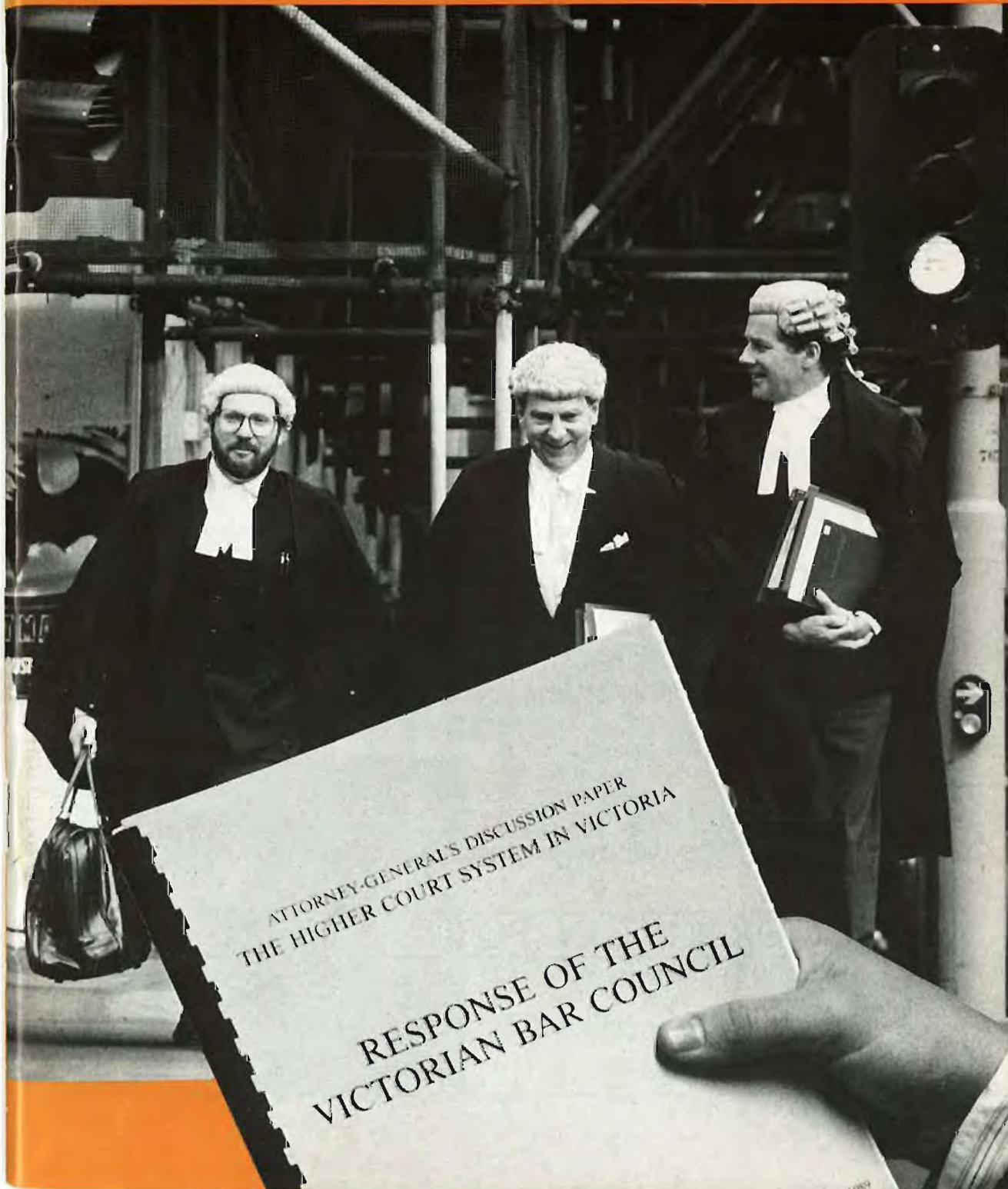


VICTORIAN BAR NEWS

No. 70
ISSN-0150-3285

SPRING 1989



VICTORIAN BAR NEWS

No. 70
ISSN-0150-3285

SPRING 1989



D. L. Harper QC



Doug Muir



Mal Park

CONTENTS

- 2 THE EDITORS' BACKSHEET
- 3 CHAIRMAN'S MESSAGE
- OBITUARY
- 4 William Joseph Martin
- REPORT RESORT
- 6 Criminal Bar Association Report
- ARTICLES
- 7 Bar Council's Response to Attorney-General's Discussion Paper — David Harper QC
- 10 A Layman's Triumph — Mal Park
- 18 Unhappy Lawyers — Paul Ciotti
- 22 Musings in Canton — Cliff Pannam QC
- NEWS AND VIEWS
- 32 Doug Muir — 50 Years On
- 34 Personality of the Quarter
- 35 New Magistrates
- 37 Removal of Judges by Unicameral Parliament
- SPORTING
- 38 Scuba Escape — Tom Wodak
- CULTURAL
- 39 Verbatim
- 40 Welcome — Clive Penman
- 41 The Lawyer's Bookshelf
- 42 Lunch — Michael McInerney
- 44 The Red Faces Club
- 46 Out and About ODCW
- 46 Mouthpiece
- 48 Melbourne Law School Class of '74
- 48 Case Disposal Management
- 48 Inside Running — Paul Elliott
- 50 Penal Reform
- 51 Movement at the Bar

VICTORIAN BAR NEWS

No. 70

SPRING 1989

ISSN-0150-3285

Editors:

Peter Heerey Q.C. and Paul Elliott

Editorial Committee:

John Coldrey Q.C., Gerard Nash Q.C., and
Graeme Thompson

Editorial Consultant:

David Wilken

Staff:

Julian Burnside and Gillianne Tedder
(photography), Tony Pagone and Peter Lithgow
(book reviews), Ron Clark (artwork), Richard
Brear, Graham Devries, Jackie Kendrick, Anna
Whitney.

Published by Victorian Bar Council, Owen Dixon Chambers,
205 William Street, Melbourne 3000

Opinions expressed are not necessarily those of the Bar
Council or the Bar.

Phototypeset and printed by York Press,
61-63 Burnley Street, Richmond 3121, tel. 427 9700

This publication may be cited as (1989) 70 Vic B.N.

THE EDITORS' BACKSHEET

DOWN WITH DEFAMATION!

Ms Jane Singleton, Sydney journalist and vice-president of the Australian Journalists Association, said that in some respects the press in the Soviet Union was freer than in Australia, because of a lack of defamation and contempt laws.

Age, 14th August 1989

In many lands the tyrant's yoke
Has long oppressed his luckless folk.
Arrest and jail and execution,
Parliamentary dissolution,
Of Human Rights have not a jot —
That's life with Stalin or Pol Pot.

But where the rule's undemocratic,
And freedom is at best erratic,
The saving grace of such a nation
Is law that's free of defamation.
There's naught of libel, still less slander,
In places like Amin's Uganda.

However cruel an autocrat,
It must be consolation that
His populace will never see
A pleading settled by McPhee.
And torture may be grim and gory
But Ruskin interrogatory
Will not oppress with style vexatious
And show of learning ostentatious.

So one might think, it's said quite flatly,
You're better off with Marx than Gately.

UNHAPPY LAWYERS

The article appearing in this issue (p.18) was originally published in the Los Angeles Times where it was noticed by a visiting Tasmanian practitioner. It subsequently appeared in the Tasmanian Law Society's newsletter where it in turn caught the eye of Jack Hedigan QC who was kind enough to pass it on to us. In the Australian context, where there has for the last few years been a dramatic swing to huge mega-firms of solicitors, the article raises some thoughtful questions concerning legal life style. The practice of the law is a serious business, but should it not also be fun?

The Editors

CHAIRMAN'S MESSAGE

HIGHER COURT DISCUSSION PAPER

Most of the issues raised in the Higher Court Discussion Paper were non controversial. Under the leadership of David Harper, Q.C., the Bar Council prepared a well documented and researched response. The Bar Council drew on the services of a considerable number of barristers and sought their views on the topics raised. I thank them for their considerable efforts. In the final result, it was the Bar Council who made the decisions which are embodied in the response.

The most controversial issue related to the Court of Appeal. There was no disagreement as to the necessity of a separate court. The issue came down to whether it should be a division of the court, the appointment to which would be left to the Chief Justice with movement of Judges in and out of the division, or a Government appointed separate and distinct Court of Appeal. By a majority, the Bar Council resolved to support the concept of a Government appointed separate and permanent Court of Appeal. Whether or not the Government takes the step of creating a separate court by legislation, remains to be seen. The Chief Justice has already set up a divisional court.

I thank David Harper for the wonderful work performed by him and his subcommittee.

NUMBERS AT BAR AND THE READERS' COURSE

Record numbers are coming to the Bar. The March intake was 53, and 45 commenced in the recent intake. There are now 1,108 on the practising list. Some members of the March intake experienced a slow start after signing the Bar Roll in June. This caused the Bar Council to investigate the question of availability of work. One clerk stated he thought that barristers, in the last six intakes, had struggled at the beginning to obtain work, although after a month or two, work was obtained. This view seemed to be borne out by a survey carried out involving the last two intakes of Readers. Most seem to be able to make a living, although obviously some do better than others. Ever since I have been at the Bar, the

prophets of doom have been saying that there are too many barristers and not enough work. At the moment it would appear there is sufficient work at the Bar, but as the numbers increase, it will become more competitive. It has been suggested, that although in the first few years barristers seem to be able to make a living, they do experience lean times in the following years. Persons coming to the Bar must realise that they are not guaranteed a living and that life at the Bar is very competitive.

The increase in the number of barristers means we have to look for further accommodation. The new building has been a great success. By the end of the year, BCL will no longer have any accommodation available. BCL is now looking for more accommodation.

The record intake has also meant a strain on the facilities and organisation of the Readers' Course. It will be necessary to increase the staff. The Bar Council has resolved to improve the facilities and increase the staff. Pending the improvement of facilities, the Bar Council has resolved to limit the numbers coming to the Bar in the March intake to 40. In the meantime, it will be necessary to expend Bar funds on finding bigger and better accommodation for the Readers' Course and increase the staff to handle the numbers.

The Bar Council is extremely reluctant to place a barrier in the way of any person coming to the Bar. Unfortunately, we now have reached the stage, but hopefully it will be for only one intake.

VICTORIAN BAR AND PAPUA NEW GUINEA LAW SOCIETY

Since 1986, the I.B.A. has established a series of "twinning" projects whereby a Bar Association from a developed country offers assistance to a Bar Association or Law Society from a developing country. The Victorian Bar Council has entered into a twinning arrangement with the Papua New Guinea Law Society. In August, Andrew Kirkham, Q.C. and Robin Brett, travelled to P.N.G. to meet with lawyers, academics and judges. One thing that emerges loud and clear from their visit, is the concern about the standard of advocacy in P.N.G. The P.N.G. Legal Training Institute has requested assistance from our Bar in teaching trainees advocacy skills. The Bar Council believes we can make an important contribution to the rule of law and the legal profession in P.N.G.. We have written to the Australian Government seeking financial assistance to enable members of our Bar to impart advocacy skills and knowledge to the lawyers of P.N.G.

ENGLISH BAR

On my recent visit to England, I was privileged to meet Mr. Desmond Fennell, Q.C., Chairman of the English Bar. At the time of our meeting, Desmond was waiting patiently and, perhaps a little

nervously, for the White Paper response to the Green Paper on the legal profession. Whilst I thought my lot as Chairman of the Bar was pretty difficult, trying to combine a practice with the Chairman's duties, my labours paled into insignificance when Desmond told me that this year he had been unable to take a brief because of the Chairman's duties. He said that one unfortunate consequence of the Green Paper had been the division which had crept into the judiciary and the fact that the judiciary was portrayed in the newspapers as nothing more than another trade union open to severe criticism and abuse. He thought that the damage to the status of the judiciary may take many years to overcome.

One matter that I did raise with Desmond was the question of setting up an exchange scheme for barristers between the two Bars. I would like to look into the question next year, as I am sure there are barristers at this Bar who would be only too happy to trade houses and chambers for a year with members of the English Bar. Desmond thought the idea was well worth pursuing.

PHOTOGRAPHS OF BAR CHAIRMEN

The Bar Council is collecting photographs of all Chairmen back to 1901. The photographs will be hung in the corridor between the two buildings. We are having trouble locating photographs of some of the former Chairmen. Mr. J.B. Box was the Chairman in 1900. We have obtained a small photograph of him, but it is going to be difficult to reproduce an adequate photograph. We have not been able to obtain photographs of H.W. Bryant, Q.C., Chariman 1922-23, and H. Walker, Chairman 1934-35. Any assistance from any member of the Bar would be greatly appreciated.

David Henshall, who has been given the task of collecting the photographs, has done a remarkable job in rounding up the photographs, which have been obtained from many sources, ranging from distant relatives to the archives of the Melbourne Cricket Club.

BAR'S YEAR

This edition of the Bar News sees the end of the Bar year. I would like to thank the members of the Bar Council and, in particular, my two Vice Chairmen for the wonderful support they have given me over the past year. In addition, I would like to pay a special debt of gratitude to the members of the Bar staff who so ably assisted and supported me during my year of office.

The Bar Council has developed into a harmonious and hard working group of individuals who, whilst agreeing to disagree on occasions, nevertheless, work together in the best interests of the Bar.

E.W. Gillard

OBITUARY

William Joseph Martin

WHEN I FIRST MET BILL MARTIN, HE WAS A very busy leading junior with an extensive practice in what was then known as Courts of Petty Sessions, and at the Common Law Bar. That meeting was not long after my wife and I had arrived from Adelaide. We knew very few people, and, because there was a critical shortage of accommodation, I had no Chambers.

Bill promptly invited me to share his room in Selborne Chambers, an offer I gratefully took up, and I remained there, I think, for the whole of the time leading to the completion of Owen Dixon Chambers. Be he did more than that. He made us welcome at his home, he introduced me to many people, in and out of the law, and generally did as much as a man could to mitigate the difficulties which inevitably accompany a total change of professional and social environment. He did not have to do any of those things; he scarcely knew me, and, save for a common interest in racing, there was nothing about me to interest or concern him in the slightest. With time, and as I was daily in his Chambers, our acquaintance grew, and gradually I developed as wide a knowledge of Victorian country race courses as I had had of South Australian; it seemed that no matter how many matters he was concerned with at Petty Sessions, he was invariably free by lunchtime at the latest, and as I was invariably free all day, and as likely to find the rent at Cranbourne, or Pakenham, or Bendigo, as by waiting for telephone calls that seldom eventuated, we had a day at the races on many occasions. These were pleasant days indeed. Moreover, Bill was then under no dietary constraints, and was a most agreeable companion at the luncheon table, chez Latin, and elsewhere, and was especially partial to champagne, under the genial stimulation of which the doors of his memory were unlocked, and a fund of anecdotes emerged to do with the Courts, the Bar, and the race course. Having been, as was reported on his appointment to the County Court Bench, "seen in most cases that had anything to do with race horses, trainers or jockeys", he had a ready stock of stories to hand involving a fascinating *dramatis personae*. He was an engaging raconteur, with a keen sense of humour, and a well nourished sense of the ridiculous

in human affairs, but, given his long involvement with the follies, foibles, and diverse misbehaviour of the human animal, he was surprisingly uncynical, and of a kind and generous disposition. Abuse of, or cruelty to, women and children much upset and angered him, and would have made him a less than ideal Judge to whom to address a plea for those guilty of that conduct.

Later, I was to see something of him as an advocate. He had a great capacity to grasp facts, and to apply to those facts an abundance of judgement and common sense, and he was a talented advocate. I remember two cases in which he displayed advocacy at its best. One was a personal injury claim before a Geelong jury in which he appeared for the defendant. It was a case that in other hands might well have got out of control on damages, but by effective handling of the plaintiff's witnesses, and an admirable address of quite short duration, he shrewdly exposed the deficiency of one major component of the claim for damages, and confined the quantum to much more modest proportions than I had thought likely. His address I thought was a model of what an address on behalf of a defendant should be. The other case was the trial of a father and adult daughter on counts of incest. Bill appeared for the father. The Crown case was very strong. The circumstances of the affair, notwithstanding extensive experience in the Criminal Courts, revolted him; his sense of outrage at the defilement of the family unit was profound. His final address to the jury was, nevertheless, one of great quality, lucid, incisive, persuasive and one above all dedicated to calming

His was a God of limitless love, understanding, and compassion, whose abiding interest in William Joseph Martin and his family was a very real thing .

the badly affronted sensibilities of the jury, who were likewise repelled by the evidence, and damning correspondence between the accused. It was an address that deserved better than a disagreement, although in the circumstances it would perhaps have been counted by many as something of a forensic achievement.

His appointment to the Bench in 1968 necessarily terminated the happy days we had had leading up to it, and I saw much less of him thereafter; indeed, professionally, our paths did not cross. But I heard



The late Judge Martin: appointed to the Bench in 1968.

soon after his appointment that the formidable talents he displayed at the Bar were being efficiently harnessed and employed to the resolution of litigation before him.

Two influences were at work on him throughout his life. One was that of his wife and family, of whom he was vastly proud, deeply fond, and from whose company he drew great comfort, solace and pleasure. He cherished all his moments with them, and I think he was at his happiest then.

The other great force to which he answered was his religion as expounded by his church. If other men's minds were clouded by doubts and questionings about the existence of God, the relationship of Man to the cosmos, the mystery of its creation, and its purpose, his was not, and he perceived the existence and presence of God as if in the dazzling clarity of summer's noonday.

His was a God of limitless love, understanding, and compassion, whose abiding interest in William Joseph Martin and his family was a very real thing. Thus armoured, he could withstand and endure all the shocks and buffets of life, even the bitter hurt he suffered in the tragic death of his eldest son. Grief was at his elbow for many anguished days thereafter, but he never wavered from his utter conviction that, in due season, all things concerning it would be made clear to him, and that he would be reunited with his son. He trod humbly in the practice of his faith; of his venial vanities, peccadillos, and shortcomings, it is not necessary to speak here. He knew them all well, and freely acknowledged them. At the end, I do not think he had much to fear in the final Audit. May the earth rest lightly upon him.

Cairns Villeneuve-Smith

CRIMINAL BAR ASSOCIATION REPORT

OFFICE BEARERS

THE CRIMINAL BAR ASSOCIATION HAS recently held its Annual General Meeting. At that meeting a report of the year's activities was circulated and that will appear again in the Victorian Bar's Annual Report.

Also at the meeting, elections were held and Colin Lovitt QC was appointed as Chairman for the next year. Rober Richter QC did not nominate for the position again although agreeing to remain on the Committee. Robert has done the Association great service during his chairmanship, particularly in the area of putting views strongly and cohesively on the Association's behalf.

Vice Chairman of the Association is Bob Kent QC. Lex Lasry remains as Secretary and Nick Papas as Treasurer. The executive has appointed the Committee for the year also and the members are Richter QC, Rozenes QC, Morgan-Payler, Punshon,

Hore-Lacey, Coghlan, Barnett, Shwartz, Ray, Gavin Silbert (Prosecutor for the Queen) and Sexton. Again this year, the committee will meet monthly and members are encouraged to raise matters with Committee members for discussion and resolution.

In addition to the Committee the Association has established a number of sub-committees. They and their chairmen are as follows:

Education — Kent QC
Fees — Lovitt QC
Listings — Shwartz
Young Criminal Barristers — Ray
Law Reform — Coghlan
Sentencing — Richter QC
Prisons — Punshon.

These sub committees will be involved in various activities including research, assessment of reports, negotiations and recommendations. From time to time members will be asked to serve on them and we hope they will do so enthusiastically.

MELBOURNE REMAND CENTRE

As appears in the Association's Report, during the last year we took an interest in the facilities at the new Melbourne Remand Centre. Roy Punshon and Graeme Thomas visited the Centre and expressed concern about the facilities for legal representatives to interview clients. The security for inmates is very high and the layout makes proper rapport with clients difficult. Other matters raised with the Governor of the Centre included the provision of facilities to show video tapes and play audio tapes and also the availability of a "pay" photocopier to assist legal representatives. It should be said that the Governor's office was very helpful in allowing our members to view the Centre and make the various suggestions referred to.

