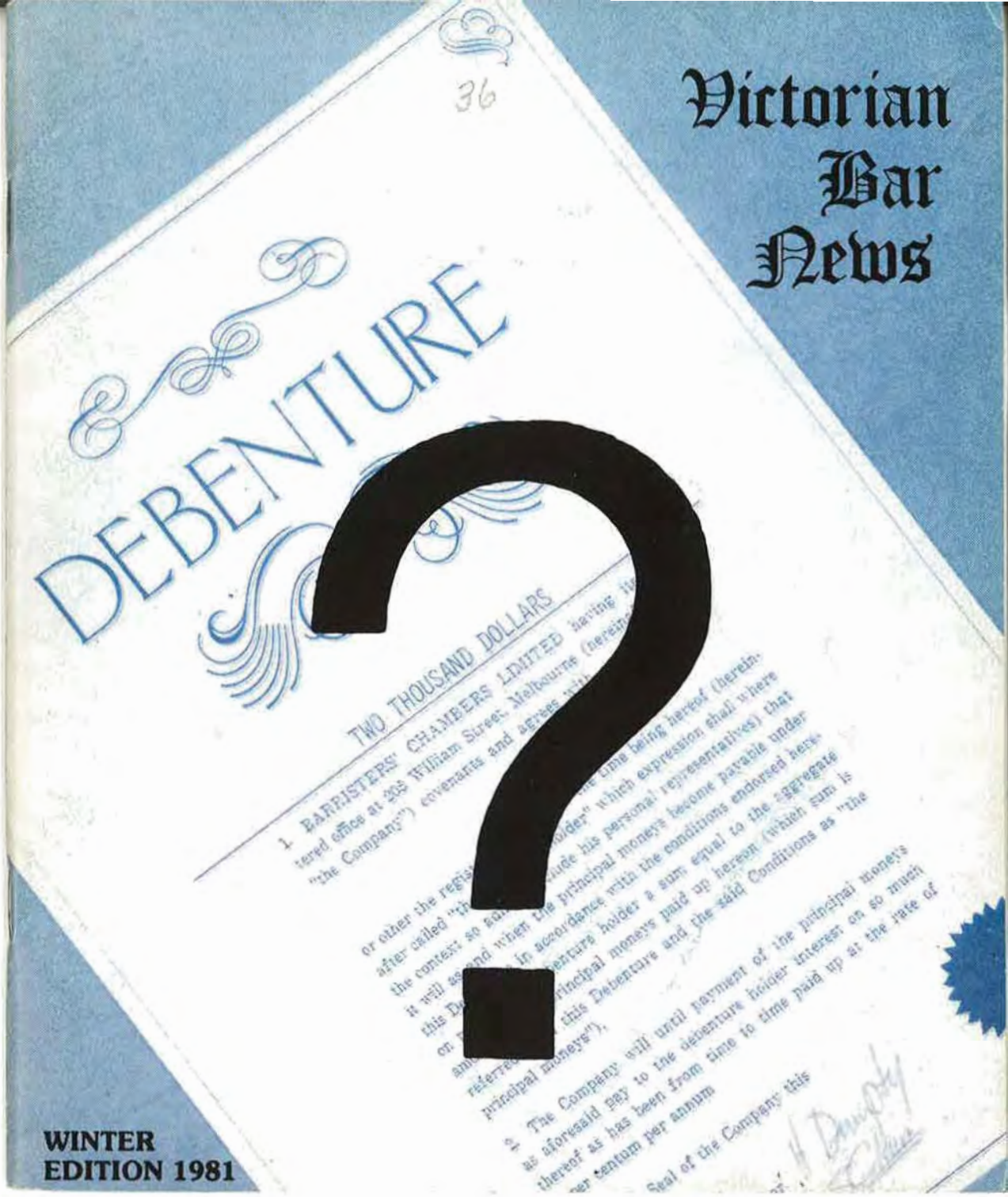
Victorian Bar News



WINTER
EDITION 1981

VICTORIAN BAR NEWS

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BAR COUNCIL REPORT

YOUNG BARRISTERS

(a) Representatives of the Bar Council have made representations to the Attorney-General and the Chief Stipendiary Magistrate concerning delays in the Magistrates Courts. The Deputy Chief Stipendiary Magistrate has indicated that the appointment of four new Magistrates should reduce the delays. (See article p. 15)

(b) Dwyer Q.C. has agreed, at the request of the Bar Council, to take charge of the Readers' Course.

ETHICAL RULES

At the meeting of the Bar Council on the 23rd of April the following rulings were made:—

(a) **Unreported Decisions**
"As a matter of Ethics it is improper for counsel who intends to rely upon an unreported decision to fail to bring to his opponent's notice at the earliest opportunity the existence of such a decision."

(b) **Fees on Settled Actions**
"Save in cases where counsel has no doubt concerning the propriety of his action, counsel should not allow the reduction or elimination of the agreed brief fee without the consent of the Ethics Committee. Counsel may accept a lesser fee on a brief (but not without the consent of the Ethics Committee) where the costs are or are made subject to compulsory taxation and as a result counsel's fees are reduced or disallowed and are, without any neglect or default on the part of the solicitor, not recoverable by the solicitor from the lay client."

FEES

A scale of recommended fees in the criminal jurisdictions was adopted by the Bar Council on 29th of April. At the same time a recommended scale for legally aided criminal matters was also adopted. The latter was the result of lengthy negotiations between representatives of the Bar Council, the Law Department and the Legal Aid Commission. Both scales reflect a 20% increase in the recommended fees adopted in August 1979. The new scales came into effect on the 1st of May 1981.

LEGAL AID COMMISSION

(a) In response to a request by the Director of the Legal Aid Commission for the Bar Council's views on the preparation of panels of barristers willing to accept briefs on behalf of assisted persons, the Bar Council resolved that the Chairman should advise the Legal Aid Commission that the ethics of the Bar, generally and particularly relating to retainers and advertising —

(i) make it inappropriate that a member of the Bar should offer himself as available only in self-designated categories of work;

(ii) require that he should be retained by a solicitor whether that solicitor be the Director of the Commission or a private solicitor.

Accordingly members of the Bar engaged to provide legal services for an assisted person should be engaged from persons on the Roll of Counsel by both a private practitioner and by the Director of the Commission. These

should be required to take into account in selecting counsel who is competent and otherwise appropriate to provide the required services —

(i) the choice of the assisted person;

(ii) the interests of the assisted person;

(iii) in the case of the Director, the need for equitable distribution of work amongst counsel; and

(iv) in the case of a private solicitor, any directions of the Commission directed to achieving an equitable distribution of work amongst counsel.

Further, the Commission should be informed that it is the Bar's view that S.30 (of the Legal Aid Commission Act) was not intended to apply to counsel on the Bar Roll. The ethics of counsel require counsel to accept a brief in the courts in which he professes to practice at a proper professional fee, unless there are special circumstances to justify his refusal to accept a particular brief.

(b) On the 9th of April the Bar Council considered the Report of the joint Bar/Law Institute Legal Aid Commission Committee on draft guidelines for the operation of the Legal Aid Commission. These were approved, subject to the deletionn of the requirement to show special circumstances before legal assistance be given in some criminal matters in Magistrates Courts. The Bar Council also noted in relation to these guidelines that there is a difference between counsel and solicitors in relation to panels of practitioners.

(c) The Bar Council has resolved that in civil matters on briefs delivered by the Legal Aid Committee and the Legal Aid Commission to senior counsel, all fees be the subject of negotiation.

SOCIAL

On the 15th of July the Victorian Bar will hold a dinner in honour of Lord and Lady Lane who are to visit Australia for the 21st Australian Legal Convention.

AT THE BAR DINNER

The Chairman

Hertog Berkeley by a quirk
Despises bark, espouses berk,
An advocate of wit and guile
Disguised by a disarming smile

Mr Junior

Alex, Mr Junior Silk,
Would have done well to stick to milk.
High Court Judges should not be
Accused of gross fecundity.

Mine Host

Francis Aloysius Walsh
To C.B.C. upbringing falsh
Thought the Masonic Order good
But plainly had not tried the food.

The Honoured Guests

Leaping lightly court to court
Mr Justice Brennan brought
A bright banana bender mind
Thank God he left Old Joh behind.

Kevin Justice Anderson
Avuncularian sort of man
As bach'lor (knight) lives a happier life
Now clearly married to his wife.

A man of note is Jolly Jack
Revered at law, renowned on track
Who finds it now his happy fate
To give the County Court some weight.

TRIBUTE: JUDGE MORNANE

It is difficult to analyse the reasons why any man is loved so much by people.

In a way he was a contradiction. He was a most generous person but could easily be intolerant of people. He hated the trappings of snobbery and affectation, but placed considerable importance on school and family. He could be contrary for the sheer fun of it. He accepted easily the "liberated" views of the younger generation whose company he enjoyed so much, but would listen to no argument which conflicted with his religious beliefs.

He never took silk, although it was his for the asking for many years before he was appointed to the Bench. He was a great jury advocate who developed a giant personal injuries practice – a field that he led for many years. He had 12 readers, Cullity, Tolhurst, W.M.R. Kelly, Garrick Gray, Nixon, Dunphy (deceased), M. Gorton, Hore-Lacey, R. Williams, R. Gorton, Hollis-Bee and Rattray.

Four are now County Court Judges.

In later years, he presided at the Workers' Compensation Board. Rumour has it that it was his dislike of sending people to gaol which made the Board more attractive.

He had a magnetic and entertaining personality, rich with humour.

He was loved and respected by everyone who had more than a fleeting contact with him, be they relatives, readers, secretaries or colleagues. Our sympathy goes to those people, and especially to Jackie Deasey, his friend and companion for many years whose feeling of loss must be so acute.

On Friday 24th April John Mornane was on his feet addressing a meeting of County Court Judges. Suddenly, and without prior warning he suffered a heart attack and died. He would have enjoyed the irony of that.

He will be remembered for a long time.

WELCOME: JUDGE TOLHURST

On the 4th June 1981 the appoinntment of Gay Vandelew Tolhurst as a Judge of the Counry Court was announced.

His Honour was born on the 16th September 1932 at Berwick, Victoria. He attended Geelong College and subsequently the University of Melbourne. He was a fine scholar and graduated LL.B. with Honours in 1954. He served articled with Messrs Weigall & Crowther and was admitted to practise on the 1st March 1955. He signed the Roll of counsel on the 1st February 1957 and was one of the many readers of the late Judge Mornane. His Honour had the following readers, Crossley, White, Pinner, Cartwell, Crozier-Durham, Hammet, Murugason, Collins (deceased), Salamanca, Larking and Mattln.

His Honour has been Chairman of the Victorian Dried Fruits Board for the past ten years and has recently sat as Chairman of the Motor Accidents Tribunal.

From his very earliest days at the Bar, his Honour enjoyed a very busy general practice. In more recent times he specialized in personal injury claims and had paper work practice of Tolstoyian dimensions. Blessed with an urbane and polished manner and a fine command of language he was a most effective advocate, while at the same time being a very wily negotiator, never more so than when, in poker terms (a game at which he is alleged to have frequently won more than one might decently expect for an attendance at a Magistrates' Court) he simply had the equivalent of a pair of twos in his brief.

His Honour was readily approached by many members of the Bar eager for reassurance or advice. He could be relied upon to give cheerfully of his attention, his wisdom and his patience. Little need, therefore, to recall to him the injunction of Lord Chancellor Bacon "Patience and gravity of hearing is an essential part of justice: and an over-speaking judge is no well-tuned cymbal". Indeed it is a testimony to the respect and affection in which he is held by his readers, that every year his readers invite him to a dinner which always is fully attended.

His Honour is married to a doctor and has a family which gives him a great deal of pleasure and of which he is extremely proud. Last year he was rendered a cruel blow when his second son died after a lengthy illness. It is a measure of the man that throughout this period of personal anguish he maintened his affable and pleasant disposition.

Finally, there is the story (apocryphal perhaps) of his Honour in a Magistrates' Court of far flung jurisdiction. The resident magistrate was by all accounts a man most concerned about the personal attire of litigants in Court (it must indeed have been a long time ago). The subject of Tolhurst's brief arrived at Court dressed in white shorts, white shirt and tennis shoes. The learned magistrate immediately unbraided counsel for permitting the client to appear in such a manner. The youthful Tolhurst looked across at the client resplendent in whites and replied:

"The correct dress your Worship, but the wrong court".

We welcome you your Honour. Yor are in the right Court and correctly attired. We wish you a long and satisfying career on the bench.

PERSONALIA

HE PUT IN HIS THUMB . . . . .

Philip Henry Napoleon Opas, Q.C. has been appointed Chairman of the Planning Appeals Board. The position carries a salary of $64,000. The Bar wishes him well.

● ● ●

Frank B. Sands signed the roll of counsel on Dec. 13, 1962. His name was removed from the roll at his own request in 1966. Now he has been appointed Chairman of the West Australian Supplementary Workers' Compensation Board. The position is equivalent to a County Court Judge. Our congratulations go to him.

● ● ●

Francis Q.C. is about to retire from his position as acting Deputy Judge Advocate-General.

Wing Commander Francis enlisted in the RAAF in 1942. He served in radar and as an air gunner in Australia.

After the war he transferred to the air crew reserve and became a barrister in Melbourne.

In 1965 he led the Support Command Legal Reserve panel, and in 1969 was appointed a Reserve Judge Advocate and promoted to wing commander. Since June 1979 he has been acting deputy Judge Advocate-General.

● ● ●

COUNTY COURT LISTING — "IT'S A SCANDAL"

A sub-committee of the Criminal Bar Association comprising Fagan Q.C., Kirkham, Lopes and Faris have prepared a detailed, analytical and reasoned report amounting to 110 pages together with schedules and an index. This summary merely describes the report and notes the highlights of a document which contains a wealth of information.

The report outlines the existing process and procedure from arrest through committal, transmission of depositions, preparation by the Crown Solicitor, monthly adjournments, filing of presentment concluding in trial and verdict. It notes, analyses and makes a careful examination of delay at each stage in order to demonstrate the problem with which the report is concerned. Essentially there are three problems, namely, delay in bringing cases to trial, the listing process and the "Taken out of the list problem" (the T.O.L. problem). The latter term relates to cases being taken out of the list on the day preceding the day notified for trial and the report demonstrates the association between that problem and listing and delay.

