

# Victorian Bar News

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## BAR COUNCIL REPORT

### Appointment of New Chairman and Vice-Chairman

As a result of the appointment of the former Chairman of the Bar Council, Lazarus Q.C., to the County Court Bench, the Bar Council has elected Marks Q.C. (formerly Vice-Chairman) as Chairman of the Bar Council, and Costigan Q.C. as Vice-Chairman.

### Dining-In Night

A most successful dining-in night was held in the Common Room on 29th June, 1976. The evening was well attended and greatly enjoyed by those present.

### Enquiries into English and New South Wales Bar

The Bar Council has been in touch with the Chairman of the English Bar, Sir Peter Rawlinson Q.C., and with representatives of the New South Wales Bar, concerning the respective enquiries which are being conducted into those respective Bars. These enquiries are the subject of a report at Page 16.

### Bar Fees

The County Court Judges have approved a new Scale of fees of all counsel practising in that Court, and the Bar Council has recommended new minimum fees for the Supreme Court. Details of the new fees have been circulated to all counsel.

### Supreme Court Delays

Representatives on the Bar Council have met with the Attorney-General to present further submissions concerning Supreme Court delays. This matter is continuing to receive the attention of the Bar Council and its Delays Committee.

### Leo Cussen Institute

The Bar Council has continued to participate in discussions with a view to ensuring the future availability of funds to retain the Institute.

### Committee of Inquiry into Third Party Premiums

The Bar Council and the Law Institute have formed a joint committee to consider represen-

tations to be made to the Board of Inquiry into Third Party Premiums, the Chairman of which is Sir John Minogue.

### Outside Organisations

The Bar Council has resolved that save in exceptional circumstances it will not, at the request of the body concerned, consider the nature, constitution or objects of any outside association, organisation or other body (whether or not it is connected with the legal profession) for the purpose of determining the propriety or desirability of counsel joining or continuing as members of it.

### Attendances by the Attorney-General at Bar Council Meetings

At its Meeting held on Thursday, 5th August, 1976, the Bar Council was honoured by the presence of the Honourable Haddon Storey Q.C., M.L.C., Attorney-General for the State of Victoria, who is an ex-officio member of the Bar Council. Members of the Council addressed questions to the Attorney-General on a number of subjects during the meeting.

### Council of Legal Education Course at Royal Melbourne Institute of Technology

The future of this course is under active consideration by the Council of Legal Education and the Bar Council is currently considering a formulation of views as to the course.

### Names of Applicants to sign Roll to be placed on Notice Board

The Honorary Secretary of the Bar Council has been authorised to place on the Bar Council Notice Board, notification of the names of persons applying to sign the Roll of Counsel.

### Material for Readers

A folder containing necessary material to be read by all Readers has now been compiled, and has been circulated to all members of the Bar who have signed the Bar Roll since January, 1975.

### Factoring of Barrister's Debts

The Bar Council has adopted a Report dealing with the factoring of barristers' debts and the circumstances under which such factoring is permissible. A copy of the Report is available to members of the Bar from the Executive Officer.

### Smoking in the Common Room

The Bar Catering Committee is to make provision in the Common Room for two tables to be occupied by non-smokers at luncheon.

### WELCOME:

#### AICKIN, J.

Keith Arthur Aickin, 60, has been appointed as a Justice of the High Court on the retirement of McTiernan, J. The appointment is surprising only in its lateness. Many people have thought that he has long since demonstrated qualities such as should entitle appointment to that bench.

He was educated at Melbourne Grammar and went on to do law at the University of Melbourne. In 1938 he won the Supreme Court Prize. That year he commenced articles with Arthur Robinson & Co., and he was admitted to practise the following year. 1939 also saw the beginning of his long association with Sir Owen Dixon. Dixon sent for Aickin and invited him to act as associate.

He remained as Dixon's associate until the end of 1941. From May 1942 until 1944 Dixon was Australian ambassador to the United States and based in Washington. Aickin was appointed third secretary of the Australian Legation. As well as the cypher and drafting work involved, he was in fact Dixon's secretary. Shortly before Dixon's return to Australia he transferred to the United Nations Relief and Rehabilitation Administration as legal adviser. Early in 1945 his duties in the European Regional Office of the Administration took him to London; he stayed there and in the Geneva office until the end of 1947. In 1948 he returned to New York to the United Nations Legal Department.

While in London he was called to the English Bar. In 1949 he returned to Australia and came to the Victorian Bar. He read with Adam. In turn his readers were Hulme, Joske and Davies. He took silk in 1957 on the same day as Lush. It is thought that only 8 years as a junior creates a post-war record.

He was a co-opted member of the Bar Council for two years until the move to Owen Dixon Chambers.

His practice was known to be primarily commercial and constitutional work and patents. In his early days as a silk he appeared in the Court of Criminal Appeal. On one occasion was pressed by a now-retired member of the bench "But Mr. Aickin, it's as plain as a pike-staff that your client is guilty". "That", replied Aickin, "is not the exercise. It is whether he had a proper trial".

He appeared in the recent High Court criminal appeal of Bruce v. R. (see Bar News, June 1976).

More lately he has done very little witness work except in High Court patent cases. One of these before McTiernan J., holds the dubious distinction of being the longest ever before the High Court. Aickin's client was successful, and held the decision on appeal to the Full Court. The same client was at that time the subject of related industrial design proceedings before the Court of Appeal in England, which it lost. Aickin was briefed and succeeded on the 1971 appeal to the House of Lords. He is one of a select band of Australians who have appeared before that Court.

From 1951 to 1956 he was the Independent Lecturer in Company Law at the University of Melbourne. He was succeeded in that position in 1957 by Young.

In 1966 he was appointed a member of the Interim Council of La Trobe University and has been a member of the Council since 1967.

He held a number of directorships: Mayne Nickless Ltd. since 1958, P. & O. Aust. Ltd. since 1969, Comalco Ltd. since 1970 and B.H.P. Co. Ltd. since 1971.

He is a very good lawyer indeed. His mind is incisive. He works hard. He has much of the Dixonian objectivity about him and will no doubt approach judicial decision making in the same objective way.

He brings to the bench a wealth of commercial, economic, and administrative experience gained outside the courts and outside the law.

**WELCOME:****Mr. JUSTICE STRAUSS**

The appointment of Steven Strauss Q.C., 55, to the bench of the Family Court of Australia in July 1976 was greatly welcomed by his colleagues at the Victorian Bar.

His Honour's education commenced in Berlin. He left Germany prior to the outbreak of the War and found his way to Australia. After 4 years service in the A.M.F. his studies were concluded in Melbourne. Although those familiar with His Honour's handwriting might have thought him destined for a medical career, he obtained the degree of Bachelor of Laws at Melbourne University in 1948, and the degree of Master at Laws at the same University in 1949. He signed the Roll of Counsel in 1949, and took silk in 1965, becoming the first person born outside the British Commonwealth to do so.

His Honour is married, with four children. An early display of judicial impartiality ensured that the children were two sons and two daughters, and that they all bore the same initials.