MEMBERSHIP

As at the Annual General Meeting, the Association's membership was 235. Subscriptions for the next year are now due and early payment would be appreciated. Readers are particularly invited to join the Association and hopefully will benefit from associating with more experienced members and also from the seminars it is proposed to conduct over the next twelve months.

Lex Lasry

WANTED TO PURCHASE Law Reports

All Australian and overseas
law reports
Current law texts and
classic texts
Notable British Trials
Legal Biographies

For more information contact:

Roger Hughes
Legal Books

Prudential Arcade
39 - 49 Martin Place
SYDNEY NSW 2000

Tel: (02) 231 6547 ☐ Fax: (02) 332 1448
DX 1381 Sydney

BAR COUNCIL'S RESPONSE TO ATTORNEY-GENERAL'S DISCUSSION PAPER

On 31st May 1989, the Attorney-General published a discussion paper entitled "The Higher Court System in Victoria". It is a substantial document, not only in the breadth of its coverage but also in the care and balance with which it examines Victoria's judicial system. It demanded a response which was at least as constructive and thoughtful as the discussion paper itself.

THERE ARE DOUBTLESS SOME WHO would say that the Bar Council is thereby disqualified from the attempt. Nevertheless, the attempt was made; and the response published on 7th August 1989 is the result. It is in part the product of two meetings of the Bar Council. Its appearance in draft form was, however, the result of considerable effort by a large number of people, some on the Bar Council and some not, who for that purpose formed a committee called the "Administration of Justice Committee." Its members were: S.P. Charles Q.C., E.W. Gillard Q.C., A. Chernov Q.C., A.J. Kirkham Q.C., P.C. Heerey Q.C., D.L. Harper Q.C., C.N. Jessup Q.C. M.B. Kellam, R.A. Brett, A.J. McIntosh, K.J. Andrews, G.I. Barns, M.E. Sexton, J. Tsalanidis, C.A. Spence, G.D. Friedman and G.R. Doran.

The discussion paper deals with the points of detail as well as broader issues of policy. But its general purpose is to stimulate debate about the future of the judicial system in Victoria. The importance of this debate is in the Bar Council's view measured by its belief "that Victoria has in its system of justice a delicate asset of immense value which, during the course of its long evolution, has been the chief bulwark of the liberty and balance which our society enjoys": Response, para. 1.4. On the other hand, the value of the asset itself provides the reason why the delivery of justice must be kept under constant review, and why reforms should be implemented as soon as a fault becomes apparent and an appropriate remedy is found.

These considerations suggest that the debate which the discussion paper has initiated should be conducted by reference to those propositions which underpin the role of the judiciary as the third arm of government in a liberal democracy. The Bar

Council's response refers in this context to three such propositions:

- (a) that the rule of law is a critically important element in the functioning of society;
- (b) that governments and lawyers have a particular responsibility for the maintenance of the rule of law;
- (c) that the rule of law cannot be maintained without a judiciary the independence and integrity of which are absolute.

The response argues that a permanent system of temporary judges would reduce the independence of the judiciary and weaken the rule of law.

Much of the Bar Council's response is framed with these propositions in mind. For example, the response argues that a permanent system of temporary judges would reduce the independence of the judiciary and weaken the rule of law; and that such a system must therefore be opposed on grounds of fundamental principle. Under certain carefully defined circumstances, however, the Bar Council would not oppose the appointment of acting judges or (preferably) arbitrators. Again, the

response argues that the remuneration and working conditions of the judiciary must reflect its status as the third arm of government, independent of the other arms and of a strength necessary to maintain the rule of law. In times of high inflation, this involves the grant of regular increases in judicial remuneration so that the relationship between judicial salaries and allowances and average levels of earnings is maintained. The response nevertheless accepts that, if salary earners in general are required to exercise wage restraint, then this should not be ignored when considering proposed increases in judicial salaries. The response also recognises that the pursuit of wealth is not one of the qualities which commends a judge to the office; and, accordingly, reference to the earnings of the highest paid members of the community is of limited relevance.

The cost of justice is of real and immediate concern. Nothing which is difficult and complex and must be done well can be done cheaply. A cheap legal system cannot deliver justice. On the other hand, justice which by reason of its expense is out of reach is not justice at all. The response therefore accepts that constant vigilance is required to ensure that costs are not unnecessarily high. It commends for careful examination the suggestions put forward

Rank, precedence and the emoluments of office would in general *not* depend upon whether the judge in question sat on trials or on appeals.

in the discussion paper to reduce costs.

Both the discussion paper and the response accept that a strong and independent judiciary, the members of which are of the highest quality, is a key objective. Indeed, the response argues that for this reason there should be changes to the means by which the Supreme Court exercises its appellate jurisdiction. Appointments to the Supreme Court should be made from the best available candidates. Some appointees will be better suited to trial work, others to appeals. The response therefore proposes the establishment of separate appeal structures, with civil appeals being heard by a separate court of civil appeal, the seven members of which would be



appointed by the government as permanent appeal judges who might occasionally sit on trials. The proposed court of criminal appeal would in general consist of the Chief Justice or a judge of appeal and two trial judges having extensive experience in the criminal jurisdiction. The latter would sit on appeals in rotation. All judges, whether of appeal or otherwise, would (if the recommendations of the response are accepted) be members of the Supreme Court. Rank, precedence and the emoluments of office would in general *not* depend upon whether the judge in question sat on trials or on appeals.

The response proposes that a limited divisional structure should be introduced in the Supreme



D.L. Harper Q.C. — *Chaired the Bar Council's 'Administration of Justice Committee.'*

Court. This should seek to maximise the advantages to be gained from judicial specialisation while retaining the benefits which flow from a court the members of which have wide general experience. It should also give scope for appropriate case flow management techniques. Such techniques, however, are only of limited value unless appropriate resources are brought to bear. The response therefore recommends the appointment of eight additional judges to the Supreme Court, no matter what structure is adopted for the disposition of appeals or otherwise. For the same reason, both the Supreme and County Courts must be given adequate funds, staff and resources. As one step in

this direction, the response recommends that Masters should have a greater role in case flow management, and in conciliation and arbitration. Moreover, the role, status and remuneration of Masters should be reviewed immediately.

In addition to the matters mentioned above, the response deals with alternative dispute resolution, with practical measures for the reduction of delays, with deficiencies in the Supreme Court library, with the retention of juries and with legal aid. Copies of the response are available to any member of the Bar. This article merely restates in summary form some of its principal conclusions.

D.L. Harper

A LAYMAN'S TRIUMPH

Mal Park relates the intriguing story of Alfred Wintle, who sued a solicitor and won — but had to get to the House of Lords to do it.



LIEUTENANT-COLONEL ALFRED DANIEL "Freddie" Wintle, M.C., late of The First The Royal Dragoons was in his own words a "donkey walloper." In the view of others he was the quintessential Englishman. He served in both Wars (losing the sight of an eye and four fingers at Ypres in the first), wrote letters to *The Times*, was imprisoned by both sides in WW II, unsuccessfully stood for Parliament, supposedly debagged a solicitor for which he was imprisoned a third time, successfully conducted his own appeal in the House of Lords and upon his death scored an obituary in *The Times* and was the subject of an editorial the following day. His posthumously published autobiography was favourably reviewed in *The Times Literary Supplement*. When he was not busy being patriotic he saw the whole of life through his monocle as one long mess-night lark. Perhaps, had the late Sir Alan Herbert learnt of Wintle's existence earlier, he would not have found it necessary to invent Albert Haddock.

R.V. Jones in his *Most Secret War* (1978) devoted a whole (albeit short) and affectation, chapter to Wintle and described him thus:

He was indeed almost a caricature of the popular idea of a cavalryman — somewhat cadaverous, with a large reddish nose and a monocle. This last, however, was no affection, for one of his eyes was almost useless. His moustache was neatly trimmed, and his uniform immaculate.

Wintle introduced himself to Jones during the "phoney war" before WW II began in earnest for the British. His no-nonsense manner and his appreciation of spectroscopy impressed Jones the physicist and backroom boffin. At the first conference which both men attended, Wintle sent an Air Ministry messenger out to the local to fetch back sherry all round. On Wintle's desk there was a photograph of himself surrounded by various Air Staff officers and across which he had written "The brains of the Air Force". In classic English understatement Jones introduces Wintle to the reader as a person who was to have an eventful war.

Wintle's connection with the Air Ministry was explained by Jones as a salve to Army honour in that, although the RAF was vitally interested in Germany's air defences, the British air defence of anti-aircraft guns was under Army command. With the benefit of hindsight it is just possible that in fact the Army seconded Wintle to the Air Ministry to remove him from their hair. After all, Wintle was cavalry, not artillery.

Born in 1887 in the Crimea where his father held a diplomatic post, Wintle was educated in Rumania, Germany and France as well as the Royal Military Academy, Woolwich. He fought in the First World War with the 18th Hussars and was severely wounded in Flanders. He later joined the Royal Dragoons.

How he spent the time between the Wars and also the greater part of WW II is not easily discerned and doubts must be expressed regarding any version of facts for which the sole source is Wintle himself.

Between the Wars he claimed to have been an instructor at the French Staff College and it was his professed insight into the French Military mind that first saw him gain notoriety.

**Wintle was confined to the
Tower of London awaiting
his court martial . . . and was
represented by Caswell K.C.
and Astell Burk.**

On May 25, 1940, Wintle was present to witness the return of the Dunkirk evacuees. Here is his description:

Times may change in other respects, but the Guards never do. I was at Victoria Station when the army remnants started arriving back from Dunkirk. There were a good many trainloads of them. I was deeply shocked with the appearance of the first lot. About the third trainload turned out to be a couple of companies of Foot Guards. What a contrast! They were glorious to see. They fell in on the platform, dressed and marched out at attention, not even looking at the girls in the crowd of onlookers. Every Guardsman had his full equipment and his rifle. Everything was polished and properly adjusted. Thank God, I thought, that ass Hore-Belisha can never undermine the Guards. The sight of them was like a tonic — with a very large gin in it — which I promptly had in their honour.

Less than a month later and despairing of the manner in which the war effort was being conducted and believing himself to be uniquely placed to salvage some benefit on behalf of the British before the imminent collapse of the French army, Wintle attended at the Air Ministry on June 17 and demanded an aeroplane to fly him to Bordeaux. To back up his demand and lend credibility to his sincerity he drew his service revolver and, it was alleged, threatened to shoot himself and Air Commodore A. R. Boyle. Furthermore, he has said words to the effect that certain of His Majesty's Cabinet Ministers and all officers of the RAF above the rank of group captain and most senior Army officers ought to be shot. Consequently he did not

make the trip to France and was instead confined to the Tower of London awaiting his court martial which began on August 26, and lasted two days. On August 14, the Under-Secretary of War answered two Parliamentary Questions regarding Wintle's imprisonment.

Wintle was represented by Caswell K.C. and Astell Burk. He pleaded "Not Guilty" to the three charges of

- (i) feigning infirmity (defective vision);
- (ii) assaulting Air Commodore Boyle; and
- (iii) conduct contrary to the prejudice of good order and military discipline.

The tribunal found him not guilty of the first and last charges and on September 10, sentenced him to be "severely reprimanded" on the second charge. Wintle had been imprisoned in the Tower for almost twelve weeks.

The source for his further exploits in WW II is Wintle himself and he lays claim variously to the following:

sent to France as a spy, captured by the Vichy French and solitary confined after a failed escape from Toulon gaol, escaping on the next attempt and returning to England by way of Spain; service in Burma and India which included training as a spy; and on Havell's staff in the Middle East working in intelligence with Aly Khan amongst others.

Wintle's claimed variety of activities do not, in themselves, raise doubts. His manner and approach could easily result in his various commanding officers sending Wintle elsewhere after short intervals.

In 1943 he wrote *Aesop* which the *Time Literary Supplement* described as a modest and unpretentious book.

Wintle survived the hostilities and in 1945 ran as the Liberal candidate for Norwood, standing against the sitting Cabinet Minister (Duncan Sandys) wherein both lost in the Labour tide that swept Churchill from office. Wintle received just enough votes to secure the return of his deposit. At this time he re-introduced himself to Jones:

[Jones's wife] was much alarmed to hear a great crash in the sitting room and found that a motor car had come through its front window. The house was on a bend, which the driver had obviously taken too fast. When he stepped out, it was Freddie Wintle . . . "My dear lady," he said, "I am most frightfully sorry. I must have upset your nerves. What you need most is sherry which I will now go and get." And just as on the occasion of my first meeting him, he went to the local pub and returned with the sherry.

Although only five years had passed since the Air Ministry incident and his court martial which had ended in a severe reprimand for the one charge found proved, candidate Wintle unabashedly

informed his would-be constituents that he had been imprisoned in the Tower and court martialled for having made the journey to France and his court martial had resulted in an acquittal and thus vindicated his journey to enemy occupied territory.

In 1947, an eccentric cousin of Wintle died and the effect of her will was that of an estate of 115,000 Pounds, 44,000 Pounds was to go to the solicitor who drew up her will. Wintle was outraged. His protestations both to the solicitor and the Law Society fell on deaf ears. Neither saw anything untoward. Wintle wrote several pungent letters to the solicitor indicating that both he and his sister were not prepared "to tolerate that you should acquire for your own use the bulk of my cousin's estate by means of a will drawn up by yourself in your own office in your own favour." The letters went on to suggest that the solicitor had stolen the cousin's money and referred to him as "a cad, a liar and thief and embezzler." Wintle was determined that the matter should be aired publicly. He succeeded.

It is untrue that Wintle debagged the solicitor. He invited Nye to remove his trousers which he did with alacrity.

That his cousin, the testatrix, was eccentric, there seems no doubt. She would every day write a letter to herself. At Seacroft, her house at Hove, she would write to herself by the first post and when it arrived by the afternoon post she was delighted. When going from Hove to East Grinstead she would write a letter so that it would be there when she arrived. She did not destroy letters but put them into a handbag. When it was full the bag was placed under her bed and she bought another. Finally, the bags under the bed were put into a cupboard and a new lot started. Her doctor from 1936 to her death in 1947 testified at the 1957 civil action that she was just content to exist, inert and had no intellectual interests. The doctor was unable to suggest that his patient should treat herself with insulin because she had insufficient intelligence to fill a syringe or to read the scale. In the same action Miss Marjorie Wintle (the Colonel's sister) testified that the deceased cousin never read a newspaper, never understood that there was a war on [she lived on the south coast of England], did not know the value of money and was no conversationalist, she preferred silence. Throughout the action Colonel

Wintle referred to the testatrix as a "jelly-fish."

In 1955, through a series of telephone calls to the solicitor, Frederick Nye, and purporting to be an old business acquaintance (Lord Norbury) whom Nye had not seen for many years, Wintle lured Nye on April 6, to a flat in Hove which he had rented for the purpose. Wintle had arranged for Norbury's name to be on the resident's directory as living at Flat No. 11. Upon Nye's entrance Wintle set upon him. The solicitor's calls to Norbury for assistance were not answered and Wintle disabused him of any belief in Norbury's presence. Although Wintle had purchased rope to tie up Nye it was unnecessary. Wintle later described the rope as mere "window dressing" to impress Nye who, according to Wintle, had been accustomed to dealing with old women and not with a person who would stand no nonsense from him. Wintle prevailed upon Nye to sign a cheque in the sum of 1,000 Pounds payable to Wintle's sister and also to sign a document acknowledging the solicitor's past misdeeds. Thereafter, Nye posed for a number of photographs while wearing a newspaper hat and trouserless. It is untrue that Wintle debagged the solicitor. He invited Nye to remove his trousers which he did with alacrity. Doubtless, had Nye declined the invitation his trousers would have been forcibly removed. Later, when giving sworn evidence, Wintle said he told Nye that he was going to photograph a particular part of Nye's body. Thereafter Nye was locked in a cupboard for a short time before Wintle turned the solicitor, still trouserless, out of the flat and into the street. The same afternoon Nye's trousers were exhibited in the trophy room of Wintle's London club. There are conflicting versions of how the Police got into the act. In the subsequent criminal trial the prosecution alleged that upon a complaint laid that day by Nye, Wintle was arrested the same night. Later civil proceedings have Wintle going round the countryside showing the photographs and boasting of the incident according to Nye while Wintle maintained that he himself reported the incident to the Police as a means of publicly airing the solicitor's conduct.

Wintle was arrested and bailed to appear at a preliminary hearing on April 28, at Hove where he was committed for trial notwithstanding Wintle's no case submission. Wintle reserved his defence and bail was renewed.

The trial took place at Sussex Assize in July before Byrne J. and continued for three days. Wintle pleaded "Not Guilty" to the two charges of assaulting Nye and fraud with violence arising from the 1,000 Pounds cheque. Wintle was represented by W.R. Rees-Davies.

On July 26, Wintle changed his plea to "Guilty" to the charge of assaulting Nye. He was acquitted of the fraud charge after Byrne J. told the jury that if a person honestly believed he was entitled to

something he could have no intent to defraud. Wintle received six months for the assault. It is not known whether Barwick Q.C., Windeyer Q.C., or Coppel Q.C., or any of the other Australian delegates to the Commonwealth and Empire Law Conference travelled down to Sussex to sit in on the trial which was widely reported under the heading "The Colonel and the Solicitor" and was of more interest than the seminar topic at the conference.

On August 2, Wintle's solicitor lodged Notice of Appeal against sentence and on August 17, G.D. Roberts Q.C., and James Mendl appeared for Wintle before the Court of Criminal Appeal (Hallet, Pearce and Havers JJ.) which dismissed Wintle's application for leave to appeal.

Wintle emerged from this third period of incarceration in need of a stiff drink and with a profound respect and understanding of Her Majesty's laws.

Wintle emerged from this third period of incarceration in need of a stiff drink and with a profound respect and understanding of Her Majesty's laws which he later was to put to good use when he re-entered the fray with Nye.

The next engagement was a civil suit designed to upset his cousin's will and, to gain standing, Wintle induced a beneficiary to assign his interest to him and thus *In the Estate of Wells* came before Barnard J. and a jury. The plaintiffs were Wintle and his sister. Nye, the executor appointed by the will and residuary beneficiary, was the defendant. On Wintle's side were Phillimore Q.C. and Scarman Q.C. (later Sir Henry Phillimore, Lord Justice of Appeal and Lord Scarman, Lord of Appeal in Ordinary). Afterwards, Wintle was to describe his counsel as unreliable outriders spilling at the first ditch. Ifor Lloyd Q.C. appeared for Nye.

On May 15 and 16, Wintle was cross-examined by Lloyd Q.C.:

You are a bit of a writer yourself?

— No I am a very considerable writer and publisher to a less extent.

Presumably, although *The Times* did not so report, Lloyd was seeking to place Wintle's "scurrilous" letters to Nye before the jury).

Up to 1948 there was not a word to Mr. Nye challenging the will?

— I deal with matters from the military point of view. I regard Mr. Nye as an enemy and I do not disclose my plans until they are matured.

THE OAKS



GRACIOUS HOMESTEAD ACCOMMODATION

The Oaks is one of Victoria's finest rural properties. Located on the Goulburn River within easy reach of Melbourne, the Alpine Snowfields, Lake Eildon and the Fraser National Park.

Relax and enjoy our hospitality in this classic homestead (c.1890) with its wide verandahs overlooking the Goulburn River and Cathedral Ranges.

Explore the National Parks. Feed kangaroos, possums and parrots.

Fly fish the Goulburn — private schools available.

Aquatic sports on Lake Eildon.

— or just relax and enjoy our environment.

We look forward to sharing it all with you.

Resident Hosts

Richard and Wendy Robinson

The Oaks,

R.M.B. 5295, Alexandra Victoria, 3714,

Telephone: (057) 72 1572.

Then I launch my heavy artillery on him and we get busy.

