

# Victorian Bar News

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|   | PAGE |
|---|------|
| IN THIS ISSUE:  |      |
| THE BAR COUNCIL . . . . .                               | 2    |
| GENERAL MEETING . . . . .                               | 7    |
| YOUNG BARRISTERS' COMMITTEE . . . . .                   | 7    |
| FAREWELL: JUDGE O'DRISCOLL . . . . .                    | 9    |
| WELCOME: JUDGE HOGG . . . . .                           | 9    |
| CONGRATULATIONS: ASCHE Q.C. (Judge Designate) . . . . . | 10   |
| GIFT TO THE BAR BY THE LATE JOHN N. BENNETT. . . . .    | 10   |
| LAW REFORM COMMISSIONER'S WORKING PAPER ON DELAYS       |      |
| IN SUPREME COURT ACTIONS. . . . .                       | 11   |
| THE PROBLEM OF OUTSTANDING FEES . . . . .               | 17   |
| A LITTLE SELF-CONGRATULATION . . . . .                  | 21   |
| FOR THE PERIPATETIC. . . . .                            | 23   |
| MOUTHPIECE . . . . .                                    | 24   |
| CAPTAIN'S CRYPTIC No. 13. . . . .                       | 25   |
| DOXA YOUTH WELFARE FOUNDATION. . . . .                  | 26   |
| MOVEMENT AT THE BAR . . . . .                           | 26   |
| SOLUTION TO CAPTAIN'S CRYPTIC. . . . .                  | 27   |
| CROC. NOT WELL . . . . .                                | 28   |

## BAR COUNCIL REPORT

### Status of Children Act 1974

The Bar Council asked the Matrimonial Causes Committee to make comments upon the Status of Children Bill 1974. This Bill, which has now become an Act, was designed to remove the legal disabilities of children born out of wedlock. The comments of the Committee were forwarded to the responsible Minister and the Law Reform Commissioner and to the National Council of the Single Mother and Her Child.

### Taxation Appeals Act 1972

The Bar Council has requested the State Attorney-General to expedite the proclamation of the Taxation Appeals Act 1972.

### Magistrates Courts (Jurisdiction) Act 1973

A report of the Joint Standing Committee of the Law Institute and the Bar Council on the Magistrates Courts (Jurisdiction) Act 1973 has been adopted and forwarded to the State Attorney-General.

### Appointments of Justices to the High Court

The Bar Council received a letter from the Select Committee of the Legislative Assembly of New South Wales upon the appointment of Judges to the High Court of Australia inviting a submission from the Bar. The Bar Council resolved to inform the Select Committee that it did not desire to make any submissions.

### Bar Council - Voting System and Terms of Office

The Bar Council referred to the incoming Bar Council suggested alterations to the voting system in Bar Council elections and suggested alterations to the terms of office of members of the Bar Council.

### Bar Council Meetings

The Bar Council has resolved that there be an additional meeting of the Bar Council each second Thursday at 5.00 p.m. This means that the Bar Council now meets twice a month.

### Australian Legal Aid Office

The Australian Legal Aid Office wrote to the Bar Council proposing the setting up of a Legal Costs Committee. The Bar Council agreed to this proposal and resolved that Gobbo Q.C., Dowling and a member of the Bar to be appointed by the Young Barristers' Committee be appointed to that Committee. The Young Barristers' Committee appointed P.C. Dane.

### Assistant Honorary Secretary

Following upon the appointment of Phipps as Honorary Secretary, Wild has been appointed Assistant Honorary Secretary to the Bar Council.

### Supreme Court Jury Lists

The Bar Council resolved that the Chairman be requested to wait on the Chief Justice with the Vice-Chairman to discuss with him the lack of allocation of Judges to the jury lists, and delays in the jury lists. The Chairman and Vice-Chairman discussed these subjects with the Chief Justice.

## BAR COUNCIL REPORT

### Victorian Bar Superannuation Fund

R.C. Tadgell Q.C. has been appointed a trustee of the Victorian Bar Superannuation Fund in place of Griffith J.

### Town Planning Appeals Tribunal Accommodation

Following upon a report that new premises were being planned for the Town Planning Appeals Tribunal, the Bar Council resolved to make urgent representations with a view to ensuring that —

- (1) the Town Planning Appeals Tribunal be provided with proper facilities for the parties to a hearing and for those appearing on their behalf.
- (2) those facilities should include —
  - (a) waiting rooms where the parties to the hearing can wait separately from each other so as to avoid the present situation in which the applicants and objectors have to sit side by side in a narrow passageway;
  - (b) conference rooms where those appearing for the parties can confer with them and with witnesses;
  - (c) a phone for the use of those appearing for parties;
  - (d) a library containing at least —
    - Local Government Reports of Australia;
    - Victorian Planning Appeal Decisions;
    - The Town Planning and Local Government Guide;
    - Victorian Reports from 1957;
    - The unreported decisions of the Town Planning Appeals Tribunal;

(3) the facilities to be provided for the Tribunal should be so provided as to make it plain to the Public that it is separate and distinct from any department and that it operates as an independent Tribunal.

(4) the facilities to be provided for the Tribunal should be not less than those provided for the Environment Protection Appeal Board but preferably as good as those provided for the Liquor Control Commission.

### Law Council of Australia Capitation Fee

The Bar Council has approved a capitation fee of \$12.00 to be paid to the Law Council of Australia for the year commencing 1 October, 1975.

### Corporation and Securities Industry Bill

The Bar Council received a memorandum from Paterson Q.C., a letter from Barristers Chambers Limited to the Bar Council and a memorandum to the Law Reform Committee from Paterson Q.C. relating to the Corporation and Securities Bill and the administrative difficulties it would impose on small companies such as Barristers' Chambers Limited. The Bar Council referred these documents without recommendation to the Law Council of Australia in a form settled by the Companies Committee for its consideration.

### Availability of Law Reform Reports of the Bar

The Bar Council resolved that subject to the same not being confidential, reports of the Bar Council relating to legislation introduced into the State or Federal Parliament be made available, as a general rule, to the appropriate Minister and the relevant Shadow Minister.

## BAR COUNCIL REPORT

### Town Planning Appeals Tribunal

The Bar Council has accepted a report of the Town Planning and Local Government Practice Committee regarding the Town Planning Appeals Tribunal and has resolved to make representations in accordance with its recommendations to the Attorney-General. The report covered a number of different items including the following:

#### Acting Chairman

The report expressed the view that each division of the Tribunal should be chaired by a permanent Chairman whenever possible and that there should be an Acting Chairman only when a permanent Chairman is sick. It further suggested that an Acting Chairman should be of 7 years standing at the Bar and experienced in the jurisdiction.

#### Vacation

The report expressed the view that the Tribunal should be asked not to sit in the first three weeks of January and should be asked that any cases to be heard in the latter part of January should be on notice given to the parties not later than the end of the second week in December. There was no wish to impose the long vacation upon the community, but the jurisdiction is one in which expert evidence is necessary, and it is understood that most of those experts are on vacation in January.

### Matrimonial Causes-Discretion Statements

The Bar Council resolved to forward a copy of a memorandum of the Matrimonial Causes Practice Committee dealing with this subject to the Chief Justice with a view to obtaining uniformity of approach in cases in which discretion statements are still relevant.

### Effectiveness of Sanctions in Preventing Road Accidents

The Bar Council has agreed to constitute a joint committee with the Law Institute of Victoria to make recommendations to the Bar Council and the Law Institute in relation to proposals concerning research into the effectiveness of sanctions in preventing road accidents.

