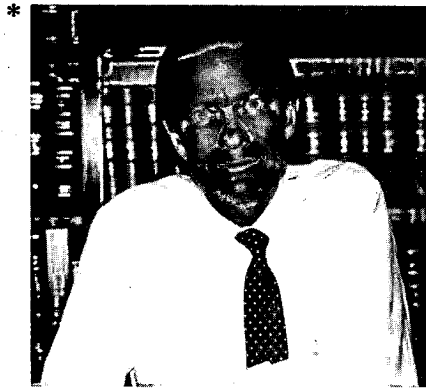


# From the President



When I wrote the Editorial for the last issue of Bar News which came out in November 1988 I was able to report much activity but few results. Since that time results have started to come through. State Parliament has passed the Motor Accidents Act 1988 which retrospectively repeals the Transcover legislation and substantially restores the common law rights of seriously injured road accident victims. The Opposition and the minority parties did not oppose this legislation. The Act is expected to commence on 1/7/89. The Bar Council and I again wish to place on record our appreciation for the efforts of Coombs Q.C. and Graham Ellis who worked so hard to achieve this result.

Meanwhile the Workcover Review Committee established by the Honourable John Fahey M.P. Minister for Industrial Relations has been hard at work. The Bar representatives on this Committee Poulos, McCarthy Q.C. and Ferrari worked during vacation to assess the voluminous actuarial and other material and to prepare the Association's case for submission to the Committee. The Committee's recommendations and the Minister's decisions on the shape of this State's new industrial accident legislation will probably be known by the time this issue of Bar News is available to members.

The Council has supported the initiatives of the Chief Justice and the Attorney General in appointing a large number of acting Judges to the Supreme Court to assist in overcoming the backlog of cases in the Common Law Division. The Bar can take pride in the fact that senior Silk who practice in that Division have been prepared to undertake this public duty and of course have done so at some cost to themselves.

The Council is represented on the committee chaired by Mr. Justice Wood which is examining other ways of reducing and abolishing delays in the Common Law and Criminal Law Divisions. A number of changes have already been made including the rescheduling of most country circuits. As this year unfolds it is hoped that further reforms can be implemented. The Bar made many constructive suggestions for change in the listing arrangements in the Common Law Division in its submission to the Premier in May 1988. Some of these suggestions are only now being adopted.

There have been few changes in criminal trial procedure in this State this century and the Council believes that a great deal can be done to shorten and simplify such trials without any prejudice to the rights of the accused. Reforms in this area not only promise reductions in the present delays but also substantial cost savings to the State and to the Legal Aid budget. The Council is hopeful that an active working committee will be set up in the near future with Bar representation to examine these matters. In fact an informal

meeting was arranged between members of the Bar Council and a number of other Silk who practise in the criminal field with the Attorney General in May last year during which a whole range of possible options were canvassed.

The Council remains extremely concerned at the low level of fees available through the Legal Aid Commission for Counsel engaged for the defence in criminal cases and is continuing to explore possible solutions.

We have spoken out in support of significant increases in judicial salaries at both Federal and State levels and will continue to do so. At the same time we have sought to protect the Bar from unfair attack based on inaccurate statistics. Members will be aware of the action taken by the Council in relation to the Australian Bureau of Statistics survey of lawyers professional incomes and expenses of practice which was received by some members of the Bar in the latter part of 1988.

The Lord Chancellor's Green Paper on the organisation of the legal profession in Britain has confronted the English Bar with the same challenge to its practices and indeed its very existence as our Bar faced in recent years. We are maintaining close contact with the General Council of the Bar in England and have provided them with information on the history and development of independent Bars in Australasia and our successful defence of the independent Bar in this State between 1976 and 1987. In particular we have made it clear that our history demonstrates that an independent Bar does not need to be protected by any legal monopoly against competition from solicitors.

These events in Britain underline the continuing need for the Bar to be vigilant in maintaining its professional and ethical standards and in keeping its overheads well below those of the large city firms. The availability and cost of Chambers in Sydney therefore remains a matter of continuing concern.

Last year the New Barristers' Committee conducted a survey of all floors in Sydney to determine which floors did and which did not permit "floating" by new barristers. I was surprised to learn how many floors prohibited or discouraged this practice. I have recently written to the floors concerned asking them to reconsider their policies. I trust that all floors will be generous in this matter as I believe that it is an effective means of encouraging promising lawyers to come to the Bar and assisting them during the critical first 12 months.

It is a matter of great satisfaction and pride to all of us that Mr. Justice McHugh has been appointed to the High Court. His appointment marks the culmination of a remarkable career at our Bar which included periods as President of this Association and of the Australian Bar Association. McHugh came to the Newcastle Bar in 1961 without capital or connections. He moved to Sydney shortly afterwards and after "floating" for 6 months was able to buy Chambers. Could some new McHugh do the same today?

Mr. Justice McHugh's appointment indicates that the Government accepts the principle that appointments to our highest Court must be based on merit alone and that it is not appropriate to adopt any form of quota system. The merit principle has generally been followed in the past with occasional exceptions but from time to time suggestions have been made by ill informed persons that appointments should reflect some

"balance among the States". We don't select our national sporting teams in this way and it would be even less appropriate to select the members of our highest Court on such a basis.

The death of Mr. Justice Higgins in 1929 reduced the number of Victorians on the High Court from four to three but fortunately this did not prevent the Government of the day from appointing Owen Dixon K.C. to the Court. In 1969 the death of Mr. Justice Taylor reduced the number of New South Wales Judges on the Court from six to five but fortunately again this did not prevent the number of New South Wales Judges being restored by the appointment of Mr. Justice Walsh.

It is indeed fortunate that the Government was not deterred from appointing Mr. Justice McHugh on his obvious merits merely because his appointment would increase the New South Wales Judges on the Court to four. One might venture the hope that henceforth the merit principle will be accepted by Governments of all political persuasions and that we will hear no more of proposals for appointments on any other basis. □

**K.R. Handley**

*\* Hirsute appearance affected by Handley Q.C. so he could pass as a Tibetan monk while trekking in the Himalayas at Christmas.*

## Letter to the President

Dear Ken,

### Black Xmas

*For the last 3 years I have taken the hat around, with Carolyn Simpson, for Shirley Smith AO (Mum Shirl) to raise money for her Xmas party.*

*This year we raised six thousand seven hundred and ninety five dollars and 44 cents (\$6,795.44). The greater part was from the N.S.W. Bar, with some from Judges and a few solicitors looking for injunctions on Xmas Eve. A few cheques are trickling in still and only two knockbacks.*

*The money was used for (i) the Xmas party (ii) a new second hand fridge (iii) 143 hampers for black families in Redfern.*

*There are too many for us to thank personally: Could this letter be tabled and noted in the Association's minutes. See you next year.*

*En passant, Mum Shirl's house in Stanmore was extended and repaired by the brothers Finnane.*

Regards, Ken Horler.

# PROFESSIONAL INDEMNITY INSURANCE

## For Bar Association

### Members

### contact

**STEEVES**  
*Lumley*  
**Lpty Ltd**

**Insurance Brokers**

(Incorporated in Victoria)

Phone Aidan Stokes on:

**959-3344**

88 Walker Street, North Sydney, 2060. DX10592 North Sydney