cricket wicket! (7,2)
13. Parsimonious paralytic? (5)
14. Appropriate sort of food. (4-4)
15. Rather stupid to point out unpleasant scent on the wine producer? (6)
18. Make a wine offering to the gods—politician consumed it. (6)
19. Footballer, perhaps, so limber and lithe that he should not suffer from this. (4,4)
21. For short time, payment for lodging was made to the church council. (5)
23. Feeling miserable I sat a long time, pining for the past. (9)
24. Silhouette often seen in disgracefully unlit old English capitals. (7)
25. Revolutionary twice went north, seeking citizen of former Soviet territory. (7)
27. Sort of stationery, possibly, to which Elia responds—maybe! (12)

DOWN

1. As a summary of the main points, I turn to a place I recollect? (14)
2. Girl turns up with nothing, reportedly. Why, say, replace one? (3)
- 3 & 20. Watchful spirits for this day in October? (8,6)
4. Regulating actions to produce the best effect? Perfect! (6)
5. Close to the end of twilight? It follows! (5)
6. Negotiating for profit in baring one's soul, perhaps, to the market. (10)
7. Not light-headed but just rather foolish. (7-7)
9. Essentially, perfect pitch; you cannot confuse that ear! (2,5)
12. Sometimes, baker at the production level needs to pause, rest and inhale! (4,6)
16. Musical work (with note) performed at function? (7)
17. Napoleon, when asked if he could defeat his enemies, replied 'Course I can.' (8)
20. See 3-down.
22. Square and mature? What rot! (5)
26. Possesses chaste heart. (3)



Solution to Crossword no. 106, September 2002



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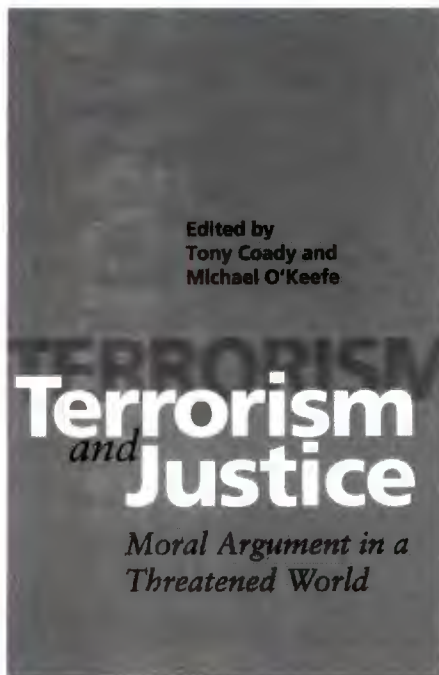
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