

SPECIAL ISSUE

# QUEENSLAND BARRISTERS

IN



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Entrusted, are all legal practitioners in Queensland,  
with upholding those enduring values and traditions,  
maintained through the rule of law, for which so many

Queenslanders sacrificed so much. B-1945

TARGET - POLITZ - 1st ATTACK

SECRET  
AIRSTAFF (INT/PI)  
H.Q. B.C.



Cover montage description – Front: Department of Veterans' Affairs 60th Anniversary Commemorative Medallion presented to His Honour B. M. McLoughlin; Chester Parker, Rhodes Scholar, KIA; A "Leigh light" equipped Wellington of No. 458 Squadron, RAAF. Above: Mavis and Jack Kelly; Harley Stumm, Rhodes Scholar, KIA and his daughter, Sheridan ("Sherry") at her christening at St Andrew's Cathedral, Singapore, 1941; Len Draney's war service medals in miniature.

BAQ COMMEMORATES THE 60TH ANNIVERSARY OF THE END OF WWII





# INTRODUCTION

This edition of Queensland Bar News is respectfully dedicated to the memory of the members of a great-hearted group of members of the Queensland Bar who served in the Australian Defence Force or an Allied Defence Force during World War Two. Some of those recalled in this edition died during that war.

Some, gloriously, are still with us. Increasingly though, the passage of the years brings with it the melancholy reminder that this is a generation in passing. Those of us who were privileged to appear with them as juniors or against them in court, to have them as chambers colleagues, to appear before them after their appointment to the bench or to serve them as associates knew instinctively that these men belonged to a unique generation.

In recalling them and something of their wartime experiences it is hoped that their successors may gain a greater understanding of this unique generation of barristers and, in that understanding, an appreciation that sometimes the rule of law needs to be defended in places other than the courts, even at the cost of one's own life. The members of the Queensland Bar's World War Two generation knew that such ultimate defence was not something that might conveniently be consigned to mercenaries or those of lesser scholastic attainment. The deaths of young men of great promise, the grievous wounds and the privations suffered by others as highlighted in this edition should remind us of these enduring truths.

Those with the talent to secure admission to the Bar were, as this edition records, and in later generations remain, the same as those with the necessary talent to lead groups of soldiers, to command ships and aircraft and to discharge difficult and responsible staff positions in the field and on the Home Front.

It is so fitting that this edition also remembers two other matters connected with the history of the Queensland Bar – the contribution of the Right Honourable Sir Harry Gibbs GCMG, AC, KBE, QC, who died in June this year, to the constitutional law of Australia and the centenary of the commencement of the *Legal Profession Act 1905*, bringing with it the ability of women to secure admission to membership of the legal profession. Especially it is fitting because of the interplays and reminders that brings with it.

Sir Harry Gibbs was a member of the Queensland Bar's World War Two generation. Notwithstanding that he was

on the cusp of what proved to be a distinguished career in the Law, he enlisted soon after the outbreak of hostilities in 1939 and remained in uniform throughout the war, being mentioned in dispatches for the brilliance of his staff work in New Guinea. His contribution to constitutional law is recalled by the publication of a paper recently delivered by another distinguished member of the Queensland Bar, the Honourable David Jackson QC, one of Sir Harry's former associates and himself a citizen soldier (Major, Australian Intelligence Corps).

In the course of the war, Sir Harry married Muriel Dunn whom he had met at the University of Queensland. Lady Gibbs, as she was to become, is a graduate of that University's Law School. That Law School's first female graduate was Una Prentice (nee Bick), who was admitted to the Bar in 1938. Immediately after the war's end, Una married an ex-serviceman, Tony Prentice who would first be admitted to the Bar before crossing the rolls and joining Stephens & Tozer. For Muriel Gibbs and Una Prentice, the absence of so many men on war service gave them opportunity to give voice by example in practice to the right extended by the *Legal Profession Act 1905*. Muriel Gibbs worked as a solicitor in the employ of Moreton & Moreton in her hometown of Maryborough. Una Prentice worked as a legal officer in the Brisbane office of the Commonwealth Crown Solicitor. It is salutary to recall that Una was paid initially as a typist, because the Commonwealth had no pay scale for female legal officers and that, when one was adopted, it was only a proportion of the then male rate for the equivalent position.

The nominal roll is the centrepiece of this publication. The articles that surround it give colour by example to the individual and collective experience, sacrifice and service of each of those whom the roll commemorates.

