

Victorian Bar News

It was, therefore, generally expected that there would be some sort of impromptu inaugural ceremony, and at the judge and bar would be supplementary to each other in commenting on their new surroundings. The possibility of such a thing had the effect of attracting large numbers, not only of professional gentlemen but of the ordinary public, and by 10 o'clock in the morning the court was thronged with people. Every seat was occupied, and even standing room became a rarity to be envied by the throng.

There was no probability of anything turning up to vary the monotony, the crush of spectators began to abate, and the business to proceed in its wonted quiet way.

CENTRAL CRIMINAL COURT.

FRIDAY, FEB. 15.

(Before His Honour Mr. Justice Holroyd.)
Mr. Chomley prosecuted on behalf of the Crown.

PLEADED GUILTY.

Alfred Oliver pleaded guilty to committing

murder. His Honour in summing up, said that the woman had met a violent man, and that he was not acting in the heat of passion, but was premeditated of a deadly weapon. The great provocation on which the prisoner relied, before he had time to cool, and did not in fact, could surely cause death, but might be very fairly considered their verdict, and whether the prisoner was provoked to justify himself, and whether he would in all probability have killed the woman whom he

was deliberating for two hours before he committed the murder.

MANDED FOR SENTENCE.
The prisoner was committed to prison for two years, and was to be kept in the house of correction, and it was there that he should be kept.

ADJOURNED.
The court adjourned till 10 o'clock.

AL CALENDAR.

The next case to be heard by Mr. Justice Holroyd at the Central Criminal Court will be the case of the prisoner named in the list. The list of the dates on which the cases will be heard has been prepared, and it is not certain that the list could be strictly adhered to, but its publication would let witnesses know that they need not attend the court on an earlier date than the one named in the list. The list is as follows:—

On and after Saturday, 15th (to-day),
Archibald Allen and George Williams, Ellis, & Charles.

AUTUMN EDITION 1984

Charles William Smith, Richard Morgan, & Charles.

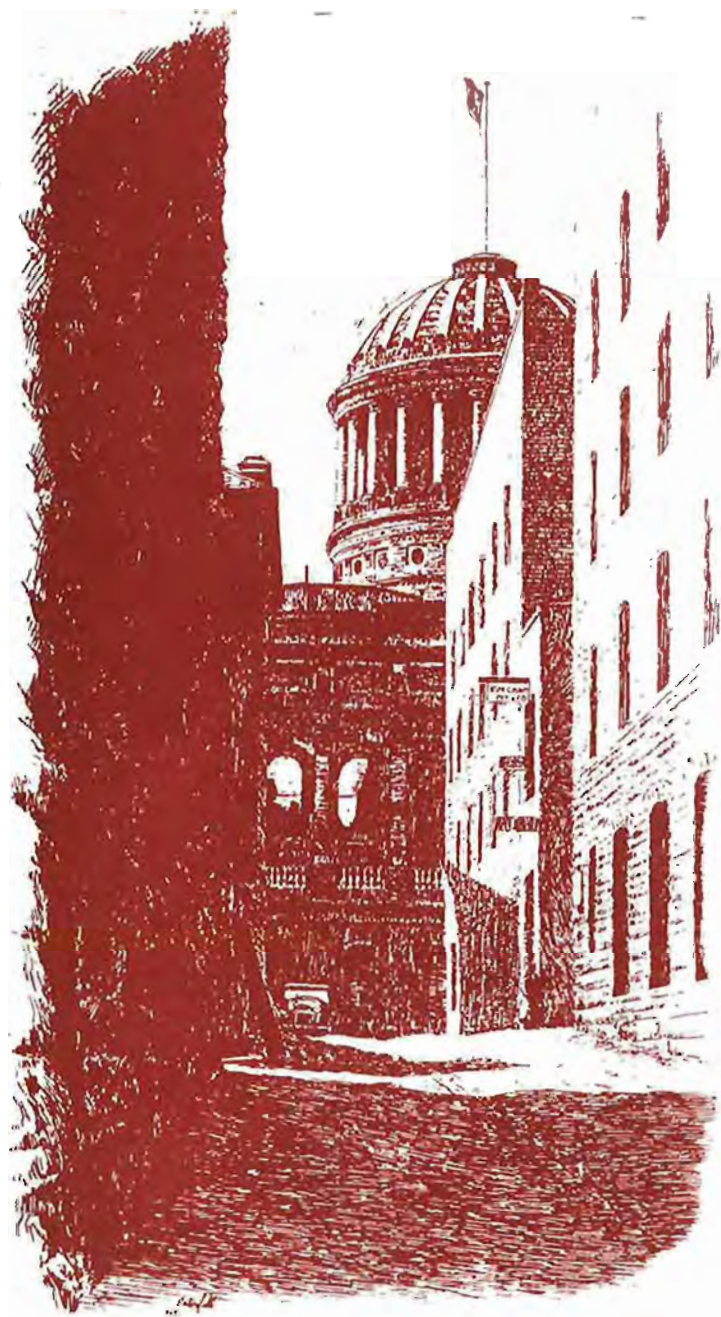


replaced by one more comfortable. The members of the bar, with their wigs and gowns, were present on the scene as soon as the judge appeared, and, according to their usual custom, they spread their briefs, and bags, and hats over the table in wild profusion, and five minutes appeared as much habituated to the place as if they had practised in it all their lives. They tested their new chairs in every variety of position before finally settling down to enjoy the comfort of them, and there was also a good deal of necessary opening and shutting of the drawers. The officials of the court

themselves into most uncomfortable attitudes in order to hear the witness. They were sitting sideways towards him, their best pockets. He tried to conceal 4s. 6d. in his right hand. There were among the cash 23 sixpences and nine threepenny pieces. It was relied on by the Crown that £2 of the stolen cash was made up of sixpenny and threepenny pieces. On being taken to the watchhouse prisoner said he had been in Bourke-street. The morning afterwards the bank deposit receipts, the man's H order, and the missing 1 union ticket were found in a bag at the corner of Latrobe and Elgin-street, and handed over to the police. A black bag, which was taken with the money, was found

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GAVAN FREDERICK GRIFFITH QC

Solicitor-General for the Commonwealth

A Member of the Victoria Bar

BAR COUNCIL REPORT

Appointments

(a) Honorary Secretary

The Bar Council appointed Finkelstein to the position of Honorary Secretary upon the retirement of Habersberger. Hayes was appointed Assistant Honorary Secretary.

(b) Bar Librarian

Following the appointment of Ormiston J., J.D. Phillips Q.C. was appointed Bar Librarian.

Commonwealth Solicitor-General

The Bar Council has extended to Dr. Gavan Griffith Q.C. the congratulations of the Bar upon his appointment as Commonwealth Solicitor-General.

Social

- (a) On the 1st of March 1984 new members were welcomed to the Bar at a function held in the Essoign Club.
- (b) The President of the Law Institute of Victoria and the Chairman of the Bar Council jointly held a function at the Essoign Club on the 28th of March 1984 to mark the retirement of Sir George Paton from the position of Secretary to the Board of Examiners. Sir George and Lady Paton attended together with a number of guests.
- (c) On the 12th of April 1984 the Bar Council will hold a dinner in honour of the Victorian Attorney General, the Honourable J.H. Kennan M.L.C. and Mrs. Kennan.
- (d) The immediate past Chairman and other retiring members of the Victorian Bar Council will be entertained at dinner by the Bar Council on the 10th of May 1984.

The Civil Justice Committee

In an attempt to reduce delays in the Courts this Committee has proposed that from time to time Barristers be appointed as Recorders for periods of no longer than a month at a time. The Bar Council is presently considering this proposal.

No Fault Accident Compensation Committee

Sher Q.C. and Hanlon Q.C. have been appointed as the representatives of the Victorian Bar at a seminar on no fault compensation to be held by the Law Council of Australia on the 7th and 8th of April 1984.

Acts Interpretation Bill 1982

The Victorian Bar Council has made submissions to the Victorian Attorney-General concerning this Bill with particular reference to the provisions relating to the use of extrinsic aids by Courts to assist in the interpretation of legislation.

Chief Justice's Listing Committee

The Bar Council has resolved that it recommends to this Committee that there should be a reserve list of two or three cases each day in each Supreme Court personal injury list.

Professional Indemnity Insurance

The Bar Council will recommend to a future general meeting of the Bar Council that the Rules of Counsel should be amended so that practising Counsel will be obliged to have professional indemnity insurance.

General Meeting

On 10th April approximately 600 barristers attended a General Meeting to consider three motions arising out of the clerking crisis which has been brought to a head by the resignation of Mr Bloomfield. The first resolution proposed by Montgomery and Mattei sought the allotment of the members of the disbanded List C among the remaining lists.

The second resolution proposed by McPhee QC and Harper would remove much of the existing restrictions on transfers between lists. Henceforth, a transfer would be possible where the recipient list committee agreed. This resolution would also give to the Bar Council wide powers to approve further clerks.

The third resolution, that of Walsh of Brannagh and K.T. Smith, requested that Mr Bloomfield be reinstated as clerk of List C.

Following an orderly debate, the Chairman determined to submit all three motions to a poll pursuant to Rule 38A. Nevertheless, to determine the mood of the meeting, he put the motions to an informal vote. The results were against the first and third motions. The second motion was overwhelmingly supported by the meeting.

WERE WE WRONG?

In the May 1975 edition of the **Bar News**, it was reported on page 4 that Counsel whose name had been removed from the Roll who returned to re-sign it would be accorded seniority for domestic purposes as if his name had not been removed. This report is, in a sense, misleading if it is to be read as setting out the current rule concerning the determination of competing applications for accommodation. The report sought to reflect no more than a ruling that was then given in respect of a particular case where the Counsel left the Bar to serve in the Central Aboriginal Legal Aid Service where he practised as a barrister and solicitor and therefore had to have his name removed from the Roll. Upon applying to re-sign the Roll, he sought to be accorded the seniority he would have had if he had not left the Bar. It was decided that having regard to the Bar Council's policy of facilitating Counsel making their services available to organisations like the Central Aboriginal Legal Aid Service upon re-signing the Roll, the Applicant would be treated for domestic purposes as if his name had not been removed from the Roll.

The prevailing rule in relation to competing applications for accommodation was formulated by the direct-

ors of Barristers Chambers Limited in February 1981. It is in the following terms:—

"In deciding seniority between competing applicants for a particular tenancy, regard should be made only to the period or periods during which the applicant's name has been on the Bar Roll, less such time within that period or those periods as had been spent by the applicant "out of chambers".

O'SULLIVAN QC

Michael Neil O'Sullivan was in January appointed Deputy President of the Repatriation Review Tribunal. He has retired from practice after nearly 24 years at the Bar.

He was admitted to practise on 1st November, 1956. He signed the Bar Roll on 1st February 1957 and read with Lush. He took silk in 1976.

The Bar congratulates him on his appointment and wishes him well in his new office.

COMMISSIONAIRE FOR OWEN DIXON CHAMBERS

Visitors and invitees to Owen Dixon Chambers have often been confused in their efforts to find counsel of their choice. The lists of counsel posted in the foyer have seemed to grow enormously. Moreover, these lists include Chambers other than those in the building. The clerks, not unnaturally, have not welcomed the added task of directing this traffic.

Accordingly, Barristers Chambers Limited has arranged for a Commissionaire to be on duty during peak periods to assist visitors. Initially appointed on an experimental basis, Commissionaire Dennis Mowlem has already provided a useful service. His welcoming smile has become familiar to counsel as it is comforting to the anxious litigant. Present thinking is to retain the service at least until the new building is completed and the refurbishment of Owen Dixon Chambers is undertaken.



NEW SOLICITOR-GENERAL FOR THE COMMONWEALTH

On 1 January 1984, Gavan Griffith Q.C., succeeded Sir Maurice Byers Q.C. as Solicitor-General for the Commonwealth of Australia. Educated at Wesley and Melbourne University, Griffith served his articles with Oswald Burt & Co., signed the Roll in June 1964, and read with Hulme. In 1968 he married Vanessa Fitts and set off upon an extended honeymoon in Oxford.

