

135TH ANNIVERSARY SPECIAL PUBLICATION

Celebrating 135 years of The Law Society

**ORAL HISTORIES • PAST PRESIDENTS' REFLECTIONS
EARLY YEARS OF THE SOCIETY • THE WAR YEARS • ANNUAL DINNERS
HISTORY OF THE MURRAY LAW LIBRARY • LEGAL ASSISTANCE PROGRAMS
HISTORY OF THE PII SCHEME**







20 years helping you raise the bar.

It's not every day you celebrate your 135th anniversary. In the 20 years we've been supporting the Law Society, we've watched with admiration as your organisation has brought greater understanding and respect to the legal profession while providing valuable support to your members. Keep up the great work, from everyone at BankSA.

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 - Ted Mullighan QC
 - The Hon Bruce DeBelle AO QC
 - Lindy Powell QC
 - Michael Abbott QC

A message from Bank SA

As key partner for the past 20 years, BankSA congratulates the Law Society of South Australia on being an active and integral part of the State's legal profession for 135 years. BankSA also shares a rich and proud heritage in South Australia. For 166 years, we've helped South Australians buy their homes, make more of their savings and grow their businesses.

The Law Society of South Australia plays an important role in the South Australian community, and so too does BankSA. As one of South Australia's largest employers and this State's local financial institution, complete with local leaders and local decision making, we have a significant role in growing the economic and social prosperity of South Australia.

This is a responsibility we don't take lightly. Through thought leadership, supporting our communities, working with key organisations such as the Law Society and, of course, continuing to help South Australians realise their dreams of home ownership and business growth, we can make this State a better place for generations to come. We look forward to continuing

to partner with the Law Society of South Australia for the next 135 years and congratulate you all on achieving this significant milestone.

Nick Reade
Chief Executive, BankSA

From the President



Morry Bailes
President
Law Society of SA

It is my proud duty to provide some opening comments for our special 135th anniversary publication in what seems to be a year of significant anniversaries for the Law Society. The Law Society turns 135 on 17 November and it was thought fitting to provide some reflections on what has been an extraordinarily successful body that has advocated for the rule of law and on behalf of lawyers for well over a century.

Whilst I could reflect of my period of President, I prefer to devote my remarks to the future.

Some politicians in the last year have referred to the Law Society as “the lawyers union”. We are of course not a union because we represent as members the interests of both employed lawyers and those who employ them, however we *are* a collective. We may have our

differences but more often than not a group of Law Society members will fervently agree on issues. We are a collective because of a shared view of the rule of law, of principles of equity and justice and of the separation of powers, and because we are a profession.

At the same time I have the sense that we are a profession under siege. In our pursuit of equity, justice and fairness we can be inconvenient, and there exists in my assessment a subtle but constant attempt to sideline lawyers.

I have expressed the view that lawyers have been maligned by the community without good reason and without an understanding of our role in society. If our role was properly understood as being often the final the bastion against the infringement of our clients' rights,

we might be more fairly judged. Our reputation is not always defended by the parliament and worse still has been sullied on occasion by regrettable commentary about both the profession and the judiciary. Thus whilst I applaud and encourage our altruistic and instinctive defence of the rule of law and all the principles for which we stand and which we hold dear, who is to look after the profession itself? It is my belief that the answer to that question has to be the Law Society of South Australia. We must not only shield our clients and defend our system of justice, but we must look after ourselves. So if some call us “the lawyers union” so be it, and be proud of it. Happy 135th birthday to the Law Society and may it continue for many years yet in its defence of our rights our liberties and of the profession itself.

From the Chief Executive



Stephen Hodder
Chief Executive
The Law Society of SA

Welcome to this special 135th anniversary publication. We chose to celebrate this anniversary with a special publication for a number of reasons. Firstly, it coincides with some other significant anniversaries, including 100 years since the commencement of World War I, which the Society marked with a commemorative event August and with a special edition of the Bulletin in September, and the 75th anniversary of the Murray Law Library.

This year we have also completed the Oral Histories project, instigated by my predecessor, in which esteemed senior members of the profession were extensively interviewed. All interviews were recorded in audio and transcribed, and transcripts of most of the

interviews are available on our website. This publication features summaries of 12 of those interviews, which I'm sure will give readers a fascinating glimpse into the extraordinary lives of these giants of the legal profession. The Law Society has grown immensely since its humble beginnings in 1879, and continues to grow. We should be proud of how far we've come and acknowledge the figures who have made monumental contributions to the law and community in general. This publication is a small way of paying tribute to some of these extraordinary people and celebrating our rich history. Those who attended our Centenary Dinner in September were reminded of the Society's past and

enjoyed a slideshow (available on the Society's YouTube Channel) marking some key moments in the Society's history. The Law Society has also brought out a 135th anniversary commemorative wine. For more information on how to purchase the “President's Choice” 2013 Cabernet Sauvignon from McLaren Vale, please contact Member Services on 8223 0238. Commemorative cufflinks are also available by contacting Member Services.

I'd like to extend a special thanks to Bank SA which is sponsoring this publication. Next year marks the 20th year in the relationship between the Law Society and Bank SA, and both organisations have benefitted greatly from it. I look forward to it continuing.

A history of the Law Society premises



Bank of New Zealand Chambers, Pirie St.



33 Gilbert Place.



124 Weymouth St.



Terrace Towers, 178 North Tce.

1879
first general meeting of all the profession to be held at Messrs. Knox and Gwynne's Office on, 17 November at Windsor Chambers, 79C Victoria Sq¹

1880
First Annual General Meeting held on 30 June at Marlborough Chambers, Weymouth St.

1885
Meetings of the Law Society held at Central Chambers, King William St until 1893.

1894
Meetings of the Law Society held at the office of the Honourable Secretary, James Henderson, 14 Weymouth St.

1904
Meetings of the Law Society held at the office of Honourable Secretary, PE Johnstone, 38 Currie St until 1908

1909
Meetings held at the office of the Honourable Secretary, CA Edmunds, Bank of New Zealand Chambers, Pirie St

1933
Meetings of the Society held at the Commercial Bank Chambers, King William St

1948
From around 1948 the premises of the Society were at the Exchange Building, 26 Pirie St (renamed the Commercial Union Building in 1952).

1962
The Law Society moves to Mutual Life Chambers, 44 Grenfell St. Move completed in 1963 when the library moved into the premises.²

1979
The Law Society purchases its own premises at 33 Gilbert Place and moves there in April.

1982
Opening of Law Society House, Gilbert Place.

1989
The Law Society purchases new premises in Weymouth St

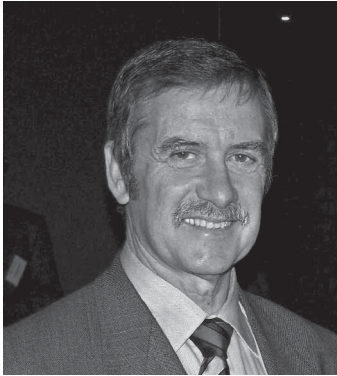
1990
The Society relocates to 124 Weymouth St in January. The Chief Justice, The Honourable Len King, officially opens Law Society House on 18 May 1990

2000
The Law Society premises at Weymouth St are sold on a sale and leaseback arrangement

2014
The Law Society moves to new premises at Terrace Towers, 178 North Tce in February
The Law Society's new premises are officially opened by Chief Justice, The Honourable Chris Kourakis, on 6 June 2014

(Endnotes)
1 South Australian Register
Saturday 18 August 1877 pg 8
2 Bulletin July 1971

Peter Herriman



Peter Herriman, President
1986/87

The more things change the more they stay the same, or so it seems to me.

Third Party and Workers compensation.

At the end of 1986 when I took the chair, Bills were being introduced to limit damages in road accidents and establish a new workers compensation system. Over a long time we had put detailed submissions to government about these reforms, in particular opposing damages limits and the abolition of common law rights for workers. We were not listened to and what have we seen since? Numerous statutory amendments and schemes that as I write are once again undergoing substantial reform. Too often we are seen as self-interested yet much of what we had then supported was contrary to our economic interests and proffered because there were few knowledgeable spokespersons for accident victims.

Supreme Court Rules.

The so-called Zelling Rules were introduced in 1987, we had had

considerable input into their content and we had a record CLE attendance at a Saturday morning session to explain them. One of their major features was a structured form of pre-trial conference. Sadly, it never prospered and in due course other problems led to a more simplified format in 2006 under the guidance of Justice Lander. No doubt the Rules will continue to grow along with technology and styles of disputation.

Events

One of my great privileges as President was to represent the Law Society at various ceremonies, functions and conferences. It was wonderful to attend a country conference at Port Lincoln, an Executive visit to Port Pirie, and farewells and welcomes to judges – in particular, the retirement of High Court Chief Justice Gibbs and the welcome to Chief Justice Mason. A particular highlight was representing the profession at a Special Sitting to mark the 150th anniversary of the Supreme court. The Society's annual dinner was

remarkable for having a hoax speaker, an eminent New York mega-firm manager, who morphed into the redoubtable Campbell McComas.

Sale of Gilbert PI Building

The Society then owned premises at 33 Gilbert PI (off Currie St) and we were reasonably comfortable in a two-storey block. Suddenly we received a purchase offer of 50 per cent above current value. Then a higher offer came in and we found ourselves at the centre of a bidding war. We finally sold for over four times the real value of the premises and were afterwards able to acquire the Waymouth St building.

It was a great privilege to work with and represent the Society Executive, the Council, the innumerable members of the Society committees who devoted so many hours of their time, the excellent Society staff, and of course the profession itself. I gained a full appreciation of the extraordinary contribution the Society makes to the profession, to the law and to the South Australian community generally.

John White



John White, President 2012/13

I became a lawyer almost by accident. It turned out to be a very fortuitous choice.

I joined the Law Society as soon as I was admitted. I thought I should be part of my profession's professional association. Eventually I felt it was time to give back. I stood for Council, and ended up as President. It was a demanding

role. I am very glad I did it. From the start of my legal career, I learned and received a lot from my colleagues. I developed a deep respect for the institutions of an independent justice system, and the integrity and purpose of the South Australian profession. The Law Society plays a critical part in that profession's engagement

with politics and society, and is the vehicle for lawyers to be heard on major issues. It is also the focus for support, learning and social activity.

The Society punches well above its weight. Participating in its work has been a great experience.

Brian Withers



Brian Withers, President
1990/91

During the year of my Presidency there are two events that stand out in my memory. The first of these was the hosting by the Law Society of South Australia of the National Legal Convention. This was the last time, as far as I am aware, that South Australia has hosted a National Legal Convention and the format of those Conventions has since changed. It was called “Reflection (1991)”. For the first time in many years a small profit was realised. The success of the

Convention was largely due to the pro bono efforts of many lawyers, and I note in particular Terry Evans and John Harley. The second and more lasting event was that it was the time Dr Barry Fitzgerald commenced working as Executive Director of the Law Society, having been selected by a Panel of the Hon Bruce DeBelle, the Hon Justice Mansfield and myself. Barry had no qualifications in law but voluminous qualifications in education and academic

management. He was an outstanding candidate. He brought to the role energy, enthusiasm, and a great ability to communicate and develop relationships with all those involved in the Society and, in particular, with its members. In his first year he took substantial steps to endeavour to enliven the Society’s representation of and recognition by country practitioners.

Martin Keith



Martin Keith, President 2000/01

The millennium arrived and left – the Society expended considerable effort and investment to ensure computing and IT systems would survive the “millennium bug”. The Society, its staff and members invested much time in education programs, consultant time and acquisition of new equipment. The new Tax System arrived and is still with us – the introduction of the Goods and Services Tax and related tax reforms required significant resources and investment. Internally for the Society the GST required an assessment of those charges and sources of income that were “taxable supplies” as well as consideration as to registration for GST purposes and the accounting software to manage new reporting obligations, creation of

tax invoices and other necessary structures. For the profession, the GST required information and education sessions, presentation of ‘pro-forma’ and precedent documents for compliance as well as registration issues, Business Activity Statement issues, accounting services for input tax credits and so on; For the Courts, and practitioners dealing with Courts the issues concerned identification of scales of costs and GST implications – were the scales GST inclusive or exclusive. The Society contributed to and was subjected to a competition review of the Legal Practitioners Act, the Land Agents Act and Conveyancer legislation. Significant work was done to ensure the good record of the Society and the profession

was reported to Parliament to make it clear that anti-competitive practices had no place in the South Australian legal profession. A related development was the creation of Solicitors Property Service, intended to allow solicitors to sell on commission real estate, in competition with land agents. The reforms were introduced but the service was not successful in market terms. Chief Justice John Doyle convened a conference Courts Consulting the Community, and the Society was actively involved in that program. The Points of Law column was of great interest during my term and I enjoyed my opportunity to contribute. I think my column for Easter is the only column to be accompanied by an editorial cartoon!

Alex Ward



Alex Ward, President 2004/05

I very much enjoyed my service on the Law Society Executive for the insight that gave me into the vast workings of the Society and the issues confronting the profession. When I became President in 2004, I revived the church service (which had lain dormant for 10 years) over much opposition. Federal and State Attorneys General and Heads of Jurisdiction attended. It has never been held since.

My Presidency ran during the “Tough on Crime - Law and Order” debates when it was free and effective to attack lawyers. Everyone hates them, until they need one.

I represented the Society's interests at the Kapunda Road Royal Commission. Yet we also managed to have a good working relationship with the Executive on the many matters in which the Law Society has to work with the Government as part of its statutory function. It was also a time of construction of new courts in the country areas.

The Magarey Farlam defalcation came to light during the period of my Presidency and the Society had to take deft steps in response.

We had the benefit of the weekly article in the Advertiser and a very good working

relationship with the local media so that our point of view could be properly represented.

It was also a time where we had a record number of judicial appointments and ceremonial sittings - I recall presenting at approximately 14. The Law Society promoted a book on The Effects of Petrol Sniffing and advocated for the removal of civil liabilities for retailers who provided food to charitable organisations.

I regard my time in the Presidency as one of the most enjoyable things I have ever done.

Deej Eszenyi



Deej Eszenyi, President 2005/06

My year as President was dominated by the Magarey Farlam defalcations – a matter that led to the demise of a firm that had practised in one form or another, in South Australia, for many years. The consequences of the defalcations reverberated through the Law Society – its Professional Standards Section, the Guarantee Fund, Law Claims – and throughout the profession. Council had appointed a supervisor to the Magarey Farlam trust account immediately before I became President. As more became known concerning the extent of the defalcations, Council had to decide whether or not to appoint a manager to the

practice. That appointment was made in February 2006 following careful consideration by a serious, engaged and well-advised Council. It was a great privilege to chair the Council throughout this period. It brought home to me the immense skill and care that the Society, through its Council, focuses on issues of practice and of conduct.

My year as President was also at a time when the State Government, as many members recall, “made no apology” for a law and order agenda which from time to time tended to imply that lawyers (because some of us are criminal defence lawyers) in some way support crime. The

Society's relationship with State Government at the time was, as a result, not as courteous nor as productive as the Council and I wished.

Highlights of my year were the very many examples I witnessed of great courtesy, fine conduct and generous cooperation within the profession and towards clients. Max Basheer accepted my invitation to speak at the Annual Dinner. The Society enjoyed an excellent rapport with the Bar Association. And I relished my time as a columnist for the Advertiser – a gig inaugurated by Lindy Powell QC.

John Goldberg



John Goldberg, President
2008/09

It is of course a great honor and privilege to be elected to a role that represents the legal profession of South Australia. In one sense, 12 months as President is not long enough as it takes at least six months to become familiar with and comfortable in the role and by the time that you are becoming really proficient (assuming that you ever get to that stage), you have to hand over to someone else. One the other hand, it is very demanding and time-consuming and that does not sit well with conducting a full-time legal practice. One feature of my term as a President particularly stood out.

The then Premier and Attorney General, Mike Rann and Mick Atkinson respectively, displayed a considerable measure of hostility to lawyers. In the case of the Premier, it was somewhat inexplicable although it did appear that whenever he was having a hard time politically, he would call a press conference and do a bit of lawyer-bashing to boost his standing in the opinion polls. The Attorney General on the other hand was a different matter. He was actively hostile to people whom he did not like, and when it came to lawyers and the Law Society, there was a long list. This meant

that the relationship with the Government was rather fraught and I considered it part of my duty to publically stand up for lawyers, particularly in the face of criticism that was not only wrong-headed but utterly ignored fundamental rights and the rule of law. For example, the Premier openly stated that defence counsel should be ashamed of themselves for representing murderers and drug dealers. This not only ignored the presumption of innocence but also the fundamental right within our legal system to a fair trial. Very fortunately, that era is now behind us.

Ralph Bönig



Ralph Bönig, President
2010/2012

I had the privilege of serving as President of the Society for two consecutive terms. In my first President's Message published in the October 2010 edition of the Bulletin I said that "I have decided to introduce a focus on the health and wellbeing of practitioners during my year as President". When I reflect on the recent promotion of this topic by the Society during Mental Health Week 2014 I believe that the Society and the profession have come a long way in at least identifying the issues and providing some level of support. At the commencement of my second year I wrote in the October 2011 edition that "I

will continue to work on the restructure of the governance of the Society and the general management of the Society". Whilst some change for the better was achieved my biggest disappointment over my two years as President is that I was not able to effect change in the governance of the Society. In between all of this one of the most enjoyable aspects of my time was the exposure to the many and varied facets of the law. The Society enjoyed a very good relationship with the Parliament and was prominent in its advocacy on law reform and social justice issues. The introduction of the ICAC and

the establishment of the SACAT are but two examples of the product of that advocacy. The concept of a "National Legal Profession" transcended both years and South Australia's then opposition to the proposed model has to some extent been vindicated with substantially remodelled legislation now being enacted in New South Wales and Victoria. I believe that in due course we will join a truly national profession on an equal standing with all other States and Territories and to the benefit of the South Australian profession but that is for future Presidents. Thank you to the profession for the opportunity to serve you.

David Howard



David Howard, President
2003/04

I found being a Member of Council, especially the Executive and holding the office of President, very rewarding. I gained many new friends. I learned a good deal about the particular interests and concerns of practitioners who engaged in wider areas of practice than my own and, of course, about the particular issues confronting country practitioners. I found participating in the

decision making proves of Council satisfying. There are usually significant differences in opinions which need to be accommodated and persuaded or distilled into a hopefully unified position. I stood for the Executive primarily because it ad rapidly become obvious that it was particularly influential when deciding direction to be taken and positions adopted. I thought

I had some skills which could provide counsel and leadership of benefit to the Society and the profession. At the conclusion of my Presidency I felt very well rewarded in multiple ways, not least from a feeling that I had given back something to a profession which had given a good deal to me and which continues to be enjoyable and satisfying.

Chris Kourakis



The Hon. Chris Kourakis,
Chief Justice of South Australia,
President 2001/02

In the term of my presidency, law and order was high on the agenda with both the Premier and the Attorney-General showing an active interest in sentencing matters. One such matter was the sentencing in the District Court of several young men for a very serious assault. As is often the case with controversial sentences, the factual basis with which the court was presented was both strained and unduly favourable to the defendants. The resulting sentence imposed by a very well-regarded District Court Judge was criticised in the press and by the Executive Government. A "Points of Law" column which I wrote defending the District Court Judge came to the attention of the Premier, leading to an exchange of terse emails. I suggested that a face-to-face meeting might be more helpful. There was a frank and robust exchange.