### Two-Thirds Rule

In accordance with the decision of the General Meeting of the Bar, the Bar Council has ruled that it is not improper for counsel briefed as junior to senior counsel to enter into a special arrangement with senior counsel, that he will accept a fee being not less than the standard minimum fee for the jurisdiction or, if there be no standard minimum fee, a fee reasonably commensurate with a fee junior counsel will accept if appearing alone but that, in the absence of any special arrangement, junior counsel briefed with senior counsel should receive a fee which is equal to two thirds of the fee of senior counsel.

### Retainer Fees

The Bar Council has recommended that as from 1st September 1975 retainer fees be:—

|  |         |
|--|---------|
| General Retainer                           | \$56.00 |
| General Retainer — each subsidiary company | \$14.00 |
| Special Retainer                           | \$ 6.00 |

### Family Law Regulations

The Bar Council has resolved to write to the Australian Attorney-General drawing his attention to the terms of Regulation 24 of the Draft Family Law Regulations and requesting that that regulation be deleted having regard to the fact that there are different rulings in various Bars of Australia and also drawing his particular attention to Regulation 24 in Victoria and to the ruling of the Bar Council

## BAR COUNCIL REPORT

made in relation to the two-thirds rule. Draft Regulation 24 provides: "Where senior counsel is briefed a second counsel shall not be entitled to any particular traction of senior counsel's fee unless there is a satisfactory negotiation and agreement thereon."

### Visit by Canadian Advocates

Approximately 100 Canadian lawyers, including Chief Justices and other Judges and their wives, will be visiting Melbourne in April, 1976. Professor N.J. Williams, a member of our Bar and a Professor at Osgoode Law School, Toronto, came to Melbourne to assist in arranging an itinerary for the visit, and was joined by Canadian lawyers who constituted an advance delegation to make the necessary arrangements. The Bar Council has appointed Lazarus Q.C. and Dowling, with power to co-opt, an interim sub-committee in relation to this visit.

### Representation of Profession on Law Faculty, Melbourne

There has been a proposal to reconstitute the Faculty of Law at Melbourne University in a way which would reduce representation by members of the profession on the Faculty. The matter of the retention of that representation has been referred to the Joint Standing Committee of the Bar and Institute, and the Chairman and Vice-Chairman have been authorised to take such action as they think fit to prevent a reduction in the representation of the profession. The Chairman of the Bar Council and the President of the Law Institute requested reconsideration of this question.

### Environment Protection (Noise Control) Bill 1975

A memorandum from the Chairman of the Town Planning and Local Government Practise Committee relating to the above Bill has been forwarded to the Minister of Conservation for his information. The report analyses certain sections of the Bill and concludes with a suggestion that the objectives of the Bill could be met in a different way.

### Constitution of the Full High Court on Appeals

The Bar Council has recommended to the Law Council of Australia that representations be made to the Chief Justice of the High Court that a High Court be not constituted as a Court of final resort in equal numbers. This recommendation was made having regard to the present position in respect of opinions of the High Court when equally divided.

### Liquor with Lunch

The Bar Council has considered the question of liquor being consumed with lunch in the dining room, but has resolved at this stage to take no action on this matter.

### Charges for Photocopying Machine

The Bar Council has approved of an increase in the charges made for the use of the photocopying machine to the sum of ten cents per page.

### Robing in the Practice Court

At the request of the Young Barristers' Committee, the Bar Council has resolved to make a request to the Chief Justice of the Supreme Court and the Chief Judge of the County Court to direct that counsel need not robe

## BAR COUNCIL REPORT

in respect of court matters heard in the Practice Court and County Court chambers respectively.

### Law Teachers use of the Common Room

The Bar Council has resolved that the Universities should be informed that all law teachers on the teaching staff of the universities are welcome at lunch in the Common Room with the Bar on Wednesday of every week.

### Advisory Committee on Magistrates' Courts

On 17th July 1975 the Chairman attended and addressed the opening of the Magistrates' Conference. In his address to the Magistrates he suggested the setting up of an Advisory Committee consisting of representatives of the Magistrates, the Bar and Law Institute and the Government to consider and advise upon long term planning for Magistrates' Courts in Victoria. The President of the Law Institute, Mr. J.C. Richards, who spoke later, endorsed this proposal. The Chairman has been advised that the Magistrates' Conference resolved to support the suggestion.

### Chairmen's Dinner

Mr. Justice Connor made a gift to the Bar of an Honour Board showing the names of the Chairmen of the Bar. Raymond M. Johnstone did a great deal of work going through old minutes to ascertain who had acted as Chairman at meetings of the Committee of Counsel and general meetings of the Bar. Between 1900 and 1942 there had been no elected Chairman. Senior members of the Bar present took the Chair, not necessarily the

most senior. A Committee decided who in substance should be treated as the Chairman over these years. Frank Walsh ordered the Board and arranged for the names of the 32 Chairmen of the Bar to be set out. A dinner was held on 12th September 1975 to which all former Chairmen of the Bar who are now living were invited. Sir Robert Menzies, who is the most senior of the former Chairmen now living was not able to attend but sent a cordial letter which was read at the meeting.

All other former Chairmen now living were present at the dinner. Mr. Justice Connor presented the Honour Board to the Bar and each of the former Chairmen responded to the toast to the former Chairmen of the Victorian Bar. The former Chairmen present were:

Sir James Tait, Sir Richard Eggleston, Sir Oliver Gillard, Mr. Justice Smithers, Mr. Justice McInerney, Mr. Justice Lush, Mr. Justice Anderson, Mr. Justice Connor, Mr. Justice Coldham, Mr. Justice Kaye and Mr. Justice Harris.

The dinner was held in the month 75 years after first signature on the Bar Roll on 21st September 1900.

## GENERAL MEETING OF THE BAR

At a general meeting of the Bar held in the Common Room on 13th August and attended by some 200 members the question of alternative accommodation was discussed.

A Report and Recommendations of the Accommodation Committee had been previously circularised. The report proceeded on the basis that it was in the interests of the Bar that accommodation be provided for all Counsel. It considered a number of alternative proposals --

- to retain Owen Dixon Chambers and lease additional space as and when required.
- to retain Owen Dixon Chambers and purchase additional space.
- to sell Owen Dixon Chambers and purchase new accommodation.
- to sell Owen Dixon Chambers and lease new space.
- to retain Owen Dixon Chambers as an investment and lease alternative space.
- to sell Owen Dixon Chambers and develop an alternative site.

The Committee recommended that the last course of action be followed and outlined a proposal to develop a site at 544 Lonsdale Street in collaboration with Northrock Investments Pty. Ltd. A model of the proposed building has been for some time on display in the Common Room.

At the meeting some concern was voiced about the cost of undertaking such a scheme especially in the present economic climate, and about the ultimate rental which would be payable for space in the new building. Berkeley Q.C. told the meeting that the negotiations which he was seeking the meeting's mandate to undertake would be on the basis that the rental for an average size room would be \$60 to \$70 per week upon completion.

The meeting passed the following resolutions --  
 "That the Bar should be housed in one building"  
 "That the Bar approves in principle the Northrock proposal subject to ascertainment and approval of financial arrangements."

## YOUNG BARRISTERS COMMITTEE REPORT

### Delays in Magistrates' Courts

The issue which above all else has concerned the Young Barristers Committee in recent meetings has been the question of delays in Magistrates' Courts. John Phillips, the recently appointed new member to the Joint Standing Committee on Magistrates' Court Practice and Procedure, has met with the Committee to discuss this question. As a result of this meeting all Counsel who practise in the jurisdiction will be handed each week a pro forma to complete. The idea behind this survey is to gather evidence to put before the Government to show the cost to the community and to the Government arising out of these delays. It is therefore particularly important for Counsel to enter the precise amount of expenses involved as this is vital to the submission. Similar surveys have failed in the past but if young Barristers wish the Government to appoint additional Stipendiary Magistrates then it is important to assist with this survey.