The report examines and rejects various possible solutions and makes recommendations to solve or alleviate the problems.

The statistical material upon which the report is based relates to the period 1972 to 1980, the latest complete figures being for 1979. In summary the backlog is growing, trials are taking longer, the proportion of pleas of guilty is dropping and the T.O.L. problem is unabated.

August 1979 is demonstrated to be a typical month to illustrate the extent of the T.O.L. problem. 137 accused were notified of proposed dates for trial in that month (in addition to cases listed as "pleas"). Translating the results into percentages, 24% proceeded as trials, 12% became pleas, **34%** were taken out of the list on the afternoon preceding the notified day and 30% were adjourned on notice. For the whole of 1979, 347 cases fell into the "T.O.L." category and 337 cases resulted in conducted trials. Notification indicates a 33% chance of being listed.

The capacity of the Court system to deal with cases may be demonstrated by reference to 1979. In that year 1362 persons came into the system, 710 persons pleaded guilty, 287 had concluded trials and 82 cases were disposed of by "nolles" or otherwise. The nett result was an increase of 283 in the backlog, or 206 if account is taken of 78 absconders.

The report estimated that at the end of 1980 approximately 1400 persons were awaiting trial, including about 400 awaiting committal. That number exceeded by 300 the total number of persons dealt with in 1979.

A reduction in the backlog occurred in 1976/77. But from a reduction of 20% the position changed to an increase of 25% in 1979 — a "turn-about" of 45%.

The average length of a trial in 1972 was 2.7 days. In 1979 it was 4.3 days — an increase of over 50%.

The report recommends increased preparation staff, an increase of two Judges in crime (who would take 4 years to clear backlog) and the appointing of a separate listing functionary. The latter would be divorced from both the Court and the Crown Solicitor so as to separate listing from judicial function and from the preparation function. The report shows how such a seperation will assist in curing both the delay and the "T.O.L. problem".

The listing functionary would have power to list for trial on his own motion after the expiration of 6 months from the committal, or after 3 months in the case of persons in custody.

The report examines briefly the practice in the U.K., Canada and other Australian States. The report considers but ultimately rejects a number of proposed solutions including control of listing by Judges, further transfer of jurisdiction to Magistrates Courts (it removes right to jury trial), optional juries, acting Judges, pre-trial investigation, advancing the time for a final plea, lump sum fees and the appointing of public defenders. The final sentence of the report reads "The failure to face up to the problems we have isolated and to solve them is, in our view, a scandal".

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THE LOVING CUP

For the information of younger members who enquired about the trophy which adorned the High Table at the Bar Dinner, we provide the following account of its origins and significance.

The Loving Cup was presented to The Law Council of Australia by the Bench, Bar and Solicitors of England. The presentation was made by the Lord Chancellor, Viscount Jowitt at the Jubilee Convention Dinner held in Sydney in July 1951. He said that the gift was made to mark the occasion of the Jubilee Convention and in recognition of the kindness and consideration extended by the Law Council to the overseas visitors.

The Loving Cup dates back to the reign of Queen Anne and bears upon it the arms of O'Neill and is dated 1706.

In making the presentation the Lord Chancellor said — "You all know that in my country the profession is divided; the two branches of the profession are seperate, but there are occasions on which they are united and indeed tonight, in getting up as I am, I must tell you that the chief instigator of my conduct is Sir Leonard Holmes, who spoke on behalf of The Law Society of England. So far as the Bench and Bar are concerned, this is an occasion on which the conservative House of Lords and the iconoclastic Court of Appeal lie down together".

"At this time we have thought it right that on behalf of your visitors who come from the old Mother Country we should mark the occasion of this unique gathering by some tangible object and we have thought it right — when I say 'we' I mean The Law Society of England, the Bench and the Bar — to present to the Law Council of Australia this Loving Cup."

"We wondered whether we should get something modern or something comparatively ancient. This Loving Cup, which I now present to you, is dated 1706, which even the youngest of us knows, was within the reign of Queen Anne, and even the oldest of us now learned that Queen Anne is dead. In 1706 Lord Cowper, who was Lord Chancellor, had the honour of being the last Lord Chancellor of England and two years later he became the first Lord Chancellor of Great Britain. The year 1706 was also the date of the Battle of Ramillies, as a result of which we fondly thought that the French were finally dismissed from Brabant and the Low Countries. I have come to think that the only country which suffers from misfortunes is the country from which the French have been finally dismissed, and French wisdom is surely what the countries of the world need today."

"This Loving Cup bears upon it the arms of O'Neill. I will not trouble to make a lengthy speech about that; suffice to say that from time to time the O'Neills fought with the Irish against the English, sometimes they fought with the English against the Irish, and they were always prepared to fight with anybody who was available against the Scots, and being myself partly Welsh the only reason they did not fight the Welsh was because they never had the pleasure of meeting them."

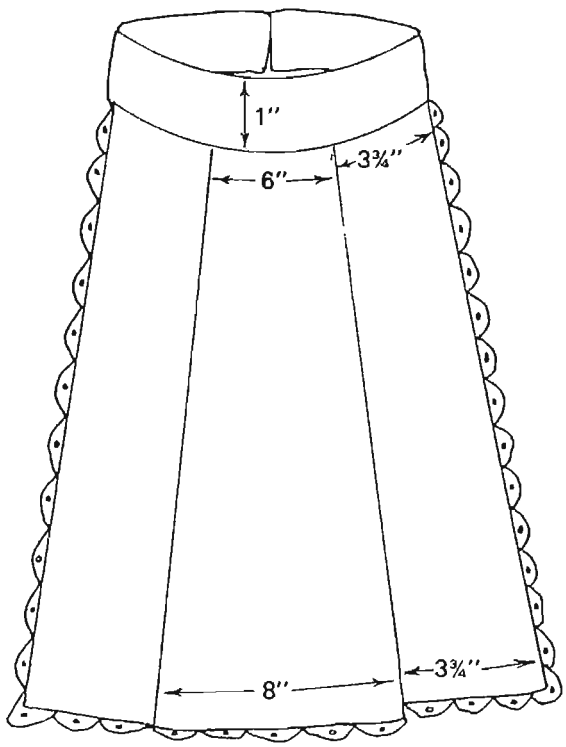
"My dear Harry Alderman, I have great honour on behalf of the Bench, Bar and the Solicitors of England to present to the Law Council of Australia this Loving Cup with the earnest hope that for many years to come it may be amongst your treasured possessions and that it may be a lively witness to the fact that we are deeply conscious of the kindness and consideration and the wonderful organising ability that you and your Committee of Management have shown in bringing about this great, this historic, Convention."

THE JABOT

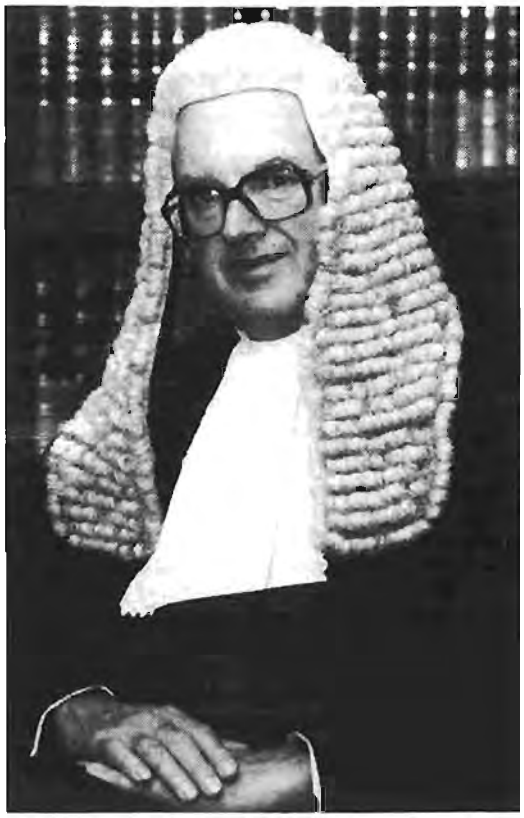
We were very taken with the sight of Gibbs C.J. on the cover of Autumn '81 Bar News wearing his jabot. Was it really so much more convenient than the butterfly collar and bands? Sir Harry apparently got the idea of the jabot from judicial collegues in South Africa. On his return he canvassed the idea amongst his brethren.

Lady Aickin ran some up by way of experiment. After implementation of the Justices' suggestions, she developed the design presently worn of the High Court bench.

She has been kind enough to send the pattern to us.



Pleat is ¼" deep throughout



Lady Aickin explains that the great advantage of the jabot is that no special shirt is required. Presumably one could wear under it a T-shirt or no shirt. The size of the neckband suffices for a collar. It is highly recommended for those who expect to fit mufti luncheon engagements between court appearances. It woulld then be simply a matter of jabot off, tie on.

We understand that Mr. Ravensdale, the regalia man, sells the jabot for $22.00

Will the jabot be worn by members of the bar assuming its advantages? That depends of course of its reception by the judges on its being first worn. Judges assume the power to regulate the dress of those who appear before them. Horrific stories have filtered through, of English barristers here wearing garb acceptable in British courts being taken to task because a judge picks up a stripe or two in the small part to be seen of the body of the shirt material.

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It was the result of a judge's complaint about a practitioner wearing jeans that the Bar Council ruled that informal or sporting attire was not permitted.

Does that mean that counsel appearing unrobed must wear a suit cut from the same cloth? Obviously not, because for many years the Beaufort suit has been the most formal attire when one appears unrobed, i.e. short black jacket and striped trousers.

When would a judge be entitled to object to the dress of counsel? The answer is probably simple and its application difficult. Dress would be inappropriate and a affront to the dignity of the court by its departure from some putative standard. What is clearly below the standard would be easy to imagine. A judge may refuse to hear counsel wearing a full bottomed wig to which he was not entitled, or a wig without curls.

Striped shirts are not worth commenting on.

Would a judge regard a jabot as part of the dress appropriate only to a Justice of the High Court? That it is part of the judicial regalia only, like the wig without curls? Or is it part of the dress common to judges and counsel, such as the butterfly collar and bands?

We would like to think that a judge would regard it as a compliment to have counsel with jabot appearing in his court. Indeed if the High Court bench has taken to it so warmly, why is the rest of the judiciary taking so long to catch up?

The Editors

AN AGONIZING CAUSE OF ACTION

David Solomon on page 1 of the "Financial Times" (20.3.81) provides this description of "a survival action":

> "Where an estate of a deceased person is able to make a claim arising out of the tortuous death of the deceased."

SOLICITOR'S LAMENT

The following despairing letter was sent by an impatient solicitor to an indulgent one.

Dear Sirs,

re: — v. —

Reference is made to our letter of June 26th, 1972, yours of August 30th, 1972, in which you said the form of Assignment of Rights was excepted in a matter of days, other correspondence and telephone discussions between the writer and Mr. —

We understand Counsel devoted considerable research on assignment of Choses in Action which is a non sequitur when all we wanted was a form of Assignment of Rights under contract.

We know you are conscious the matter is of the utmost urgency, and have impressed this upon Counsel without having been able to obtain suitable response. We can only suppose Counsel if suffering from a severe attack of yellow ambivalence, complicated by procrastination.

Will you please brief another Counsel. The task of drafting an Assignment of Rights under contract should not be overwhelming for a Counsel versed in the law of contract, and the one selected should be a person who is so imbued with the reputation of the profession he serves that if he is given the brief immediately after hearing:

(a) His wife is in hospital expecting a baby (and he is not the father);
(b) His house is on fire (and he has forgotten to insure it);

he will nevertheless undertake to remain in his chambers without food and drink until his task is completed. We appreciate that on these criteria your problem will be one of selection and how to avoid a stampede for the brief!

We cannot sit back idly and see our rights of recovery of $44,000 evaporating with the effluxion of time. We will co-operate with Counsel in the emergency and will accept:

(1) A handwritten draft
(2) A draft written on any king of paper, including toilet paper;
(3) A draft not secured with green ribbon tied in a granny knot;
(4) We will even – and this will show how desperate we are – accept a draft without any green ribbon at all.

Can we say more than this?

Yours faithfully,

A NECESSARILY SHORT HISTORY OF WOMEN AT THE BAR

Amidst the 300 pages of Arthur Dean's "A Multitude of Counsellors: A History of the Bar of Victoria"[1], the topic of women at the Bar is covered definitively as follows:—

> "This period (1921-1939) marks the arrival at the Bar, of the first woman Barrister. Mrs. Joan Rosanove signed the Roll in 1923, but she returned to solicitor's practice in 1926, to return to the Bar in 1949, and she has since remained on the Roll, taking Silk in 1965. Miss Beatrice McCay signed the Roll in 1925, but she left on her marriage to Mr. G. Reid, the present Victorian Attorney-General. Miss Marjorie King signed the Roll in 1932, but she, too, married and left the Bar."[2]

The author's succinct coverage of the of the topic is not surprising given that the work was published in 1968, at which time only eight women had ever signed the roll as Barristers in Victoria and accordingly, did not then constitute a class worthy of definition or analysis.

Joan M. Rosanove was, admitted to practice on the 2nd day of June 1919 and was the first woman to sign the Bar Roll on the 10th September 1923. She took No. 207 on the Roll. Her biographer, Isabel Carter in "Women in a Wig: Joan Rosanove, Q.C."[3] records that her first appearance was in a divorce application in the Practice Court, some seven weeks after signing the Roll and that it was reported by the "Evening Sun" as follows:—

> "Looking very attractive in a neat bombazine gown and wearing the traditional wig and white bands, Mrs. Joan Rosanove, nee Lazarus, caused quite a flutter in the Practice Court today when she rose to make an application to a pending divorce suit.
>
> There are many legal ladies in practice in Melbourne but rarely is one of them seen in Court".

