

military hardware makes my point more emphatic — that the use of an anti-tank rocket is just as absurd and inappropriate; for thus was the police intervention in a minor campus incident.

One of Garner's major arguments is flawed according to FW. Garner takes the view that women must take responsibility for their sexual freedom and accept a certain level of risk. This seems to me to be a reasonable comment on modern sexual mores and, of course, applies equally to men and women. However, FW takes umbrage with a whining, even surly complaint — '*men get their freedom no questions asked but women don't — we must trade off safety for emancipation*'.

What poor victims we women are, she is saying. What empty rhetoric — to argue that men get their freedom, no questions asked. Pray tell what kind of questions should be asked? Perhaps one question could be — should men refuse to accept freedom without the guarantee of an assault-free world? Should women refuse the freedom they now enjoy because an assault-free or even a harassment-free world cannot be assured? The answer is obvious. Both men and women have freedom and it brings its problems — both risk assault, armed robbery, homicide and other crimes.

FW wants a cast iron guarantee that if women accept their freedom it will be in a world free of danger. A used car salesman's guarantee is all we get in this world. That illusory guarantee of certainty, naively sought by FW, can only be available when the millennium arrives!

I agree entirely with FW that *The First Stone* is a fascinating book —

The Evidence of Children: The Law and the Psychology

by J.R. Spencer and Rhona Flin; 2nd edn, London, Blackstone Press, 1993; distributed by Federation Press; 465 pp; \$45.00 soft-cover.

Are children chronically unreliable witnesses? Lawyers have traditionally thought so, regarding children with a suspicion bordering on prejudice. In a chapter on the psychology of children, for example, Spencer and Flin quote the following passage from Heydon, *Evidence: Cases and Materials*, which sets

mainly because Garner is compassionate and open to argument and persuasion. One of the powerful things about the book is Garner's genuine dilemma in examining her feminist views and her frequent confrontation with those who portrayed women as helpless victims. FW says that the book is simplistic and that Garner's portrayal of (some) modern feminists as priggish, disingenuous and unforgiving, is inadequately reasoned. In my view, anyone reading FW's review will recognise FW in this portrayal — perhaps with the addition of the appellation punitive. Garner is too kind to her erring sisters and too sensitive to describe FW and those sharing her dogmas as jackboot feminists, defined as those in their ideological strait-jackets who regard moderate women as traitors or fools and men as objects of animosity and suspicion, if not hatred.

Charles Montesquieu (1689-1755) French lawyer, philosopher and man of letters stated that: . . . '*the object of punishment ought always to be the establishment of order — a just temperature of punishments and rewards . . .*' (my emphasis)

In the Ormond incident this object was not met. Minor allegations were not proven in a court of law and an innocent man was severely punished anyway. There is no cause for crowing over this affair which has given comfort to misogynists, pain to genuine feminists — and a touch of arrogance to the jackboot feminists whose urge to punish shines through their narrow suffocating fanaticism.

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out a series of negative beliefs about the reliability of children:

First, a child's powers of observation and memory are less reliable than an adult's. Secondly, children are prone to live in a make-believe world, so that they magnify incidents which happen to them or invent them completely. Thirdly, they are very egocentric, so that details seemingly unrelated to their own world are quickly forgotten by them. Fourthly, because of their immaturity they are very suggestible and can easily be influenced by adults and other children . . . A fifth danger is that children often have little notion of the duty to speak the truth, and they may fail to realise how important their evidence is in a case and how important it is for them to be accurate. Finally, children sometimes behave in a way evil beyond their years.

One of Spencer and Flin's chief missions is to persuade lawyers that chil-

dren are far more trustworthy than commentators such as these would have it. In fact many of the rules which were justified by beliefs such as those expressed above, have already been abolished in most Australian jurisdictions (nor did the above comments appear in the 3rd edition of Heydon's book). Nevertheless, some residues of this suspicion do remain to be corrected; Spencer and Flin attempt to do this by setting out an impressive array of psychological evidence designed to show that children really are reliable. Access to this psychological literature — through the text and an excellent bibliography — is, for this reviewer, the book's greatest strength. The authors undoubtedly deliver on their promise to cover both 'the law and the psychology' and this no doubt reflects the fact that they are, respectively, a lawyer and a psychologist.

The quality of the legal scholarship is also impressive, particularly when the authors deal with the history of the various legal rules which they discuss. From an Australian point of view, however, the usefulness of the legal commentary is limited by the fact that the authors deal only with the law in England and Scotland. Of course the Australian law of evidence has much in common with that which operates in England (and to a much lesser extent, Scotland), and the general criticisms which the authors make of the law of evidence are certainly relevant here; but it is, essentially, a British book.

While the scholarship is impressive in *The Evidence of Children*, the layout is less so. I found the table of contents particularly irritating: rather than showing the page numbers both for each chapter and for each section within each chapter, the table of contents merely shows the page number for each chapter and then lists the sections in one rather difficult to read paragraph. The publishers have also used endnotes rather than footnotes, which is always frustrating: do I go to the trouble of finding the endnote on the off chance that it might be interesting, or simply assume that it won't be and run the risk of missing something important? But these are only small blemishes on an otherwise excellent book. In Australia the book will be most useful to academics and students interested in the evidence of children; for practitioners the usefulness of the book is limited by the fact that the authors do not discuss Australian law.

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