Unable to get into St. Peters, he trod the well worn path from Melbourne to Magdalen which was then and remains a receptacle for colonists, Rhodes Scholars and many other a young man who had a magnificent future. Thus began a romance which has yet to run its course.

When he attended Wadham, Birkenhead set about building up the stocks of his new College; the impact on Magdalen of Griffith and his fellow student, the present Attorney-General, remains ambiguous. Though its stocks were reduced, the college cellar was restored; a good deal of old first growth was removed from the walls and replaced with sparkling last growth from the Barossa.

In 1969, Griffith was called to Lincoln's Inn and established himself in Chambers in London. He practised on the Oxford Circuit out of the County Court and flew circuits over Oxford from the airport at Kidlington. In between all this he completed his thesis which, it is believed, is a comparative study of the role of the general meeting in the registered company and in the corporation sole.

Griffith was appointed a Lecturer in Magdalen in the academic years 1970-1971 and 1973-1974 as well as in the Trinity Term in 1977 and 1980. Among his students was young Melford-Stephenson, the first member of that elevated family to read law. In the family tradition, the young man was preoccupied by higher things and, presenting unprepared for a collection he attempted to duce his tutor by providing him with something old from Epernay. No doubt Griffith showed great presence of mind in consuming the contents before he attended to the essay; however, in subsequently ploughing the student he showed a degree of judgment which remains in Magdalen a famous victory of standards over tradition.

Seduced no doubt by the dreaming spires faintly visible from the housing estate in Woodstock where he resided and by the marshy fields which evoked the memory of youth and Eltham, Griffith gave serious thought to remaining in England and having a career in the Church or in the Arts. In fact in 1976, he was the Qantas fellow in residence in the Slade where he devoted his time to an examination of the options and causes of action open to him.

However, always the wanderer, he struck out for another shore and was delivered from the shadow of Blenheim by an inspired move into the Massif Central. In the footsteps of Pontius Pilate, himself a victim of cuisine majeure, our latter day pilgrim blazed a trail since followed by many including a series of comparatively pious disciples and others of royal rank, whether putative, itinerant or exiled remains unclear. Close exegesis of "*Matters for Judgment*" suggests that it was written not in the Haute-Loire, as some maliciously suggested, but rather in the Auvergne.

With the rest of the Oz generation, Griffith returned to Australia to make his career. He maintained his links and often in the middle of a big case was seen snatching a few sandwiches at lunch poring over correspondence from Ingrams O'Boulez and Grovel.

He has a keen sense of fun announcing to anyone who would publish it his fondness for gardening. He comes to his present position with an experience of public affairs which is as long as it is diverse. He is widely travelled and the rescue of one of his readers from the Antiochean episcopate is testimony enough to his selfless courage.

An apocryphal account of the details of Griffith's career can be found in the January number of the Australian Law News.

INCITATUS

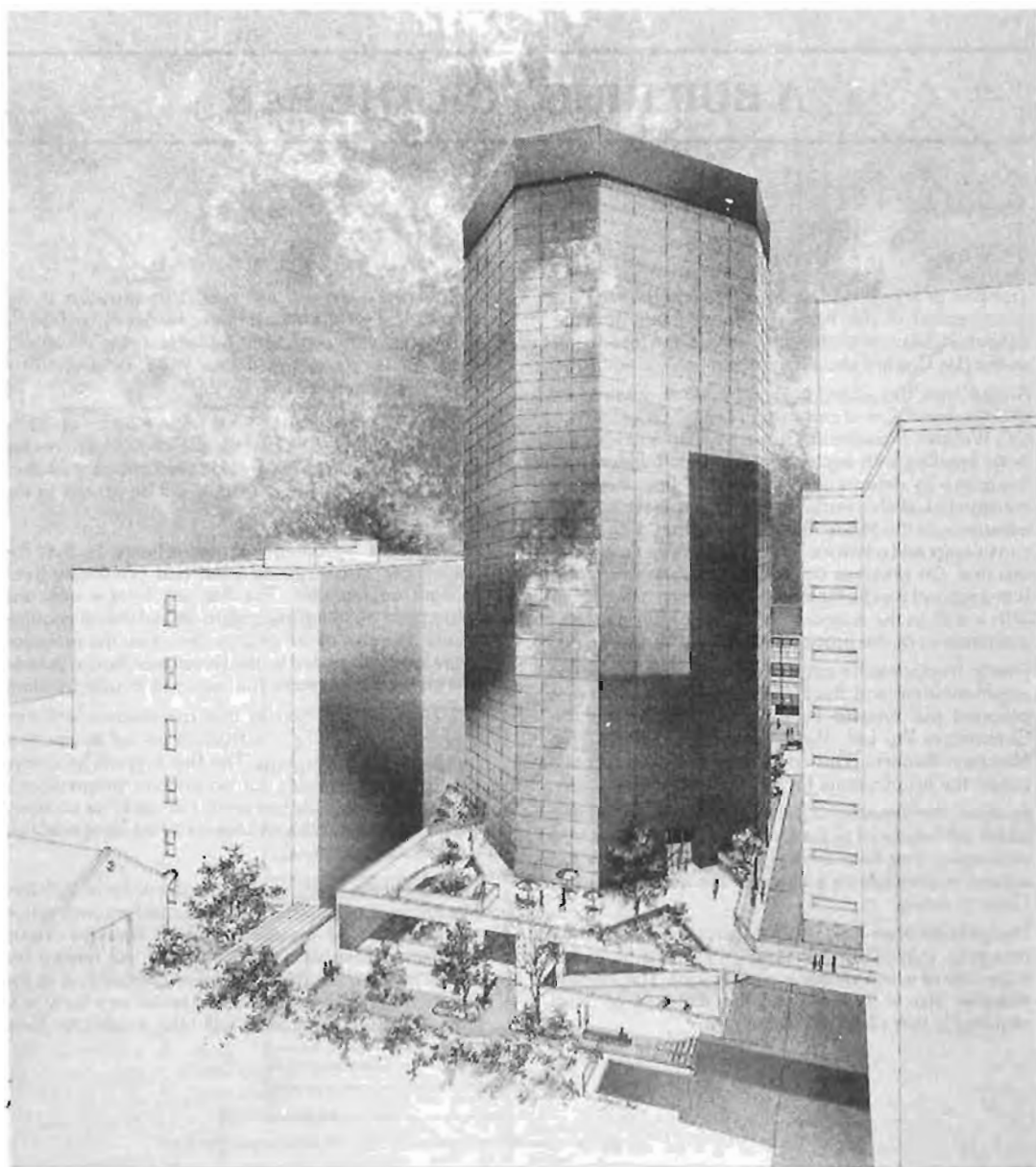
On a more pedestrian level:

Griffith was admitted to practice in 1964. He signed the Bar Roll in June of that year and read with Hulme. He had four readers Lewisohn, Karkar, J. Santamaria and C.F. McMillan. He took silk in 1981.

Eds.

Victorian Bar News

A BUILDING FOR THE BAR



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A BUILDING FOR THE BAR

The Bar in a poll held in May 1982 authorised the development of the ABC site by mortgage finance, debenture finance, strata titling, or sale and lease back, as the Bar Council should approve.

Armed with this authority a Committee, chaired by O'Callaghan QC and comprising Liddell QC, Chernov QC, Webster, Finkelstein, Gunst, Lewitan and Isles has been meeting with aspiring developers, builders and financiers to determine how the building might be constructed. In this work the Committee have had the assistance of the McLachlan Group, a firm of property consultants and advisors. The task has been an enormous one. On previous occasions it has seemed that a firm proposal was forthcoming, only to see it disappear with a shift in the economic climate or after a careful examination of the proposal itself.

Finally, from a much narrowed field, the Committee has recommended, and the Bar Council has accepted, a proposal put forward by a consortium of Leighton Contractors Pty Ltd, Builder and Schroder-Darling, Merchant Bankers. This consortium has only recently joined the list of suitors for the Bar's favour.

In short, the proposal is for a twenty storey building which will be joined to the Owen Dixon Chambers by a walkway at first floor level. The State of Victoria has agreed in principle to a link with the existing County Court building.

Design is still at an early stage. A typical floor plan of the octagonal shaped building is for 28 rooms arranged in suites, 26 of which will have natural light. The average chamber size is 22.8m², and the standard of finish required is that of Aickin Chambers.

Schroder-Darling and will sub-let to barristers in the normal way. At the end of this term, Schroder-Darling will receive either two fifths of the increase in value of the property or a further 40 year lease, at the option of Barristers Chambers Ltd.

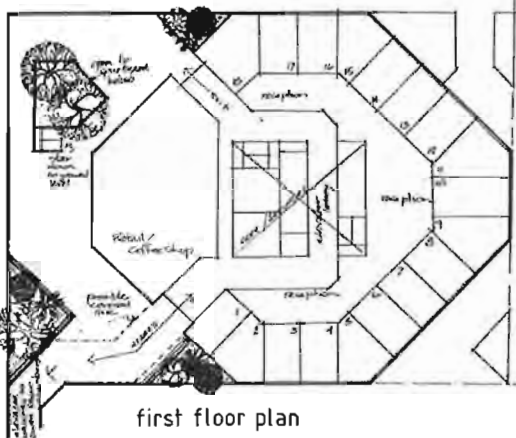
O'Callaghan emphasises that, while a letter of intent has been issued by the Bar, the project still requires the preparation and agreeing of detailed contractual documents before free champagne will be on tap in the Essoign Club.

The evident advantage of the scheme is that the Committee has achieved what had previously been thought unattainable. The Bar will have a new and prestigious building tailored to its individual requirements. The cost of the project other than the provision of the land is provided by the Developer. And at the end of it all, the Bar remains the owner of its own building.

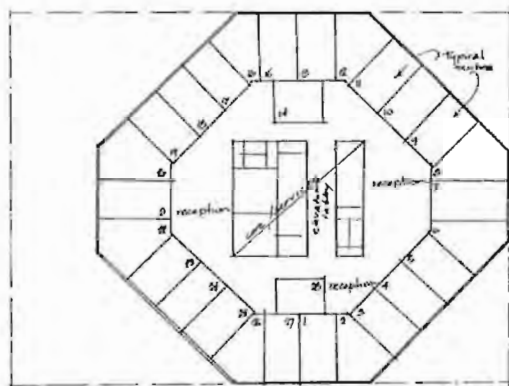
The consortium proposes that construction will start later this year with a construction period to practical completion of 19 months. The Building will be completed and be available for occupation progressively. The current timetable has levels 1-5 ready for occupation in November 1985 and the whole building available by 15th April 1986.

The cost of the building will be in the order of \$25.5m. The financial proposal is that the funds for construction will be provided by the Merchant Bankers. Upon completion, Barristers Chambers Ltd will remain the owner of the freehold. It will lease the building to the Merchant Bankers for a nominal rental on a forty year term. Barristers Chambers will take a sublease from

BARRISTERS CHAMBERS LTD.



first floor plan



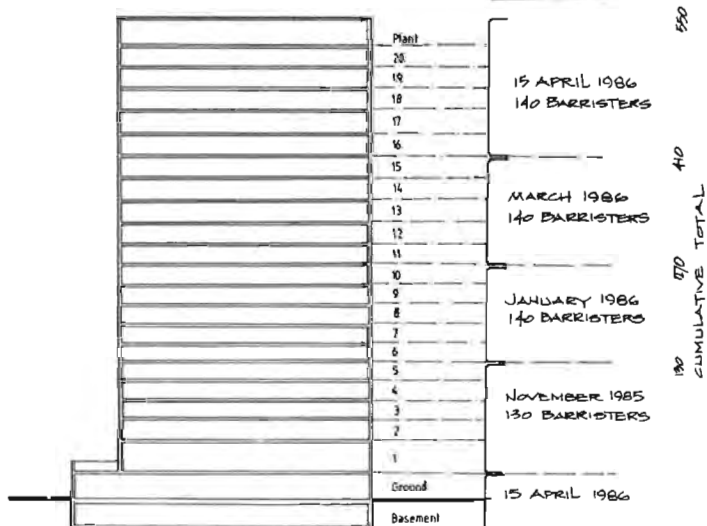
typical floor plan

TARGET COMPLETION DATE - 15th APRIL 1986

ASSUMED CONSTRUCTION START - 1st SEPTEMBER 1984

ASSUMED LETTER OF INTENT - 6th APRIL 1984

ANTICIPATED HANDOVER
OF FLOORS TO B.C.L.