That those articles refer to the men concerned by their familiar names is deliberate, but not intended as a sign of disrespect. Greatness was on them when they rendered that service, but it was not the greatness of later achievement. It was, for example, Eddie Broad, not His Honour Judge Broad who pressed home bombing missions with determination, Bernie McLoughlin, not His Honour Judge B M McLoughlin, who flew long missions in marginal night-time flying conditions over the Mediterranean, Jim Douglas, not the Honourable Mr. Justice Douglas, who was one of those who halted Rommel's panzer

grenadiers at Tobruk and Peter Connolly, not the Honourable Mr. Justice Connolly, who replaced Charles Groves, sometime member of the Queensland Bar, on the charred ground at Milne Bay where Lt. Groves received his mortal injuries.

It would be remiss not to record the appreciation of the Bar Association for the ready willingness of the Chief Justice of Queensland, the Attorney-General and the Shadow Attorney-General each to contribute an article in relation to the World War Two generation. A distinguished member of that generation of the Queensland Bar, who also served for many years as Minister for Defence, the Honourable Sir James Killen AC, KCMG also kindly responded to an invitation made by the Association to contribute a reflective piece on that subject.

Thanks are due to the Australian War Memorial, for concessional treatment in relation to the payment of fees for the reproduction of material from its superlative collections database and to the University of Queensland, particularly its archivist and the T. C. Beirne School of Law, for permission to reproduce material from its commemorative materials. The contribution of three Queensland Bar members and sometime Defence Force officers should be particularly noted – Dr Michael White QC who facilitated access to University holdings, Mr. Tony McKinnon, who assisted in the compilation of the nominal roll and whose father was, like Norton Stable, a company commander with the 2/31<sup>st</sup> Battalion and His Honour J. P. Shanahan AO, RFD, ED who reviewed that nominal roll. Thanks are also due to another member of the Bar, Mr. Joel Barnett, longstanding curator of the 9RQR museum, for assisting with interviewing.

The Association especially records its sincere appreciation to those veterans His Honour B M McLoughlin and Brigadier T. Parslow RFD, ED, QC who gave generously of their time and memory and to the members of the families of other veterans who responded so willingly to requests for access to memorabilia, photographs and even private memoirs.

For such errors as may appear in the nominal roll and any that may appear in the accompanying articles, I take responsibility and apologise for them. The Association will retain the roll and will happily correct it as needs be.

JOHN LOGAN RFD, S. C.



## JOINING UP



George Lucas, 1940  
*"a subaltern of rather noble proportions"*  
 Source – Lucas family

On 3rd September 1939, the Right Honourable Robert Gordon Menzies broadcast to Australians that it was his *"melancholy duty to inform you officially that, in consequence of a persistence by Germany in her invasion of Poland, Great Britain has declared war upon her, and that, as a result, Australia is also at war"*.

Over the succeeding six years, some 10.28% of Australia's then population of a little over 7 million would come to enlist in the Defence Force. As a proportion of the eligible age cohorts, the proportion of men and women who enlisted was much higher. The conflict that followed would see the deaths of 39,366 Australians. The war dead included members of the Queensland Bar and others who, but for death, would certainly have graced our ranks.

Australia in 1939 was only just emerging from the hardships brought by the Great Depression. Defence spending had been a very low priority for most of the preceding decade. In 1938, as the prospect of war grew, the Federal Government had made some efforts to increase the size of the militia and otherwise improve defence preparedness. Nonetheless, at the outbreak of war, Australia was a country woefully under equipped for modern warfare.

Space and the passage of time does not permit the detailing of how each of the various members and later members of the Bar came to serve in the Defence Force, but the following gives an indication of the impact, interruption and, in some cases, termination that the war wrought on the careers and lives of a generation.

For Harley Charles Stumm, the sole admittee to the Queensland Bar at the Full Court sittings on 13 December 1938,<sup>1</sup> the imminence of war brought a telegram recalling him to active service

with the Royal Air Force. He had joined the Oxford University Air Squadron and gained his wings while studying there on his Rhodes Scholarship.



Harley Stumm, shipboard, 1935.  
 On his way to take up his Rhodes Scholarship at Oxford  
 Source: University of Queensland, used by permission of his daughter.

He left Brisbane to report to RAF Headquarters in Singapore on his 26<sup>th</sup> birthday, 26 August 1939. He had been married less than 2 months. Harley was never to return to Australia. Wing Commander H. C. Stumm DFC died in a training accident in India in 1944.

One of Harley's near contemporaries at the junior bar in Brisbane, both in age and seniority, was Geoffrey Arthur George Lucas.

George was aged 27 at the outbreak of the war. He had been admitted to the Bar on 1 June 1937, along with Reginald Raby Mulhall King, later a Queen's Counsel, who also served in World War II. George Lucas would go on to become Queen's Counsel, President of the Bar Association and finally the State's then

most senior judicial officer after the Chief Justice, Senior Puisne Judge of the Supreme Court of Queensland, retiring in 1982. The Honourable G.A.G Lucas AC, QC died a decade later.