At the federal level, refugee policy was as controversial as it is now. I was pleased to be able to navigate a resolution through council framed in a way which attracted general consensus notwithstanding the strong conflicting community and society views on the issue. I found writing the weekly "Points of Law" column an onerous but satisfying responsibility which provided an invaluable opportunity for the profession to connect with the community. The most controversial professional question of my term was whether or not South Australia should follow the national lead with respect to multi-disciplinary practices. The Council had several changes of view on the topic. Barry Fitzgerald was an enthusiastic and indefatigable director. I am thankful to him

for his help, and not least for diverting some of the pizza that was brought in towards the end of our meetings to, at that stage, my young twin daughters who were kept busy with pencil and paper in an adjoining room. Barry was also responsible for what was probably the funniest moment of my presidency when he left a message on my home answering machine inviting my wife and I to a dinner at which we were to entertain several of my interstate counterparts at the restaurant "Auge". Barry's pronunciation of the restaurant name suggested that the occasion was going to be much more debauched than it turned out to be. Finally, I wish to record that undoubtedly the best decision I made as President was the selection of Rosemary Pridmore as Executive Assistant.

John Harley



John Harley, President 1997/98

To try to recall details of my year as president I had a perusal of the Bulletins published during that time. What I noticed was how young all of my colleagues then appeared. As I look around at them now they all seemed to be so aged, except for me. One can be fortunate.

My year was the greatest fun helped considerably by the Society's very able and amiable Executive Director Dr Barry Fitzgerald who watched my every move to prevent me committing another faux pas. However whilst enjoying my term, on reflection, much was achieved.

- The Aboriginal Issues Committee and the Public Sector Lawyers' Committee were established. Both filled important needs to facilitate the Society receiving relevant

and informed advice in these areas;

- The PLT program was established by the Society to provide practical legal training to new graduates;
- We commenced a comprehensive review of the Professional Conduct Rules which did not lead anywhere;
- The bust of Dame Roma Mitchell (the bronze variety) by Ammun Luca was unveiled and now takes pride of place in the Society's rooms;
- The foundations were laid for the establishment of the Notaries' Society of SA of which I became the foundation president;
- I also unsuccessfully tried to establish a Public Interest Law Clearing House which I am pleased has subsequently been established;

- A Women Lawyers Chapter was formed (but I was not invited to their drinks party);
 - I attended the 9th Annual Conference of Presidents of Law Associations in Asia in Canberra and Sydney. I greatly enjoyed meeting so many foreign lawyers and visited with them places I would never have had the opportunity otherwise, like the cells beneath the District Courts in Sydney;
 - We lobbied hard to defeat amendments to the Motor Vehicles Act which would have substantially reduced awards to injured litigants (the present legislation is now far worse).
- A good year thanks to the support of my fellow councillors, the staff and my fellow practitioners on the many committees.

Margaret Kelly



Margaret Kelly, President 2006/07

Historical research has led me to read Law Society of South Australia Annual General Meeting Reports as far back as 1915. I am always struck by the similarity of the issues and the concerns of the profession at that time to those of the present day – whether it be legislative reforms or the standing of the profession in the community, it has all been done before. This can be reassuring when embarking on the rollercoaster ride that is the presidential term of office. There are highs – like welcoming new members of the profession or attending the commissioning ceremony of the newly appointed

Judge; and lows – lots of funerals to attend and letters of condolence to write. As soon as you become President you have 50 new best friends – for about 12 months. It is important to stick to your own judgment in matters of dispute. Relating to the media can be a steep learning curve and have its own melodramas. My term coincided with the endless “law and order” debate. The Society took a different view from the State Government (and the Opposition) on a number of issues such as double jeopardy, how we treat juvenile offenders and various pieces of legislation

aimed at bikie gangs but affecting the liberties of all. These were important issues and I was pleased that the Society took a strong stand but ongoing vigilance is required. It takes a long-term effort to educate the public as to the consequences of what appears to be an easy solution to the problem of crime. The job requires hard work, a calmness of spirit and the willingness to serve rather than be served. It is a wonderful experience but when the time comes to hand over to the President Elect, beware of relevance deprivation.

Rod Lindquist



Rod Lindquist, President
1992/1993

My year commenced with WorkCover Corporation seeking substantial amendments to the WorkCover legislation. A highlight of our successful campaign was the tabling at a Parliamentary Review Committee hearing of a letter signed by the predecessors of Business SA, the UTLC, the Exempt Employers Association and the Law Society of SA insisting that there should be a right of representation by a lawyer in WorkCover review hearings. The reaction of the politicians upon reading the letter was one of astonishment to say the least. This was the first and, I believe only time, all of these institutions have agreed on a policy. A second issue that arose was gender-biased judges. I spent

a substantial amount of time dealing with journalists in all areas of the media seeking to ensure a balanced debate. I particularly enjoyed being interviewed by Alan Jones on Drive Time in Sydney. On that very day the Trade Practices Commission had released an enquiry into Ethics in Journalism. I was able to put all of those thorny issues back to Mr Jones.

A significant event was the endorsement of the Law Council Australia's recommendations on the content of undergraduate courses in Law leading to admission upon an Australia wide basis. I was proud to be part of its formulation.

It was also the year in which the Court Services Department was dissolved and the Courts

Administration Authority was created. This major reform instigated by former Chief Justice King has now been followed into several other Australian Jurisdictions. Unfortunately the reform was not provided with adequate foundations for its funding.

We revised our Professional Conduct Rules in that year, partially as a consequence of a Cost of Justice Enquiry, a Legislative Review Committee Enquiry, a Trade Practice Commission Enquiry, and an Attorney-General's Green Paper, and a following White Paper into the legal profession in South Australia. Our profession stood out as the least, in Australia, in need of reform.

It was a busy and fulfilling year.

Tony Abbott



Tony Abbott, President
1995/1996

After almost 20 years, remaining recollections and impressions are few but strong, and include:

- The hard and effective work put in by my predecessors. When I had cause to check the Society files on perennial issues such as professional indemnity insurance, workers compensation and the like, I marvelled at the evidence of their dedication and skill.
- The (to me) surprisingly high level of goodwill accorded to the President of the day by lawyers of all backgrounds, including, but occasionally to a lesser degree, Attorneys-General.
- The care and attention shown in relation to judicial appointments, particularly by

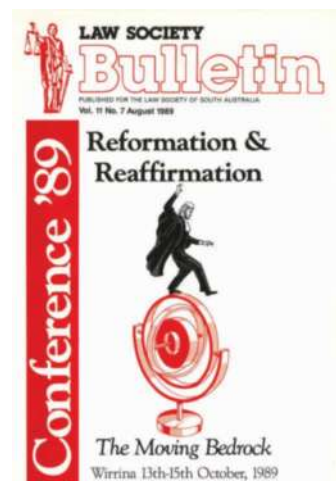
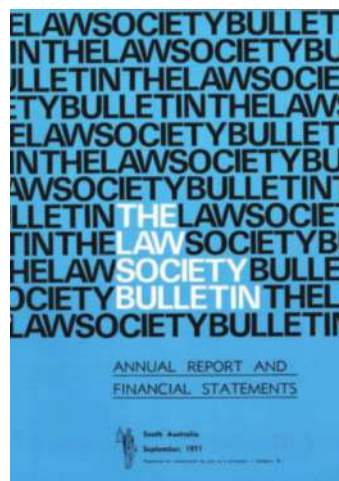
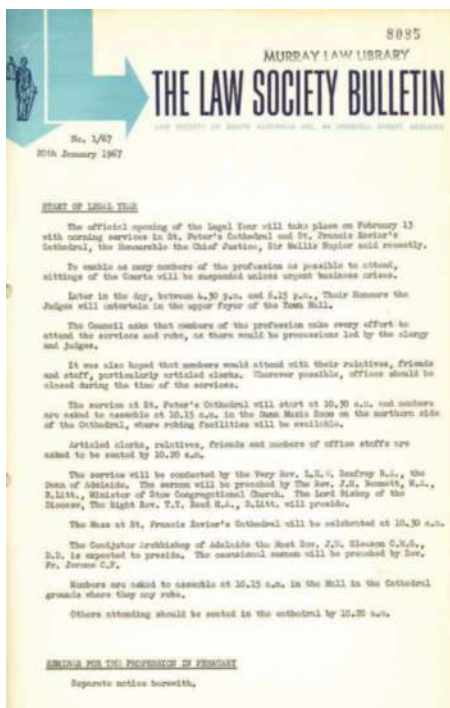
the then Federal Attorney-General.

- The creation of Lawguard Management Pty Ltd to administer the financial and corporate sides of the professional indemnity insurance scheme.
- My growing appreciation that the Federal representative body, the Law Council Australia, was also not a bad thing, but that like many institutions the benefit which the Society and South Australian lawyers received from the Law Council was directly proportionate to the effort the Society put into the affairs of the Law Council.

My Presidency gave me an increased understanding of the

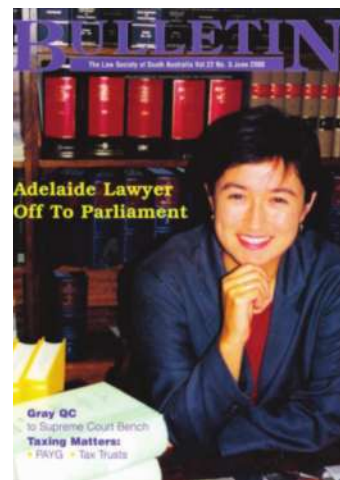
importance of a strong profession to the orderly workings of a civil and just society and government, and therefore of the importance of the Law Society as the political representative and public face of our profession. This led me among other things to recommend reinforcing and streamlining of the administrative operations of the Law Society, including the creation of a new Director of Operations position, thereby freeing up our then Executive Director Barry Fitzgerald to more readily deploy his policy and communication talents. Space and memory means that other triumphs, disasters and failures, and gossip, will have to be looked for in the oral histories! I enjoyed my time as President immensely.

The evolution of The Bulletin

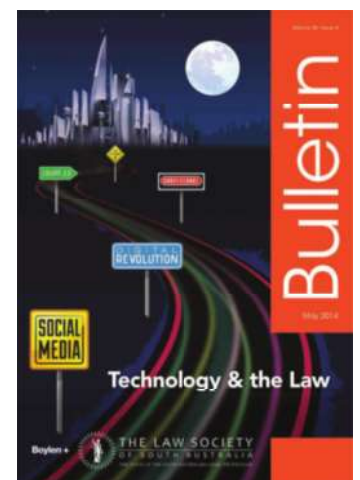


The Bulletin has come a long way since it was introduced in January 1967, when it was a mere five-page publication. The first edition was little more than a list of notices announcing seminars, social events and practice notes. The most interesting item in the first issue was a notice from Mr KB Ahern, who was looking for a wig he lost in the locker room of the Supreme Court. The Bulletin has since become the Society's flagship publication featuring informative, up-to-date and thought-provoking articles on issues affecting the legal profession. There have been 11 issues published each year except when no issue was published in March 1978 due to an issue with

the printer. A president's report became a regular feature of the Bulletin under the presidency of Cedric Thomson in 1973. The Bulletin took on a new look in 1979 along with having a new editor and was published in an eight page newsletter style. Sometime in 1970-71 the Chief Executive Officer took over responsibility for collating material for the Bulletin. In the 1971-72 responsibility of the Bulletin was given to the Public Relations and Functions Committee of the Society. The Chair at the time was CG Nancarrow. In November 1986 the first Bulletin Editorial Committee was formed, with JA McAdam as editor. The first Chair (noted in the Annual Reports) was DC



Kennelly. Simon Hannaford took over as Chair in 1992/93. In an advertisement in May 1978 the Society was seeking an editor (preferably from the profession) to put in the 5-10 hours "it usually takes each month to prepare copy for printing". The duties were much the same as those of today's editor and included "to ensure speed dissemination of material of current interest, settling professional notices....and generally organising the copy which is offered for publication."



'Gazing in the Gazette' compiled by Elizabeth Olsson has been a regular feature of the Bulletin since May 1996. Elizabeth has been Chair of The Bulletin for 19 years and has been a regular contributor of articles. Another regular author, Arlene McDonald, wrote the first of the popular TaxFile articles in November 2000. Since 1973 it has been tradition for the President of the Society to write a column in each issue.

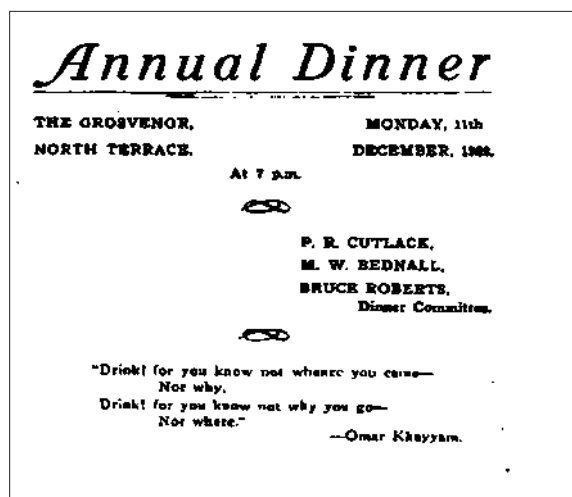
Annual dinners: a celebration of collegiality

Law Society dinners were first held circa 1901¹. In that year the Adelaide Law School held a dinner in conjunction with the Law Society on 27 November at Perdrix's Restaurant, Grenfell St. According to *The Advertiser* in the following day's edition, the dinner "was a marked success, and the evening was well advanced before the chairman [Mr Buchanan] bethought him of the toast list". Various speakers spoke of the history of the law school and of the profession; the toast of past members was given by Mr Francis Villeneuve Smith. During the evening's program contributions from well known names such as Messrs Paris Nesbit, KC and PE Johnstone (who was the Honourable Secretary of the Society from 1904-1908) were well received. In 1911 a circular was issued

assessing the interest of the profession to an annual dinner. This was met with much enthusiasm and the Law Society convened a committee to oversee the organisation of dinners. It was resolved that the Law Society "should annually invite all members of the Bar to a dinner provided at the expense of the Law Society".² To the best of our knowledge the Annual Dinner has only been cancelled for the duration of the two world wars and once in 1924, the reason given that one of the Judges was unable to attend. The dinner held at the South Australia Hotel on 20 September 1945 was to in honour of the members of the Armed Forces (1939-1945). The toast list reads as follows: "The King; The Fallen; Those Who Served". The Toast was proposed by Law Society President HG Alderman

KC, supported by Chief Justice of the High Court Sir John Latham, PC GCMG and Chief Justice of the Supreme Court Sir Mellis Napier KCMG. The response was given by Brigadier AS Blackburn VC, CBE. Following the dinner held for the return of ex-servicemen (the largest function the Society had held to that time) so much money was left over from voluntary contributions towards paying the dinner expenses of the ex-servicemen, that commission was made for the two World War Memorial Plaques which are proudly displayed at the Society today. Following these early years not a lot is known about the annual dinners until the 1970s when regular articles on the event were featured in the *Bulletin*. The centenary dinner of the Society's 1879 establishment

was held in June 1980 while the "usual" annual dinner was held later in the year. An invitation to the dinner in 1984 advised that "dress will be lounge suits for men and evening dress for women".³ One of the most successful dinners, with 880 people attending, was held at the Convention Centre in August 1994. Guests included Chief Justice of the High Court Sir Anthony Mason, and South Australia's Chief Justice Len King. Dame Roma also attended. At the 1996 dinner a tribute to Dame Roma was given a standing ovation and was declared "the highlight of the evening".⁴ The following year's dinner was also a sell-out and prompted the Manager of the Convention Centre to remark "the Law Society Dinner has, for the past two years, been the



Gay Bells, Ray Ray



Susan Hall, Di Munn, Gay White



Helen Finch

Con Frances and Dorothy Williams

Mr. & Mrs. David Lindh

Honour Judge Horne & Mrs Horne

Mr. & Mrs. David Gilliam

Law Society Bulletin, July, 1980

1989

1980

biggest and best in town”.⁵

The dinners have had many eminent Guest Speakers over the years. What follows is a list of the speakers for the past 15 years, in reverse chronological order:

Mr Geoffrey Robertson QC, The Honourable Justice Bruce Lander, The Honourable Jay Weatherill MP, Premier of South Australia, His Excellency Rear Admiral Kevin Scarce AC CSC RANR, Governor of South Australia, Ms Frances Nelson QC, The Honourable Justice Chris Kourakis QC, Mr Michael Abbott QC, Mr Anthony Durkin, Mr Max Basheer AM, Mr Shaun Micallef, The Honourable Justice John von Doussa QC (and Todd Golding), The Honourable Chief Justice



1970

John Doyle AC, Mr Karpal Singh, Mr Ken Murphy, The Reverend Tim Costello, The Honourable Justice Virginia Bell, His Honour Chief Judge Terry Worthington QC, Mr Graeme Samuel, The Honourable Darryl Williams AM QC, Attorney-General, The Honourable Justice Sir Gerad Brennan AC



2011

KBE, The Honourable Chief Justice John Doyle AC QC, The Honourable Chief Justice Len King, The Honourable Chief Justice Sir Anthony Mason AC KBE CBE, Mr Ivan Deveson AO, The Honourable Amanda Vanstone MP, Mr Kevin Ward, The Honourable Justice Samuel Jacobs AO QC.

(Endnotes)

- 1 This is the date when dinners were revived (from a date unknown) and thus probably marks the date of the first consecutively held dinners, excepting for those years of the two World Wars and some other years.
- 2 The Register (Adelaide, SA, Friday 8 December 1911 pg 6
- 3 Supplement to the Law Society Bulletin July, 1984
- 4 (1996) 18(8) LSB(SA) 8
- 5 (1995) 17(8) LSB(SA) 26

Society celebrates Centenary Dinner

The Law Society’s Centenary Dinner on 5 September was a night to remember. Featuring one of the most famous and brilliant lawyers in the world, Geoffrey Robertson QC, as guest speaker, the dinner drew 420 guests at Adelaide Town Hall.

Law Society President Morry Bailes was MC at the event and spoke of the first annual dinner in 1901, which was a dinner held by the University of Adelaide in conjunction with the Law Society. In a nod to the 1922 annual dinner and to especially welcome the guests from Law Societies around Australia, Mr Bailes made a toast to “kindred societies”. Two special presentations were

shown at the dinner – a pictorial history of the Law Society and a “Year that Was” presentation, which marked major events and achievements of the past 12 months and paid tribute to former practitioners who passed away.

Mr Robertson, as well as making an entertaining, thought-provoking speech at the dinner, also delivered a free public lecture at University of Adelaide on the topic of “New Challenges to the Independence of the Judiciary”. The lecture was made possible by the Howard Zelling Trust, which was established in 1988 to bring eminent persons with specialist legal knowledge

to South Australia to provide free public lectures on topics of jurisprudence, law and law reform, grants and other approved purposes.



Establishment of the Law Society

By Steven Thomas

This is an abridged version of an article was originally published in the November 2004 '125th anniversary' edition of The Bulletin.

1845 – Early Regulation of Lawyers

1845, the ninth full year of the existence of the Colony of South Australia saw the enactment of two important and, a cynical observer might say, not unrelated pieces of legislation.

In the same year that the death penalty was abolished for the offence of forgery, the legal profession in South Australia was given its first recognition and regulation by Ordinance No. 6 of 1845 "*An Ordinance to Regulate the Profession of the Law in South Australia*". The Ordinance occupies a mere four pages of closely typed script, a far cry from the lengthy *Legal Practitioners Act* we have today. The Ordinance outlawed for all except those admitted and enrolled as a barrister, attorney, solicitor or proctor in the Supreme Court, the following practices:

- *In his own name or in the name of any other persons to sue out any writ or process, or commence, prosecute or defend any action or suit, or any proceeding in the Supreme Court or any Court in the Province;*
- *To draw or prepare any*

conveyance, lease, or other deed relating to any real or personal estate; for or in expectation of any gain, fee or reward.