Another paper noted:—

> "Looking trim and business-like, and not the least bit incongruous, Mrs. Rosanove, nee Joan Lazarus, appeared as Counsel in the Practice Court today.
>
> Her brother barristers cast approving glances upon her as she strolled into Court in the conventional wig and gown of the profession. Later, when she argued her case before Mr. Justice Mann, admiration of her eminently legal mind was added to admiration of her appearance.
>
> It was frankly admitted that she was there on terms of equality — even superiority in many cases – with members of the stronger sex."

"In her first High Court appearance, as a young barrister, Mrs. Rosanove's unique position at the Victorian Bar was summed up with the concise wit which was her hallmark. As only junior Counsel appearing without a Leader and in response to playful questioning by a senior member of the Bar to the following effect, "And with whom is my learned friend appearing?" she replied "I am appearing with myself. I am the leader of the female Bar".[5]

On the 23rd April 1926, Joan Rosanove's name was, at her own request, removed from the Bar Roll. She recommenced practising as an amalgam at Westgarth, until signing the Roll again subsequently, as Number 428 on the 7th October 1949.

During her absence, only two other women had joined the Victorian Bar. Beatrice (Bixie) W. McCay, had signed the Bar Roll on the 10th June 1925 and was number 224 on the Roll. Miss McCay remained at the Bar for only a few years. the entry beside her name on the Roll notes simply:—

> "Married. Mrs. G. Reid. Died 14/6/72."

Margery King joined the Bar on the 11th May 1932 as number 290 on the Bar Roll. She was removed from the Roll at her own request on the 10th March 1939. She too had married.

Upon her return to the Bar in 1949, Joan Rosanove read with Edward Ellis. When he subsequently moved to practise in Western Australia, she took over his room in Selborne Chambers, where she had been unable to obtain accommodation during her previous time at the Bar. Her first case, upon her return, was a few days after signing the Roll. She appeared in the Divorce Court before Mr. Justice Dean with whom she had been admitted to practice in 1919.

In 1959, Allayne Kiddle signed the Bar Roll (Number 599). It is noted that she transferred to the non-practising list on the 21st July 1966.

M.C. (Molly) Kingston (Number 655) admitted to practice in 1933, signed the Roll on the 8th February 1962 and read with Asche, now Mr. Justice Asche, Senior Judge of the Family Court of Australia. She enjoyed a busy practice until her retirement of the 30th November 1978. It was during this period, on the 16th November 1965 and after many applications, that Joan Rosanove became Victoria's first (and to date, only) female Queen's Counsel. (In South Australia, Roma Mitchell had taken Silk in 1962 to become Australia's first female Queen's Counsel, and later in 1965, she became the Commonwealth's first female judge.) It was also during this period that what had previously been a mere tickle of women commencing to practise at the Victorian Bar, became a, steady, though modest, flow.

Anne Curtis signed the Bar Roll on the 25th July 1963, "resigning" (according to the notation beside her name on the Roll) on the 21st April 1966. Then followed Lynette R. Opas who, signing on the 12th October 1967 as Number 832 on the Roll, is currently the most senior practising female barrister at the Victorian Bar. Like Kingston, Opas read in the chambers of Asche.

On the 21st March 1968, Paulette D. Parkinson, (nee Bisley) joined the Bar. Two more women joined in 1970, one Fay M. Daly who remains in active practice, the other R.M. Armstrong, a parliamentary Counsel. In November, 1971, Jan Lewis (later Wade) signed the Roll as a Parliamentary Counsel. She remains on the Roll although she was, on the 9th November 1979 appointed Commissioner for Corporate Affairs. Shortly after, in December 1971, Katherine P. Hurst joined the Bar. She is most remembered walking with her two German Shepherd dogs between chambers and the flat she rented in Lonsdale Street, until her death in May 1976.

In 1972, Mary Baczynski, B. M. Hooper and Margot Rosenbaum signed the Bar Roll, the latter being removed at her own request on the 27th October 1977. B.A. Cotterell and L.Lieder commenced in 1973, Marie McRae in 1974 and J.L. Sparks, Betty King and Margaret (R.M.) Lusink (Joan Rosanove's daughter and Mrs. Justice Lusink on the Family Court of Australia since 1976) each signed the Roll in 1975.

Since 1975, there has been a relative inundation of women joining the Bar. For the first time in the history of the Bar, consistent numbers of women have commenced practice. In 1976, seven women signed the Bar Roll, a further four women in 1977, eleven in 1978, seven in 1979, thirteen in 1980, and to date, seven in 1981. There are currently 53 women on the Roll in Victoria.

The Law Institute of Victoria has not compiled statistics as to the number of women practising as solicitors in this State, in the past or presently. Whilst it appears that, compared with their male collegues, a disproportionately low percentage of women admitted to practice in this State HAS in past joined the Bar. The continuing increase in the number of women graduates, together with the vast and consistent increase in the number of women joining the Bar during the last six years, suggests a healthy and irreversible trend to the contrary. The natural extension of this trend is undoubtedly that the number of women at the Bar in Victoria, will in the near future, be directly commensurate with the number of women admitted to practice in Victoria.

The sudden swell of women at the Bar in recent years is evident. What a purely empirical study does not reveal, however, is the changing attitude of women and to women, at the Bar. Whilst in the past female barristers had been expected and indeed may have expected, to practice exclusively in the area of family law, such is no longer the case, as women begin to excel in any chosen area of practice. Similarly, whilst almost folkloric stories abound of women barristers in lace collars, or coloured stockings not being "seen" by some members of the judiciary, robing room dilemmas and discrimination of every genre, such will necessarily fade as by sheer force of numbers woman at the Bar are no longer a recognisable minority group. One can take heart from the Bar Dinners of 1980 and 1981. If in 1980, Mr. Junior Silk commenced with "Gentlemen....." and in 1981, with the inclusion of "Bar persons....." one can look forward to 1982 for a simple and apt "Members of the Bar....".

DESSAU

1. F.W. Cheshire Publishing Pty. Ltd. 1968
2. ibid. at page 192.
3. Lansdowne Press Pty. Ltd. 1970.
4. ibid. at page 34.
5. ibid. at page 36.

BAR ROBES

In 1974 Sir Victor Windeyer wrote a learned article on the subject of "Robes and Gowns and other things" 48 A.L.J. 394 – 403.

He traced the history of robing and of robes. He was strong in his encouragement of the maintenance of the practice. The question which confronts us now is whether robes have been maintained in the way he had in mind.

It is with some relief that we note Hart's appointment as one of Her Majesty's Counsel. His new robes become him admirably.

Now Hart is a tall athletic man. Broad shouldered and trim with a dark Irish handsomeness in him.

As a junior he wore the most infamous gown in the bar. Gowns can be a distraction. They can catch in the handles of doors we pass, and tear. Every gown will in time show the ravages of wear. But Hart's was extreme. It was in shreds. And the colour? A change of colour seems to come with the increase in age of gowns. By and large they are all subject to some fading. Not so the gown of Hart. It had turned green.

Those who go to the County Court and spend idle moments gazing at the Supreme Court will no doubt have remarked on the dome of the library. It seems to be sheathed in old copper. Verdigris covers it. Such was the green of the robe of Hart. We do not lament its passing.

Bar jackets come in every conceivable size. For some years now, the new-look fine Philbrick has been boasting that he would sell his old bar jacket to Dee once that thát latter has gained a little size. We think he would be better passing it to Dennis Smith while there is still a chance of it fitting.

So do they come in all styles. Stratton Langslow who is always a bit short of a bob went down to Hudsons Stores and bought a few waiters jackets for a dollar or two apiece. A dip in a vat of black dye was all that was needed to turn them into completely illfitting, armpit pinching permanently creased bar jackets.

Ramon Lopez was more astute. For $20 he had a maker of office uniforms run him up a black summer-weight jacket. Now that he has lost a few stone it is his winter favourite for he can wrap it right round him.

David Byrne wears a mock waistcoat. Like its owner it is all front. He fastens it around himself by a complicated series of straps and pulleys.

What bar jackets have in common are age rings. With a giant Sequoia one can calculate its age, by counting the rings in the cut trunk. So it is with bar jackets. Under each arm are a series of white concentric rings. Each one denotes a hard day in court. The greater the radius of the ring the greater the degree of difficulty.

The best rings are formed in earlier days in the Supreme Court. After a few years there the rings cease to increase, showing that the advocate is in a decline of his professional life.

Sir Gregory Gowans exhorts us to eschew the wearing of jewellery. I am sure he did not mean to include those faddish few who persist in the flaunting of the fact of their nuptials. Leaving those aside we have at the lowest end of the scale the discreet signet ring worn on the left little finger by Rattray. Noticed only by the cognoscenti.

At the other end, the jangle of the wrists of Danos can be heard in every court in which he appears.

Now the subject of trousers raises questions of chromology rather than style. Coldrey has on occasions favoured light grey. Vincent Q.C. is prone to wearing the bottom half of a plum suit. Michael Adams is always dressed in black and it's not easy to tell when you see him in the street whether he is robed for court or just going home. Kayser looks as if he has grown a fair bit since he bought his last pair of strides. Dark socks matching his trews would be an improvement.

And bands. The rumour is that David Ross doesn't wear them.

The rage in footwear is Italian leather moccasins as teatured by George Hampel and The Georgettes. They are almost invariably black, but now and again you come across a dark blue pair. Equity footwear never changes from the round-toed lace-ups.

Victorian Bar News

Have you ever noticed the sheen on Callaway's shoes? One is inclined to think that he has never forgotten that old ad. "Look at your shoes. Other people do!"

Well we remember Dinny Barritt, now a magistrate in the Northern Territory. Barritt wore a nice line in police boots saved from his former job on the beat.

By the way, that clacking noise you sometimes hear is nothing but the black clogs of Van De Weil.

The dress of the gentlewoman of the bar is subject to even more diversity than the men.

Betty King can be regarded as a starting point. How shall I liken her costume. Like a man's without trousers? No. Or rather like trousers become skirt? No, not that either. Let her robes speak for themselves:

> Butterfly collar and bands
> Black jacket (albeit velvet – it would be too affected even for Zia Bey)
> Skirt of the regulation muted stripes
> Gown
> Wig squarely on head. No germanic imputations intended, it's just that her hair is pulled back and the wig sits neatly.

She is the only one to wear bands as far as we can tell. The others who are required to robe seem to don a black shapeless smock with a dash of white lacework round the neck.

Let us point to two main offenders. Lieder's wig. Now Lieder has a fine thatch of unruly red hair. No doubt it would rebel against many attempts to force it into line. If attempts have been made Lill abandoned them long ago. The wig is plonked on the crown, surrounded on all sides by her natural hair springing up to besiege the intruder.

Baczynski of the dress of many colours, finds it difficult to co-ordinate what she must wear with that in which she has a choice.

In the Family Court Gucci is all the go.

SARTOR

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UNDER-LISTING IN MAGISTRATES' COURT

The Young Barristers Committee and the Bar Council have been concerned about hearing reports of under-listing with resultant delays in the hearing of civil business in the Magistrates Courts consequent upon the last jurisdictional change and the "regionalization" of these courts.

Investigation revealed these reports to accurately diagnose the decrease in civil business and approaches have been made to the appropriate authorities.

We are informed that steps have already been taken by those authorities to correct the situation by almost doubling the number of hours of civil business allocated to each Stipendiary Magistrate per day. Several new appointments to the bench are also promised shortly which it is contemplated will help reduce the present backlog of business, particularly in the Melbourne District Court.

In order to properly review the situation and make further approaches if necessary, all those who practice regularly in this jurisdiction are asked to pass on any informed comments to either D. Curtain or Bannister.

BANNISTER

READERMIND

In our never-ceasing endeavour to assist young barristers, the Bar News brings you an advance copy of the text (with answers; see page 39) of the Reader's Practice Course 1981 Readermind Competition.

Special topic: Supreme Court Judges

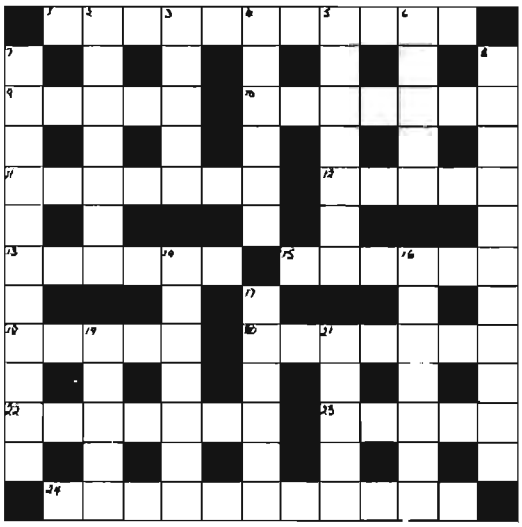
(1) Name the Medieval battle which name constitutes also the third Christian name of the only judge appointed in 1890.
(2) Name the secondary school attended by the first judge appointed to have been born in Victora.
(3) What relation was Sir William a'Beckett C.J. to Thomas a'Beckett J.?
(4) In what year was Hood Dux of Scotch College?
(5) What was Holroyd's paternal grandfather's occupation?
(6) In what Western Victorian town did Cussen attend secondary school, and was Barber born?
(7) Name the military unit in which both Dean, and Southwell's father served as Lieutenants.
(8) In what town, named in 1858 after the then Chief Justice, did Gillard attend secondary school.
(9) How many judges were born in Scotland?
(10) What did the fathers of Hood, Menhennit, and Anderson, have in common by way of occupation?

General Knowledge

(1) What is the abbreviation of the Professional Admission Summer School courses?
(2) Complete the following: "In 1800 whilst General Massena was besieged by the Austrians in Genoa, Napoleon entered Italy by the St. Bernard. . . . ."
(3) In cards, what word is spoken of an unwillingness to bid?
(4) By the road Traffic Regulations, what must a driver do to the left of a vehicle turning to the right?
(5) At a University examination, what is the alternative result to a fail?
(6) Under the Supreme Court Rules, what must one do with a judgment before it can be entered.
(7) What is the name of the third quality of Russian hemp?
(8) Apart from rejecting it, what is the only way in which the Senate can treat a money bill?
(9) According to Exodus xii, 13, what did the Lord do over the houses of the Israelites in Egypt?
(10) Complete the following: "There was movement at the station, for word had . . . . .ed around".