His Lordship:

If we go on like this the jury will want a map in which they can put pins.

You are prepared to say anything to wound and injure Mr. Nye?

— I tell the truth and if it injures Mr. Nye that is his misfortune.

Wintle told the jury he was very proud of appearing at the criminal trial where he was convicted of assaulting Nye. In relation to the cheque: "I had no intention of presenting it. I am more accustomed to dealing with horses than dirty papers. In my heart and belief my sister has been defrauded by this man. I do not dislike a person like Mr. Nye. I had to resort to violence in order to get the matter into the public eye. It has succeeded and that is all my interest in his physical existence!"

He said it was "not until I got to the Lords was I dealing with my intellectual equals". He went alone to the Lords armed only with his sense of what was right and honourable and his belief in the inestimable advantage of being English.

On May 20, at the conclusion of His Lordship's summing up a woman juror asked if the verdict had to be unanimous.

His Lordship: *Yes, I am a afraid so, but do not be like the juryman who would not agree and said he had never met eleven such obstinate people.*

The jury went out at 12.15 p.m. and Mr. Grant of counsel sought leave to make a statement on behalf of Messrs. Nye and Donne, a firm of Brighton solicitors (not to be confused with Mr. Nye's firm, Nye and Murdoch, also of Brighton). Leave was refused. The fact that the unsuccessful application received publicity was no doubt sufficiently effective to fulfil the expectations of Mr. Grant's instructors.

At 2.15 p.m. the jury returned after having requested and being provided with a transcript of Nye's evidence. Wintle had lost and though his sister had her costs paid from the estate, Barnard, J. did not make a similar order in Wintle's favour because "he had had his fun and now must pay for it."

While awaiting the hearing of the appeal Wintle hosted a party at his 300-year-old cottage, Coldharbour. The occasion was the second

anniversary of the debagging. Nye did not respond to his invitation.

On appeal before Hodson, Morris and Sellers L.J.J., Wintle appeared in person and on November 14 the Court reserved its judgement. Things had gone well for Wintle. None of the members of the Court were impressed by the "no lapse" clause providing that, should Nye predecease the testatrix, the residue of her estate was to go to Nye's estate. Also, one of the appeal judges had alerted Wintle to the implication of a letter from Nye to the testatrix written in 1939. In order to discharge his duty to his client, it was incumbent upon Nye to ensure that she appreciated the size of the residue of her estate. Yet the 1939 letter, one of the very few contemporaneous documents, suggested some doubt on the parts of both Nye and his client as to whether the residue was sufficient to permit a bequest to be increased from 40 Pounds p.a. to 120 Pounds. Wintle noted that this letter had been examined by at least five Q.C.s and innumerable counsel and solicitors, none of whom had recognized the implication that the appeal judge had.

It came as a shock to Wintle when, on December 16, the Court (Sellers L.J. dissenting) dismissed the appeal and granted leave to appeal to the House of Lords. The majority had been unable to overcome their reluctance to upset a jury decision. When it came to costs the only common ground between Wintle and Lloyd Q.C. was that this was not an ordinary case.

The costs, by now estimated to be about 3,000 Pounds, must have concerned Wintle for he next sought an order from Sachs J. to compel the Legal Aid Committee to provide him with a certificate. Sachs J. held that he was powerless to so order the Committee and did not appear at all favourable towards this disgruntled losing litigant.

The Colonel pressed on to the House of Lords, compelled by his financial position to again represent himself. After his victory there he was to assert that his decision to appear as his own advocate was of his own choice and not occasioned by the prohibitive costs. He said that it was "not until I got to the Lords was I dealing with my intellectual equals." He went alone to the Lords armed only with his sense of what was right and honourable and his belief in the inestimable advantage of being English. It is a disappointment to legal scholars that Lord Denning (who in 1958 had not yet "stepped down" to the Court of Appeal and accepted appointment as the Master of the Rolls) did not participate in Wintle's appeal. Both believed in the superiority of the English way. One of the Lords who did hear his appeal was Lord Reid who later was to criticize Lord Denning for his outdated confidence in British being better (see *the Atlantic Star* [1973] 3 WLR 746 at 800 — 1.) Still,

Wintle won over the Lords unanimously which necessarily includes Lord Reid.

Included in Wintle's submission was his reason for creating a scandal: once the will was in Court, it would stand out as its own monument of infamy. He criticized the summing up to the jury by Barnard J. in that they were told that Miss Marjorie Wintle had a moral right but no legal standing; the next of kin had a legal standing but no moral right and that this justified the residue going to Mr. Nye who had neither moral right nor legal standing.

"Nobody," he continued, "had told the jury that it is generally understood throughout the world that solicitors will not do the sort of thing that Mr. Nye did. When one reaches a certain age one knows that one does not read other people's letters or peep through keyholes. In the same way one knows, that one does not act as Mr. Nye did. The Judge slurred over that and so induced a far more benevolent atmosphere towards Mr. Nye than was justified. He should have told the jury that it is a matter of professional honour among solicitors not to do that sort of thing and that his acceptance of the testatrix's refusal to see another solicitor was so suspicious as to demand a far more careful scrutiny of his actions."

On November, 28, 1958 the
Lords announced that they
had found for
Wintle . . . Lloyd Q.C.
proposed the terms of an
order to be made by the
Lords. Wintle rejected them.

On November 26, 1958 the Lords announced that they had found for Wintle, reasons for judgement being reserved. Nye surrendered. He did not want to involve the estate in further litigation. No doubt he was also conscious of Wintle's emerging forensic skills and his more intimate appreciation of those facts which would be most damaging to the solicitor in the eyes of a new jury if another trial were ordered. Lloyd Q.C. proposed the terms of an order to be made by the Lords. Wintle rejected them.

Lord Reid —

What difference does it make? You are going to reach exactly the same position as if Mr. Lloyd's proposals were adopted.

- Colonel Wintle — *His proposals would involve me in going to the Probate Court. They would involve me in the disagreeable experience of having to continue to argue with Mr Nye.*
- Viscount Simonds — *I could wish that there was some counsel on your side so that he could agree a form of order with Mr. Lloyd.*
- Colonel Wintle — *I am very thankful that there is not.*
- Viscount Simonds — *You do not always say the things that endears you most.*

Wintle's successful submission denying Nye his costs from the estate must have given him sweet satisfaction:

... the fact that the case came on so many years after the death of the testatrix was due to the fact that Mr. Nye made it impossible to bring it by placing every obstacle in the way and by putting a veneer of respectability on top of the dirty work he had been doing.

When I lost the action in the High Court Mr. Justice Barnard also had discretion to allow my

There are suggestions that the young barristers of Lincoln's Inn toasted his success and congratulated him on his legal expertise.

costs from the estate. But he said in open court that having had my fun I must pay my own costs. I submit that this is a case where Mr. Nye, having had his fun and having shown himself to be a deliberate and careful arranger of these matters, should pay the costs. The estate should not be burdened with the expense of his misdeeds.

CAVALRY OFFICER JUMPS LAST HURDLE TO WIN trumpeted *The Times* and there are suggestions that the young barristers of Lincoln's Inn toasted his success and congratulated him on his legal expertise. This writer prefers to believe the young barristers were unable to contain their glee at the idea of a debagged solicitor. The *Law Quarterly Review* commented it was "probably the first time in legal history that an appellant,

appearing in person, has succeeded in persuading the House of Lords to reverse a decision of the Court of Appeal which had affirmed the judgment given by the trial judge on the trial of the action with a jury."

After his victory, Wintle was probably insufferable in his own confidence as an advocate. He appeared for himself in the final formal hearing of the Probate, Divorce and Admiralty Division of the High Court where letters of administration *cum testamento annexo* were granted to Barclays Bank Ltd. At this hearing, before Karminski J., the testatrix was no longer "a jelly-fish," she was affectionately referred to as "old Kitty" by Wintle.

He also appeared in 1960 before the Disciplinary Committee of the Law Society where he succeeded in having Nye struck off the Roll of Solicitors. He was less successful against the six partners of the firm Janson Cobb Pearson and Co., which had acted for Nye as his London agents throughout the probate litigation. His complaint regarding their conduct prior to the Court of Appeal hearing was not upheld and he was ordered to pay their costs. Their costs were 230 Pounds but upon taxation were reduced to 60 Pounds by the Taxing Master. Of course, Wintle appealed against the decision of the Disciplinary Committee. But on October 26, 1960 Parker L.C.J., Ashworth and Elwes JJ. dismissed the appeal in *Re Solicitors: ex parte Wintle*. The reports in *The Times* contain some vintage "Wintticisms":

Thereafter Wintle stayed out of the public eye except for the publication of a forgotten book (*The Club*, 1961) and the occasional letters to *The Times* written from the Naval and Military Club. In 1959, Captain Kerby, M.P. tabled a motion seeking "a free pardon for Colonel Wintle in respect of the offence which he committed in order to get his case before the courts, every legal method to do so having failed, and in respect of which offence he has served the sentence imposed on him." The ultimate fate of this motion in the House of Commons is unknown.

Wintle died in 1966, whereupon *The Times* announced the fact on page 1 and ran a lengthy obituary. The following day in an editorial entitled "On being oneself" the passing of Wintle was further noted:

It is not merely because they had owed to him quite a number of news stories in the past that the press have taken a respectful and semi-affectionate farewell of Colonel Wintle. He was a resolute fighter; that helped. What endeared him most of all was that, in his own words, he was an eccentric.

Four days after his death, *The Times* finally published his previously unpublished letter written from the Cavalry Club in 1946, noting Colonel Wintle was able to appreciate that more letters are received by *The Times* than can be printed:

After his victory, Wintle was probably insufferable in his own confidence as an advocate.

Dear Sir,
I have just written you a long letter. On reading it over, I have thrown it in the waste paper basket. Hoping this will meet with your approval. I, am Sir.

Your obedient servant,
A.D. Wintle

The publication of this letter after twenty years raises the spectre of a vast filing system of

unpublished material being stored by *The Times* for possible future use when an item becomes newsworthy.

R.V. Jones writes that on the occasion of Wintle's funeral, his friend ex-Trooper Cedric Mays of The Royals drank a bottle of Glenfiddich and then, through a mist of whiskey and tears sang the Cavalry Last Post and Cavalry Reveille to the astonishment of worshippers in Canterbury Cathedral, the Chapel of Cavalrymen of Britian.

Ray Gosling reviewed Wintle's posthumously published *The Last Englishman* (1968) in the *TLS* under the heading "Real super man" and closed his review with an anecdote from the book:

One day at home John [the elder of Wintle's two nephews], spoke out of turn and announced without being asked that he had been first at school. "That's splendid," I said. "Here's a shilling for you. Well done!" Then, seeing that Peter had remained quietly English and had volunteered no information, I asked: "Well, Peter, and how did you get on?" Peter admitted without enthusiasm that he had been seventh. "Seventh," I replied. "Splendid. Here are seven shillings for you." My sister was scandalized . . .

"Rosemary's Filing Service"

What Every Busy Practitioner Needs . . .
A Filing Service for all your loose leaf services.

ONLY \$3.25 a service.

(Less than 4 services \$12.00 minimum)

Tax Reporter Service \$4.50.

ALSO annotations for English Updater Series etc.

For Prompt Immediate Service

Contact Rosemary on 773 1329.

Or Write to: Mrs R. Drodge, PO Box 225, Chelsea 3196.

UNHAPPY LAWYERS

This article by *Paul Ciotti*, originally appeared in the Los Angeles Times and was subsequently re-published in Tasmanian Law Newsletter.

FOR ELLEN WHELAN, IT WAS A BITTER disappointment. All through law school, she thought about how great it would be when she became a lawyer. Then, four years ago, she got her degree and found that as a young associate, all she did was work — six and seven days a week, to 11 every night, up at the crack of dawn.

"I didn't even have time to see my parents," she says, "much less anybody else." After two years, she found a new job and met a guy. "I said, 'Oh, this is new. I might actually go out on a date for a change.'"

That was until she told her friend what she did for a living: "He said, 'Oh great. You make tons of money, drive a BMW and [cheat] everybody.'"

Whelan was devastated and not just because she drove a Hyundai. "What kind of world is it," she says, "that you can't tell people what you do because they come down on you?"

Welcome to the legal profession, 1988.

WORKING MORE, ENJOYING IT LESS

More than ever before, many lawyers say they are working harder, getting richer and enjoying it less.

To most working people, their complaints may not evoke such sympathy.

But many lawyers wonder if perhaps their choice of career wasn't a major mistake.

The paperwork seems endless and meaningless. They labour to help big institutions, not needy individuals. Often, they say, their clients are ingrates. The legal system can be frustrating and unresponsive. The public views the legal profession with distaste. There is a widespread perception that criminals escape punishment. Lawsuits drag on interminably. And, as many people see it, it's all the lawyers' fault.

"I attended a conference last summer at USC with some high-level human relations people from some of the biggest companies in the country," says

Mike Driver, a professor of Management and Organization at USC's business school.

"And the one thing they were in agreement on was that . . . lawyers were the kind of people who caused more trouble than they were worth."

Jack Weinberg, 55 a Los Angeles lawyer who gave up his practice after 22 years to publish a tourist guide to on-location movie sets, maintains that unhappiness among lawyers "is pervasive, endemic and out of control!"

I think one would have to have a deranged sensibility to genuinely enjoy . . . the day-to-day practice of law . . . [which] largely consists of arguing with other people about money.

Which is not to say that unhappiness is easy to document. For one thing, lawyers in surveys tend to give contradictory information: On the one hand, many of them report they have a great deal of satisfaction (which isn't surprising when one considers that starting salaries of associates, in big, elite firms has doubled over the last eight years); at the same time, however, a study reported in the February, 1984 American Bar Assn. journal showed that 41% of lawyers would enter another profession if they had it all to do over again.

There's a reason for such contradictory attitudes, says David Chambers, a University of Michigan law school professor who has surveyed the profession for years: When lawyers get paid \$60,000 a year to start, they are "embarrassed" to say that they are "miserable, especially when you can look out the

window and see people sleeping on gratings."

There also are other less subtle indicators that lawyers are unhappy. The alcoholism rate among lawyers is an estimated 15%-20%, almost twice as high as the general population. In their first three years of practice, half of all lawyers change jobs, with some firms losing as many as a quarter of their members every year.

Career consultants and counsellors report lawyers flocking to seminars and workshops on changing professions. Career dissatisfaction in the profession has become a regular topic of discussion at placement director meetings, says Lujana Treadwell, placement director at Boalt Hall, the law school at UC Berkeley. At its recent Toronto convention, the ABA conducted a three-hour panel discussion for law firms on ways to cope with lawyer discontent.

It is clear that "many lawyers don't seem to be getting much gratification from practice," says Sheldon Krantz, dean of the University of San Diego School of Law who is on sabbatical interviewing lawyers for a book on problems with the profession.

LIFE ISN'T TELEVISION

For many lawyers, the problem is unrealistic expectations. After graduating from college with liberal arts degrees, many attended law school for lack of better ideas on what to do with their lives; on television, at least, the life of a lawyer seemed exciting for them.

"Unfortunately, my life is not television," says Whelan, who left a large New York firm to join a less frenetic Los Angeles practice.

Clients often blame lawyers for taking too much time and running up their bills because they "don't appreciate how complicated [the law is] and how difficult it is to get any results," says Bob Schneider, who was a lawyer in Los Angeles for 10 years and now works in Phoenix. Even people who get free counsel frown on lawyers. Reuben Castillo, a Pomona legal services attorney, said it is not uncommon for clients to announce: "If I had the money, I'd get a real attorney."

For graduates of prestigious law schools, it can also come as a shock to discover that much legal work is boring. New associates may spend their first six months in practice doing rote review of case documents says John Siamas, a partner in the San Francisco firm of Jackson, Tufts, Cole & Black and general counsel to the national Assn. for Law Placement.

Young lawyers also learn quickly their work is often lonely. "It's basically you and your desk and reams of paper," says Schneider, the Phoenix lawyer. "You don't even deal with people that much."

The major complaint among associates, however, is overwork. In 1985, some major New

York law firms found their young associates were bailing out in droves in their third year, just as they were starting to really earn their keep. In response — and in answer to increased competition from the financial community for major universities' best and brightest — the firms offered enormous starting salaries (now reaching \$76,000 annually at some New York firms) to people who, in some cases, never had held a job before.

(This by the way, is not to suggest that all lawyers are getting rich. A 1986 survey by the Los Angeles County Bar Assn. showed that 64% of members made between \$21,000 and \$100,000; 5.5% made less than \$21,000; 6% made more than \$120,000 a year.)

60-80 HOUR WEEKS

While the big salaries at elite firms were gratifying to the young lawyers, they came with a catch: "To earn the pay, they had to increase dramatically the number of hours they billed clients each year. As a result, it is now common for young associates at major firms to work 60-80 hours a week," Treadwell of Berkeley says.

The major complaint amongst associates, however is overwork. . . . It is now common for young associates at major firms to work 60-80 hours a week.

That is an astonishing increase, says Martha Fay Africa, a legal headhunter in San Francisco. When she was placement director for the law school at UC Berkeley firms typically required associates to bill 1,500 to 1,550 hours a year. After giving big salary increases, the firms now demand 1,850, 1,900 or 2,000 hours.

Further, this is often the bare minimum. A lawyer at a major firm who bills only 2,000 hours a year "has one foot out the door and the other on a banana peel," says Carol Kanarek, chair of the A.B.A. Career Issues Committee. For associates who hope to become a partner and share in the profits, the minimum billing time demanded now is closer to 2,000 hours. "And I see some people," Kanarek says, "who are billing more than 3,000."

Because billable hours generally are 15%-20% less than the total time lawyers work — they usually, for example, cannot charge clients for meetings and administrative tasks — their time on the job can stretch intolerably.

"My brother bills 60 to 70 hours a week," Whelan says. "He goes home in order to sleep. He never leaves the office. I ask him what he does for pleasure. He says, 'Nothing.' You make money, but what is the point? You have no life."

Hoping to avoid the most consuming firms, some prospective associates try to deduce their true situation from clues in job interviews: Do the attorneys wear their jackets at work? Do they keep their doors closed? Are the secretaries happy? Most frightening are firms with showers and dining facilities on the premises. When you see those, "you might as well not even rent an apartment" because you'll never have time to use it, Whelan says.

If firms wanted, she says, they could divide a lawyer's work and give it to two people — even on half-pay, a person could make a decent living. But firms are so conservative, "they would rather kill one person than work two."

Some lawyers, especially women with families who do not mind being out of a partner track, have opted to work part time which is still 40-45 hours a week.

But for those associates who choose to spend the six or seven years to make partner, the pressure is intense. Partners are notorious for giving associates major projects late on Friday or calling them up Sunday morning to come to work. Associates "realize that if they don't comply with every sort of whim, that they won't make partner," Africa says.

It is unfair to call all lawyers "arrogant", Rybka says, but a "pompous" streak does run through the profession.

As law firms are increasingly run like businesses, individual associates are increasingly viewed as profit centres — the more, the better. In New York and Los Angeles firms, Africa says, it is common for the ratio of associates to partners to be 3-1 or even higher, in contrast to the 1-1 ratio of most other areas. Because of this, associates have less contact with partners, less training, less supervision and, most importantly, less chance to make partner. The result often is drug and alcohol abuse, divorce and health problems.

For lawyer Ed Rybka, it was overwork that affected his health; the strain of billing 2,100 hours a year gave him chest pains, insomnia and arthritis in his hands and joints. "I was grinding my teeth

so bad at night, I was having toothaches," he says. "I decided at the age of 30 that that was not the way I wanted to live the rest of my life."

Most young lawyers know long before they get out of law school that they face long hours working in practice. What is less clear to them, however, "is how dehumanizing that can be," says Siamas, the partner in a San Francisco firm.

Lawyers get so obsessed with their jobs that all they can talk about is their cases. Or they become so analytical, they start to examine casual conversation for hidden agendas. The result: even lawyers sometimes don't like lawyers anymore.