During the course of His Honour's 26 years at the Victorian Bar, his practice consisted of work in widely diverse fields, where the qualities required of Counsel were a ready grasp of matters of fact and law, and of the ability to present them to the best advantage. Consequently, His Honour received substantial work in the fields of property law, commercial law, motor car and industrial accident litigation, divorce and equity, with some crime thrown in for good measure. His Honour's elevation removes from the Victorian Bar a leader able to appear with distinction in almost any jurisdiction. Not only did His Honour's industry, pleasing personality and understanding of human nature ensure that each case in which he appeared was well and attractively presented, but in the pleadings and affidavits drawn and settled by him, his ready appreciation of how matters should be put with clarity (where desirable) and to the best advantage was well displayed. Only one reader, Uren, had the good

fortune to study these capacities from close hand.

His Honour's elevation enables him to continue his association with Mr. Justice Asche, with whom he for many years shared secretarial services, and latterly a set of chambers.

The Bar wishes His Honour a long and satisfying career in his new office.

**WELCOME:****MASTER ENDREY**

Born in Hungary, Anthony Endrey, 53, studied law in Budapest graduating as a Doctor of Law. He was also a research assistant at the Friedrichs-Wilhelm University of Berlin where his studies included South Eastern European History and Geopolitik. He served in the Royal Hungarian Army during World War II, fighting against the Russians. He was captured and was a prisoner of war of the Russians until he was released in July 1945 on medical grounds.

After the war he resumed his legal studies and was admitted to practice in 1947. Then as the youngest lawyer in Hungary at the time he commenced to practise in his home town of Hodmezovasarhely where he remained until November 1948.

Master Endrey arrived in Australia in April 1949 and served as general useful in a camp near Hobart. In due course his capacities were recognised and he achieved promotion to storeman. Then he was employed as a language teacher and then for two years as a research officer with the Department of Labour and Industry.

Between 1953 and 1955 he pursued once again legal studies at the University of Tasmania supporting himself and his family by selling insurance with the Mutual Life and Citizens Assurance Company Limited. He duly completed the five year course and received a First class honours degree in 1956.

In March 1956 he was admitted to practise and then came to Melbourne where he was

employed by Messrs. Gillot Moir and Ahern in charge of its common law department. After two years he became an associate with that firm where he remained until called to the Bar.

On the 1st February 1962 he signed the Bar Roll and commenced reading with Murphy. As a junior he enjoyed a very general practice with an increasing emphasis upon opinion and equity work. He had one pupil, Barry Macaulay. He took silk in November 1975.

Until his appointment as Master of the Supreme Court on the 6th July 1976, he was the legal advisor to the Senate Standing Committee on Regulations and Ordinances.

Master Endrey has retained his ties with his fatherland as a leading member of the Melbourne Hungarian Community, a member of the Council of the Hungarian Institute of Melbourne and a number of times President of the Federal Council of the Hungarian Associations of Australia. This is perhaps not surprising since his grandfather was a member of the Hungarian Parliament and his father served there as a Senator.

In his spare time Master Endrey has found time to write four books and a fifth is in the course of preparation. His published works are "The Future of Hungary", "Pride of My Country", "The Kingdom to Come" and "Sons of Nimrod". The latter work has been prepared as a thesis for a degree of Master of Arts at the History Department of the University of Melbourne.

At his farm at Marden near Leongatha the Master passes his time seeking to demonstrate the superiority of his herd of Aberdeen Angus cattle over Murray Greys.

Victoria is indeed fortunate in obtaining the services of such a man as a Master of the Supreme Court — a man who is delighted at his new found opportunity to extend his acquaintance with his fellow practitioners and to serve both the community and his twice chosen profession. The Bar congratulates Tony Endrey on his appointment and wishes him many and satisfying years in his new office.

## WELCOME:

### JUDGE HOWSE

John Frederick Bernard Howse, 51, was appointed to the County Court Bench in June 1976. He was born in East Melbourne on the 24th April 1925, was educated at St. Patrick's College, East Melbourne and subsequently graduated in Law at Melbourne University after serving in the R.A.A.F., as a Meteorologist, between 1943 and 1945. He was admitted to practice in 1950 and practised as a Solicitor with Oswald Burt and Co. until October 1954 when he signed the roll of Counsel and commenced reading with McLinerney. He established a wide general practice in both the civil and criminal jurisdictions.

In February 1963 he was appointed a Prosecutor for the Queen, which Office he held until his recent elevation to the Bench. As a Prosecutor he was noted for the thoroughness with which he prepared his cases and the fairness with which he presented them. He never appeared to be ruffled in any crisis and indeed his quiet humour often defused an impending scene in Court. Throughout his tenure of Office as a Prosecutor he appeared in many important criminal Trials and on Appeals to the Court of Criminal Appeal. He was an Acting Judge of the County Court between January and June 1976.

He is married with five children, of whom one is presently serving his Articles with the firm of Rennick and Gaynor. He is a very proud grandfather, almost as happy when talking of his four grandchildren, as he is when on the golf course. His Honour has approached the royal and ancient game with the same thoroughness with which he applied himself to his work as a member of the Bar and has achieved almost the same high degree of skill and persistence. In former years he was wont to sing the praises of the Collingwood Football Club; his silence this year may be taken as an indication of his known adaptability in adverse circumstances.

The Bar congratulates him on his appointment.

**WELCOME:****JUDGE LAZARUS**

Leo Sydney Lazarus, 53, was sworn in as a judge of the County Court on 10th August, 1976. Born on 20th May, 1922, he is the son of the late Louis S. Lazarus, a well-known and highly respected Melbourne solicitor.

After attending Melbourne Grammar, he entered Melbourne University at sixteen and graduated with the Degree of Bachelor of Arts with Honours at age nineteen.

It is uncertain whether his thorough grounding in the classics stood him in good stead during his years of service in the Army during the Second World War. Certainly, he was proud to recall in later years that he had been honourably discharged with a rank no lower than that he had received upon enlistment.

During the immediate post-War years His Honour completed his interrupted legal studies at Melbourne University and then served his Articles with one of his sisters, Miss Pauline Lazarus.

He signed the Roll of Counsel on 7th October, 1949 and read with Gillard. As befitted the pup of such an illustrious master, during his early years he developed a wide general practice which involved him in equity, in commercial and property law and in common law.

Later, for some years immediately before he took silk in 1972, his practice became heavily orientated towards jury actions.

During his first decade at the Bar His Honour retained a keen interest in many areas of activity. These included Gilbert and Sullivan, following the fortunes of the Hawthorn Football Club, involvement in the proceedings of the Classical Society and the Medico-Legal Society and enthusiastic participation in the then active Myrniong Society — a group of professional men who rather fancied themselves (if not each other) in the role of artists.

By 1960 His Honour had begun to develop the consuming and abiding interest in the affairs of the Bar which was to remain with him

until his appointment. In those days the great issues were clerking and accommodation.

For many years Leo Lazarus was a familiar and ever-friendly member of the Bar Council. Whenever any barrister sought guidance or assistance from His Honour he or she could be sure of receiving courteous sympathy as well as wise and practical advice. For over sixteen years as a member, as Vice-Chairman and as Chairman of the Bar Council he served the Bar with rare dedication and enthusiasm. Above all, he was one who was always of the Bar and for the Bar.

No fewer than seven readers, Dowling, Dwyer, Willee, Meldrum, Brear, Kingsley Davis and Carter, had the advantage of sitting in His Honour's small and constantly untidy chambers. But many many more have been afforded the considerable benefit of attending those same chambers and receiving his generous assistance and the aid of his highly ordered and disciplined intellect.

The Bar looks back with gratitude to the generous friendship and the unsurpassed industry of our former colleague. It looks forward with hopeful anticipation to the future of His Honour Judge Lazarus.