### Magistrates' Court Buildings

A Sub-Committee of the Young Barristers Committee has written to the Director of Public Works concerning the design of new Magistrates' Court Buildings and indicating that they would like to make submissions to the Director in relation to any future

## Young Barristers Committee Report

buildings. More recently the Committee was advised that the Government had purchased land in Malvern Road for a new Courthouse at Prahran and it was recommended that the Bar Council indicate to the Government that it is interested in and desires to make a submission in respect to the nature and design of this new Courthouse.

## General Directory of Barristers

It was recommended that the Bar Council be requested to consider the setting up of a central directory in alphabetical order of all Barristers practising at the Victorian Bar to be located in Owen Dixon Chambers indicating the Chambers of the Barrister and the Clerk employed by such Barrister in lieu of the present system of directories. The Bar Council has referred this matter to Barristers Chambers Limited which has taken steps to set up the central directory.

## 180 William Street

The Bar Council was requested to consider the designation of the Chambers situated at 180 William Street and the name put forward by the Committee was "Four Courts Chambers". This was accepted by the Bar Council.

## Levies on Barristers

The Committee recommended that in respect of any future levies, such levies should be proportioned as follows:

Counsel ten years call and over — 70% of the levy recommended to be paid by Queen's Counsel.

Counsel five years to ten years call — 50% of the levy recommended to be paid by Queen's Counsel.

Counsel one year to five years call — 30% of the levy recommended to be paid by Queen's Counsel.

Counsel under one years call — 10% of the levy recommended to be paid by Queen's Counsel.

These percentages have been adopted by the Bar Council in respect of the levy to be raised for the seventh Clerk.

## Bar Council Ballot Paper

The Committee felt that the practice of placing asterisks alongside the names of retiring members on the Bar Council Ballot Papers was wrong in principle and that instead a circular should accompany each ballot paper setting out in substance a short resume of each Bar Committee Membership or other appointment held in preceeding years by each Candidate. This motion was referred back to the Committee with explanation by the Bar Council but the Committee has reaffirmed its original motion.

## A.L.A.O. Professional Costs Committee

Two members of the Young Barristers Committee, Michael Rozenes and David Habersberger, are members of the Overdue Fees Committee and they would welcome submissions re overdue fees from the Junior Members of the Bar. It is particularly important that the views of the younger members of the Bar be heard on this difficult question.

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**Farewell:****JUDGE O'DRISCOLL**

On the 4th September His Honour Judge O'Driscoll was twice farewelled. The first occasion was at the Liquor Control Commission when members of the profession who practise in that jurisdiction bade him farewell as Chairman of the Commission. The second took place in the County Court when the legal profession as a whole honoured his retirement as a Judge of the County Court.

His Honour has had a distinguished legal career. He was King's Counsel in three States, tutored at Melbourne University and Newman College, was a Member of Middle Temple and was the author of 4th Edition of Meagher's Licensing Law and Practice. He had an extensive practice in all jurisdictions before accepting appointment to the County Court Bench. He was Chairman of the Workers' Compensation Board from 1965-1968 and Chairman of the Liquor Control Commission from 1968-1975.

As first Chairman of the newly constituted Liquor Control Commission he performed great service to the State of Victoria. The position is one which requires not only judicial but administrative skills and the present reputation of the Commission and prosperous state of the liquor industry is in large measure due to the exercise of these skills. He introduced new procedures which both expedited and shortened hearings but never at the expense of justice; for His Honour was always at pains to ensure that all had a fair and full hearing. He was always courteous and helpful to those who appeared before him.

His Honour is a man of many parts and must be one of the few lawyers to obtain First Class Honours (including the Dixon Scholarship) in Pure Mathematics at Melbourne University. He had distinguished war record, served as a Judge Advocate in the South West Pacific, was mentioned in despatches and at the end of World War II was transferred to the R.A.A.F. Reserve with the rank of Squadron Leader. He was also an outstanding sportsman, winning

the Australian Varsity Mile in 1921 and representing Combined University of Australia against South Africa in 1922. He also held distinguished office with the Victorian Amateur Athletic Association, the Lawn Tennis Association of Victoria, the Australian Olympic Federation and the Modern Pentathlon Association and won the Medal of Honour of the International Union in recognition of his services to that Federation in world sport.

His Honour has always been a great and enthusiastic worker for the Bar of Victoria and took a leading part in the establishment of Owen Dixon Chambers.

The Bar wishes His Honour a happy retirement.

**Welcome:****JUDGE HOGG**

Stanley George Hogg Q.C. was appointed a Judge of the County Court on the 9th September 1975.

Judge Hogg signed the Bar Roll on the 31st day of January 1951. In addition to his legal qualifications His Honour was qualified in accountancy and economics. These extra skills enabled him to advance his practice in the increasingly important fields of taxation and commercial disputes. Moreover they enabled him to lecture generations of law graduates in the mysteries of the trial balance and profit and loss account.

Since taking silk in 1970 His Honour has continued to practise in these fields and developed a considerable opinion practice.

At the same time His Honour has served the Bar in his capacity as Chairman of the Legal Aid Committee in Victoria during this year and for many years as Secretary of the Victorian Bar Superannuation Fund and a Trustee of the Superannuation Fund for the Supreme Librarian.

His Honour's characteristic quiet courtesy and industry will stand him in good stead in his new office and the Bar wishes him many years of satisfying service to the community at large.

### **AUSTIN ASCHE Q.C. (JUDGE DESIGNATE)**

The first Victorian appointment to the newly constituted Family Law Court will be Keith John Austin Asche who takes precedence in seniority immediately after the Chief Judge Elizabeth Evatt. There can be few judicial appointments which could give such universal satisfaction. Austin Asche has gained a position of pre-eminence at the Bar in the matrimonial jurisdiction. His down-to-earth approach to the often acrimonious disputes between warring spouses and his deep and sympathetic understanding of the problems of children make him an ideal choice for the responsible post he is about to assume. This new jurisdiction is a radical departure from its predecessor and much pioneering work will need to be done. Austin Asche will not lack courage in this empiric endeavour to break with precedents now out of date and the Bar looks to him for a strong lead in this new interesting and exciting work. At the age of 49 years he can look forward to many years on the bench. His is a challenging but not a daunting task and one is mindful that the community as well as the legislators were fairly evenly divided for and against the law on its introduction. How it will work out will depend so much on the approach of the judges and the respect which they can command from those who appear before them.

He has maintained a continued interest in education as is evidenced by his membership of the Council of the State College of Victoria, Frankston the Senate of the State College, the Council of R.M.I.T. and the lectures in English Literature which he has given to secondary school students for many years as part of the Friends of the Baillieu Library Scheme. In addition he has found time to become a successful and popular lecturer in Family Law for the Council of Legal Education Law Courts at R.M.I.T. He has instructed in Family Law at the Legal Practice Course conducted by the Leo Cussen Institute since its inception. He has worked tirelessly for his students and his tolerance and

his unfailing humour has earned him their affection and respect.

The young Bar in particular has frequently availed itself of the opportunity to seek assistance from him. He has always been courteous and approachable and these attributes we believe will be appreciated by those who appear before him whether as parties or practitioners.

He can fairly be regarded as a feminist as apart from the fact that he welcomed and encouraged his female readers he has always derived great pleasure from his wife's success and was overjoyed when she recently attained her doctorate.

Austin Asche has always endeavoured to so organise his life to enable him to spend as much time as possible with his family joining them on his tennis court or basking in the reflected glory of his son's and daughter's yachting activities.

We hope that his appointment will give him the challenge he so enjoys and we wish him well in the sure knowledge that his court will be one in which sound decisions will be made in an atmosphere of calm humane dignity.