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1984 — A CENTENARY YEAR

1984 is the year of the Rat for the Chinese. For the Jewish calendar it will see the year 5745, for Moslems the year 1405, for Buddhists the year 2527, for Hindus the year 2041, for Baha'is the year 141 only. For the Legal Profession in Victoria, and for the Victorian Bar in particular it is a centenary year.

On 15th February 1884 the new Supreme Court Building was first used as a Court. Contemporary accounts of this event have been reproduced in this edition of **Bar News** at pages 18 and 22.

The centenary of this event was marked by a formal sitting of all the judges of the Supreme Court in the Banco Court on 15th February 1984.

Meanwhile, on 12th February 1884 there occurred an adjourned meeting of barristers in the Colony of Victoria, convened by the Attorney-General, Mr Keford. The object of the meeting was "to consider the position of the bar and (if necessary) to appoint a committee to draft and submit regulations for the guidance of members of the bar in their relations with solicitors and the public". ("The Age" 13th February 1884). The meeting resolved to appoint such a committee and eight barristers were elected. The meeting also considered whether there should be some ceremony in connection with the forthcoming opening of the new Supreme Court building. But, typically, "nothing definite was decided."

On 10th July 1884 a further meeting of barristers was held. (Dean: Multitude of Counsellors fixes the date as 17th July 1884.) At this meeting the report of the committee was accepted and the Bar adopted Regulations establishing a Committee of Counsel and governing its professional conduct. This committee is the forebear of the Victorian Bar Council. This meeting marked the establishment of the Victorian Bar.

The Victorian Bar will celebrate the centenary of its establishment in a number of ways:—

- In early 1985 in conjunction with the 150th Anniversary of settlement in Victoria the Bar will hold centenary religious observances.
- On Monday 5th November there will be a formal Centenary Dinner at the Moonee Valley Convention Centre. The Chief Justice of Australia will be the guest speaker.
- A bottle of 1884 port has been purchased and will be raffled in connection with the Centenary Dinner.
- On 18th July at Wilson Hall in the University of Melbourne the Governor-General will deliver the Bar Centenary oration.
- From 30th April to 5th May talented members will present the 1984 Centenary Bar Revue at AMP Theatre.
- Photographs will be taken of all members of the Bar and will be available for sale as a souvenir of the centenary.
- A special centenary edition of **Bar News** will be published in November.
- The establishment of a Bar Centenary scholarship is being discussed by the Bar Council. As yet nothing definite has been decided.

ETHICS COMMITTEE REPORT

Since last reporting the Committee has conducted a number of hearings concerning alleged disciplinary offences by Counsel. Three of the complaints were dismissed.

Two hearings at which the offences were found to be proved may be briefly summarised as follows:—

- (a) Improper conduct in court by the use of offensive language by Counsel for the Defendant directed at a Sergeant of Police in a Magistrates' Court (during the conduct of the case after Counsel had completed his cross-examination of the Sergeant) — Cautioned.
- (b) Improper conduct in court by the use of offensive language by Counsel for the Accused concerning Police evidence (during a discussion with the trial Judge in the Supreme Court concerning the duration of the trial) — Cautioned.

The VICTORIAN BAR presents
The 1984 Centenary Bar Revue
**"THE LIFE AND TIMES OF
JUDGE JOHN DOE"**



Directed by: **SIMON K. WILSON**

Written by: P.D. Elliott, D.M. Salek, S.K. Wilson & S. Cooper

AMP Theatre
Cnr. Bourke & William Streets
Melbourne
Bookings Telephone:
651 2764 Seats \$15.00

Mon 30 April to Sat 5 May 1984

Gala Nights
Mon 30th Apr, Fri 4th & Sat 5th May

Seals \$15.00 Gala Nights
Chicken & Champagne
Dinner

WHAT THE CRITICS SAY

"Deep and Meaningful."

Lewitan

"Fabulous."

A Member of the Bar Council

"I laughed 'till I was sick."

Pope John Paul II

"A man's an animal. I admit it's scurrilous rubbish."

S.K. Wilson

"I laughed 'till I was sick."

Beverley Vaughan

"A pertinent commentary on the human condition, which combines gentle humour with trenchant criticism of some of the law's failings."

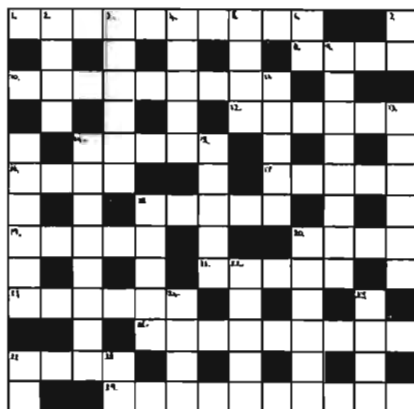
Peter Jones

"Bonzer Show!!!"

Searby QC

**This show will not go on circuit
so be sure to book early.**

CAPTAIN'S CRYPTIC No. 47



ACROSS

1. Local boy who made good (8,1,1)
8. The case that won't settle (4)
10. Our obligation to the butcher or drug pusher (5,4)
12. Goes round (6)
15. Taco eating peasants (5)
17. Randy ram holds water (4)
18. Ill treat (5)
19. Australian Treat (5)

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20. It comes forth from pleadings (5)
21. Just desert (4)
22. Worms watch out for this bird (5)
24. Twixt earls and churls (6)
27. Swinging Science (9)
28. Encounter something appropriate (4)
30. Could be bricks (10)

DOWN

2. What Hanrahan feared (4)
3. Keeper (6)
4. Short man to our North (5)
5. Adenoidal Latin is a bum (4)
6. Vice-Regal galloper (1,1)
7. Ambiguous alternative (2)
9. De mortuis nil nisi bonum (8)
11. English Shout (5)
13. Firm (6)
14. Ancient probate duty (6)
15. Convince the unconvinced (8)
16. A profane witness did it (5)
16. A profane witness did it (5)
19. Prosecutors don't like to do it (5)
21. Old boys (6)
23. Gelded singers (5)
25. Pack up (4)
26. Adorable object (4)
28. Sounds like Italian mother goats do it (2)
29. Thank you, sailor (2)

Solution page 34

The Bar on a New Line

Shortly after Easter the Ericsson Technicians will begin to connect the new computerised telephone system which will serve the whole Bar in all its locations. This will provide the Bar with one of the most sophisticated and modern communication systems in Australia. It is being introduced in four stages.

Stage 1 — Installation

This involves the replacement of existing cabling within the buildings and the installation of the system hardware. It has been going on since January when the old intercom system was disconnected.

Stage 2 — Cut-over

This is the progressive disconnection of the existing system and the connection of all phones to the new equipment. The change-over is planned to take place between April and May this year.

Existing handsets will be retained but they will provide a great many more and more efficient features than at present.

The following are the principal features of the Stage 2 system —

(1) Telephones.

The new telephone system utilises DTMF signalling (Dual Tone Multi Frequency). This signalling method allows for increased speed of dialling — no need to wait for each digit to click over. Different tones will be heard from the system in line with international standards.

(2) Individual Telephone Numbers.

Each subscriber will have his own telephone number which may be dialled direct from outside. The numbers will commence 608 followed by four digits. The following are examples of the new numbers.

608 7000 Clerk C
608 7111 Barristers' Chambers Limited
608 7222 Clerk B (B.G. Stone)
608 7333 Clerk S (K. Spurr)
608 7444 Clerk M (H.D. Muir)
608 7555 Clerk H (J. Hyland)
608 7666 Clerk R (R.J. Howells)
608 7777 Clerk F (K.J. Foley)
608 7888 Clerk W (W.R. Duncan)
608 7999 Clerk D (P.R. Dever)

(3) Abbreviated dialling.

A number of commonly dialled outside telephone numbers will be included in a list of four digit

numbers which will be circulated to the Bar. By dialling four digits you will be able to telephone these numbers. This will be a saving of time, particularly for interstate and country calls.

(4) Direct Incoming Calls.

It will no longer be necessary for incoming calls to pass through the Clerks' switches. Calls may be received after business hours without special night lines.

(5) Direct Outgoing Calls.

Barristers may phone out of the system by dialling the prefix 0 and then the normal telephone number, or the abbreviated number where appropriate. For metering purposes, STD and ISD calls must be placed through the clerk as at present.

(6) Direct Internal Calls.

These are made by dialling the individual four digit number — the subscriber's normal number, but omitting the 608. Thus any Barrister may phone Clerk M by dialling 7444. Internal subscribers may also be contacted by diversion from another subscriber.

(7) Diversions.

The system has capacity to enable incoming calls to be diverted to another subscriber. Thus if a solicitor phones a Clerk he may be transferred to any other phone, including another Clerk or a barrister on another list. It will be possible for a barrister who has no secretary to programme a diversion so that when he is not in Chambers any incoming call passes direct to another barrister. This facility will also enable a barrister, who is temporarily absent from his room but in the room of another, to divert incoming calls to the other's phone.

(8) Secretaries.

Existing secretary interception of incoming calls will remain.

(9) Conference Facility.

The new system will permit three parties inside or outside the system to speak together.

Stage 3 — New Handsets.

In September 1984 the existing handsets will be removed and replaced. Most subscribers will have the choice of three sets, to be provided by Ericssons, the conventional Pots phone, a Nitsuko phone and a Courier phone.

(1) Pots Phone (Plain Old Telephone Set)

This is more or less the conventional phone, rather similar to that presently issued by Barristers Chambers Limited but with a push button keypad in lieu of rotary dial.

(2) Nitsuko Phone.

For an extra cost of about \$400 all subscribers, may have this Japanese produced set.

In addition to the normal dialling facilities of the Pots phone this set provides the subscriber with time display, calculator, loud speaker to enable conversation to be broadcast throughout the room, a memory for 16 frequently dialled numbers and the capacity to retain a further 40 numbers.

(3) Courier Phone.

For an extra cost of about \$700-800, subscribers, other than those in Tait Chambers and Seabrook House may have this Swedish produced set. This set is designed specifically for the telephone system which the Bar has purchased and is recommended by the Bar's consultants.

The Courier phone has the capacity for secretarial interception, loudspeaking function, hands free usage and also can receive two incoming calls at once. Thus if you are receiving a call and a second call is received, you may put the first call on hold while you speak to the second caller. Extra features built into the Courier include Individual Speed Dial, Message waiting indicator, external number redial and direct intercom link.

Stage 4 — Call Accounting

In early 1985 software will be provided to enable direct metering of STD and ISD calls. Thereafter it will be possible to make these calls direct without the intervention of the Clerks' switchboards.

General

Doubtless there will be teething problems, but it is hoped that the changeover will be relatively painless. In the event of any difficulties it is suggested that enquiries be made in the first instance of your Clerk's telephonist who will have received additional training in the new system.

To instruct barristers and others involved, the Bar will hold in April lectures on the new system and demonstrations of its features. Further particulars of these demonstrations will be circulated.

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INSTITUTE OF ARBITRATORS

The Institute is holding its 1984 National Conference at the R.A.C.V. Building Queen Street on 25th and 26th May. All are invited whether or not they are members of the Institute. Papers to be presented include:—

The Role of Counsel in Arbitrations

— **Charles Q.C.**

Frustration — **Mr. John Sharkey**

Commercial Disputes and Arbitration

— **Lord Roskill**

Fact finding — **C.L.D. Meares Q.C.**

Advocacy Arbitration, Adjudication

— **Chief Judge Waldron**

There will be a formal dinner at the Regent Melbourne Hotel, on Saturday 28th May.

