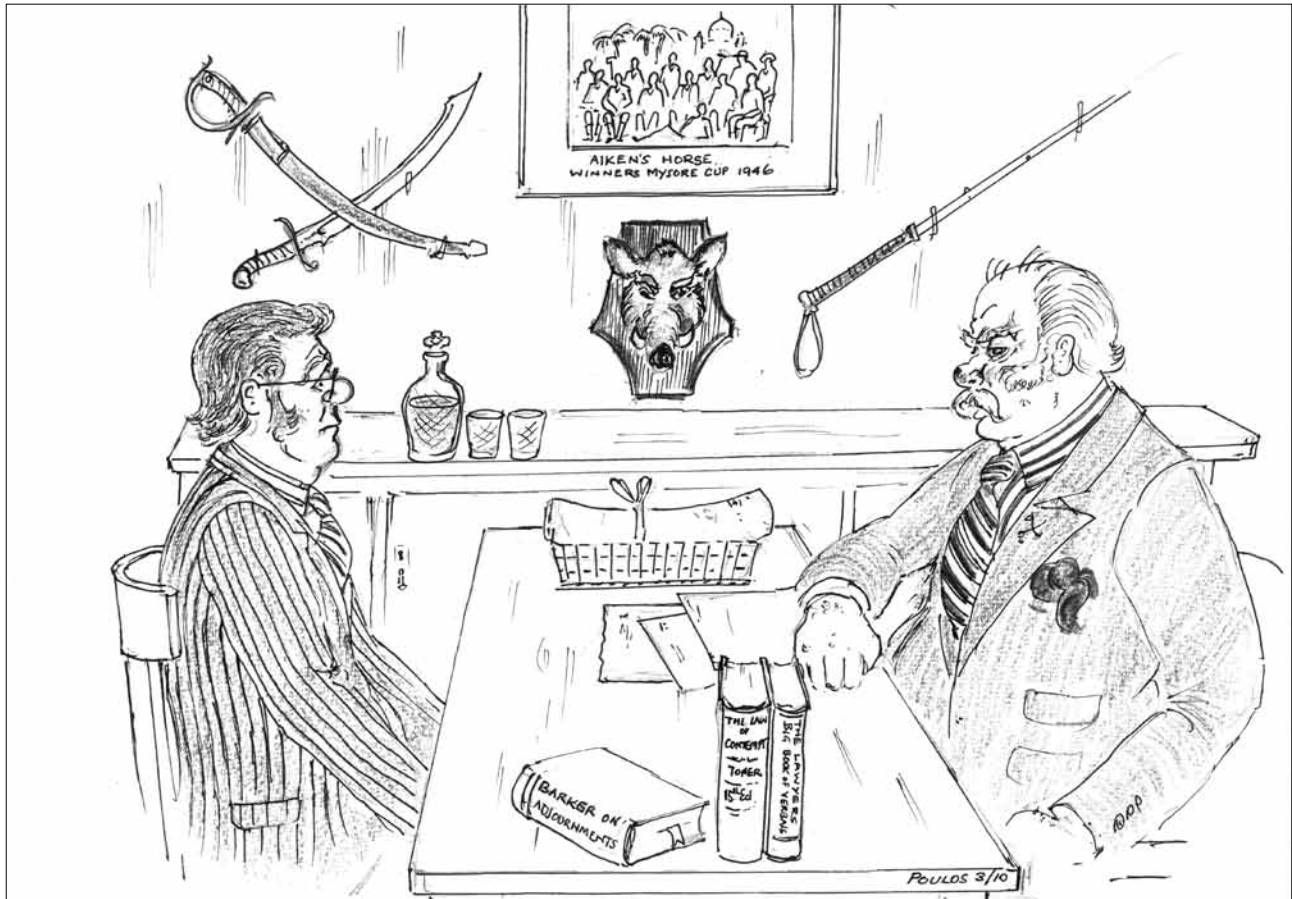


Young Bullfry and the Colonel

By Lee Aitken (with illustrations by Poulos QC)



Bullfry refreshed his Scotch, and thumbed the index of the latest judicial autobiography in his extensive library – *A Day's March Nearer Home: Memories from the Lighthouse* – a catchy title if ever there was one – although the cover left something to be desired – an abstract representation of a Conventional Estoppel was unlikely to beguile the lay reader! Thumbing the index took him back to his own earlier days –

'You're not a poodle-faker, or a scrimshanker, are you lad?'

'Lad'? Bullfry was 24, and sitting opposite the senior crown prosecutor, a half-pay, ex-Indian Army colonel, whose main occupation, after finishing a law degree, (part-time by post), before

appointment, was umpiring the polo at Bungendore. The ageing warrior appeared to have a glass eye, and his face otherwise bore the scars of more battles than most would want to see, and testified to a long acquaintance with single malts.