### **GIFT TO THE BAR BY THE LATE JOHN N. BENNETT**

In late 1973 John N. Bennett told the Chairman that he would like to make a gift in his Will to a fund for the purpose of providing assistance to young barristers with financial difficulties upon commencing practice at the Bar. He suggested that there should be available a fund to which donations could be given and legacies left for this purpose. John Bennett, who died in a fire in May 1975, left a Will dated 18th October 1973 in which he left a third of his estate to the Victorian Bar Council. A portion of his estate is in insurance policies in which sums are due in the event of death by accident. The executor, Mr. John

Garde, Solicitor, retained E.A.H. Laurie Q.C. and M.B. Phipps who appeared without fee at the inquest on 11th September 1975. The Coroner made a finding of accidental death.

This substantial gift from one who was always a good friend to his colleagues at the Bar is appreciated by the whole Bar.

## DELAYS IN SUPREME COURT ACTION

In his most recently published Working Paper (No. 3 June 1975) the Law Reform Commissioner, Mr. T.W. Smith Q.C., analysed numbers of Supreme Court actions and has published his findings. One purpose of the analysis was "to throw light upon how much of the time taken to bring an action to trial in Melbourne elapses before the setting down, and how much of it after the action has been set down and has thereby become part of the Court's backlog of cases."

The Commissioner also examined the times occupied in carrying through some of the principal interlocutory procedures, and delays in settlement of actions.

## Settlements

"The majority of settlements effected in Melbourne jury actions occur in the late or final stages of proceedings. The 95% or thereabouts of such actions which are disposed of without being tried to judgement appear to be made up of about 50% that are disposed of after setting down for trial, and only about 45% that are disposed of before that stage.

"Furthermore, the 50% of late disposals includes only about 10% that are settled between setting down and listening for trial." The remainder amounting to about 40% consists of cases settled after callover. The Commissioner points out that there are about ten times more cases settled late than proceed to judgement following a trial.

Because of its special interest to members, Appendix F of the Working Paper is reproduced here in full.

## APPENDIX F

### DELAYS DISCLOSED BY EXAMINATION OF PROTHONOTARY'S FILES FOR SAMPLE PERIODS

(The files examined were those of 312 jury actions and 74 non-jury actions, being all the Melbourne actions fixed for September or October 1973, or for October or November 1974 which were disposed of by settlement or judgement during the month for which they were so fixed — compare Table 2 in Appendix A and in Appendix B.)

**Section 1. DEFENCE – Times taken after Appearance before Delivery of Defence****(A) Non-jury Actions**

|   |          |
|---|----------|
| (i) Cases in which time taken is disclosed by files examined (excluding cases in which writ not endorsed under Order 18A) | 59       |
| (ii) Defences delivered out of time (10 days fixed by Order 18A Rule 8)   | 41 (70%) |
| (iii) Defences delivered 35 days or more after Appearance   | 29 (50%) |
| (iv) Average time taken in slowest one-half of the 59 cases   | 127 days |
| (v) Average time taken in slowest one-fourth  | 217 days |

**(B) Jury Actions**

|   |           |
|---|-----------|
| (i) Cases in which time taken is disclosed by files examined (excluding cases in which writ not endorsed under Order 18A) | 285       |
| (ii) Defences delivered out of time (10 days fixed by Order 18A, Rule 8)  | 209 (73%) |
| (iii) Defences delivered 28 days or more after Appearance   | 142 (50%) |
| (iv) Average time taken in slowest one-half of the 285 cases  | 89 days   |
| (v) Average time taken in slowest one-fourth  | 133 days  |

**Section 4. DEFENDANT'S NOTICE FOR DISCOVERY – Times Taken after Delivery of Defence before Delivery of Defendant's Notice for Discovery****(A) Non-jury Actions**

|  |          |
|--|----------|
| (i) Cases in which time taken is disclosed by files examined | 18       |
| (ii) Notices delivered more than 10 days after Defence       | 14 (78%) |
| (iii) Median period for the 18 cases                         | 103 days |
| (iv) Average time taken in slowest one-half of the 18 cases  | 209 days |
| (v) Average time taken in slowest one-fourth                 | 389 days |

**(B) Jury Actions**

|  |          |
|--|----------|
| (i) Cases in which time taken is disclosed by files examined | 39       |
| (ii) Notices delivered more than 10 days after Defence       | 33 (85%) |
| (iii) Median period for the 39 cases                         | 192 days |
| (iv) Average time taken in slowest one-half of the 39 cases  | 484 days |
| (v) Average time taken in slowest one-fourth                 | 662 days |

**Section 5. PLAINTIFF'S NOTICE FOR DISCOVERY – Times Taken after Delivery of Defence before Delivery of Plaintiff's Notice for Discovery**

**(A) Non-jury Action**

|   |          |
|---|----------|
| (i) Cases in which time is disclosed by files examined      | 19       |
| (ii) Notices delivered more than 10 days after Defence      | 18 (95%) |
| (iii) Median period for the 19 cases                        | 59 days  |
| (iv) Average time taken in slowest one-half of the 19 cases | 161 days |
| (v) Average time taken in slowest one-fourth                | 223 days |

**(B) Jury Actions**

|  |          |
|--|----------|
| (i) Cases in which time taken is disclosed by files examined | 34       |
| (ii) Notices delivered more than 10 days after Defence       | 28 (83%) |
| (iii) Median period for the 34 cases                         | 137 days |
| (iv) Average time taken in slowest one-half of the 34 cases  | 360 days |
| (v) Average time taken in slowest one-fourth                 | 509 days |

**Section 6. PLAINTIFF'S ANSWERS – Times Taken by Plaintiffs to Answer Interrogatories**

**(A) Non-jury Actions**

|  |          |
|--|----------|
| (i) Cases in which time taken is disclosed by files examined           | 36       |
| (ii) Answers delivered out of time (10 days fixed by Order 31, Rule 8) | 35 (97%) |
| (iii) Median period for the 36 cases                                   | 57 days  |
| (iv) Average time taken in slowest one-half of the 36 cases            | 139 days |
| (v) Average time taken in slowest one-fourth                           | 217 days |

**(B) Jury Actions**

|  |           |
|--|-----------|
| (i) Cases in which time taken is disclosed by files examined           | 214       |
| (ii) Answers delivered out of time (10 days fixed by Order 31, Rule 8) | 212 (99%) |
| (iii) Median period for the 214 cases                                  | 111 days  |
| (iv) Average time taken in slowest one-half of the 214 cases           | 276 days  |
| (v) Average time taken in slowest one-fourth                           | 399 days  |

**Section 7. DEFENDANT'S ANSWERS – Times Taken by Defendants to Answer Interrogatories**

**(A) Non-jury Actions**

|       |   |          |
|-------|---|----------|
| (i)   | Cases in which time taken is disclosed by files examined          | 47       |
| (ii)  | Answers delivered out of time (10 days fixed by Order 31, Rule 8) | 46 (98%) |
| (iii) | Median period for the 47 cases                                    | 78 days  |
| (iv)  | Average time taken in slowest one-half of the 47 cases            | 160 days |
| (v)   | Average time taken in slowest one-fourth                          | 219 days |

**(B) Jury Actions**

|       |   |            |
|-------|---|------------|
| (i)   | Cases in which time taken is disclosed by files examined          | 177        |
| (ii)  | Answers delivered out of time (10 days fixed by Order 31, Rule 8) | 177 (100%) |
| (iii) | Median period for the 177 cases                                   | 129 days   |
| (iv)  | Average time taken in slowest one-half of the 177 cases           | 292 days   |
| (v)   | Average time taken in slowest one-fourth                          | 417 days   |

