

Time to move?

By Michele Fraser

In the 2020 annual report of the Bar Association, Tim Game SC wrote:

We may well be witnessing the commencement of a period of profound change to the boundaries of accepted thinking about advocacy, the nature of legal practices and delivering legal training, as well as access to justice.

Before COVID-19, the courts had already moved most directions hearings to online portals. Since COVID-19, remote hearings have become the norm. It is unlikely that courts and Tribunals will go back to how things were being done pre-COVID-19. Virtual courts and virtual advocacy are likely to have ever expanding roles in the future. Likewise, the pandemic has accelerated a trend away from a chambers-based practice. A barrister's practice need no longer be constrained by geography and proximity to a court room.

The Bar Association's online service *Find a Barrister* lists 15 pages of chambers. Those chambers are large and small, at locations across the State. Some are virtual, some traditional and some home based. Many barristers who are nominally members of established chambers are doing most of their work at home.

For barristers conducting practices virtually and remotely from a court room, questions arise – do I need, and can I afford, a room in a traditional set of chambers? And what are the alternatives to a traditional chambers-based practice?

The Bar needs to forge a new sense of who we are as a profession and how we serve the community.



Oliver Wendell Holmes Jr once said: *“The present has a right to govern itself so far as it can; and it ought always to be remembered that historic continuity with the past is not a duty, it is only a necessity.”*¹

Looking at the Bar Association's past is instructive when considering its future.

Counsel's Chambers Ltd. was incorporated with a view to building a home for the Bar. In 1954, Garfield Barwick wrote to members that the erection of the building that was to become Wentworth Chambers afforded *'the major hope of preventing the dispersal and disintegration of the Bar.'* We face a similar challenge today.

When Selborne Chambers were being constructed in the early 1960s, 7 subscribers' shares were transferred to the Bar Association, and converted to deferred ordinary shares, entitling the association to all surplus capital on a winding up or sale. The Board of Counsel's Chambers Ltd. intended that capital accretions would accrue for the benefit of the Bar as a

whole and for future generations of barristers.²

The Bar Association initially occupied premises in the basement of Wentworth Chambers, and later moved into the carpark of Selborne Chambers.

Notwithstanding that the Bar Association was intended to be the ultimate beneficial owner of Counsel's Chambers Ltd., in 2020 the Bar Association paid \$637,655³ for its leased premises.

When Arthur Moses was president of the Bar Association, he proposed that the Association move out of its dingy premises in the basement and sub-basement of Selborne Chambers.

Nothing happened then, but now is the perfect time to move and at the same time expand member services. There is a wide array of suitable office space presently available at reasonable rents and with substantial incentives. For example, parts of the GIO building, with plenty of natural light and frontages on Elizabeth and Phillip Streets, have been empty for some time.

New accommodation should be large enough to accommodate the library, work stations, virtual hearing rooms and conference rooms for members to use. The Bar and its library could become a new focus of professional practice, a hub of member services such as the Belfast Bar Library.

The provision of work stations, conference rooms, and other facilities in congenial surroundings would be, in the virtual age, a continuation of the aspirations of the founders of Counsel's Chambers in the 1950s and 1960s, and would be particularly useful to regional and suburban barristers who are not members of city-based chambers.

The Bar has always championed opportunity of access to the profession. These days we refer to it as diversity, recognising that it is not just about letting people join your gang on your terms, but accommodating and exploring different modes of practice that suit members new, old and aspiring. BN

ENDNOTES

- 1 Oliver Wendell Holmes Jr, *Learning and Science*.
- 2 Wentworth Chambers, *The 50th Anniversary Commemorative Book 1957 – 2007*; J. M. Bennett, *A History of the New South Wales Bar*, Law Book Company, 1969, pp. 160 – 169 and pp. 206 – 216.
- 3 Annual Report, 2020.



Driving into Selborne Chambers circa 1960s