**CONGRATULATIONS:****OPAS, Q.C.**

Air Commodore Philip Henry Napoleon Opas, O.B.E., Q.C., 59, has been appointed Chairman of the Town Planning Appeals Tribunal.

Phil Opas was born in Melbourne. He was educated at Melbourne Grammar School combining a classics education with his love for sports, achieving distinction (including numerous trophies) for excellence in football, boxing and athletics.

He studied law at Melbourne University, graduating LL.B. in 1939. He served his Articles under Roy Schilling (now of Counsel) and signed the Bar Roll in 1946. He read with R.W. Monahan, undoubtedly the outstanding advocate and leader of the Common Law Bar

in Victoria at this period. In 1958, after twelve years at the Bar, he was appointed Queen's Counsel. As a Junior, he had five readers, including Monester, Rendit and Segal.

In 1973 Opas was appointed the First Chairman of the Environment Protection Appeals Board which was then a part-time post. In August 1976 he left this post on his appointment as full-time Chairman of the Town Planning Appeals Tribunal. It is this appointment which sees the departure of Opas from active practice as a member of our Bar.

Outside the Bar, Opas will be remembered for his active work in numerous charitable and community causes. In particular, he holds close to his heart his work as President of the Ryder Cheshire Foundation for Lepers and Mentally Retarded Children in India and his work as Trustee of the E.W. Tipping Home for Mentally Retarded Adults and Children.

Throughout his career at the Bar, Opas recognised the need to remain abreast of developments in the Law and in 1974 he obtained a Master of Laws from Monash University.

We are confident that his appointment will provide new challenges on which he thrives and we wish him well in the sure knowledge that he will make an important contribution in an area of law which is becoming of increasingly greater public importance with each passing year.

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## FAREWELLS:

The Bar wishes happiness and satisfaction in their years of retirement to:—

### McTIERNAN, J.

Edward Aloysius McTiernan 84, has resigned after 46 years on the High Court. Sir Edward was born in 1892. He was educated at Sydney University where he graduated B.A. & L.L.B. with first class honours. He went to the N.S.W. Bar in 1917. He was elected to the N.S.W. Parliament in 1920 at his first attempt. He was the only qualified lawyer in the Par-

liamentary Labor Party and Premier Storey made him Attorney-General. He was then 28. He remained in the position until the Nationalists were returned in 1922. In 1925 Labor was again returned and he again became Attorney-General, this time under Premier Lang. Lang sent him to London in 1926 on an unsuccessful mission to request the King to allow Lang to implement the Women's Status Act whereby women could be appointed to the Legislative Council.

By 1927 McTiernan and Lang had fallen out and he was replaced as Attorney-General. He did not contest the next State election and returned to his practice and to lecturing at Sydney University. The following year he entered Federal Parliament as MHR for Parkes. Late in 1929 Scullin's Labor Government was elected. McTiernan was appointed with Evatt to the High Court the following year. He was then aged 38.

He was a member of that bench for more than 60% of its life. He has been on the same bench as all but two of all the Chief Justices in the High Court's history.

He was knighted in 1951 and appointed a Privy Councillor in 1963.

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### GOWANS, J.

Urban Gregory Gowans was born in Boulder, Western Australia, and received his early education from the Christian Brothers at Kalgoorlie. He studied law at the University of Melbourne and was awarded exhibitions in contract and property. He was awarded the Jessie Leggart Scholarship in 1925. In 1928 he came to the Bar. During World War II he was Director of War Organisation of Industry. From 1947 to 1961 he was a member of the Overseas Telecommunications Commission. From 1948 to 1956 he lectured in Industrial Law at the University of Melbourne. He was appointed to the Supreme Court bench in 1961 and was knighted in 1974.

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### JUDGE FREDERICO

Hubert Theodore Frederico was made an acting County Court Judge in 1961 and appointed

to that bench the following year. He was educated at Xavier College and the University of Melbourne. He was admitted in 1930, then read with the late Norman O'Bryan. In turn his readers were Somerville, Scurry, J. Coleman, Croxford and Stone (now a Solicitor).

He was an active president. At various times he presided over the Melbourne University Boat Club, the Old Xaverians Association, and the Newman Society. He was Commodore of the Point Leo Boat Club. He is presently the President of the Melbourne Savage Club. He Honour has in recent years devoted more of his interest to his farm at Red Hill.

### MASTER COLLIE

Stuart Henry Collie was born at Camperdown. He was taught at Camperdown Higher Elementary School and later the University of Melbourne where he obtained his law degree. He was admitted in 1936. He was in the RAAF from 1939-1945 and reached the rank of Squadron Leader. He was attached to 75 Fighter Squadron at Port Moresby 1942, N.W. Area 1943-1944 and Morotai and Borneo 1945. He was mentioned in dispatches. He returned to the bar and was appointed as a Master in 1961.

There is no mandatory retiring age for Masters. Stuart Collie made a point of retiring when he reached the age of 72.

### FOR THE NOTER UP:

#### HIGH COURT OF AUSTRALIA

Aickin J. 60 1/ 2/1916 1976 -

#### FAMILY COURT

Fogarty J.  
(should read) 43 9/ 6/1933 1976 -

Strauss J. 55 3/ 9/1921 1976 -

#### MASTERS OF THE SUPREME COURT

Endrey 53 24/11/1922 1976 -

#### COUNTY COURT

Lazarus 54 20/ 5/1922 1976 1994

### MORE JUDICIAL STATISTICS

Position	Annual	Salary	Weekly	Applicable Tax	Weekly take-home pay
Supreme Court Judge	43,920		845	417	428
County Court Judge	36,960		711	330	381
Magistrate	27,010		519	207	312
Prosecutor	26,810		516	204	312

On this basis, a prosecutor and a magistrate earn \$16.61 less a day than a Supreme Court Judge.



## BAR COUNCIL ELECTIONS

Each year in September the Victorian Bar elects its Bar Council. It is clear from the variety and importance of the matters which come before this Council that its activities have a profound effect upon the lives of each and every member which it represents. From time to time one hears criticism that this body is not representative of the Bar as it is presently constituted. There is much force in this allegation since three out of a total of eighteen elected members are drawn from those under six years' call — over one half of those in practice — and no member keeps chambers out of Owen Dixon Chambers. On the other hand, it is said that the strength of the Council is drawn largely from the experience and weight of the very senior members which provide eleven of those eighteen elected members. It is said that although the majority of Council members do not themselves form part of the majority of Barristers, they can, nevertheless, be sensitive to the needs and interests of that group by direct contact and through the committees on which they serve.

One further complication which has arisen from the recent increase in numbers among junior barristers is that the majority of candidates are not known to the electors. Traditionally, candidates have not canvassed for votes or in any way pressed themselves forward. This may be due to the natural reluctance of barristers to self-advertisement, but also, until recently, it has not been necessary, since in a small, closely-knit group the reputation and qualification of candidates might be expected to be well-known.

This expectation flies in the face of contemporary experience. The consequence has been that the electors are not able to cast an informed vote, since a great number of them do not know for whom they are voting or even the performance of any of the candidates. It is possible, also, that this has been the reason for the relatively small number of votes cast — about fifty per cent. It might even be one of the reasons why sitting members are most often returned.

Faced with this problem, the Bar News has sought to present to the Bar some information about the candidates. A questionnaire was circulated among them to discover their attitudes to questions of interest. After some discussion with Marks Q.C. it was decided that this was an inappropriate method. Accordingly, each candidate has been invited to outline in not more than 125 words —

- what problem or problems he thinks are of particular relevance in the next twelve months?
- what steps he thinks ought to be undertaken to tackle these problems?