Registration Fee: \$200 (\$250 for non-members)

Enquiries: Mr. H.C. Ambrose, F.C.I.S., Chapter Administrator, Institute of Arbitrators Australia, 450 Little Collins Street, Melbourne.

STATE TRIALS AND PROCEEDINGS FOR HIGH TREASON

A complete set of the above work of eleven volumes in mint condition is available for sale. It deals with the major treason trials from 11 Rich 2 to 2 Geo 3.

Enquiries should be directed to Mrs. E.I. Sykes, telephone 329 7649.

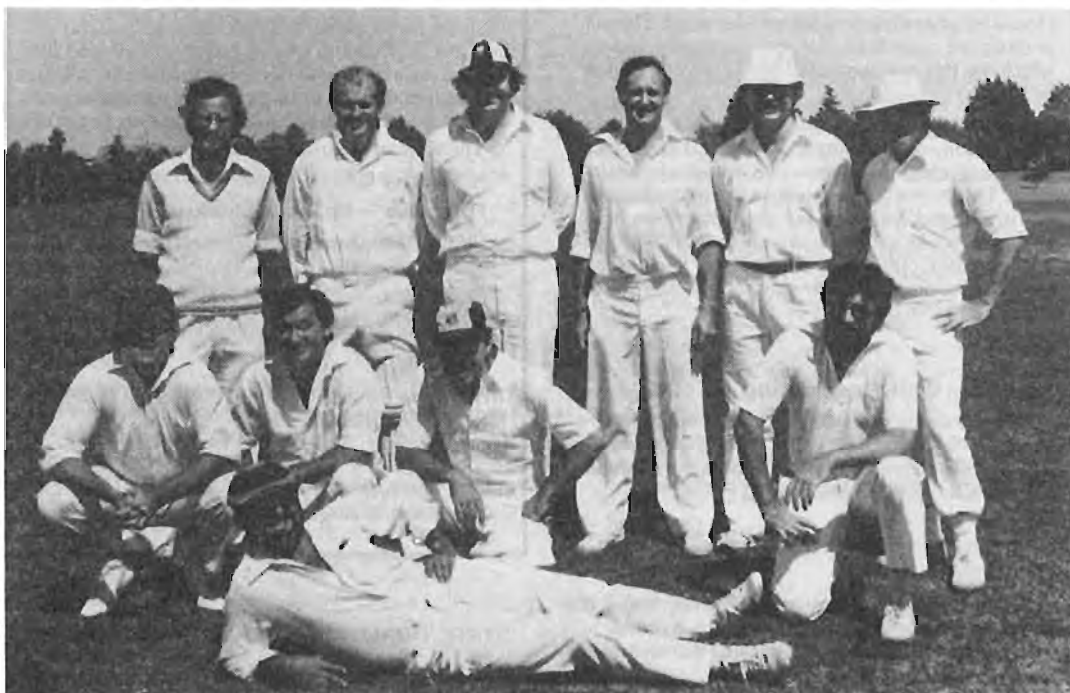
MATCH AGAINST N.S.W. BARRISTERS

The day dawned bright and clear for the Annual Cricket Match between the Victorian Bar and the N.S.W. Bar. Melbourne had certainly turned on the weather for our visitors. The home team confident after its success in Sydney in the Inaugural match held last year, became more confident when the message came from Sydney that the Sydney team was embarrassed by a lack of talent. Who would believe a Barrister, let alone a N.S.W. one?

Our Captain, Gillard QC, won the toss. Taking into account what the N.S.W. Organizer had told him, namely "go easy on us" and because there was a suggestion of moisture in the wicket, he decided to send

the opposition in to bat. His decision reaped early dividends. After six overs the opposition were 3/6 due to some very fine bowling from Chancellor and Connor. Faced with the early disasters, the N.S.W. batsmen set about consolidating the innings. Messrs Collins and Hamman batted slowly and carefully, and took the score to 40 before Mathews chipped in to remove the stubborn Collins with a well flighted "donkey drop". Collins was well caught in the out-field by McTaggart. As Collins had proven the thorn in our side last year, there was much elation upon his dismissal.

In the last over before lunch Moyle, obtained his second wicket ever, when he removed Kennedy (Moyle's first



SYDNEY BAR

Back Row: Peter Maiden, Larry King, John Ireland, Tony McQuillen, Peter O'Connor and Graham Little.

Centre Row: Bruce Collins (Captain), Stirling Hamman, Ben Ingram and Des Kennedy.

Front: Tim Poulos.

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MELBOURNE BAR

Back Row: Tony Neal, Colin Moyle, Michael Gregurek, Brian Nettleford QC (Team Manager and Umpire), David Kendall QC, Peter Couzens, Simon Wilson, Bill Gillard QC (Captain) and Bruce McTaggart.

Front Row: Steven Mathews, Rob Dyer, Chris Connor, Geoff Chancellor and Elizabeth Murphy (Umpire).

wicket was in Sydney last year). The home team went to lunch with the opposition 5/76 after 31 overs and things were certainly looking good. A catch taken before lunch by Couzens, the Bar wicket keeper, has been nominated for "classic catches."

After lunch things went wrong. Sympathy for our visitors overtook a determination to rub their noses in it.

Wilson was permitted to bowl 4 overs (which bearing in mind his size were not too bad) and the return of Chancellor and Connor to the crease was delayed. The result was that the N.S.W. team managed to make an additional 76 runs in 14 overs to declare at 8/152.

Chancellor got 3/33 and Connor got 3/35 off 13 overs each. Stirling Hamman topped scored with 55 and he

was ably supported by Larry King who made 31 for the opposition. Both batted very well.

The social match atmosphere which had pervaded the game after the luncheon adjournment ceased when the N.S.W. bowlers got under-way. Their two opening bowlers (indeed their only bowlers) bowled 21 overs on end and managed to capture the 6 best Victorian batsmen. After a sound start of 38 put on by Connor and Couzens, the home side collapsed. They lost their next 5 wickets for 30 runs to be 6/68. The home side eventually made 96 runs. The top scorer was Chris Connor who made 21. His controversial LBW decision did not assist the home team's chances. He was given out by Elizabeth Murphy, of our Bar and a friend of Connor (a former friend). She was adamant he was plumb. He was equally adamant that it would have missed the leg stump by a foot!

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The losing side has little to talk about. Indeed the only highlight of the game as far as they are concerned was the reaction of Peter O'Connor playing for N.S.W. to the question put to him by the umpire, Nettlefold QC when he arrived at the wicket — "what do you want?" O'Connor dangling his bat in the vicinity of the popping crease said "what do you mean what do I want?" In the end he did not get anything and was bowled first ball! He later confided that it was his first game for some 20 years. Chris Connor received a bottle of Port for being adjudged the 3rd best player. The other two came from N.S.W.

A dinner was held in the Essoign Club on the Saturday evening and it was a great success. A trophy was donated by Chancellor. It comprises one very old cricket bat owned by Chancellor and used by him as a school boy. It has a very tattered red handle and is endorsed on the back with the autographs of Australian

and Indian sides of many years ago. It is unfortunate that the trophy will reside in Sydney for the next 12 months.

Although the home side was out-foxed by the visiting side, a very enjoyable day was had by all. The Victorian organizers thank the wives who assisted with the lunch and dinner and also thank Michael Adams for his considerable organization of the evening festivities and his cooking skills. We also thank the two umpires Nettlefold QC and Elizabeth Murphy. The idea has been mooted that the two teams should meet in Albury next year. It is hoped that the weekend be expanded into a sporting contest involving the two Bars.

E.W. Gillard QC
(as told to "Four Eyes")



Autumn 1984

“THE NEW MELBOURNE LAW COURTS”

From “The Australasian Sketcher”
12th March 1884.

The costly decoration of the interior of the new Law Courts has been one of the main causes of delay in the completion of the building. In addition to this the original plans have been considerably modified from time to time to suit the requirements of those most interested in making the accommodation as perfect as possible, so that even now, after so many years of labour, the fittings and furniture of the different courts are in anything but a fit state for practical use. The ramifications of the building are most intricate, and the public will have great difficulty in finding their way through them. Corridors leading to vestibules, vestibules branching out into new passages, passages terminating at doors and doors opening to fresh complications, confuse one, and leave the mind in a state of chaos. Once in the maze the difficulty is to get out again. To find any particular room or court is almost an impossibility. There are no landmarks to guide one. The doors are all of a pattern, the passages are duplicates of each other, while the endless stairs give no promise of leading to anywhere but the dome or the underground cells. By the assistance of a guide, the visitor is enabled to get at some of the principal chambers, and when there, he is rewarded for his trouble by the elaborateness of the furnishings. On the ground floor are seven out of the eight courts included in the building, these being the Banco Court, the Equity Court, the County Court, the two Nisi Prius Courts, the Insolvent Court, and the Central Criminal Court. The Practice Court is on the first floor.

Commencing with the Central Criminal Court [now the Fourth Court], which is at the north-east corner of the building, and adjoining Lonsdale Street, one gets a good idea of the style in which the various courts are fitted up. It was at first designed for the County Court, but it was afterwards found expedient to devote it to the hearing of criminal cases. Its dimensions are 50ft x 50ft, its original size having been reduced by 6ft on either side. The judges' bench is a finely carved and imposing structure and polished cedar. In front of it is the desk of the associate, and below this again are the table and seats for the use of members of the bar. Opposite to the bench is a high and commodious gallery, for the use of the public, capable of holding about 150 persons, and its front edge is supported by columns faced with polished Keen's cement. The ceiling is elaborately moulded in panels and bays.

To the right of the bench is the jury box, also constructed of polished cedar. The fault found with it is that it is too high. It is on a level with the desk of the judges, and consists of two rows of seats, the one behind being slightly raised. The barristers will have some difficulty in seeing the faces of the jurymen. When both are seated the barrister will just be able to see the colour of the hair of the rearward row of jurymen, while the latter must be content to view the top of the lawyer's wig, and thus that subtle play of feature with which some pleaders are wont to accompany the statements of a learned brother will be altogether lost.



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The table at which the bar will sit is furnished with drawers, but by some curious freak, only each alternate barrister will be able to use them, the intervening spaces consisting of similar drawers opening out on the opposite side of the table. This is unfortunate, and may lead to some quibbling about positions when there is a large attendance of the legal fraternity. The seats for the press representatives face the jury box, and are therefore on the left of the bench. They are lower than either jury or barristers, and though very comfortable, have a marked defect in the absence of drawers altogether. Possibly it is not too late to supply them in this, as in the other courts.

The walls are lined with kauri pine for a height of about 12ft, and above that there is Keen's cement columns and recesses pleasantly varying the monotony of glistening white. The dock is situated at the back of the barristers' seats. The chief feature about it is that at one corner is the top of a stone staircase leading down to the cells. This will enable prisoners to be brought into court without coming near any of the public. At present the interior of the court is tenanted by workmen who are busily painting and screwing and hammering in preparation for the opening of the building. Nearly all the polished wood is covered with holland as a protection from dust, and the floor is strewn with planks and the general debris created by workmen. The seats when finished will be covered with dark blue morocco cushions, and the barristers will be provided with comfortable stuffed chairs. The jury room leads out of the court on the right of the bench, and is not a very large apartment. Its only window opens on the right-of-way running along the eastern wall of the building, and unless carefully guarded may be made use of as a means of communication between locked-up jurymen and their friends outside. The retiring room for the judges is behind, and above the bench, and when properly furnished will no doubt be a pleasant retreat. The ventilation of the court and the rooms all through the building is accomplished by means of many openings in the wall, some being near the floor and others near the ceiling. An experiment is to be made with the view of creating currents of air in an open shaft in which gas will be kept burning, but the trials of the apparatus have not, up to the present, been sufficiently marked in their effects to enable one to conjecture what degree of success will be obtained.