The Ordinance also provided for the following:

- excluding law stationers or clerks from the sanctions of the Ordinance;
- practitioners allowing unqualified persons to practice in their names to be "struck off the rolls";
- confirming the power of the Supreme Court to tax the costs of any practitioners;
- restricting any action proposed to be brought by a practitioner for his account until one month expired from sending that bill;
- imposing a fine of £50 for a breach of the Ordinance.

1851 – Formation of the Law Club

Regrettably, little is known of the Law Club. It is referred to briefly in the minutes of the inaugural Council meeting of the Law Society from 13 October 1879. It seems that the Law Club did not prosper. As the Honourable John von Doussa QC said in his speech on 25 June 2004 "*South Australian*

lawyers never have been Clubby people".¹

The Law Society was created as an unincorporated association, with no statutory recognition, on 13 October 1879. We are fortunate to have a copy of the minutes of the inaugural meeting still in the Society's records today.

The Committee was formed on 13 October 1879 and reconvened on 20 October 1879. Present were Messrs. Bunday (Chair), Ayers, Moulden, Labatte, Barlow, Bakewell, Sheridan and Hardy. The Rules of the Law Society were ultimately settled by 17 November 1879. Nominations were received for membership and John von Doussa QC continues the story:

"A meeting to consider a ballot of members was convened on 4 December 1879. But by that time enthusiasm for the venture seems to have waned, or else there was something better on as only eight people turned up. The meeting had to be adjourned for a week. Next time nineteen people were present. Applications from 72 practitioners were received. No applicant was blackballed. By the Annual General Meeting the following year, 64 of those applicants had paid their dues.

I regret to say that one of those who had not paid was my great grandfather, Louis".²

Fortunately for us all, enthusiasm for the venture has continued and we still have the Law Society today.

1911 – Female Law Practitioners

In 1911 the *Female Law Practitioners Act*, permitting women to practise law in South Australia, was passed. The Parliamentary Debates make interesting reading indeed.

1915 – Statutory Incorporation

By 1915, the Law Society, despite being unincorporated and having

“
There are fewer black sheep in the ranks of the legal profession than probably in any other calling.

no statutory recognition, was a useful and active participant in the regulation and representation of the legal profession in South Australia. The Society was generally given leave to appear before the Supreme Court on disciplinary matters, but it was only through the indulgence of the Court that that was permitted to occur.

The Law Society Act 1915 gave statutory recognition and incorporation to the Law Society³ and gave it the right of audience in any Court involved in a disciplinary matter against a practitioner.⁴

The second reading speech in the House of Assembly by the Treasurer (the Honourable C Vaughan) gives us some indication of the feeling at the time as to why the Law Society needed to be incorporated. The following is an extract from the speech:

"It is very necessary that this Bill should be introduced so as to give more effective control over what may be termed the "black sheep" of the legal profession. Those "black sheep" are not numerous, but every profession has a certain proportion of men who, unfortunately, do not uphold the high traditions and honour of the calling to which they belong. At present the difficulty is that after a man is admitted as a practitioner of the Supreme Court he is free to exercise his calling practically uncontrolled. The Law Society is the watchdog of the legal fraternity, to hold up its high status and position, but unfortunately the watchdog at present is muzzled, and the object of the measure is to take the muzzle off and allow the opportunity of exercising its powers. ...

Many cases have been known where delinquent solicitors have escaped the clutches of the law, and are left free to practice their nefarious tricks to the

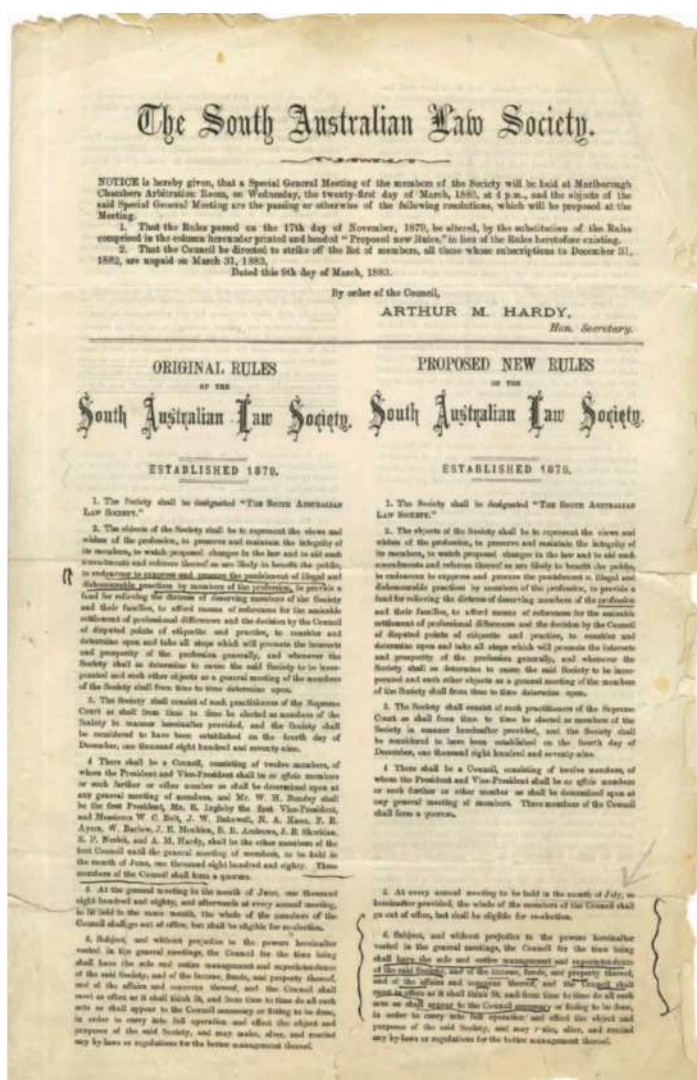
detriment of the public and the legal profession generally. The Bill incorporates the Law Society. At present, the Society has no legal standing – in fact, by the indulgence of the Court is it able to be represented where the misconduct of a solicitor is the question being determined.⁵ Later, in the House debate, Mr Barwell said:

"There are fewer black sheep in the ranks of the legal profession than probably in any other calling. As the great Burke said, "God forbid that I should insinuate anything derogatory to the legal profession, which is another priesthood, administering the rights of sacred justice."⁶

In the Legislative Council, the Attorney-General (the Hon JH Vaughan) introduced the second reading speech as follows:

"The late lamented Mr Bumble is credited with having said that the "law" was a "hass" and there are a good many people in South Australia today who seem to have the impression that Mr Bumble was right and that the law is not only a "hass" but also a rogue. They have had the misfortune, many of them, to get into the hands of some unscrupulous members of the legal profession, and as a consequence they have determined in the future not to have any transactions with the law, with the result that in many cases they have suffered through not having legal advice and assistance."⁷

The Attorney-General was interrupted many times during his second reading speech by an MLC, the Honourable E Lucas. Some of the debate concerned whether membership of the Law Society was compulsory for a lawyer to practise with reference made to trades unions. At one point the following exchange took place: The Attorney-General: *"It is not necessary for a gentleman to be a member of the Law Society*



The original Rules of the Law Society

to practise. If he so wishes he can remain outside the ranks of the union altogether."
 The Hon E Lucas: *"Would he be a blackleg if he did so?"*
 The Attorney-General: *"No. There are many members of the profession today who are not members of the Society."⁸*
Despite this debate, Mr Lucas two days later on 25 November 1915 stated his support for the Bill and said in doing so:
"But if the purpose is to secure for the "gentlemen of the long robe" – facetiously called "the devil's own" – the right to better control their own members, and place the profession in a more advantageous position

with respect to those practising then members will welcome the Bill."⁹

The Law Society Act was ultimately passed and the Law Society with the statutory incorporation as we know it today was established.

(Endnotes)

- 1 Speech given the Hon John von Doussa QC Adelaide Town Hall 25 June 2004 "The History of the Society"
- 2 Supra n1,
- 3 Section 3,
- 4 Section 17
- 5 Law Society Bill – Second Reading Speech House of Assembly Hansard p2182 ff 17 November 1915
- 6 Law Society Bill – Debate House of Assembly Hansard p2228 18 November 1915
- 7 Law Society Bill – Second Reading Speech Legislative Council Hansard p2288 23 November 1915
- 8 Supra n7
- 9 Law Society Bill 1915 – Legislative

Women who paved the way

The following article is an abridged version of the article originally titled “Women in the legal profession”, written by John Emerson, which appeared in the November 2004 ‘125th anniversary’ edition of *The Bulletin*. It traces the pioneering women who opened doors for so many other women to go into law.

The single biggest change in the legal profession in its history is the entry of women in the 20th century. The first female lawyer in the British Empire was Clara Brett Martin, who was finally admitted as a solicitor and barrister in Canada in 1897. In Australia, Victoria was the first State to allow women to practise law, in April 1904, followed by Tasmania in 1904, Queensland in 1905 and South Australia in 1911. The first practising female lawyer in Australia was Flos Greig in Victoria, admitted in 1905. The University of Adelaide had always permitted women to attend classes since it started teaching in 1876, and to be awarded degrees from 1881. But the first female law student was only born around then – Doris Egerton Jones began studying some law subjects in 1909 and graduated with a BA in 1911. The year after, Mary Kitson began her law studies and in 1917, she was admitted as South Australia’s first female lawyer. The second was Aileen Constance Ingleby, in 1921, daughter of Rupert Ingleby KC (Jnr) and grand-daughter of Rupert Ingleby KC (Snr). Aileen Ingleby was in a University of Adelaide hockey team with Dorothy Christine Somerville, who talked her into taking up law. Somerville had already taken an honours arts degree in classics

in 1918, and in 1933, she became South Australia’s third female legal practitioner. The first women experienced quite severe discrimination from their male fellow students. In 1911 a male law student wrote to *The Register* – a daily morning paper in Adelaide – complaining about the fact that if women join the classes, any discussion of “immoral considerations” in criminal and contract law would not be possible: “*I think it will be unfair to make students pay heavy fees for lectures and then have important questions missed because females invade the classroom.*” He foresaw the subsequent and inevitable decline in legal education. The worst treatment seemed to take place in the University of Sydney in the 1920s. Even though the NSW government had legislated in 1921 to permit women to practise, male students taunted Marie Beuzeville Byles and Sibyl Gibbs with foot-stomping and “cat-calling”. In South Australia Mary Kitson found that in 1924 when she got married, her partners no longer wished to practise with her. That year she and Dorothy Somerville established Australia’s first female legal practice. Mary Kitson eventually moved to Sydney and worked in publishing, and in 1950 she moved to New York to take charge of the United

Nations affairs on the Status of Women. Somerville only gave up practice not long before her death in 1992, at the age of 94. She was also the first woman in Australia to take on another woman as an articled clerk. This was her niece, Sesca Zelling, whose husband was a co-founder of the independent bar and a Supreme Court justice. Kitson’s and Somerville’s achievements forged the path for women in South Australia, and the baton was readily taken by Roma Mitchell. She was admitted at the end of 1934. Yet despite becoming Australia’s first female Queen’s Counsel in 1960, it was still hard then for women to get articles. In 1963 Margaret Nyland – who would later be appointed first to the District Court and then the Supreme Court – was beginning to lose hope. Her father was a boiler-maker, and after an accident, he had to drive taxis. One of his regular passengers was lawyer John Davey. By a stroke of luck, Davey knew Pam Cleland, who took on Nyland’s articles. From the late 1970s on, a critical mass seemed to have been



Dame Roma Mitchell in court



Mary Kitson, SA’s first female lawyer

reached. Women began studying law in greater and greater numbers. In 1977, one sixth of the law students at the University of Adelaide were female; within eight years the proportion had reached one half. It took 22 years after Roma Mitchell for the second female appointment to silk – Frances Nelson in 1982, ten for the third and fourth – Catherine Branson and Robyn Layton in 1992, but just two for the fifth – Lindy Powell in 1994.

History of the Murray Law Library

1938 Sir George Murray, Chief Justice of SA from 1916 to 1942, gives £10,000 to establish a library for the members of the Law Society. Legal Practitioners Act amended so part of practising certificate fees could be paid to the Law Society to maintain the library.

1939 The Murray Law Library opens in the Exchange Building, 26 Pirie St.

1942 Sir George Murray dies and in his Will bequeaths his personal library to the Law Society.

During the Second World War, some of the library's collection is kept in the Sleep's Hill Tunnel.

1962 The library moves to Mutual Life Chambers, 44 Grenfell St.

1979 The library moves to 33 Gilbert Place.

1984 First qualified librarian Helen Whittington employed.

1989 to 1997 Librarian, Julie Montgomery, employed for 18 hours per week.

1989 The library moves to 124 Waymouth Street.

1999 Librarian Lorna Hartwell employed full time.

2014 The library moves to the current Law Society premises at 178 North Terrace.

For 75 years the Law Society Library has been a key resource for members.

It was named the Murray Law Library after the then Chief Justice of SA, Sir George Murray, who proposed in 1938 that "the profession should have a home of its own" with a library.¹ Sir George gave £10,000 towards "the proper equipment, maintenance and upkeep of the library for all time" and the library opened in 1939.^{2,3} Sir George also bequeathed his own personal law library to the Law Society. The library collection still has rare books from the original bequest. The oldest book in the library's collection was published in 1725.⁴ During World War II, some of the collection was hidden in an abandoned train tunnel called Sleep's Hill Tunnel at Eden Hills, south of Adelaide, due to heightened concerns about Adelaide being attacked by the Japanese.⁵



Above Right: The library at the former premises on Waymouth St

Above: The current incarnation of the Murray Law Library

Right: The library at the Grenfell St premises in 1971

Far Right: Founder of the Law Society library, Sir George Murray

The library has grown and changed with the changes to the Society. In 75 years, the number of practitioners has increased from 200 to almost 4000.⁶ Technological changes, the sheer volume of information and resource and space constraints have shifted the focus to maximising accessibility to information via on-line means rather than keeping large numbers of hard copy books. In this year's move to the new premises at 178 North Tce, half the library's hard copy collection was culled.

Librarian Lorna Hartwell has seen many changes in the 16 years she has been working in the library but says: "One thing that hasn't changed is our commitment to providing a personalised service for members".

The Library offers a comprehensive range of hard copy and on-line reference, research and training services.



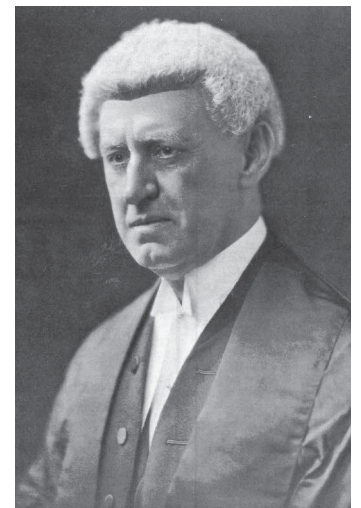
Members are welcome to use the library, or the library staff can help with reference and research enquiries. Training sessions for online research can be tailored to members' own particular needs. Members are welcome to borrow books.

Enquiries can be directed to Ms Hartwell at: lorna.hartwell@lawsociety.sa.asn.au or 8229 0235.

Sir George Murray's vision of a library for the profession lives on.

(Endnotes)

- 1 The Toast and the Reply at the dinner to celebrate the 50th anniversary of the call by the Inner Temple on 25 April 1888 of the Hon Sir George Murray KCMG, Law Society of SA, 29 April 1938
- 2 Letter to Secretary, Law Society of SA, from Manager, Executor Trustee and Agency Company of SA Ltd, dated 20 February 1942
- 3 Law Society of SA Annual Reports 1939, 1947, 1948
- 4 Sir James Astry *A General Charge to all Grand Juries and other Juries* 2nd edition, London: W Mears, 1725
- 5 Montgomery, Julie, Murray Law Library Jubilee 1939-1989, *Law Society Bulletin* 11(1):11,13, January 1989
- 6 Law Society of SA Annual Report 2014 at 18



War and Peace at the Law Society

By Margaret Kelly

This is an updated version of an article that was originally published in the Issue 5, 2004 edition of *The Bulletin*. Author Margaret Kelly has also written an historical account of the Law Society during World War I, published in the September (Issue 8), 2014 edition of *The Bulletin*.

Looking back on the 125 year history of the Law Society, what are the most important events? Was it acquiring a permanent home or achieving 1000 members? In my view the most momentous events in the history of the Law Society and the legal profession surrounded the Second World War. This was a time that affected the lives of all Australians and changed forever the practice of law in South Australia.

The war robbed us of so many young men who could have made a wonderful contribution to the law. If you wander down the corridor at the Law Society office you will see the Honour Board for those who died in World War II. It contains the names of 23 practitioners and law students who lost their lives. By my calculations that represents a little over 10 percent of the profession in South Australia at the time.

Who were these young men? Most of those who died were aged between 20 and 30. They had grown up during the Depression, hard times for many including students. There was little money around and the profession was not well off. In other ways it was a time of

stability and conservatism when change was minimal, no TV, hardly anyone travelled overseas, the main diversions were sport and increasingly the cinema.

There were very few women in the law or studying law. Between 1930 and 1939, 149 students passed the first year elements of law exam of whom 24 were women. Many followed a family tradition of studying law. A look at the honour roll will reveal many familiar names.

What are the stories of these young men? Space prevents mentioning all of those who fought but here are some.

The first death occurred early in the war. Pilot Officer Charles Coventry was a member of 63 Squadron RAF when he died on 1st December 1939 in the United Kingdom.¹ Charles had gone to England in 1937 and was there when war broke out, joining the RAF. He was admitted to practice in December 1934. The group photograph on admission day shows a handsome Charles Coventry smiling at the camera from the far left of a group which also includes Charles Bright and Roma Mitchell, later judges of the South Australian Supreme Court. Five years later he was dead. Charles' admission had

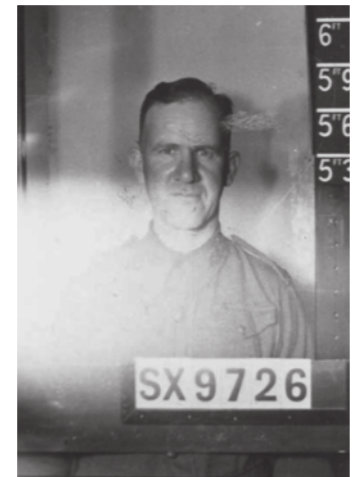
been moved by his father Mr CJ Coventry, a magistrate and former mayor of Brighton, with whom he served his articles.² Charles had two brothers on active service at the time.

The last to die was Corporal Joseph McCarthy on 1 June 1945. Corporal McCarthy was a Prisoner of War in Borneo at the time of his death and lost his life on the second Sandakan Death March, age 42. He had been with the 8th Division Ammunition Sub-Park and was likely taken prisoner in Malaya or Singapore along with the greater part of the 8th Division, at the fall of Singapore in February 1942. He had been a Prisoner of War for three years. He died only three months before the end of the war against Japan.³

Many of those killed and those fighting overseas were the sons of practitioners. The effect on the legal profession was therefore compounded.