Of the twenty-seven candidates presenting themselves for election, five were prepared to put forward their views as invited. These were Gifford Q.C., Hampel, Sharp, Hassett and Lincoln. The Bar Council at its meeting on 16th September 1976 decided that the publication of these statements would involve a departure from the policy of not canvassing — a departure which it was not prepared to sanction without further consideration.

Eight candidates (Marks Q.C., Keely Q.C., Berkeley Q.C., Ormiston Q.C., Charles Q.C., Dowling, T.M. O'Dwyer and Walmsley) replied, expressing the view that they felt it was undesirable that candidates should engage in campaigning or commit themselves to policies before election. The view of these candidates was that they should, if elected, be free to apply themselves to the problems which will confront them without any pre-conceived notions. It was said by some that the electors should judge them from their reputation rather than from any promises made on the eve of the election.

The most disappointing aspect of the whole exercise has been the fact that the remaining fourteen candidates did not make any reply.

This surprising lack of response leaves the basic problem of the election unsolved. If it is true that by reasons of their increasing numbers and the fact that they are housed in different buildings, the junior bar is not able to form an opinion as to the ability of the candidates from direct contact or reputation, how are they to

be informed of the calibre of the candidates? Doubtless the new Bar Council will welcome suggestions.

For the assistance of electors the following list sets out some information about the candidates:—

<u>Admitted</u>	<u>Signed the Roll</u>	<u>Silk</u>	<u>Chambers</u>
K.H. Gifford			
1. 8.47	1. 8.47	1964	O.D.C. 501
K.H. Marks			
1. 9.50	1. 9.50	1967	O.D.C. 603
J.A. Keely			
15. 2.54	15. 2.54	1969	O.D.C. 138
J.A. Gobbo			
24.10.57	1.10.56	1971	O.D.C. 1207
J.D. Davies			
1. 8.52	10. 2.56	1972	O.D.C. 215
H.C. Berkeley			
1. 6.59	25. 6.59	1972	O.D.C. 1014
F.X. Costigan			
2. 3.53	13. 5.57	1973	O.D.C. 1206
G.R.D. Waldron			
15. 2.54	4. 3.55	1973	O.D.C. 1213
J.J. Hedigan			
1. 3.55	13. 5.57	1973	O.D.C. 804
J.H. Phillips			
3. 3.58	24. 2.59	1975	O.D.C. 133
H.F. Ormiston			
2. 3.59	18.12.61	1975	O.D.C. 604
S.P. Charles			
1. 5.61	26.10.61	1975	O.D.C. 413
G. Hampel			
1. 4.58	17. 4.58	—	O.D.C. 103
F. Walsh			
1. 3.55	17. 4.58	—	O.D.C. 904
M.J. Dowling			
1. 3.61	24.10.63	—	O.D.C. 1001
B. Kayser			
1. 3.61	26.10.61	—	O.D.C. 212
E.W. Gillard			
1. 3.63	24. 6.65	—	O.D.C. 1208

<u>Admitted</u>	<u>Signed the Roll</u>	<u>Silk</u>	<u>Chambers</u>
A.R. Castan			
1. 4.63	24. 3.66	—	O.D.C. 1209
D.B. Sharp			
2. 4.64	25. 7.68	—	O.D.C. 505
T.M. O'Dwyer			
3. 6.68	29. 8.69	—	O.D.C. 217
P. Mandie			
2. 5.66	27. 3.69	—	O.D.C. 314
W.B. Zichy-Woinarski			
2. 4.70	9. 4.70	—	O.D.C. 222
J.T. Hassett			
1. 3.67	4. 2.71	—	O.D.C. 137
B.G. Walmsley			
1.12.70	4. 2.71	—	O.D.C. 104
R. Richter			
2. 4.70	5. 8.71	—	O.D.C. 520
M.A. Lincoln			
1. 9.70	5. 8.71	—	O.D.C. 923
Mrs. B.M. Hooper			
1. 3.55	2. 3.72	—	O.D.C. 1017

The Editors.

### THE CHAIRMAN: ON ELECTIONS

The Editors of the Bar News are producing a very worthwhile Bulletin of Bar Affairs.

Its presentation and standard of reporting have added a new dimension to Bar Life.

I can understand their current endeavour to widen interest in Bar elections by publishing information about the retiring members of the Bar Council and new candidates. However, anything done to bring electioneering to Bar Council elections or foster the concept of "election promises" accompanied by self-promoting statements must be detrimental. It is no coincidence that the Bar has over its entire history universally rejected it.

I see the reasoning behind this policy as being based on the following considerations:—

- (a) The work of the Bar Council is increasingly difficult and demanding;
- (b) In the resolution of the very difficult problems that confront the Bar Council there is no room for hobby horsing, politicising or pandering to an "electorate";
- (c) Members of the Bar Council presently work very well together, because, despite differing personal viewpoints on many matters, they use their individual high intelligences to arrive collectively at decisions in the interests of the Bar as a whole;
- (d) Most difficult Bar Council problems arise suddenly and unpredictably. Their resolution would be greatly handicapped by the trafficking of preconceived notions or some feeling of commitment to "promises" made at the time of election;
- (e) The Bar is expected to choose members of its governing body by reference to reputation and standing. The question is normally one simply of confidence or no-confidence in an individual to carry out responsible tasks and exercise sound judgment. A choice involving this type of consideration can hardly be assisted by what a candidate says about himself or herself.

Members of the Bar should take a close interest in the affairs of the Bar. Every year the Bar Council calls for volunteers to serve on its committees. The response has increased over the last number of years to the extent that last year there were more than two hundred members of the Bar that responded. It is in this and in other ways that the opportunity exists for all members of the Bar to know the calibre of the Bar Council and the contributions which its members make to its work.

Ken H. Marks

## RECENT RULINGS OF THE ETHICS COMMITTEE

### **Victorian Silks appearing with interstate juniors who are amalgams**

On the basis of the ruling of the Bar Council of 21 February, 1968 and the report of the then Chairman of the Ethics Committee of 3 December, 1969, the Ethics Committee noted that it was its view that a Victorian silk should be entitled to appear in an interstate court with an interstate junior who is an amalgam from a State other than Victoria unless there is in existence in that junior's state a separate Bar which is established to the same extent as the Queensland, New South Wales, and Victorian Bars.

### **Counsel accepting more than one brief in one Court**

The Ethics Committee ruled that it is not improper for Counsel to accept a number of briefs in the one Court provided he can do justice to each of them and provided it will not interfere with the Court's disposal of its business.

### **Summary hearing of complaint against Counsel for failing to return backsheets to his instructing Solicitor and failing to deliver to him notes of the Order of the Court, knowing that the instructing Solicitor required the same**

The Committee dealt summarily with a charge against a member of Counsel that he infringed Rule 32(a), (c) and (f) of Counsel Rules in that he, after completing a case, failed within a reasonable time to return his backsheets to his instructing solicitors and failed to deliver to them notes of the relevant Order, knowing that the backsheets and the Order were required.

At the conclusion of the hearing the Committee resolved that —

- (a) Counsel infringed a Rule or recognized practice of professional conduct in that —
  - (i) he did not within a reasonable time return to his instructing solicitors a backsheet properly endorsed;
  - (ii) he neglected to advise his instructing

solicitors of the terms of the relevant Order.