**Section 8. PLAINTIFF'S DISCOVERY – Times Taken by Plaintiffs to Comply with Notices for Discovery**

**(A) Non-jury Actions**

|       |  |          |
|-------|--|----------|
| (i)   | Cases in which time taken is disclosed by files examined                           | 17       |
| (ii)  | Affidavits of Documents delivered out of time (10 days fixed by Order 31, Rule 13) | 16 (94%) |
| (iii) | Median period for the 17 cases   | 56 days  |
| (iv)  | Average time taken in slowest one-half of the 17 cases                             | 116 days |
| (v)   | Average time taken in slowest one-fourth   | 154 days |

**(B) Jury Actions**

|       |  |          |
|-------|--|----------|
| (i)   | Cases in which time taken is disclosed by files examined                           | 27       |
| (ii)  | Affidavits of Documents delivered out of time (10 days fixed by Order 31, Rule 13) | 22 (81%) |
| (iii) | Median period for the 27 cases   | 43 days  |
| (iv)  | Average time taken in slowest one-half of the 27 cases                             | 143 days |
| (v)   | Average time taken in slowest one-fourth   | 216 days |

**Section 10. CERTIFICATE OF READINESS – Time Taken after Plaintiff's Signature to Certificate of Readiness before Second Signature Obtained**

**(A) Non-jury Actions**

|       |  |          |
|-------|--|----------|
| (i)   | Cases in which time taken is disclosed by files examined | 49       |
| (ii)  | Median period for the 49 cases                           | 18 days  |
| (iii) | Average time taken in slowest one-half of the 49 cases   | 127 days |
| (iv)  | Average time taken in slowest one-fourth                 | 219 days |

**(B) Jury Actions**

|       |  |          |
|-------|--|----------|
| (i)   | Cases in which time taken is disclosed on files examined | 280      |
| (ii)  | Median period for the 280 cases                          | 15 days  |
| (iii) | Average time taken in slowest one-half of the 280 cases  | 83 days  |
| (iv)  | Average time taken in slowest one-fourth                 | 132 days |

**Section 11. CERTIFICATE OF READINESS – Times Taken after Appearance before Second Signature on Certificate of Readiness**

**(A) Non-jury Actions**

|       |  |            |
|-------|--|------------|
| (i)   | Cases in which time taken is disclosed by files examined | 58         |
| (ii)  | Median period for the 58 cases                           | 441 days   |
| (iii) | Average time taken in slowest one-half of the 58 cases   | 895 days   |
| (iv)  | Average time taken in slowest one-fourth                 | 1,281 days |

**(B) Jury Actions**

|       |  |            |
|-------|--|------------|
| (i)   | Cases in which time taken is disclosed by files examined | 291        |
| (ii)  | Median period for the 291 cases                          | 502 days   |
| (iii) | Average time taken in slowest one-half of the 291 cases  | 839 days   |
| (iv)  | Average time taken in slowest one-fourth                 | 1,064 days |

**Section 9. DEFENDANT'S DISCOVERY — Times Taken by Defendants to Comply with Notices for Discovery**

**(A) Non-jury Actions**

|       |  |           |
|-------|--|-----------|
| (i)   | Cases in which time taken is disclosed on files examined                           | 21        |
| (ii)  | Affidavits of Documents delivered out of time (10 days fixed by Order 31, Rule 13) | 21 (100%) |
| (iii) | Median period for the 21 cases   | 64 days   |
| (iv)  | Average time taken in slowest one-half of the 21 cases                             | 241 days  |
| (v)   | Average time taken in slowest one-fourth   | 384 days  |

**(B) Jury Actions**

|       |  |          |
|-------|--|----------|
| (i)   | Cases in which time taken is disclosed by files examined                           | 27       |
| (ii)  | Affidavits of Documents delivered out of time (10 days fixed by Order 31, Rule 13) | 26 (96%) |
| (iii) | Median period for the 27 cases   | 116 days |
| (iv)  | Average time taken in slowest one-half of the 27 cases                             | 244 days |
| (v)   | Average time taken in slowest one-fourth   | 330 days |

**Proposals**

The Commissioner proposes the following matters for consideration.

1. To promote earlier settlements
  - (a) Special advantages as to costs and interest, for defendants who make an adequate payment into court within 4 months after appearance
  - (b) Special advantages as to costs and interest for plaintiffs offering to settle, comparable with those available to defendants under the procedure for payment into court.
2. To reduce the delays occurring in seeking and obtaining discovery of documents and answers to interrogatories
  - (a) Place time limits on the exercise of the right to interrogate and obtain discovery of documents without leave.
  - (b) Attach strict conditions to the granting of leave after the time limit has expired.
  - (c) Allow longer periods than at present for furnishing Answers to Interrogatories and Affidavits of Documents but make parties who exceed those limits liable to bear their own cost of the procedure.
3. To diminish the unnecessary use of interrogatories and discovery of documents
  - (a) allow either party to elect for a short procedure in which there shall be no Interrogatories or discovery of documents without leave, and attach strict conditions to the granting of leave.
  - (b) Alternatively exclude Interrogatories and discovery of documents in all actions for damages in respect of personal injury or death unless the court grants leave for those procedures.



4. To reduce delays in setting down  
Provide that future actions may not be set down more than 15 months after appearance except by special leave and attach strict conditions to any second grant of leave.
5. To help dispel existing feelings in the profession that long delays are unavoidable.  
Increase the impact of changes proposed in this Working Paper by making their introduction coincide with any administrative changes which the Court itself may introduce for the purpose of reducing delays.

The present Working Paper represents the Commissioner's first foray into the field of civil procedure. Copies of the paper are available in the library.

Mr. Smith Q.C. has invited comment and criticism by 30th September 1975 if possible. The address is:—

Law Reform Commissioner,  
115 Queen Street,  
MELBOURNE, VIC. 3000

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## SPORT

Leo Hart is seeking to become the only living man to have completed the Little Desert Cross Country race on every occasion since its inception. Hart will make his historic attempt at the forthcoming Dimboola Festival.

## THE PROBLEM OF OUTSTANDING FEES

### "Physician Heal Thyself" (Luke IV, 23)

From time immemorial the Barrister like every businessman has been heard to complain about the non-payment of his fees. This is a plaint which is heard wherever he practices and is not confined to the Bar in Victoria nor indeed to that of Australia.

Recently this complaint in Victoria has changed from a low moan to a rather more demanding cry — and for two principal reasons. First the enormity of the sums involved is now becoming apparent and secondly because of the effect of inflation.

Figures are difficult to obtain but it seems very likely that the total amount of fees outstanding to the whole Bar is in the order of \$8 million. Furthermore, individual members who are receiving the print-out from the Foley computer are beginning to realise that their share of this staggering sum is very considerable and that a surprising proportion of their individual indebtedness is nine months or more old.

The effect of inflation upon all sections of the community is a notorious fact of life. We are all aware that the purchasing power of the brief fee which we charge in 1975 will be greatly reduced when it is paid in 1980. To this must be added the fact that the typical barrister is heavily indebted to the bank and is therefore, in effect, paying interest on the outstanding fees. Finally, if the fees are received subsequently in a year when the gross income has increased there is the further complication of the higher tax rate (plus provisional tax) which further erodes the benefit of the fees actually received.

There are some who say, notwithstanding the foregoing, that the problem of outstanding fees is not a problem, or at least not a problem which should concern the Bar as a whole. They say that if these fees were suddenly paid

## Outstanding Fees

the consequences from a taxation point of view would be disastrous. Furthermore, they say, it is very comforting in a precarious business such as ours to know that there is a year's income quietly waiting, to cover the possibility of some interruption of their earning capacity. Why should the Bar, as a whole, interfere in the way that they choose to conduct their own business affairs?

The younger members would probably recognise the merit of these arguments, but their problem is different. With a rather smaller income they have considerable expenses to meet — they wish to pay off their home or perhaps accumulate a deposit, there is furniture and the like to buy, young children to educate. They have no doubt that their ability to earn will continue in the foreseeable future and are very anxious that payment for their services be made promptly.