Soon after becoming an associate, Rybka says, he made an effort to avoid lawyers socially. They were too competitive, too cynical and too tired for anything but one-upsmanship ("Oh what firm are you with? What law school did you go to?")

It is unfair to call all lawyers "arrogant," Rybka says, but a "pompous" streak does run through the profession.

Although Rybka got out — he now works at a small firm and is planning to set up his own company providing on-line data on law firms — many other young lawyers feel trapped.

Instead of moving to less-pressured environments with firms in small cities, Treadwell says, they get seduced by the big salaries and stay at a firm until it is too late. When, as often happens at larger firms, they get passed over for partner, they have no options.

CORPORATIONS, NOT INDIVIDUALS

Many lawyers get into the business thinking they can help people and benefit mankind. But they soon discover that much of what lawyers do benefits corporations, not individuals, says Dianne Sundby, a Los Angeles psychologist who sees many lawyers in her practice. In contrast to the 60's, lawyers also get far less time to help the needy by taking *pro bono* cases. Under the pressure to produce, Siamas says, "the easiest thing to go is the non-economic elements — public service and *pro bono*."

If they try to move to the public service sector, lawyers soon find the jobs are often scarce and in many cases, poorly paid — as little as the low \$20,000s or less, a third of what they would earn in big private firms. Besides, with the cost of three years of law school now approaching \$60,000 many young lawyers may owe too much money on graduation to even consider public service. According to Jan Theiberger, director of career planning at New York University, the percentage of people who go into government service has dropped from 17.6% in 1975 to around 12% today.

It also is not clear that public service work is a great improvement over private practice. Reuben

Castillo, 33, an attorney with the Legal Services Program in Pomona, works on debt and eviction cases. He gets little satisfaction because his client "usually does not have a good case . . . We grovel and beg and hope judges will give us an extension. And that gets old pretty fast."

In personal injury law, a difficult, frustrating process is made worse by the tactics of opposing counsel, says Joel Kleinberg, a Los Angeles lawyer who serves on the national board of the Trial Lawyers of America.

Lawyers disregard the plain meaning of English words with "nonsensical objections" to conjure up hypothetical problems. "You see less and less effort to solve anything," Kleinberg says.

The lawyer spends time filling out forms, arguing with insurance adjusters over the size of a settlement and fielding calls from clients asking "Where's my check?"

Lawyers also get distressed by dealing with greedy clients. In Los Angeles, the State Insurance Company reports, the frequency at which people fill auto-accident personal injury claims is nearly twice that of the average of other major California cities. No matter how slight the impact, says Anne Koza, a Los Angeles personal injury lawyer, many people "jump out of their cars holding their necks."

Although such clients are "morally repugnant" to many lawyers says Stacey Betterman, 35, a lawyer with Jacoby & Meyers in Rosemead, "the bread and butter of a personal injury law practice are soft-body-tissue [no broken bones] claims by unemployed poor people." Lawyers can't afford to be choosy. Meantime, Betterman says, clients who are plaintiffs in personal injury cases one day are defendants in criminal cases the next: "it's almost humorous at times."

But it is hardly fun. The lawyer spends time filling out forms, arguing with insurance adjusters over the size of a settlement and fielding calls from clients asking, "Where's my check?"

The result, Betterman says: Many lawyers get "disgusted with their own clients and perhaps on some level with themselves . . ."

To escape what he saw as the cynicism of personal injury law, Betterman recently switched to family (divorce) law. That offered a small improvement but, "The day to day experience of most [divorce] attorneys is one of grinding

trivialities. There's an incessant flow of petty client demands: 'Who gets the toaster? She signed my name to the tax refund check'.

ADVERSARIAL NATURE

"I think one would have to have a deranged sensibility to genuinely enjoy what the day-to-day practice of law is like," because it "largely consists of arguing with other people about money," Betterman says.

The adversarial nature of the profession also troubles many lawyers. In litigation, "you fight about everything," says Schneider. "It's like going to war. No matter what it is, you fight about it and it goes on forever."

John Shean, a Los Angeles trial lawyer for eight years, observes that, "You can end up litigating for four years to go to trial for two weeks."

While a trial usually is fun — it is an "ego trip" to tear up an opposition witness — "it's not clear that it is useful to society," Shean says.

Unlike engineers or craftsmen who get the satisfaction of producing something with their hands, lawyers spend 90% of their time filling out paper work that few people will read, let alone pay any attention to, Betterman says. In the process, they become what Driver, the USC business school professor, calls "paper warriors."

Betterman has considered leaving the law many times, he says adding, "then I ask myself, 'what else can I do?'" I've been an attorney since the age of 25. I really don't know any other occupation."

Shean, formerly a trial lawyer with the downtown firm of Wise, Wizeorek, Timmons & Wise, decided to leave the law — no matter what: "I just became disenchanted with the way the people involved in the system were running it, from the Legislature to the Judiciary to the attorneys. I lay a lot of blame on the attorneys."

On June 30, Shean, who lost a son to liver disease three years ago, resigned his partnership to become president of the Children's Organ Transplant Assn, in Bloomington, Ind.

"One of my law partners said, 'I admire you for having the guts to do what the rest of us would like to do'" he says, "but they can do it. A lot of people could do it." All it takes is a willingness to accept a pay cut as his family did — from \$130,000 a year to \$30,000.

For him, Shean says, it became clear that there were things more important than personal wealth: "I saw that if I was going to be making money or saving money, I wanted to do it for children, not a big corporation or greedy insurance company or a greedy client."

Besides, he says, it is not as if people wanting to sue someone will lack for attorneys to file the law-suit. "There are plenty of people who will take my place."

MUSINGS IN CANTON

Intrepid culinary and cultural adventurer *Cliff Pannam QC* travelling with Phil Dunn reports on the Canton scene. Animal Liberation supporters are advised to pass quickly to the next item.



PHILLIP DUNN AND I DECIDED TO END summer legal vacation by quitting Mt. Macedon and spending a week in Canton. My Chinese friends in Melbourne gravely advised against it. A few days, on the occasion of some future trip to Hong Kong, would be more than enough to see what little there was of interest. A similar view was expressed by friends in Hong Kong; but with this difference — it was a waste of time to go there at all! When our interpreter and guide met us at Canton's railway station and expressed bewilderment that any tourist would want to spend more than the standard few days in his town I began to think that we had made a mistake. But they were all wrong. In fact there was not enough time to obtain anything more than a few glimpsed impressions of the city; its people, and the surrounding rural and industrial areas.

The Mandarin-speaking northern Chinese have always had a dim view of the Cantonese; their language, and their eating habits. They are regarded as volatile, rebellious, somewhat vulgar, materialistic and gluttonous. A modern northern joke reflects attitudes to their eating habits which have been held for a very long time:

"If it's got legs and isn't a chair or a table; if it swims underwater and isn't a submarine; if it flies and isn't an aeroplane — then the Cantonese will eat it!"

The variety of the available foods when married to the Cantonese obsession to have it as fresh as possible make the markets no places for squeamish western "gweilos" (foreign devils) to visit. There is a famous "free" market — more of which later — known as the Qing Ping market. We first went there on the day of our arrival. One of its cross streets is devoted to meat, poultry and fish. I still recoil from memories of its gruesome horrors. Snared live possums and wild cats lying in agony in cages. Their legs broken from the snares. Unable to stand. Tortoises and turtles endlessly crawling over each other awaiting death. Strangled dogs hanging by their necks in rows. Hair singed off, partially roasted, leaving yellowy brown entire carcasses. Snakes writhing in bamboo cages. Leg tethered sad ducks and geese. Chickens tightly packed in large baskets. Gasping fish of all types barely alive in aerated bowls of water. And everywhere bloody butchered flesh on chopping blocks and display counters. At least there were no live owls available for sale at this time of the year. In other parts of the market are less immediate horrors. Bear paws — severed, furred and pathetic. Even a bear's penis and gall bladder. Rhinoceros horns. An elephant's tusk. The skin of a leopard. Dried scales of ant-eaters. All of these and other piles of mysterious dried vegetable and herbal matter provide ingredients for traditional medicines. If it has ever moved then it is "good" for some illness or disease.

It is hard to understand why much of this creates

such a powerful sense of revulsion. After all we are omnivores too. A visit to any abattoir or cage bred chicken processing factory would provide similar scenes. The fact is that we are insulated from the facts of our vicarious cruelty and their deaths by supermarket packages and sterile butcher shops. Not so in Canton. The general absence of domestic refrigeration in an environment where food, especially meat, perishes quickly demands that the animal, bird or fish be kept in some state of life for as long as possible before being killed and eaten. But however that may be if we had to consistently look into the eyes of what we were about to eat then our food tastes might be dramatically altered.

"SEVENTEEN accused criminals were sentenced to death and executed before a crowd of 30,000 people at a stadium in Guangzhou, the Legal Daily said yesterday."
South China Morning Post,
on the morning of our arrival.

All over China there has been a marked increase in the general crime rate. A few days ago the Minister for Public Security, Mr. Yu Lei, announced that in 1988 there had been 827,000 crimes reported in the major cities of China and in areas open to the outside world. This was said to constitute a serious problem which required a nationwide crackdown on crime; and, in particular, corruption. A mere gweilo might regard this as odd because in the context of a population of over a billion people the figures suggest one of the lowest crime rates in the world. But however that may be the following appeared in the South China Morning Post (the prestigious Hong Kong newspaper) on the morning of our arrival:

30,000 WATCH EXECUTIONS IN STADIUM

"SEVENTEEN accused criminals were sentenced to death and executed before a crowd of 30,000 people at a stadium in Guangzhou, the Legal Daily said yesterday.

The public trials and executions were carried out to allow the masses to celebrate a stable Lunar New Year, which is observed on February 6, the newspaper said.

The executions came as China launched a nationwide crackdown on crime and corruption. The paper said the criminals were convicted by the Guangzhou Supreme People's Court and executed on Thursday for a variety of major crimes, including murder, robbery and economic crimes."

So Qing Ping and the report of these executions certainly and quickly made the point that Canton is home to a very different society.

Even though it is one of the most westernised cities in China any intelligent exploration would be extremely difficult without an interpreter-guide. English is only reliably spoken at the four or five luxury hotels. Signs are mostly in Chinese characters which are impossible to grapple with. Even when the form of romanised Chinese is used — called pinyin — pronunciation is difficult. Consonants, vowels and combinations are not given their romanised English pronunciations.

The Cantonese do not generally speak Mandarin or Putonghua as the official Chinese language is called. The characters remain the same but the pronunciation is extremely different. Cantonese has a far greater range of syllables and tones. But it is very much a local southern dialect. Although a Cantonese visiting Peking could understand the local newspapers he would have a considerable battle to make himself understood in any conversation with his northern compatriots.

The policy of the present Chinese government is to attempt to ensure that everyone in the country understands putonghua; to simplify the written characters (the record is 38 strokes to form *one* character); and, to extend the use of pinyin. I suspect that complete romanisation is the eventual aim and that seems to be the inevitable result; although still a long way off. The size of the population will make any change a far more difficult task than Kemal Attaturk found it to be when his government abolished the old Turkish script after the first world war.

General literacy and education to say nothing of communications would be considerably improved if the change was made. Even telexes have to be laboriously encoded for transmission and then decoded upon receipt with each character being given a four digit symbol. At present a reasonably well educated person has to learn by rote between 5000 and 10,000 characters. Chinese typewriters are so slow and inefficient. Facsimile transmission of hand written characters has now become the most convenient form of business and official communication.

I have wanted to visit Canton for a long time. There are three great sister cities of the Pearl River estuary — Hong Kong, Macau and Canton, each within 100 or so kilometres of the others. I have come to know the first two quite well over the years. The commercial British crystalline jewel that is Hong Kong. The languid Portuguese, even exotic, character of Macau. But Canton is, and always has been, a Chinese city.

The Cantonese people fascinate me. They are the Jews of Asia. Since the middle of last century they have gone down the Pearl River and out to the far

corners of the globe to make their lives. Off to the gold fields of Australia, the United States and South Africa. Down into south-east Asia and the islands of the south Pacific. Across to India and Africa and up into Europe and across again to the Americas. The Cantonese diaspora is world wide. So much so that the Chinatowns of most cities all over the world are largely dominated by the Cantonese. Their dishes are what we always associate with Chinese food. Indeed the great cuisines of the north and the other provinces of China — all of which are far greater in area and population — are regarded by us as being somewhat exotic and regional!

Of course other Chinese made homes in the outside world as well. But not in the same numbers and with the same consistency as the Cantonese. Why?

The Cantonese people . . . are the Jews of Asia. Since the middle of last century they have gone down the Pearl River and out to the far corners of the globe to make their lives.

I remember earnest under-graduate discussion of the question at the Kun Ming restaurant in Little Bourke Street over 30 years ago. The Cantonese fare was then much modified to then current coarse local tastes. A typical dinner at "the Chow's". Who said we were not racists? Long or short soup — the discrimen was the size and shape of the floating noodles. Dim sims which were a standard form of grotesque Australian mockery of the hundreds of delicately different *deem sum*. Just so the chicken rolls which were not. Then the inevitable sweet and sour something or other of unpleasant memory, followed by a chicken or beef chow mein. A bit of "fried lice". With the whole topped off with a banana fried in batter topped with a dollop of icecream.

Things have much changed in Little Bourke Street since then. I did discover one thing about our old "Chow" fare in Canton. I had always thought that the fried banana was a ring in. The icecream was; but it turns out that the banana certainly was not. There are banana palms in profusion in the countryside around Canton; and banana, fried in a crisp light batter, is one of the local dessert dishes.

But the question remains — why the Cantonese? What beckoned them down the Pearl River that did not to the same degree lure, say, the Shanghaiese or the Pekinese across the world in such numbers? I stood yesterday on the balcony of our hotel room 20 floors above the river. It is built right on the

bank. The view is down the broad sweep of the river directly to the south. This was the start of all of their journeys — river; estuary; sea; then ocean; out to the world.

The old Chinese man who sold me deliciously herbed dim sims for a penny each when I was ten years old at the corner of George and Alfred Streets in North Melbourne had come from "Cantonee", as he called it. He carried them in aluminium steamers suspended from a wooden pole carried across his shoulders. His principal clients were the workers at the Henderson's Federal Springs factory just down the street. A Chinese greengrocer supplied my mother with her vegetables from the back of his horse and cart. He had come from Canton too. She thought the dropped horse manure was a bonus for her garden which justified her purchases.

But why the Cantonese? I still do not know the answer. However I think that I now know at least some of the ingredients for an answer.

The first is an historical one. Canton has been China's principal trade outlet to the world for well over a thousand years. As early as the seventh century Cantonese traders had reached the head of the Persian Gulf and all places between. Recently the intact tomb of a king or emperor known as Chao Mei, or the Emperor Wen, was discovered in the centre of Canton during excavations for a new building. One of the objects in the tomb's collection of incredibly interesting treasures is an incense burner designed to burn sandalwood. The tomb is well over 2000 years old. Sandalwood has never grown in China. This means that the Cantonese were already trading at that time with India and the islands of the South Pacific. Those places were the only sources of sandalwood. Of course sandalwood was very much later to become the most important balancing item in the Australian-China trade of the nineteenth century. Various metal goods out to the Pacific islands; sandalwood to Canton; and China tea, home to Australia.

When the overland and desert routes to Europe, travelled by Marco Polo and known as the Old Silk Road, had all but closed in the sixteenth century Canton became the focus of European trade with China. The Pearl River estuary was home to Macau, the now deserted Lintin, and much later to Hong Kong. Portuguese, French, Dutch and English traders struggled to open the commercial doors of the celestial empire. Canton was the closest Chinese port to Europe. For a long time it was the only one open to the foreign devils. In 1757 an imperial edict restricted all foreign trade to Canton. Nothing much has changed. The Canton Trade Fair, held in April/May and October/November each year still accounts for some 20% of the whole of China's export trade.

The second ingredient relates to the famines which periodically plague the Pearl delta. In the

middle of the 19th century life was hard in this area. Like the Irish, the Cantonese were forced by dint of economic circumstance to find their fortune in other lands. But this was probably only a symptom and not the cause. After all the great northern river systems — the Yellow and the Yangzi — in their periodic floods wrought far greater havoc with their populations and yet they did not flee China in such profusion.

Next perhaps is the personality of the Cantonese. They are emotional and even fiery. The northerners regard them with something like the disdain that an Englishman in the home countries would regard a tempestuous Mediterranean. They are extremely intelligent, adventurous, questioning and commercially astute. They have an informal liveliness that makes them special. Far places have always challenged them.

PHOTOS IN BAR NEWS

Prints of most photos published in Bar News (including last issue's Bar Dinner photos) can be obtained from

Gillianne Tedder
P.O. Box 1121
City Road
South Melbourne 3205
Phone: 543 6333 Pager 15174

Forward a photocopy of the page with the photo marked and payment.

5 in. x 7 in.	\$8
6 in. x 8 in.	\$10
10 in. x 8 in.	\$15
10 in. x 12 in.	\$20

Larger sizes also available.

Finally I come to related, but dangerous ground. Canton has been the seat of rebellion and the source of radical ideas in China for a very long time. The Cantonese never willingly embraced the yoke of the northern Emperors. Over the centuries they were able to maintain a fragile degree of independence. During this century the politics of Canton have seethed. Sun Yat Sen was a son of the area. He spearheaded the overthrow of the last of the infamous Ching (Qing) dynasty in 1911. A huge memorial park and sumptuous assembly pagoda or hall, which doubles as a theatre, is located in the centre of the city. The main crossroad is named after him — Zhongshan Road. This is Dr. Sun's name in Pinyin. Similar main roads are so named in cities all over China. Canton was one of the first homes of the Chinese Communist Party. Mao Zedong and Zhou En-lai taught at the Peasant Movement Institute here in the 1920's. It was a school from which cadres were to be sent all over China. The school was housed in an old temple. The place is now a museum; even Mao's study is on display. Our guide was not enthusiastic about our visit. Mao is now much discredited. At all events it seems that the students dispersed when the Canton Communists were crushed by the Guomindang (Kuomintang or Nationalists) in 1927. Their murdered colleagues are remembered by a Monument to the Martyrs of the Guangzhou Uprising in a nearby leafy park. Canton was always in a ferment of new ideas. It still is.

There is a reminder of all of this in another monument. Earlier in 1911, in April, an uprising against the Qing failed. Seventy-two Cantonese involved in the rebellion were killed. In 1918 overseas Cantonese made donations to enable a monument to be built commemorating their deaths and interring their bones. It is called the Mausoleum of the 72 Martyrs. I shall not comment upon its appearance. I shall simply record that it incorporates stone versions of the Statue of Liberty; the Liberty Bell; an Egyptian obelisk; the Trianon of Versailles; and much more! The whole set off with a wall containing hundreds and hundreds of tablets recording the names and locations of the overseas donors or their groups or societies. It shows how far the diaspora extended — from La Paz to Newcastle (sic.).

At all events geographical location; economic conditions; personality; and, politics were amongst the ingredients of the exodus. There were probably many others, but I cannot yet identify them. The old Kun Ming debate is advanced; but not resolved.

We stayed at the White Swan Hotel. It is located on an island in the Pearl River named Shamian. The island is about a half mile long and half as wide. Originally a sand bar in the river it was turned into a foreign enclave by the English and French in the middle of last century. Stone retaining banks were

built all around. Substantial three storied European buildings went up. Painted in yellows; pistachios; and browns. Built of stone. Now they are divided up into warrens of small apartments or used as hotels or government offices. There were, and still are, several Christian churches. One is now a printing factory. Another has shed its apse! The infamous signs at the bridge entrances to the island are still remembered by all Cantonese. "No Chinese or Dogs allowed after 6 p.m." It is now a quiet tree-lined and gardened retreat on the fringes of a crowded city. There are tennis courts. The old colonial buildings are split up into small apartments. A few are used as hotels. There are lawns and gardens and banyan lined river walks. If I lived in Canton this is where I would like to be. A quiet retreat from the crowded and noisy city nearby.