- (b) In its opinion, it is a well recognized rule that Counsel, after completing a case, should make all reasonable endeavour to return his backsheet to his instructing solicitors within proper time and to convey to them the terms of any relevant order, particularly when the solicitors have requested Counsel to do this.
- (c) In the circumstances of the case, the Counsel so charged be directed to pay a fine of \$50.

#### **Counsel attending Board Room at Solicitors offices for purpose of tendering advice**

Counsel sought permission to attend the Board Room at the offices of a firm of solicitors for the purpose of giving advice.

The Committee resolved that in view of the unusual nature of the advice that was sought from Counsel, the very large number of persons that will have to be present at the conference at which such advice will have to be given and the necessity to use the facilities provided by the Solicitor's at the Board Room including a Telex, the Counsel be at liberty to attend the Board Room, but at the beginning of each day they should exercise a discretion as to whether it is necessary for them to continue doing so and not to continue attending at the Board Room unless they are of the view that the reasons which compelled them to do so in the first place still operated.

#### **Appearance by Counsel for Plaintiff against a Defendant who is insured by a company of which that Counsel is a Director**

A member of Counsel, who is a director of an insurance company, was offered a brief for a Plaintiff against a Defendant who was insured by that insurance company. The Committee resolved that a barrister should not appear for a Plaintiff against a Defendant who is insured by a company of which that barrister is a director.

#### **Counsel appearing for parties on both sides of the record**

A member of Counsel held a brief for grandparents of an infant. They, together with the father of the infant were respondents to a Summons issued by the mother. The father issued a Cross-Summons, naming the grandparents and the mother as respondents. It was anticipated that the submissions that were to be put to the Court on behalf of the grandparents were to be almost identical to those that were to be put on behalf of the father. For this reason, it was proposed to brief that Counsel to appear for the father as well as for the grandparents. A ruling was sought as to whether or not in those circumstances Counsel could accept a brief to appear for the father, whilst retaining his brief to appear for the grandparents.

The Committee resolved that the Counsel should not appear for the father as to do so would amount to acting for parties on both sides of the record.

#### **Junior Counsel marking a brief fee less than two thirds of the fee marked by his senior counsel**

A member of junior counsel sought a ruling as to whether he was entitled to mark a brief fee of less than two thirds of the fee marked by senior counsel with whom he was briefed, where his instructing solicitor requested him to do so after counsel concluded the work required of them by the brief. The Committee resolved that in the above circumstances and there being no special considerations, it would be improper for junior counsel to mark a brief fee of less than two thirds of that marked by senior counsel.

#### **Counsel misrepresenting facts to prison officer whilst visiting client in prison**

Counsel was summarily charged with knowingly misrepresenting to a prison officer that a person who accompanied him to the prison was his instructing solicitor.

The Committee heard the counsel, having refused leave for another counsel to appear for him, and resolved as follows:—

- (i) That counsel has been guilty of improper conduct in a professional capacity.
- (ii) Counsel was directed to pay a fine of \$100.
- (iii) That counsel be informed (and he was so informed) by the Chairman that it is important to the Bar and administration of justice that a barrister's word be accepted and that the Committee regarded his conduct seriously and were it not for the special circumstances surrounding the offence and his frankness, the Committee would have referred to the matter to the Bar Council.

#### **Counsel appearing in film in role of counsel**

The Committee denied permission for a member of the Bar to appear in a film to be made by a tertiary institution in circumstances where he would be filmed robed as for an appearance in Court.

#### **Circuit fee charged by counsel keeping chambers in the country for appearance in Court in Melbourne**

The Committee resolved that in the case where counsel keeps chambers in a country town, it is proper for him to charge an appropriate circuit fee when he is briefed to appear at Melbourne.

## **PROPOSED REFORMS TO PROCEDURE AND EVIDENCE IN RAPE PROSECUTIONS**

The Law Reform Commissioner has recently presented to the Attorney-General his Report and recommendations for change in the procedure and evidence in rape prosecutions. This Report was preceded early in 1976 by a Working Paper No. 4 on the subject, setting out a number of suggested proposals to minimise the problems which arise particularly in these prosecutions.

In his working paper the Law Reform Commissioner recognised the competing interests of the accused and the prosecutrix:

For the Prosecutrix there is the embarrassment and humiliation of the police investigation followed by two public hearings, at the committal proceedings and at the trial. At each of these hearings she is liable to extensive cross-examination, often of an intimate nature and sometimes directed towards demonstrating her past sexual experiences.

For the Accused there is the difficulty of defending himself against a charge which experience shows is capable of being well unfounded and for which a conviction will, in all probability, attract a substantial sentence.

The Crime Practice Committee chaired by Hampel presented submissions to the Commissioner through the Law Reform Committee of the Bar. After consideration of these and submissions from a large number of interested persons and organisations the Commissioner has published his report including eight recommendations.

1. Committal should be by Hand up Brief procedure unless a Stipendiary Magistrate directs otherwise by reason of special circumstances.
2. Evidence of the complainant in committal proceedings should be given in the presence of no person other than the parties, their representatives and court staff unless authorised.

3. Committal proceedings should be conducted before a Stipendiary Magistrate only and prosecuted by a legally qualified prosecutor.
4. The accused should not be permitted to cross-examine the Complainant as to sexual intercourse with men other than the accused without leave.
5. The rule forbidding an accused person from adducing evidence of sexual intercourse between the prosecutrix and other men should be abrogated in cases where such evidence has real relevance to a fact in issue otherwise than as showing a general propensity for consensual intercourse.
6. The rule permitting an accused person to lead evidence that the prosecutrix bears a bad reputation for chastity should be abolished.
7. The Complainant should not be compellable to give evidence where she has already given evidence of the same incident at a previous committal and trial.
8. The trial should be held within three months after the committal and the committal proceedings within three months after the alleged offence.

Although there was no unanimity in the Practice Committee as to the issues raised by the Working Paper, the final recommendations did not represent a radical departure from the thinking of the majority.

Nevertheless the Report of the Practice Committee revealed two areas of concern. Cross-examination of any witness is permissible only where it is relevant to a matter in issue or where it is directed to credit. The Committee was concerned that to the extent that the fourth recommendation restates this rule it is unnecessary and to the extent that it restricts it, it is undesirable.

Secondly, concern for the predicament of the prosecutrix should not be such as to obscure the real issue of all rape prosecutions — whether

the accused is proved guilty of the offence. The Committee was troubled lest there be any unnecessary intrusion upon the right of a prima facie innocent person charged with a serious crime to the protection of a public hearing.

The Attorney-General has been reported in the newspapers as saying that he will introduce legislation in Parliament to give effect to these recommendations.

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## MOUTHPIECE

Forty five dollars! Break it down, the industry couldn't stand it. You chaps'd be cutting your own throats. You couldn't keep up that sort of pressure and expect to hold on to the customers.

Mebbe.

It couldn't be done. The economy is fully extended. We all have to make a sacrifice. Why even our blokes have accepted voluntary restraint to show a good example to the others. They're grumbling, of course, but they're accepting it.

Mmm.

Look, I'll tell you this in confidence. If there hadn't been the changeover last Christmas you chaps were next on the line. How would you like it under Legibank . . . Hey, this is supposed to be a negotiation. Haven't you got anything to say?