Captain WL Ligertwood MC died of wounds on 30 October 1942. He was the eldest son of Sir George Ligertwood QC and Supreme Court Justice. Before the war he had served in the 13th Field Brigade Militia and in May 1940 had enlisted in the AIF joining the 2/7th Field

Regiment of the 9th Division, an artillery regiment. He saw active service in North Africa in 1941 and 1942. He was wounded in the final battle at El Alamein. At first light on 24 October, the day after the beginning of the dreadful artillery barrage that commenced the battle, Captain Ligertwood, the Forward Observation Officer attached to the 2/13th infantry battalion, was severely wounded when an anti-tank shell passed through his carrier just as he was taking up a position. He died of wounds a week later after evacuation to



Corporal Joseph McCarthy was the last South Australian legal practitioner to be killed in World War II.

hospital. He was posthumously awarded the Military Cross for “considerable gallantry and outstanding devotion to duty during the period 10 July 1940 to 2 October 1942”. Noted in the citation, “under heavy artillery and small arms fire, he was cool and unruffled and carried out his duties with marked efficiency”.⁴ At the time of Bill’s death his father was President of the Law Society.

What about some of those who survived?

Sir Keith Wilson was elected to the Senate in 1938 to take up his seat on the 1 July, three months before his 30th Birthday. On the outbreak of war he was anxious to join the Army. In May 1940 the call-up age was extended to 40 years. So in about June 1940 Senator Wilson returned home to Adelaide from Canberra and volunteered to join the 2/7th Field Regiment at Keswick. At the time he had a young family. A friendly doctor at the medical examination overlooked an old lacrosse injury and Acting Sergeant Wilson served with the 2/7th in the Middle East in Palestine and later in the Tobruk area.

Meanwhile, Prime Minister Menzies had called for an “Empire Conference”. It was thought to be a good idea to have a Senator who was also a serving member of the Armed Forces present at the conference. Sir Keith was one of only two sitting members of the Australian Parliament on active service during the War. Sir Keith was to return to Australia for a briefing and in the meantime was transferred to Cairo to the Legal Corp and received a commission. Sadly the entry of the Japanese into the war meant the conference was cancelled and Sir Keith, to his frustration, had to remain in the Legal Corps. Sir

Keith did not forget the 2/7th. In 1944 he inaugurated the KC Wilson Housing and Welfare Fund. By the time the war ended regular donations from within the regiment had brought the fund to the £2000 mark and in post-war years the fund was used to assist many ex-members of the unit with loans on a non-interest basis.⁵

With the defeat of the Menzies Government in 1943 Sir Keith lost his seat in the Senate but in 1949 he was elected First Member for Sturt in the House of Representatives and held that seat until 1966 except for a brief period between the 1953 and 1954 elections. The same seat was later held by his son Ian Wilson.

The Law School at the University of Adelaide seems to have undergone something of a renaissance in the post-war era. Students whose courses had been interrupted by Military Service started to come back into the University and in 1946 were joined by ex-servicemen who came to the University under the Commonwealth Rehabilitation Training Scheme. Not only were there greater numbers in the Law School but an infusion of new blood from young men of families outside the established ranks of professional people. Those under the Commonwealth Rehabilitation Training Scheme received an allowance of £3/10 per week. This had to be repaid in the fourth and fifth years of their studies usually about £250 or £300. Not easy if your salary was only about £10 per week.⁶

Despite these pressures, or perhaps because of them, there were a number of outstanding students in the post-war years. Some had studied whilst on active service.

Warrant Officer Michael White had matriculated in Latin whilst serving within the RAAF on

the Halmahera Islands beyond New Guinea, with the help of a Latin grammar book and some correspondence from the author. He had left school aged 15 years to work in a country branch of a bank, completing his studies by attending school for two hours each day after banking hours. He was discharged on 10 January 1946 after flying 709 mission hours and commenced his law course two weeks later. He finished the law course as the best graduating student with six top places and two second places, the David Murray Scholarship, two Stow prizes and three Bennett prizes. He later went on to become a Judge in the District Court and Chairman of the Credit Tribunal and a Supreme Court Judge in 1977.⁷ He is but one of many who succeeded academically and professionally after their war service. Michael White passed away in February 1995.

In his chapter “Home and Hearth at Last” in *Law on North Terrace*, a book celebrating the centenary of the Adelaide University Law School, Michael White postulates that from the ranks of the post-war students, a greater proportion attained eminence in the law than their numbers might suggest. In his view the maturity and experience of life gained by ex-servicemen particularly during the war years was of assistance to them in their later lives and proved a source of inspiration to them in the making of their value judgments.⁸ This was an inspiration that rubbed off on the younger students who studied with them.

I suppose the grumpiest Judge, the most belligerent opponent and the most difficult client, pales into insignificance, compared to piloting a fighter plane in a dogfight⁹ or standing on the deck



The Law Society's World War II honour board

of a rusty old destroyer watching a torpedo bomber attack.

In a questionnaire to senior practitioners who had served in the Second World War, I asked about their best experience during the war. Some referred to leave celebrated with comrades. Nearly all referred to the end of the war was being one of the best times in their lives.

I sometimes think it is hard for late baby boomers like myself, to comprehend the horrors that these men saw and the changes that took place in the course of their professional lives. We would do well to seek out the wise counsel of those surviving practitioners.

(Endnotes)

- 1 Commonwealth War Graves Commission Website.
- 2 The Advertiser “Ten New Lawyers Admitted to SA Bar Today”. December 1934.
- 3 Australian War Memorial Roll of Honour Database.
- 4 “The History of the 7th Australian Field Regiment” David Goodheart 1952 Rigby page 215.
- 5 Ibid page 274
- 6 “Law on North Terrace” The Adelaide University Law School 1883-1983. Edited Alex Castles et al Chapter 6 Home and Hearth at Last.
- 7 Ibid Page 53.
- 8 Ibid Page 55.
- 9 A remark of former Australian test cricket great Keith Miller a fighter pilot in World War Two who, when asked by Michael Parkinson in an interview about the pressure of playing test cricket said “Pressure is a Messerschmitt up your arse, playing cricket is not.”

Expansion of the Professional Indemnity Insurance scheme

In September 1981, the then President of the Law Society of South Australia, Mr D W Bollen QC (as he then was) wrote to all members of the Society advising them of a proposed compulsory professional indemnity insurance scheme (for which provision was made in Section 52 of the *Legal Practitioners Act 1981*) to operate from 1 January 1982 and, on behalf of the Council of the Law Society, commended it to the profession.

The Master Policy Scheme was intended to benefit practitioners by providing better terms and premium rates on the basis that the whole of the profession would be insured, as well as security for both the client and the practitioner at a time when the law was becoming more complex, claims against practitioners were increasing and certainty of cover could not be counted on where private insurers were encountering financial difficulties. The Master Policy Scheme provided more comprehensive cover and policy wording than any existing standard commercial policy and guaranteed cover for all practitioners irrespective of their claims experience.

The initial Scheme (a three-year policy) was to provide indemnity for each claim up to \$500,000 (increasing by \$50,000 in each of the following years). The policy was obtained at premium rates lower than New South Wales and

Victoria's rates in 1982.

The first Master Policy introduced an improved system of claims handling designed to assist practitioners. Its aim was to prevent and rectify claims. A division of the Law Society, Law Claims, was established to administer claims. The Master Policy also established a Claims Committee to consider and advise on claims. Law Claims has since devised and presented Risk Management Education Programs, Risk Management Practice advice and guidelines, Risk Watch Newsletters and Alerts reflecting the risk and profile of claims for compensation against practitioners. Law Claims Risk management program and advisory service have succeeded in reducing the numbers of claims.

After the Scheme was established, the former Professional Indemnity Insurance Committee which was in operation in 1980 to advise Council became the Monitoring Committee to oversee and manage the Scheme. Following the Anderson Enquiry in 1995, the Society established Lawguard Management Pty Ltd to oversee and advise it on the management of the Scheme.

The structure of the Scheme was revised in 1988 with an amendment to Section 52 of the *Legal Practitioners Act*. In addition to a Master Policy and Certificate

of Insurance, providing indemnity to a limit of \$750,000 plus costs, a mutual fund was established which met the first \$50,000 of each claim (less the insured's excess).

The Fund comprised of contributions from practitioners and was administered by the Society. From 1999, the Fund met the first \$200,000 of each claim up to a sum insured of \$750,000 plus costs with an aggregate limit of \$4.25 million. In 2004, the indemnity limit increased to \$1.5 million inclusive of costs. In 2007, the sum insured was increased to \$2m inclusive of defence costs with the Fund paying the first \$200,000 of each claim (less the insureds excess). In 2013 the Fund increased the Fund contribution to \$400,000 of each claim up to a sum insured of \$2 million inclusive of defence costs with a \$5.5 million aggregate. The foresight of members of Council in the early 1980s in establishing a compulsory scheme and for all those members of Council, volunteer members of the Claims Committee, the Directors of Lawguard and the dedicated staff of Law Claims that have followed them have seen the Scheme adapt to the ever-changing demands of legal practice while maintaining the benefits identified at its inception.

The establishment of the Law Council of Australia

The Law Society of SA was the chief instigator in the formation of the Law Council of Australia, which stands as the peak body of law societies across the country. In October 1932, upon receipt of a letter from the Victorian Law Society concerning the Federal Pensions Bill, the Law Society of SA's Council publically protested the legislation. The Law Society Council's displeasure with the Bill prompted it to convene a conference with all law societies

and bar councils around Australia, with the object of forming an affiliated Council to represent the whole legal profession in Australia. By the end of the year all states had indicated they would take part in the proposed conference.

This first conference, convened by the Society and held in Sydney in April 1933 was attended by some very eminent lawyers including the Hon JG Latham CMG, KC Attorney-

General of the Australian Commonwealth, who gave the opening address. Mr Mayo KC and the Hon Secretary Mr F Smith represented the Society as Deputy Chairman and Joint Secretary respectively. The Society contributed £20 to the costs of their attendance. Interestingly in the planning stages of for this conference the body to be established was referred to as the "Australasian Law Society". NSW was keen for

SA to have the first President and Mr H Mayo QC was duly elected. Other South Australian Law Council Presidents have been: Francis Villeneuve Smith KC (1936); Sir Harry Graham Alderman QC (1950-51); The Hon Dr Howard Edgar Zelling AO CBE QC (1966-67); Cedric J Thomson OBE CdeG (1978); The Hon Justice John Ronald Mansfield (1993-94); Tony Abbott (2001-02); and Alex Ward (2011).

A short history of GDLP

In January 2013, The Law Society of SA commenced delivery of the Graduate Diploma in Legal Practice jointly with the University of Adelaide Law School. This represented a significant milestone in the history of the Society's involvement with practical legal training (PLT) in South Australia. In the 1998 PLT course handbook, then President John Harley noted that the Society's involvement with the practical training of lawyers dated back

to the 19th century. No doubt it was this ethos that has driven the Society to play such a significant role in PLT.

From 1994, the Society offered a post-admission PLT course that complied with the Supreme Court of SA's admission rules. Students who had completed the Graduate Certificate in Legal Practice (GCLP) at the University of South Australia or an equivalent introductory program of PLT could complete the Society's program and apply

for an unrestricted practising certificate. Prior to then the University of South Australia offered a GDLP that met all of the PLT requirements, but a combination of factors mean the University could not continue to offer the full GDLP so they modified their course to a GCLP to cater for higher student numbers. The Society's post admission PLT filled the void. From 1999, as well as the post-admission PLT course, the Society offered a full PLT

program that met all aspects of PLT which included the 12 areas of study set by the Law Admissions Consultative Committee, known as the Priestly Twelve, as the University withdrew from the PLT altogether. From 1999 until 2012 the Society continued to offer a GDLP that met all of the PLT requirements for admission as a legal practitioner in South Australia.

Litigation Assistance Scheme: a proud history of legal service

The Law Society of SA has a proud history of legal assistance. It ran the Legal Assistance Scheme before its duties were taken over by the Legal Services Commission in 1972. While the LSC provided legal aid in criminal matters, the Law Society has since set up a scheme to assist people in civil claims. The following article is an edited extract from the original introductory essay by Rob Linn, which appeared in the publication *Law Society of South Australia Legal Assistance Scheme 1933-1972: An Oral History*.

In August 1925, the Attorney General William Denny introduced the Poor Persons Legal Assistance Bill into Parliament, and the Office of the Public Solicitor was created to handle cases. However, the impact of The Great Depression, the succession of a conservative government and the cost of the scheme soon made the public officers and parliamentarians aware that alterations were needed.

After a call to the Law Society for assistance from the Crown Solicitor, a special meeting of the Society's Council was held to consider the options. The outcome was that the Society would offer to take on all of the work of the Public Solicitor's Office in line with the English Poor Person's regulations. In addition there was to be a request for the government to pay an annual sum, for the administration expenses for running the Scheme, to the Society.¹

The pivot of the scheme stemmed from the belief that "The Society, its Council and its members (would carry out the work) as a voluntary charitable effort (which would) see that no person (would) be left without proper legal assistance,

if he (was) deserving of such assistance, and would be unable to obtain it without the help of the Society's members".

The Government accepted the Society's plans and asked that the scheme be inaugurated on 1 September 1933.

So successful was the scheme, that by June 1935, the Society was forced to plead with the government to provide more funds for its administration. In 1935, the Scheme had some 1383 applications of which 734 were arranged and 296 advised by the Secretary.

For those who worked with the scheme in the pre-war days there were two main reasons given for its success – first, was the need by the public for a well run operation; and second, was the need by younger members of the profession for work experience at a time when briefs were at a premium.

Dame Roma Mitchell revealed that by the early 1950s, the profession was immensely proud of the Scheme. In 1955, at a London gathering of Commonwealth lawyers, she presented a paper which concluded that the Scheme had advantages over other schemes for the following reasons:

1. It is a scheme administered entirely by the legal profession itself and without any control or direction from anyone outside the profession.
2. It has met with the full approval and cooperation of the profession thus enabling the Society to carry out its undertaking that no deserving person would forego proper legal assistance through lack of means to pay for it.
3. Persons who under a rigid application of a means test would not receive assistance, and might thereby suffer great hardship, are nevertheless assisted, through a contributory basis.
4. Every person assigned is treated by the practitioner as an ordinary client, and receives the same attention as any other client.
5. The assistance which is given covers a completely unlimited field of legal work; at a nominal cost the community and the 'bottle-necks' and consequent delays which appear to be a characteristic of a public solicitor's office are wholly avoided.

Kenneth Price, who was Assistant Secretary of the Society from 1957 to 1972

believed that the essentials of the Scheme were unchanged during that time.

By the early 70s, though, external pressures were changing the nature of the Scheme.

Applicants were increasing in alarming proportions. A large percentage of legal aid went on criminal cases and there was a need to balance this out.²

The new Federal government in 1972 brought a change whereby the activities of the Law Society were fairly quickly subsumed by the fledgling Australian Legal Aid Office. Like William Denny five decades before, Lionel Murphy, Commonwealth Attorney General, believed that legal aid was a necessary social reform and argued that the State should employ the legal officers for aid to the poor. Cedric Thomson and others argued for the retention of the existing Law Society "private practitioner" scheme, however, despite the strength of this position the government system won the day and another different era of legal aid for Australians was launched.

(Endnotes)

¹ LSLA, Minutes of Council 20 February 1933

² Interview with Mr Cedric Thomson by Rob Linn, 22 July 1997

Assistance to civil litigants

In 1990, Law Society President Bruce DeBelle QC and Brian Withers showed great vision to recommend the establishment of the Litigation Assistant Fund (LAF).

The aim was to assist people who could not afford to pay for civil litigation proceedings but did not qualify for any form of legal aid.

To enable the LAF to commence operations, a seeding grant of \$1 million was received from the Legal Practitioners' Guarantee Fund, with the LAF to be self-funding from that point on, which it has been.

On 31 July 1992, at a ceremony held at Old Parliament House, LAF was jointly launched by the then President of the Law Society, Neville Morcombe QC, and the State Attorney-General, Chris Sumner. Mr Morcombe said: "The cost of justice will always be too high for some, but this new initiative will remove some barriers presently faced by

people who have a strong case but limited finances".

LAF was described in the Bulletin in September 1992 as "one of three such schemes in the world (the other two are in Western Australia and Hong Kong)".

Assessment Panels, each comprising three senior practitioners, were created. An Advisory Board, comprising 11 senior practitioners and one lay member, was also created. The Chair was Brian Withers and the remaining members were Tony Abbott, Tas Carabelas, Dean Clayton, Mike Duigan, Jim Hartnett, Peter Herriman, Mark Leaker, David Meyer, Lindy Powell, Stephen Walsh QC and Richard White.

The first Fund Manager was Darian Partington. Mary Walters took over the role in 1994, and retired in 2013 after 19 years of service. Annie MacRae took on the role of fund manager after Ms Walters.

Since its inception, the LAF has provided funding assistance to approximately 1500 civil claimants. The damages ultimately received by those claimants total in excess of \$170 million.

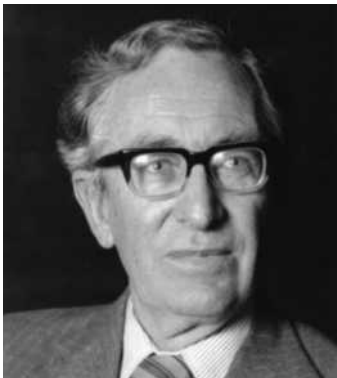
On 10 May 2012 a celebration was held at the Law Society to mark 20 years of operation of the LAF. The then President of the Society Ralph Bönig commented that for most citizens access to the Courts has become unattainable without some form of funding or pro bono support. He stated one of the quiet achievers in this area had been the Litigation Assistance Fund. He applauded the vision and work of the Honourable Bruce DeBelle AO QC and His Honour Judge Brian Withers. He said the work of the Fund's Advisory Board and of the members of the Assessment Panels was greatly appreciated and this had led to the existence of a stable and successful Fund. The current Chair, Stuart Cole, noted that since 1992 more than 60 members of the profession had served as Assessment Panel members. Mr Cole further noted that eight of these Panel members had been assessing the merits of applications for 20 years - Geoff Britton, Stuart Cole, David Howard, Garry Palasis, Simon Robson, Simon Ward and John White.



Attorney-General the Hon. John Rau MP with His Honour Judge Withers at the 20th anniversary celebration of the litigation Assistance Fund.

The Oral Histories project began in 2009, when the Law Society received funding from the Law Foundation of SA to interview eminent retired members of the legal profession. Between 2009-10, Dr John Emerson conducted seven interviews. In 2012, the Law Foundation provided more funding to extend the project. In total, 16 interviews were conducted. Most interview transcripts are available in full on the Law Society's website.

Born to serve



The Hon. Robert (Bob) Fisher
AO QC

With a long line of solicitors in his family, it was probably inevitable that the Hon. Robert (Bob) Fisher AO QC would carve a name for himself in the legal profession. A graduate in law from Adelaide University, he became a QC in 1970 and was a Judge of the Federal Court from 1978-89, while he was also Deputy President of the Administrative Appeals Tribunal. Mr Fisher served on the Council of Flinders University of South Australia from 1969 to 1988 and was Pro Chancellor and then Chancellor.

Bob Fisher's life of service and sense of duty began early with the outbreak of World War II. Still underage, he and a mate put up their ages so they could enlist and Mr Fisher also had to learn the sightboards because of his bad eyesight.

He passed the test and for just over five years served in the Army, learning some life lessons that would prove beneficial in his life as a lawyer and later a Federal Court Judge.

"I was very lucky, in a regiment, artillery regiment where there were a lot of intelligent people, a lot of lawyers – Arthur Rylab, who became the Attorney General, he was in the regiment. The Battery Commander was George Crawford, who was a Supreme Court Judge in Tasmania. In fact his son is now the Chief Justice in Tasmania. A lot of the younger fellows were lawyers and it just deepened my interest.

