

## Court Dress: New Zealand Survey Response Favours Alternative to Traditional Dress

A Survey questionnaire seeking the views of practitioners in relation to the preferred options for dress in the High Court was included in *Law Talk* 438 (10 July 1995). An analysis of the completed questionnaires was undertaken on behalf of the Society by Wellington researchers Richard McLachlan and Liza Wilcox and is published in full below. Readers should note that the survey population was a self-selected group of comprising ten percent of the professional hence nothing in the responses can be inferred about the profession as a whole. In the meantime the survey results have been referred without comment to the Chief Justice, Sir Thomas Eichelbaum, who sought the views of the Society and its members, so prompting the survey.

### Introduction

The questionnaire for a survey of the opinions of legal practitioners was published in the July 10 edition of the New Zealand journal *Law Talk*. *Law Talk* is distributed free to all registered legal practitioners, numbering 6,751 in December 1994. A brief article preceded the questionnaire quoting Chief Justice Sir Thomas Eichelbaum as saying "the present practice [of wearing wigs, bands and gowns] in the High Court ought now to be changed." Sir Thomas had sought comment from the New Zealand Law Society and members of the profession.

The options *Law Talk* presented as alternatives to the status quo were suggested by the Chief Justice. They were:

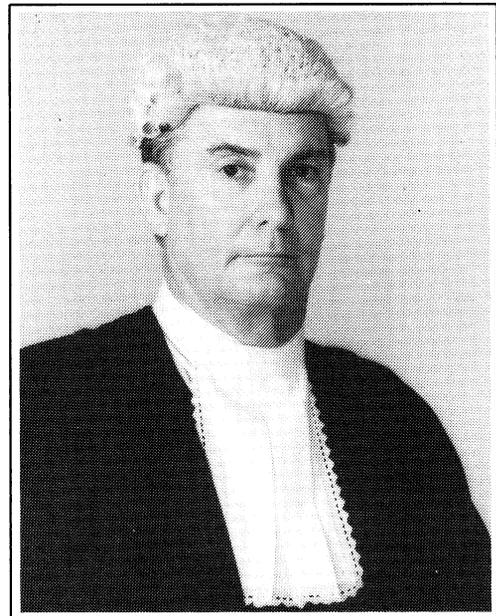
**Option 1** Both Judge and Counsel, wig/bands and gown, only in witness actions (whether civil or criminal).

**Option 2** Both judge and counsel, wig/bands and gown, only in criminal jury trials.

**Option 3** Both judge and counsel, gowns only, in all proceedings.

**Option 4** Judge in gown, counsel in neat dress (no wig/bands or gown), in all proceedings.

**Option 5** Both judge and counsel, neat dress (no wig/bands or gown), in all proceedings.



*Councillor Peter Tiffin in full court dress*

Additionally, respondents were asked for gender, age and employment details.

### Survey validity

It is probably safe to assume that those who did respond had a particular interest in the issue. There is no way to know how many more with an interest in the outcome failed to respond. Given that 672 people responded out of a total population of 6,751 there is nothing in the responses which can be inferred about the profession as a whole. The survey population must therefore be regarded as a self-selected group comprising ten percent of the profession.

On a positive note, respondents to the survey were distributed among districts in proportions very similar to the national figures. In no district did the discrepancy between national and survey figures exceed two percent.

Furthermore, survey respondents were 68% men, 25% women (7% no specified), closely approximating national figures 75% men and 25% women.

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## Summary of results

Of the 672 who responded to this survey, 516 (77%) preferred some alternative to traditional dress for the High Court. Among those, 61% chose either Option four or five as their first choice. In other words 61% of those wanting changes are asking for the most current dress complete relaxation of current dress standards. (The most formal requirement of those two options is merely that the Judge wear a gown.)

Seventy percent of those who wanted a change chose Option four (judge with gown, counsel in neat dress only, for all proceedings) as their first or second choice. Forty six percent of those wanting a change chose Option five (neat dress for all in all proceedings) as either their first or second choice. The next most preferred was Option three (34%) in which both judge and counsel wear gowns only in all proceedings. Option two was the least popular.