George's account of how he came to join the Army, is a minor classic, which tells much about the times and the whimsical sense of humour that was ever present in this gentle giant of a man:

*"In 1938 the European scene darkened, and it became fairly clear that war was coming. In Australia national service had been abolished by the Federal Labour Government in 1929, and replaced by what was called the militia, a voluntary force which in theory was modelled on the 5 divisions and the Light Horse regiments which Australia had raised for service in the first war, but low in numbers. In 1938 the Federal Government (then non-Labour) decided to double the strength of the militia. I do not know whether the circumstances of my joining that force were typical, but they were extraordinary. One evening after work Graham Hart, Bill Hart and I met to have a drink at the Criterion Hotel. We were joined there by another friend, Sam Stephens, also a solicitor. Sam was a member of the militia who had shortly before this gained a commission in the Artillery – in fact we sometimes used to call him "second", short for second lieutenant. After several drinks Sam announced that he had to go to Kelvin Grove, the headquarters of the artillery, for a parade or lecture. Graham, Bill and I, not having had at the beginning of the evening any intention or inclination in that direction, said that we would go up with him and join up. This we did, and were given chits to report to a medical officer the next day for a physical examination to see if we were fit for active service. The three of us reported to the medical officer at lunchtime;*

<sup>1</sup> Only 69 persons were admitted to the Queensland Bar during the whole of the 1930's.







he also turned out to be a friend of ours, although some years older, Harold Love. He looked up from his desk and said "You all right, chaps?" We said we were and he signed us up fit for active service without getting up from his chair. And that is how I joined the army." (reproduced by kind permission of his daughter, Mrs Victoria O'Neill from George Lucas' unfinished, private memoirs).

Jim Douglas, by then Mr. Justice Douglas of the Supreme Court of Queensland and another early enlistee in the Army, had this to say of George Lucas at a valedictory sitting of the Court on the occasion of his and Sir Charles Wanstall's retirement:



Jim Douglas, the other "subaltern of rather noble proportions" horseback, in militia days just prior to the war  
Source: Douglas family

"... I go back in time. In the very early days of January of the year 1940 two subalterns of rather noble proportions marched into Redbank Camp which at that time housed the recruits for the A.I.F. There started an association and friendship which has lasted ever since. One of us was artillery, the other infantry, but our paths crossed on several occasions, and at one stage we were on the staff of a divisional headquarters, the commander of which was the late Sir Edmund Herring, later Chief Justice of Victoria, and also attached to that staff were Sir John Starke of the Victorian Supreme Court and the late Bernard Riley, who became a judge of the Federal Court. We were relatively close contemporaries in practice at the Bar - I lagging a little behind him, and again doing so in appointment to the Bench.

Our friendship continued on the Bench. Both as a friend and a judge will I miss him. ..." (1982) 7 Qld Lawyer 79, at 81.

Another near contemporary of Harley Stumm's in terms of Bar admission and also enlistment was Harry Talbot ("Bill")

Gibbs. He had acquired the nickname "Bill" within his family to distinguish him from his father, a prominent Ipswich solicitor. The nickname stuck for the rest of his long life. Gibbs was admitted to the Queensland Bar on 30 May 1939 after having graduated in Arts and Laws with First Class Honours from the University of Queensland. He enlisted as a volunteer in the Australian Army on 2 December 1939. He was then aged 22.

The very day war was declared, Vaux Nicholson was in the United Kingdom with the 1939 Australian Wallaby Rugby team. He had by then completed two years of his law degree course at the University of Queensland and his skills in the University's rugby team had come to the attention of Australian selectors, leading to his selection as a winger on the Australian team. The 1939 Wallabies were destined never to play a test match. With the outbreak of war, their tour was cancelled. The team spent about a further fortnight in the United Kingdom filling sandbags to assist with Home Defence before returning to Australia by ship. Vaux Nicholson would turn 22 in November 1939 on his way home to Australia. He enlisted in the AIF shortly after his return.



Vaux Nicholson, 1940  
Source: Miss L. Nicholson, daughter.

Both immediately before and throughout the war, and even for some later destined to join the Air Force, first contact with the Defence Force came, as George Lucas mentioned, from service in the Militia. Edward Stratten (Ned) Williams, for example, had commenced articles of clerkship with Mr. J. F. Fitzgerald of J. F.

