

Naida Jean Haxton – barrister and law reporter



In July of this year, Naida Haxton will retire after twenty-five years of dedicated service as assistant editor and then editor of the New South Wales Law Reports. Francis Douglas QC paints this portrait of her life and career.

Naida Jean Haxton was born in Brisbane on 9 December 1941. She attended her primary and secondary schooling in Queensland and matriculated with distinction from Somerville House in the senior examination in 1959. She studied a combined arts/law course at the University of Queensland from 1960 and was admitted to the degree of bachelor of laws in the University of Queensland in 1965. In the meantime she found time to carry out three years under articles of clerkship with the firm of Brisbane solicitors, Flower & Hart, attending university in the early mornings and evenings. She was also admitted to the degree of bachelor of arts having majored in English. Whilst at university she was prominent in debating, athletics and Inter Varsity Mooting. She came to the Bar at the end of 1966.

Naida's going to the Bar was an unusual event in Queensland. No women had previously practiced at the Bar there. Inquiries were made as to the appropriate clothing to be worn by a female barrister in court. Gibbs J, (as he then was) researched the matter as much as he was able. He came up with a description of Bar jacket, wings and collars, and 'shoes with buckles'. Roma Mitchell, then a prominent female practitioner in South Australia, when asked for advice, wrote stating that on occasions when one needed to go to court a hat was essential. Janet Coombs, of the NSW Bar, wrote explaining what was worn by herself and other female members of the NSW Bar at the time, including diagrams, and drawings of collars with wings and bands.

As a consequence of this, and taking into account the perceived requirement to share a robing room with the all male Bar, Naida had designed and made a black suit the jacket of which, when worn under robes, presented as a Bar jacket but was suitably styled so as to be worn in the street. This meant that she did not have to disrobe in the presence of the 110 male members of the Bar. The chambers she was joining included amongst others, David Jackson and Ian Gzell.

Naida was admitted on 30 August 1966 before a Bench consisting of Gibbs J and Lucas J and my father. She asked the court to waive compliance with some of the rules relating to the admission of barristers of the Supreme Court of Queensland in relation to time to be served as a student-at-law prior to admission as a barrister, which decision is reported in the *Queensland Law Reports as Re Haxton*[1966] QWN 36. The report of the *Courier Mail* at the time recorded Gibbs J's congratulations to Naida on her admission as a barrister saying, amongst other things, 'At yesterday's sittings of the full court Mr Justice Gibbs congratulated Miss Haxton on her admission as a barrister. He said 'You are the first of many women who will in time undoubtedly practice at our Bar. I think it is nearly forty years since a woman was first admitted to the Queensland Bar. Although women have long practiced with success as solicitors in Queensland, you will, if you carry out your present intention, be the first woman to engage in private practice as a barrister in this state. In this respect, we in Queensland have been behind the trend of the times. In some of the other states as in England, women have achieved eminence in practice at the Bar'.

Unusually, for that time, the president of the Bar Association W B Campbell QC gave a ruling in relation to press interviews in

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which Naida was given permission to conduct one interview with the press and one interview on radio, but was not to be photographed for press or television in her wig and gown. On her first morning at the Bar, she was greeted with a huge bunch of flowers from the members of the Bar, and at lunch time she was invited down to the members' dining room and invited to share in the convivial lunches which at that stage were a very important part of the life at the Bar of Queensland.

She conducted her first brief in the Supreme Court in an undefended divorce matter in chambers, at which my father had cause to congratulate her. Naida was treated as something of a rarity and all of the members of the Bar, with some exceptions, were anxious to make her feel welcome. Even then, there was recognition by the male members of the Bar that it was important that women take up the practice of the profession.

Being a member of the Queensland Bar in those days, for a female, was a somewhat daunting experience. Many of the barristers in active practice had managed to survive, in various ways, the rigors of the Second World War and

Japanese prisoner of war camps. Others were graduates of the 1950s who were not adverse to both smoking and the 6.00 o'clock swill. The robing room where all of the barristers used to robe, so as not to parade up and down George Street, was downstairs in the old Supreme Court building, where there was hung court dress for the various members of the Bar. Much of it had not received the attention of a laundry or a dry cleaner for some time. The stench of nicotine hung heavy in the air, and some members of the Bar were not unknown to exude the somewhat repugnant odour of stale beer (and indeed, in some cases more recently partaken refreshments) in the morning crush before proceeding to the various court rooms.

As an associate on the Queensland Supreme Court during the time that Naida was in busy practice, I had the opportunity to see her in action quite frequently. Prominent young practitioners against whom she appeared included David Jackson, Ian Gzell, Tony Fitzgerald, Ian Callinan, Geoff Davies, Bill Pincus and Bruce McPherson. It was a time of renewal at the Queensland Bar and even at that time, one perceived

that these young practitioners as a group would ultimately have a profound influence upon the practice of law in Queensland.