You're not a poodle-faker, or a scrimshanker, are you lad?

Bullfry was unsure how to answer. Was he a poodle-faker? Or a scrimshanker? From the tone of the question, an affirmative answer seemed likely to diminish his chances of a junior prosecutorial appointment. But surely the Public Service Act barred questions at interview involving one's private life,

even if it involved poodles?

'I don't think so, Colonel'.

The red face beamed.

'I didn'a think so, lad. I didn'a think so. As long as you're buckshee, I'll take you.'

Was he buckshee? Apparently so, for within a week he was there with The Colonel, involved in learning how to prosecute some of the most difficult crime which the territory could offer.

What an incomparable mentor. An advocate who opened 'high,' and frequently provoked an application by

the defence for immediate discharge of the jury; an advocate tactically astute, who could use the last word to change the basis of the Crown case, and then withstand complaint about it before the full Federal Court; an advocate with great powers of rhetoric, a direct manner, an inimitable style.

That he knew very little law was not a hindrance – he had an innate knack of sensing what (usually within the bounds of forensic propriety) was most likely to inflame a jury – in a certain class of case, experienced defenders would challenge any female member of the panel, in order to attempt to deflect the force of his opening. Even he sometimes overstepped the mark – it was after all going a bridge too far to open on charges not included in the indictment – but those were modest sins.

Assisting him was his deputy. A languid Englishman – a former patrol officer – ex Tanganyika, and the Sepik River – unflappable except when confronted by an inane inquiry from a witless and callow PLO from the Justice Division of ‘Puzzle Palace’ (on the other side of the Lake) about a captious *nolle prosequi* application:

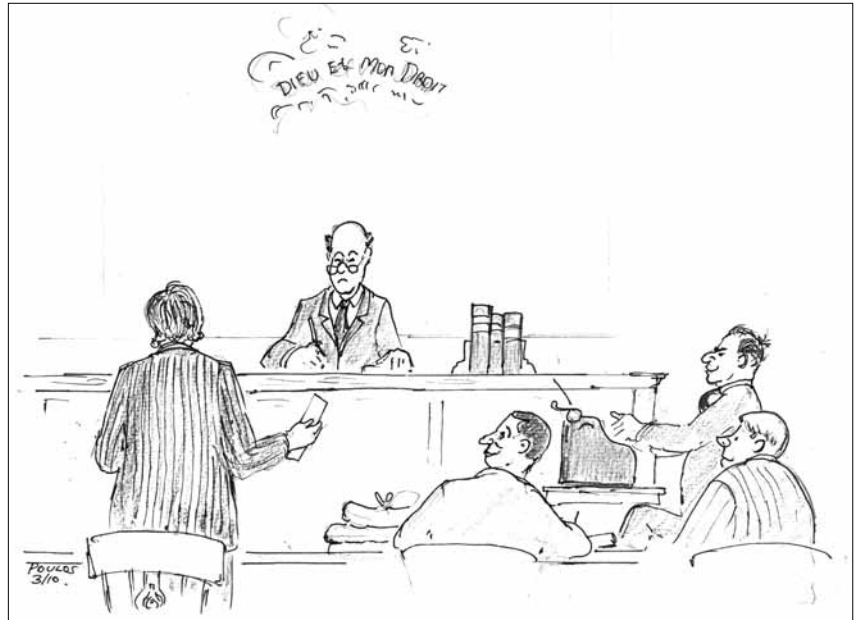
‘Sozzlebain here, from Head Office. I have just been reviewing your trial transcript for this *nolle*. Why didn’t you ask more questions about the shotgun?’

‘How many murder trials have you run?’

‘Well, now you ask, none’.

At some point a little further on, voices would be raised, and the sound could be heard around the office of the Bakelite hitting the wall.

With two such mentors, how could a young advocate not advance? And what better place to start than the parking prosecutions? The first day Bullfry was so deployed, the senior magistrate put the inspector in the box before Bullfry



‘Case dismissed; informant to pay the defendant’s costs’

had arrived! Bullfry rushed to a court which was packed with counsel and clients, and announced his appearance in bravura style for the informant.

This was it – as good as it gets – Sir Edward Carson, Sir Norman Birkett, Sir Patrick Hastings, Sir Horace Davey, Viscount Haldane of Cloan, Sir Jack Smyth - young Jack Bullfry! In best legal workshop form, he began separately to tender the relevant documents, bundled together, which provided the statutory presumptions which founded the prosecution.

‘Do you rely on the usual evidence of ownership?’

‘Yes, your Worship’.

‘Case dismissed, informant to pay the defendant’s costs’.

Aghast, Bullfry looked down to discover that he was still holding a ‘yellow’ in his trembling hand:

‘May it please the court, I seek leave to re-open.’