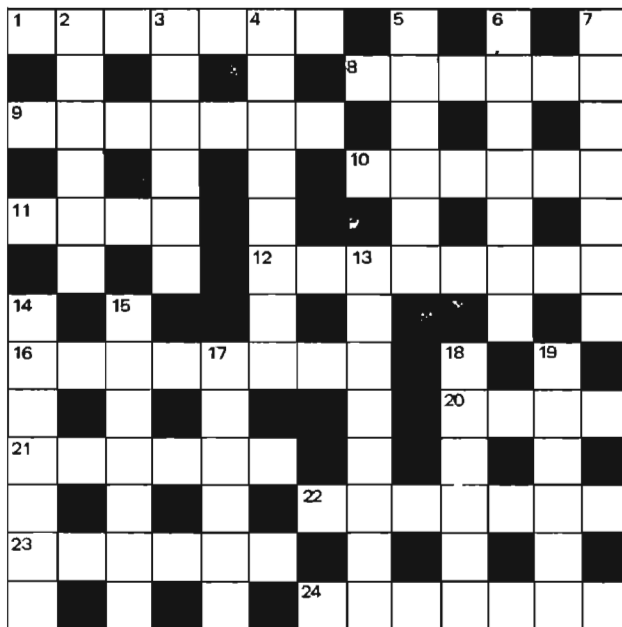
I'll give it to you straight Chief. I'll bring it down to 40. If you won't agree on that, I'll pull out every boy in Victoria.

No need for that Ken. I'll agree. So, now we've fixed the conference fee what are you asking for a Statement of Claim?

Byrne & Ross D.D.

# CAPTAIN'S CRYPTIC

No. 17



## ACROSS:

1. erst Chairman anon Judge (7)
8. leave empty (6)
9. makes over (7)
10. an ore bit is beside the point (6)
11. abet (4)
12. the wife of Victorious (8)
16. haemophilic (1, 7)
20. where barristers hang out (4)
21. le (glossy) name (6)
22. soothsayer sounds like a financial gain (7)
23. pommy shouts (6)
24. brilliant red wines (7)

## DOWN:

2. make certain (6)
3. towards the same latin thing (2, 4)
4. literally enervated (8)
5. ploy (6)
6. striking a blow for gun emplacement (7)
7. retirement from shouting again in England (7)
13. personal N.C.O. from oral crop (8)
14. special aptitudes for old money (7)
15. advocate led rape (7)
17. chooses (6)
18. baby lobster (6)
19. family game (6)

## JUDICIAL ESSAYS

The Law Foundations of Victoria and New South Wales have joined forces to publish a selection from papers read to the summer conferences of Australian Supreme Court Judges held in 1972, 1973 and 1974.

The articles selected for publication are as follows (the author's name is given in brackets):

"Fact Finding" (Gibbs); "Why Write Judgments?" (Kitto); "Contempt of Court" (Windeyer); "The Appointment of Judges to Commissions of Enquiry and Other Extra-Judicial Activities" (McInerney); "The Appointment of Judges to Commissions of Enquiry and Other Extra-Judicial Duties" (Toose); "The Relationship Between the Judges and Other Arms of Government in Modern Conditions: The Historical Background" (Blackburn); "An Institute of Judicial Administration" (Fox); "Evidence Admitted for a Limited Purpose" (Eggleston).

Judicial Essays is available from the offices of the Victorian Law Foundation (155 Queen Street, Telephone 67 5381) at \$5.00. Copies may be bought "over the counter" during office hours, or will be delivered to members of the profession within reasonable walking distance of the Foundation upon request. Copies will be posted upon receipt of a cheque for \$5.60, which includes the requisite postage within Australia.

## INQUIRIES INTO THE LEGAL PROFESSION

Two important and far reaching inquiries into the legal profession have just been announced. The first is a Royal Commission to inquire into the provision of legal services in England and Wales. Hot on the heels of the announcement of the Royal Commission was an indication by the New South Wales Attorney-General to have the Law Reform Commission conduct a similar inquiry. Meanwhile the A.B.C. has itself undertaken a similar task but on a far less formal basis.

### ROYAL COMMISSION IN ENGLAND AND WALES

The then Prime Minister Mr. Wilson in the House of Commons on 12 February, 1976 announced the setting up of the Royal Commission.

#### Terms of Reference

The terms of reference as reported in Hansard are:—

"To inquire into the law and practice relating to the provision of legal services in England and Wales and to consider whether any, and if so what, changes are desirable in the public interest in the structure, organisation, training, regulation of and entry to the legal profession, including the arrangements for determining its remuneration, whether from private sources of public funds, and in the rules which prevent persons who are neither barristers nor solicitors from undertaking conveyancing and other legal business on behalf of other persons."

In answer to specific questions in the House, Mr. Wilson agreed that the Commission would be able to inquire into

1. the desirability of setting up a Ministry of Justice
2. the provision of legal aid
3. amalgamation of the two branches of the profession
4. "conveyancing and the present legal monopoly in respect of conveyancing"



Mr. Wilson further said that it was for the Royal Commission to construe its terms of reference.

### Background

The news of the establishment of a Royal Commission did not come as a surprise. The profession had been under fire for months in Parliament and in the press. A television programme on the BBC had consistently inquired into alleged errors or omissions of individual firms.

A Member of Parliament is publicising a book on do-it-yourself conveyancing written by a member of a cut-price conveyancing organisation. An academic lawyer in an article in the *Criminal Law Review* has criticised the fees paid to lawyers, primarily barristers, in Criminal Legal Aid cases. A group of lawyers, social workers and others have reiterated suggestions made previously that a Legal Services Commission should replace the Society as administrator of the civil Legal Aid Scheme, an idea which has been adopted by Jack Ashley MP. There has been a leader critical of the legal profession in one popular national newspaper and critical letters and reports in *The Times*. *The Times* also carried a leader on the 2 February calling for the setting up of a Royal Commission and said it should not be opposed by the legal profession.

### The Profession's Reaction

A joint statement was issued on 11 February by the Chairman of the Bar, Sir Peter Rawlinson Q.C. and the President of the Law Society Mr. E.N. Liggins.

"In recent weeks there has been criticism of the legal profession in Parliament and the Press, coupled with demands for the setting up of a Royal Commission to examine legal services and the legal profession.

Whilst it is arguable whether this is the moment in the economic life of the country to embark on such an undertaking, both the Bar and The Law Society wish to make it clear that, far from seeking to avoid a Royal Commission, they would welcome the opportunity to participate in a comprehensive examination of the structure of

the profession, its functions, its remuneration and the services it provides.

It is of course essential if the public interest is to be served that the members of any such Commission should be persons of sufficient calibre and experience to deal with a task of such national importance.

What however is vital, if the rights and liberties of the subject are to be preserved, is that the legal profession remains independent."

It was this reaction which made certain the establishment of the Royal Commission.

### The Press Reaction

The Economist (21/7/76) had this to say:

"The first good reason for criticising lawyers is the unquantifiable, but generally admitted, decline in standards. The vast increase in legally-aided work has increased the number of barristers by 43% in five years, the number of solicitors by 22%.

"A second justified criticism is that lawyers have been slow to adapt to changing demands for new and different kinds of legal profession. Their clients (of which the biggest is the state) know that there are some lawyers' restrictive practices which clearly increase their costs. The royal commission is almost bound to recommend the abolition of two, in particular: the two-counsel rule, by which a "silk", or Queen's Counsel, can only appear in court accompanied by a junior (who may actually be quite senior) barrister; and the solicitors' quite unjustifiable legal monopoly of conveyancing which is still ruthlessly enforced. The first may even be abolished before the royal commission gets going.