## Details

Respondents' personal details (gender, age and whether they were a barrister sole or barrister and solicitor) did not influence the likelihood that they would favour change.

The gender breakdown was consistent with the overall proportions for and against change. (76% of women were in favour of change and 78% if men.) Seven percent declined to reveal their gender. Women were more or less equally divided among Options 3, 4 and 5. Men leaned more toward Options 4 and 5.

Similarly age, divided into two groups, had no predictive value for the choice between change and the status quo. Seventy four percent of under 35 year olds favoured change and 78% of those over 35 felt likewise. (11% did not specify their age) Among those who chose change, those older than 35 favoured the most relaxed option in larger proportion than did those under 35.

Barristers sole were 73%, and barristers and solicitors 78% in favour of

change. There was a relatively high percentage (12%) who did not specify. Both groups exhibited the same preferences among options. Not a single first choice veered more than five points from the overall norm.

For all three categories of respondent details, although 'not specified' represented a relatively high proportion (7-12%), it appears that nothing of value was lost as a result of their not participating. This is because the breakdown of opinion among those not specifying reflects the general pattern of preference.

## Predominant areas of practice

Sixty three percent of respondents reported court work as their predominant area of practice, while only 9% and 6% worked primarily in commercial law or conveyancing, respectively. Another 16% reported some combination of the three categories as their "predominant area" of practice. All these groups favoured change, at rates which ranged only from 73% to 77%.

Of those who work in conveyancing 39% chose Option 4 as their first choice, 29% chose Option 5, and another quarter chose Option 3. Of commercial lawyers, 35% chose Option 4, 33% chose 5 and 26% chose 3. The largest group, those who work in the courts, 31% chose Option 4, 26%

Option 5, 18% Option 3 and another 15% (50 individuals) favoured Option 1. They were the only group who showed any interest in Option 1, the choice which would require both judge and counsel to wear wig, bands and gown, but only in witness actions.

## Type of court work

With the exception of family court lawyers the preferences for change and retaining the status quo remained very much in line with the overall pattern.

Family court lawyers (4% of court lawyers worked exclusively in the family courts) were overwhelmingly (95%) in favour of change. Forty-eight per cent of that group who wanted change preferred Option 4. The next preferred options were 3 and 5 equally.

Ten percent of court lawyers worked exclusively in the district courts. Their preferences were again: Option 4 (34%) and Options 4 and 3 which were split evenly at 20%. Only 2% of court lawyers worked exclusively in the employment Court and they favoured Options 3 and 4 equally but numbers involved were small.

The largest group were those working in the High Court, either exclusively or as part of their practice. This group comprised 72% of the court lawyers and of those, 76% favoured change. Their first choices were again 4 and 5 with 29% support for each. These options were followed by Options 1 and 3 at 17% and 16% respec-

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tively. Option 2, once again the least favoured, had 8% support.

### **Districts**

Some districts departed markedly from the overall figure of 77% in favour of change. Centres favouring change in greater numbers than the overall figure were: Hawkes Bay, 87%; Wanganui, 92%; Manawatu, 86%, and Wellington, 85%. Gisborne favoured the status quo (60%) and Otago was split 50/50. Southland, while in favour of change, was more closely divided than the respondent population (58% - 42%), as was Canterbury (69% - 31%).

First choices for the alternatives to wigs and gowns in the district breakdown were similar to the preferences of the respondent population.

### **Conclusion**

Just over half of the respondents (55%) were lawyers who work at least part of the time in the High Court, the area at which the proposed changes are directed. It is not entirely clear if all the respondents actually understood that the options referred specifically to the High Court. The options were discrete and mutually exclusive but the presence of multiple choice boxes beside each option appeared to confuse some respondents. A personally administered questionnaire would solve these problems.

There is clearly a strong preference for change among this small selection of legal practitioners. Of those wanting change most preferred Options 4 and 5, the most formal element of which was the requirement that the judge don a gown.

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*The Editor of Balance would like to thank the generosity of the New Zealand Law Society in allowing Balance to publish the findings of this survey from their publication, Law Talk.*