‘Leave refused – case dismissed; informant to pay the defendant’s costs’.

Crestfallen he turned to face an audience which was revelling, in the kindest way, in his discomfiture. In the coming weeks, wherever he went, and whatever he was doing in the court, someone seemed innocently to ask about the parking prosecutions. A less kind colleague suggested he should write something academic on the topic.

Of course, once he got up to speed, things changed markedly. He could move rapidly, after being handed the ‘blues’ by the informing police officer, on any number of fronts – resisting bail on an armed robbery; extraditing a drug accused to Adelaide; seeking a bench warrant for an absconder; cross-examining on almost no notice a shoplifter, or minor supplier of narcotics.

The larger committals and trials were still a test – armed robbery; pillage and rapine; murder. As to the last, he once fought a defended committal for over three weeks after being thrown

into battle by the colonel at short notice. After a bitter fight, the accused was committed. At trial, the Crown

there still, no doubt at the most senior level, but for the colonel's management style. An attractive, slightly more

'But he just does the health prosecutions, colonel' (sausages tainted with too much sulphite, occasional cockroaches in a kitchen, and the like).

'We work on army lines, lad. You must wait your turn in good time'.

Crestfallen he turned to face an audience which was revelling, in the kindest way, in his discomfiture.

witnesses gave varying accounts of the relevant events – the inherent weakness of the case best shown by the colonel's observation to Bullfry after a conference with the main witness – 'Lad, she was as drunk as a fiddler's bitch'.

senior post was advertised internally which promised the conduct of full Supreme Court trials, and other grand opportunities. Bullfry raised the matter with the colonel.

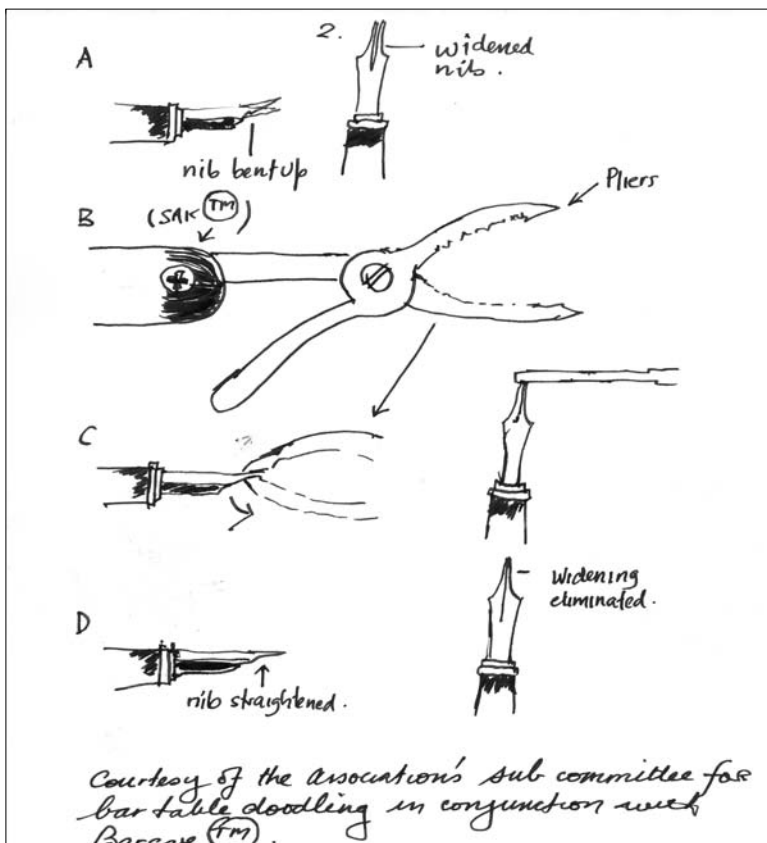
Two months later, Bullfry had transferred himself effortlessly to a senior post doing the bloodless work of defending ADJR applications (and drafting interminable section 13 and 27 statements) for a large outlier department. He wondered ever after whether this had been a wise move.

All happy, happy days. He would be

'Mr Tompkins is numbered off for that post, lad'.

Jim's Bar Practice Management Tips

No.1 Cost Control (CPD Points 0.75)



In House Repairs

A barrister dropped an expensive fountain pen damaging its nib. He took it to the vendor who quoted the sum of three hundred and fifty dollars plus postal charges of thirty five dollars for the repair (not replacement) of the nib.

The barrister, having consulted with floor colleagues, decided to attempt repair 'in house'.

By using his Swiss Army Knife™ he was able to effect a repair. He used the pliers 'app' to straighten the nib (see accompanying illustration), the whole process (including collegiate discussion) took some three minutes.

Cost, including a depreciation factor, was one "billable unit" A\$18 resulting in a saving of three hundred and sixty seven dollars.