"We didn't come back from that war as heroes; we came back with a very strong determination to get on with life. My friendship with lawyers – and one in particular in the Army – helped me considerably. That was a

fellow called Ian Walker."

After returning from the war, Mr Fisher, who had previously completed his first year at university, undertook articles with Shirley Jeffries of Fisher Jeffries and then Bob Irwin of Piper Bakewell. Admitted in 1948, he became an Associate to Justice Abbott and after 12 months returned to Fisher Jeffries.

Like many lawyers, his first court appearance was easy to recall.

"I was acting for the Temperance Alliance and opposing the licensing of about three hotels in Port Pirie, I think on the ground that a hotel is a nuisance and annoyance if it happens to be next door to a school or church. All Adelaide's leading silks were up there at the time. There were Alderman, Brazel, Travers, Pickering and Ross. So I was in opposition from time to time against each of those.

"I knew all my witnesses would be good solid Methodist church people and I arranged a meeting place in the front bar of the hotel. I struggled on. I learnt a lot. I learnt how good people can be to you.

"I lost of course. I think I put up an argument as to what was the basis of the jurisdiction. I can't quite remember, a little expression, it was not necessary, reasonably required or something like that.

"One of the great advantages of leaving Fisher Jeffries and going to Piper Bakewell was Frank Piper. I worked for six months with him and he wasn't even a silk at that stage, but he had a great relationship with the Executive Trustee. That's where I gained this tremendous interest in equity and Frank Piper was most enthusiastic. In fact he did form,

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We didn't come back from that war as heroes; we came back with a very strong determination to get on with life.

informally, kind of junior bar of equity barristers with Sam Jacobs and Charlie Bright and people like that.”

Mostly, Mr Fisher was undertaking equity and commercial work while also developing a strong interest in income tax. During the 1950s he established a solid career at the Bar and was lecturing in income tax at the School of Mines.

It was in the 1960s when he first appeared in the High Court and while his career was gaining momentum, so too was that of his constant opponent, Sam Jacobs.

“I still am friendly with him, but in this – see he got a silk before me. He was always a far more mature person, but we fought against each other in these junior briefs that Frank Piper turned up. Then as I became known at the Bar, he was on the other side in a tremendous number of cases and we became close friends.

“I told Jacobs he was a young man in a hurry going off to the Supreme Court in 1973, but he still would have lost because he was involved in both of the big first cases there. I think Jacobs was a bit more, perhaps, more public spirited. He was a Mason – whereas I had just this tremendous commitment. You worked every night at home. After a while your wife would say, now can I talk.”

His appointment as Queens Counsel in 1970 came after a long wait.

“In 1963 when Jacobs and Ligertwood got silk, and then almost after that they said I was going to get silk. Then there was all the delay of the Elliott Johnston business. I think I was approached to take silk in 1968 and even earlier than that – informally approached, but didn’t in fact get it until 1970.”

A well regarded QC, Mr Fisher was recognised for this thoroughness with a brief.

“You read it and you thought about it, and you read widely around – researched it in very great depth. I used to say my approach to winning a case was to convince the old chaps on the Bench of the justice of your side and then indicate to them that as the good lawyers they think there are, there is a way in law to get there. So I used to work up things with great intensity.”

In 1967 he appeared for the first time in the Privy Council in London. Another five visits would follow. One of the cases he recalls was the Amoco Rocca matter.

“I was for Rocca, the small person. It was almost the forerunner to the Trade Practices Act, excess use of power, and you see we got Bray, who was very sympathetic. He accepted my quoting sheet – piles and piles of figures. I remember Jacobs saying to me that brief would kill me. Well, I was going to kill him.

“Then it went to the High Court and David Angel was a junior there. Then they went to the Privy Council in early 1973 seeking leave to appeal. I discovered tucked away somewhere

Alexander’s case, which says that from a State Court you then have a choice; you can go to the High Court, or you can go to the Privy Council. You can’t go from one to the other. I was opposed by Peter Oliver at that stage, still a Chancery silk; we won on that and they did not get leave to appeal to the Privy Council on the principal issue.

“But there was another aspect of the case – at the moment I really can’t remember what it was – where they had got a certain issue determined by the Supreme Court. So they got leave to appeal on that issue and that came on for bearing at the end of that year, by which time Peter Oliver had joined the Chancery Court.

“So there were those two trips that year, and then there was the other case, which was Lady Becker against the Director of Planning. That was the time when I’d lost three times in succession. I had lost before the Full Court – I must have lost before a single judge, I lost before the Full Court. We applied from the Full Court to get leave to appeal to the Privy Council, and they refused that. “Fortunately by that stage I’d already had some success. I remember sitting down here writing a little – I recommend an appeal to the Privy Council – and went out for a walk to get and met Roma Mitchell. I said we’re appealing to the Privy Council. Good on you, she said.

“So we went to the Privy Council in early 1975, and of course I wasn’t even seeking leave to appeal. I was seeking leave against the primary – seeking leave to appeal against

the Full Court’s decision of refusal to give me leave. And having won that – Diplock was presiding, and I seemed to get on very well with all these people. They all had a sense of humour; you could chat.

“And he said well now, we’re looking forward to seeing quite a lot of you, Fisher. It’s going to be about another three trips before you get to the main point. I said lovely for me, particularly at this time of year. And he said, I’ll tell you what we’ll do. You come across next time armed with three arguments. If you win the first, we won’t need to hear you on the second. If you lose the first, we have to hear you on the second, and then we come to the main point on the third.

“So we won that one.”

By this point in his career he was appearing before the High Court every time it came to Adelaide. *“I did have an awful lot. See, there was a great burst of tax cases. In the 1970s mining had become interesting and there was the juggling of shares, the Tax Department’s involvement, so there was a lot of single judge High Court work and then Full Court matters.”*

In 1978 his service to the legal profession culminated with his appointment as the first South Australian on the Federal Court.

Original interview conducted by Dr John Emerson

Community spirit



Bob Piper AO

A founding Partner of Piper Alderman, Robert (Bob) Piper AO was Chairman of the firm from 1988 to 1995 and then Senior Partner for five years before retiring from the partnership in 1999. In addition to his contributions to the legal community, Mr Piper spent a lot of his life serving many public companies and community groups, including charitable, arts, heritage and sporting organisations.

With his grandfather and father both King's and Queen's Counsel as well as judges of the Supreme Court, it was almost inevitable that Bob Piper would pursue a career in the legal profession. However, unlike those family members before him, Mr Piper was not keen on appearing in court and instead preferred working as a solicitor. He carved a name for himself in company law and was appointed to the boards of several of South Australia's largest organisations. He also devoted a lot of time serving community groups on a voluntary basis.

"I've done a lot of voluntary work over the years, so much so that I'm quite amazed when I'm working it out. For instance, at Memorial Drive I was President for 20 years, so that was one meeting a month for 20 years plus committee meetings. I've sort of extrapolated that and Prince Alfred College, where I was on the Committee for about 30 years, you extrapolate it all out and I've spent well over a million dollars in time during my life. I never thought about that until about a year or two

ago... when you think of it you do spend a lot of time, but there are huge rewards out of it, I think, which you don't even look for."

Mr Piper was articled to his father and started his legal career doing work on mortgages, road accidents, as well as prosecuting for local government councils.

"We used to act for four local government councils... Brighton, Mitcham, Kensington-Norwood and Enfield and maybe another one, and certainly one or two country ones. Anyway, they were always having small things like dogs on the beach at Brighton and horses on the beach at the wrong time of day and parking in the wrong place and things like that. I used to do quite a lot of prosecuting for them, which was left to a junior to do and it was a good thing to cut your teeth on a bit. Most of them pled guilty so you didn't really have a fight on your hand."

He was also involved with a lot of work for National Mutual. *"Daily we had files come over, please prepare a mortgage for Jack Smith and the details would be there, and we'd settle them and go to the Land Titles Office. I gradually learned*

from the time when I started in the office, being sent to the Lands Titles Office in search of titles, to learning what all these documents were and gradually rising through the ranks to run it. I did a certain amount of wills. My father used to do quite a lot of wills and I suppose I got landed

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"You've got to play it straight. It doesn't matter what it costs you, otherwise you're done. I've always said, once you lose the trust of someone you'll never, ever get it back. Ever."

with them doing a bit or following them through. I did a bit on trusts, and then later on I did quite a lot of superannuation funds, which I wouldn't even think about today. I just wouldn't even contemplate it. But I used to prepare them and try and get them signed and away they went and they worked for people. I did quite a lot of discretionary trusts. "I did a lot of equity work... and also quite a lot of company work. We formed a lot of companies because there was a lot of activity going on. New companies were springing up and forming subsidiaries to do this, that and the other. So I got to know a lot of company law.

"Then in about 1970, maybe a bit later, somehow I got mixed up with the mining world. Maybe I went to a few mining conferences and I got known for something, or maybe I performed in mining. Anyway I was invited to form a company called *Afmecco*, which meant Australian-French Metal Company. It was the exploration arm of the French Atomic Energy Commission, which was known as *Cogema* and had an exploration arm looking for uranium around the world, one place being Australia, another one being Canada. "That was a great opportunity to learn more about mining and we did quite a lot of joint ventures. If an Australian company had a bit of land and the French wanted it, they'd go and do a deal with them and say 'well look, if we do some drilling will you give us a half interest'. So we had these mining agreements about percentages. We also had operating agreements with them... 'look, we'll

arrange for the operator/digger, you arrange to pay for half or whatever'.

"So I was constantly doing contracts, which was great. I enjoyed that lot. "That was the time when Dunstan, the Premier here, and Connor, who was the Minister of Mines in the Federal Government, were playing *havo*c amongst people like the uranium industry and telling them more or less they weren't wanted. I had to go to Canberra several times with their senior executives to talk to people in the parliament over there. "Finally they said, 'Bob', they said, 'Mr Dunstan does not want us – the Australians do not want us much - so we're shifting our head office to Perth because it is closer to France. But we would like you to stay as a director of the company because we don't know anyone else anyway'. That was a good compliment I thought."

The company finally closed its Perth office and focused on a deposit it had discovered in Canada.

In the early 1990s Piper Alderman was involved in the highly publicised Hindmarsh Island Bridge court case.

"Michael Abbott came to us and said 'I've been asked to represent a number of Aboriginal ladies in the affair relating to women's business down at Goolwa, in relation to this Hindmarsh Island Bridge. Would you as a law firm be willing to be the solicitors for it? There's no money in it because we're doing it for nothing.' We said yes, alright, we'll do it, as you do from time to time. So we took it on.

"I wasn't involved in it, but a lot

of people were. The funny thing was that I think certainly we were asked to look after these five ladies, and to protect them and take their statements and whatever was necessary. But as soon as we were acting for five, five or ten more came in and said they wanted to be in the game as well. These women were really disgusted at the women's business, said there's no such thing 'We've lived there all our lives, never heard of it', and they just thought it was bad and not good. It was creating divisions amongst Aborigines. So that's how it started and it was a really very big job. "We kept a cost of it but we never charged and it cost about \$202,000. It wasn't a bad bit of pro bono work, but you do those things. It was a great experience for some of our staff, particularly young ones who were brought in to do quite a lot of it. They worked with Michael Abbott QC and doing all of the hard work themselves and being guided by him – it had its benefits."

Over the years, Mr Piper was appointed a director on several companies, including the Cooperative Building Society, Advertiser Newspapers, the Adelaide Stevedoring Company, Quarry Industries, Fauldings and he was the first Chairman of the SAFM radio station. He reflects on how corporations and their boards have evolved over time. "There's been a lot more emphasis on corporate governance, on properly running the company and in being honest with the company. In some of the companies I found people who

have done things they shouldn't have done, people that have really been dishonest. For instance – I don't know whether I mentioned the Quarry Industries one, where you had a bonus issue and one of the directors walked through the door and was told not to come back. The Chairman was very strictly honest about it...I've always taken the Chairman's attitude and maybe that's why I got appointed to a number of places.

"You've got to play it straight. It doesn't matter what it costs you, otherwise you're done. I've always said, once you lose the trust of someone you'll never, ever get it back. Ever."

Original interview conducted by Dr John Emerson

Founding partner



Colin Tindall

A specialist in public liability law, Colin James Tindall was one of the founding partners of Tindall Gask Bentley, a firm that now has offices in Adelaide and Perth and employs more 100 staff. Retiring in 2014, Mr Tindall spent more than 55 years in the legal profession, including a period serving as a magistrate in the Children's Court.

Admitted in 1958, Colin Tindall's career didn't follow the usual path. He had no family connections in the legal profession and he worked for six months in the correspondence room for the railways, pushing a trolley loaded with train journals, before being awarded a Commonwealth scholarship to study at university.

He decided upon law and after finishing articles with Fisher Jeffries he became an Associate with Justice Abbott in the Supreme Court and then moved to Alderman Clark. It was here where learnt some life long lessons about being a good lawyer.

"The late Bob Clark was an excellent teacher. He would give you a document to draft and it would come back covered with red ink which was his way of telling you it wasn't up to his standard and you redrafted. Eventually, I am pleased to say, the red ink got less and the work got better. We did everything at Alderman Clark. I did criminal law, conveyancing, family law, civil law, contract law. You did your own court

work because there was no separate bar in those days."

After spending most of the 1960s working at Newman Page & Co, he decided to make the break and set up his own firm. *"At that time Richard Gask was in the firm as an articulated clerk, but just about finishing. I was a bit dodgy about doing it on my own so I asked Richard if he would like to come with me and set up a firm. He was pleased to do so and we started off on the 1st of July 1970.*

"Believe it or not we had one file which was a Law Society assignment to me in those days which I took with us. I think Richard may have had one other file. We depended upon friends and relatives to try and get some work. Richard Gask's father was very helpful. He was a retired businessman and he was able to recommend us to some of his friends. "Gradually the work came in but we had a lot of expense in fitting out the office. We had to employ two girls as our staff and another male person who came from Newman Page & Co as our accountant. We didn't have any money. We borrowed it all from the bank and lived on overdrafts for

about the first three years when files started to close and the money started to come in."

Mr Tindall and Mr Gask had both been trained in insurance work and they agreed the firm would concentrate on that area. *"We decided that what we wanted was a happy firm, but not a big firm. We thought we might eventually have about four practitioners. I think the first person to join us was*

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We decided that what we wanted was a happy firm, but not a big firm. We thought we might eventually have about four practitioners.

Russell Harms who's now at the Bar. Roseanna Kean was also quite early and Gail Wicks. When we got to that point we thought, well we're full up. I had no visions of the firm becoming what it now is."

As the firm grew, so too did the workload and Mr Tindall thought a career change was needed.

"In 1979, having been at the firm for nine years, the workload was getting very heavy and I thought a change of direction might be a good idea. At that time the Magistracy was not terribly well thought of. It was seen as a sort of dead end job because there was no promotion from magistrate to judge or anything like that. But there was a vacancy, they told me, that cropped up in the Children's Court. That appealed to me because it was an area in which I thought I could perhaps do some good. I applied for the job and eventually got it on the understanding, at least from my point of view, that I would remain in the Children's Court. I was there from 1979 to 1985.

"I found it a little bit frustrating because I was never sure that I was doing anything worthwhile. There were a couple of things that I do remember. I had one young lad who came up before me on a stealing charge and they prepared what they called a social background report and in that report someone had noted that the lad was dyslexic.

"I said to the Department 'what's being done about that?' and they said 'nothing'. I said 'look I'll adjourn this case for six weeks and when you come back I really do want to hear

that something's been done'. When they came back they said we've got someone onto it.

"I get a bit emotional about these good things.

"The other good thing that I remember is one day I was walking around in the Central Market area. An Aboriginal boy came towards me and he was staring at me. I was a bit apprehensive and then he stopped right in front of me. He looked at me and he said 'Giday' and I said 'good morning'.

"He said 'I did what you told me' and I said 'can you remind me of what I said?'. He said 'you told me to get a job and save my money'. I said 'oh good – did you get your job?'. He said 'Yes, I work for one of the councils on the rubbish truck. It's a good outdoor job and I love it and I've saved my money'. I always wonder what that boy is doing today.

However, changes to the rotation of magistrates to all the courts meant he was going to be moved to the adult court and so Mr Tindall decided to return to private practice at his old firm, this time as a solicitor rather than buying back in to the partnership. Most of his cases were in the public liability area and he took over handling the claims from insurance companies.

While he was doing the solicitor's work for a case involving property damage from a major bushfire on the West Coast he suffered a mild heart attack and it was a wake-up call for him.

"I think that was probably a combination of a lot of stress over the years. Stress is very real. I think it's one of the reasons why I did not encourage any of my four children to take up the law. I found it extremely stressful. You did a lot of after hours work. In the early days we were working every day bar Saturday.

"The hours varied, but in those days I'd start about nine, finish about six and then I'd come in Saturday morning work from nine till about two o'clock. Sunday morning I'd come in about eight thirty, work till about one o'clock. I used to do that every week. Later on the hours decreased after the heart attack, I had to cut back quite a lot.

"One of the highlights of my career has got nothing to do with practising law in Adelaide, it involves the Defence Force.

"When I was 15 I joined the Cadets. When I was 18 I did National Service in the Army at Woodside followed by three years in the Citizen Military Force. Originally the Infantry then in the University Regiment Pipe Band and then finally in the Artillery down at Keswick Barracks. When I finished with the Army I joined what I always wanted to belong to which was the Air Force and I signed up as a Cadet in the University Squadron. I did two years as a cadet and graduated as a pilot officer and then went on as an instructor in the Uni Squadron.

"In 1966 the Defence Force established the RAAF Reserve Legal Corp which I then joined. I stayed in that until they kicked me out when I turned 55. Towards the end

they appointed me the Defence Force Magistrate, hearing the equivalent of Court Martial but on the lesser level. That side of my life is something which I've very thoroughly enjoyed."

Original interview conducted by Lindy McNamara

Stroke of luck



The Hon. Rodney Keith Burr AM

After nearly 30 years at the same firm and then a further 14 on the Bench, the Hon. Rodney Keith Burr AM played a significant role in promoting family law in South Australia, as well as being a driving force of the establishment of the Law School at Flinders University.

According to Rod Burr, his successful legal career can be attributed to just one thing – luck. From landing articles at Playford & Boylan, through to his appointment as an Adelaide-based Family Court Judge, Mr Burr says it was simply a matter of being in the right place at the right time.

He studied law at the University of Adelaide alongside Julian Disney, Tony Abbott and Brian Martin and admits he was the “typical” student enjoying the university lifestyle.

“I think I was the first from my year to be appointed as a Judge of the Superior Court, which would have shocked and amazed every other law student in my year or probably at law school at the time and certainly all of my lecturers. But I guess I was just lucky enough to find my niche in family law and get to be reasonably good at it.

“I was still cruising through in student mode when I went to a party one Saturday night and all of my mates there said, ‘So who do you have your Articles with?’ and I said, ‘Articles – I haven’t even

looked yet’. And they said, ‘Well you had better hurry because as far as we know just about every position is taken’. I was fortunate though that a girlfriend of the time had two positions she had accepted and she said, ‘I’ve decided to take this one and you can apply for that one’. Well that one turned out to be the best time of my life professionally because it was with Playford & Boylan – Malcolm Playford and Frank Boylan.

“I stayed with that same firm in its various forms and varieties of partnerships up until my appointment to the Bench on the 2nd of April 1998.

“Life is an enormous amount of luck, as we all know. In many senses you make your own luck, but if I had not had the girlfriend I had at the time and had not gone to that party and had not had Frank Boylan just take me on straight away and had not had Malcolm Playford and Frank invite me into the partnership at a very young age and if I had not found my niche in family law, just who knows how it would have turned out. But lucky too in terms of the partners that our firm attracted. We never had a written partnership agreement. We operated as seven mates.

