



# A REGIONAL

## OPPORTUNITIES EXIST FOR PRACTITIONERS IN THE REGION

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**Australia's destiny as a nation was inextricably tied to the land in 1785 when Sir Joseph Banks appeared before the House of Commons Committee on Transportation to extol the fertile features of NSW.<sup>1</sup>** In the intervening 223 years much of the Australian landscape has changed.

Massive urban development has resulted in large, sprawling cities. Now, 70 per cent of the nation's population lives in a capital city, with 40 per cent in Sydney and Melbourne. However, our ties with the land remain strong, with some aspects of Australian life changing little since the first European settlement. For instance, most of the territory covered by explorers Burke, Eyre and Giles in the 19th century remains uninhabited. Rural Victoria remains the state's "food bowl" and farmers use techniques similar to those of 200 years ago, save for technological advances.

The uninterrupted economic growth enjoyed by many Australians from 1992-2007 has been a cruel irony for Victoria's farming communities who, over the same period, have suffered, with below average rainfall decimating crops.

The surging domestic economy – tempered somewhat in 2008 – has been a boon for Melbourne's law firms and lawyers alike. But what of the profession's regional and rural members?

Has the swag of work in the mergers and acquisitions, superannuation, managed funds, mining and financial services sectors been confined to Melbourne firms while a crippling reign of drought impedes the growth of regional firms? How do regional firms attract and retain talent with the bright lights of the William Street legal precinct proving irresistible? And does this cause the evolution of substantive and procedural law to become city-centric?

### IMPEDIMENTS TO COUNTRY STUDENTS ENTERING THE LEGAL PROFESSION

As a former resident of rural Victoria, I have an understanding of the inherent difficulties faced by country students wanting to study law.

At the outset, they are less likely to be aware of the law as a profession. I was schooled in a small city that thrives on agriculture and tourism, and most of my friends were from families that farmed, taught, worked in government industry or – in one instance – ran a chain of caravan parks.

The school curriculum didn't contain any legal teaching; legal studies, a VCE subject only, was more concerned with the creation of laws by Parliament than the enlightenment of what it was to be a lawyer. I was blind to the law as a profession – much less the Melbourne heavyweights who dominated it.

On attaining an understanding of the legal profession and satisfying the requisite entry score, a country student must relocate either to Melbourne or Geelong to study law. Regional universities and campuses in Warrnambool, Ballarat, Bendigo, Mildura and Gippsland do not offer full law degrees. The cost of moving out of home to a new city at barely 18 years of age is surely prohibitive for many.

However, it is worth noting that, since 2007<sup>2</sup> and 2004<sup>3</sup> respectively, Deakin University's Warrnambool campus and La Trobe's Bendigo campus have offered the first two years of teaching. Thanks to the prevalence of the internet, off-campus learning is improving access to tertiary studies for those who can't or don't want to move on-campus.

However, this is not to say that country students do not uproot and migrate to Melbourne or Geelong. Excluding the effect of 2008 enrolments, Monash University estimates that 5 per cent of all its law students are from rural Victoria<sup>4</sup> (consider that roughly 27 per cent of the Victorian population lives outside Melbourne<sup>5</sup>).





# VIEW

In October 2000 it was estimated that 11 per cent of all Victorian solicitors were permanently based in rural Victoria.

## BARRIERS TO LEGAL PROFESSIONALS WORKING IN COUNTRY VICTORIA

Attracting lawyers to regional practices has been the subject of much discussion in recent years. In 2001, the Victorian Law Reform Committee (VLRC) held an inquiry into legal services in rural Victoria.<sup>7</sup>

More recently, the LIV undertook a survey<sup>8</sup> into recruitment and retention in regional law practices.

Helen McGowan, with the aid of the Victoria Law Foundation Community Legal Centre Fellowship, also undertook a research project on the topic.<sup>9</sup>

While none of the above studies appears to give much consideration to students' access to law schools, they each implicitly raised the matter of rural representation within universities.

The studies suggested that law students from regional areas were the most likely to be enticed to rural locations, invariably their home towns, to practise. Appearing before the VLRC inquiry, Peter Maloney, a senior lawyer in Mildura, put the issue succinctly when he said, "Our view is that the best way to recruit lawyers to Mildura is to recruit Mildura people".<sup>10</sup> But this approach is only useful when the pool of regional students studying law is large enough to realistically replenish the needs of their local communities. Inevitably, not all will choose to return home.

The problem faced by regional law firms is systemic, and not of their making. Necessity dictates that country people move away from home to study law; the onus is then on regional firms to lure them back. In the first instance, they are lost to the city.

The odds have, for some time, been heavily against rural firms and they continue to decline. Three specific factors spring to mind: economics, technology and corporate governance.

The economic activity experienced in Australia over the past 15 years has led to more work for commercial law firms. A scarcity of human resources has led to higher wages and more jobs for graduates. The need to scour for articles regionally has abated greatly. The introduction of traineeships in place of articles may be good professionally, but may further alienate regional firms which cannot provide access to the systematic learning available in larger cities.

Second, as espoused by New Yorker Thomas L. Friedman, "the world is now flat" – communities have been brought together through technology, and the internet is chiefly responsible.