Naida appeared on a number of occasions in chambers before my father when I was his associate. It is not possible to adequately describe the intimacy of chambers practice during the late 1960s. The old Supreme Court building having been burnt down, the judges had no court rooms for civil work and conducted most of it in their chambers in rented accommodation. A chambers practice became precisely that. Naida did a wide range of work including, motions and summons in equity, common law and commercial matters and some matrimonial work which was then handled by the Supreme Court. She had good knowledge of land law having lectured at the university in this subject, as well as commercial law which she lectured in the Department of Accountancy.

In 1971 Naida married David Boddam-Whetham and became step mother to his three teenage boys. They had their own son, James in 1974. She moved to Sydney in 1971 and joined the NSW Bar in a set of chambers in Phillip Street whose members were responsible for setting up the first Frederick Jordan Chambers. She continued to lecture in real property for the Law Extension Committee of the University of Sydney and commercial law in the Faculty of Business Studies for what is now UTS.

In this year, Naida was invited to become editor and from 1974, sole reporter of the PNGLR. This position was sadly relinquished by her in 1993 when the Council of Law Reporting in PNG decided the reports should be edited and published from thereon, in PNG.

However, this venture into law reporting proved to be a turning point in Naida's life. Thereafter, it became the focus of her professional life. From 1981 to 2000 Naida was the assistant editor of the NSWLR and from 2000 to 2006 she was the editor of those reports. In these

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positions, she was the honorary minute secretary of the council and somehow became an ad hoc CEO, and in that capacity, I had the opportunity to more fully renew our former acquaintance.

During most of the 1990s I was a member and then subsequently chairman of the council. During this time, Dyson Heydon was the editor immediately preceding Naida. Historically, the deliberations of the body were essentially torpid, sometimes languid, and usually overly lengthy. I tried to change this with co-operation from Heydon. Naida was the spirit who drove the business and kept the predatory legal publishers at bay. With Heydon's ruthless approach to reportability, and Naida's organisational and financial acumen, the cost of the NSWLR was kept at a price that was and has remained substantially cheaper than any other similar series in Australia.

But perhaps most importantly, Naida's skill as an editor and law reporter strongly influenced the development of the reputation of the NSWLR. She was a worthy successor to Dyson Heydon as editor, and a great support to him as assistant editor. Never one to circumlocute, she had the uncanny knack of being able to summarise the most complex factual and legal analysis into a few short paragraphs and to 'fillet' judgments down to their relevantly reportable essence.

She was virtually single handedly responsible for instigating a policy strategy for the council under which it was to become self publishing in both electronic and paper format. This electronic database is now licensed to third party publishers so that NSWLR are readily accessible on the internet in their standard format from a number of

different publishers. She subsequently advised the Incorporated Council for Law Reporting for Queensland on its move to electronic publishing. As a result of her endeavours in this regard, the council has the copyright in all published volumes of the NSWLR and is likely to retain that copyright.

Naida has also been the editor of other series of reports and involved with a number of other legal publications as editor. She completed and published a *Manual of Law Reporting* firstly in 1991 (2nd ed 2005), which is now widely used throughout Australia, New Zealand and the Pacific and is used as a model for similar models for the Republic of South Africa, and more recently Singapore. She was a member of and advisor to the Australian Judicial Administration Working Group on the production of a *Guide to Uniform Production of Judgments* published in 1992 in the AJIA for distribution to judicial officers throughout Australia. She has provided advice to the Compensation Court of NSW on the publication of the *Workers Compensation Reports*, and to the judiciary and profession in the Republic of Vanuatu on the publication of a series of reports for Vanuatu and to the Singapore Academy of Law. She has conducted seminars on law reporting in New Zealand and has otherwise been involved in presenting papers and giving lectures on judgment writing and law reporting to a number of bodies, both in Australia and overseas. She has been an active participant in the activities of the Consultative Council of Law Reporting Bodies.

Last year marked the centenary of the passing of the *Legal Profession Act 1905* (Qld) which Act permitted women to be admitted and to practice as barristers, solicitors and conveyancers in

Queensland. During that year, Naida was honoured at a ceremonial sitting of the Supreme Court of Queensland and profiled in a publication to celebrate that occasion. She had a set of chambers named 'Haxton Chambers' after her by the director of public prosecutions in Brisbane. She has had a strong involvement in community activities but has more recently become an amateur traveler. She sees travel as providing one with all the opportunities to study things not studied before and consequently has become amongst other things an archeological addict.

Her son – James now runs an IT business and an advertising agency. David died of pancreatic cancer in June 1994. Naida plans to take a long break from editing and from paper generally and hopes to regenerate perhaps on an archeological dig as far away from Phillip Street as possibly imaginable.

As a personal recollection, I believe that there were many possibilities for Naida's life to have taken a different direction. Having known her off and on during virtually the entirety of her professional career, it is always been my opinion that she is a person of outstanding ability who would have succeeded in any field of legal endeavour. She certainly would have been appointed to the Supreme Court Bench in Queensland if she had remained at the Bar there. Whilst her decision not to continue in active practice at the Bar was based more on personal considerations, and in particular her desire for a full family life, she has been a trail blazer for women in the legal profession and a role model to be proud of. We will all miss her, not least the judges whom she has discreetly visited and advised on matters of grammar, punctuation, relevance and other matters appropriate to the successful writing of judgments, whilst carrying out her law reporting responsibilities.