There is, of course, one other group of persons involved in this dispute — the clerks — four per cent of \$10,000,000. is \$40,000. Why should they wait for their money just because it suits some of their employers not to receive their fees?

The question of overdue fees is more than a problem about money. It carries with it a series of problems of fundamental importance that will not disappear when they are ignored —

- (1) What is the relationship between Barrister and Solicitor and what should it be?
- (2) What is the role of the Bar as a corporate institution in dictating or limiting the manner in which the individual members of the Bar each should carry on his own practice?

It is not possible for these fundamental questions to be answered in this article — perhaps they are not capable of answer. Perhaps it is sufficient to keep posing these questions from time to time as we consider what it is to be a member of an institution such as the Victorian Bar. It is proposed in this article to consider in turn a series of proposals to

resolve the problems which have occurred to or been suggested to the writer and to consider their implications upon the problem generally.

These proposals all presuppose that the problem must be tackled. It is not only bad business for an enterprise whether it be commercial or professional, to carry debtors equal to one year's turnover but it is not fair to expect the clerks and especially the junior members to wait for their money because it suits those more senior.

### (1) INDIVIDUAL ACTION

The first proposal is that hallowed by time and tradition in legal circles, namely do nothing — let the existing system remain. The clerks should continue to send out accounts and accounts rendered but that the decision to collect from recalcitrant solicitors and the actual collection of fees be the decision of the Barrister concerned.

The attraction of this proposal is that it preserves the true relationship of barrister and solicitor and the notion of the barrister carrying on an individual practice. If he wishes to come to a special arrangement with his solicitor that is his own business.

The disadvantage is that it is this system which has given rise to the problem under consideration and its continuance is not likely to remove that problem.

Further, the status quo presupposes a position of equal bargaining power between the solicitor and the barrister. The truth of the matter is that this equally does not exist, especially in the case of the young barrister. More importantly, the barrister is not conscious of equality, which probably amounts to the same thing. Rightly or wrongly young members are persuaded that if they take strong action to recover fees they will be black-balled by the solicitor in question and by other solicitors with whom he is friendly.

The attractiveness of the first proposal therefore lies not in its effectiveness, but in its implications for the nature of the profession

## Outstanding Fees

itself. We pride ourselves on our independence. As the Bar Council has learnt to its cost, this sturdy sense of independence has often put paid to a well thought out and well intentioned scheme sought to be imposed on the Bar from above. But to resist a proposal on the sole basis that it involves an abandonment of independence, is as foolish a position to adopt as that of accepting the proposal for the same reason. Each suggestion must be examined on its merits. In certain cases, such as accommodation and fee fixing, there is an obvious advantage to be had from cohesive action, and in others cohesion may be not necessary to achieve the desired end.

Accepting the proposition that the problem of overdue fees is a problem to be reduced it is clear that no good is to be achieved by individual action and the remaining proposals all involve, to a greater or less extent, joint action on behalf of the Bar as a whole. The problem is what form should this action take.

### (2) MORAL SUASION

The second proposal involves in essence that the representatives of the Bar persuade the law Institute that it is in their interests that fees be paid promptly, say in 90 days, so that the Institute imposes on its members a rule of ethics or otherwise that fees be paid within that period.

The arguments that might be offered to the solicitors are that prompt payments will ensure a happy and fruitful relationship and further that those Solicitors who defer payment are very often those who are likely to default. The first economy of the defaulting Solicitor in liquidity difficulties is to withhold payment of Counsel's fees. This argument is to some extent re-inforced by the experience of the clerks that it is always the same hard core of Solicitors from whom it is more difficult to extract fees.

It was perhaps this reasoning in 1963 that led to the agreement which was reached between the Law Institute and the Bar Council to this

effect that fees were payable within ninety days of the rendering of vouchers in the absence of agreement to the contrary. This was re-affirmed in the joint statement on the marking of briefs for the payment of counsels fees in 1973 published in the Bar News and the Law Institute Journal.

The proposal is obviously more desirable than any whereby the Bar imposes its will upon the Solicitors but to expect it to succeed is to call optimism something which is in effect wishful thinking. One can easily hear the Law Institute agreeing with the suggestion that defaulting Solicitors do not pay their bills while rejecting the proposition that Solicitors who do not pay their bills are about to default.

### (3) THE BLACK LIST

The proposal has already been tried in a limited sense and has not been an outstanding success. As it has been applied in the past it meant that the names of solicitors, whose fees outstanding for over six months to juniors of less than seven years' standing showed that fees to juniors had not been paid with reasonable promptness, could be placed on a list. Counsel were then advised that in the opinion of the Bar Council, while the name remained on the list, all counsel on the practising list and their clerks should decline to accept new work unless the fee for the work was paid in advance.

The writer has been informed that the effect of the limited black list as it has operated has been for the "black" solicitor to transfer his allegiance to counsel over seven years call. This seems a surprising conclusion.

The difficulty that this procedure has had to face and has not overcome is the natural reluctance of the Bar to take such a serious step. Thus, warning letters have been sent out, and it is only those who have not complied with the warning who have been listed. The problem that is caused by this procedure is that an enormous number of accounts have

## Outstanding Fees

had to be examined both at the time of the sending of the warning letters and at the time of the listing to ensure that no solicitor was unjustly treated. Since the number of Counsel under seven years' is about 300 and the accounts kept by their clerks and themselves are of varying accessibility and efficiency this task has been effectively impossible and it may well be that it will not be undertaken again.

### (4) INTEREST

It has been suggested that outstanding accounts should bear interest. The rate is immaterial.

Solicitors who "punt" their clients say that the medicos and hospital await the settlement of the case for payment and that they are engaging in a form of unofficial legal aid by not requiring payment in advance from clients who probably could not afford to pay in any event. Why, they say, should not the Bar bear part of this social burden?

The answer to this complaint is that hospitals do not and medicos are increasingly reluctant to wait for payment and, as for their own professional costs, they commonly load the bill upon the successful conclusion of the case to compensate for the cost of financing the action. As Counsel's fees are fixed at the time of the performance of the service he is not able to alleviate in this way the burden of his social duty. Furthermore, this social function is being increasingly borne by legal aid.

The difficulties posed by this apparently sensible solution are practical ones. By and large the accounting systems employed by the clerks are of an elementary kind. It is difficult to see how interest could be charged on a given fee when it is entered upon the usual ledger card system, particularly as the system operates upon a series of individual fees rather than on a monthly balance as do other businesses. Furthermore Solicitors make payment against individual fee vouchers

rather than against the running account. It is nevertheless likely that interest charges could be included if the clerks were to adopt a more sophisticated system, but in the meantime this may not be possible.

The significance of this proposal and the one following is that attention is directed not so much to the solicitor but to the fee itself and perhaps ultimately to the lay client.

### (5) JOINT COLLECTION

Perhaps the most revolutionary proposal is to employ a joint fee collector. A company might be incorporated and fees which were classified as unduly outstanding assigned to the company which would then collect them using such powers as it saw fit and then pay the net proceeds to the member in question.

The attraction of this scheme is that the collection would be carried out by an anonymous being which would not be troubled as would the individual barrister about the adverse professional effect of pursuing his debt in a manner which might be categorised as commercial. Furthermore the company might consider it appropriate in certain cases to bypass the solicitor concerned and pursue the lay client.

The difficulties of this solution are twofold — first to classify those fees which are unduly overdue and secondly the implications of interposing a non-professional person between Counsel and client.

