

Technology, flexibility and the twenty-first century advocate

By Jane Needham SC



This is the first presidential column under the Legal Profession Uniform Law regime. While I was (possibly prudently) out of the country when the legislation commenced on 1 July 2015, I am reliably informed that, like the Y2K bug, much hard work meant that the sky did not fall that morning. The Bar Council is very much indebted to the efforts of, in particular, Philip Selth, Executive Director, and Jennifer Pearce, in-house counsel, who have put in superhuman efforts to ensure that the changeover was as smooth as possible.

I urge all members to read the Bar Association's updates, particularly on the new costs requirements, so that the sky continues to remain where it should be. There is a wealth of information on the association's website at <http://www.nswbar.asn.au/for-members/uniform-law> to assist members with the transition to the new regime.

In this issue of *Bar News* is an article written by Ingmar Taylor SC, which is an update on his 2002 article on part-time practice at the bar. When I asked

him to consider writing this article, we discussed the changes which had taken place during those thirteen years. One of the major changes is the terminology; almost everyone now refers to 'flexible' rather than 'part-time' practice. The 2014 Bar Association practising certificate renewal survey has provided valuable insights into the practice of those working flexibly at the bar. Taylor SC was able to speak to a number of people who are, or were, practising outside the traditional boundaries of long days and weekends spent in chambers or in court. It is interesting to note that an increasing number of men are using the technology and flexibility available to them to spend more time with their families, a preserve which in 2002 was mainly (although not exclusively) female. I would be very interested in any feedback on how the various programs which seek to support flexible practice are working – the bar child care centre in Martin Place, the Best Practice Guidelines as to flexible practice, and the court protocols on predictability in sitting hours, in particular.

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A theme of Taylor SC's article is the benefit of technology in allowing practice to be conducted remotely or at home. I am writing this column with the benefit of modern technology – using in-flight Wi-Fi on a flight from Boston to Los Angeles, returning from the Australian Bar Association conference in Boston.

The theme of the conference was 'Survival of the Fittest – Challenges for Advocates in the 21st Century'. One of the challenges which was discussed in various forums was the necessity to keep abreast of technological changes. On that topic, Bathurst CJ gave a most entertaining and relevant speech entitled 'iAdvocate v Rumpole – Who will survive? An analysis of advocates' ongoing relevance in the age of technology'. It may not require a spoiler alert to reveal that the Rumpole model was not the preferred one for the twenty-first century advocate.

The conference was fascinating, attracting barristers and judges from around Australia and providing insights into the American style of advocacy (including warnings against allowing courts to become the 'poor peoples' forum' while wealthy litigants turn to arbitration as a form of private justice) and to the challenges faced by other jurisdictions. Particularly memorable was Mark Mulholland QC's account of the personal security issues involved for barristers defending unpopular clients in Northern

Ireland. Of more direct relevance to New South Wales was Alastair MacDonald QC's account of the attacks on legal aid and the unacceptably high level of court fees in England and Wales, resulting in significant barriers to access to justice.

On a different note, David Nolan SC of the Dublin Bar spoke movingly of the

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barristers – Irish and Australian, twelve in all – who died at Gallipoli. The room was silent as he quoted Eric Bogle's moving song, 'And the Band Played Waltzing Matilda', about the experience of raw young men going off to the war. Doubtless Nolan SC would refer to it as the Pogues' moving song, but it is only fair to give credit where credit is due.

The conference attendees were lucky enough to have a number of illuminating

and enjoyable excursions – to the JF Kennedy Library for the welcome speech by Keane J, to Harvard Law School, and to the US and the Commonwealth of Massachusetts courthouses. Congratulations are due to Fiona McLeod SC, the ABA president, and her team (including those members of the New South Wales Bar Association's staff, Chris D'Aeth and Bali Kaur, who were behind the organisation of the conference).

I am very grateful to the Bar Association for facilitating my attendance at this conference and I hope to use the insights gained to continue the efforts to ensure that barristers will not become, like the Tecopa pupfish of Bathurst CJ's paper, extinct.

Jane Needham SC
President

Opening of New Chambers



New Chambers held their grand opening on 14 May 2015. Roughly 400 guests gathered in the Assembly and were welcomed by the head of chambers, David Jackson QC. New Chambers, located on levels 33 and 34 of the Deutsche Building on 126 Phillip Street, has 45 members, 16 of whom are silks.