Victorian Bar News

CAPTAIN'S CRYPTIC NO 36.



ACROSS

1. Ratios (11)
9. Live coal (5)
10. Symbolically admit to christianity (7)
11. Essential ingredient of crime or cause of action (7)
12. Display of temper on the stage (5)
13. Passover festival (6)
15. Swordsman who builds boundaries in stolen goods (6)
18. House of ice blocks (5)
20. Captivate (7)
22. Colloquial navigators (7)
23. Latin legal process (5)
24. Document of Crimes Act s. 353. (11)

DOWN

2. Wood grooves to take tongues (7)
3. Privy allowance for monarch's expenses (5)
4. Refutes a change from beasts (6)
5. In the condition of being impossible (2,5)
6. Music that other people play (5)
7. Releasings of a bond or security
8. Sexual action defined Act 9509 s.4(d). (11)
14. Close buddies (7)
16. Punish (7)
17. Basic legal entity capable of suing (6)
19. Inamorato (5)
21. Delight an amulet (5)

MOUTHPIECE

"Who are you?" said the old man
"I am a judge" he said
"And what does a judge do?"
"When people come to me with complaints I settle their differences" he said
"Then you have power over others?" said the old man
"Yes I do"
"What if no people come to you" asked the old man
"Then I have no disputes to settle"
"So you are their master only if they ask you to be so?"
"You could say that"
"And you are at the disposal of disputants?"
"Yes"
"And if they reach accord without you, are you dismissed by them?"
"Frequently," said the judge
"Are you wise?" asked the old man
"I am just," said the judge
'Are you a judge then because you are known to be just?"
"Not really, more because I have learnt the ways of the law"
"And of the ways of men, are you learned?"
"Perhaps"
"Are you more wise than all those who come to you?"
"Not all I think"
"Are you becoming more wise?" asked the old man
"I think I am" said the judge.

BYRNE AND ROSS D.D.

THE DEBENTURE ISSUE

AN INTRODUCTION

Background:

The three matters which most commonly exercise the interest of Barristers in **Bar News** and elsewhere are Clerking, Accommodation and Fees. The first two are the result of the recent spectacular growth in the members joining the Bar. This phenomenon has not been altogether unexpected. In 1975 the Accommodation committee projected a Bar of 800 members of 1984.

The present controversy regardinng the levy of $2000 by way of debenture represents the latest in the relatively long list of efforts by the Bar to resolve this accommodation problem. It may be useful to rehearse the principal events in this story.

1961 — Owen Dixon Chambers completed (200 in active practice)

1965 — Four more floors added (280 in active practice)

1975 — August 13 **General Meeting** adopted two Bar Council recommendations:—
- that the Bar be housed in one building
- that the Northrock proposal be approved in principle subject to financial arrangements. (440 in active pratice)

(The Northrock Proposal was that the site at 544 Lonsdale Street on the north side, just west of William Street be developed by erection of a uniform building in conjunction wiht Northrock Developments at a total cost of $23.5m.)

December **Bar Council** decided not to proceed with the Northrock proposal. It authorised the Accommodation committee to make enquires as to the purchase of an alternative site.

1977 – November The Bar Council recommended that the Capital Tower proposal be approved.

(The Capital Tower proposal was that the National Bank grant a lease to the Bar of 16 floors in Capital Tower for 10 years plus an option of 10 years. The proposal involved a move of the whole or a substantial part of the Bar to this leased accommodation.)

November 2 **General Meeting** resolved that the Capital House proposal be deferred pending further consideration by the Bar. (565 in active practice)

(This resolution was the result of a strong move in favour of the Bar's owning its own premises.)

1978 – June **Bar Council** reported to the Bar
(a) that Capitol Tower proposal was no longer considered economic.
(b) that the purchase of Hume House would not satisfy the Bar's immediate needs.
(c) that the A.B.C. site was available.
(d) that the Woolstore Chambers proposal was not an economic one.

(The Woolstore chambers proposal was a scheme proposed by Liddell Q.C. that the bluestone building on the north-east corner of William and Bourke Streets be refurbished as chambers at the expense of those which would become tenants.)

June 12 — **General Meeting** rejected the Capitol Tower proposal and authorised the Accommodation Committee investigate further aspects of the development of the A.B.C. site. (619 in active practice)

1979 – November 28 — **General Meeting** ratified the purchase of the A.B.C. site. (680 in active practice)

1981 – March 16 — **Bar Council** resolved –
"If new building is erected on the A.B.C. site it will be the policy of the Bar Council that in the allocation of rooms in the Buidling there be, so far as practicable, the same distribution of seniority amongst barristers on each floor as there is at the Bar generally."
General Meeting resolved to authorise the Bar Council to require all members to take up a debenture for $2000 in Barristers Chambers Ltd. at an interest rate 8.5% for three years and thereafter at 10.5%.

May 11 — **General Meeting** called to consider motions —
(a) to rescind resolution of 16th March.
(b) to refer question of Debenture to referendum.
Both issues referred to ballot.

May 25 — Ballot results declared;

		For	Against	Total Votes
(a)	Rescission	252	222	473
(b)	Referendum	240	231	471

June 19 — Referendum closes.

The Non-Issues:

Much has been said about the merits and demerits of the proposed Debentures. A great deal of this appears to be irrelevant.

It is said that the Bar Council has sought to impose its own views upon the Bar. The Bar Council has doubtless been persuaded that this particular measure is in the interests of the Bar. Like any advocate it may be expected to urge its point of view. If members think that it has gone too far in its advocacy, so be it. Their remedy will lie at the election to be held in September. But if the proposal has merits, it should not be rejected solely as a reaction to the manner in which it has been presented.

In this regard, a particularly noxious story is about that the powers-that-be have disenfranchised a number of very young members by treating them as unfinancial and denying them a vote. These are those who signed the Roll since last year's fees were due. This is not the case. The Ballot papers were sent to all financial members on the Roll. These included those on the practising list, Judges and the like, and interstate members. In all, about 900 members were eligible. From this list was taken non-financial members totalling 105. Barristers who signed the roll in March, and were therefore not required to pay fees, were not treated as unfinancial. They received ballot papers in May and will receive them for the referendum this week.

Another non-issue is that the vote on the debenture will finally resolve the accommodation problem. This cannot be so. So long as the Bar keeps expanding, it will be necessary to provide more chambers from time to time. The proposed building will provide a respite and will reduce the existing fragmentation of the Bar.

The third non-issue is that the younger members will be subsidising the senior members who will, in the ordinary course, enjoy the new accommodation. This fear is not justified having regard to the Bar Council resolution of 16th March on the allocation of rooms.

Winter 1981

The Issues:

The opponents of the debenture may be grouped as follows —

(a) those who will not want to use the new building and therefore resent paying for it.
(b) those who cannot afford the debenture.
(c) those who argue that the money should be raised in a tax deductable form.
(d) those who don't know, but would like more time to think about it or further investigation to be undertaken.

This article is not the place to argue the case for or against any of these groups or the case for the Debenture. Persons interested have, by general advertisement and by particular invitation, been requested to put their views in this issue of **Bar News**. Readers of the following pages can gauge the response.

The following, however must be said, and plainly. It is altogether intolerable that the Bar should be seen to shilly-shally about this relatively minor aspect of a major project. One is reminded of the antics of the Melbourne City Council regarding the City Square. This situation makes fools of those in whose hands is placed the task of dealing with the would-be developers. A final decision must be made and, when made, it must be supported by all.

The most disappointing aspect of the matter is the remarkable reluctance by members to participate in the democratic process. Total votes cast at the 16th March meeting were 223. Total votes cast at the May ballot were 473. Even this is a small percentage of those eligible.

And finally, we might have expected to have been inundated with contributions to this edition from those who argued with such passion and conviction at the General Meetings and in private discussion in the coffee shop and in the corridors, with the notable exception of the articles which follow, and for which we are grateful, the response has been nil.

BYRNE & ROSS D.D.

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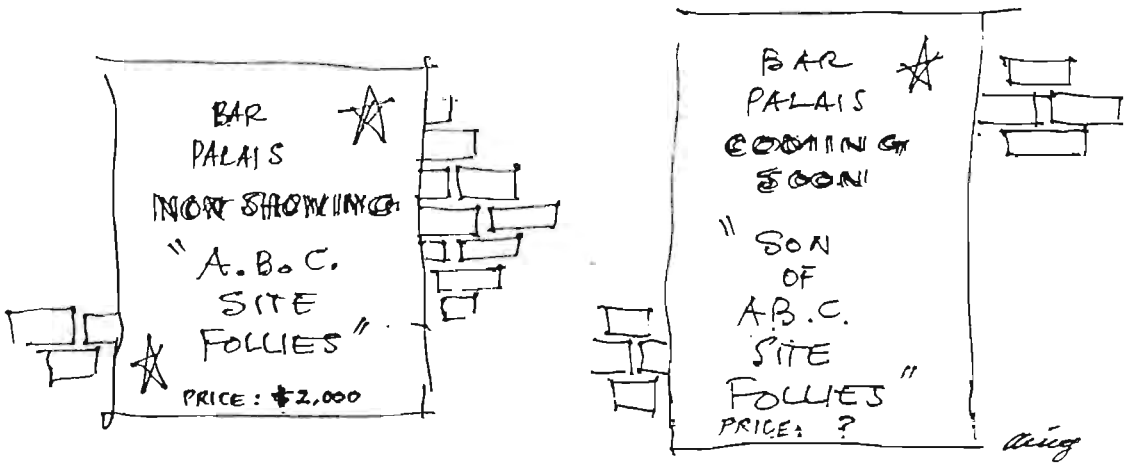


CRI DE COEUR

This is a personal contribution. I have been on the Bar Accommodation Committee since 1973. Over the past few years I have endeavoured to co-ordinate accommodation issues in my capacities as member of that Committee, Director of Barristers Chambers and member of the Bar Council. Nevertheless, the views I express here do not necessarily represent the views of any of those bodies.

When I came to the Bar in the late fifties, Melbourne was a dynamic and progressive city. With Menzies Hotel being acquired for the B.H.P. Building, the Bar took the opportunity of selling its adjacent Selborne Chambers. It then purchased 205 William Street (and paid for it) and immediately set about its development for Owen Dixon Chambers, initially as a nine story building to house the Bar, with surplus areas to be leased. The form of the development and the manner of its financing led to spirited debate. But the prevailing attitude was one of enthusiasm, in support of taking immediate action, notwithstanding the financial hardship to all concerned. That development catered for the sixties. But by the mid-seventies, increased numbers meant that scattered leasehold premises had to be used in addition to Owen Dixon Chambers. The long term solution was thought to be the acquisition of the A.B.C. site, and its development for accommodation in conjunction with Owen Dixon Chambers. The Bar approved of the purchase and now it is being asked to pay for it as the first step.

It is depressing to reflect on the present attitude of the Bar towards paying for A.B.C. site. There is $1,300,000 in bridging finance still owing for the purchase price, and the last interest rate was 16.65 per cent. To switch to long term finance involves the enormous expense of servicing at least two, and possible three, mortgages on a property that soon will be empty. To so encumber it by outside borrowing would put Barristers Chambers Ltd. in a financially embarrassing position.

A disappointing feature of this first step in the overall project is the negative or disinterested attitude displayed by the Bar. Its representatives propose that the land be paid for by borrowing from barristers at a low interest rate, with financial support for those who need it. This should mean that no one will suffer — those who leave soon will get their money back, and those who stay will get the benefit of their investment. There are, of course, many alternatives — e.g. that junior members should not contribute until after a number of years, that contributions be in differing proportions, or that advances be made otherwise than as loans.

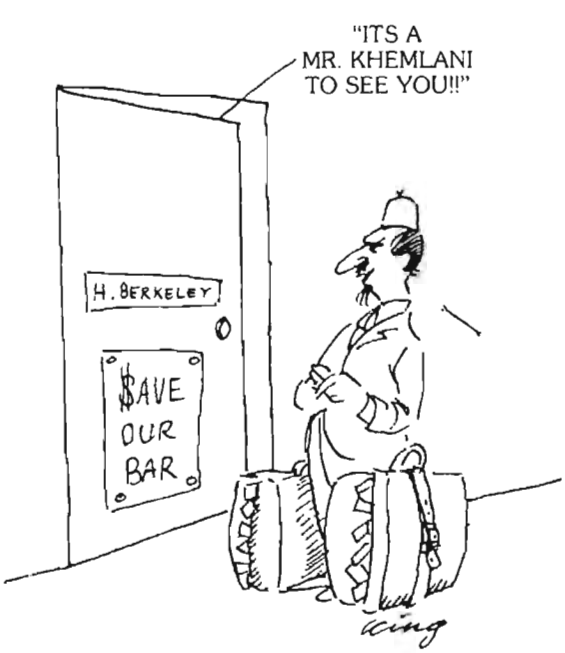
The financing of the construction phase of the project will require that these and a number of broader issues be decided. Consideration is being given to such possibilities as the use of Bar superannuation funds and the use of interest on barristers' funds while held in clerks' trust accounts. But the first step is to give the Bar a real equity in the project. The Debenture proposal was considered and approved by the Accommodation Committee, Barristers Chambers Ltd. and the Bar Council as the best way to achieve this first step. It was open to any barrister to put forward any alternative for consideration. I welcome the opportunity provided by the **Bar News** for them to publish their suggestion.