The infamous signs at the bridge entrances to the island are still remembered by all Cantonese. "No Chinese or Dogs allowed after 6 p.m."

The island does have painful memories. Not far from here were the horrible opium factories. In the eighteenth and nineteenth centuries the drinking of the China tea became an English obsession. But the trade was all one way. It was epitomised in the famous remark of the Emperor Chien Lung to Lord Macartney in 1793: "Your Ambassador can see for himself that we possess all things". The trade was only financed by massive amounts of gold and silver. So the trading arm of the English Government — the East India Company — corrupted an entire nation in order to balance the trade by its filthy dealings in opium. The Chinese tried to stop the pernicious trade but the Opium Wars of the nineteenth century were the result. It was a despicable chapter in European-Chinese relationships.

Canton itself? It is a city completely strangled by ceaseless traffic flows and plagued with a poor electricity supply. After dark there is little street lighting apart from along the three or four main roads. Low wattage bulbs are used in shops, stalls and in apartments so as not to overtax the supply. There is not much in the way of neon or other coloured lighting. So the general impression is of a dark but not sombre place. Indeed there is something soothing about a big city that does not glitter and dazzle; like Hong Kong. The poor lighting does however create problems. Driving or riding a bicycle at night, or even crossing a road,

is a hazardous business. The electricity supply is also erratic. All of the larger restaurants and stores have stand-by diesel or petrol generators. Others make do with candles, kerosene or oil lamps and pressured gas lights. But all this will change. A nuclear power station is being built down near the Hong Kong border. It will make large quantities of electricity available to Canton in the next few years.

Privately owned cars are practically unknown. There are however a vast number of taxis. It is one of the few cities in China with such a large fleet. The roads are endlessly crowded with buses and high dour looking trucks shaped like those used in the Second World War. Perhaps they were. Bicycles are the main means of transportation. Hundreds of thousands of them. During the morning and evening peak periods there are quiet streams of them — six or so abreast — travelling in every direction. I simply shut my eyes when our driver aimed the car into and through them at 20-30 miles per hour! I was surprised at the number of Japanese motor bikes. They are prestige symbols. As our guide put it — “if you get a motor bike the beautiful girls will follow”.

It should not be thought that Canton is an unattractive or a depressing place. On the contrary. Many of the streets, and all of the main avenues, are lined with trees. The large leafed pink flowering *Cercis Chinensis* is everywhere. It is in flower now; something like a hibiscus flower. Every now and then the flame red flowers of the otherwise winter bare branches of the Kapok or Fire tree. It is one of the many symbols of Canton. Paper barks, she-oaks, melias, and yellow flame and tallows are used for road plantings along with others I do not recognise. Down by the river there are walks dominated by centuries old Banyan trees. The elaborate tree plantings surprised me. Every new road carries plantings of line after line of various trees.

One of the other symbols of the city are the five goats or rams. In Yuexia park, the largest in Canton and about 93 hectares in extent, there is a huge modern sculpture of them made out of large stone blocks. The lore is that long ago five gods wearing robes of different colours came to the City riding on rams. Each ram carried a stem of rice in its mouth. These were presented to the people as a sign that they would be free of famine forever. The myth gives Canton its other names — City of Rams, or as the northern cynics say, Goat City.

There are a lot of parks and recreational areas. Places to walk and talk; and, for young people, to love. One night we strolled through the Cultural Park. There were some surprises. One was a low building which was home to about a dozen full size billiard tables. Snooker and pool are current crazes all over China. Another was the sight of a thousand or so people watching the progress of a chess game.

The participants played on a stage. Their moves were recorded on a huge display board to the murmurs and groans of the spectators.

Although it is quite cold — around 15 degrees celsius but after all it is the middle of winter — there are flowers everywhere. They are mainly chrysanthemums, quite gaudy dahlias, poinsettia and camellias, some cinerarias and azaleas — even gladioli! The plants are not put in the ground. Instead they are grown in pots and these are placed in glazed ceramic containers. These are then arranged en masse to make a display. Sometimes hundreds and hundreds of them are used. Bonzai-ed trees of all kinds and shapes and sizes are on display for sale around the city. Chinese New Year is approaching and potted cumquat trees are the rage. They are a traditional New Year gift. It is curious to see them being pillion carried home behind the bicyclists. It is simply marvellous to see the thousands upon thousands of them in holding gardens just outside the city.

**Two things appear
clear . . . the government
food, clothing and general
consumer goods distribution
system has failed.
Second, the yen is grossly
overvalued.**

There are evidences of the varying influences of diverse religions; Taoist, Mohammedan, Christian, and Buddhist. Temples and churches are still used for worship but the congregations, if that be an appropriate collective noun, appear to be small. Indeed the huge gothic Roman Catholic Cathedral has less than a thousand parishioners. Many of its stained glass windows have not been replaced. They were smashed by the red guards in the eleven year madness of the cultural revolution. There are other evidences of their activities but much of what they smashed or defaced has been repaired or replaced. Canton did not suffer as much as other parts of China.

A casual visitor should be slow to draw any political or economic conclusions from chance observations. Because of its proximity to Hong Kong — only 110 kilometres away — it would be even more dangerous to generalise impressions gained in Canton to the whole of China. On the other hand two things appear clear. First, the government food, clothing and general consumer goods distribution system has failed. There are free markets everywhere. Privately owned food and vegetable stalls, restaurants, and clothing and general merchandise shops are to be found in profusion all over the city. The government controlled markets and stores display tired looking

foods and goods and appear poorly patronised. Free market prices are higher but the products are much better. The exception to all of this is the very large government owned Friendship store and, to a lesser extent, the government owned department stores. The Friendship store not only stocks handicraft goods which are attractive to foreign tourists but also an extremely large range of luxury consumer goods from the West. The problem is that the store only accepts currency in the form of Foreign Exchange Certificates. These are difficult for the locals to obtain.

I feel comfortable here in a way that I do not in Hong Kong. People seem to matter more. In the streets and parks, trees are often marked with their Chinese, botanical and English names!

This leads to the second matter. The Renmimbi Yuan (yen) is grossly overvalued against the major international currencies. There are two local currencies. One is the people's money — the Renmimbi Yuan (R.M.B.). This is the currency used by the local Chinese. Then there is the currency known as Foreign Exchange Certificates — F.E.C. These have face values in yuan but constitute the currency into which foreigners change their hard Western dollars, marks, pounds, or whatever. The luxury hotels, government antique shops, the Friendship Stores and other government run tourist oriented businesses only accept F.E.C. This has produced a situation in which 100 F.E.C. yuan or the equivalent in Hong Kong or U.S. dollars will bring about 200 R.M.B. All gweilos are badgered with furtive "change money" requests; furtive because it is a serious economic crime attracting severe punishments. Still there is an edge. One night we went to one of the best restaurants in town. The exchange of 200 F.E.C. yuan produced 400 R.M.B. yuan and, as the elaborate dinner costs 150 R.M.B. yuan, it cost us nothing!

As we poked around the various corners of the city at all times of the day and night the Cantonese people appeared to be reasonably fed and clothed. Clothes are made of cheap fabric and are of functional design rather than any pretence of elegance or fashion. There is a curious hairstyle in vogue amongst young women — a raised "bouffant" piece back from the forehead. No beggars. On the other hand there are some rather dirty and darker complexioned people to be seen sleeping in the parks and standing about in the streets during the day. They are said to have come from "the North" or sometimes from Mongolia or Tibet in search of work. Attracted by the

comparative wealth of Canton.

Constant bicycling looks to have a good effect on physique — lean legs, tightly muscled. The Cantonese are a handsome people.

It is government policy that everyone who is available to work should have a job. There are some odd consequences. Everywhere two or three people seem to be doing the work of one; or just standing around. It also means that there is little concept of service. The wages will be the same whether the products are sold or not so whether to be helpful or not is merely a matter of personality. It is disconcerting to walk into a government controlled business with an enquiry and to be ignored by the half dozen employees who are lounging around drinking tea.

Canton is a very moral town. The few prostitutes, known as "road chickens" in the vernacular, who hang around some of the hotels are despised. From the North. Anything or anyone that is regarded as bad, or anti-social, in Canton is said to be — from the North. A Hong Kong singer, Anita Mui, is to give some concerts here next week. She has been told to clean up her act. She must not be suggestive or provocative. Three of her sexiest songs have been banned — Bad Girl, Hot Lips, and Sexy Lady. And the leading pop singer in China has been released from three years of gaol. Why? Because he was careless enough to get three of his girlfriends pregnant! Any brief examination of a newspaper or book stall reveals the entire absence of "girly" magazines. It is a very straight city indeed.

Of course Hong Kong exerts a powerful influence. How could it not? The television channels are picked up. The radio too. There is a lot of travel between the two places. Families transcend the border. It would be impossible for Canton not to be much influenced by Hong Kong. After all it is just down the Pearl River estuary.

On the other hand it would be wrong to treat Canton as the poor Pearl River relation. In many ways the balance of the contrast is in favour of Canton. This is China. It is a Chinese city; not the vast international emporium which Hong Kong has become. I feel comfortable here in a way that I do not in Hong Kong. People seem to matter more. In the streets and parks trees are often marked with their Chinese, botanical and English names! Flowers and trees seem to matter more. Things matter less. At the end of the day I think that I prefer the crude bustle of the Pearl to the brilliantly lit necklaces of Kowloon and the Island and their endless luxury shops. They are, as the Chinese have frequently and crudely said, merely pimples on the backside of China.

There is an old Chinese adage with a number of limbs many of which I forget. The ones which I remember are: you should marry a girl from

Souchou (they are reputedly very beautiful); you should die in Liuchou (the wood is splendid for coffins); and you should eat in Canton. I have not eaten such superb Cantonese food anywhere. I shan't wax lyrical. All I will say is that the meal we had at the Guangzhou Restaurant was one of the finest Cantonese meals I have ever had the pleasure to eat. The restaurant can serve over 2400 people on five levels situated around a central courtyard garden. The prices get higher as you go up the levels. The food is prepared in more than a dozen different kitchens located throughout the building.

There were three other meals that I shall long remember too. One was at the Yeweixiang Fandian (Wild Animals Restaurant). There we ate snakes. They even brought them to the table; alive. Deft strokes of a knife removed their gall bladders. When squeezed out the bile was green mixed with rice wine. Good for whatever ails you. Then soup of snake and various other forms of snake dishes, frogs and possum. The Cantonese believe that snake warms you in winter.

I ate a lot of casseroled dog. After the initial revulsion it was a fascinating fragrant dish loaded with garlic and ginger and spring onions or their equivalent.

Another was in a street cafe. It is highly esteemed by the locals. We were entertaining a guest — Professor Goa. He is a professor at the Canton Institute of Fine Arts; and, as we later discovered, a leading member of the Communist Party in Guangdong province. The dishes included dog and eagle soup. Legs of the latter pathetic in the liquid. I ate a lot of the casseroled dog. After the initial revulsion it was a fascinating fragrant dish loaded with garlic and ginger and spring onions or their equivalent. There to mask the smell of the dog which the Cantonese hate just as much as the smell of lamb. They say that the smell is "Soh" — meaning awful.

Another culinary memory is the best of all. We left Canton on the Foshan road and had taken the fork to the north. We came to a bridge; over the west Pearl River. There was once only a ferry across. A village had grown up around the ferry; but it is now by-passed. Our guide said that he had read of a restaurant there opened by a local man who had married a lady from Canton. We ate at the restaurant twice as it turned out; it is half way to Zhaoqing which is about 100 kilometres from Canton. Without a guide you would never enter. A

tumbledown few rooms largely protected from the elements by the woven blue red and white fibre fabric so common here. Rice, noodles, dumplings and vegetables of the season were provided as were piles of little river clams in a delicate sauce. The rest of the food was the seafood you purchased from the free marketeers on the sampans moored in the river just down the hill. Our guide did the purchasing whilst the driver salivated over the eels we rejected. The lady from Canton and her husband then cooked the fish to perfection. Only local Chinese were present. Few gweilos had ever looked in. It was magic. The next day again. We were greeted as long lost friends. There was only one sour note. When all of this was reported to our medical friend in Hong Kong he railed against our stupidity and opined that a bout of hepatitis was the most likely outcome from our culinary adventures.

We all take from the places we visit odd things that cling to memory. One of mine is in the Canton Museum, located in the Yuexia Park. The museum is housed in an elegant five storied pagoda or tower first built in 1380. It contains exhibits which trace the history of Canton over a 4000 year period. One of them is a small relic from the time of the Opium Wars. It is an engraved piece of slate depicting, and telling the tale, of the Virtuous Horse. He and his master, a Chinese general, Chen Lian Sheng were captured. His master was killed by the British. In captivity the horse starved himself to death; rather than to eat the food of the foreign devils. There is a line drawing of him with the story told in the form of a calligraphic poem. In a sense the horse represents the uncompromising spirit of the Cantonese people. My eyes misted in admiration, respect and a sense of affinity. For him; and them.

Guangzhou, China
Lunar New Year, 1989

BLASHKI

ESTABLISHED 1858

Makers of a full range of legal and academic regalia

Open 9-5 weekdays; 9-12 Saturdays



BLASHKI REGALIA SUPPLIES PTY LTD
146 Burwood Road Hawthorn Victoria 3122
Telephone (03) 818 1571 Facsimile (03) 819 5424

DOUG MUIR — FIFTY YEARS ON



FIFTY YEARS AGO LAST MARCH HUGH Douglas Muir joined Brown & Muir, one of the three Barristers' Clerk then operating at the Victorian Bar. The List was run by Doug's father, Fred, in partnership with Les Brown. Fred Muir had gone to work for his uncle E.J. Muir at the end of World War I. The Muir family's unbroken connection with clerking has thus lasted since around the turn of the century.

As soon as young Doug Muir was eligible he joined the Army and then in September 1942 transferred to the Air Force. He trained as a pilot in Australia, England and the Middle East and was then sent to Foggia in Italy. Over the next few years Doug and his colleagues flew B24 Liberators in missions over Germany, Austria, Yugoslavia and Northern Italy. Doug ended the war with the rank of Warrant Officer and a new English wife, Coral, whom he had met in Brighton during his training. Doug and Coral were married in June 1945 when he obtained permission to take leave in England. However, Doug had to immediately return to Italy and did not see Coral for another eight months.

After the war Doug recommenced working for his father but unfortunately Fred Muir died in 1947. Jim Foley took over the list and Doug continued to work for Jim and later Jim's son, Kevin. On 1st March, 1973 Doug started his own list with 29 barristers, about half of whom had just started at the Bar. Numbers grew rapidly and now over 16 years later the Muir list boasts eight silks and 80 juniors.

Doug Muir made a number of interesting observations when asked to compare today's Bar with that of fifty years ago.

"Life at the Bar was leisurely then and not as frenetic as it is now. Juniors had no reader's course to undergo. They paid their Masters the sum of Fifty Guineas for six months' pupillage and accompanied them to Court to watch them in action. If they got a brief for themselves it was a bonus. You needed some financial backing to be a junior member of the Bar in those days."

Doug pointed out that, except for two Counsel, who had chambers in a building across Chancery Lane, all of the Bar was housed in Selborne Chambers and Equity. "The construction of Selborne, with rooms around a wide corridor, was conducive to fraternisation and camaraderie amongst Counsel, as on any one day everyone met everyone else around the building. Outside rooms had open fireplaces where the caretaker would set fires in the Winter and we would work in the warm glow of a crackling fire. In the basement at both ends of the building were wine cellars so the air was always redolent with fumes from their wares." Doug also mentioned that Selborne Chambers, linking as it did, Bourke Street and Chancery Lane was a favourite short cut by postmen and this led to an angry letter from a Queen's Counsel to the Post Office

complaining that the postmen were wearing out the linoleum. One old conservative barrister resolutely refused to have a telephone in his Chambers and his was the only room in Selborne still lit by gas-light. "We all shed a tear when we moved out into the brand-new Owen Dixon Chambers"

"After the war . . . there was a rapid increase in the numbers coming to the Bar . . . It seemed to me that from that point on the Bar was no longer a 'pure' profession but became a quasi-commercial occupation."

Clerk's offices and the tasks they performed were also quite different. "As office junior it was my job to deliver briefs and accounts all over the city area, as far as Swanston Street and down Queen Street as far as Flinders Street. Suburban and country solicitors had their briefs mailed. There was no Ausdoc in those days." Doug recalled that:

"Each afternoon, armed with two sheets of foolscap and a piece of carbon paper, I would trudge up to Judges' Chambers in the Supreme Court and copy the lists for the next day. Then down to the County Court to repeat the exercise. The lists were then pinned on the notice boards in Selborne and Equity and avidly read by Counsel, at times three deep. No simple numbering of Courts then, you had such names as the Banco Court, Criminal Court, First, Second and Third Civil and the Marine Court. When Counsel went off to Court they pinned a notice on the door of their chambers to indicate to which Court they were going.

When Doug Muir returned from the war he noticed a change from the former leisurely pace of life at the Bar. "After the war the Government instigated the rehabilitation training scheme which opened the university to ex-servicemen who may not otherwise have been able to attend. The result was a rapid increase in the numbers coming to the Bar. As these young men all seemed to have a family to keep and a mortgage to pay the tempo of the Bar suddenly increased. No longer could they afford to spend six months following their Master, instead they were out at Court themselves trying to earn a living. It seemed to me that from that point on the Bar was no longer a 'pure' profession but became a quasi-commercial occupation"

Doug has also seen changes in more recent times. "Due to escalating overheads and personal commitments, the collection of overdue fees has become more aggressive. I believe that this is a quite

justifiable course, in contrast to the pre-war years when it was unheard of for Counsel to sue a solicitor to recover his fees. At best a phone call followed by a polite letter and, if all else failed, rejection of work from that particular solicitor was the harshest action taken."

Apart from his clerking duties Doug has kept himself busy with a number of hobbies and sports over and above bringing up three children and now two grandchildren. For many years he has painted in oils and been a show judge of gun dogs and hounds. More recently flying his own aeroplane has been Doug's consuming passion. On the sporting scene Doug has played cricket and golf over a long period of time, as members of his List can vouch for, having heard many times on a Monday morning Doug's version of his weekend triumphs.

Reflecting on his fifty years working for or as a Barristers' Clerk, Doug Muir said:

"I have seen considerable change and progress in my fifty years' connection with the Bar. I have made many good friends and I hope few enemies. When the time comes for me to retire I shall do so regretfully for I have genuinely enjoyed serving the members of my List. It has been a most rewarding lifetime occupation. If I am considered conservative, I expect that it is just the way I am and reflects my early training and personality. I believe a clerk should be unobtrusive yet promote his Counsel to the best of his ability. That has always been and will continue to be my aim."

Doug Muir is to be congratulated on achieving the remarkable milestone of fifty years' service to the barristers and community of Victoria.

PERSONALITY OF THE QUARTER PHILIP ALISTAIR DUNN



PHILIP ALISTAIR DUNN WAS BORN AT Rockhampton Qld, in 1944 and lived in far north Queensland until 1956. At age 12 Philip and his family moved to Melbourne. He went to Trinity Grammar School. Philip attended Melbourne

University, where he studied law and "excelled in having a good time". Together with media mega-star John Jost, Philip and a few others were members of the Melbourne University Piano Smashing Team which, in an event held at North Court (outside 'the caf'), broke the world record for smashing a piano to pieces. They did it in just under two minutes and, apparently, the record held for many years.

After graduating, Philip spent his articles year ('67) at Lander & Rogers, articles to H.G. "Chick" Lander. The next year was spent working as a solicitor, getting court experience (something that was quite unusual at the time). Philip then went to the Bar and read with J.A. Gobbo, who along with Peter Brusey and Vic Belson introduced him to pasta — something, Philip says, that has contributed to his portly condition ever since! In 1974, he went to England and did his pupillage there. He returned to Australia, where he had already built up a brisk criminal practice, including murder, abortion, armed robbery and rape trials. He has been involved in a number of varied and notorious matters — including *R v Louvery & King* [1972] VR 554, the murders of Roger Wilson and Les Kane, the Hope Royal Commission and the Paddington Bear Enquiry.