“There were a few who were in there for a few years but the stalwarts were Mr Playford until he retired, then David Nicolle, David Munt, John White, Trevor Edmond, Phil Harris and myself.”

His family law work evolved and he built up a substantial practice over time.

“*Is that Mr Burr? ‘Yes it is’. ‘This is John Smith. I’m calling from the White House’. And I said, ‘Yes, of course you are, John. Yes, sure. Who is this really? Is this Bill, is this Frank? Come on, stop pulling my leg’.*”

"In the end we had another partner almost full-time in family law as well. Phil Harris came along and was very much involved in that. Again luck followed me through my career because there was no way I would have ever secured an appointment to the Supreme Court because I didn't have a generalist practice and almost certainly wouldn't have been good enough across a lot of the criminal stuff etc. But the Federal Government decided to introduce the Family Law Act.

"The Law Society formed a Family Law Committee pretty soon after that, in about 1977 I think. Doreen Davey, who became a Family Court Judge, was the Chair. She resigned and others approached me and said, 'We'd like you to be the Chair', so I did, in 1978 I think, and got lucky again. That was when the Law Council of Australia decided, because it was a federal jurisdiction, that they needed a Family Law Committee, so they formed one. As the Chair here, I went off to start that and I didn't get off it until I had to retire to go to the Bench which was some 20 years later."

Mr Burr became involved in helping to set up the first National Family Law Conference in Hobart in 1984 and they have been held every two years since, attracting up to 1000 delegates each time. This was followed by the enormous task of establishing the first World Congress on Family Law and Children's Rights. *"In 1989 there was a meeting of Law Asia in Hong Kong. They issued an invitation to Stuart Fowler, who was then the Chairman of the Law*

Council's Family Law Section and myself, the Deputy Chair, to come to Hong Kong because they wanted us to help them establish a Family Law Section for Lawasia. Stuart Fowler and I go into the meeting when it's our turn, when the agenda item comes up, and they tell us about how they would like us to form this Family Law Section and we said, 'Yes, we can do that on our head, that's easy. We have all the paperwork in order and we can tell you how to garner the membership etc'.

"So we were about to leave and they then sprang the 'zinger' on us and they said 'well before you go, there's one other thing we want you to do. We want you to take on a brief for the human rights of children in the Asian Pacific region'. We had a couple of reactions. One was 'well what are you talking about', and they said, 'well we're talking about child prostitution and we're talking about child slavery, we're talking about children who are kidnapped off the streets and have organs removed for sale on the international organ transplant trade, we're talking about children who are abducted and mutilated so that they can be turned into beggars' and on and on it went. It was just absolutely horrific.

"So shakily, we got back onto the plane and regretted that we'd ever accepted the invitation. We talked about it on the way home and sort of came up with a notion of it. We came up with the idea that we would use all of the international connections that we've garnered over the years through legal politics that our roles in the Law Council had created for us, and

our roles in the Law Society and the family law profession generally and incorporate this organisation called the World Congress on Family Law and Children's Rights.

"So our first Congress was held in Sydney in 1993 because it took a long while to get all this together after the 1989 challenge. It didn't just happen overnight. So finally four years down the track, we had 850 people from 60 countries of the world come to Sydney and had the Minister for Justice announce the project we'd been working on, which was the passage of the child sex tourism laws in Australia.

"Unbeknown to Stuart Fowler and myself, the United Nations flew in for the event. Come the closing ceremony, this stranger hops up on stage and announces he's from the United Nations and presents Stuart and myself with a United Nations award each. That was the first time I think I've ever man-bugged another person on stage, and it was Stuart Fowler.

"We received our second huge boost when we secured this American/Canadian organisation called the Association of Family and Conciliation Courts (AFCC) to co-host the second World Congress in San Francisco in 1997. Stuart and I were in New York in 1996 for a pre-arranged meeting with the United Nations. The woman who was the CEO for the AFCC at that time was married to a guy who was a former Democrat politician in Washington, so he had some connections. So we boldly asked if there was any chance he could get us in to see Hilary Clinton, the First Lady at the time, because she had

quite a reputation as a child rights lawyer before she went to the White House. He tried and he tried and he tried and finally he said, 'No, I'm sorry. Can't do it'.

"Anyway it's the night before we're due to fly home. We'd dragged the Chief Justice of the Family Court along with us, Alastair Nicholson, who has an immense passion for human rights and children's rights. He was a pretty handy sort of 'big ticket item' to cart around with us. So anyway the three of us are in our hotel room again doing what you do – having a few beers after you've met with the United Nations and the phone rang. I pick up the phone and this fellow says, 'Is that Mr Burr?'. 'Yes it is'. 'This is John Smith. I'm calling from the White House'. And I said, 'Yes, of course you are, John. Yes, sure. Who is this really? Is this Bill, is this Frank? Come on, stop pulling my leg'.

"Anyway, this went on for a while and in the end he convinced me. So I apologised and he said the First Lady wants to know whether or not we would be able to meet with her the day after tomorrow at the White House in Washington. We said, 'Oh look, just let us look at our diaries. We think we can squeeze that in'.

"We flew down to Washington and went through the most intense security check you can imagine. We sat down with her for our allocated 10 minutes because there were another 40 people in the waiting room. In the end she became quite passionate about it and gave us half an hour and agreed to be the Patron of the World Congress."

Original interview conducted by Lindy McNamara

State Bank commissioner



The Hon. Samuel Joshua Jacobs
AO QC

The Hon. Samuel Joshua Jacobs AO QC had a stellar career in the legal profession, rising to be appointed a Queen’s Counsel in 1965 and serving as a Supreme Court Judge from 1973 to 1990. After his retirement, he presided over the Royal Commission into the collapse of the State Bank, which had a significant impact on South Australia in the 1990s.

The Hon. Sam Jacobs was born on 6 December 1920 and passed away on October 11, 2011. He made a significant contribution to the legal profession in South Australia and was the President of the Law Society from 1972 to 1973. In addition, he served education on the Council of the University of Adelaide where he was Deputy Chancellor from 1984 to 1992 and Deputy Chairman of the Council of Governors of Scotch College from 1970 to 1987.

His also served his country, as an officer in World War II, from 1940-1944.

Admitted as a practitioner in 1946, his first job was as an Associate to Sir George Ligertwood and later to Sir Mellis Napier as Chief Justice.

“That was a very interesting experience because you saw the profession operation from both sides of the Bar table. You saw how judges thought and responded and conducted cases and conversely how cases were either well or badly presented at the Bar.

“Ligertwood and Napier were really

quite different. Ligertwood was a very distinguished lawyer. He’d been leader of the Australian Bar before he was appointed a judge. I was sometimes critical of him because he didn’t use his legal ability. There was a tendency then on the part of all the judges to defer to the Chief Justice, Sir Mellis Napier, who had been a judge since 1923 when he was appointed at a very early age, and he was deferred to as it were as the leader of the court, which I thought was unwise.”

Following his time as an Associate, Mr Jacobs joined the firm of Brown Rymill & Stevens in 1948, remaining there until he was appointed to the Bench in 1973.

“I cut my teeth in the Courts of summary jurisdiction. My firm acted for the Royal Automobile Association which provided free legal aid to people charged with traffic offences and we used to go to the Courts of summary jurisdiction. I then pleaded for them in litigation, or sometimes we’d contest the charges. I became sort of quite an expert in road traffic law and indeed helped to shape some of the amendments, particularly the rather draconian provisions of failing to give

way to the right when you couldn’t possibly see at blind corner.
“The firm changed its membership, of course, when Dr Brown retired - he was the senior member - and Rymill became Lord Mayor and left the firm. We recruited newer members Jim Boucaut and Derek Bollen. When Jim Boucaut unexpectedly died at the age of 46 from a severe heart attack, Edgar Stevens had just retired and

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I was thought to be a bit soft in the Criminal Courts, but I suppose I thought the law was a place for mercy and compassion in the administration of criminal law.

we had to find somebody else to do the ordinary day to day work of a senior solicitor. That's when we persuaded Jim Mellor, who was really running the old firm of W & T Pope, to join our firm as the senior solicitor. It became Stevens Mellor Jacobs and Bollen.

"I suppose in my early career, my mentor was George Ligertwood. Later on I had close relationships with my own generation and my own peers. Bob Fisher and I, in particular, became very firm friends and regular advocates. We were in effect leaders of the local Bar, often opposed to each other but always retaining – and even now still retaining – a close friendship and respect for each other."

Mr Jacobs' first encounter with the High Court was in 1950 as a junior to Mr Ross Casey in a patent case brought against the South Australian Brush Company, which had produced a product called the 'Sweepiest Broom'. It involved a new method of inserting bristles into the head of the broom and it was alleged the company had infringed another patent.

"We managed to declare the patent invalid for lack of novelty. When that came on appeal to the High Court in 1950, Latham was Chief Justice, Starke was still on the bench, so was Evatt and so, of course, was Dixon and McTiernan. Barwick KC led for the other side and he was at the height of his forensic skills. He was a most persuasive and impressive advocate, able to reduce the issues and express them in the simplest, uncomplicated terms. He was undoubtedly the leader

of the Australian Bar. He was never a great success as Chief Justice because he never really accepted the impartial judicial role with equanimity. He always wanted to be in the arena, to be in the fight."

After many high profile cases, including murder trials, Mr Jacobs was appointed to the Supreme Court and took on the role of judge.

"Charlie Bright became my mentor. He guided me through the early stages of my judicial career – what to do and what not to do and so on.

I enjoyed my judicial career. I have to say with due modesty that I think I was regarded as a good judge and, in particular, by Counsel interstate who appeared before me from time to time. I was thought to be a bit soft in the Criminal Courts, but I suppose I thought the law was a place for mercy and compassion in the administration of criminal law.

"Although I've had little criminal experience, I was never once upset by the Court of Criminal Appeal in the whole of my 17 years on the Bench. I took a lot of trouble in the Criminal Court, particularly with my directions on the law. Unless time and circumstance made it important to sum up immediately, I generally took time to prepare my summing up to the jury to make certain that, as far as I could, I got it right."

When retirement came at age 70, Mr Jacobs had little time to rest as a month later he was appointed to the Royal Commission into the State Bank. *"I had good Counsel. Not only was John Mansfield assisting me but*

Michael Abbott was appearing for the Directors of the bank, and the State Government was represented.

"It lasted for two and a half years. I wrote the reports with some assistance. We did have computers at that stage but I was not computer literate and I much preferred to listen to evidence and to look at witnesses than stare at a computer screen. I took my own fairly copious notes. We didn't sit on Mondays, and on every Monday I went through the previous week's procedure, more or less putting together the skeletal provisions of the ultimate report.

"Although I had some assistance in drafting from counsel assisting – Simon Lang was junior counsel to Mansfield – I wrote or settled every word in the report. Indeed there were two reports which I wrote. They were separate terms of reference, the first term of reference was the relationship of the Bank to the government of the day and the second term of reference was into the Bank's activities and to the propriety of them, the role of Mr Marcus Clarke in particular, and conflicts of interest and things of that sort.

"I think the government were a bit disappointed, I think they thought that a Royal Commissioner was going to come down on the Government's side but they chose the wrong man. I wrote it as I saw it. I think Chris Summer was the Attorney General and I think he was a bit disappointed that I didn't let the Government off a little more easily. But it wasn't only Bannon and it wasn't only Marcus Clarke, the Chief Executive. There were other factors.

"Bannon had complete trust in Marcus Clarke and that was one of the problems. He accepted Marcus Clarke's advice – and he was a charismatic man, he was very persuasive – in preference to any other advice. If he'd had a stronger under-Treasurer... because the then under-Treasurer was really much a back room man without much political savvy. If the Treasurer, who knew what position was developing and how the Bank was going bust, if he'd thumped the table and been more emphatic, Bannon might have listened to him but he gave up advising Bannon because Bannon took no notice of him.

"I was very critical also of the Reserve Bank, because although the State Bank was not subject to the oversight of the Reserve Bank as the trading banks were, the Reserve Bank nonetheless took an interest in the performance of the State Bank. After all it was seeking to operate in competition with the trading banks. The Reserve Bank knew how unwise some of its activities and procedures were, but it never alerted the Treasurer because it said it had nothing to do with the State.

"It really was a very sorry story but very interesting. I enjoyed writing the report which I might say I hope, in due modesty, received some acclaim for its literary excellence. I'm told it was a recommended script for reading at the Flinders University because of the use of language and use of metaphor and so on. You get some little satisfaction from things of that sort."

Original interview conducted by Dr John Emerson

Among equals



The Hon. Margaret Nyland AM

The Hon. Margaret Nyland AM built up an impressive family law practice before being appointed a District Court judge in 1987. She then ascended to the Supreme Court bench in 1993 – the second female appointment to this court in South Australia. She has been a trailblazer for women in the law and continues to give her support to young lawyers.

The Hon. Margaret Nyland AM will always be grateful for the support provided by her parents to get a good education, which ultimately enabled her to secure a Commonwealth scholarship to study law.

“The interesting thing about my parents is that neither of them had a good education. My father spent most of his formative years in Goodwood Orphanage and did not complete primary school. He went out to work when he was 11 years old.

“My mother finished primary school, but she went out to work when she was 13. Her first job in life was that of an egg wiper at Farmers Union, which used to be at Mile End.

“But they both, where I was very fortunate, had this very clear belief that the way to success in life was through a good education.”

She attended Adelaide Girls High, where the students were taught to “believe that we were superior to men” which may explain why Ms Nyland was so passionate about ensuring equality between the sexes throughout her legal career.

“When you talk about

discrimination between the sexes, a lot of these changes in a sense are recent. One of my favourite examples of how things have changed is that it always surprises me that we did not have women on juries until 1966. Now for some people I suppose that’s a long time ago. But when I started practising law there were no women on juries, that’s apart from no women judges or anything like that. To not have half of the community involved in the criminal justice system is absurd, but that’s how it was.”

However, when she went to organise her Articles she experienced first hand the prejudices surrounding females in the law.

“I started looking for Articles in my third year. My results actually had been pretty good up to then, so I really didn’t think it was going to be a major problem, but I didn’t know any lawyers or anyone in the law.

I sent off my application to various law firms around the town. As I recall now, I don’t think I even got to an interview stage, because I was rejected by everyone. They didn’t take

on female Article clients because it was a waste of time training them because they always just left and got married, so all the money and time put into training was down the drain.

“My father at that stage was a taxi driver and one of his regular fares was John Davey, who was a visually impaired lawyer, of a firm with Gun and Davey. His regular drinking companion at the Public Schools Club was John Bray QC. Anyway, Dad picked up John Davey after one of these occasions and he told John about my problem, my desperation about getting a job. John Davey was very nice. He said ‘we haven’t got a position in our firm, but my friend John might have some ideas about what to do’.

“He spoke to John Bray, who apparently said ‘well there’s a girl in our firm, perhaps she might be prepared to take her on’. So he set up an interview for me to see Pam Cleland, who was then one of the few women practising in the criminal courts.

“Pam ... offered me the job, and then I signed my Articles just before Christmas. Towards the end of my first year in articles, Pam had decided to set up her own practice up at

Waterfall Gully where she also lived. When I was admitted, she kept me on as an employee.

“One of the nice things Pam did – she did many nice things for me I suppose – but one of the nice things she did, when it came to the day of my admission, she thought that it was only proper that John Bray move it. So John Bray actually moved my admission which was really nice.”

Ms Cleland’s older brother Peter, who was a lawyer, joined the practice and the firm became known as PF and Pam Cleland. After a short time, Ms Nyland was also made a partner.

“We used to do some general work, but she mainly did matrimonial work and criminal work. She actually had a very big practice in the Magistrate’s Court, and in my early days as an Articles clerk was where I first started heading to Court was in the Magistrate’s Court.

“I think because Pam was female, so in that sense non-judgemental, she had a lot of gay men come to her with their problems, and she would act for them. I remember going off to court, I actually had instructions in

one of my very early cases, going off to the Magistrate’s Court appearing for a man who had been charged with a homosexual offence, and we’re talking about consenting acts between adult males, we’re not talking about paedophilia or rape or anything like that. It’s absurd really when you look back on it.

“I remember going into the Magistrate’s Court appearing before Mr LE Clark SM. It was then the Police Court and he was the senior Police Magistrate. When the case was called on, the Police prosecutor stood up and asked Mr Clark to make an order that all women be removed from the courtroom, because the facts of the next case were so disgusting, they were of homosexual acts between men, that they weren’t fit for female ears. Mr Clark readily made the order that all women leave the courtroom and I was there saying, putting my hand up and saying ‘excuse me’, I said ‘well please could I be exempted from the order because I have to stay to represent my client’.

“In the end I don’t know who was more embarrassed about the whole

thing. But that was the time, there it was.”

With the family law practice expanding, Ms Nyland was getting a lot of experience in court work.

“I was a junior lawyer, Pam was doing all the criminal stuff in court, I was running the Magistrate’s Court practice. I did a lot of work in the Magistrate’s Court and was dealing with a lot of the matrimonial work. Pam was not very good at pleading, she found it rather tedious I think, so I used to end up drafting quite a lot. There used to be petitions in those days and I used to do basically the solicitor’s work and she was really doing the barristerial work, and then kicking in with some of the other stuff as well. It all worked pretty well.”

However, Ms Cleland eventually decided she didn’t want to continue the solicitors’ side of the business and she was going to the Bar – and the dynamics of the practice changed.

“She had another premises on the same property, it was quite a big property at Waterfall Gully, so she moved over to the other side of the garden in effect and became a barrister. I took over the whole practice, which I ran by myself for a year, which was very hard work, because I was still doing a lot of Magistrate’s Court work and police work and doing the matrimonial.

“I was in desperate need of getting some help and I was talking to Dame Roma about it at one stage and said ‘it would be good if I could find someone to join me because I can’t be in all these places at once’. Piers Plumridge at that stage was her Associate and

she pushed him into applying to me for a job. So he actually came to work for me. We continued the practice for a while but it was just expanding, it was just getting bigger and bigger. So I then approached David Haines, who was then working at Povey Waterhouse & Basbeer and he was doing their matrimonial work. He then came into partnership with me. Piers still continued to work for us, and we changed the name – we kept Pam’s name in the firm but we became Cleland Nyland and Haines.

“That lasted for quite some time, but the practice was growing and we were moving to an age of technology where you had to have more space; there were no longer manual typewriters and we were changing over, and you had to have things like fax machines, and we just ran out of space. The end result of all that was that David and I bought a property at Norwood and we shifted the practice to Norwood and then changed it to Nyland Haynes & Co. “We continued the matrimonial practice, and by this stage of course the Family Court had been established, and we started practising in the Family Court jurisdiction. By the time I ended up being appointed to the Bench, I had the biggest family law practice in South Australia.”

Original interview conducted by John Goldberg

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I was in desperate need of getting some help and I was talking to Dame Roma about it at one stage and said ‘it would be good if I could find someone to join me because I can’t be in all these places at once’.

A family affair



Kevin Ward

A member of one of the leading legal families in Adelaide, Kevin Ward made many friends during his career as a solicitor, specialising in insurance and estate work. He also served his country during World War II.