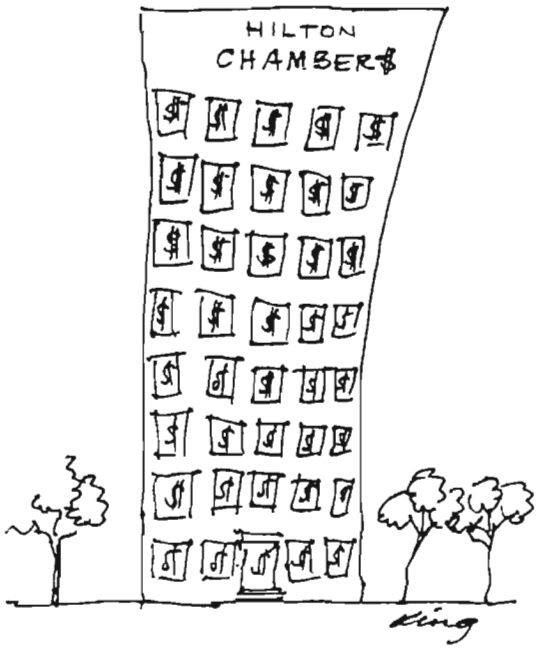
However, the opposition so far has been so negative. At the General Meeting in March this year almost half of those present voted that, in effect, the Bar should do nothing. There were only 113 votes for the proposal, representing about 14 per cent of the Bar. The Farris-Dessau group put forward a negative motion with no alternative. This was defeated. Then, rather than swinging behind the majority vote, the dissidents sought to have it rescinded. The majority of the Bar has approved that rescission. About 750 barristers were entitled to vote on the next negative move, but only 473 (or about 62%) did in fact vote, with 251 (or 30 per cent of those eligible) wanting the decision rescinded, and only 222 votes the other way. The same matter now comes up again for yet another vote. In the meantime the $1,300,000 comes up again too. On the 14th July the loans will have to be re-negotiated on heavy short term interest rates. So too, the question for finding more accommodation for the new members comes up again. The Bar must take up space in yet another building, and meet the costs of partitions etc. None of these problems will go away by simply ignoring them. If the Bar is to go ahead, as I would like, to continuing prosperity, positive decisions must be made by members of the Bar who, after all, are the ones who stand to benefit.

But it is very discouraging to those of us who are trying to look after the future accommodation needs of the Bar. Maybe the negative approach of those for whom these efforts are directed, merely reflects the stagnant, spiritless and depressing state of Melbourne and its citizens generally.

LIDDELL

KING $URVEYS T





". . . . . I SAY WE SHOULD GET INTO THE COURT BUILDING AND JAILS . . . . LIKE THE DOCTORS ARE INTO PRIVATE HOSPITALS!"

THE A.B.C. SITE

Winter 1981

IS THERE LIFE AFTER DEBENTURES?

In almost ten years at the Bar I have disagreed with most decisions of the Bar Council and the Directors of Barristers Chambers Ltd. on important issues ranging from the Clerking Rules which aim to limit the number on each list to 75 and of necessity involve the appointment of a new clerk every 18 months or so, to the expenditure of over $100,000 on supposedly improving the Owen Dixon lifts and which contributed to a loss by Barristers Chambers Ltd. in 1980 when it is obviously in need of finance and some credibility from the Commonwealth Bank or other lenders to pay for the ABC sites.

I am delighted that this tradition of dissent is continuing and that I can disagree with the Bar Council's latest decision involving the financing of the ABC site by a debenture issue. However I am disturbed that democracy is creeping into the Bar — the Bar now has the opportunity to express its view by this new-fangled invention of voting by Poll. Oh for the heady days of the 1970's when all these decisions were made in secret and rubber stamped at 30 minute general meetings which of course had to end at 5.45 p.m. to allow us to rush off to the car park or to Flinders Street. Wilson (of car parking fame) wielded the real power in those days. Gilbert with his (often interesting) history of Selborne Chamers', Tait with his troubles with decimal currency and Beaumont with his motions to put the motion tried to compete but it was no use. Wilson, that first entrepeneur from the West and the Minister for Transport were the real power brokers in those days. I am astounded that neither of them attained judicial appointment.

What disturbs me about the present debenture issue is that the obvious alternative to raising finance to pay for the ABC site by way of debenture has not apparently been considered. For example on separate occasions Liddell (at a floor meeting), O'Callaghan (at a general meeting) and Berkeley in his circular on the 30th. April 1981 have stated that no one has suggested an alternative to the debenture scheme for paying for the ABC site. Berkeley said on page 2 of his circular

> "If (the ABC site) is to be paid off the money must come from individual barristers. No one has suggested any way in which it can be raised other than the one approved at the General Meeting."

As well there appears to be considerable inconsistency between the decision makers of the Bar. Berkeley states on page 1 of his circular —

> "Private ownership of premises or rooms will have the effect of preventing all but the wealthy from paying the necessary purchase price to acquire chambers. Ownership of chambers by separate groups of barristers or of individual chambers of individual barristers leads to a situation in which ex-barristers and the estates of ex-barristers come to control significant sections of the Bar's premises over an extended period of years. It also leads to excessive prices being demanded for chambers. Worst of all it leads to private clubs or cliques developing and the evils of patronage by senior barristers who are able to decide whether or not a given junior or reader is to be permitted to enter a particular set of chambers. The ultimate difficulties of this system are reflected in the English Bar where "good connections" are an essential pre-requisite to access to a worthwhile set of chambers. Open access of the kind currently available at the Victorian Bar will become a thing of the past under such a system."

I find these statements by the Chairman extraordinary, particularly having regard to the disclosure by Liddell (at a floor meeting) that an impressive report had been received from a consultant employed by a builder relating to the development of the ABC site proposing as strata title system almost wholly financed by an investor at a fairly minimal initial contribution cost to individual barristers and payable on terms and where on death or retirement a barrister's room would be bought back by the Bar Council or by Barristers Chambers Ltd. at market value less 10%. Liddell also mentioned that this scheme includes Owen Dixon and I also recall Liddell's own enthusiastic support for the Goldsborough Mort building which involved individual ownership of Chambers by barristers.

If it is therefore being contemplated that the ABC site will involve perhaps an optional strata title system and involving a similar system for Owen Dixon Chambers then the Owen Dixon scheme should be immediately investigated. I suspect that many Owen Dixon tenants would like to own their own rooms and would prefer to remain in Owen Dixon rather than move to the ABC building when built.

Owen Dixon Chambers is included in the 1980 balance sheet of Barristers Chambers Ltd. at a cost valuation including the land and building of $2,971,505.

I would suggest that all tenants of Owen Dixon be asked as to whether they would be interested in purchasing their room in Owen Dixon whether on strata title or company share basis for say an average price, depending upon the size of the room, of $20,000. There are 314 tenants of Owen Dixon. If, say, 200 are interested and can, individually or collectively (as is envisaged with the report Liddell has in relation to development of the ABC site), raise the $20,000 this would give Barristers Chambers Ltd. $4,000,000. The balance owing on the ABC site payable by discounted bills due on the 4th. July 1981 is $1,350,000. This would leave $2,650,000 available to Barristers Chambers Ltd. to assist in the development of the ABC site. It would I hope be spent responsibly. I have noticed that Company Directors, Municipal Councillors and charity workers have no hesitation in spending money which is not their own. There are numerous consultants around with bottomless pockets.

"WELL, WE GOT
THEIR
INTEREST
IN THE DEBENTURE
IDEA!"

"YES, AT 16%!"

What are the advantages of such a scheme? The first and obvious advantage is that the funds to pay for and develop the ABC site will be available. Second there is no doubt with exisiting inflation that a room purchased for say $20,000 today could be sold in say ten years time for say $60,000, in the same way as a barrister who purchased a room in Owen Dixon for, say, $5,000 in 1960 would be selling it today for $20,000. Apart from limited numbers in Hume and Latham, the tenants in Owen Dixon are the most senior members of the Bar and such a scheme would enable them to assist the more junior members who would not have to take up the proposed $2,000 debenture in addition to the $2,000 debentures required to obtain accommodation. There would of course be the specific benefit of a long term tax-free capital gain leaving the more junior members when established to obtain a similar benefit by, in due course, buying rooms if they wish in Owen Dixon or in the developed ABC building. There should be no element of compulsion — the Owen Dixon tenants should have the choice of continuing to pay rent if they want to.

What are the objections to such a scheme? The first possible objection is that it involves the introduction of a Sydney system. There are many myths about the Sydney system accentuated perhaps by members of the Sydney Bar itself — if you have a room on a

particular floor in Wentorth Chambers there is probably a tendency to inflate values to impress potential client solicitors or perhaps naive Melbourne practitioners. The supposed evils of the Sydney system stem not from the individual ownership of chambers but from the clerking system. In Melbourne, with the specific controls over clerking that exist, the situation is quite different. I would not envisage clerks to a floor being permitted in Melbourne as they are in Sydney. I have no sympathy with the view that the Sydney Bar is unduly mercenary – I welcome any tax free capital gain available compared with the advantages forgone in practice at the Bar from, for example generous superannuation available in private industry or the public service.

There are 632 rooms in total controlled by the Melbourne Bar presently available for tenancy. The suggestion that perhaps 200 be privately purchased means that there is no room for any argument that anyone is disadvantaged in coming to the Bar because of lack of capital to acquire chambers. There will be a continuing pool of rooms available on a tenancy basis which will of course have to be reviewed when the ABC site is developed.

This is, I suggest, an alternative to the payment of the ABC site by a debenture issue. It is a flexible approach which should accomodate all views at the Bar. It has elements of socialism (I believe in planning – see **Bar News** No. 12 June 1975) and should delight the public and private tax planners with its strong dose of business acumen. Such a scheme should have been introduced years ago with the retired members reaping the benefit of it by selling their rooms to members of the Bar of around my vintage whilst ensuring that more junior members are provided with (preferably cheap) alternative rental accomodation.

The Bar Council and Barristers Chambers Ltd. first became involved in large scale renting of outside accomodation when, through the enterprise of Phipps and Schwartz, a group including myself back in those halycon days of 1972 rented extraordinary rooms in Henderson House in Lonsdale Street and well before it was tarted up to its present condition. We had all just finished reading and spent a most enjoyable 6 months or so enjoying the benefits of peppercorn rent, healthy flights of stairs and the drives out to the suburbs with our multiple briefs. There was even a woman barrister, but she became pregnant. In some forgotten way we were induced to come back to the fold and accept accomodation provided by the Bar Council. After a discreet period, there was I think a change in Counsel Rules which prohibited such a venture. It is only now that I realise it was all a plot – the luncheon conversations at the Law Institute about the mad mob of young barristers in a slum in Lonsdale Street became unbearable with the real risk that we were becoming just too fashionable. There were probably even whispers of Sydney system. If we had stayed a bit longer we could probably have extorted a large amount of key money from Tom Hughes. However the Henderson House days occurred when there was just no accomodation provided by the Bar.

Make no mistake. The Bar policy of now providing accomodation for its members is one with which I agree. However it is a sad indictment of Bar Council and Barristers Chambers Ltd. policy over the last 20 years, that members of the Bar are currently required to pay market rents. If these policies continue, I doubt that there will be life after debentures. Debentures should be rejected in favour of a better system of paying for the ABC site.

DAVID BELL

FROM O'CALLAGHAN

Dear Sir,

I do not write in my capacity as Chairman of the Accommodation Committee. Accordingly, what I say does not necessarily reflect the views of other members of the Committee. Prior to the referendum the Committee will endeavour to circularise the Bar as to the most recent developments which have occurred with respect to proposals to develop the ABC site.

To say the least the question of whether or not there should be a debenture requirement of $2,000 so as to "pay off" the ABC site has generated considerable heat and recriminations. There is no point in further discussing them. Let us all treat the referendum as the opportunity to vote following a cool assessment and analysis of the necessity for a debenture requirement.

The purpose of this letter is firstly to urge upon all Barristers entitled to vote that they do so. Secondly it attempts to deal with what I see as the more prevalent objections to the proposal.

Before doing this I would emphasise the obvious and pressing need for the provision of long term accommodation for the Bar. In 1977 it was estimated that by 1984 there would be 750 Barristers in active practice. This figure has been reached already. The necessity for the urgent implementation of plans for the development of the ABC site virtually increased by the day.

The opposition to the debenture no doubt reflects to some degree the difficulties which some Barristers (particularly Juniors) will have in raising the $2,000. The arrangements which have been made with the Commonwealth Bank and the discretion which (notwithstanding the recission of the previous motion) I assume will be exercised by the Directors of BCL seems to go as far as is reasonably possible in meeting this objection.

The other objections seem to be based upon the proposition that there are alternatives to a debenture requirement which are more beneficial to the Bar generally and its members individually. Another aspect of this objection is the express or implied criticism that inter alia the Committee has given the matter insufficient consideration and has not inspected the relevant alternatives.

Let me make it clear that, together with other members of the Committee, we would be delighted to be informed of a method of finance more desirable than the debenture requirement. The fact is that whilst there has been a number of broad suggestions about alternatives no one has provided me with a plan in even the broadest detail which is as good let alone better than the debenture method. If a consequence of the Editors of the **Bar News** opening the columns to correspondence on this subject is to reveal a satisfactory alternative then the same will be forthwith investigated and, if appropriate, pursued.

What the Debenture Involves

For present purposes it is sufficient to define the debenture as an acknowledgement by BCL that it has been advanced the sum of $2,000 and is accordingly indebted to the debenture holder in that amount. In addition to the acknowledgement of indebtness BCL will covenant to pay interest to the debenture holder at the rate of 8.5% for the first 3 years and thereafter at the rate of 10.5%. It has always been my understanding that if the debenture holder leaves the Bar then the principal sum will be repaid to him.

It has of course been said that the value of $2,000 will be constantly eroded by inflation. True enough. But even allowing for the incidence of taxation upon the debenture interest, it cannot be said that the debenture advance is by any means unproductive. If one takes a period of 20 years as being a relevant period the average interest rate over that time is 10.2%. Of course tax is payable on that interest. But likewise interest paid on monies raised to take up the debenture is deductible.

But it is said that $2,000 is merely the thin edge of the wedge and that soon there will be a much heavier requirement. I have wearied of denying this allegation and repeating that the "payment off" of the land is quite separate and distinct from the method of developing a new building. There has simply been no decision as to if and how the building will be developed.

It is complained that the $2,000 debenture payment is not deductible. This of course is true because it is a "lend not spend" payment. Such complainants ask why cannot the payments be made deductible by the method of putting BCL in funds for the repayment of the ABC site to the same extent as by $2,000 debenture subscription. But, the incidence of tax upon BCL must be taken into account. Given a tax rate of 46% the amount which BCL would have to be paid is $3,703.

So far as the individual Barrister is concerned, given the maximum rate he, has a deduction of about $2,258 but his cash outflow is $1,445.