Philip is larger than life. Who else would seek to allay a client's fear of a "long stretch" by announcing confidently "Never fear, if anyone can, Dunnie can"? He is a gregarious person, with a great love of the Bar.

He is an enthusiastic collector of antiques, especially clocks, all of which chime at various times between ten before and ten after the hour!

He lives in Mt. Macedon and commutes (see Vic Bar News No. 65, Winter 1988, p.3) from there each day. He is married to Penny and has three children.

THE NEW MAGISTRATES

There is little doubt that the Magistrates Court is the favourite of Government. Raising the qualifications for appointment to its Bench; the increase in the numbers on the Bench and, importantly, the increase in its jurisdiction. Not surprisingly the position of Magistrate has attracted many good people from the Bar. Most recently, Lou Hill, Len Brear and Barry Braun.



It might well be said in respect of Barry Braun that there were other factors motivating him to accept the appointment. Just consider them. He matriculated from Wesley College in 1964. He joins a sizeable group from that place. Of course the ratio is not as good as that for Scotch College and the Supreme Court. Then there is his interest in sport. As a young man he was an excellent (so he says) sprinter. In addition (so he says) an excellent skier and (of all things) a windsurfer. There are rumours that the Port Melbourne Court will have a long summer session!

The Bar wishes him well in the knowledge that to be poor is to be happy.

Then there are the financial rewards. As a barrister Braun appeared in most of the important cases in the Bankruptcy Court — usually for the Public Trustee. Having regard to the fact that he still has two children attending private school one wonders what he learned in his favourite jurisdiction! Perhaps it was that there is more to life than arguing with a barrister. One further wonders whether this will change!

The Bar wishes him well in the knowledge that to be poor is to be happy.

LOU HILL

Lou Hill is from a Dutch migrant background, his family migrating to Australia when he was a child. His qualifications for the magistracy include: a short time in the seminary, a stint as a public servant — in the Titles Office and in the old Social Welfare Department, founding the Fitzroy Legal Service (more on that later), working as a compensation solicitor, working as an ALAO and Tenants' Union lawyer, practising at the bar for several years from 1976 (generally, in the Children's Court and the Magistrates Court and mainly in crime in the County Court), including defence work for aborigines in the Northern Territory, occupying the marginal State seat of Warrandyte from 1982 (won with a swing of 9 per cent), surviving in 1985 by 87 votes and losing by about 200 votes in 1988.

As a member of Parliament Lou was heavily involved in youth accommodation, youth welfare, human rights, prisons and court-reform issues. Lou resumed full-time practice at the bar in October 1988.

If ever a background equipped someone for the raffish, cosmopolitan and sermonising world of the magistrate's court this must be it.

Now as to the question of who founded the Fitzroy Legal Service. This is of course one of the great unresolved mysteries of Melbourne's modern legal history. Lou is, I believe, still engaged in earnest discussion on this matter with the likes of Jim Kennan, John Cain, Peter Faris and Remy van de Wiel, though it is widely suspected that a non-lawyer, Jon Finlayson may have the best claim. Maybe the claim could be sorted out in an application for a declaration in the equitable jurisdiction of the magistrate's court.

The private Lou Hill is married to Eilish Cooke and has two sons, Julian (8), and Edward (5). Lou and Eilish had their "whole earth" phase in the 70's living in mud-brick grandeur at Kangaroo Ground, where Lou was noted for his long weekend runs and walks (in the company of such notables as the Kennans, Professor Roy Goode and John Bleachmore), the growing of huge vegetables in the ground of the thermal sewage pit and his involvement in the co-operative movement "Round the Bend"! Lately the Cooke-Hills have settled for a more suburban existence at Pound Bend in Warrandyte and have been seen sailing at Somers.

The great strengths that Lou will bring to the bench are wide experience of the community and a deep compassion for those in trouble, especially the young, coupled with a practical view of how to redress disadvantage.

LEN BREAR

Len Brear was educated at Melbourne University and signed the Bar Roll in 1966, where he read with Leo Lazarus, now Judge Lazarus of the County Court. Len is the first of Leo's "joys" to attain judicial office. Len practised mainly in the workers compensation jurisdiction where he had a reputation as a capable and tenacious advocate for the workers he represented. While at University, Len was a team member of the debating society and a handy ruckman with University Blues. Len wore glasses while playing football as did Geoff Blayten, the former Essendon star full forward. Unfortunately the wearing of glasses was the only thing Len had in common with the Essendon star, and his football career was short lived. In addition to his legal career, Len found time to work as an executive member of the overseas adoption agency and he and his wife Pam have adopted three children through that organisation. Len also took a couple of years away from the Bar working for the Aboriginal Legal Aid service.

In his spare time Len is a keen handyman and renovator and those appearing before him in the civil jurisdiction will find he is as adept with suspended ceilings as he is with suspended sentences.

Len brings to his new office intelligence and diligence and a compassion for those in society who are less fortunate than most.

REMOVAL OF JUDGES BY A UNICAMERAL PARLIAMENT

A recent case (1989) demonstrates the control by a unicameral legislature (Queensland) over the judiciary by the removal from office of a Supreme Court judge. It is the case of Mr Justice Vasta.

A FEDERAL JUDGE IS PROTECTED BY THE Commonwealth Constitution in that he may be removed from office only after motion therefor from both houses of parliament on the ground of proved misbehaviour or incapacity.¹ Removal has never taken place in federated Australia.

The federal authority in the case of Mr Justice

It is submitted that there is power in Queensland where there is only one house to control the judiciary . . . undesirable as it may be to do so.

Lionel Murphy set up an inquiry composed of three retired judges but the inquiry was never completed due to the death of Murphy J. In Queensland, apparently relying on the federal action as a precedent, an inquiry was appointed of three retired judges (one of whom, Sir George Lush, also sat on the Murphy inquiry) into the conduct of Mr Justice Vasta and in its recommendation of May 1989 to the parliament advised that the judge should be removed from office. (It specifically found that no misbehaviour in Vasta J's duties as a judge had been shown.) Parliament was especially called to deal with the report. What is the position with regard to Queensland which has only one house of legislature? The State of Victoria, for example, like all States except Queensland, has a two-house legislature. It is provided by its constitution (Constitution Act 1975, s.76) that the Commissions of the judges of the court shall continue and remain in force during their good behaviour . . . any law usage or practice to the contrary hereof in anywise notwithstanding but the governor may remove any such judge upon the address of the council and assembly. So in Victoria, there must be an address from *both* houses of legislature. It is submitted that there is power in

Queensland where there is only one house, to control the judiciary (not necessarily only after a prior recommendation by an inquiry), undesirable as it may be to do so. (Constitution Act (Qld.) 1867-1978, Section 15-16.)

Parliament was duly convened in Queensland to deal especially with the inquiry's advice. Adopting his right of reply given him by the parliament, Vasta J. addressed the assembled members for some time, requesting and being granted further time to complete his address. His request that the house be adjourned for seven days to give it time to consider its decision was rejected. The house sat on, voting in favour of his removal in the early hours of the morning.

It seems that the decision to press for a conclusion to the case by voting at such a time as the small hours, without giving members an opportunity to fully consider the arguments put by Vasta J. was not an action which would gain respect for a unicameral legislature. When the bicameral system was abolished in Queensland in 1922, without first holding a referendum, there was great criticism and disquiet. See A.C.V. Melbourne: *Early Constitutional Development in Australia* 1. Royal Commissions in Western Australia (1984-5) and Tasmania (1982) have been in favour of retaining the system of bicameralism in those States. If there had been a two-house system in Queensland and a section like those contained in the Victorian constitution was applied before the removal of a judge, then one would expect, even with an upper house having a majority of the same political complexion as the majority in the lower house, that such a decision would not have been given without due respect to a judge's arguments by granting such an adjournment even so short as that which was requested.

Eric E. Hewitt

¹ Constitution s.72(ii). Despite his statutory title of "Mr. Justice," Staples J. was not a "judge" within the meaning of this section. See *Waterside Workers' Federation of Australia v. J. Alexander Ltd* (1918) 25 C.L.R. 24. He was a conciliation and arbitration commissioner. *Contra* see the persuasive opinion of Kirby P. of the Court of Appeal of New South Wales (1989) 68 *Victorian Bar News* 18.

BALLARAT TERRACE

C.1889

Gracious Victorian Accommodation

229 Lydiard Street North, Ballarat,
Victoria, 3350, Australia
Telephone: (053) 33 2216

Three upstairs double bedrooms, electric blankets, private bathrooms.

Guests' sitting room, open fire, tea and coffee.

Traditional breakfast served downstairs.

Personalised service, central heating, convenient location, local information.

Lounge room available for private consultation/conference.

BALLARAT TERRACE — BALLARAT

Classified by the National Trust, Ballarat Terrace offers gracious Victorian accommodation with old world style and charm. Providing an intimate setting, (there are only three bedrooms), breakfast is served in the front sitting room which features an open fire place, and in tune with the rest of the house, antique period pieces.

Ballarat Terrace, located in Ballarat's most historic precinct, is only a few minutes walk from the railway station, some of Ballarat's best restaurants, antique markets, the Fine Art Gallery, theatres, the central shopping area and the Court House.

Personalised services include transport from the rail station, early morning tea/coffee in bed, dinner and theatre reservations and information about local events, attractions and touring.

TARIFFS

Bed and Cooked Breakfast. (Effective 1/7/89-30/6/90)

Front Room (Open fire and balcony) —
\$100 per double per day

Brass Room — \$80 per double per day

Maids Quarters — \$70 per double per day

(N.B.) The Maid's Quarters also have an adjoining single room making it ideal for threesomes at \$90 per day.

Single Accommodation — \$60 per day

Adults and Teenage Children only

Thanks for not smoking indoors.

EVELYN AND BERNIE EBBS

Ballarat Terrace — A Provincial Gem

SCUBA ESCAPE



WHILE SOME OF YOU WERE ENJOYING THE "bubbly" in the Flemington car park on the first Tuesday last November, a group of Melbourne Lawyers, including some members of the Bar, were watching their bubbles float to the surface 60 feet above them, in the cool, clear waters off the east coast of the Tasmania. Taking advantage of this city's Melbourne Cup festivities, the first CODS interstate scub diving trip took place.

Venturing to the attractive but quiet fishing village of Bicheno, CODS took over the Bicheno Dive Centre for four days, whilst its proprietor, Tony Douglas, organised an itinerary of two dives per day and a spectacular night dive. By November, the Tasmanian waters were warmer than in mid winter — the water reached about 12 degrees centigrade.

There was much to see. Some of the marine animal and plant life was similar to that seen in Victoria. Visibility was generally quite good. Perhaps the highlight was the dive along "Hairy Wall" where, at a depth of more than 30 metres, a vertical wall covered with sea whips, many of which were adorned with exquisitely and delicately coloured jewelled anemones, made the dive memorable.

No doubt because it was the closed season, Southern Rock Lobsters (otherwise known as Crayfish) often perched openly and tantalisingly observing the passing CODS divers. Cup Day however saw the commencement of Tasmanian crayfish season, and on our last dive that morning, the word had obviously got around and the Southern Rock Lobsters were conspicuous by their absence.

CODS, for the uninitiated, is the Clapham Omnibus Diving Society. It was formed several years ago and now has a membership of about 30 scuba diving lawyers in Victoria. Each year, CODS conducts several diving excursions, usually in and

around Port Phillip and Western Port Bays. An annual dinner is held, giving lawyers an opportunity to indulge in their favorite past time of embellishing upon their achievements with the added twist that now not only may they boast about triumphs in Court but also about their exploits in obtaining the

autographs of great white sharks and other maritime triumphs.

Anyone interested in joining CODS should contact Tom Wodak C/- Clerk "D" or Michael Gatehouse at Messrs. Herbert Geer & Rundle 670 6123.

VERBATIM

Borderland Investments Pty. Ltd. v Thiess Toyota Pty. Limited

Coram: Woodward J
Whelan for Applicant
J. Middleton for Respondent
10th August 1989

(At the conclusion of 18 days evidence in a dispute over a Toyota dealership)

Mr. Whelan: They are the only matters then, your Honour.

His Honour: Do you have anything more, Mr. Middleton?

Mr. Middleton: No, your Honour, except now that the evidence is over: Oh, what a feeling. I have been wanting to say that for the whole case. I am not going to jump. It is not really over. There is nothing further, your Honour.

Macpherson v Macpherson

Coram: Hampel J
7th July 1989
Peter Heerey QC and Peter Almond for Plaintiff
(Peter Macpherson)
Gerard Nash QC and Paul Elliott for Defendant
(John Macpherson)

Nash: The plaintiff's case has just petered out.

R v Smithers

Coram: Judge Smith
9th August 1989

His Honour (to the jury, which had been sent out from 10.00 a.m. to 3.15 p.m. during legal argument)

I can assure you, that everybody is anxious, counsel, the accused, myself, are as anxious as you are to get on with this case and to finish it and I assure you, that I will do everything in my power to ensure that if there are any delays, they will be unnecessary. Well that has to be a Freudian slip doesn't it. What I meant to say is, that I will do everything in my power to minimise the delays that occur.

R v McConville

Coram: Teague J and jury of 12
5th September 1989

Woinarski QC (prosecuting): Doctor, is it always necessary for a person to actually be dead before post mortem lividity commences?

Soo Lin Sang v. Myer Stores Limited & Ors.

Coram: Judge Keon-Cohen:
5th September, 1989

Zahara: How do you know it was 5.30?

Witness: Because this is a regular TV. program which my daughter watches. It is called "Battle of the Planets" and it is a cartoon series that is screened on Channel 2.

His Honour: We all know it very well, Mr. Zahara.

Zahara: Why? Is it shown in hotels?

Heard in Perth

From a New South Wales barrister about a judge in the N.S.W. District Court in 1988 at Gosford:

Defence Counsel [In the absence of the jury in a criminal trial]: Your Honour, on behalf of my client I am duty bound to ask you to disqualify yourself because of your attitude to me when I am cross-examining witnesses, and generally Your Honour, my client is not getting a fair trial!

Judge: Rubbish. That is an absurd application bring the jury back!
[Jury returns]

Judge: Ladies and Gentlemen of the jury, in your absence the defence counsel has submitted that I am not giving him a fair go and that his client is not getting a fair trial. Raise your hand if you agree with him.
[Each juror held up his hand.]

WELCOME CLIVE PENMAN

The appointment of Clive Penman as the first Part Time Referee of the Federal Appeals Tribunal (affectionately known as the FAT) was warmly endorsed by the profession at his welcome on the 1st day of April last.



SPEAKING AT THE WELCOME, THE Deputy Acting Assistant Chairman of the Victorian Bar Council, I.M. Barrass QC, commented on the universal acclaim with which the appointment had been greeted at the Bar. "It is worthy of note," he said "that not a single copy of the announcement had been defaced in any of the Bar's lifts."

Mr Referee was student at Spotswood High School until he had to leave at 15½ to help with family finances. From school he joined the Commonwealth Public Service where he carved out a distinguished career as a counter clerk with the CES, whilst completing his school and a law degree part time. As the welcome was informed, he is rightly proud of his record as the first Spotswood High School Old Boy to achieve a quasi-judicial appointment although many other ex-students had graced various courts in other roles. "Unfortunately

my search of the Bar's records do not disclose who Clive read with and to date no one has come forward to claim that distinction," Barrass told the welcome.

An account also was given of Mr Penman's practice with a description of how he had carved out a niche at the Crimes Compensation Tribunal and County Court Chambers with a few forays into Magistrates Court work. "I believe it is refreshing to see people appointed these days who have limited experience in the higher jurisdictions. It goes without saying that they must bring with them a different perspective to their responsibilities. With Clive's extensive background, I doubt that he will be handicapped sitting on the F.A.T. by virtue of his non-appearance in that Tribunal before today," stated the Attorney General. "After all, I had no involvement with the law before this appointment." The Attorney appeared a little surprised when the last comment failed to give rise to laughter. He then went on to add that inexperience had not proved to be a detriment to similar appointments made in other bodies, jurisdictions and Benches in recent times.

Mr Solly Setter, Secretary Pro Tem of the Law Institute, joined in the praise of Clive, regaling the admittedly small audience with many tales of the unbounded delight and rejoicing with which Solicitors had been greeted upon approaching Clive to offer him briefs.

Of course, such an occasion could not pass without mention of Clive's amazing sporting prowess and versatility. No other member of the Bar is able to boast of having made every Bar All Stars Team selected to date and it is anticipated that there are many more teams which will be graced with Clive's presence. There is good authority to suggest that Clive will be selected as masseur to the Bar All Stars' Netball team. With sport taking up so much time it is hardly surprising that Clive has little enough opportunity to devote time to his wife and three sons and to maintain the modest but quaint Ferntree Gully timber home.

Clive, the whole of the Bar rejoices with you and your family and wishes you every success as the Victorian Bar's first ever P.R.A.T.

LAWYERS BOOKSHELF

SECURITY FOR COSTS

J. Delany, Law Book Co., 1989, i-xvii, 1-215, Hard Cover \$38.00.

JIM DELANY IS A MEMBER OF THIS BAR and this work, of which he is the author, is a re-draft of his LL.M. thesis which he submitted to the University of Melbourne. I must commend the publisher on its courage in publishing such works. Many theses of merit are produced each year, many of them, like this one, of practical use to barristers. The market for such texts cannot be extremely large, and so the publisher has provided a valuable service to this Bar in producing this book.

The author deals with the historical foundations of the security for costs procedure; the traditional categories of litigants against whom security will be ordered; security pursuant to S.533 of the Companies Code; legally aided persons; and factors relevant to the exercise of the Court's discretionary powers. Lest my readers gain the impression that, being a thesis, it will be very doctrinal, I must stress that this is not the case. Indeed, there is a special chapter on the practical aspects of an application for security for costs as well as useful precedents (letter seeking security, summons, affidavit in support of application, etc.).

I have searched long and hard to ascertain whether any significant cases have been omitted. None have. This work is, therefore, in my opinion, a useful adjunct to such works as Cairns' *The Law of Discovery in Australia*, Mr. Justice Young's *Declaratory Orders* and Simpson, Bailey and Master Evans' *Discovery and Interrogatories*. These works cover the subject matter which they describe in greater depth and detail than the practice works, which, by their very nature, must state principles and law in an extremely laconic style.

Delany's text is essential material for the libraries of the proceduralists, company lawyers and commercial lawyers who are members of this Bar.

P. Bravender-Coyle

THE LAWYER AND THE RHINE MAIDEN AND OTHER STORIES

by Lloyd Davies, illustrated by Chris Pullin QC, Peppy Gully Press, 1989, pp. 1-143, rrp \$15

THE AUTHOR RETIRED IN 1988 AFTER practising law in Western Australia since the War. He spent many years running a one man solicitor's practice in Fremantle and then was a member of the West Australian Bar and worked with the Aboriginal Legal Service of Western Australia.

He is now retired from the law and engaged full time as a novelist and writer of short stories.

On the basis of the collected stories under review, it is to be hoped that this change of career is a long and fruitful one. The stories are good yarns, witty and well told. They contain acute observations of human foibles, tempered by good-natured affection, or at least tolerance, for the real characters who, the reader suspects, provided the raw material for many of the stories.

Many of the stories have a forensic setting. One character, a Melbourne solicitor, speaks to the author who is on a visit to Victoria about a (purely fictional) member of our Bar, one Sillet:

"Still he had his stable of solicitors. He was strong on pompous bullshit, Sillet, and it is surprising how many solicitors are taken in by pompous bullshit."

There must be something about the West which produces literary lawyers as well as entrepreneurs. Nicholas Hasluck QC is a celebrated novelist, poet and writer of short stories. These stories are a worthy contribution to that tradition. Stocks are available at Butterworths.