The problem of classifying fees which are unduly overdue is that which has caused the effective demise of the blacklist. This problem arises from —

- (i) inefficient accounting of the clerk.
- (ii) perhaps a private arrangement between Counsel and Client of which the clerk is ignorant.
- (iii) special circumstances whereby Counsel considers it inexpedient to require payment forthwith e.g. a valued solicitor is acting for a Trade Union or an Insurance

## Outstanding Fees

Company upon terms which entitled him to payment only upon conclusion of the action or for a lay client who is temporarily embarrassed.

If the benefits of joint action are to be enjoyed, the first two of these situations cannot be tolerated. If the function of the clerk is to collect the fees, this employer has no right to withhold information from his clerk about the fees he is collecting, and he has every right to expect that the clerk will carry out all his functions, including the keeping of accounts, efficiently.

The problem of special circumstances could be overcome by arbitrarily classifying fees which are outstanding beyond a certain date, say 90 days or six months, as unduly overdue and then putting the onus on the Counsel who wishes to exempt a particular fee from this classification to justify this exemption to the committee who is charged with fee collection.

The second basic objection of interposing a third person between Counsel and client is a more difficult one. This raises the issue mentioned above about the relation of Solicitor and client. Personally, the writer finds it hard to see that this relationship, which clearly enough exists when the work is being performed, has any part in the process of collecting fees. The fact that one is on first name terms with a client may make it embarrassing to ask that person to pay his bill, but this is surely one of the facts of the commercial world in which all must operate.

### CONCLUSION

This article has been concerned to pose questions rather than to give answers. There is in existence a subcommittee of the Bar Counsel which is wrestling with the whole problem. The members of this committee would be pleased to receive any suggestions from members with any thoughts on the matter. The writer is not a member of that committee nor do his thoughts necessarily represent those of any section of the Bar Counsel.

Whatever positive solution is adopted by the Bar in due course two things are inescapable—  
(a) action must be taken by the Bar as a whole.  
(b) any action will involve a very considerable improvement in the manner in which most Counsel maintain their accounts.

The present members of the Overdue fees committee are:

J.L. Sher (Chairman), Barnard Q.C., J.H. Phillips, Porter, R.J. Johnston (Secretary), Mandie, Rosenes, Habersberger.

David Byrne

## A LITTLE SELF-CONGRATULATION

Your editors are pleased that their efforts in the cause of open government are beginning to bear fruit. The following letter was recently received from the Chairman—

“Dear David

Re: Making Available in Bar Library Reports adopted by the Bar Council

A suggestion made by the Editorial Board of Victorian Bar News, during the time that I was editor, has been acted on by the Bar Council. The Bar Council has decided that arrangements be made with the Bar Librarian to have tabled in the Bar Library, for perusal by members of the Bar, such reports adopted by the Bar Council as the Chairman and Vice-Chairman of the Bar think fit.

I would be glad if you would bring this to the notice of members of the Editorial Committee and express appreciation of the Bar Council for the suggestion which came from the Board.

Kind regards,

Yours sincerely,”

The following reports have been thought fit for tabling in the library -

The Bar Committee Report on the future development of the Victorian Bar including the case for a separate Bar, dealings with clients and solicitors, partnerships at the Bar, the institution of Queen's Counsel, and the Two-Thirds Rule (8/11/73).

Report of Bar Committee on Incorporation of Barristers (22/3/74)

The Administration of the Victorian Bar 1975 (14/4/75)

Report of Bar Committee on Payment of Subscriptions and Other Items (1973)

The Bar Committee Report on the Rights of Accused and Convicted Persons (July 1973)

Report of the Joint Committee on the Human Rights Bill 1973 (4/3/74)

Report by Bar Committee on the Superior Court of Australia Bill (7/8/74)

Report by Bar Advisory Committee on Legal Aid upon Duty Counsel in Magistrates' Courts (March 1974)

Report of the Joint Committee appointed to prepare submissions of the Victorian Legal Profession on Legal Aid to (1) Commonwealth Commission of Enquiry into Poverty (2) Law Council of Australia (April 1974)

Report of Bar Matrimonial Causes Practice Committee on Status of Children Act (10/2/75)

Report of Bar Matrimonial Causes Practice Committee on delays and improvements needed in that jurisdiction (1974)

Report of Bar Matrimonial Causes Practice Committee on Discretion Statements (5/3/75)

Report of Bar Matrimonial Causes Practice Committee on Family Law Bill introduced on 1st August 1974 (October 1974)

Comments of Bar Matrimonial Causes Practice Committee on the appended Report from Western Australian Committee on Family Law Bill (14/10/74)

Comments of Bar Matrimonial Causes Practice Committee on Draft Family Law Regulations (June 1975)

Report of Bar Taxation Committee on the Taxation Appeals Act 1972 (13/12/74)

Report by the Joint Standing Committee on Magistrates' Courts Practice and Procedure upon the Magistrates' Courts (Jurisdiction) Act 1973 (20/3/75)

Report by Bar Town Planning and Local Government Practice Committee upon the Town Planning Appeals Tribunal (14/2/75)

Report by Bar Town Planning and Local Government Practice Committee upon the Environment (Noise Control) Bill (24/7/75)

Joint Letters of 4th September 1974 to Law Schools on Relations between Practising Profession and Law Teachers and Replies.

Law Council of Australia Submission to the Attorney-General of Australia concerning the Legal Aid Bill 1975 (4/8/75)

Memorandum to Law Reform Committee upon constituting the High Court of equal numbers on final appeals (1/11/75). Supplementary memorandum (14/8/75).

Report of Joint Standing Committee on Supreme Court Practice and Procedure upon Practice and Procedure in the Supreme Court of Victoria and Delays occurring in that Court (5/8/75).  
Supplementary Report (5/8/75).

Report of Reading Committee on Material to be issued to people being called to the Victorian Bar (14/6/74)

Submissions on behalf of the Law Institute of Victoria and the Victorian Bar Council to the Committee of Enquiry into a National Scheme of Rehabilitation and Compensation.



Statement of President of Law Council of Australia on National Compensation Bill 1974 (3/11/74).

A Review by the Law Council of Australia of Some Aspects of the National Compensation Bill 1974 as presented in the Report "Compensation and Rehabilitation in Australia".

Report of Bar Overdue Fees Committee (8/8/74)

Circular to members of the Bar on Clerking setting out the Bar Clerking Rules and the Provisions for Supervision of Clerks through Committees of Clerking Groups (18/9/74)

Memorandum on Clerking setting out resolution of General Meeting of 6th June 1975 and letters from four clerking groups read to General Committee (9/6/75)

Report of Bar Fees Committee (13/11/73)

Report of Bar Fees Committee (5/11/74)

Bar Council Recommendation of Standard Minimum Fees in the Supreme Court as from 1st July 1975 (28/4/75)

Letters from Chairman to Secretary of Law Department upon Fees on Public Solicitor's Briefs (23/12/74 and 30/4/75)

Majority and Minority Report of Accommodation Committee (16/4/75 and 1/5/75)

Memorandum to Members of the Bar on Australian Legal Aid Office (11/12/74)

Circular to the Bar on Procedures for Applying for Silk (9/7/75)

Circular on Determination of Law Clerks' Board (1/8/75)

## FOR THE PERIPATETIC

The Law Council of Australia has received a letter from the Honourable the Chief Justice of Papua New Guinea (Frost C.J.) in his capacity of Chairman of the Council of the Legal Training Institute. The letter indicated that if any Counsel is briefed to appear in Port Moresby it would be very much appreciated if he could undertake to address the students of the Institute while he is in Port Moresby. A list of suggested topics may be obtained from Mr. R.D. Nicholson, Secretary General of the Law Council of Australia.

The following list of forthcoming overseas legal conventions may be of interest.