If one assumes a tax rate of 45%, the figures become tax savings $1,666 payment out of $2,037.

The matter is compounded if the rental payments are spread over, say, two years with the necessity to recoup interest on outstanding Bills.

Superannuation

It has been suggested that if all Barristers were required to contribute to the superannuation fund the trustees of the fund could be directed to "purchase the ABC" site or alternatively lend the money to BCL. If necessary, this matter will be dealt with in detail by a circular to the Bar. But some of the difficulties include —

(i) To many Barristers an additional $2,000 contribution by way of superannuation payments may not be deductible at all because they already contribute $1,200 p.a. to a Superannuation Fund.

(ii) Assuming that the trustees could apply only 70% of monies so contributed to real estate investment, the necessary contribution would then become approximately $2,857.

Despite the generous extension of deadlines from the Editors, the above has been composed in necessary haste.

It is my opinion that there is no satisfactory alternative to debentures as a method for discharging the Bar's indebtedness in respect of the ABC site.

I appreciate that other objections have been raised. I had intended to deal with them as some length but have sought previously to answer them and it seems unnecessary to do so again.

I repeat my invitation to anyone who wishes to discuss these matters with me to please do so. I say this particularly to Junior members of the Bar.

The best way for respective points of view to be appreciated is for those in favour and those against to get together and "talk it over".

P.J. O'CALLAGHAN

AND HELP
PAY FOR MY
DEBENTURE!!

"WOULD YOUR HONOUR
CERTIFY FOR
COUNSEL. . . . .

EASY TERMS

There are about 777 Victorian members of the Bar. Of those, 391 barristers are under six years' call. It is the very number of the Junior Bar which has enabled the Accommodation Committee to recommend the purchase of the A.B.C. site by requiring each barrister to expend $2,000.00; it is the very numbers of the Junior Bar which is making it difficult for many junior barristers to secure briefs.

When the Bar originally decided to purchase land and erect Owen Dixon Chambers, it was made a condition of tenancy that each tenant take up debentures in the amount of $2,500.00. This did not preclude junior barristers without funds from taking up chambers in the new building. Barristers under ten years' call were given time to pay; they were allowed to pay the $2,500.00 by instalments.

The Accommodation Committee has not considered it necessary to extend similar terms of payment to junior barristers in relation to the proposed purchase of the A.B.C. site. This is not because the Junior Bar is now more prosperous than it was in 1959. It is rumoured that many junior barristers are receiving no more than $5,000.00 – $6.000.00 per annum. These barristers would obviously view any commitment to pay one third of that income to Barristers' Chambers Limited by way of debenture with a great deal of reluctance and trepidation.

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The Accommodation Committee has stated that junior barristers who are unable to meet the obligation to pay $2,000.00 must first approach the Commonwealth Trading Bank for a personal loan. The Committee has circulated a letter containing a proposal by the bank to lend the $2,000.00 to barristers at the rate of 17 per cent of per annum. This "attractive" rate of interest exceeds the rate currently paid by Barristers' Chambers Limited to the Commonwealth Bank pursuant to its bills discount facility. Junior barristers are accordingly being asked to finance the purchase of the A.B.C. site at a rate of interest in excess of the rate Barristers' Chambers Limited is prepared to pay. Junior barristers also have the additional burden of paying $250.00 per annum pursuant to the 1959 debenture levy.

The opposition of junior barristers to the new building has not been expressed in terms of their inability to pay. Many junior barristers are simply opposed to the erectionn of a new building. Although it is conceded that junior barristers will be the ones to benefit from the proposed building, this is not apparent to many junior members of the Bar who have enjoyed the benefits of accommodation in Owen Dixon Chambers.

In my view, some of this opposition would disappear if members of the Junior Bar under five years' call were permitted to pay the $2,000 debenture by instalments. This would not prejudice the proposed purchase of the A.B.C. site. If, for example, barristers under five years' call had the option of taking up the debenture of $2,000.00 by four equal annual instalments of $500.00 each, the figures are as follows:—

Barristers over five year' call 512 x $2,000.00	$1,024,000.00
Barristers between one and five years' call 249 x $500.00	124,500.00
Shortfall	301,500.00
	$1,450,000.00

The shortfall is comparatively insignificant. The main reason advocated for the purchase of the A.B.C. site by barristers is to indicate to developers that barristers are committed to the purchase of the site. This commitment is satisfied if barristers under five years' call undertake to take up the $2,000.00 debenture by instalments.

LEWITAN

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SENIOR MAN'S VIEW

It ought to be made clear that senior members of the Bar who favour the proposed issue of debentures are, in fact, generally those who have least to gain. Almost invariably they already have convenient and satisfactory chambers, and if they merely regarded their pockets they would doubtless vote against the proposal. In fact they are prepared to make an appropriate contribution for the purpose of assisting those who have recently come to the Bar and those who will come in future years.

One can well appreciate that the payment of $2,000 may be a significant burden to some. However the amount involved is not, save for very few, sufficient to prevent the interests of the Bar — including future members thereof — from being taken into account by them.

Those who have opposed the issue of debentures appear to have done so upon varying grounds. Some of these grounds require careful consideration. However care should be taken to ensure that specific grounds are not simply a rationalisation of a disinclination to make a contribution in the interests of the Bar as a present and future institution.

I.C.F. SPRY

MISLEADING CASE NOTE No. 14
The Aswan Club Pty. Ltd. v. City of Melbourne

Judge Jamtin said last week:

This is an application for a club liquor permit, which is opposed by the City of Melbourne. The applicant is a company limited by guarantee, formed for the purposes of making this application and then holding the licence sought. Its members are a small section of the Egyptian Presbyterian Church of Melbourne.

That Church is composed principally of the descendants of the followers of one McTavish, a civil functionary who landed in Egypt in the wake of General Gordon in the 1880's. McTavish's proselytizing influence gained him some adherents to the curiously mystical Presbyterian church he founded near Aswan in what is now Southern Egypt. In the 1940's almost all of the the members of that Church emigrated to Melbourne, to avoid persecution.

Forming a club to enable them to obtain a club liquor permit for their Church's premises in Melbourne, Temple McTavish, the members of the Church found themselves confronted by the City of Melbourne, who have objected before me to the grant of that permit.

The principal objection to the grant of the permit is that liquor will be served before and after, and perhaps consumed illicitly during, the strange rites (which I will later describe) which the applicant and its members indulge in. That in itself is of course not a strong objection – there are many other churches where liquor is consumed. The gist of the City of Melbourne's objections seems to be that the rites of the applicant are so strange that is should not be trusted with a permit.

The members of the Church dress in a combination of clerical and secular garb, including a quaint headdress. Their services, incomprehensible except to an initiate, consist of (as I understand them); the invocation of God as a witness or judge, followed by a series of questions addressed to one of the congregation in a heated fashion akin to a Revivalist prayer meeting. This process is apparently designed to elicit the "Truth" which in turn in every case is supposed to serve to the glory of God.

Most controversially, the Church's services utilize the notorious "Fee-meter", which operates upon the fee donated by the supplicants at each service. In the Church's theory, any person can be a supplicant at the services, regardless of wealth or social position. In fact, however, the size of the fee donated determines the experience and skill of the initiate who will intercede on the supplicant's behalf. Since the intercession is crucial to the amount of "Truth" elicited, it is thus also crucial to whether each service is judged a success or not for each supplicant.

Taken altogether, the rites of the applicant seem strange in the extreme. I have seen and heard the members of the applicant before me, however, and have come to the view that they are men and women of honour who labour under an archaic and outmoded system, who should not for that reason be deprived of the right legally to consume liquor during their services.

Also raised in argument before me was the split in the Church's membership between drinkers and non-drinkers. It was argued that a permit would force liquor upon the non-drinkers, or force the non-drinkers to refrain from entering Temple McTavish. This proposition has only to be made explicit to be rejected – it has no more weight than that hoary old chestnut that drunken drivers endanger all road users, and not just themselves.

I will therefore grant the permit sought. It remains only for me to observe that the name of the applicant club is drawn from the history of the Church. That place is now the site of the world-famous dam which, whilst doubtless a splendid piece of progress, has submerged forever beneath its calming and placid waters a dry but sizable piece of history.

GUNST

THE RESIDENTIAL TENANCIES ACT 1980 RENT CONTROL OR NOT?

Throughout the period in which the Residential Tenancies Act 1980 was being prepared and debated, a good deal of argument occurred as to whether it imposed rent control in Victoria. This was of some importance, since both the proponents and opponents of the Act were opposed to rent control. The Government also, has repeatedly stressed its opposition. The generally disastrous consequences of rent control are now widely established. In a number of recent publications, its sorry record has been fully and clearly documented e.g. Rent Control: Costs & Consequences C.I.S. Sydney 1980 Ed. by R. Albon. The remark of Prof. Lindbeck, the Swedish socialist economist, "In many cases rent control appears to be the most efficient technique presently known to destroy a city – except for bombing", is regularly quoted. Prof. Henderson, Director of the Institute of Applied Economics and Social Research at Melbourne University, a leading proponent of the Act is likewise opposed to it.

Given this general hostility to the concept of rent control, it might be thought desirable to identify its essential features. In particular, does the new Act establish it? Prof. Henderson defines rent control as "legislation determining the rent, changes in rent, or maximum rent of a class of buildings, such as all houses or flats rented at less than 40 dollars per week". (Submission to the A.G. 20/12/1978) Accordingly, the new Act is not concerned with it. On the other hand, Prof. Parrish, Prof. of Economics at Monash University, who does use the term with reference to the Act, states that the distinction drawn by Prof. Henderson between his definition and the measures imposed by the Act, is "one of degree rather than of kind; the essential feature of rent control being its effect in lowering the average level of rents below what they would otherwise be." (Letter to the Age 1/1/79).

In truth, the essence of what the two economists and their respective supporters seem to be saying, can be reconciled. What each is claiming is that, in general terms, the test is whether the market or "real" level of rents for a particular class of tenancy is affected by the new measures. If so, what the proponents of the Act are saying is that a measure designed to prevent landlords obtaining an unreal or significantly above-market rent does not amount to rent control. Except in the broadest statistical terms, the removal of such aberrations from the market rent will not effect the normal price level. In any event, it will not affect the rental or real market value of any particular residential premises at any particular time.

In this way, it is possible to analyse the Act to determine its effect. The Act stipulates that a tenant may request the Director of Consumer Affairs to investigate and report upon a complaint of above-market rental. This may arise if goods services or facilities previously provided with the rented premises are reduced or withdrawn so that the rent thereafter becomes excessive. Likewise, if the landlord gives notice of an increase in rent and the tenant considers

such increase excessive: s.63. One of the functions of the Director is to investigate such requests: s.11(1)(a)(ii). Upon receipt of a report from the Director, the tenant may, if he is of the view that the rent of proposed rent is excessive, apply to the Tribunal for an order declaring it to be excessive and determining the maximum amount of rent payable in respect of the premises. The Tribunal can also fix the effective date of its order as being the date of the tenant's request to the Director and order a refund of any difference paid: s.64.

Certain consequences adverse to the landlord flow from such a determination. These include the fixing of the rent thus determined for 12 months from the date on which the order comes into operation: s.64(5). Also, the landlord is precluded for the period of the fair rent order from exercising his right to give notice to vacate without specifying a reason: s.124.

A cursory reading of the Act would thus indicate that what is proposed is that questions of fair rent will only arise on the occasion of the raising of the rental or a reduction in the facilities or services provided. The spectre of a tenant entering into a lease and immediately complaining about the rent would seem to be avoided. However, at a recent seminar or the Act, Gim Teh, Senior Law Lecturer at Monash has suggested that this may not be so. He pointed out that in addition to s.11(1)(a)(ii), there is s.11(1)(a)(iii) which provides that the function of the Director in addition is "to investigate any complaint made to him by a tenant under a tenancy agreement that the rent under the tenancy agreement is excessive."

Such an application by a new tenant is not specifically excluded by the Act. Moreover, the remaining relevant sections are seemingly consistent with such an immediate application. The fact that the guidelines set out in s.63(2) as to the eaning of "excessive" are stated to be for the purposes of that section, arguably need not prevent the Director from otherwise proceeding under s.11, or the Tribunal, from thereupon proceeding under s.64. If this view is correct, the scope of the fair rent provisions will of course be considerably wider than they might at first appear.

On a more pertinent level, analysis of the Act suggests that, under present circumstances, it does effect the general level of rents so as to impose rent control. This arises from the effect of inflation during the minimum time period imposed between permitted rent increases.

Agreements to allow the exercise of a right to review or increase the rent at intervals of less than 6 months are vitiated by s.62(1). Since the section requires two months notice of the exercise of any such right, it may be argued that an effective minimum interval of eight months is required between increases of rent. Accepting however a period of six months as the effective minimum and, for simplicity, a steady inflation rate of 12%, we can proceed to compare the likely effect on rentals in a market of six identical apartments let initially at monthly intervals. If we assume that the first is let in month 1 at its real or market rent of, say, $50, then we would expect, all other things being equal, and given our constant rate of inflation, that the rent of each of the apartments as they were let one by one at monthly intervals would increase by 1%. In round figures then, apartment 2 would be 50 cents more, apartment 3 one dollar more, apartment 4 one dollar 50 cents, apartment 5 two dollars and apartment 6 two dollars and 50 cents. After 6 months, apartment 1 which is then available for a rent increase, should be let for $53 if it is to stay at its market rent. But what is one to use as a comparison in determining market rental for apartment 1? Choosing any of the rents of the others would give a less than current real value as would the average of the five apartments. The only appropriate measure which would not affect the real or market rent would be the rent at which comparable premises were being offered for letting at that very time. The criterion that the Act lays down, however, as to whether rent is to be regarded as excessive, is whether "it is significantly more than the rent payable for comparable rented premises let under a tenancy agreement by a landlord". This clearly indicates that the comparison to be made is an historical one i.e. what premises have been previously let for.