Peter Heerey

LUNCH



Mr Richard Frank of *Quarter Sessions* restaurant: recreating the legal theme he started with *Petty Sessions*

I SENSED THAT THERE WAS SOME deviousness in the Editors' request for me to review this establishment — I had on behalf of a number of established Hotels in this quarter of Melbourne successfully opposed the establishment of a similar general licence. By some remarkable administrative fluke, this particular general licence had been granted unopposed under the new Liquor Control Act 1987. To assist me I asked my fellow Bendigo "circuiteers" Paul Elliott and John Constable to attend; and then to balance the table, Graeme Hicks was called in from his potentially epic circuit at the Coroner's Court.

Two blocks from Owen Dixon Chambers makes Quarter Sessions a convenient venue even for a quick working lunch. On the day of my review I had planned an appropriate consent application in the

14th Court. Unfortunately, Master Mahony had other ideas, although to his eternal credit he perceived the distress in my demeanour as the clock approached 1.00 o'clock and agreed to sit through lunch. Hence when I arrived at lunch, at 1.40, to the derision of my companions, at least it had not been a long journey. My delay had not in the least inconvenienced the table as they were already drinking and had ordered the entrees. My entree of calamari salad and red peppers arrived with the other orders which immediately indicated the service to be both professional and organised.

As Counsel will know, the proprietor of this establishment, Mr. Richard Frank, previously conducted Petty Sessions. As a result of some in depth questioning at about 5.00 that afternoon he advised that he originally set upon the legal theme

QUARTER SESSIONS



of Petty Sessions by chance. This chance obviously proved very successful and he has certainly tried to recreate the theme. Adorning the walls are three of Spooner's court room lithographs, and the cocktail list contains some potent legal concoctions.

The decor is attractive and art deco in style. A general licence allows persons to simply have a drink and/or have a casual or formal luncheon. Hours of operation are from noon to midnight. The casual eating and drinking takes place around the bar, and there is an area provided for more formal dining. The fact that the proprietor was aware that we were reviewing Quarter Sessions no doubt led to our being placed at the best table in the dining area. The ambience of Quarter Sessions overcomes the vague feeling of unease when dining underground. On this day the place was full and seemed to have established

its niche within the legal profession.

The staff are professional, all (irrespective of sex) wearing the traditional long white aprons. True to theme the men are wearing black jackets with wing collars and bow ties. Our waitress "Kaz with a K" was skilled and of the type that Mietta's insists it provides. "K" handled the requests of our table, becoming more outrageous as the afternoon progressed, with great aplomb.

For main course, Constable had a loin of lamb with plum sauce and stuffed tomatoes which he decreed to be very tasty. My two other companions were generally dissatisfied with their guinea fowl; it was bland and accompanied by a pate which overwhelmed the game taste, a sharp sauce was needed to highlight the flavour. I ordered roast duck which was exquisite in taste, although the presentation was unattractive in that about ten slices of duck were limply placed one on top of the other.

The wine list is extensive and well printed. To accompany our entrees we had an 1987 Lilydale Vineyards Rhine Riesling which was sweet rather than crisp. For main course, Hicks opted for one of the finer wines of Western Victoria being the Mt. Langhi Gharan 1986 Shiraz — a excellent choice.

When we started to savour the dessert menu the afternoon came alive. There is a home made cake trolley brought to the table in "Yum Cha" style; at the sight of it Constable uttered in delight that he "thought the fairy cakes were nice". Having just finished "another red", being an Oakridge 1986 Merlot Shiraz, it was time to decide upon a dessert wine. Constable, in a burst of enthusiasm brought on by the fairy cakes, was contemplating turning the lunch into an extravaganza and ordered his favourite barsac. Fortunately, the skilled wine waiter manoeuvred us back to Australian shores with a Heggies Late Harvest Rhine Riesling from the Adelaide Hills (1986). This was crisp and truly complemented the souffle with whisky sauce, which all had ordered.

As you may appreciate, this lunch had clearly descended into a long Friday afternoon, for which Quarter Sessions is a perfect rendezvous. The conversation had reached a stage that was beyond reporting. Suffice to say the staff in their professional manner continued to smile and oblige.

Alighting from table at approximately 5.45, we noticed the patronage was now Friday after work groups busily quaffing their legal cocktails. We four luncheonettes left with a feeling of bonhomie. As we sauntered back up William Street, the general feeling was of total satisfaction with Quarter Sessions. It was felt that the only way to complete such an afternoon was to retire to the Essoign Club.

Quarter Sessions, Michael McInerney 446 Collins Street, Tel: 670 6588. **Price:** The Age "Good Food Guide" \$72.00 plus drinks for two. **Actual price per head:** \$80.00 (including drinks).

Michael McInerney

RED FACES REVISITED — AT THE SICHUAN PROVINCE

SOMETHING OCCURRED TO ME LATE ONE Friday night at the Essoign Club — a somewhat noteworthy event, I hear you say? Watching a crowded table of youngsters (and not so youngsters) currently sentenced to “The Readers’ Course”, I detected a degree of mateship rarely observable these days at the Bar. Obviously the boredom, the embarrassment and the bulldust which we inflict on our fledgling, aspiring advocates during their three months of purgatory weld them into a tight unit. Life long friendships are formed, cliques germinate, blossom and never die.

Not so the more senior ranks, I feared. Less than four years ago, I wrote of our working men’s clubs (Bar News — Summer ’86). Now, Sir Lunchalot’s Compo luncheon group has all but vanished. Even on Friday afternoons, many of the lads (i.e. those not now *sitting* on the Tribunal) endeavour to make a buck. Due to a multiplicity of changes, cases are being fought! There have been rumours of prepared openings, cross-examinations and, dare I whisper it, . . . *advocacy!* In the Bar Revue of ’84 we sang “Let the Good Times Roll!” Someone must have been listening.

Turning to the Tall Girls’ Club, the news is bleak. In total disarray after the defections to still loftier heights of Howden, Ross and Macleod, Keenan has struggled valiantly to keep the show on the road. Assisted by Adams (the one who doesn’t wear a Mickey Mouse watch) and Zahara, he has I believe recruited unwisely. Some of the new members occasionally drink wine! Some eat at restaurants other than Amiconi’s! One of them once appeared in a Part IV application! Fox, Mattei (allegedly in sparkling form), Ruddle and probationer Willshire have sworn to uphold the best traditions of their eminent predecessors. Keenan is “taking each week as it comes.”

And so to the Red Faces. Having served them up

in the aforesaid article, I copped a bit of flak in return. It took an invitation to a recent discovery of mine — the Sichuan Province Restaurant — to convince them that my heart was in the right place. I was advised however, in the event of once again putting pen to paper, to employ nicknames (as well as my renowned discretion) in order to preserve total anonymity.

Wartog, Monty, Fat Ronnie, Hogshead, Stewie and the usual selection of part-time members and fellow travellers (Judge Jimmy, Rachel, Blackie & um . . . David Ashley) eyed the menu (and each other’s grog) hungrily. After ten minutes of careful study, Hogshead, today’s self-appointed Food Master (my previous experience was ignored), grunted with approval and ordered. “Lots of good things, please and oh yes, the others want to eat too!”

The Food Sichuan cuisine is far more robust than Cantonese, Shanghai or Chiu Chow (the delicate fare served at my wife’s beloved Mask of China). A combination of sensations come together in the various hot and cold dishes — sweet, sour, salty, spicy. Separate lunch and dinner menus (though most dinner items are available at lunchtime) display a little red chilli against the HOT dishes. Like “the Mask”, there is no added M.S.G. — a blessing half way through the ensuing night.

The lunch menu comprises a number of soups, noodle dishes, yum cha (dim sum) titbits, cold items and desserts. Many items on the dinner menu are far more elaborate (and commensurately expensive). Twenty four hours notice (and \$60!) will allow you to wallow in “Panda Playing in Bamboo” as well as other exotic cold creations. Seafood dominates the night carte (ahem); lunchtime noodles are replaced by more complex meat and vegetable dishes. But not all are chilli hot. A pleasant blend is achievable by reference to the red alerts on the menu.

Personal highlights, aside from the splendid performances of the Red Faces trencherpersons (these linguistic feminists have a lot to answer for!), were *Dan Dan Min* (heavily spiced beef with thin noodles), Rabbit with Five Flavours (a hot cold dish, as it were), Ma Po Bean Curd (for Sichuan enthusiasts), and Chicken Slices with Garlic and Chilli (Fat Ronnie’s fingerprints are indelibly printed on the plate).

But the Sichuan piece-de-resistance is definitely TEA SMOKED DUCK. Simply take one duck (or in our case half a dozen), marinade in a gallon or two of Chinese rice wine, hang to dry for a week or so, then simmer in water flavoured with chilli, dry again, cut up and stir fry. \$19.00 a half Duck. I think we broke the Smoked Duck record.

The Service	tolerant in the best Oriental tradition — vide infra.
The Music	Chinese heavy metal.
The Chairs	Sorry about that, Monty.
The Decor	Eastern art deco.



The Address Waratah Place between Lonsdale & Lt. Bourke, just behind the Exford.

The Cost Very reasonable, especially at lunchtime, unless you're the Red Faces.

The Wines B.Y.O. — i.e., 2 or 3 bottles each (if you're male) and more if you linger as we did — vide infra.

Fat Ronnie was a surprise early exit. His child-bride, who doubles as his secretary, called to remind him he had a conference at 3.30 p.m. The time was now 4.20 p.m. He leisurely drained his red, his white, my red, Rachel's white and several anonymous finger bowls. Then he placed the remains of the duck and whatever else he could find in a large plastic bag he obviously brought for just such an emergency (someone referred to it as a "Ronnie Bag"). And so he commenced the long journey west on foot. It seemed to me that he was taking ample rations for a trek through the Himalayas!

The topic of port was then raised, and in particular, the pressing need for several bottles of it. Most of the staff were now at an adjacent table, lying across chairs sound asleep. I think it was about then that I reflected back to my observations of the baby barristers back at the Essoign and of the demise of most of our clubs. At least the Red Faces seemed to be holding up the senior flag. Age shall certainly not weary them!

When the bill finally arrived, Hogshead snatched it up whilst Stewie, rather coarsely, told the waiter the old chestnut about what the restaurant had in common with a pelican.

And then I made a total error — I produced a *bottle of beer*. "Feel like a cleanser?"

Wartog muttered incoherently. Stewie asked if I needed a straw. Blackie left. And Monty fell off that bloody chair.

The judge eyed me sympathetically, gently took me aside and enquired whether I had ever lunched with the club before. Stewie, not so gently, suggested I join the patrons in the public bar of the Exford. "You never know, you might run into Rob Webster!"

Lunch had been . . . well . . . illuminating, but clearly it was time to leave. Hogshead told me to expect a *gazzinter*, which I was to learn later is the quaint method the Red Faces use to bill lunchers.

Some gazzinter rules:

1. Women don't pay.
2. People who order French wine pay more.
3. Silks pay plenty!

Another tribal custom is obviously that people who drink beer are persona non grata. It could have been worse, I thought. At least I didn't order banana fritters!

I slunk back to my now darkened chambers and rang Jack Keenan.

C.L.

OUT AND ABOUT ODCW

AND THEN THERE WERE TAPESTRIES. THE silks came forth from the land of silk and honey. And so it came to pass that each of them gave forth from his own fortune one thousand gold coins. And such great golden masses were collected together by the Elders and in their wisdom they prevailed upon an artist in weaving to create. And he spun and wove two fine and wondrous tapestries to adorn the walls of the marbled citadel known as Owen Dixon Chambers West. And so it is today that the poets, scribes, pharisees and odd money lenders that inhabit the corridors of this temple look in awe at these tapestries and wonder at their glory. But what parables do these tapestries tell. Are they liken to the hieroglyphics of the pharaohs? Will archaeologists ponder over their meaning in the year 2089?

First, who are the god like men depicted in such colour. Could the large QC bending over a book be none other than the learned and much revered Solicitor-General, Hartog Berkeley QC? Could the dark haired and bewigged QC, striding off to court with junior and solicitor armed with an old Supreme Court Practice, be our erstwhile and cherished Chairman Bill Gillard QC? Is the large book into which he is marching a court ledger or perhaps a fee book? If it is the latter then there is a very strong inference that it is indeed Gillard. And what of the barrister on the telephone standing next to an apple and a wig tin? Such a handsome visage that there surely can be no one upon which he is fashioned. Perhaps in his waistcoat he is the role model for all who come to worship at holy tabernacle of the Bar.

And what of the buildings. There is the greatest shrine of them all, Selborne Chambers. A place so sacred that the holy men/barristers who once lived

and worked within it foresook all wordly temptations such as carpet, typewriters and light shades, and instead meditated upon the judgments of the High Court surrounded by cracked linoleum and naked lightbulbs, for fees of no more than two guineas.

Alas the wicked barbarians of progress and industry prevailed and the holy shrine of Selborne was destroyed brick by brick. Only to see Owen Dixon Chambers (East) rise like a phoenix. And so the tapestry depicts the legal monks in their pilgrimage from Selborne to ODCE, the moving vans piled high with learned opinions and ancient tomes.

But why does the other tapestry depict old Government House? That funny little building that now sits forlornly in the Botanical Gardens. What is its connection with barristers? Is there a hidden meaning in the fact that the artist decided to depict it and its legal persons as stick figures? Why the change of style? Perhaps it is the first fountain of law in Victoria and the water in the jug depicted below it represents new legislation — clear and totally transparent. This is a true mystery worthy of Chariots of the Gods.

And so the rest of the tapestries are filled with various idols and icons from that dark secret society the "Essoign Club!" The owl is a kind of black magic. The large bronze figure has the feel of a Druid. The Law Institute Diary is indeed a book full of spells and secret incantations.

All of ye who have not revered and worshipped at the foot at these Barristerial Tapestries, I urge thee to go forth and scan them, for within there is much for the soul. There is endless meaning in those tapestries — the tapestries of Owen Dixon Chambers West.

Comoedus

MOUTHPIECE

It is some time after the publication of a conversation between two Magistrates Court Regional Coordinators in the Spring 1988 Edition of the Bar News. Philip has just telephoned Gordon.

Philip: Er Gordon did you see that article about Coordinators in the Barristers' Magazine a few months back?

Gordon: That was the one they reprinted in our Magazine wasn't it?

Philip: That's the one. Um . . . It was just a figment of somebody's imagination wasn't it?

Gordon: Well . . . err . . . um . . . I . . .

Philip: It wasn't anyone we know was it? It couldn't . . .

Gordon: Um . . . I am not so sure it . . .

Philip: You don't think it might have been me, do you?

Gordon: I suppose there could have been a little . . .

Philip: I thought as much.

Gordon: I wouldn't let it worry you. They may have

used a lot of poetic licence. I do not think anyone would believe it, do you?

Philip: I dunno about that. A lot of barristers and a few solicitors ask me if I've read it.

Gordon: So?

Philip: There seems to be a lot of emphasis in the question. A sort of meaningfulness. They seem to be expecting some sort of reaction from me.

Gordon: And what do you do about it?

Philip: The same as any other question they ask me.

Gordon: Yeah. What sort of answer do you give them?

Philip: I don't. I just shrug my shoulders and turn away. Sometimes I pretend to read documents on my desk, sometimes I go off and rifle through one of the cabinets. They must be the most perused cabinets in Melbourne.

Gordon: Why do you think they ask you about it?

Philip: I reckon it's just like their other questions. Just designed to break my train of thought, to constantly interrupt me, to make my life a bloody misery. Why don't they leave me alone to get on with things.

Gordon: You still don't see it as a two way meaningful interchange of ideas?

Philip: What bullshit! Where do you get such rubbish from? Have you been going to another of those seminars run by Social Workers for the Attorney-General? The only thing that's meaningful are people who wait their turn to be told what we want to tell them *when* we want to tell them.

Gordon: You still don't see it as war?

Philip: Too bloody right!

Gordon: Have you thought of easing back a bit?

Philip: And give in? Give those so and sos an inch and they'll take the whole bloody show over. You may as well ask me to barrack for Collingwood. There's more show of that.

Gordon: But you are letting them know a bit earlier aren't you?

Philip: Not likely. I reckon I've refined the art. That article gave me a few new ideas to try out. Actually saw it as a bit of a challenge.

Gordon: And so . . .

Philip: For instance, last week I managed to keep one barrister back until just after 3 o'clock when all he needed was a certificate for an adjournment that the Police had sought right from the beginning of the day.

Gordon: Isn't that a bit rich?

Philip: Better still was the day that I had eight Chambers matters, none of which was really opposed. Listed them all after 4.20pm

Gordon: But why?

Philip: It'll teach them to be double briefed. They know it's not on in my Court. And if they didn't they'll know now!

Gordon: You must have felt a little bad about it?

Philip: Not a bit and it wasn't even my best.

Gordon: I hesitate to ask.

Philip: Fridays are the best. Everyone wants to get off to a Friday lunch. I can't, so why should they? Wasn't all that long when I had all the Courts jammed right from the beginning. Everyone who was there knew that we'd only get through a few pleas and a couple of Police adjournments. I knew that there would be no help from the rest of the Region.

Gordon: I can see it coming.

Philip: Well from 9.30am to midday I either told them it was too early to know or walked off when ever they came near my counter. After that I wasn't available.

Gordon: Where were you?

Philip: Out the back having my lunch.

Gordon: I don't know that I want to know.

Philip: Well comes five to one and they get one of the Clerks to drag me out. I know they want to be told "not before 2pm" or to send their clients off to lunch. I start by dealing with a couple of defendants in person who want to adjourn their mentions. That takes about ten minutes. I turn a deaf ear to the others. I then go off to the filing cabinet to shuffle a few papers. I get back.

Gordon: You send them off to lunch.

Philip: Oh no. That'd be too easy. I appear to relent. I let one of them ask me. I fix him with my glare. You should have seen him recoil! Boy I felt great! I then said I was waiting for a call from another Court, expected it within five minutes, couldn't let them go just in case.

Gordon: How many?

Philip: That was the beauty of it. I had nine matters left, 18 barros. They knew and I knew that at best only two matters would get on, if any. They knew and I knew that I could have sent some away for the day and kept a couple until after lunch just in case. I strung things along for another 20 minutes and then, unaccountably I weakened.

Gordon: Weakened?

Philip: Yep! About twenty to two I let four matters be marked part heard and then booked them in for later in the year. I did book them in on a day I know that some will not get a start again.

Gordon: And that was the end of it?

Philip: Not quite. There was my "coop dee grace". I saw one barro leave for lunch with his clients. I waited until he was out of range of the PA and then called him. His opponent shot out the door like a bolt of greased lightning. I then paged him. About five minutes later they came rushing in all puffed out. By then I was out the back having another Nescafe. At 2.15pm I gave them the bad news about not being reached. The comments about missed lunches were fantastic!

Gordon: So it is still war out there?

Philip: And I am winning. Might give me a chance to come to terms with the damned computer. I wonder if I can treat it like I do lawyers? They hang up.

Gordon: No wonder they all complain about him to me and all the other co-ordinators.

(Just as Gordon and Philip's resemblance to any person living or dead on the last occasion was purely coincidental, notwithstanding the theories to the contrary, it must be stressed that this Gordon and Philip bear no resemblance to the other Gordon and Philip or to any coordinator past, present or in the future. Fellows we love you *all* and we think *all* of you are great. We know that you will again treat this conversation as pure fantasy, the thoughts of a demented and bored mind, an exercise in "what may be but is not". Incidentally, this article was not written by any past or present member of the Editorial Staff of the Bar News, and even if it was, and it isn't, he or she has long moved to a higher jurisdiction and wouldn't dare reappear in a Magistrates Court.)

MELBOURNE UNIVERSITY LAW SCHOOL REUNION

The class of '74 is organising a 15 Year Reunion dinner.

The details are as follows:

Invitees: Anyone who feels some association with the Melbourne University Law School class which started in 1971 and finished in 1974.
Date: Friday, 17th November
Cost: \$50.00

For further information contact John Middleton (608 7341) or Damien Austin (608 7484).