7th International Congress on European Law  
- 'The Individual and European Law'

Brussels 2-4 October, 1975

Apply to Ivan Verougstraete, Secretary-General of the Federation Internationale pour le Droit European, 2 Narcissenlaan, B-1640, Sint-Genesius-Rode, Belgium

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13th International Congress of Civil Notaries  
Barcelona 26 Sept. -4 Oct., 1975

Apply to Miss B. Brown, Assistant Secretary, The Law Society, 113 Chancery Lane, London, WC2A 1PL

o o o

World Peace Through Law Conference  
Washington 12-17 October, 1975  
Contact American Express

International Bar Association, Business Section  
Centre Internationale de Paris, Paris,  
29 October - 1 November, 1975

Apply to Director-General, International Bar  
Association, 93 Jermyn Street, London,  
SW1Y 6JE

o o o

8th European Colloquium on Agricultural Law  
Paris, 6-8 November, 1975

Apply to Miss B. Brown - address above

o o o

Conference being organised by the Depart-  
ment of Law, University of Hong Kong, in  
association with the Young Solicitors Group  
of the Law Society of England and Wales.

Hong Kong 14-18 December, 1975

Apply to Mr. J.R. O'Brien, Department of  
Law, University of Hong Kong, Hong Kong.

o o o

International Bar Association  
Stockholm August-September 1976

#### THE LAW SOCIETY'S CONFERENCE

The following conference is designed for  
members of The Law Society, London, but  
The Law Society has indicated that should  
any Australian lawyers wish to attend the  
Law Council of Australia may advise The  
Law Society, London, and the application  
will be placed before the appropriate  
committee.

The Law Society National Conference  
Torquay 6-10 October, 1976

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#### MOUTHPIECE

By special arrangement with the cleaning staff  
we are able to publish this morsel of an un-  
distributed circular which was discovered in  
our Chairman's waste paper basket -

"To all Members of Counsel

The Bar Council has for some time now  
been engaged in an examination and re-  
assessment of the conduct of counsel. A  
standing committee of which your chairman  
is ex officio convenor has been sitting regu-  
larly for the past three months.

Consistent with its policy of full and  
frank disclosure the subcommittee invites  
submissions from members (financial) who  
desire to place before it any matter which is  
within its competence as defined in the  
terms of reference.

Matters of conduct which have been de-  
termined by the standing committee and  
which by virtue of rule 47 (14) (i) (a) of  
the Victorian Bar (Ethics) Rules 1975 are  
Rules of Conduct for Barristers within the  
meeting of those Rules include the following--

- (a) No member of counsel may appear in  
Court or before any judge or thereof  
any magistrate wearing a shirt other  
than a white shirt without stain, spot or  
stripe.
- (b) All submissions to this standing com-  
mittee shall be typed in double space on  
foolscap paper on one side only with a  
margin of not less than 7 centimetres  
and signed in bottom right hand corner  
and shall be delivered to the secretary in  
triplicate during the hours of daylight  
on week days.
- (c) A no smoking sign shall be erected in  
each lift.

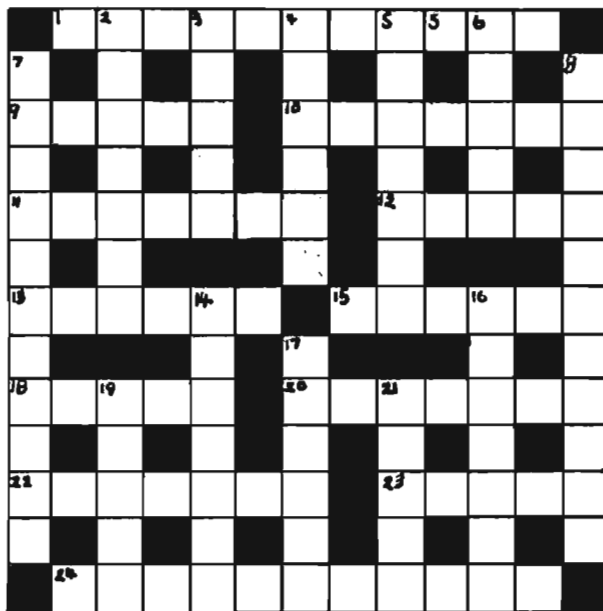
Further matters of conduct and a copy of  
the terms of reference may be obtained upon  
application in writing accompanied by a self  
addressed stamped envelope addressed to the  
secretary."

BYRNE & ROSS D.D.



# CAPTAIN'S CRYPTIC

No. 13



## ACROSS

1. In a vile action (6,5)
9. Between frogs (5)
10. Being a tradesman is an art (7)
11. Tilted (7)
12. Remove the dumb-show from the act (5)
13. Plant with large and beautiful flower (6)
15. My minstrel boy's sword accompaniment (2,4)
18. Digests of laws in cypher (4)
20. Mechanic who wearies me again and again (7)
22. Tied with sticky (5,2)
23. Expel from possession (5)
24. A fair copy perhaps in fat french character (11)

## DOWN

2. Inoperative Nixonian assertion (7)
3. Flat dish becomes a fold (5)
4. American witness boxes are upright (6)
5. The morbid view (7)
6. Lazy girl holds wool for spinning (5)
7. The effect of the judged thing (3,8)
8. Coin a report to a company (11)
14. The forbidden trader (7)
16. Put the prisoner on trial (7)
17. The most conspicuous parts attend (6)
19. Immerse (3,2)
21. From resin to fish (5)

*Solution Page 27.*

**MOVEMENT AT THE BAR  
(Since May, 1975)**

**MEMBERS WHO HAVE SIGNED  
the ROLL**

P.R.M. Jones  
R.C. Macaw  
R.C. Forsyth  
G.B. Johnston  
M.A. McMullan  
J.P. Bicknell  
R.R. Boaden  
R.J. Sarah  
I.T. West  
I.C. Duffy  
R. Barberio  
M.J. Ryan  
J.G. Ireland  
S.M. Zifcak  
J.G. Bolton  
C.A. Miles  
R.M. Lusink (Mrs.)  
D.B.X. Smith  
S.P. Czyzyk  
J.N. Bryson (re-signed)  
A.H.M. Evans (of the English Bar)  
R. Freadman  
B.J. King (Miss)  
C.J. Wren  
J.L. Sparks (Miss)

**MEMBERS WHO HAVE TRANSFERRED  
TO THE NON-PRACTISING LIST**

H.G. Shore                      H. Nathan

**MEMBER WHO HAS TRANSFERRED  
FROM THE NON-PRACTISING LIST  
TO THE PRACTISING LIST**

B.M. Snedden Q.C.

**MEMBERS WHOSE NAMES HAVE  
BEEN REMOVED AT THEIR OWN  
REQUEST**

R.E. Wortley                      J.M. Toal  
D.B. Forster                      C.T.H. Chessun

**ASPIRING MEMBERS WHO HAVE  
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### DOXA YOUTH WELFARE FOUNDATION

Early last year many members of the Bar contributed to an appeal made on behalf of Doxa Youth Welfare Foundation. In fact the response from the Bar was very generous indeed. The purpose of raising money is to build a holiday camp for deprived children from the High Rise flats now in a sense surrounding the City proper. The building of the camp is to start within the next month at Malmsbury.

The cost of the project is approximately \$200,000. The Australian Government has contributed \$50,000 and the Victorian Government a similiar amount. The Foundation has raised approximately \$55,000 and further fund raising matters are in hand. Mr. Justice McInerney is Chairman and several members of the Bar are members of the Committee. Several solicitors are also involved and Mr. Peter Norris (Corr and Corr) has done an enormous amount of work to enable the Foundation to progress to the stage it has. Thanks are due to the Bar and I personally want to thank McGarvie and the Bar Council for allowing meetings to be held in the Council Meeting Room.

BOURKE

## SOLUTION TO CAPTAIN'S CRYPTIC

NO. 13



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