Although there are a number of additional criteria listed in s.63 as to what should be considered in determining whether rent is excessive, neither the current rate of inflation or the time of setting of the rent of the rented premises to be used for comparison, is included. Unless this is done, and proper allowance made, then logically it would seem to follow that the maximum rent allowable will always tend to be less than the market rate. Moreover, given continuing inflation, the discrepancy between the real or market rental of the premises and the rent determined on such a basis as laid down in the Act, will be likely to increase as the period of tenancy continues.

SHARP

COUNCILS OF LAW REPORTING CONFERENCE

At the invitation of the Chief Justice of Victoria, a Conference of representatives of Councils of Law Reporting of all States was held in the Conference Room of the Victoria Law Fondation on Thursday, 26th February 1981.

A number of papers contributed from the various states were circulated for consideration and discussion.

The following were identified as the principal problems in the present situation of law reporting (not necessarily in order of importance):—

- proliferation of series of reports, with consequential increases in costs for libraries and other subscribers, often beyond the limit of their resources
- duplication or reporting, usually associated with the appearance of specialist series
- absence of uniform criteria for selection and editing of cases
- publishing delays in the "authorised" series, being partly the explanation for the emergence of additional series
- State and Federal jurisdictional overlap, a problem likely to increase
- copyright, especially the relationship of the (Commonwealth) Copyright Act to State legislation purporting to restrict the publication of judgments
- apparent changes in the attitute to and the use made of precedents
- the use of computers in law reporting, including the establishment of an appropriate computerised legal information retrieval system in and for Australia
- relationships with the major law publishers
- administrative control and funding of reporting and editing (the running of Councils of Law Reporting)
- citation of unreported judgments.

In the course of discussions it became apparent that there was that a need for some sort of national body to exercise responsibility in relation to law reporting in Australia.

The concensus was:—

that a body should represent State Councils (or, in the case of South Australia for the time being, the Law Society) and Federal Courts (in some appropriate fashion).

- that is should be advisory in character, at least initially
- that is should be linked appropriately with any national coordinating committee which might be established in relation to the computerisation of legal information
- that it should concern itself (inter alia) with uniform reporting criteria (what is reported and where), standards of reporting (style, format, etc), licensing arrangements, copyright, computerization (in all its aspects)

It was unanimously agreed that Federal involvement in such a body was essential. After some discussion, arrangements were made for accounts of the Conference to be conveyed informally to the Chief Justice of the High Couurt and the Chief Judge of the Federal Court.

The following resolutions were formally adopted at the conclustion of the Conference:—

1. that this informal meeting of representatives of State law reporting authorities considers that there should be a national consultative organization representative of State Councils of Law Reporting (in the case of South Australia, of the Law Society) and including appropriate Federal participation;
2. that the proposed organization should be part of or associated with any national co-ordinating committee set up in connection with the establishement of a computerized legal information retrieval system for Australia;
3. that the Solicitor-General of Victoria (being present as one of the Victorian representatives) be asked to convey the above resolutions informally and immediately to the Attorney-General of Victoria for report to the Standing Committee of Attorneys-General now assembling in Hobart;
4. that a simple constitution for such an organization be drawn up for consideration by the State bodies, based upon the discussions at this meeting, and that the State bodies be invited to endorse the proposal;

5. that support for the proposal and appropriate participation be sought from the appropriate Federal authorities;

6. that the Incorporated Council of Law Reporting for the State of Queensland be invited to convene the initial meeting of the proposed organization and to attend to matters preliminary thereto.

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COMPUTER CHATTER

Just as if no lawyer feels safe without his armoury of sina qua non, non sequiturs and volenti non fit injurias, and doctors shelter behind a wall of myocardial infarctions (heart attacks) and diplopia (double) vision), so too have computer technocrats developed a language to elevate themselves above the common herd. Or as I should say have resourced a series of interactive commands to activate a data base from whence a storage information retrieval system will access formatted interactive commands to enable greater comprehension between computer cognoscenti. This is of course gives rise to the divergent issue, when will computer aristocrats require a university degree as a precondition to entrance to the ranks of true professionals. Then, can they rub shoulders with estate agents, stockbrokers and hairdressers all of whom now service clients rather than customers.

These thoughts occured to me when I recently attended a demonstration arranged by the Victorian Law Foundation and Levin of a computer system, the STAIRS program which is a pilot example of a legal retrieval system. Once I overcame my initial repugnance to the convoluted language, appalling doggerel and tacky little abbreviations like CICS - Customer Information Control System, the whole thing is fascinating. I confess to having always felt a slight hostility toward computers, founded probably on fear, but this was paradoxically a very reassuring demonstration. The computer was revealed as a mere tool. Within an hour, Sharp was issuing commands to it like Captain Nemo, and with successful results. The program demonstrated was a pilot program developed two years ago by IBM and N.S.W. Law Association which covers the Trade Practices Area. All information including the Australian, U.S. and U.K. acts, the Treaty of Rome, Federal and High Court reports, U.S. decisions, digest, Commission clearances and authorisations, public hearings, articles and monographs were included. Through a dictionary of words assembled on the program one "accesses" the information. For example one may type in "land and covenants" on the control panel, and the V.D.U. (Visual Display Unit) or television screen will show how many times each word appears in the collected material and how many times the two words appear together. One may then after typing in an instruction to browse examine a list of these occurences, for example the various cases. Further instructions will enable one to view the headnotes and decisions. If required, a system may have a facility to print out any material required. The STAIRS program is stored in a computer in Sydney which is linked by an ordinary Telecom telephone line to the V.D.U. terminal in Melbourne. It would appear likely that the legal information services will develop other programs covering all areas of the law.

The impact for the legal profession and the Bar will not, I consider, be very great. The system will perform all the functions of a good library and may well have arrived at just the right time. It will enable practitioners to find and keep track of the orgy of decisions, recommendations, regulations, proclamations, resolutions, laws, statutory rules and by-laws emerging from all the organs of government empowered to regulate us, a task which is stretching the capacity of conventional libraries. Computers will be a boon, as the ability to find and collate the relevant law and material will thus be rendered far less burdensome, while the ability to analyse, assess and opine will remain the province of the the thinking lawyer.

HARRISON

LEGGE'S LAW LEXICON
"E"

Earmark. In recent times a feature distinguishing either the marital status or sexual proclivities of the Markee. Formerly the punishment reserved for a stillicide (q.v.).

Ear-Witness. A stillicide. For example, an investigating constable testifying to a verbal.

Easement. A privilege over the property of another, e.g. Bookery – the use by the occupier of dominant chambers of the library of servient chambers. The sometimes alleged right to take such books into Court is, strictly speaking, a profit a prendre.

Eavesdropper. A stillicide or servitude of receiving rainwater from a neighbour's roof.

Ecclesiastical corporation. An engrossment of bishops.

Ejusdem generis. The rule which demonstrates that a pig is not an animal, a fun fair is not a place of amusement and an estate agent is not a worker.

Elder Brethen. John and Rob (not to be confused with C.U.B. and Henry Jones).

Election. The period of 14 days before the end of September during which members of the Bar Council are kind to juniors.

Encroachment. Taking a brief on a strange circuit.

Encumbrance. A vice-presidential member quite exempt from any intellectual influences (other than the doctrines of some defunct economist).

Endowment. The marriage of a barrister specialising in undefended divorces to a barrister specialising in workers compensation cases.

Entail. A retainer in the Federal Court on behalf of an owner of shopping centres.

En ventre sa frigidaire. For certain purposes a test-tube baby is deemed to have been born at the time of its conception, or 21 years before the date of its birth, whichever is later.

Victorian Bar News

Equity of redemption. The contingent estate noted in sir Geo. Rose's epitaph on Preston:—
"Stern death hath cast into abeyance here
A most renowned conveyancer
Let lightly on his head be laid
The sod that he so oft conveyed
In certain faith and hope he sure is
His soul like a scintilla juris
In nubigbus expectant lies
To raise a freehold in the skies."
Ruling Cases x, 814.

Errant. A judge on circuit.

Escape of dangerous things. A divorce judge on circuit.

Esquire. Barristers-at-law are esquires. **Rex v. Brough Esq.** 1 Wils 244.
"As for gentlemen," says Blackstone (Vol. i, 373), "they may be made good cheap in this Kingdom. For whosoever studieth the laws of the realm. . . . .and can live idly and without manual labour will bear the port charge and countenance of a gentleman and shall be called Master."

Essoin, Essoigne, Assoin, Exoine. On the first return day in every term the Court sat to hear essoigns for such as did not appear by reason of pilgrimage, the King's service or other just excuse. By the skilful use of essoigns it was possible to stay out of Court for a considerable time. After the return named in the Writ the person summoned had 3 days of grace in which to make his appearance as our sturdy ancestors held it beneath the condition of a free man to appear or to do any other act at the precise time appointed.

Essoiniator. A barrister on Friday afternoon.

Estoppel. An admission to which there is an independent witness.

Estovers. A wife's alimony, cf. castovers — damages for breach of promise; hangovers — circuit fees; leftovers — a spinster daughter's right to T.F.M.; moveovers – a divorced woman's maintenance; runovers – fees for fighting a case in the personal injuries list; turnovers – fees for settling a case in the p.i.l.

Estray. A silk who has applied for a practising certificate (now obsolete).

Etiquette. Polite touting.

Evidence. The proof of allegations in accordance with archaic rules known only to judges who have been university lecturers and counsel who are retained by insurance companies.

Exaction. A fee which is not allowable. cf. extortion.

Excommunication. The state of parties to a compulsory conference.

Execution. Very final process.

Expert witness. A lay advocate.

Expressio unius est exclusio alterius. The doctrine of the infallibility of parliamentary draftsmen.

Extortion. To demand more than the usual fee (which is permitted).

Ezarder. ????

Winter 1981

RECENT DEVELOPMENTS IN FAMILY LAW
FEDERAL PROCEEDINGS (COSTS) ACT 1981

The attention of all counsel practising in family law matters is drawn to the provisions of the Federal Proceedings (Costs) Act 1981 which came into force on the 14th April 1981. The Act makes provision for the payment by the Federal Attorney-General of cost incurred in Federal courts in circumstances almost identical to those where a certificate would be available in the State courts under the Appeals Cost Fund Act. The provisions of the Act which are of particular interest to practitioners in family law are as follows:—

In the definition section (Section 3) "Federal appeal" (inter alia) an appeal to the Full Court of the Family Court from a judgment of the Family Court constituted otherwise than as a Full Court and an appeal to the High Court from a judgment of the Family Court.

Section 6 provides that where a Federal appeal succeeds on a question of law, the Court that heard the appeal, may grant the respondent a costs certificate in respect of the appeal.

Section 7 provides that where a respondent to a Federal appeal is, in pursuance of an order of a court, required to pay an appellant any costs incurred by an appellant in relation to the appeal and the respondent would be entitled under Section 6 to apply for a costs certificate, then the court may grant the appellant a costs certificate if it is satisfied that the respondent would be unable to pay the costs ordered or that the payment would cause the respondent undue hardship, or his whereabouts are unknown.

Section 8 provides the granting of a costs certificate where a new trial is ordered by an appellant court.

Section 9 provides that where an appeal succeeds and each party is ordered to bear his own costs under Section 117 of the Family Law Act the appellant may be granted a costs certificate in respect of the appeal.

Section 10 provdes that where proceedings are rendered abortive in a court by reason of the judge being unable to continue with the proceedings then a certificate may be granted. Similarly, when the hearing of any proceedings in a court is discontinued and a new hearing ordered and the discontinuance and new hearing are not attributable to the neglect, default or improper act of any party to the proceedings, a certificate may be granted.

Section 13 provdies that no appeal lies from the refusal of the court to grant a costs certificate.

Section 21 provides that costs certificates are only available in respect of appeals instituted after the commencement of the Act, namely the 14th April 1981.

The Schedule to the Act provides that maximum amount of costs which may be recovered by means of a certificate in the Family Court is $2,000.

The Chief Judge of the Family Court issued a practice direction in respect of appeals certificates, the full text of which appears hereunder.

"PRACTICE DIRECTION 81/1

1. An application for a certificate under the Federal Proceedings (Costs) Act 1981 in respect of an appeal may be made orally at the time the judgment is delivered.
2. Subject to sub-paragraph (a) an application for a certificate or other consequential order shall be in accordance with Form 6.
3. A sealed copy of the application shall be served on the respondent to the application in accordance with paragraphs 44(1) (a) or (c).
5. Directions as to the hearing of the application may be made by the presiding Judge or at his direction by another Judge who was a member of the Full Court at the hearing of the appeal.
6. Without limiting the generality of the preceeding paragraph the Judge may direct that the hearing proceed by way of written submissions or by way of oral submissions to be taken by the Full Court or by a single Judge.

(Signed) Elizabeth Evatt."

SPORTING NEWS

Danos will represent Australia at the Maccabean Games to be held in Israel towards the end of June. He is competing in the 21 km. half-marathon, as well as the 5,000 and 10,000 metre runs. The Games are conducted every four years and have the reputation of being up to international standard. Approximately 40 runners will start in the event.

● ● ●

Michael Monester is also a Maccabean Games veteran. In 1973 he came fifth in the pole vault. His present recreations include being in charge of the Mount Buller ski rescue service. He is also a national patroller.

● ● ●

Padua Prince has had more seconds than a hungry schoolboy. Peter Young has advised that it ran second for the eighth time recently and we would not be suprised if it never broke its maiden status.It can run second at city tracks in open class and then not salute against weak opposition in the bush. Most lately it was quoted at 100/1 a win 13/8 on to run second. It ran second.

● ● ●

The Queensland press have been refering to Watney as the "Flashy Victorian Glamour Galloper — the horse with the film star looks." Merralls Q.C. and Lennon Q.C. are now on clover following the stallion's brilliant win in the Stradbroke Handicap in Brisbane. We are surprised that these two "silks" are still working in the light of their horse's success. It has won approximately $230,000 in prize money and may run in two feature races in Queensland in the next few weeks. It won the Stradbroke notwithstanding drawing barrier 20 and must have substantially improved its value as a sire.

● ● ●

David Ross and his brother came second in the Australian Marathon Canoe Championships, over a 40 mile course down the Murray River at Easter. He was double touring Canadian class. There is no truth in the rumour that he narrowly survived a protest for using his beard as a wind sock.