With his father such a strong influence, Kevin Ward always knew that his life time career would revolve around the law. *"He was one of the greatest lawyers that ever was. He had the first James case in the Privy Council and he went over there and argued it and won it. "He had his own firm, Ward Morrison Lichfield and Ward. Well, first of all it was Edmunds Jessup and Ward, and then by a set of coincidences they all seemed to die annually from about 1939. Charlie Jessup died first, then Charlie Edmunds, then Paddy Olstrom. They all carked it and the old man thought, well he might be the next one, next year, but he wasn't. "It (the law) was all we ever had. You see in those days, this was Depression days, your choice of jobs was not wide at all. Now, for instance, I didn't like medicine, I don't like that business of bodies and things like that. What else could you do? Banking. Well there was never much future in being a bank clerk and law seemed to appeal to me so I did it. I hated school very much, but I loved university."*

Mr Ward started at the University of Adelaide Law School in 1941, but his studies

were soon interrupted by his service in World War II.

"I was in the Air Force. I enlisted when I was 18 – that was 18 January 1942. I was called up in August... I remained in the Air Force until January 1946. I was a navigator. "I got discharged in January 1946 and we started law again in March 1946 and continued on. I had done six subjects before that, and we just continued on and completed our courses. There were a lot of ex-servicemen in it, Laurie Kirkman, Jim Mellor, all good mates of mine. We all just went ahead and finished our courses."

Mr Ward was admitted in 1948, the same year he married Joan.

"I started in my old man's practice and remained ever since, never changed at all.

"I'd all sorts of ideas when I started off, but I soon lost a lot of those. I was going to be a great criminal lawyer. I got hold of a few criminals and hated the sight of them, they lied like troopers – so I got into insurance, which apart from anything else is a very lucrative side of law to get into. I remained in that right up till the time I retired in 1994."

However, while insurance work paid the bills, Mr Ward really enjoyed estate work.

"I found that very good to do, but it wasn't as paying and it was slower. The insurance work after a while, you could whip through it like one thing. But estate work you couldn't, you had to be slow and sure and everything had to be right – every 'i' dotted and 't' crossed. That's the way that worked. The insurance stuff you could do so easily, and it followed a pattern."

Sometimes he would be required to appear in court, but that definitely wasn't his favourite part of the job.

"Unfriendly mob they were – and then I finished up a Judge for about the last 20 years on the Legal Practitioners Tribunal. You're sitting there and they call so and so, in comes poor so and so. He walks in – no one says 'G'Day' to him, no one says 'good morning' – you stand there, 'take The Bible in your right hand', swear him in, 'what's your name?'. He doesn't know anything at all. I think it's a horrible place myself and I didn't like it at all. So I remained doing solicitor's work. I found that much more to my liking."

Over the years Mr Ward was

involved with a number of big insurance claims, but says he handled all cases in the same manner regardless of the dollar value.

“It didn’t matter really how big they were. If they were a big claim, it meant that the liability side of it remained exactly the same as it ever was, but the damages side had to be examined in much more detail. If you got a claim for \$1000 that’s a pretty easy one to dispose of. If you got one for \$1 million, that’s not easy at all – that one is hard and you’ve got to really work at that to add them all up. “We had lawyers there, I won’t mention names, but I wouldn’t be up for defamation because I could prove its truth, who’d make a claim for say \$20,000 – ‘how do you make that up?’ ‘Oh, it’s a global figure’. I said, ‘you can’t have global figures in

claims for damages. You’ve got to be able to justify what you’re claiming: so much for general damages, so much for loss of wages, so much for this’. But they would just think of a figure, oh \$20,000. It bore no relation to reality at all half the time.”

As Mr Ward’s workload grew, so too did the size of the firm and there were many name changes.

“When I first went into it, there was my father, Tom Molleson, Ken Lichfield, Bob Ward, myself, Gerry Ward – there were six partners. We grew to over 20 finally, but we had over 50 solicitors at one stage there.

“We were at the Epworth Building first of all, but that was no good. That was built in 1927 and all of the rooms had doors opening onto the passage. We finished up with about 50 or 60 rooms and it was a lot to supervise if all the doors were shut when they should have been shut and all this sort of thing.

“It was Edmonds Jessup & Ward, then Jessup Ward Olstrom & Molleson. Then Ward Molleson Lichfield & Ward, and then Ward & Partners.”

Coinciding with the growth of the firm was the expansion of his own family, with Mr and Mrs Ward welcoming 12 children – three of whom followed their father into law. Juggling a busy home life, Mr Ward somehow managed to work 70 hours most weeks.

“There’s work to be done and money to be earned. The two went hand in hand. I never believed in just working 40 hours and dropping off then. We used to go back night after night and get stuck into things there.

“I didn’t mind work. I’d just as soon not work as work, but I think if work is there to be done, you’ve got to do it. If it’s not there well don’t bother about it, sit down and enjoy yourself, have a beer – a Scotch now.”

Catching up with fellow lawyers was a big part of his professional and social life.

“Yes, I did have lots of friends in law. We fought hard and mucked around and all that sort of thing, but I did have lots of friends in it.

I never made any enemies. Why people can’t stand this one and can’t stand that, we never had that.

Although we fought a lot, we’d go and have a beer afterwards.”

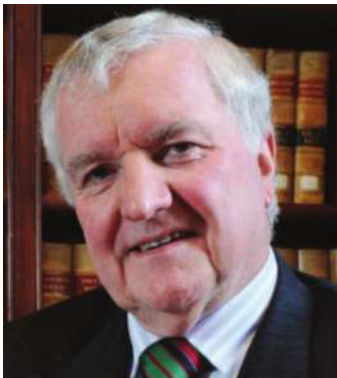
As daughter Alice Colgrave recalled, her father was well liked by his contemporaries.

“I remember growing up that we had all these children at home anyway – but all Terry’s (Worthington) vintage of people who worked for you, they were always at our house. They came to every wedding, every party. The firm was a big extension of our family, that’s how it felt.”

Sadly, Kevin Ward passed away three months after this May 2009 interview was conducted by Dr John Emerson.

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Top gun



The Hon. Kevin Duggan AM
QC RFD

The Hon. Kevin Duggan AM QC RFD was appointed Crown Prosecutor at the tender age of 29, a testament to his prowess in the legal profession and his superior court work. He eventually moved to the Independent Bar before being appointed a Supreme Court Judge, serving on the Bench for 23 years before his retirement.

While he enjoyed the sporting and academic life as a boarder at Rostrevor College, Kevin Duggan flourished at university and was always grateful he chose to study law instead of pursuing his adolescent passion to become a journalist.

"I really enjoyed my time at the Law School. We had some brilliant academics teaching us. Colin Howard from England taught us Criminal Law, Rupert Cross came over at one stage and delivered a series of lectures on Evidence. We had excellent academics, but in addition to that we had a very good mix of practitioners who were prepared to come down to the Law School and lecture. Roma Mitchell lectured us in Family Law, John Bray in Roman law, Andrew Wells, in Property, Eb Scarfe and George Walters in the Law of Evidence and Procedure, Howard Zelling in Constitutional Law and Chris Legoe who delivered a series of lectures on Defamation."

In 1963 he started Articles with the commercial law firm of Alderman Clark and this had a big impact on the direction his career would take.

"Harry Alderman was an all-rounder. He could go into a murder trial one week and some heavy commercial matter or constitutional case the next week. He was an extraordinary barrister and was the President of the Law Council of Australia. The profession were convinced he could walk on water."

"Robert Clark was my Principal and, along with Jack Astley and Bob Irwin, regarded as among the leading commercial lawyers in Adelaide."

At the time Mr Duggan joined the firm, it was an era when little modern technology was used in the profession.

"Some of the partners would have their secretaries located in offices adjacent to their own, but then there was the typing pool and as articulated clerks we spent a fair bit of time taking material into the typing pool and you would hear a burst of swearing when a typist made a mistake. If you made a mistake on the old typewriters you had to wrestle with a solution called whiteout and three pieces of paper separated by carbon sheets to correct it. No simple tapping of the delete button."

"And then, of course, copies of material

would be done with a Gestetner and people would get ink all over their hands and so on. The other thing was probably the job the staff hated most at Alderman's, and that was putting a seal on a document because the firm insisted on doing things the traditional way. The candle would be brought out and the red wax would be melted and then the seal would go on, but not before a blue ribbon had been put in place on the document. Disaster occurred when some of the wax went over the document that they were preparing and they had to start again. Bob Clark's concession to progress was to change the tape we wrapped around our files from red to pink. He thought our clients might resent red tape."

"The new technology has had a considerable effect on the courts. I take as one example the writing of judgments. I wonder whether word processing is one of the contributing factors to the length of reasons. If you look back at the judgments up to about 1960 or 1970, they were usually very short and in this they followed the English pattern. There was a discipline in using plain and simple language which succinctly conveyed

what had to be said. There are other reasons for longer judgments which have more to do with judicial culture. It seems that if you do not write at length the reasons might appear to lack gravitas.”

After completing articles, there was a new job opportunity, with an associateship on offer with Sir Edward McTiernan of the High Court.

“Being offered the position came like a bolt out of the blue. I went in to tell Bob Clark, thinking he would be quite pleased. He said: ‘Well Kevin you can do that if you want to but you don’t know how long you’ll be away. People forget you very quickly’. And he said: ‘You’ve got to wonder whether this has not long term ramifications for your career in South Australia’. I was absolutely downcast. It was something about the profession at that time. If you went into a firm, you were quite often there for life, none of this firm jumping or anything of that nature which seems to occur these days. You thought you were lucky enough to get into a good firm and you fought like mad to stay there. I thought that must be what he is on about. It is obvious that he had my interests at heart and wanted to advise me accordingly.

“However, I thought ‘I’ll get a second opinion’ and I went in next door to Neil Ligertwood. He had his feet up on the table as he usually did in his very relaxed fashion and I told him about the offer. He said ‘You’re joking?’ and I said ‘No, I’m not’. He said ‘Grab it’ and I said ‘Mr Clark has just told me that I should stay put’. Neil Ligertwood said ‘The experience will be absolutely magnificent. Go straight away’. So I did and I certainly didn’t regret it.

“One of the great advantages was

that I would be able to see the top counsel in Australia appearing before the highest court. The High Court was peripatetic in those days. The Canberra headquarters was yet to be built, so we travelled to each State and usually the profession would have a dinner when the High Court arrived. As associates we got to know all the young people in the profession in every state and many of them became lasting friends.”

Returning to Adelaide after two years, Mr Duggan took up an offer of work from the Crown Prosecutor at the time, Eb Scarfe. “I was really flung off the deep end into cases. There were a lot of them, there were only a few of us and so the first thing he put me into were murder committals, because the Crown Prosecutor’s Office used to do murder committals and in those days, they were the full committal, all the evidence was called and quite often defence counsel cross-examined. Then Eb said to me ‘Right. You’re in for a jury trial now’ and he gave me a couple of jury trials and then from there on it progressed to the point where, because of the very few people in the department, I was doing work that if you were in the profession, you had to wait ages before you worked at that level.”

The untimely death of Mr Scarfe in a road accident saw Mr Duggan promoted from Assistant to Crown Prosecutor, at only 29 years of age.

“At the time that I took over as Crown Prosecutor there was no District Court. It was really the Supreme Court criminal work and that court handled everything from breaking and entering cases to murders. All indictable offences, if they were not minor indictable

offences, went to the Supreme Court. It was a case of administering the department, giving opinions, giving advice to the police and then prosecuting in the actual cases themselves.”

He spent eight years as Crown Prosecutor, taking Silk towards the end of the period and then decided to move to the Independent Bar. After a further eight years of what his wife Rosemary described as his happiest times in the profession, he was appointed to the Supreme Court.

“The Chief Justice was Len King. Then there were Sam Jacobs, Michael White, Chris Legoe, Brian Cox, Bob Mohr, Rod Matheson, Derek Bollen, Robin Millhouse, Graham Prior, Trevor Olsson, Maurice O’Loughlin and John Perry. It was a particularly happy and collegial court and this was a considerable aid for promoting efficiency.”

He presided over some particularly nasty trials during his 23 years on the Bench and while some had a profound impact on him, Mr Duggan’s thoughts were always with the jury.

“I suppose it helps if you have become battle hardened in your career. I think that the people in far more jeopardy of being affected in these cases are the jurors. The jurors have quite often never heard of anything like this except reading it in the newspapers and they have to sit through some dreadful evidence, in some cases dismembered bodies, multiple killings, terrible sexual cases. My sympathy is very much with them.

“Judges are like surgeons, that is their work and it is amazing the extent of detachment that you get after a while. You don’t really think

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Neil Ligertwood said ‘The experience will be absolutely magnificent. Go straight away’. So I did and I certainly didn’t regret it.

about it because it’s been so gradual. That doesn’t mean to say that you don’t have cases that worry you. I was involved, just before I retired, in a case that the media described as the house of horrors case and there were little children in that case who were tortured and virtually treated as slaves. It was one of the most distressing cases I have experienced and that did have an effect on me and it would have had an effect on anybody.

“In that case an experienced doctor who was giving evidence in the case broke down herself in the witness box when she was describing the injuries. There are some cases that are just so bad they will affect everyone. But I repeat, that whenever I think of these cases I tend to think of jurors who have to sit through them and I think that it underscores the magnificent contribution to the community that jurors make.”

Original interview conducted by John Goldberg

From humble beginnings



Ted Mullighan QC

One of the great characters of the legal profession, Edward Picton (Ted) Mullighan QC started his career well and truly at entry level – as the ‘office boy’ and docket clerk in the Crown Solicitor’s Office. However, he was destined for much greater things, rising to be a respected lawyer, barrister, Queen’s Counsel, Supreme Court Judge and finally the Royal Commissioner looking into the abuse of children in State care.

By his own admission, Ted Mullighan was a “very poor student”, who stumbled on the law only by a stroke of good luck and a bit of nepotism, when his uncle helped to secure a job for him in the Crown Solicitor’s Office. After 15 months working as the office boy and the docket clerk, he embarked on part-time legal studies at the University of Adelaide in 1957.

“I did two subjects a year. I didn’t do a law degree. There was another system in those days. A law degree, I think, had 17 subjects, two of which were Arts subjects and five of which were not core subjects or compulsory subjects.

“But if you wanted to do a Final Certificate you could do 10 and they were what I call core subjects for legal practice, like Crime, Torts, Contracts, Property, those sorts of subjects, Mercantile Law, Evidence. So I did those and then I could stay in the Crown Solicitor’s Office. The only negative thing was that I got paid an articulated clerk’s salary, which was £5 a week.”

Besides the paltry salary, Mr Mullighan says he wouldn’t have

swapped any of his time at the Crown.

“Andrew Wells was an Assistant Crown Prosecutor. Ralph Haigh was in the Crown Law Department. Joe Chamberlain was my Principal. Eb Scarfe was the Crown Prosecutor. Brian Cox was there for a while. Reg Kiernan became my Principal when Joe went to the Bench. Toby Gordon was a terrific fellow. Lots of people who would teach you, but I think the thing I learnt there most was the atmosphere and what an important place it was.

“This was where people got prosecuted. This was where the big cases were done for the Government and the advising was done for the Government. It was really good for me. I found that because I was an articulated clerk I was allowed to go into court and do minor prosecutions – like too much fat in the sausages and the Prices Act.

“You actually have to get up and speak in front of a room full of people as an 18-year-old... but I found that even then I learned the lesson that I followed all my life – that once you got going, if you had prepared, you were fine. You had to prepare. You couldn’t

just pick up something and expect it to roll off the tongue. It wouldn’t. You had to prepare everything.

“Some magistrates were tough, almost piggish I thought, picking us up on things. That was all good for me.”

After being able to watch – and learn – during his time at the Crown, Mr Mullighan decided to move into private practice.

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*I liked the jury.
I liked it all, but
I liked the jury
particularly
because it works.*

“I thought the passport was to be a judge’s associate. I was very friendly with Patrick Alderman, who was Harry Alderman’s son. He (Harry) took an interest and I discussed it with him. His partner had been Jim Brazel, and Brazel had been Counsel assisting in the Stuart Royal

Commission. So he told me what to do and I wrote a letter to Brazel, not to anybody else, and he took me on as an associate. Sadly, I was only with him for less than a month when he died.

"I apparently said a very stupid thing. It was in the middle of a trial. I got the message in the morning that he had died and of course the lawyers were in court waiting to resume the trial. It was a big trial. Teubner and Humble was the name of the case. I went into court and apparently I said, 'oh I have to tell you that His Honour won't be sitting today because he's died' – which is all right, but it's probably better to put it around the other way. It suggested he might be all right tomorrow but not today!"

"Then I went to Joe (Chamberlain) and I had a terrific time with Joe. I liked Joe. He was very good to me. He explained things. I learned what you have to do. It comes back to work. I was with him for about a year.

"Then it was time to move on, so I got a job with Roma (Dame Roma Mitchell) when she had just taken Silk. She had a very large practice. A lot of people don't know this but she had a large practice as a family lawyer, but also as a union lawyer. She had two or three trade unions that she acted for and so I went in there because she had to give up all her solicitors' work. I had three years with her which was fantastic. She gave me every opportunity, every encouragement and plenty of work to do, strong discipline.

"I acted frequently against J K

Alderman who was Harry's brother. He formerly worked in the Children's Welfare and Public Release Department getting maintenance out of erring spouses. He gave me work and encouragement and instruction and so on.

"I had three people that I always think of who taught me and were very good to me as mentors – Joe Chamberlain, Roma Mitchell and J K Alderman. The same message came with all of them – you have got to do it yourself, you have got to work hard, you have got to prepare well and the client comes first. It is the client that matters, not you. I was very lucky."

Just as the young lawyer was getting his footing in the profession, Dame Roma was appointed to the Bench and he thought everything at the firm would collapse.

"But it didn't. I stayed in practice with the other partners until the early 1970s when I went off on my own. When Roma left, her name just came off. It was called Haese, Davey and Mullighan – unkindly called 'Crazy Daisy and Hooligan'.

"I took Silk in 1978 so I had that period of 1971 to 1978 where I was practising alone. Towards the end I had a few people in the office, lawyers in the office with me as partners. I had about three and a half years alone. It was very, very satisfying a lot of the time.

"I made a decision then that anyone who tries to do everything is going to make a mess of everything, so I limited myself to three types of work

– matrimonial work, criminal work and personal injury work, but not Workers Compensation. That is what I concentrated on."

He joined Jeffcott Chambers in 1981 and stayed there until he was appointed to the Supreme Court Bench in 1989. Reflecting on his time as a judge, Mr Mullighan was full of praise for the important role played by the jury.

"I loved the jury. I used to say – as I got older and more experienced and new judges came along – I said you do it however you like, of course, but my advice to you is be very careful about how you treat the jury. Include them in everything. Make out that one of the women on the jury is your mother, decent, honest, terrified person who wants to get it right, and if you treat the jury like that you'll be surprised. And be composed. I liked the jury. I liked it all, but I liked the jury particularly because it works."

Mr Mullighan resigned from the Bench in 2004 to tackle one of his hardest and most emotionally draining jobs of his career – heading up the Royal Commission into the abuse of children in State care. He was widely respected for his sensitive handling of stories from alleged abuse victims, some whom had never spoken before about their experiences. Mr Mullighan's 600-page report with 54 recommendations was tabled in Parliament in 2008. He found 242 children in State care in South Australia had been abused. "When you take on something big – I

mean the bushfires is one example, a long criminal trial that I did was another example – you settle, it becomes a way of life, and you've got to try and exclude everything else from it.

"Having created this opportunity for people to come and tell their stories in a very appropriate atmosphere – it was appropriate in that the staff were professional, we had all the assistance we would need like psychiatrists, psychologists, counsellors. It was this sort of setting to take the evidence, not sitting around a table, not a courtroom. You could see people developing confidence as they went along.

"I found all of that a privilege. That is the way that I'd put it really.