The first Nisi Prius Court [now the Third Court] is also on the Lonsdale Street side. It is 52ft x 35ft in size, and in general arrangement it is very similar to the one just mentioned. The jury are again perched on high, the reporters are again down below, and the barristers are once more limited in their view to a fraction of the rear row of jurymen. A prisoner's dock stands at the back of the court, opposite the judge, in order that criminal business may be taken here if need be. The jury-room is much



DEAR ME I WONDER WHAT
KIND OF COURT THAT IS?

better than that adjoining the Criminal Court, and is quite protected by its position from any chance of communication with the outside. This court is very much like the second Nisi Prius Chamber [now the Second Court], except that the latter has no dock. Both are furnished with small but convenient robing and retiring rooms for the judges, and both have the same aspect to Lonsdale Street.

The Equity Court [now the Twelfth Court] and the County Court [now the Eleventh Court] occupy positions analogous to the Nisi Prius courts, on the little Bourke Street side. The first mentioned has been reduced in size, like the Criminal Court, which it strongly resembles, and is provided with a jury-box. There consultation and retiring rooms adjoining and the same conveniences for the judges, the bar, and the press as in the other courts.



TAKING IN JUDGE MOLESWORTH'S
LIBRARY.

Leaving this court the visitor enters a labyrinth which may puzzle many in the years to come. On the right of the corridor along which he walks are interminable rows of doors which lead into the room intended for the occupancy of the court officials. Peculiar windows are found in dark places, where they can give no light on either side. In some cases a door may be opened and a small low-ceilinged crib discovered, the existence of which can only be explained by the statement that "it was left by the design, and no use could be made of it." It is fortunate for future generations of litigants that the Law department has decided to approve the fixing of signs and directions round the walls. A contract has been left to Messrs. Patterson Bros. to supply these necessary indications at a price of £78 10s. If the dark ways and doubtful windings of the

courts can be intelligently followed after the expenditure of this sum, a boon will be conferred on the community. At present a visitor would hail with a deep sigh of relief a finger post telling him that he can get "This way out."

After passing along one of the corridors to its end a vestibule is reached. Four of its eight sides lead away into new paths and above is a gallery protected by handrail. From the dome hangs a gasolier with five globes, a paltry-looking source of illumination, and below are similar gas jets projecting from the walls. The County Court is the same size as the Equity Court, and its internal arrangements are similar, with the exception that, at the suggestion of Judge Cope, who will sit here, the jury-box has been so altered that every man in it will be easily seen by the

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barrister. At the back and on each side of the judge's seat are two projecting cornices, each forming a sharp angle. These are to support curtains, though for what purpose has not been ascertained. The gallery is at the top of a white wall facing the bench, and the latter is different from those already described in having no overhanging sounding-board.

The **Banco Court** [now the first Court] is at the north-west angle of the buildings, at the corner of Lonsdale and William Streets. It has a jury-box, which may be used when there is necessity, and a jury room though as the latter is not likely to be much required, the communicating stair between it and the box has been removed. In an adjoining corridor are rooms for the accommodation of both male and female witnesses, a convenience which will no doubt, be very highly appreciated.

The only remaining court on the ground floor is the **Insolvent Court** [now the Tenth Court] at the south-east angle or corner of Little Bourke Street and the right-of-way. This is the barest court of all. There is no sounding-board above the judge, the walls are not lined with pine, and the ornamentation is less than in the other courts. It is also smaller, its dimensions being 36ft x 27ft.

After being blindly led through dark alleys, groping up along stone staircases, and passing round many turnings until all reckoning is lost, the visitor comes at last into the **Practice Court** [now the Thirteenth Court] on the first floor. It is situated at the south-west angle, which is the corner of William Street and Little Bourke Street. Its interior is the most tasteful and attractive of any. A good light finds admission through three good sized windows at the back of the bench. The latter is different from the others from being only slightly raised, and in having no great framework of cedar behind it. A long desk at which the judges will sit runs between the two sets of white pillars, and in front are a series of seats for the barristers. The dark rich wood contrasts strikingly with the whiteness of the walls and ceiling and there is a carpet to deaden the foot-fall. It is worth mentioning that this is the only court supplied with gas, which is all the more remarkable, inasmuch as the business done here is likely to be finished by noon each day. Gas piping is laid on to all the other courts, but by some strange oversight, no gasaliers or branches have been put in.

In addition to the chambers and rooms mentioned, there are strongrooms with slate shelves, cool and spacious robing rooms for barristers, waiting-rooms, officers' rooms, consulting rooms and rooms of no description at all, scattered about in profusion, but how to describe their position would be impossible without a plan — coloured,

drawn to scale, and marked in plain figures. Refreshment rooms are situated on the ground floor. They are fine, well-ventilated apartments, and will no doubt be largely availed of. At present they are intended for the use of barristers and solicitors only, but it is understood that refreshment rooms for the public will also be provided.

In the centre of the block of buildings, and surmounted by the immense dome which is such a conspicuous object from all side of the city, stands the **Library**. It is surrounded and separated from the other portions of the building by a courtyard, the rough cube sets whereof will give many a painful twinge to the tender feet of patiently-waiting clients. The interior of the library is octagonal, and on the sides of the central space are recesses and rooms, in which books of the various courts will be kept. There are two stories and a gallery runs round the octagonal space at the second floor, protected by a very handsome cast-iron balustrading. One of the recesses spoken of is taken up by a lift, which will be used for the purpose of raising books to and lowering them from the second story, and another is used as the landing of the stairs by which this part of the building is reached. The ornamentation is elaborate, but little of it can as yet be seen to advantage, as the workmen are very busily engaged upon putting in the fixtures.

(Drawings by King after the originals in "The Australasian Sketcher")

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HUMILITAS EST RES BONA

Preoccupied members of Counsel rushing up the stairs to the Seventeenth and Eighteenth Supreme Courts may be forgiven for not noticing the following uplifting maxims engraved on the glass windows of the landings. For the benefit of those whose Latin is rusty, we provide translations.

LEX SEMPER DABIT REMEDIUM

(The Law will always grant a remedy)

LEX DEFICERE NON POTEST IN JUSTITIA
EXHIBENDA

(The Law cannot fail to do Justice)

LEX NIL JUBET FRUSTRA

(The Law commands nothing in vain)

“OPENING OF THE NEW CENTRAL CRIMINAL COURT”

from “The Argus” 16th February 1884.

The new Central Criminal Court, Lonsdale Street west, was used for the first time yesterday, 15th February 1884, when the Criminal Sessions commenced. The occasion constituted the real opening of the Law Courts, as it was the first on which Supreme Court business was transacted in them. It was, therefore, generally believed that there would be some sort of impromptu inaugural ceremony, and that the judge and bar would be complimentary to each other in commenting on their new surroundings. The possibility of such a thing had the effect of attracting large numbers, not only of professional gentlemen but of the ordinary public, and before 10 o'clock in the morning the court was thronged with people. Every seat was occupied, and even standing room became a luxury to be envied by those who, with half-dislocated necks, were straining on tiptoe in the portals to see what was going on. There were many people there who had serious business on hand; there were many whose business was apparently of the most whimsical kind, judging by the perpetual smile which they affected, and there were many more who had no business there at all, as was evident from their vacant receptive countenances, and the stupefied stare which they directed on all around them. The bench, of course, was untenanted. The hour had not yet arrived for the appearance of his Honour Mr. Justice Holroyd, but the furniture underneath the canopy showed early signs of change at his Honour's direction. The thronelike structure which the judge is intended to occupy is of magnificently carved and polished cedar. The ornamentation is all designed on one comprehensive pattern, and where such unity is aimed at it is evident that the chair intended for his honour must not clash with the harmonies. The new chair is a thing of beauty from an artistic point of view, but it has its disadvantages. Its back is too rigid and upright, its legs too long, its arms too square, and its cushions too slippery; it will neither lean back nor come forward, and as to balancing it on one leg, the thing is impossible. The most casual occupant of a chair must recognise the importance of these disabilities. His honour did so on his first trial of the massive structure, and yesterday morning his cosy old oval-backed chair was stationed in the central position while the new and uncomfortable piece of grandeur was relegated to one side, where it looked magnificently insulted. The associate had no choice but to use the seat prepared for him. It is built into the desk, and cannot be

replaced by one more comfortable. The members of the bar, with their wigs and gowns, were present on the scene as soon as anybody, and, according to their usual custom, they spread their briefs, and bags, and hats over the table in wild profusion, and in five minutes appeared as much habituated to the place as if they had practised in it all their lives. They tested their new chairs in every variety of position before finally settling down to enjoy the comfort of them, and there was also a good deal of unnecessary opening and shutting of the table drawers. The officials of the court blossomed forth in all the splendour of new uniforms, the crier being conspicuous by reason of his elevated position and his severely judicial cut of feature. The sheriff was not so conspicuous. Sitting in his little dock to the left of the chair, he is in such a position as to be almost invisible. The judge cannot see him, nor he the judge, except when he stands up, and then his head appears like an awful apparition just above the level of the desk at which his honour writes. If the idea has been borrowed from a pantomime, it must be regarded as having been successfully carried out. The designer of this portion of the court must have had the special convenience of the late sheriff, Mr. Farie, who was 6ft. 4in. in height, in his mind's eye. He certainly has done nothing to add to the dignity of the present sheriff. The members of the press soon filled the few seats allotted to them at the extreme left of the bench. Accommodation is provided for only six reporters, but eight or nine managed with difficulty to find room. Entrance to the front row of desks is only obtainable from one end, and the restless scribes soon discovered this to be a great flaw in the arrangements made for their convenience. They also complained loudly of the want of drawers, in which to store their precious notes and papers, and were thereupon ready to vote the new court but a slight improvement on the old one. They found further that the back row of seats was unfurnished with ink pots. This was regarded as an unpardonable piece of neglect, and their lamentations were increased when later in the day one unlucky gentleman spilt the contents of an unstable ink pot, which he had borrowed, down his clothing. It is hoped that these defects will be remedied, as they easily can be. If they are not, the designer of them may confidently look forward to the horrible fate of being paragraphed to death by wild reporters. At the back of the court the seats provided for jurors and witnesses were

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crowded and the gallery above them was equally well filled by the "general public", which phrase, when mentioned in connexion with a court of justice, usually means a very mixed and often unsavoury mass of humanity. It was pleasant to observe that they were in a portion of the court where they had the advantage of the best ventilation, a by no means unimportant feature of their position. It cannot be said that the ventilation was an entire success. Yesterday the atmosphere soon became vitiated, and unless some more vigorous method of introducing currents of pure air than is now adopted can be made available, the prospect before those whose duty calls them frequently to the court is not a pleasant one. There is or ought to be a strong bond of sympathy between the public and the press. Neither of them was asked for a hint as to how they would like to be accommodated. Everybody else had a finger in the immense pie, and yet the result is such that not a man can be found to acknowledge that he ever suggested anything. All have become critics; there are none to defend a single charge against the court.

The prisoner's dock is a raised platform, enclosed by iron railings. At one corner of it there is a hole in the floor, which, on examination, proves to be the aperture leading into a sort of perpendicular tunnel with a winding stone staircase, opening at the bottom upon the prisoners' cells. The staircase is narrow, and not easy to climb. To stout prisoners it would prove a serious obstacle, and they might be pardoned for expressing a fear that they might be jammed between its walls. But perhaps the experience of those who deal with criminals is that few attain any respectable degree of rotundity, and that if they do, they ought to suffer for it as those who fatten on crime. It would be interesting to obtain trustworthy statistics of the girth of members of the criminal class. There is one object in the court which is anything but imposing. That is the gaselier. It is paltry in its smallness, and yet prominent in its position, for it hangs from the centre of the ceiling. If light is required, the gaselier will only serve to make darkness visible; if it is not required, it were better to remove the fixture at once. The same remark applies to the gas-fittings in the corridors. They are insignificant, and out of the proportion to their surroundings.