● ● ●

"Four Eyes"

STATE GOVERNMENT INFORMATION BUREAU

Members are reminded that copies of State Acts, Regulations, Parliamentary Reports and a wide range of State departmental publications are available at the Government Information Bureau.

In addition, the Bureau provides assistance to persons having difficulty in locating the appropriate government department or authority for a specific need.

Government Information Bureau
1st Floor
356 Collins Street
Melbourne.
Tel. 67 6841

● ● ●

READERMIND ANSWERS —

Special Topic:

(1) Agincourt (Hodges).
(2) Repton School, England (Hartley Williams).
(3) Uncle.
(4) 1863.
(5) Judge of the King's Bench.
(6) Hamilton.
(7) 59th Battalion, 1st A.I.F.
(8) Stawell.
(9) 2 (Adam and Ninian Stephen).
(10) They were all chemists.

General Knowledge:

(1) P.A.S.S.
(2) Pass (3 marks off for those who answered "Dog").
(3) Pass.
(4) Pass.
(5) Pass.
(6) Pass.
(7) Pass.
(8) Pass.
(9) Pass.
(10) Pass.

VERBATIM

Viscount Simonds — "In one of the cases to which I shall refer, a person receiving payment from a prostitute for services rendered by him is described as her coadjutar and in another as trading in prostitution. These expressions indicate the distinction that I have in mind, though neither of them accurately defines a legal relation."

Shaw v. Director of Public Prosecutions
(1961) 2 All E.R. 446 at 450.

● ● ●

The Appellant, a panel beater, called a character witness who was being cross examined —
Wren: "How long have you known the Appellant?"
Witness: "About 7 to 8 years."
Wren: "And you say you met him because he repaired your old cars."
Witness: "Yes, you could say we met quite by accident!"

Carter v. Hay
Cor Judge Nixon 13.4.81

● ● ●

In the Practice Court after a hearing of some 2 days
Dowling Q.C.: "Even if everything I've said so far is wrong, Your Honour . . . . .
McGarvie J: "Everything, Mr. Dowling?"
Dowling Q.C.: "Yes, Your Honour, everything."
McGarvie J: "Then you're in the wrong court."

● ● ●

Cooper: "Your Honour, he's done very well for himself and become an Australian Lightweight Boxing Champion. Since then he has taken up study of the classics – Shakespeare, Dickens and Wilde are all second nature to him."
Judge: "He really ought to take up Vickery."

Cor Judge Forrest
2.4.1981

● ● ●

On a plea before Judge Gorman —
His Honour: Your counsel has put to me that you assaulted this man in prison because he was an informer. I suppose it's true to say that nobody likes an informer. Especially those of us with Celtic blood. . . . ."

R. v. Barker
7.4.81

● ● ●

Cremean: "Your Worship I appear as amicus curiae to assist the Court in regard to a Vietnemese woman accused of theft.
Bourke S.M.: "Yes."
Cremean: "Your Worship, there are problems with this case. First the interpreter is blind and cannot find his way to this Court. Secondly, there appears to be no word in Vietnamese for the word "jury", so I cannot explain to her that she has the right to have the case heard before a Judge and jury."
Bourke S.M.: "In regard to the lack of a word in Vietnamese for jury – is this before or after the revolution?"

Broadmeadows Magistrate Court
9.4.1981

● ● ●

Defendant's case is called. Defendant stands forward alone while the S.M. makes an inquiry as to the whereabouts of her solicitor who has not appeared. A man who has been sitting and reading at the back of the court suddenly leaps to his feet.
Solicitor: "Sorry your Worship, I didn't dream you'd be calling my case on this soon."
Murray S.M.: "I think you **were** dreaming . . . . ."

Prahran Magistrates Court
9.4.1981

● ● ●

Victorian Bar News

Judge Lazarus hearing a plea in mitigation. It is said that the co-accused are related.
His Honour: "How do they come to be cousins?"
Van de Wiel: "There is some marital tie-up somewhere."
His Honour: "I would not doubt that."

R. v. Tanasijevic and Petherick
5.2.1981

• • •

C.J.: "Clayton, we have now had an opportunity of reading the letter that you spoke of. It has been handed to us together with the notice which you wrote about the hearing of this application and, for some reason, half a ten dollar note."
Applicant: "Yes, sir."
C.J.: "I will hand it all back to you in a moment."

R. v. Peter William Clayton
Court of Criminal Appeal
Young, C.J., Murray and Southwell JJ.
2.3.1981

• • •

In the course of a claim against a vinyl floor covering contractor before the Small Claims Tribunal in Geelong —
Lady Applicant: "Mr. K. guaranteed complete satisfaction. He told me he had the best layer in the business."

9.4.81.

• • •

"This case will be of interest to those in the Civil Service, and elsewhere, who are approaching retiring age. Unlike me! . . ."

Lord Denning
Howard v. Dept. National Savings
[1981] 1 AN ER 674 at 676

Lord Denning M.R. was born on the 27th January 1899.

• • •

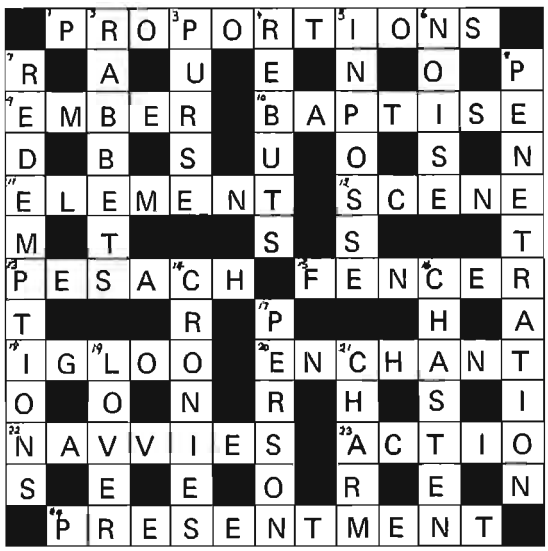
Winter 1981

Counsel: in a partnership case was asked by Judge Forrest for his authority.
Counsel: I refer to Higgins on Partnership.
Judge: I've heard of Higgins on racehorses, not on partnership.
Counsel: It's now "Pannam on Horses".
Judge: He won't be on mine — I'd prefer Higgins!

County Court
May, 1981.

• • •

SOLUTION TO CAPTAIN'S CRYPTIC No. 36



MOVEMENT AT THE BAR

Members who have signed the Roll since the Autumn 1981 Edition.

Michael DAVID (S.A.)
Frank William Dudley JONES (High Court Registrar - on Masters & Other Official Appointments List)
Anthony ENDREY Q.C.

Due to sign on 18th June 1981

Bruce Godrey WALMSLEY (Re-signed)		Clerk F
Robert James BAIR	Lally	
Darryl Raymond Allan DAVIES	R.P.L. Lewis	
Peter Anthony REARDON	Vernon	
Robert William HINKLEY	Balfe	
Peter James HILAND	R.J. Johnston	
Con KAY	A.J. Lopes	Clerks have not been allotted to the June Intake
Judith Ann BRETHERTON	Kirkham	
John Aubrey GIBSON	Mandie	
Max Paul GREEN	N. Moshinsky	
Peter Anthony CHADWICK	Keenan	
Gregory Mark McDERMOTT	Rowlands	
John Paul DICKINSON	Richter	
Kathryn Anne Deverell NORMAN	Bongiorno	
Albert Frank SKERLJ	Wraith	
William Desmond CALANCHINI	A.W. Adams	
Oshri SCHWARZ	Ackman	
Gerald Martin RANDALL	Archibald	

Members who have had their names removed from the Roll of Counsel at their own request.

P.L. Horman
A. Acintya-Lovejoy
C.R. Williams
L. Wengrow
R.C. McIntyre
B.J. Hess
J.S. Pasricha
P.M. Power (Miss)
K.I. Brandt (Miss)

Member who has had his name transferred from the Master & Other Official Appointments List to the Practising List.

H.G. Shore

RUMINATION

If I could suck
like some eager vacuum
totals of knowledge
and leave the dust settled
on half calf jackets;

I would enter that mythical court,
well armed and armoured
inviolable to judges
and lessers alike,

Formidable, a living lexicon
striding with precedent shod feet,
and armoury of technical barbs
so sharp,
to enter the hardest of heartless hearts.

PETER MARTIN

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UNREPORTED JUDGMENTS
OF
THE COURT OF CRIMINAL APPEAL

**(Available from Redlich
ODC Room 151)**

CARNAL KNOWLEDGE
— Crimes Act S. 59 — removal of girl under eighteen for purposes of carnal knowledge without consent of parents — strict liability where parent does not consent — no defence of honest and reasonable belief available.
R. v. Kennedy — 19th December 1980

CHARACTER
— accused puts good character in issue — leave to prosecution to cross-examine as to bad character.
R. v. Cutajar — 12th December 1980

Accused's good character put in evidence — inadequate direction by Judge as to its use.
R. v. Neave — 12th December 1980

CHARGE
— accused standing mute — comment by prosecutor and Judge about failure of accused to call a witness as to his whereabouts — not a prohibited comment — jury question, as to whether accused has right to give evidence and call witnesses.
R. v. Thornton — 18th December 1980

— manslaughter by criminal negligence inappropriate to be left to jury where facts inherently capable of constituting manslaughter by dangerous and unlawful act — murder by recklessness requires belief by accused of probability that death or bodily injury would ensue though not caring whether the same would result.
R. v. Windsor — 9th October 1980

R. v. Neave — 12th December 1980 (Character)

CONSPIRACY
— conspiracy charge requires joint trial of accused save in exceptional circumstances.

— count of conspiracy to defraud divers persons — query whether presentment meant particular persons or members of the public generally — count should make it clear that persons to be defrauded are not particular persons in contemplation at the time of the conspiracy.

Conspiracy only justiciable in Victoria if directed to a contravention of Victorian law.
R. v. Reid — 6th February 1981

CROSS-EXAMINATION
R. v. Cutajar — 12th December 1980 (Character)

DISHONESTY
Theft — trial Judge should explain dishonesty to jury — meaning of the word considered.
R. v. Bonollo — 19th December 1980
R. v. Brow — 3rd December 1980

DRUGS
Sentence — deterrence of ultimate distributor important — weight to be given to the peronal circumstances of the defendant must vary having regard to the nature of the case.
R. v. Faulkner — 12th December 1980

EVIDENCE

R. v. Neave — 12th December 1980 (Character)

— conspiracy — evidence of defrauding persons outside Victoria was admissible evidence of overt acts ending to establish existence in Victoria of a conspiracy to contravene Victorian law.
R. v. Reid — 6th February 1981

— hearsay — out of Court statement by co-accused in favour of the accused cannot be relied upon in court by the accused — statements out of court by co-accused offend hearsay rule.
R. v. Fletcher — 20th February 1981

INFERENCES
— circumstantial — jury to exclude all innocent hypothesis.
R. v. Fletcher — 20th February 1981

— admission of guilt — by co-accused in presence of accused who remained silent — whether accused's silence constituted consciousness of guilt — obligation to answer allegations in various circumstances considered.
R. v. Salahattin — 23rd October 1980

— Handwriting — complainant gives evidence of similarity of various handwriting — admissibility doubted — Judge should have rejected such evidence in exercise his his discretion.
R. v. Curran — 15th December 1980

EXPERT EVIDENCE
R. v. Curran — 15th December 1980 (Evidence)

FITNESS TO PLEAD
— circumstances in which fitness is a real and substantial question to be tried — Section 393 Crimes Act considered.
R. v. Khallouf — 31st October 1980

INTENT
Suicide pact — honest and reasonable belief not a defence.
R. v. Iannazzoni — 11th December 1980

R. v. Kennedy — 19th December 1980 (Carnal Knowledge)

Transferred malice — deliberate or reckless discharge of gun at victim — innocent bystanders wounded.
R. v. Bakesh — 19th December 1980

JOINT TRIAL
R. v. Reid — 6th February 1981 (Conspiracy)

JURISDICTION
R. v. Reid — 6th February 1981 (Conspiracy)

JURY
— accused stands mute — jury question as to accused can give evidence and call witnesses — Judge informs them in the affirmative.
R. v. Thornton — 18th December 1980

Inconsistent verdicts — whether verdicts are really inconsistent considered —
R. v. Bakesh — 19th December 1980

MURDER, MANSLAUGHTER
R. v. Windsor — 9th October 1980 (Charge)

PERJURY
Sentence — false evidence by Plaintiff in industrial accident claim — severe hardship on appellant condidered.
R. v. Stojnic — 20th February 1981

PRESENTMENT
Accused charged with wounding with intent to do grievous bodily harm — inflicting grievous bodily harm and unlawful and malicious wounding — jury should be charged to consider the counts in that order — relative seriousness of each charge considered.
R. v. Kristiansen — 4th February 1981

R. v. Reid — 6th February 1981 (Conspiracy)

RAPE
R. v. Kennedy — 19th December 1980 (Carnal Knowledge)

SENTENCE
— Compensation order — riot convictions — not all accused convicted of damage of property — circumstances order is appropriate considered.
R. v. Aitken — 12th December 1980

R. v. Faulkner — 12th December 1980 (Drugs)

— facts in mitigation of penalty — onus of proof in establishing such facts on the accused — existence of aggravating circumstances are to be established by the Crown.
R. v Hoppner — 7th October 1980

R. v. Stojnic — 20th February 1981 (Perjury)

— probation — compensation order made — whether accused has right of appeal against compensation order — Sections 567(d), Section 546 and Section 520 Crimes Act considered.
R. v. Aitken — 12th December 1980

Youth Training Centre — court may have regard to the necessary abscence of any minimum term in considering the appropriateness of a sentence of youth training.
R. v. Fletcher — 20th February 1981 per Brooking, J.

SUICIDE
R. v. Iannazzoni — 11th December 1980 (Intent)

THEFT
R. v. Bonollo — 19th December 1980 (Dishonesty)
R. v. Brow — 3rd December 1980 (Dishonesty)

VERDICT
R. v. Kristiansen — 4th February 1981 (Presentment)

R. v. Bakesh — 19th December 1980 (Jury)