Leigh Mackay

CASE DISPOSAL MANAGEMENT AWARD

TWAS MONDAY 14th AUGUST 1989 AND AT the two Divisions of Dandenong Magistrates' Court, chances of getting on were pretty grim. By lunchtime, Mr. B. M. Gillman, M. was called to the rescue. Having disposed of the lists at Frankston, his Worship drove to Dandenong and thereupon created a Third Division: conducting a contested criminal matter around the desk in the Clerk of Courts office (Janine Garner for the defendant). When astonished observers questioned why the door was left open to the public gaze, the answer, quite obviously, was the statutory requirement to observe an open court . . . By mid afternoon, his Worship's day was done and the backlog for the entire circuit was cleared.

INSIDE RUNNING

INSIDE RUNNING IS A TELEVISION SERIES about barristers — not race horses. Why the Australian Broadcasting Corporation dubbed the programme so is somewhat of a mystery. When asked, staff from the show, who were studying the make-up of chambers, said that they believed this to be a common term used among barristers. I have never heard it used nor have any fellow barristers with whom I have discussed the matter. The ABC staff could not tell me what it means. How does a barrister get the "inside running"? One can only ruminate about the possibilities. Do you get the inside running by being married to a partner in a large firm, or by being the son/daughter of a partner in a large firm, or the son/daughter of a judge, or by being a good looking female, or by having worked with a politician in the prevailing government, or with some form of legal service. God forbid — it could not possibly refer to having extra talent or ability. Perhaps it has Queenslandish overtones. If anybody has any ideas please send them in. Certainly the show itself gives no explanation.

Apart from its name, "Inside Running" is a great laugh. It is like some legal version of "A Country Practice" — but set in the city. It literally bubbles over with soap.

What a set of chambers! First of all there is the QC, one Robin Renard, played by Lewis Fiander. He comes from a working class background, and like most theatrical silks has sold out and betrayed his class. We know that because he talks in some pseudo English accent, wears striped shirts (alas with paisley ties) and because he says so. Of course he is divorced and neglects his family.

Then there is the statutory feminist female barrister, one Penelope Phillips, played by Genieve Picot. We know she is a true feminist because she has a short haircut, acts aggressively and because she says so.

Then we have the snobby bitchy pushy judge's daughter, who is reading with the slow middle aged plodder who is really into some form of military reserve. She is called Susan-Elizabeth Wallberg and is played by an actress called Taya Straton. What a mouthful.

Finally there is the young working class barrister. We know he is working class and a pseudo rebel because he uses phrases such as "stowin away," and

in reference to his learned leader's days as a Vietnam protester, that the QC wore "flares flappin the breeze." He also rides a motor bike, wears leathers into chambers, plays the electric guitar in chambers and in a group called "The Trucking Mothers of Intervention." We know he is a pseudo who is slowly selling out, because, whilst lunching with his learned leader, he declines the offer of beer and instead wants a bottle of "Passing Clouds." Further, he is learning to tie a bow tie and accepts a junior brief in the Family Court.

A very nice lady from the ABC was publicising the series on the radio. She said that she had great fun meeting barristers and seeing how they work. She said that some of them were repressed thespians.

Completing this remarkable team is the receptionist/secretary. She is a real brick. The whole of chambers revolves around her. We know that because the majority of the show is taken up with people hanging around her desk gossiping/philosophising about life, existence and reality, and the odd bit of law.

The particular episode I saw was a real corker. First up, Robin Renard QC was at the Arts Centre soaking up a bit of the kulture in the form of flamenco dancing. Of course he falls head over heels for the large dark lady lead dancer — strangely named Cynthia. I think Cynthia was supposed to be a brooding Latin hot-blood. However she spoke in some form of American accent and was in fact rather plain. We knew there was electricity between them because he kissed her in the lift for the whole of chambers to see, and he was always trying to take her out to lunch/Falls Creek (but of course naturally failing because of the pressure of work).

Well, along comes one of his former girlfriends from his Vietnam protest days. Evidently their form of 60's protest was to stand out on a window ledge

five floors up. (I am unable to see what this was supposed to have achieved.) She's called Elly and used to be a child psychologist and is therefore totally unable to relate to her daughter "Tiffany" who is 14 going on 35. Elly was married to a leading politician who after five years now wants custody of Tiffany. Robin doesn't usually do Family Court work, but of course goes to bat for his old flame.

Tiffany is a naughty girl. She runs away to St. Kilda, gets picked up by the police, and protests by standing on the window sill of Robin's chambers five floor up. The pseudo rebel gets a really nice junior brief in this case. Renard QC tells him not to bother coming to court but to look after troublesome Tiffany for the duration of the proceedings. Wow! Does this mean he is entitled to more than two thirds of Robbo's brief fee because baby sitting is tough?

Of course Elly doesn't come clean to Rob QC about her job. It turns out that she has become a "hostess" in an escort agency. She works nights and neglects poor old Tiff and allows "Possum" the cat to die. But she makes it clear she is *no* prostitute. Entirely believable, with her sort of looks.

Boy — the Family Court scene is tough. Renard's opponent is the self same barrister who screwed him in his own divorce. He says to his junior that he will "Beat the bastard shitless!"

In the end Tiffany hits the box and says she wants to stay with mum if she stops escorting men at night, and dad is too busy with his political career anyway. Poor old Robin breaks up with the American flamenco dancer and in the end the good old receptionist cancels the dirty weekend in Falls Creek. Phew!!!

The setting of the show is quite amazing. The barristers chambers are full of Parliamentary Debates and other odd books with not a Victorian Report in sight. Indeed the whole of the outside scenes are shot on or about Parliament House and its environs in Spring Street.

One cannot understand why all those friendly folk from the ABC bothered to come into chambers and ask for some advice. There is not a shot of Owen Dixon Chambers either East or West, the Supreme Court or any court for that matter, in the whole show. Perhaps it would have been collective touting? Chambers are some strange red brick building in Collins Street. The Family Court is situated in the ugly office blocks behind Parliament House. Briefs consist of doubled-up manila folders.

A very nice lady from the ABC was publicising the series on the radio. She said that she had great fun meeting barristers and seeing how they work. She said that some of them were repressed thespians.

"Inside Running" would have been a much better show if the producers had only sought and followed the advice of those "repressed thespians" at a much earlier stage. Such a pity. Good ideas. Poor execution.

Paul Elliott

Inside Running, Channel 2, 8.30 Saturdays

PENAL REFORM?

"A FURTHER MISCHIEF ARISING FROM THIS long detention of prisoners is, that it defeats the principal end of all law and justice. All punishments below capital are intended to reform the criminal, and deter him from offending again; but as our gaols are commonly managed, it is to be feared, they breed up and harden more rogues, than the law either reclaims or removes. The prisoners are indulged so great liberty in rioting and debauchery, which the keepers, who have the advantage arising from the sale of the liquors, find their account in promoting; the young novices are permitted to contract so intimate an acquaintance and familiarity with the old offenders, that our gaols are rather the schools and nurseries of all manner of roguery and wickedness, than proper places for correction and amendment. It is generally observed, that they who enter in raw and unexperienced offenders, with some sense of shame and modesty, soon grown to be impudent and hardened villains, entering themselves members of a gang, wherein they are not only instructed in the theory, but experienced in the practice of their wicked arts. This may seem strange to some, who think they

are restrained, at least while they are prisoners, from doing mischief without doors; yet it is not without reason apprehended by others, that they sometimes find means to make excursions, which is hard to be accounted for without the connivance or permission of their keepers, who no doubt take care to be no losers by it: and tho this may be a favour not usually shown to any but inferior rogues, who are detained for smaller crimes; yet I can mention an instance (attested by a person of undoubted credit) of one who was committed to Newgate for breaking open an house in the night time, and while he was in (supposed) custody for that offence, was apprehended committing a fact of the like kind in a remote part of the town."

This extract is from page 12 of the preface to a complete collection of State Trials and Proceedings for High Treason and other crimes and misdemeanours from the reign of King Richard II to the end of the reign of King George I — the Second Edition, with great additions, published in 1730.

Maurice Gurvich

Victorian Bar News Advertising Rates

	Once	Twice	4 Times
FP Mono	\$1,000	\$ 900	\$ 800
FP 2-colour	\$1,150	\$1,150	\$1,000

Space available:

2 facing pages mono (22 x 15cm)	\$1,800
2-colour	\$2,300
Single page mono (22 x 15cm)	\$1,000
2-colour	\$1,250
Single column (7cm x 22cm) mono only	\$500
Display classifieds one-sixth page (7cm x 7cm)	\$200
Other classifieds 3 lines minimum @ \$15.00 plus \$5 per extra line	

Technical Information.

Publishing Information: Published quarterly
Circulation: 1,850 copies

Material deadline:	
Maximum image area:	220 x 150mm
Bleed size:	258 x 177mm
Trim size:	245 x 173mm
Process:	Offset
Material required:	Screen/line Bromides
Paper:	Cover 150gsm/A2 Art Text 100gsm/A2 Art

MOVEMENT AT THE BAR

(To 31st August 1989)

Members who have Signed the Roll since November 1988

Name	Master	Clerk	Name	Master	Clerk
Michael G. SEXTON (NSW)			Mark S. BLUMBERG (SA)		
Neville G. ROCHOW (SA)			William T. McMILLIAN (QLD)		
Stephen LINDNER	R. Van DeWiel	W	Louis G. VATOUSIOS	T.D Wood	F
Wallace G. MEEHAN	J. Rapke	F	Jeanette E. RICHARDS	D. Shavin	H
Brent A. HUTCHINSON	J.H.L. Forrest	H	Domenic S. BENVENUTO	J.E. Middleton	F
Colin D. GOLVAN	S.M. Crennan	B	Elsbeth A. STRONG	M.B. Phipps	F
Jane A. DIXON	L. Lieder	D	Debra S. MORTIMER	N.J. Young	D
Andrew D.B. INGRAM	J.F. Larkins	M	Oliver P. HOLDENSON	P.W. Murley & P.A. Dunn	F
Giuseppina M. HOPKINS	O.M. Kiernan	M	Samantha L. KIRWAN-HAMILTON		
Christopher W. BEALE	R.F. Punshon	W	G. Golvan & L. Glick		S
Nicholas HANOS	D. Austin	S	Kerry A. PETERSEN	J.W. Ramsden	P
Anthea E.L. MacTIERNAN	P.N. Rose	R	Andrew G. HOOPER	R. Webster	D
Glenn S.M. HARVEY	R.N.J. Young	W	Franz J. HOLZER	J.G. Santamaria	D
Sean E. GRANT	C. Lovitt	P	Constantinos N. KILIAS	D.G. Wraith	P
John T.W. HENRY	S.G.S. Collins	P	Elisabeth WENTWORTH	J. Karkar	P
Rohan N. HOULT	W.M. Pinner & B.G. Walmsley	H	Alan L. HANDS	M. Hickey & W.R. Ray	P
David J. McSTEEN	P.A. Dunn & H. Jolson	H	John C. BILLINGS	M. Revan-John & D. Levin	F
Ragini A.R. RAJADURAI	M.R. Titshall	S	Timothy J. SECCULL	I.D. Hill	M
Gregory J. LYON	J.R. Champion	W	Geoffrey J.E. STEWARD	J. Ruskin	F
Murray J. GARNHAM	C.A. Connor	H	John SEARLE	H. Jolson	F
David A. HEWITT	L.H. Brear	S	A. Carmella BEN-SIMON	R. Greenberger	H
Christopher J. CARMODY	D. Drake	P	Lesley A. FLEMING	G. Hicks	P
Roger J.R. CLEARY	B.A. Murphy	R	Christopher G. TRISCOTT	E.N. Magee	P
Caroline M. COBURN	N.J. Young	H	Andrew McK. FLOWER	D.K. Mcivor	W
Victoria J. BENNETT	R. Wild	R	Astor A. DE SILVA	C. Porter & L. Lasry	W
Andrew D. HALSE	A. Garantziotis	M	Gail L. THOMPSON	J. Jordan	M
Ian R.L. FRECKELTON	A. Shwartz & A.G. Southall	R	Gregory R. DORAN	A.M. North	B
John K. PILKINGTON	S. Stribling	D	Michael P. McDONALD	J.W.K. Burnside	W
Norman ROSENBAUM	H. Reicher	S	Ian G. WALLER	J. Monahan	H
Howard G. DRAPER	P. Casey	W	Katherine L. BOURKE	J.G. McArdle	R
Jerzy J. GAJEWICZ	P. Luke	M	Peter A. RYAN	J. Lewisohn & A.G. Southall	P
Godfrey D. CULLEN	P.R. Hayes	B	Michael D. NORBURY	S.W. Kaye	W
Gerald J. GRABAU	C. Wheeler	P	Gary A. CAZALET	D.F. Hore-Lacy & R. Punshon	B
John CASSON	P.F. McDermott	R	Sean P. CASH	P.C. Dane	S
Richard Ashley EDMUNDS	T.J. Casey	B	Anna H. SANGO	D.B.X. Smith	P
Paul M. DONOHUE (NSW)			Dominic HICKEY	P.N. Vickery	R
Roger A. MACKAY (WA)			Warren L. FRIEND	R.J. Spicer	P
Alan J. SULLIVAN (NSW)			Phillip D. BURCHARDT	M.A. Tovey	H
Robertson J. WRIGHT (NSW)			Paul S. REYNOLDS	J.G. Digby	H
Bret W. WALKER (NSW)			Jody E. WILLIAMS	P.B. Murdoch	S
Eric M. HEENAN (WA)			Roger J. YOUNG	P.G. Misso	F
Peter E. KING (NSW)			Michael H. TINNEY	W.M. Pinner	P
D.R. WILLIAMS (WA)			Roslyn F. GARFIELD	T.J. Ginnane	B
Bruce S. HEATHERSHAW (re-signed)	R		Richard T. TARANTO	A.J. Howard	R
			Philip M. TAFT	P.A. Willee	R
			Gerald L. PURCELL	D.B. Maguire	P
			John R. WEIR	P.J. Kennon	M
			Declan F. HYDE	G.K. Moore	B
			John W. BAILEY		

Name	Master	Clerk
Nicholas J. FRANCIS	G.H. Garde	B
Andrew M. DONALD	G.R. Anderson	P
Michael L. SIFRIS	C. Gunst	M
Rosemarie L. GILLESPIE	R.A.R. Lewis	P
Paul D. PAGE	J.W. Rapke	F
Mary STAVRAKAKIS	S.K. Wilson	H
Anthony W. ELLIS	D.W. McLeod	P
Geoffrey P. Miller (WA)		
Robert R. STITT (NSW)		
John R. SACKAR (NSW)		
Annabelle C. BENNETT (NSW)		
John D. HARRIS (NSW)		
Joseph C. CAMPBELL (NSW)		
Michael G. SKINNER (NSW)		
Kenneth J. CRISPIN (ACT)		

Judicial Appointments (Since September 1988)

HIS HONOUR JUDGE MEAGHER,
COUNTY COURT

HIS HONOUR JUDGE STRONG,
COUNTY COURT

HIS HONOUR JUDGE ROSS,
COUNTY COURT

Members who were Appointed Queen's Counsel on 29th November 1988

G.W. COLMAN Q.C.
J.P. DICKSON Q.C.
P.R. HAYES Q.C.
R.K. KENT Q.C.
C.L. LOVITT Q.C.
R.C. MACAW Q.C.
N.A. MOSHINSKY Q.C.
R.McK. ROBSON Q.C.
D.J. ROSS Q.C.

Members whose names have been removed from the Roll of Counsel since November 1988

I.S. BARNES
G.R. BARR (NSW)
A.J. McDONALD
M.T. MILVERTON
A. MOISIDIS
J.A. MURPHY
P.H.N. OPAS Q.C.
I.D. TEMBY Q.C.
J.F.E. TURNER
THE HON. MR. JUSTICE VASTA (QLD)
D.M.St.C. WILSON

Members who have been granted Leave of Absence

P.R. BYRNE	B. KISSANE
P.H. CLARK	I. LAWSON
S. COX	C. LOORHAM
J.A. DEE	D.H. McLENNAN
I.L. GRAY	J. PERLMAN
M. HIRD	K. POLITIS
B. HOCKING	J.L. SPARKS
J.J. HOCKLEY	F. STEWART
R.M. JOHNSTONE	J. SULLIVAN
T.P. KEELY	J. THWAITES

Members whose names have been transferred to another Division on the Roll

A.P.S. ALSTON

(From Division A, Part I, Victorian Practising
Counsel to Division A, Part III, Overseas &
Interstate Counsel)

J.S. BESSELL

(From Division B, Part VII, Crown Counsel and
Parliamentary Counsel to Division A, Part I,
Victorian Practising Counsel)

B.B. BRAUN

(From Division A, Part I, Victorian Practising
Counsel to Division B, Part VI, Magistrates &
Full-time Members of Statutory Tribunals)

L.H. BREAR

(From Division A, Part I, Victorian Practising
Counsel to Division B, part VI, Magistrate &
Full-time Members of Statutory Tribunals)

N.A. BROWN Q.C.

(From Division A, Part I, Victorian Practising
Counsel to Division B, Part III, Ministers of
the Crown and Members of Parliament)

THE HON. MR. JUSTICE COLE (NSW)

(From Division A, Part III, Overseas & Interstate
Counsel to Division B, Part II, Judges)

G.M. EAMES

(From Division A, Part III, Overseas & Interstate
Counsel to Division A, Part I, Victorian Practising
Counsel)

P. FARIS Q.C.

(From Division A, Part I, Victorian Practising
Counsel — Queen's Counsel to Division B, Part
VIII, Other Official Appointments)

THE HON. MR. JUSTICE GLEESON, A.O.
(NSW)

(From Division A, Part III, Overseas & Interstate
Counsel to Division B, Part II, Judges)

J.V.C. GUEST M.L.C.

(From Division A, Part I, Victorian Practising
Counsel to Division B, Part III, Ministers of
the Crown and Members of Parliament)

T. GYORFFY

(From Division A, Part I, Victorian Practising Counsel to Division A, Part II, Prosecutors for the Queen.)

J.P. HENNESSY

(From Division A, Part I, Victorian Practising Counsel to Division C, Part III, Retired Counsel)

L.J. HILL

(From Division A, Part I, Victorian Practising Counsel to Division B, Part VI, Magistrates & Full-time Members of Statutory Tribunals)

S.W. JOHNSTON

(From Division A, Part I Victorian Practising Counsel to Division D, Academics)

C.F. KILDUFF

(From Division A, Part I, Victorian Practising Counsel to Division A, Part III, Overseas & Interstate Counsel)

B.J. KING

(From Division A, Part I, Victorian Practising Counsel to Division A, Part II, Prosecutors for the Queen)

J. LECKIE

(From Division A, Part I, Victorian Practising Counsel to Division B, Part VIII, Other Official Appointments)

P.H. MOLONY

(From Division A, Part I, Victorian Practising

Counsel to Division B, Part VI, Magistrates and Full-time Members of Statutory Tribunals)

R.M.C. NANKIVELL

(From Division A, Part I, Victorian Practising Counsel to Division D, Part I, Academics)

B. O'BRIEN

(From Division A, Part I, Victorian Practising Counsel to Division D, Part I, Academics)

HIS HONOUR JUDGE OGDEN, A.O.

(From Division B, Part II, Judges to Division C, Part I, Retired Judges)

R.F. SHIPTON

(From Division A, Part I, Victorian Practising Counsel to Division B, Part III, Ministers of the Crown and Members of Parliament)

H. STOREY Q.C.

(From Division A, Part I, Victorian Practising Counsel to Division D, Part I, Members of Parliament)

C.R. WILLIAMS

(From Division A, Part I, Victorian Practising Counsel to Division D, Part I, Academics)

Obituary

THE HON. SIR MURRAY McINERNEY

(RETIRED) (23rd November 1988)

HIS HONOUR JUDGE MARTIN

(RETIRED) (23rd August 1989)

Toner Charge

P L U S +

WANTED TO BUY

Empty toner cartridges from Laser Printers — suitable for recharging (Canon Engine Type) cash paid.

• Free pick-up • New cartridges and Consumables at discount prices.

Telephone: 428 5100