At 10 minutes past 10 o'clock, amidst a silence which the voice of the crier was not needed to produce, his honour entered the bench from a little door at the back. The bar rose, and a compact row of wigged heads bowed deferentially, the judge responding in like manner to the salute. A moment's pause occurred, while expectation was on tip-toe to hear the first official words which should agitate the yet unsanctified air of the court. His honour made no sign, and the bar had no nerve to speak. The associate was the only man equal to the occasion, and his first memorable words were, "Bring William George Clamp to the bar!" An officer in the dock dived down into the bowels of the earth by way of the stone staircase, and presently brought up from the underground dungeon, a

prisoner. But his name was not William George Clamp, and he was ignominiously dismissed to the regions below, amidst the unchecked titter of the spectators. The real William George forthwith appeared, and the business proceeded as smoothly as if the first event in the court had not been a bungle. Then the juries were called, and took their places in the double gallery, to the right of the bench, from which very elevated and airy post they at once obtained a magnificent bird's-eye view of the proceedings. When they stood up to be sworn, with their bibles in their hands, they looked so solemn that they might have been taken for a village choir about to sing a hymn. It was observed that they were sworn on the bibles of the old court. These ancient relics have been preserved probably on account of their good past service, but it should be remembered that while they may be held in veneration for the generations of kisses which have been imprinted on them, they are none the cleaner for their frequent use.

Once the real business of the day commenced, it was evident that the acoustic properties of the court were defective. Mr. Chomley, in order to address the jury, was compelled to turn his back on his brethren, the audience, and the press representatives, to all of whom his remarks were inaudible. A further illustration of the defect was afforded when the first witness began to give his evidence. He was a man with an ordinarily strong voice, but as he was separated by almost the entire width of the court from the jury, the latter could be expected to catch but few of his remarks. "Will you speak," said Mr. Chomley, "so that these gentlemen can hear you, please?" Attention having been called to "these gentlemen," they were found to have worked themselves into most uncomfortable attitudes in order to hear the witness. They were sitting sideways towards him, their best ears, backed by the palms of their hands, turned in his direction, and their faces wrinkled in a manner, painful to behold. But they soon gave up the attempt to hear everything, and presently leaned back, and assumed the stony inexpressiveness which usually characterises a British jury. By this time the court had got into full swing, and as there was no probability of anything turning up to vary the monotony, the crush of spectators began to abate, and the business to proceed in its wonted quiet way.

LAWYER'S BOOKSHELF

Sallman P. and Willis J: *Criminal Justice in Australia*. Oxford University Press. 240pp
Recommended price \$25 (hard); \$11.99 (limp).

Perhaps it's a bit like the other kid getting the cuts. That morbid fascination of the public for any media treatment of the investigation, prosecution, conviction and sentencing of other citizens who have become involved with breaches of the criminal law. After all, few become excited about the disposition of matters of Equity or Admiralty.

It is therefore a matter of some importance that all who bear a genuine but uninformed interest in the administration of the criminal law in this country (and, more parochially, in this State) have the opportunity to learn from academics and practitioners in the criminal law as much as possible about the system of criminal justice in Australia.

"Criminal Justice in Australia" does little to give this information. And sadly it does a great deal to mislead the uninformed reader into believing that the administration of criminal justice in this country is completely at odds with virtually every concept of fairness one can imagine.

The authors set out under the expansive title of this book to investigate and comment upon their perception of criminal procedure in five aspects namely:

- (1) criminal investigation;
- (2) pre-trial decision making;
- (3) the court hearing;
- (4) sentencing, and
- (5) the need for a national enquiry.

A review of this book cannot be made without being divided into the sections chosen by the authors. It is extremely difficult to carry out such a review without some nit-picking.

(1) Criminal Investigation

This chapter seems firmly predicated upon the proposition that "the police" are prone to misbehaviour at all levels of investigation in all cases. That tendency toward misbehaviour is based on the assumption that whatever they are prepared to say will be accepted by the courts at all levels. The courts, the authors tell us, ought to be on their guard when faced with

deciding whether or not to accept the evidence of "the police". Nothing comes from this part of the book as a fresh suggestion for overcoming the obvious difficulties faced by the community when a crime has been committed and the Crown case is predicated upon admissions made by the person who is eventually accused. The authors proffer the deep ultimate opinion that interrogations should be carried out in the presence of a legally qualified person and fully tape-recorded. It is a valid point as far as it goes but it makes no new offerings towards the solution of this well-known problem.

(2) Pre-trial Decision Making

The authors know that the Crown case in the criminal trial is shrouded in secrecy and shielded from public scrutiny. This is why, they say, they do not know what happens in either the decision making process or the exercising of prosecutorial discretion at apparently any stage between committal and trial. From that confessed state of ignorance they make sweeping statements about the role of the Crown and its officers including Prosecutors for the Queen and the Attorney-General. These allegations ignore for instance that in early January, 1983 a Director of Public Prosecutions was appointed in Victoria, with full powers from June, 1983, and that the role of Attorney-General and Solicitor-General as it had historically been exercised in the criminal process came to an end at that time. The "them against us" syndrome in which the authors play the role of "us" presented in this part of the book completely ignores, for instance, the existence of the Legal Aid Commission and the role of many competent counsel who represent individuals charged on indictment. That part of this chapter which is dedicated to the historical concept of the entry of a *nolle prosequi* is wholly based on mis-information. It thereby loses what could have otherwise been the opportunity for an intellectual discussion of the manner in which the Crown by its officers, Prosecutors for the

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Queen and the Director of Public Prosecutions should approach this decision making process. The authors fail to recognise that with the existence of the Director of Public Prosecutions in Victoria, pre-trial decisions made within the criminal jurisdiction are now to be seen to be non-political. Indeed the consideration of such a decision is made either on the application of those appearing for the accused or, as is often the case, at the instigation of the Crown itself. Furthermore, a number of pages of this section of the book are dedicated to the concept of what academics continue to call "plea bargaining", although a coy endeavour is made to refer to "sentence indication" — that form of consideration which many years ago may occasionally have involved the judge. Some few years ago one of the authors at least, was pedalling the same bike. A towelling at the hands of Dawson Q.C. and the decision in **Marshall 1981 VR 725** have not caused the slightest change in his direction. It astounds me to read these propositions as a virtual declaration of a conspiracy between the Crown on the one hand and ignorant, money hungry or lazy defence counsel on the other. The object of both, it is said, is to clear the criminal lists at all costs. Thus, innocent people are prevailed upon to plead guilty to offences that either they had not committed or that the Crown cannot prove.

Again the role of Director of Public Prosecutions is ignored and the very proper role played by the Legal Aid Commission, defence solicitors privately instructed, and Counsel briefed by the Commission and those solicitors are, by innuendo, insulted.

One supposes that the authors still adopt this stance because they do not want to be seen to retreat, notwithstanding its present inaptness.

No endeavour appears to be made by the authors to differentiate between the Commonwealth methods of prosecution and those of the various States. By virtue of the different codes, statutes and structures and preparation, prosecuting and sentencing processes do vary to a great extent. They have merely painted with a broad brush. The blemishes in their work are subsequently glaring, unfair and to a large extent unforgivable.

(3) The Court Hearing

In what the authors note to be the longest chapter in the book (61 pages) they endeavour to make an analysis of the whole of the process of trial by jury (though unable to resist another shot at plea bargaining). They look at the role of courts at various jurisdictional levels the difficulties faced by juries, (interspersed with an analysis of the problems created by judicial interpretations of the rules of evidence) the unreliability of confessional material and the role of the judge. They look at the standing within the criminal process of legal aid for accused persons. The topic undertaken is one which has occupied the minds of learned authors over the centuries and occupies mine now. Their treatment is patchy. It goes no further than shaking hands with the problems rather than grappling with them.

(4) Sentencing

After a consideration of some of the problems facing the judiciary in the difficult area of sentencing convicted people, the authors advise that many of these difficulties would be answered by the passage of legislation creating one statute containing the sentences appropriate or to be fixed for all crimes. A simplistic answer such as this equates the sentencing discretion with computer programming and must as such remove from the judiciary the right properly held to treat each case and each individual on his merits. I doubted that the authors could seriously be arguing such a proposition, even if such legislation were feasible, but they seem to.

(5) The need for a national enquiry

The authors suggest all answers to all problems in the administration of criminal justice in Australia, could be found by setting up a national enquiry into the administration of criminal justice in Australia. One is moved to ask the question "does everything deserve the punishment of being dealt with by the institution of a national enquiry?"

Conclusion

Should you buy? Don't bother.

DICKSON

THE JUDGES

by

Mr. Justice Michael Kirby
(Boyer Lectures 1983)

What is all the fuss about? Why did Connolly J. get stuck into Kirby J.? Should Kirby J. be defended? Or does a person whose reply (reported in *The Age* 24.3.1984) included the following "[it was] surely the heavy burdens of judicial responsibility, rather than pre-existing prejudices, which led to Mr Justice Peter Connolly's 'over-simplistic and superficial treatment of the actual content of the Boyer Lectures'" need any defending by the *Bar News*? Did the lecturer's quiet, confident and authoritative tone give the spoken word a meaning which the written word apparently doesn't contain? Is this an argument against the lecturer's preference for written submissions instead of oral presentation? Has the lecturer's view that judges should be taken from a wider community group with practical experience survived the news that Connolly J. had been a State Liberal MP? The Lectures themselves can be got for the price of 2 minutes walk to the A.B.C. shop and \$4.95, but no doubt further interjudicial debate can be expected.

Anyhow, what do the Lectures say about the Judges? They are given high marks for their personal qualities. It is thought that they should be drawn from a wider community than is presently the case — they should reflect the diversity of national life. They should receive better training for their job than they presently do, especially in view of the wider responsibilities which the community is putting onto them. They should be more reformist. They should take a greater part in the conduct of litigation, and not just leave things to the parties. They should recognise that the decision of cases often involves policy considerations, and should say so, rather than pretend that they are only applying a pre-existing law. Sometimes they turn out to be bad, but not so much as to justify removal, and there should be a system of dealing with complaints about them. They should take an active interest in reform, and report to Parliament each year on things which have cropped up during the year. There is also some legal history, and some legal philosophy. Overall, the tone and content of the lectures is for a lay audience. This is not a criticism. There is in fact nothing particularly disturbing about the lectures themselves. The views expressed in them are not of the conservative type, but neither are they all that

radical. They will be familiar to lawyers. Much of what the Lectures say is quite acceptable as an introduction to a study of the judicial process, and the statements of personal views about that process are certainly neither extreme, nor insulting to the judges themselves. So the criticism of the lecturer is certainly not deserved.

The lectures are addressed to a lay audience. They will presumably take as gospel the matters of fact stated in the lectures. Some of those statements are not, I think, accurate. Thus whatever the rights or wrongs of the opposition to the appointment of Murphy J. to the High Court, I doubt if many believe that the opposition was because of his reformist attitude. Nor can the return of Evatt J. to the bench from the political arena be regarded as a good example of the mobility of the members of the Bench. It is scarcely fair to say that the judiciary are responsible for the language employed by the parliamentary draftsman, or to say that the reason for construing a statute by its words only is because judges may not understand policy when they find it. And the presence on the Bench of only a few of the children of the non British migrant wave of the 40's, 50's, and 60's is probably because not many of those children who qualify as lawyers will achieve the age at which judges are appointed until the 1990's. Not that these examples (even if wrong) invalidate the opinions expressed. They do however give the layman an erroneous impression of lawyers and of the Bench.

However, the overall picture is that the judges are decent and conservative creatures, who are coming out of their cocoon into a wider and more adventurous world, and are taking or will be required to take creative and interventionist roles in both law reform and case conduct, for which roles they will need training they don't presently get. Probably, judges who work hard at deciding cases between disputing parties will feel somewhat offended at this picture, because they are after all only doing what they are paid to do. Not all will want the glamorous and activist role which Kirby J. sees as their birthright. The trouble is that lawyers and the Bench are probably too much like Australian society in general. It is not an activist society. Many lawyers deal with the law as they find it, rather like plumbers, who don't find it necessary to canvass the Board of Works because of

Victorian Bar News

errors of design that they find in the sewerage system. Perhaps this is a good thing. Not that there should be no reform, but too many reformers may not be acceptable.

