

ACCEPTED VERSION

Greg Taylor

**J. M. Bennett, George Higinbotham : Third Chief Justice of Victoria [Book review]**

Law Institute Journal, 2007; 81(7):83-84

© Copyright Law Institute of Victoria

First published in *Law Institute Journal*, 2007, vol. 81, no. 7

**PERMISSIONS**

<https://www.liv.asn.au/LIV-Home/Practice-Resources/Law-Institute-Journal/Write-for-the-LIJ>

**Author Guidelines**

Once the article has been accepted for publication, we ask that you do not distribute the material to anyone else until it has been published in the *LIJ*. Once it has been published in the *LIJ* it may be reproduced elsewhere, with a note that the article was first published in the [month and year] *Law Institute Journal*.

25 August 2017

<http://hdl.handle.net/2440/107236>

## FEET OF CLAY

J.M. Bennett, *George Higinbotham : Third Chief Justice of Victoria* (Federation Press, Leichhardt 2006); I.S.B.N. 978 186287 628 6; \$49.50; 312 + xvi pp.; with foreword by Geoffrey Blainey

This volume, another in J.M. Bennett's series *Lives of the Australian Chief Justices*, continues the high standards of scholarly research and judgment to which his series has accustomed us. The choice of a series of biographies naturally limits the length of each, and each needless to say gives pride of place to its subject's judicial career – but Dr Bennett amply compensates for these restrictions with the all-round high quality of his work.

I had awaited Dr Bennett's biography of Higinbotham C.J. with particular interest because of the latter's somewhat ill-deserved status of “local hero” owing to his dissenting judgment in *Toy v. Musgrove* (1888) 14 VLR 349 and for having made a colossal nuisance of himself with his monomaniacal denunciations of imagined intrigues and offences on the part of the Colonial Office against nineteenth-century colonial governments.

In fact, as Dr Bennett demonstrates in this admirable biography, Higinbotham C.J. was far more of an embarrassment to the Victorian government than he was a help to it, both in his wildly exaggerated claims against the Colonial Office and his various other eccentricities and “crotchets” (as people said in the nineteenth century). His defects as a politician, before his appointment to the Bench, were also considerable, and stemmed largely from an inability to compromise. Dr Bennett also deals with Higinbotham's time as editor of the “Argus” and says what little there is to say about his childhood and youth.

Sometimes Higinbotham C.J. is praised for bringing the perspective of a ‘political adult’ (see p. 218 of the book) to Victorian politics. In fact, as this excellent book demonstrates, a more accurate assessment would be ‘immature to the point of puerility’ (p. 219). It is after all usually the office of the late adolescent to proclaim self-consciously his own adulthood.

It should not be thought, however, that the biographer spends all his time denouncing his subject. For example, it is most interesting to read of Higinbotham's flowering as a Judge, and adoption of a more judicial temperament and style, on reaching the highest office. Dr Bennett however also records one or two notable exceptions, such as his donations as Chief Justice, using the prestige of his office, to the trades unions' strike fund!

*Greg Taylor*  
Faculty of Law  
Monash University