Fitzgerald and Walsh, solicitors of Brisbane as an 18 year old in February 1940. He had by then completed University matriculation requirements. Ned commenced Solicitors' Board studies. In June 1940, while still under articles, he volunteered for service in a Militia regiment, 2/14<sup>th</sup> Queensland Mounted Infantry. Thereafter, until he was accepted for service in the Royal Australian Air Force in January 1943, his studies and articles of clerkship were punctuated by lengthy periods of



Ned Williams, centre, with shovel, on fulltime duty with other members of 2/14<sup>th</sup> QMI  
Source: S. C. Williams QC

continuous full time service on training camps and exercises.

### EATS

For many, service in the Air Force involved entry into a quite remarkable and successful system of training and deployment known as the Empire Air Training Scheme (EATS). The EATS turned the air forces of the Commonwealth into a vast training organisation for the RAF. Less of half of the Australian EATS graduates were to serve with RAAF squadrons. The others, though enlisted into the RAAF would serve in various RAF units. Some have criticised this aspect of the scheme but, as a means of efficiently training and deploying aircrew in a global war, it was undoubtedly superior to any more narrowly focussed and resourced series of separate, national training schemes. Further, the EATS itself made provision for the formation of national squadrons as numbers of trained crew increased to permit this.

So it was that, at varying stages of the war, most who came to the Queensland Bar having served as aircrew passed through the EATS.

The experiences of Ned Williams, and three later District Court judges, Bernard





Michael (Bernie) McLoughlin, Edmund George (Eddie) Broad and Alan Stewart (Stewie) Given typify the course of EATS training and deployment.

Bernie McLoughlin joined the RAAF on 6 December 1941, aged 19. He had been



B.M. "Bernie" McLoughlin  
Source: His Honour B. M. McLoughlin

allowed to defer reporting for duty so as to complete his Queensland University exams that year. Bernie's much-loved older brother, Cormack, had enlisted into that same service the year before. Bernie can still recall the disbelief amongst fellow enlistees at Sandgate when he informed them the following day that the Japanese had bombed Pearl Harbour.

Bernie McLoughlin was selected for pilot training in the EATS. He undertook that training throughout 1942. His initial flying training was at No. 5 Elementary Flying Training School at Narromines in New South Wales. There he acquired the nickname "Stooge".

Advanced flying training was undertaken in New Brunswick, Canada, with further Coastal Command training at Prince Edward Island, off Canada's Atlantic Coast.

A period of leave prior to departing for the United Kingdom enabled Bernie to visit relatives in New York and also to tour Boston. In Boston, a cab driver spent 3 hours showing him Bunker Hill and other sites of local interest and declined to accept any payment.

Bernie's recollection of flying training under wartime conditions as hazardous, but enjoyable speaks for most who undertook it and survived. By good fortune, Bernie and three other young men who had enlisted with him at Sandgate were able to stay together

throughout all of this training. They became close friends.

It was while undergoing his flying training that the sad news came to Bernie that Cormack, by then a Flight Sergeant observer with 458 Squadron, RAAF, had been accidentally killed on duty in an airfield accident at Abu Sueir landing ground in the Middle East in August 1942. 458 Squadron was one of those that came to be formed as a national squadron under the EATS as numbers of trainees permitted. The circumstances of Cormack's death are recorded in the squadron's history, "*We Find and Destroy*" (at p. 80) – a Boston bomber stricken with some unidentified trouble attempted to make an emergency landing; it came in on the wrong runway, the one not in use, down wind, much too fast; its brakes wholly failed to hold the aircraft and it swung off the runway into a line of parked and bombed up Wellingtons readying for take off; Cormack ("Mac") McLoughlin was aboard one of those Wellingtons, "K" for Kittie; the Boston slammed straight into it and, in the ensuing fire and explosion of the bomb load, Mac McLoughlin and two other crew members were killed; somehow, miraculously, the pilot and second pilot survived. Given that both Bernie and a younger brother, C. F. McLoughlin, just too young to serve in the war and also later a District Court judge, each chose the Bar as a career, it seems likely that the Queensland Bar lost another prospective member that day. Mac McLoughlin was two months past his 23<sup>rd</sup> birthday when he died.

In early 1943 Bernie and his three friends crossed the Atlantic by ship, in convoy. The convoy was heavily attacked by German U Boats and ships were lost. A further reminder of the grim realities of war came soon after landing in the United Kingdom while in a large staging camp at Bournemouth, awaiting aircrew posting. The town was bombed by German raiders. Probably their target was the staging camp. The bombs though missed the camp but hit the town causing heavy casualties. Shortly thereafter, Bernie and his friends were separated. The others were posted to 10 Squadron, an original, regular, RAAF squadron which flew Sunderland flying boats out of Mount Batten in Wales as part of Coastal Command. Bernie, considered too young for this squadron, which still numbered many older, regular air force officers and airmen in its ranks, was instead offered

a posting as a second pilot with his brother Mac's old squadron, 458 Squadron, RAAF.