Whilst quite fairly mentioning reasons for opposition to the adoption by the Bench of the new roles which the future holds for them, the lecturer clearly regards those reasons as the product of conservatism or timidity. The adoption of those roles may put the Bench in a position of public power, authority and glamour. Headly stuff indeed! But is it wise that the judges be tempted by such a prospect? No doubt judges are asked to act in non judicial areas. The judges' community acceptance is a store sought to be plundered by many. Ought they be allowed to do so? What harm will this do the judiciary in general? Was the judiciary harmed by the Petrov Enquiry, or by the political effects of the enquiry of Cross J.? And will decisions produced by active intervention in the conduct of litigation have the same degree of acceptability as those of a judiciary which merely decides between the parties? What will happen if the present acceptability of those decisions is in fact based on the perceived impartiality of the present system?

The lecturer's modern heroes are Lord Denning and Murphy J. But there is no mention of the fact that the real and lasting reforms in the law in the present century have been the result of the work of judges like Lord Atkin and Lord Reid (to name only two), and not of judges who attempt to mould the law to individual views. Even now there is not really much left of Lord Denning's work. After all, one man's reform is sometimes another man's poison. All courts operate on a credit of acceptance built up by their predecessors. Going beyond the limits which the law has imposed on change may well result in the credit being overdrawn. And it is unfair to the litigants.

Actually, the important cases of this century in which change has been seen to occur in the law are those in which it has been a re-working of common law principles and precedents which has given a new result. The principles of the common law are after all produced by experience, not by dictate, and a proper understanding of them from an historical and practical viewpoint will allow their application to produce an acceptable result within the present framework. Of course there is, within that framework, large scope for choice. Some choices will be perceived to be correct, and some not. In the main, however, the common law judges of this century have in fact used this scope for choice to produce results regarded as acceptable by the community at large. Is there, then, in fact anything fundamentally wrong with a system which produces judges who have achieved such results? Perhaps the fault of the Lectures

is that they tend to suggest that the judges should conform to some model, that they do not do so, and that changes need to be effected to achieve that end. Perhaps the Boyer Lectures for 1983 have approached the matter from the wrong end. Instead of looking at the judges, they should have looked at their results. The proof of the pudding is after all, in the eating.

A.G. UREN

LETTER TO THE EDITORS

Dear Sirs,

Brannagh's answer to the enigma "Are Barristers Esquires?" ("Victorian Bar News" Summer Edition 1983) culls the depths of Fortescue, **Debrett's Peerage** and even the **Shorter Oxford Dictionary** but overlooks a modest volume to be found on most barristers' book shelves: Fowler's **Modern English Usage** (second ed. revised by Gowers). At p.167 the learned author succinctly states the last word on the matter:—

"Esquire was originally a title of function; the esquire was the attendant of the knight and carried his gear. It later became a title of rank, intermediate between knight and gentleman, the right to which is still defined by law in a way that to modern ideas is in some respects curious. Barristers are esquires (at any rate after they have taken silk; there seems to be some doubt about the outer bar), but solicitors are never more than mere gentlemen: justices of the peace are esquires but only while they are in the Commission. A class of esquires that must now be of considerable size is that of the eldest sons of knights and their eldest sons and so on in perpetuity. But the impossibility of knowing who is an esquire and who is not, combined with a reluctance to draw invidious distinctions, has deprived esquire of all significance, and it looks as though one odd product of the Century of the Common Man might be to promote the whole adult male population to this once select and coveted status".

Yours faithfully,
H.W. FRASER

THE READERS' COURSE AND OTHER THINGS — A READER'S VIEW

When I, good friends, was called to the bar,
I'd an appetite fresh and hearty,
But I was, as many young barristers are,
an impecunious party."

— Trial By Jury.

Not all of us, of course, would care to adopt Gilbert's suggestion of marrying a rich attorney's elderly, ugly daughter. If a Victorian lawyer resolved to do so, however, the dread day could be mercifully postponed for three months at least (as would be, incidentally, the resulting briefs) — but the lyricist's embryonic judge did not have the benefit of the Readers' Course.

The laudable purpose of the Course is to avoid the unsatisfactory situation which used to obtain when a young barrister could accept briefs from the very day he began reading. This situation was pointedly criticized in its English context by R.E. Megarry Q.C. (as he then was) in 1962 when he wrote of such a reader:

"...the barrister's robes offer no assurance that the barrister has ever received any instruction or assistance on the technique of appearing in Court...Of any knowledge or experience of advocacy he may be wholly innocent...The point is that he ought to be qualified. Advocacy in even the simplest of cases is a skilled and highly responsible matter, and it is not to the credit of the English Bar that the law accepts as qualified to practise as advocates those who are not in substance so qualified."

The Readers' Course, then, seeks to impart and hone forensic skills and capabilities. Its aim is not, of course, to teach substantive law. However, here too many esoteric facts can be gleaned, by the way, as it were, for the practice and tactics of advocacy are naturally closely bound up with substantive law.

The fledgeling Junior will doubtless gather, in the course of his professional experiences along the road to the office of Lieutenant-Governor, many clues to curial accomplishment. These may range from the sage advice that, 'You can reduce a doctor to docility by

asking him to put into good English what he has just said in bad Greek', to Hamlet's caution to the Players against melodrama or, indeed, bathos:

'O! it offends me to the soul to hear a rumbustious periwig-pated fellow tear a passion to tatters'.

However, if all education were left to experience alone, some of the most common pitfalls, which the Course is designed to guide one around, would not be avoided. A school of hard knocks indeed! Moreover, as a reader must take his first brief at some stage and as his first client's case will be as important (from the litigant's view-point, at least) as his last, it is essential that the young barrister be qualified to some extent to practise as an advocate. In this regard, the moot courts conducted by this Course are, as would be expected, of particular assistance.

In these mock combats it emerges clearly that, few of the population in general are silver-tongued orators. Moreover, while popular belief might readily accept that none of this select few enters Parliament, it comes as a surprise to recognise that not all of them gravitate to the Bar. In fact, it is probably a salutary lesson to barristers to realise that appropriate occasions for oratory are relatively rare. Steady cogent argument, a certain frame of mind and a feeling for the sound foundations of professional etiquette are the essentials. To this end it may be that a more illuminating insight into rewarding forensic practice emerges from the exchange between bench and bar table in the case of **Rex v. Jackson** (as reported by A.P. Herbert) than does from, say, **Tuckiar v. The King**.

"The Judge: I see what you mean, Sir Ethelred.
Sir Ethelred: I should like, if I may milord,
to dwell for a moment upon your Lordship's
sagacity, insight, and knowledge of the world."

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The Readers' Course is not perfect. Indeed, only the law uttered by the Court of Appeal can claim that distinction. The real question is whether or not the Course can make a significant contribution towards the qualification insisted upon by Megarry. The undoubted answer is, 'certainly'. The wealth of experience made available to those taking advantage of the Course by members of the judiciary and eminent (and soon to be eminent) counsel is invaluable and, in fact, very generous.

Touching on more mundane matters affecting very junior counsel, it is to be noted that, following a resolution of the Bar passed on 21st November 1983, the rules relating to the allocation of clerks were temporarily altered. The result was that the forty-seven coming to the Bar in March this year were allotted places on each of the nine lists in roughly equal numbers by way of random ballot — on the general principle, it is to be supposed, that *actus Dei nemini facit iniuriam*. The situation next December with respect to accommodation will no doubt be more properly governed by the maxim, *inclusio unius est exclusio alterius*, but developments in this area simply have to be awaited. There is some provision, at any rate, by resolution of the Bar, for barristers of under five years' call to share chambers. As to the actual prospect of briefs for those coming to the Bar now, it would seem much brighter than that held out during much of the '70s.

The Readers' Course, is, then, at its lowest, a positive boon to those who would otherwise be mortified when, in response to questions from the Bench, it becomes plain that they believe that 'infanticide' involved the killing of the daughter of the King of Spain, or by more serious evident ignorance. In short, it serves to smooth somewhat a path which, even so, will be bumpy enough.

M.E. KING

FOR THE PERIPATETIC

11th May 1984 — Hobart

Seminar on Federal Court Proceedings

Enquiries: Tasmanian Bar Association, PO Box 1133, GPO Hobart 7001

2nd-10th July 1984 — Fiji

Medico Legal Conference Fiji

Enquiries: Miss Angela Beale ANZ Travel, 55 Collins Street, Melbourne 3000.

2nd-5th July 1984 — London

Comparative Law and Practice in Transnational

Business Operations and Transactions

Enquiries: Mr Richard Shelton, Waldorf Hotel, Aldwych London WC2B 4DD.

5th-9th November 1984 — Singapore

Conference on Energy Law

Enquiries: Miss Louise Gordon, The Law Association for Asia and the Western Pacific, 170 Phillip Street, Sydney 2000.

22nd-25th November 1984 — Melbourne

Annual Congress of the Australasian and New Zealand Association of Psychiatry, Psychology and the Law

Enquiries: Mrs. Loane Skene, 160 Queen Street, Melbourne 3000.

5th-9th August 1985 — Melbourne

23rd Australian Legal Convention

August 1986 — Jamaica

8th Commonwealth Law Conference

Enquiries: The Executive Secretary, 11 Duke Street, Kingston, Jamaica.

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AUSTRALIAN BAR ASSOCIATION CONFERENCE

The Inaugural Bar Association Conference is to be held at the Chevron Hotel, Surfers Paradise from 1-4 July, 1984. Speakers include Sir Anthony Mason, Mr. Justice Andrew Rogers, Mr. Justice Kennedy from Western Australia, Mr. Justice Fitzgerald of the Federal Court, E.D. Lloyd Q.C. of the Victorian Bar, and Roger Giles Q.C., the Commonwealth Special Prosecutor

Registration brochures are to be distributed shortly Enquiries Mr. John Frey, C/- Cosway Public Relations Pty. Ltd., 50 Water Street, Spring Hall, Brisbane, 4000 Telephone (07) 229 4255.

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LEGGE'S LAW LEXICON

“P”

Parking: The late Griffiths J, was of the opinion that capital punishment ought to be abolished except for parking a vehicle in a Clearway. A highly anti-social offence for which hanging might prove to be a deterrent.

Parliamentary Counsel: A barrister who makes a profession of putting into one document the random thoughts of a politician; apparently hoping to make them intelligible without resort to grammar, logic or style.

Particulars: Details of a claim given to a Defendant to conceal from him the case that he will have to meet at the trial.

Partition: Judgment of Solomon J.

Partnership Dispute: Litigious insanity. A partnership dispute between two highwaymen was dismissed with costs to be paid by counsel who signed the petition. The Plaintiff and Defendant were both hanged and the solicitor for the Plaintiff was transported. **Lindley 14th Edtn. 137n. 38.**

Passenger: When two counsel are briefed, the name given to a junior, who is also the solicitor's nephew.

Passing Off: The tort which enables a solicitor to sell to his clients for \$10,000 the tax avoidance scheme devised by counsel for \$1,000.

Passport: Extravagant liberality and immoderate folly do not of themselves provide a passport to equitable relief. (1952) T.L.R. 510.

Pawn: The subject of custody proceedings.

Payment into Court: An each way bet by an insurance company.

Per Incuriam: Vol. 1 of the C.C.R.

Perverse Verdict: Not guilty of assaulting a policeman.

Plea Bargaining: The practice of clearing the calendar without incurring the expense of appointing a D.P.P.

Poaching: Taking a brief on a closed circuit.

Political Offence: A personal telephone call between two public figures.

Poor Law: Vol. 2 of the C.C.R.

Poor Person: A frank and accurate barrister's clerk.

