



I really do think that members of the Bar can make a contribution to public life; they understand that in the debates that occur in the political process, facts are important, principles are important; that there needs to be focus on what is relevant rather than what is extraneous or misleading. The virtues of disinterested debate and objective consideration of the issues I think flow from an experience of practising law, and can contribute to the level of our political discourse in Australia.

The late Hon Jeff Shaw QC

This distillation of the potential for members of the bar to contribute to public life was typical of the elegant mind of the late attorney general, and deserves to be recorded as a mark of respect to someone who made a significant contribution to state politics that won respect from both sides of parliament, and the community more generally. He was also a fine barrister and one of the leading industrial advocates of his generation. Jeff Shaw's life and contribution to the community is recorded in this issue of *Bar News*. He was honoured with a state funeral at the Sydney Town Hall, as well as a minute's silence at the annual Bench and Bar Dinner. A number of his legislative initiatives bear testament to the tangible difference he was able to make for the

good in his public career.

In the period since the last edition, there has been a spate of judicial appointments, including three to the Sydney Registry of the Federal Court and two to the Supreme Court. More are expected. The Federal Court also has a new chief justice in Patrick Keane who has a national reputation as an outstanding jurist. Chief Justice Keane has agreed to be interviewed in the next issue of *Bar News*. One topic on which his views will be sought concerns the continuing desirability of the Federal Court having no permanent full court. There is a perception by many that the court has become so large that not to have such an appellate court has the potential to lead to a certain unevenness in judicial pronouncements. On the other hand, to sit both on appeal and at first instance, no doubt delivers a variety of challenges and experience that is attractive to current judges.

The corollary of the recent spate of appointments is the creation of an expanded pool of retired senior judges who are available to, and increasingly engaged in, local and international commercial arbitrations. There can be no mistaking the ever-increasing significance of this shift towards 'privatised' commercial dispute resolution by highly skilled and enormously experienced former commercial and appellate judges. In this context, the Recent Developments section of this issue contains a number of important notes in relation to commercial arbitration.

The topic of judicial retirement more generally is addressed by Arthur Moses SC in an Opinion piece in which he advocates an increase in the age for the retirement of federal judges. A related question which arises is the extent to which federal judges would take advantage of any such increase. The

likely answer is that it will depend upon the individual but there would seem to be a powerful case for an increase in federal retirement age. Tony Cuneen's piece on the *Judges Retirement Act 1917* provides an interesting historical counterpoint.

This is by far the longest edition of *Bar News* ever published. One of the reasons for its length is the fact that an increasing number of members have taken the time to contribute articles, notes and opinion pieces of high quality on varied subject matters. These contributions are much appreciated, as is the work of the Bar Association's publications manager, Chris Winslow, who has principal responsibility for the physical production of *Bar News* which is done to a standard to rival any professional journal any where in the world.

Bar News, as a publication, not only reflects the intellectual energy and curiosity of the bar in respect of topics of current and historical interest, but also serves as an important journal of record. The extended noting of superior court appointments operates both as a matter of historical record and is also designed to 'introduce' new judges to those members of the profession who may not have encountered the recently appointed *judex* in practice. The publication of obituaries (of which there is a depressingly large number in this issue) pays respect to much missed colleagues and also records the many and varied life experiences and personalities of our profession.

In recent issues, there has been a heavy focus on matters of legal history and, in particular, the history of the profession and of some of its notable members. Such articles, many penned by the assiduous David Ash of Frederick Jordan Chambers, are not only of intrinsic interest but also contribute to the

institutional continuity (and education) of the profession. There has also been a heavy emphasis on matters of practice.

In this particular issue, Ash continues his march through the careers of members of the New South Wales Bar who have been appointed to the High Court with an extended essay on the long life of Sir George Rich in which he focuses on his relationships with other members of the court and, in particular, Sir Owen Dixon. Ash also revives his fascination/obsession with the clerihew, reviewing the recently published *Lives of the Governors of New South Wales* in this idiosyncratic form of verse.

Other articles of particular note include David Bennett QC's Sir Maurice Byers

Address, which took a fresh approach to this annual lecture, focussing upon analytical questions rather than historical or purely constitutional themes. There is also Michael Kirby's riposte to Justice Antonin Scalia's view of the use of foreign authority in judicial decision making, a topic also recently critically considered by Justice John Basten in the Bar Association's Law and Values series on the topic of Law and International Thought.

Graham Ellis SC, who has returned to Papua New Guinea as a judge, gives a fascinating and gripping account of his experiences in that jurisdiction. For sheer interest, Geoffrey Watson SC's essay 'A really rotten judge' on the

life of United States Supreme Court judge James Clark McReynolds, is bound to attract attention. There is, of course, a great deal more in this issue, including an exclusive preview of the ABC's forthcoming series *Rake*, which follows the life and travails of Cleaver Greene - philanderer, serial adulterer, addicted gambler and member of the New South Wales Bar! For Bullfry aficionados, Professor Aitken recounts Bullfry's experience as a member of the junior bar, many years ago and without the benefit of the Bar Practice Course. There are lessons to be learnt everywhere.

Andrew Bell SC
Editor



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