### "Quid pro quo

The dividing line in the English legal profession is between solicitors (about 30,000 in practice) and barristers (about 3,700). This is by no means unique (France has three professions). The demarcation agreement between the two is that solicitors may not appear in the higher courts (which means in most crown courts and in the high court), while barristers may not be instructed to appear directly: their clients

must employ a solicitor, who instructs the barrister (and pays him — eventually). If the government accepts the recommendation of the James committee, more work will be shifted into magistrates' courts, where solicitors can represent their clients (which is not to say that they always choose to).

"The system has four classic advantages. One, a small local firm of solicitors does not have specialist expertise; in a fused profession it would have to apply to a bigger firm, which would be harder to screw on costs than a lone barrister, dependent on solicitors for work and not allowed to form a partnership, let alone a company. Two, the employment of two separate lawyers is a protection for the client: dud work by solicitors will probably be picked up by barristers, and incompetent barristers have solicitors behind them to pick up the pieces. Three, the courtroom lawyer operates at one remove from his client, and is thereby under less pressure to bend the truth further than it should be eased in the interests of honest defence. Four, because he operates in a smallish world, he knows that if he bends the truth too far, or wastes the court's time too much, it will tell against him in future cases.

"Each coin has its other face. If a case is on legal aid, the solicitor has no incentive to keep down fees below what the taxing officer will permit. Even if it is not a fail-safe dual system must raise some costs. Barristers, particularly young ones, are very dependent; weak or bad ones will cover up for solicitors' follies and negligence rather than lose work. They may see the case only just before going into court and hardly dare complain. Solicitors may have to hunt desperately for new counsel at the last minute, because those instructed are involved in other cases. On their own from the end of pupillage, inexperienced new barristers are unsupervised. Much solicitors' work is done by unqualified clerks. Before the royal commission, the two professions will no doubt attempt to justify the money they earn by deriding the work done by the other.

"The rate for what jobs?

Criticism is now made (a) of the fees lawyers earn per case and (b) of the total incomes these enable lawyers to earn. The state and the taxpayer have an undeniable right to argue about the first; the state bears all prosecution costs, legally aids over 90% of defendants and spends 21m pounds a year on civil legal aid. But fees are fixed by civil servants — the taxing officers of the courts; if they are too high, the government has only itself to blame for rotten cost control. The sensitive question is the link between (a) and (b). If the state is handing out, say, 40 pounds for one case done on one day in one court, should it not pay less if the lawyer is in fact getting through another two or three cases at that same court on the same day? Permitted fees have not risen fast, but the total of legal work has. So the commission should try to take evidence on actual fees for, and the amount of work actually done in, legal cases. Mr. Zander, hornet royal to the Bar, has provided much-needed evidence on barristers' fees in criminal cases; but not, because it is much more difficult to collect, on solicitors (who swallow about half of criminal legal aid, and a much greater share of civil legal aid). The rule-of-thumb for deciding what is a justified fee depends, inevitably, on payment for other kinds of work by "comparable" groups of people. For barristers, the calculations will be easy to do, once the haggling over the shares of fees that go on expenses and overheads is completed. For solicitors, the calculations will be considerably more tortuous.

"Easy times are past

More difficult still will be to measure the actual competence of the work lawyers do. That always used to be monitored by pretty severe competition among barristers; but by much less competition among solicitors, whose incompetences are far less public. It will be for the commission to say how far legal aid has blunted competition among barristers (and propped up dud solicitors). But the demand among school-leavers for legal training, combined with the government's financial stringency, may anyway sharpen it quite noticeably over the next decade. There are already signs that the fattest years are gone."

### Membership of the Commission

Mr. Wilson had promised that the Chairman would not be a lawyer. In the result the membership of the Royal Commission is as follows:

- Sir Henry Benson, C.B.E., F.C.A. (Chairman)  
 Professor Ralf Dahrendorf, Ph.D., Dr. Phil., Director of the London School of Economics and Political Science  
 Mr. Leonard Edmondson, member of Executive Council, Amalgamated Union of Engineering Workers and TUC General Council  
 Mr. Peter Goldman, C.B.E., director of Consumers' Association, Patron of the International Organisation of Consumer Unions  
 Mr. J.T.W. Haines, chief press secretary to Sir Harold Wilson, 1969-76  
 Mr. Tom Harper, legal journalist, Editor of the Law Society's Gazette 1950-65, Editor of the New Law Journal 1965-72  
 Mr. Mark Littman, Q.C., deputy chairman, British Steel Corporation, director of Rio-Tinto Zinc Corporation and of the Commercial Union Assurance Company, bencher, Middle Temple, and member of the Senate of the Inns of Court and the Bar  
 Miss Susan Marsden-Smedley, director of Legal Action Group Education and Service Trust  
 Mr. William Marshall, company director in Northern Ireland  
 Mr. Peter Oppenheimer, student and tutor in economics, Christ Church, Oxford  
 Mrs. Sally Ramsden, immediate past president, United Kingdom Federation of Business and Profession Women  
 Mr. Alwyn Roberts, lecturer in social theory and institutions, University College, Bangor, member of Gwynedd Council and of Gwynedd Area Health Authority  
 Mr. David Seligman, LL.B., practising solicitor, partner in Messrs. Sidney Isaacs, Seligman and Co., Cardiff  
 Hon. Mr. Justice Templeman, Chancery Division, President of the Senate of the Inns of Court and the Bar 1974-76  
 Mr. W.M.H. Williams, practising solicitor, partner in Messrs. Clifford-Turner and Co., London, member of the Council of the Law Society

### NEW SOUTH WALES

During his opening address at the Conference of Presidents of Regional Law Societies on 3 July 1976, the Attorney-General indicated that he proposed to refer to the N.S.W. Law Reform Commission consideration of all as-

pects of the operation of the legal profession in accordance with terms of reference which would include the review of the law and practice relating to the legal profession for the purposes of consideration whether if any and, if so, what changes are desirable in the structure, organisation and regulation of the profession; the functions, rights, privileges and obligations of legal practitioners and the provisions of the Legal Practitioners Act 1898, with particular reference to, but not confined to, the following matters:

1. The division of the legal profession into two separate branches comprising barristers and solicitors;
2. The incorporation of legal practices;
3. Compulsory insurance of legal practitioners in respect of professional negligence claims;
4. The mandatory participation of legal practitioners in courses of continuing legal education;
5. The rules relating to the administration of the Solicitors Fidelity Guarantee Fund;
6. The rules relating to the Statutory Interest Account;
7. The investigation and adjudication of complaints about the professional competence or conduct of practitioners;
8. The fixing of charges for work done by legal practitioners;
9. The investigation of complaints about charges made for work done by legal practitioners;
10. The supervision of independent third parties of trust accounts held by legal practitioners;
11. The certification of legal practitioners as specialists in particular fields.

He further indicated that he did not anticipate that the Commission would have referred to it the consideration of legal aid or legal education which are currently the subject of other enquiries. He believed that interested bodies should be entitled to make submissions to the Commission and that there ought to be hearings.

**THE A.B.C.**

An unofficial enquiry into the Legal Profession is being conducted by the Australian Broadcasting Commission in a weekly programme entitled "Up against the Law". This programme is broadcast on Tuesdays at 7.15 p.m. from 3 AR.