Stephen Bubb, then president of the Goulburn Valley Law Association, told the VLRC inquiry of the decline of work available to regional firms: "Melbourne practitioners and firms are trying to move into the country's bigger clients – hospitals, municipal councils, water authorities – that were traditionally serviced by local practitioners."<sup>11</sup>

Without advances in technology, city firms would struggle to communicate effectively with regionally based clients. The advent of email and the internet has undoubtedly limited the quality of fee-paying work made available to regional firms. Throw in the effects of the "worst drought on record"<sup>12</sup> and the volume of legal work in rural Victoria diminishes further.

Justin Serong, a partner at Maddens Lawyers, one of the largest law firms in southwestern Victoria, observed that there is a natural expectation that rural firms will compete with their larger Melbourne counterparts for local work. Rather than succumbing to a territorial fight, Mr Serong suggests rural firms focus on their existing client base and leverage off their local experience.

Third, boardrooms have taken their role as custodian of shareholders' money, and corporate governance generally,



more seriously. The introduction of CLERP 9, several high-profile corporate collapses and corporate scandals has increased the need for transparency and accountability.

In turn, expert legal advice is required to guide both the company and its directors through their obligations to stakeholders.

John Frankcom, company secretary of Warrnambool Cheese and Butter Factory Ltd (WCBF), says large city firms have expertise and resources that, generally, cannot be matched by local firms.<sup>13</sup>

In practical terms, WCBF retains a large Melbourne firm to act in matters regarding their ASX listing, equity or debt raisings and governance. Smaller matters are occasionally handled by local firms.

### EFFECT ON THE DEVELOPMENT OF THE LAW

If the above musings result in a dichotomy between city and country legal practices, does the development of country legal issues stagnate? The centralisation of courts – save for circuit sittings of the County and Supreme Courts – has resulted in a clustering of barristers in Melbourne. The VLRC reported that only five members of the Victorian Bar have chambers outside the state's capital.<sup>14</sup>

Australia's common law system derives its strength from parties willing to combat in the courts. While affordable access to litigation (a thesis in its own right) is a perennial bugbear of the profession, geographic constraints can also limit the evolution of laws. The ever-increasing capability of technology, and its ever-increasing adoption, can do much to ease the need to physically attend court.

Mr Serong provides an insight into the disparities that exist between big-city mentality and rural reality: "In personal injury, you have a global insurer with a Melbourne office, and Melbourne lawyers, trundling into [a rural] town for a circuit sitting, trying to grapple with the problems of, for example, a dairy worker from a small town with a year nine education, a stuffed back and virtually no job prospects. It's a cultural disconnect as much as a legal problem."<sup>15</sup>

These issues are as much a problem for rural litigants as for practitioners. The rub for rural practitioners is that their professional development may be limited if the major common law developments take place in city courts.

### WHERE TO FOR RURAL LEGAL PRACTITIONERS?

The decision to practise in rural Victoria is rarely about career progression alone.

As noted by the LIV study, lifestyle and work flexibility are the prime selling points in getting lawyers to head bush.<sup>16</sup>

Lawyers aren't alone – these aspirations are applicable to most professions. The Brumby government's 2008 Budget initiative of adding \$3000 to the first home buyers' grant, conditional on the house being in regional Victoria, should make a move to the bush more attractive.

Recent attention has been focused on increasing the number of doctors working and living rurally. Several structured programs have been offered, including rural teaching units, placements and bonded scholarships.

A similar approach should be considered for lawyers.

If the number of rural Victorians studying law at Monash University is representative of law students at large, the proportion of rural practitioners is set to decline even further.

Collaboration between rural firms and universities – for example, offering a subject consisting of rural-based practical experience – and greater availability of remote learning tools are worth considering.

The representation of regional and rural lawyers is a continuing challenge for the LIV and regional law firms. But one's challenge is another's opportunity, and many exist for practitioners to forge a successful and fulfilling legal career in rural Victoria. ■

1. David Andrew Roberts, "They would speedily abandon the country to the newcomers: the denial of Aboriginal rights", *The Great Mistakes of Australian History*, UNSW Press, Sydney, 2006, p14.
2. Deakin University, news release, 27 November 2006.
3. LIV news release, "Getting more young lawyers to Bendigo", 28 August 2003.
4. Correspondence from Kate Daley, dated 7 May 2008.
5. Nassim Khadem, "Victoria enjoying population boom", *The Age*, 22 September 2006; and "Victoria in Future 2004", Department of Sustainability.
6. LRC, Review of Legal Services in Rural and Regional Victoria, tabled in the Parliament of Victoria on 31 May 2001, p251.
7. Note 6 above.
8. LIV, Regional and Country Recruitment and Retention, July 2005.
9. Helen McGowan, "Lawyers Go Bush", Victoria Law Foundation, February 2006.
10. Peter Maloney, Minutes of Evidence, in Mildura, 18 July 2000.
11. Stephen Bubb, Minutes of Evidence, in Echuca, 25 July 2000.
12. Victorian Premier John Brumby, media release, "Premier announces \$100 million drought relief package", Department of Primary Industries, 24 October 2007.
13. Correspondence from John Frankcom, dated 22 April 2008.
14. Note 6 above, p246.
15. Correspondence from Norm Shaw, dated 23 April 2008.
16. Note 8 above, p4.