Pornography: Erotic material which suffers from the vice of being sold at a price that the common people can afford.

Precedence: The rule that prevents junior counsel from parking his car in O.D.C.

Preferential Payments: Clerks' fees.

Preliminary Act: An indecent assault.

Pressing Seamen: The practice of getting free labour on the pretext of offering hospitality. It can be seen displayed with the greatest skill on Friday afternoons on the 10th floor of Owen Dixon Chambers.

Presumption of Death: Where a judge has reserved and has not been heard of for seven years judgment may be given by the Senior Master.

Prima Facie Case: Police evidence in the County Court.

Principle of Elasticity: Stretching a point beyond the comprehensions of a law lord. [1921] A.C.393.

Promoter: An efficient barristers' clerk.

Promotion: The translation of a judge from the Supreme Court to the Federal Court, (see also "Defection").

Proof: Police evidence in a magistrates court.

Provocation: "If Your Honour pleases I am not sure that I can follow what Your Honour has in what Your Honour is pleased to call Your Honour's mind".

Pyx: ???????

MOVEMENT AT THE BAR

Member who has signed the Roll since the Summer 1983 Edition
P.W. Bates (N.S.W.)

Member who has re-signed the Roll
B.J. Doyle

Member who has transferred from the Masters & Other Official Appointments List to the Practising List
J.M. Murphy

Members who have transferred to the Masters & Other Official Appointments List
M.N. O'Sullivan Q.C.
G.D. Johnstone

Members whose names have been removed from the Roll at their own request
B. Scarfo
B.L. Stafford

Member who has died
D.J. Trickett
Master E.N. Bergere (Masters & Other Official Appointments List)
Total in Active Practice 878

Autumn 1984

SPORTING NEWS

The recent one day matches between the West Indies and the Australian Eleven proved somewhat of a disappointment due to the superiority of the visitors. By contrast, the team from the 10th floor of "Four Courts" scored a thrilling one run win in their match against the team from the 18th floor of Aickin Chambers. The match was held at the old Brunswick Street oval with Hiland being captain of the winning team and Rose in charge of the losers. Ross Ray scored 17 but his wicket keeping came in for some criticism due to "extras" being the highest single score. He was nicknamed "vaccine" — can't catch anything. Neal scored an entertaining 31 before retiring — to the bar. Max Perry's umpiring almost caused a riot. He apparently thought that if a ball struck the pad the player was automatically out regardless of the course of the ball. He was in a quandary when a frustrated player tried to hit a "wide" but was hit on the pad in the attempt. The player was given out — but accredited with one run! Elliott, whose fielding for his side "Four Courts" came in for strong criticism, became even more unpopular when later fielding as a "sub" for the opposition. He picked up the ball and threw the wicket down against his own team in a piece of play which would have done justice to Viv Richards.

• • •

There are strong reasons to support the assertion that the most ardent fan of jazz cornetist, Bismark (Bix) Biederbecke, (1901-1931) is Hart Q.C. Whilst many of us regarded the collection of "Footy cards" from the Weeties packet as being of paramount importance when young, Hart collected all the records of his hero, Bix, and also purchased a cornet. Dedicated practice followed, and then dawned the realisation that Hart was no Bix. Although he hung up his cornet, his devotion to the legendary horn player has not only continued but, if anything, has intensified. "The Age" In Memoriam notices carried once a year a tribute to Bix, and rumour has it that Hart was responsible.

It is no rumour that on August 9, 1981 a small but loyal group of fans gathered in Hart's chambers to hear again "In a Mist" and "Davenport Blues" and to mourn the 50th anniversary of the death of Bix. His sombre mood has now disappeared as he subsequently took himself to "N'Orleans" (as he now pronounces it) to confirm that the music form nurtured by Bix and others is alive and well and stronger than ever. Hart is a born again jazz man.

All the same we don't expect that he will let August 9, 1984 go unnoticed.

• • •

We all know the feeling. The matter is listed before some pretty tough Judge and we have received the brief at the last moment. It is also in an area of law which we do not specialise. A similar sensation, but even worse, was apparently experienced by Shane Newton when he was peremptorily summonsed to participate in a talent show for "comedians" at a well patronised hotel. Plenty of "heart starters" were given and "Country Joe" (as he called himself) came onto the stage. The most amusing feature was not the quality of the jokes, but their presentation. Lines were missed, papers and notes fell, to the amusement of the masses. Although he did not win, we recommend he have another try and those who have been fortunate enough to see him "ape" the various league football umpires as they award "free kicks" or signal a goal, will agree he has certain talents.

• • •

Merralls Q.C. and Searby Q.C. are to be congratulated on the continued success of their two year old filly, "Base Fee". She has more than paid her original purchase cost and has become a valuable asset as a potential brood mare having won quality races. We believe it is the first horse that Searby has ever owned. Mees, Boyes and Batten have also enjoyed recent racing successes and we note with interest that Cooney's wife has entered three yearlings for sale at the forthcoming yearling sales in Melbourne.

• • •

Comments such as "oh no, not again" and "is his father the handicapper" were commonplace when it was announced that McTaggart had again won the trophy at the recent Golf Match between the Bar and the Bench and the Law Institute held at Royal Melbourne. Sharing the prize with his partner, Michael Casey, McTaggart will need an extension to his already enlarged Trophy Room. Redlich's new position has obviously allowed him time to practise his golf as he apparently had six birdies in his round.

• • •

Kent is an active player with the Long Island Cricket Club. He was on the selection panel to consider applicants for the position of coach. The first, and only applicant for quite some time, was a 71 year old who was anxious to get the job. We understand that the applicant was unsuccessful and a younger man ultimately became coach and was very successful.

• • •

Victorian Bar News

Galbally and Buchanan recently toured the U.S.A. on motor cycles, Kerouac style. Their trip started in New York and finished in California. Apparently one travels on miles and miles of freeway and one can become bored with conventional riding. To relieve the monotony, Buchanan was proceeding with his feet on the handlebars only to be apprehended by the local police. Galbally claims he was stopped on only one occasion when he was allegedly not keeping a straight course as he rode through Kansas. By all reports the trip was otherwise uneventful. May we expect a sequel to "Zen and the Art of Motorcycle Maintenance"?

• • •

The local chemist did a roaring trade in zinc cream on the morning of the two cricket matches held between the Bar and the Law Institute on the 19th December 1983. In weather reminiscent of a Marble Bar "scorch-er", the Law Institute Second XI scored 8 for 132 at the end of the allotted 35 overs. This match was held at the Ross Gregory Oval. Qualifying fees as bowlers for Coish and S. Morris, were unanimously refused. The ex-St. Pat's quickie, Larkins, ran hot and cold but took 2 for 0 after lunch. An unidentified speedster, akin to "Darkie" Edwards, opened from the southern end and bowled "swerves" with economy. The fielding award went to Ramsey without a shadow of doubt. His speed and enthusiasm was noticeable — particularly having regard to the fact that he was swapped from fine leg to fine leg at the end of each over. It was almost inconceivable that he had run 4th in the Marathon earlier in the day.

Regrettably we finished 20 runs short. Radford, 58, Morris 32, were almost in need of intensive care at the end of their innings. Perspiration loss was readily replaced in the coolness of the pavillion. It was a promising effort all told and the team looks forward to the return match at the end of the year.

Ten runs short! This was the sad tale of woe following the loss by the Bar First XI against the Law Institute side. The match, held at the Albert Ground, was a thriller and it is believed that the Bar side would have been successful if two of our "stars", Gillard QC and Wraith, had been available to play. Unfortunately, they were "part heard" on the day of the match.

Connor led the Bar team for a second time. His position is now in jeopardy. After the game, he had to wryly agree with a certain aspiring Captain that he was "a two time loser"

The Law Institute batted first and scored 173. They had been in trouble early when Dean Ross had their Captain brilliantly caught at short forward leg by Harper for a duck. A solid innings of 88 from Charlie Brydon helped the opposition to a score which appeared to be quite modest given the small ground and fast turf. Chancellor returned the economical figures of 1 for 23 from 8 overs; Ross bowled well and Connor took 4 for 40 when wickets (and runs) were keeping the scorers busy.

It appeared to be a case of "how far" when McTaggart (45) and Connor (32) compiled a fourth wicket partnership of 60. McTaggart, in particular, made Ian Botham look like Bill Lawry as he carted the hapless Woodruff to all points of the ground.

Disaster struck after the removal of McTaggart, Connor and Cavanaugh (22). Chancellor was dismissed for a gallant 12 and the scent of victory was relentlessly pursued by the enemy and the remainder of our team was routed.

Gillard will be available to lead the First XI next December and hopefully the team will be boosted by the presence of Jeremy Gobbo, an all rounder of note. Gobbo, who played for the "Sollies", is now at the Bar. Already the Solicitors are demanding the establishment of a transfer fee scheme with an appropriate Appeals Board, but limiting the right of appearance to their members only!

AVIATION LAW ASSOCIATION

Meeting 31st May 1984

Tour of Air Traffic Control Centre
Tullamarine Airport

Plus buffet supper at the Airport Travelodge

Contact Peter Rose 602 2400,
Julian Ireland 67 9321

Autumn 1984

VERBATIM

The phlegmatic Englishman is embodied in the rule that a driver may not sound his horn when his car is at rest (though he may relieve frustration by flashing);

Extract from G. Williams:
"Textbook of Criminal Law".
Steven & Sons, London 1978,
page 9.

• • •

Det. S.C. Fidler: "Det. S.C. James said 'We are investigating a large burglary in Whittlesea and if you have nothing to hide you won't mind telling us'. The accused Laurie said 'No fuck you, you are a pack of cunts. The only good cop is a dead cop'. He then became verbally aggressive towards us".

Cor. Hammond SM
R. v. Laurie & Patterson
24 August 1982

• • •

From an article in the "Courier-Mail" regarding proposed amendments to the Police Act (Qd) —

A proposed amendment to the Act says a person can be arrested for attempting to fail to assist a police officer when called upon.

• • •

Counsel was seeking to persuade the Magistrate that it was possible to grant a bond to his client who had prior convictions. The plea concluded:

Crafti: I can show your Worship the presentment from a case where the accused got a bond from the County Court with a prior conviction for Robbery.

SM: Yes, I can believe that; it's amazing some of the things they do in higher Courts.

Cor. Stanisteet, SM,
Ballarat Magistrate's Court
14 December 1983

• • •

His Worship to Informant: "You mean to say the only way of avoiding an accident at that intersection (Boundary Road and Flemington Road) is not to go through it."

Cor. Dugan, DCSM,
District Court
24 January 1984

• • •

Defendant (in person) to his own witness: "You are my witness, you are supposed to be helping me not putting me in. Now, what is your answer."

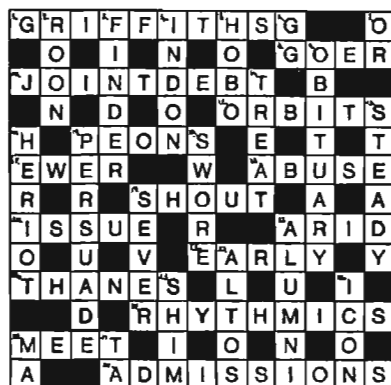
Cor. O'Donoghue SM,
Williamstown Magistrate's Court
20 February 1984.

• • •

A new trend for the Supreme Court?
Chambers, 15th Court. Mr. Justice Crockett —
10.30, Chamber of Business.

From the law List
"The Age"
3 January 1984.

SOLUTION TO CAPTAIN'S CRYPTIC No. 47



VICTORIAN BAR NEWS

ISSN-0150-3285

Published by:

The Victorian Bar Council,
Owen Dixon Chambers.
205 William Street.
Melbourne 3000.

Editorial Committee:

Max Cashmore, Charles Gunst.
John McArdle

Photos by:

Gunst

Editors:

David Byrne Q.C., David Ross.

Layout and Cover:

David Henshall.

Phototypeset and Printed by:

SOS Instant Printing.