"It could have gone on, for another couple of years, but I think if you let those things go on too long they lose their credibility so I was the one who brought it to an end. The terms of reference of course were very limited when they were closely analysed. "I'm pleased I did it. It wasn't easy but I'm pleased I did. I still get people ringing me and stopping me in the street, you know."

Sadly, Mr Mullighan passed away in 2011 at the age of 72. Original interview conducted by Dr John Emerson

Appeal of law



The Hon. Bruce DeBelle AO QC

From a childhood spent in country NSW studying via correspondence, the Hon. Bruce Malcolm DeBelle AO QC rose to become a Supreme Court Judge and Royal Commissioner.

As a child, Bruce DeBelle always thought he would become an engineer like his father, however, a guest speaker during his final years St Peter's College inspired him to pursue his love of the classics – and study law.

“I was going to build great bridges and all those kinds of things, but lack of proficiency at mathematics, combined with, I think, a love of the classics – I was very keen on Latin and history and indeed, French as well – meant that I did an arts-oriented course. There was an old scholar of the school, Richard Blackburn, who was then Professor of Law at the University of Adelaide. He came out to school on a careers day and talked about the law and I was captivated by him. I can remember him coming to school and I went home and I said to my mother, ‘I’m going to do law’.

It was a decision he never regretted, loving his time at university and becoming involved in several university and Law School revues. He began articles with Pickering Cornish & Lempriere Abbott and near the end of his time

there was presented a wonderful opportunity.

“At the end of my last year, I had passed my final exams and I was disappointed that I had missed on scholarships to England. I received a phone call from Chris Legoe, who was then the only barrister in Adelaide practising independently as a barrister in the Cowra Chambers in Grenfell Street. He rang me and asked me would I like to be a High Court Judge’s Associate? Well, one could hardly imagine a more attractive offer and I accepted, of course, and I became Associate to Justice Windeyer of the High Court of Australia, Sir Victor Windeyer. I was the very first South Australian to be appointed.

“It certainly had a profound impact on me. He was the most extraordinarily generous person to work with, although I always felt that chambers were run on somewhat military lines. At the end of the war, he finished a Brigadier and later was promoted Major General. I always thought that I was the young subaltern in the Chambers, and tipstaff was the Judge’s batman, as it were.

“When I finished my associateship

in February 1962, I went to what was then Stevens, Boucaut, Jacobs & Bollen and resumed my articles. In those days, a judge’s associate in the Supreme Court would count as part of your articles. Sadly, my High Court associateship quite curiously wouldn’t suffice, so I had to do another year’s articles. I got a short exemption

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Sam Jacobs had a great capacity to get on top of a case and he certainly had a great capacity also to point out the flaws in what I’d prepared as a junior. It was a great learning experience.

of about three months and I was admitted in December '62, along with John Wilkinson, Alan McGregor and a man called Jones, whose Christian name I forget."

Mr DeBelle stayed with the firm until 1975, taking every opportunity to learn from his mentor and principal, Sam Jacobs.

"We worked together a lot. It would be presumptuous of me to say that we worked as a team, but I was very often his junior. I learned a lot from that. In other cases in which I was involved, which needed a leader, I'd regularly brief him and that was in all kinds of fields, commercial litigation, other major civil litigation, equity, as well as licensing and other areas.

"I can remember quite fondly that he was a busy Silk. There was a time when he was President of the Law Society. He was also Chairman of the Finance Committee of the University of Adelaide – a job he described as the most difficult unpaid job in Adelaide. He was on the Council of the University of Adelaide, as well as having a busy practice. So it was hard to see him, to confer, so that quite often when I'd be briefing him, I'd go out to his house on a Sunday night and we would sit by the fire in the winter and I'd brief him and we'd go into court on the Monday.

"He had a great capacity to get on top of a case and he certainly had a great capacity also to point out the flaws in what I'd prepared as a junior. It was a great learning experience. I'd have to bustle about before we went to court to fix the gaps. He was very much my mentor and he also taught

me how to write a decent letter and to concentrate on using proper, good old Anglo-Saxon four-letter words.

In his early years as a solicitor he was involved with the application for a television licence by what was then called Channel 10 and later changed its name to Channel 7 in Adelaide. "That was an interesting experience because the application was opposed by what was then Channel 7 in Adelaide, and the hearing was in Melbourne. I had to fly to Melbourne with a suitcase full of paper, which was the papers we had to lodge with the Australian Broadcasting Authority at the time.

"The application was mounted by the business houses of Adelaide. There was Moxon Simpson from A M Simpson & Co. John Martins had a big investment and Sir Edward Hayward was involved. Arnold Moulden, who himself had earlier been President of the Law Society was another of the directors of the company, which was called SA Telecasters Ltd. Then Sir Reginald Ansett became very interested in supporting us as well and I can remember flying to Melbourne to meet with Sir Reginald Ansett in his office. "I have to tell a story against myself. The meeting was on a Sunday, and the night before Sam Jacobs had had an office party at his house. I got to bed rather late and we have to catch an early six o'clock plane. It was a very rough flight and, of course we were flying Ansett I can remember the flight was so rough I was ill. I had to go and meet Sir Reginald and confess to the fact that I'd made a mess on one of his planes.

"It was my first exposure to political lobbyists and the actual hearing itself was fascinating. Our team was led by Charles Bright. Sam Jacobs was his junior. I was very much the bag carrier. And there was an Adelaide accountant I called Sid Powell, from Peat Marwick Mitchell, who was providing the financial advice. He was fantastic. On the other side for Channel 7 was Neil McEwin, again a former President of this Society, who was at Baker McEwin. His leader in Melbourne was Sir John Young. Well he wasn't then Sir John Young, he was John Young, QC – he later became Chief Justice of Victoria. And another team was led by George Lush QC, who also became a Judge of the Supreme Court of Victoria. So it was quite classy."

In 1975 Mr DeBelle moved to Finlaysons and that year also saw him take two memorable trips to the Privy Council. Michael Kirby asked him to join the Australian Law Reform Commission in 1978 and he spent three years working in Sydney.

Back in Adelaide, he took Silk in 1982 and then went to the Independent Bar. His appointment in 1990 to the Supreme Court was particularly significant.

"One of the joys of taking on the appointment and one of the reasons why I did take the appointment at the time was that it would mean that three former members of the firm of Stevens, Jacobs, Mellor and Bollen would be on the Court at the same time. That is to say, Sam Jacobs, Derek Bollen and me. There was a

period of three months when Sam Jacobs and I were both on the Court with Derek Bollen. I think that might have been the first time three of the judges had been members of the same firm."

There were many memorable cases during his 18 years on the Bench, but one that has always stuck in his mind.

"I will never forget one particular case. It involved Sunday trading, and at a time before the present Sunday trading had been proclaimed. Anyway, the State Government proclaimed that there would be Sunday trading and the Shop Distributor's Union challenged the proclamation on the ground that the Government had failed to comply with the appropriate procedures. I was on the Full Court with Olsson and Mohr.

"Olsson quickly got his judgment out as usual, Mohr agreed and I knew they were wrong, and again I wrote a dissenting judgment. Again, it would be nice if we'd conferred but we didn't. Anyway, the Shop Union lost the case. It applied for leave to appeal to the High Court. One of the great satisfactions of my life was John Doyle, who was Solicitor General and who argued the case for the Crown trying to uphold the proclamation who said to me later, 'Our hardest problem in the leave of application was your judgment'. The High Court agreed with me. That was very satisfying and it also is a mark of John Doyle as a decent human being that he should come to you and say that."

Original interview conducted by Lindy McNamara

Reflections on Law Society Presidency

The years I spent on the Executive of the Council of the Law Society and as President were among the most rewarding experiences of my life .

Those then on the Executive included David Wicks, John Perry, Rod Burr, Peter Herriman, Terry Worthington, John Mansfield and Brian

Withers. I still lunch regularly with the latter five.

The greatest achievement of my term as President was the appointment of Barry Fitzpatrick as Chief Executive Officer of the Society. Barry had great organisational and administrative skills. His flair and enthusiasm together with

the major reforms he effected to the administration of the Society made it a far more efficient organisation and one that provided effective and useful services to its members. One initiative that Brian Withers and I attempted to initiate was to foster greater links between the Law Society

of SA and the Law Societies of Western Australia and of the Northern Territory. The three Law Societies have much in common and the two larger Societies in Western Australia and South Australia can do much to assist the smaller one in the Northern Territory. The initiative should be pursued.

Top of her game



Lindy Powell QC

The first female President of the Law Society, Lindy Powell QC has shown it is possible for women to crash through the glass ceiling and make it to the top of the legal game.

Born, raised, educated and having worked all her life in Adelaide, Lindy Powell QC quips that her life has been “pretty pedestrian”. However, her achievements as one of the State’s top criminal law barristers suggests otherwise.

She became the first female President of the Law Society in 1998 and throughout her career has been a proponent for women in the law to be treated equally and receive the same opportunities as their male counterparts.

Ms Powell was fortunate to have the support of a talented group of females who studied law with her at the University of Adelaide. “I would say it was the first one with, what I would call, a large intake of women. By large I mean that the intake was about 100, it might have been a little bit more, and I think there were about 20 women. That was a large intake. Before my year in ’69 there were perhaps three or four or five women.

“There wasn’t any affirmative action or anything like that. It

just happened that there were more women. I went through with people like Maureen Pyke who’s a Family Silk now, with Penny Goode who’s a judge in NSW now. There were a lot of women who went on in the law – Susie Biggs who is a partner at Clelands. There was camaraderie of women. Helen Parsons who’s a judge of the Industrial Court. “There were a group of us who were the first real female push I’d say in the law school. In addition to that there was Paul Rofe who wasn’t actually our age but he’d started medicine and didn’t like that so he started a law degree and became one of our group. It was a good group.” Her time in articles reinforced in her mind that she had made a great career choice.

“I did my articles with John Perry at Kelly & Co. That’s when I really fell in love with the law for the first time. It was when I came to do it practically that I became absolutely enthralled by it.

“John Sulan was at Kelly & Co at the time and he had a very

large criminal practice. So I’d be off going to the Adelaide Gaol proofing his clients and off to the Magistrates Court doing committals for him because committals still existed. And of course Kelly & Co had a large insurance practice at that time so often if there was a large personal injury claim then I’d be sent down to the Magistrates Court on traffic sort of matters to test out what the witness was like and what they were going to be like in the big personal injury claim.

“I had lots of opportunity for court work and I was encouraged to sit in on big matters in the Supreme Court when John’s criminal trials came up and I’d done the committal. When Perry had commercial matters he’d take me into court. He was an impeccable principal and despite the fact that I had this great time with John Sulan running around doing the criminal work, he would set me at least three pleading matters per week. He’d give me the files and I had to meet him at 8

o'clock every Monday morning with my pleadings. He'd sit there with his red pencil and correct my pleadings. There were a lot of corrections. I didn't find it terribly exciting but I think it taught me something about pleading."

During articles, she knew that Criminal Law was her calling. "It was the advocacy, but it was also the human component of the Criminal Law which has always fascinated me. The fact that every case is so peculiar to its own facts, every individual has a life story to tell, every situation is always unique. People charged with criminal offences have to let you into their lives so intimately for you to be able to defend them that you learn so much about them and people generally. That is a real privilege.

"I've done commercial work and obviously every transaction has its own uniqueness too, but worrying about money does not involve you in the same way that you become involved with your clients charged with crime." Following articles, Ms Powell was given the opportunity to learn from the State's first female QC and Supreme Court Judge, as an associate to Dame Roma Mitchell.

"She was like John Perry. She was an immaculate teacher. She was a wonderful person. I got on terribly well with her and we ended up being very good friends over the years. She would always talk to me when we came out of court and tell me whether

it was a good cross examination, a bad cross examination, why she thought that was so. As the year wore on she'd ask me what I thought about the case. She would get me to draft her summings-up and judgments – they very often didn't end up the way that I'd drafted them. Some of the judgments ended up contrary to how I thought they should have been decided. But she involved herself with me as her associate in a very intimate way.

"Towards the end of my associateship I was looking for work in the profession. Dame Roma very much encouraged me to go into matrimonial law. It was still the *Matrimonial Causes Act* in those days. In fact she more than encouraged me, she positively set out to find me a job in what she considered to be the best matrimonial firms in Adelaide.

She was very conscious of the fact that I wanted to be an advocate and I think she was looking forward in my career path, comparing it with her own. What she counselled me was that if I went into matrimonial law, that would give me an opportunity to get on my feet in court much earlier than I would in any other area."

And so the young lawyer took up a job with Johnston Withers and once again, Ms Powell was fortunate to learn from another great mentor – Elliott Johnston. "I think very few women, except for of course Robyn Layton who was a partner of the firm,

had the same experience as me. Elliott Johnston was an enormous encourager of women. You're very fortunate if you get into a practice young with a senior partner in a firm who positively encourages women. "In those days particularly, I can remember we had a client, I don't think it exists anymore, called the Moulders Union.

These were the days when there were a lot of small unions before amalgamations and mega unions. Everybody at Johnston's had their own union or unions to look after. Elliott decided that I should look after the Moulders. They were a union of very brave men working in foundries with red hot metal all the time – moulders don't whinge and had very stoical attitudes. When Elliott told the secretary of the Moulders Union that I was going to take over their work, they were very opposed to that. They didn't want a woman. But, with Elliott's help and encouragement, we persevered. We ended up getting on wonderfully.

"I think the best way to describe the culture (of the firm) was that it was very much an encouragement to do what you considered was right and what was fair. There was minimal consciousness of cost and profit. For example if you'd come back from a Magistrate's trial and you'd lost, Elliott would sit down with you and say "do you think that was the right result?" If you told him that you didn't think it was, he'd say "well you appeal

it". And you'd say "but the client has no money" and Elliott would say "you do it anyway". That's an example of how we didn't have our eye over our shoulder to costs; we didn't time cost, we never charged clients solicitor/client costs in civil matters over and above what we were paid in costs from an insurer. If we lost we never charged our clients, we carried their disbursements for them. It was a totally different culture altogether."

With Elliott Johnston's appointment to the Supreme Court and the dynamics of the firm changing, Ms Powell decided to move on and became Director of the Legal Aid Commission. Soon after she started work, the funding for the service changed and she spent much of her time handling administrative matters.

In 1991, after five years at the Commission, she was eager to get back into the court room and went to the Bar, taking up a position at Bar Chambers. She quickly found her niche in criminal law and was at her best in front of a jury. In 1994 she was appointed Silk.

"I suppose I have to be honest, I love the theatre of a jury trial. I love the passion of the whole thing. A jury sits there and a story unfolds through narrative before them. Ensuring that the correct narrative unfolds and seeing the story come out through witnesses' mouths is a fascinating process."

Original interview conducted by Elisa Holmes.

Going it alone



Michael Abbott

With nearly half a century as a practising lawyer and barrister – 30 as a Queen’s Counsel – Michael Abbott QC has acted in many trials and Royal Commissions in South Australia over the years.

Despite several approaches Michael Abbott QC never accepted an appointment to the Bench, instead preferring to do things his own way.

“It’s a pretty rarefied atmosphere (being a judge) but I’ve always regarded being a Queen’s Council as being the pinnacle of a career as a lawyer.

A day after he was admitted in 1966, Mr Abbott started out in practice by himself.

“I went out on my own, a decision which has advantages and disadvantages. I’ve always practised on my own. I’ve never been employed. I’ve never had a partner or been in a partnership and, as I said, it’s got its advantages and disadvantages. It certainly makes you resourceful.

“It was a very tough road to hoe. I had no money. I bought a few sticks of furniture, I hung up my shingle, I relied upon the profession helping me and the profession did help me. Those were the days when it was a very small profession, obviously much smaller than it is now.

“For example down the hall in the Steamship building I was on the first floor at the front in a small

room which fortunately had a lot of windows. It was only a very small room with an anteroom where my poor secretary sat waiting for work to come in. Down the corridor was Olsson and Olsson, and Neil Lowrie was working for them. Graham Olsson and Neil Lowrie took pity on me and gave me some work. Looking up points of law for them and stuff like that.

*“Other members of the profession who heard of my circumstances, whom I’d never met before or knew anything about me, gave me work. John Gunn, Brian Stanley, Peter Waye, Elliott Johnston and many others. I want to particularly mention Elliott Johnston because Elliott took pity on me and gave me a lot of help. He was running Johnston and Johnston at that stage. I briefed Elliott Johnston and 1966 State Reports has my first reported case at page 294 before Leo Travers who found against me. When I say against me, I briefed Elliott. It’s *Kalliontzis & Another v Citrus Industry Organisation Committee of South Australia*. It was heard in September and judgment delivered in October 1966.”*

“It was a hard slog I must say looking

back on it. In the early days before I became a barrister I built up a practice in the Magistrates Court. Indeed you won’t find a lot in the reports about criminal cases on appeal that I did because really I didn’t have the time because of my busy Magistrates Court practice. I remember, I think it was Derek Wilson who, in my early years, said in front of the rest of the Court, ‘Mr Abbott, there’s far too many of your clients pleading not guilty’. It was that sort of thing. I did a lot of minor Magistrate Court trials and cut my teeth on that and that’s how you learnt to be a lawyer.”

When it came time for his first trial, Mr Abbott admits he had no idea how things worked and sent out a call for help.

“My first criminal trial I was acting for a guy charged with receiving and pleading not guilty. I think it was receiving stolen watches and I didn’t know how to run a criminal trial, I hadn’t been taught. I rang Kevin Borick who was the prosecutor and asked him what the hell went on. He explained to me the process and procedure. Although I’d seen several criminal trials when I was Travers’

associate, there was never any course at the law school that actually taught you what happened and what order of events things went in. My client was acquitted so my first criminal trial before a jury was a win. That wasn't usually the case though."

As his skills in trials grew, so too did the volume of work— thanks, in part, to taking over Starting Price (SP) bookmakers as clients from Peter Waye.

"At one stage I acted for every SP Bookmaker from the North Adelaide hotels right out north to Lindsay Head's Cross Keys Hotels. They were a fantastic source of work. The SP Bookmaker was also the person that people would turn to if they were having trouble and he or his agent would say "see Michael Abbott". I started getting a large number of minor criminal matters.

"The other source of income was that I invented a defence to speeding. I stumbled on this in the course of my work. This is in the days before there was a statutory presumption as to the accuracy of police instruments and when the breathalyser was coming for drink driving offences. I did a lot of drink driving cases and fought the breathalyser testing. In the course of that I discovered that the police, when they followed someone, had to get their vehicles tested, the speedo tested, because the evidence was "when I followed Mr x, my speedo was at 50 kilometres an hour.."

"They only got them tested every three months or so, not every time or every month. I found this out and I would demand in every case where a chap was charged with speeding that I'd get the results of the speedometer check. Of course they were always

out by two or three kilometres, they'd be tested and the speedometer would show 50 kilometres or miles per hour and, in fact, the actual speed would have been 48 or 52. So they could never prove the actual speed because the speedometer in the police vehicle was not a direct reflection of the actual speed. If it was inaccurate when it was tested how much more inaccurate might it have been at the time when the citizen was charged with speeding?"

More work came in as a result of Mr Abbott becoming "a bit of a Royal Commission groupie". He appeared in the Splatt, Salisbury, Hindmarsh Island Bridge and State Bank royal commissions, just to name a few. And, of course, he was also appearing in lots of committals and trials, building a reputation as one of the State's leading barristers and being appointed Queen's Counsel in 1984.

"I have done everything, which is what I have enjoyed. I haven't done a criminal trial with a jury for 10 years now. I have done a lot of applications in criminal trials but I haven't actually got before a jury.

"Now I try and find gaps in the legislation that might result in a speedier determination and a better determination than a long drawn out trial."

Original interview conducted by John Goldberg

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