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## FUTURE PROSPECTS FOR THE LEGAL PROFESSION

The Victoria Law Foundation has embarked on a study concerned with the future prospects for lawyers in the community. From the viewpoint of the Bar, the first tangible sign of this activity will be small questionnaire booklets appearing in the mail of many members.

In the long run, however, the study is expected to benefit all members of the Bar who are concerned about the likely impact of future trends on their careers.

**Scope of the Study**

The "Lawyers in the Community" study will have two stages. The first, the product of the small booklets mentioned above, will describe the current situation of the profession. It will provide an account of the range of careers now open to legally qualified people, of the patterns of practice, demographic characteristics, and views of members on current trends and matters of concern. This material has never been gathered before. It will form a baseline on which the second stage of the study will be built.

The second stage will probe the impact of probable future trends on the profession in areas such as: the demand for barristers, solicitors and others with legal qualifications; where they will be needed; with what kinds of training and skills; whether they will increasingly

be specialists; the impact of possible changes in the structure and organisation of legal services, or of possible new legislation on current practices; whether lawyers will be increasingly working outside the private or the practising profession; the effects of that on professional control, ethics and discipline.

The questionnaire has been prepared by professionals in this mode of research, in close consultation with an Advisory Committee appointed by the Foundation. It is composed of officers of the Foundation and a number of other lawyers with special knowledge or skills to contribute.

The findings of the study will be of immediate use in planning for the growth and future development of law schools and provision for practical training. But in the wider sense the study will, for the first time, provide educational, professional or government bodies as well as individual lawyers with reliable information on which decisions about the future in the profession can be based.

Studies of a similar nature are taking place in a number of other English speaking countries. Preliminary work here also indicates that the majority of lawyers realise the need for this project and are willing to co-operate.

**Confidentially for Respondents**

The Foundation has written to people selected in the sample assuring them that information provided will be used only in statistical tables. In no way will individual details be the subject of analysis or reporting. The survey report will be made available to any members of the profession who ask for it.

The Foundation appeals to all who do receive the survey to return the completed questionnaire as soon as possible. Failure to respond on the part of even a minority of people could place the project in jeopardy, by introducing a bias into the results.

### OF GENERAL INTEREST

Leo Hart is to embark upon his fifth crossing of the Little Desert in late September. He is the only living man to have successfully negotiated this "hell hole" on four occasions and in the event of success on his forthcoming attempt will probably assume page one importance in the Guinness Book of Records. Two widows of recent participants claimed that Hart's achievements made Bill Emmer-ton's crossing of "the Valley of Death" look like a Sunday morning jog around Como Park.



The excellent skiing facilities and weather have attracted the following to various ski resorts. Buller: Heerey, Tim Smith, Caravan, Kemel-field, John Kaufman, Merkel, Hampel, Danos, Monester, Archibald, Balfe, Boyes, Hase, Moore, Fagan, Richard Read, Woinarski, Paul O'Dwyer, Saw and Rosenberg. The last three named reputedly took to the slopes at Courcheval in France and are not backward in revealing clothes with various International emblems attached. The author, however, has it on good authority that they are still taking lessons. Adams, Bob Johnson, Philbrick and Constable have been flattening the slopes at Mount Hotham although it is now believed that they will seek a new venue in the light of the recent fire at the local hotel. Davis and Dunn have also been seen on the slopes whilst Riordan has "put away his skis" following a broken leg occasioned by a fall from the playground poma. Providing there is no strong wind about, Gorrie can be seen negotiating the hills at Mount Baw Baw.



The annual Golf Match between the Bar and Bench and the services will be held at the Royal Melbourne Golf Club on Thursday the 30th September 1976. It is hoped that we can repeat our overwhelming recent victory against the Law Institute.



The increase in fees in the County Court juris-diction was reflected in the attendance of Howden at the Montreal Olympic Games. He unfortunately suffered a nasty back injury allegedly due to the cold conditions prevailing in the stand whilst he was observing the ath-letics.



It is understood that the following, inter alia, attended the International Bar Association Conference in Stockholm, Sweden, held between the 15th and 21st August 1976: King-ston, Guest, Gifford, Lloyd, Uren, Nathan, Stott, Winneke, Beaumont, Boyes, Mees, Magennis, O'Loghlin and Tebbutt. Anyone interested in the topic of "Debt collecting and enforcement of judgments in Botswana", should not hesitate to contact any of the aforementioned upon their return.



"Cantala", our roving reporter from the tracks, has been sacked as the result of the fail-ure of any of his "tips" being successful. He was last seen doing an "emu" amongst dis-carded tote tickets at a recent greyhound meeting.



Vincent and Morgan-Payler are deliberately avoiding the scrutiny and questions of "four eyes" in his attempt to solve the mysteri-ous circumstances of their bushwalking which was referred to in the last issue. It is believed how-ever, that the results of camera shots taken from a telephoto lens together with informa-tion from bugging devices will soon be available.



Langslow is being challenged as the current undisputed champion canoeist by Wild and Turley. Wild is soon commencing training with a policeman (of all people) in an heroic attempt to complete the dreaded "Murray marathon" which Langslow has negotiated on four occasions. Wild's training for this event includes a one day trip down the Murray in

October and a two day trip later in November. It is not anticipated, however, that either one of the aspirants will approach the "iron man" status of Langslow who is entering in the single Canadian class of the brown water classic (otherwise known as the 250 mile Murray Marathon). Singularly, he will be propelling a 16 feet 6 inches open canoe with a single bladed paddle in search of fame.

"Four Eyes"

## MOVEMENT AT THE BAR

### MEMBERS WHO HAVE SIGNED THE ROLL (Since June 1976)

R.M. Dessau  
A.I.N. Deoki  
A. McH. Ramsey  
E.N. Magee  
M. Boral  
C.F. Wall  
B.J. Halpin  
D.J. Cremean  
J.D. Montgomery  
R.I. Rosenberg  
M.G. Perry  
B. Paul  
D.M.J. Bennett (N.S.W.)  
P. Indovino  
L.R. Paine  
J.T. Rush  
K.J. Quinlan

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

P.J. Moran  
M.A. Clarke (Non-Practising List)  
K.D. LePlastrier  
W.J. Wheelock  
I.G. Sutherland  
I.R. Henry  
G.J. Alford  
C.R. Briglia  
Judith Pearce

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

A. Endrey Q.C.  
P.H.N. Opas Q.C.  
K.H. Aickin Q.C.

The total number in active practice (not including Crown Prosecutors) is now 559.

SOLUTION TO **CAPTAIN'S CRYPTIC** No. 17

1	L	2	A	Z	3	A	R	4	U	S	5	G	6	B	7	R
		S		D		N		8	V	A	C	A	T	E		
9	A	S	S	I	G	N	S		M		T		T			
		U		D		E			10	O	B	I	T	E	R	
11	U	R	G	E		R					I		E		E	
		E		M		12	V	I	13	C	T	O	R	I	A	
14	T		15	P		E		O				Y			T	
16	A	B	L	E	17	E	D	E	R		18	N		19	I	
	L		E		L				P		20	I	N	N	S	
21	E	N	A	M	E	L			O		P		C			
	N		D		C		22	P	R	O	P	H	E	T		
23	T	R	E	A	T	S			A		E		S			
	S		R		S		24	C	L	A	R	E	T	S		

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*"Trust me my friends; I only stand for a strong and independent bar  
(my door is always open) . . . "*