Eddie Broad  
Source: Broad family

Eddie Broad, a year older than Bernie, had enlisted into the RAAF in March 1941, having not long turned 20. He was then a student at the University of Queensland Law School. Eddie undertook EATS training in Australia before being shipped to England for operational deployment training as a bomber pilot.



S. "Stewie" Given  
Source: S. J. Given Esq.

Stewie Given was younger than Bernie and Eddie, and still a student at Brisbane Grammar School at the outbreak of the war. He was born on 7 June 1924. In 1941, on matriculation, he enrolled as a student at the University of Queensland Law School. His son, S. J. Given, of the





Queensland Bar, reports that, while at university, as some of his older friends had already joined the Defence Force, Stewie tried unsuccessfully to persuade his father, Alan, a Brisbane solicitor and his mother to allow him to enlist. At his then age, parental consent would have been necessary. Denied that, Stewie placed his legal studies "on hold", joining a construction company engaged on wartime defence contracts at Rockhampton until he was old enough to enlist without parental consent. This he did in February, 1943. He, also, was selected for EATS pilot training. He underwent his initial training at Kingaroy before proceeding to further flying training at Narromine and Uranquinty. He embarked for the U.K. in mid-February 1944, arriving there late the following month.



E. S. "Ned" Williams  
Source: S. C. Williams QC

Ned Williams followed an almost identical path to Stewie Given after his enlistment into the RAAF on 28 January 1943. He arrived in the U.K. in mid-March 1944.

Yet another later member of the Queensland Bar who entered the RAAF during the War was Denis James (Jim) Killen. Having left Brisbane Grammar School to go jackerooing in western Queensland and being determined to enlist in the Air Force as soon as he was able, Jim Killen rode 20 miles each week on horseback from the property on which he was working to get the educational qualifications necessary to join the RAAF. He succeeded in completing these in 1943, at age 18. Jim then enlisted and became a Flight Sergeant Air Gunner. He would later enter Federal politics, becoming Minister for the Navy in the Gorton Ministry and Minister for Defence throughout the Fraser Government period. After



D. J. "Jim" Killen  
Source: Sir D. J. Killen

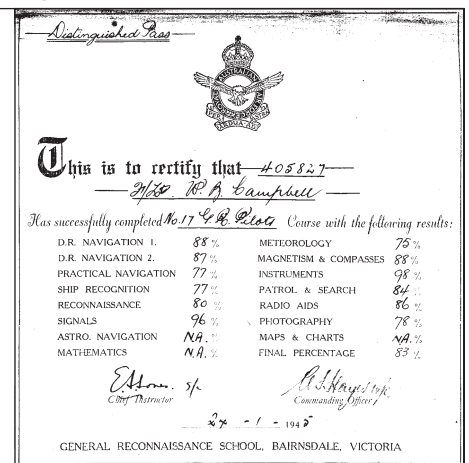
becoming a member of parliament and before first becoming a Minister, Jim undertook further study and secured admission to the Queensland Bar.

Walter Campbell entered the University of Queensland on an Open Scholarship in 1940, embarking on an Arts/Law course of study. He also enlisted in the RAAF (aircrew) reserve. He entered the RAAF in June 1941. He came to be categorised as a multi-engine pilot. Posted to Amberley for multi-engine training, he received his wings on 7 December 1941, the same day as Pearl Harbour was bombed. Walter Campbell proved to be a natural flyer, so much so that his initial postings in the RAAF were as a flying instructor, initially at the Central Flying School at Camden and then at Western Junction, near Launceston, Tasmania. So it was that in 1942 he was engaged in teaching would

be pilots how to fly in open cockpit Tiger Moth biplanes. Initial flying training under wartime conditions with fledgling pilots coupled with the vagaries of Tasmanian weather made this an inherently dangerous task. That year he was seriously injured when one of the planes on which he was instructing a rookie pilot crashed. He recalled "coming to" in the wreckage of the aircraft with his lower right leg bent forward at right angles to his knee. A lengthy period in hospital and then various convalescent depots followed. One such convalescent depot had been established at "Hurlington" at Southport, ironically in light of later events in Walter Campbell's life, a former summer residence of a Queensland Governor, Sir Leslie Wilson. It was here, in 1943, that Walter Campbell met D. G. ("Bob") Andrews, by then repatriated from the Middle East and receiving rehabilitative treatment for the grievous wounds he had suffered there.

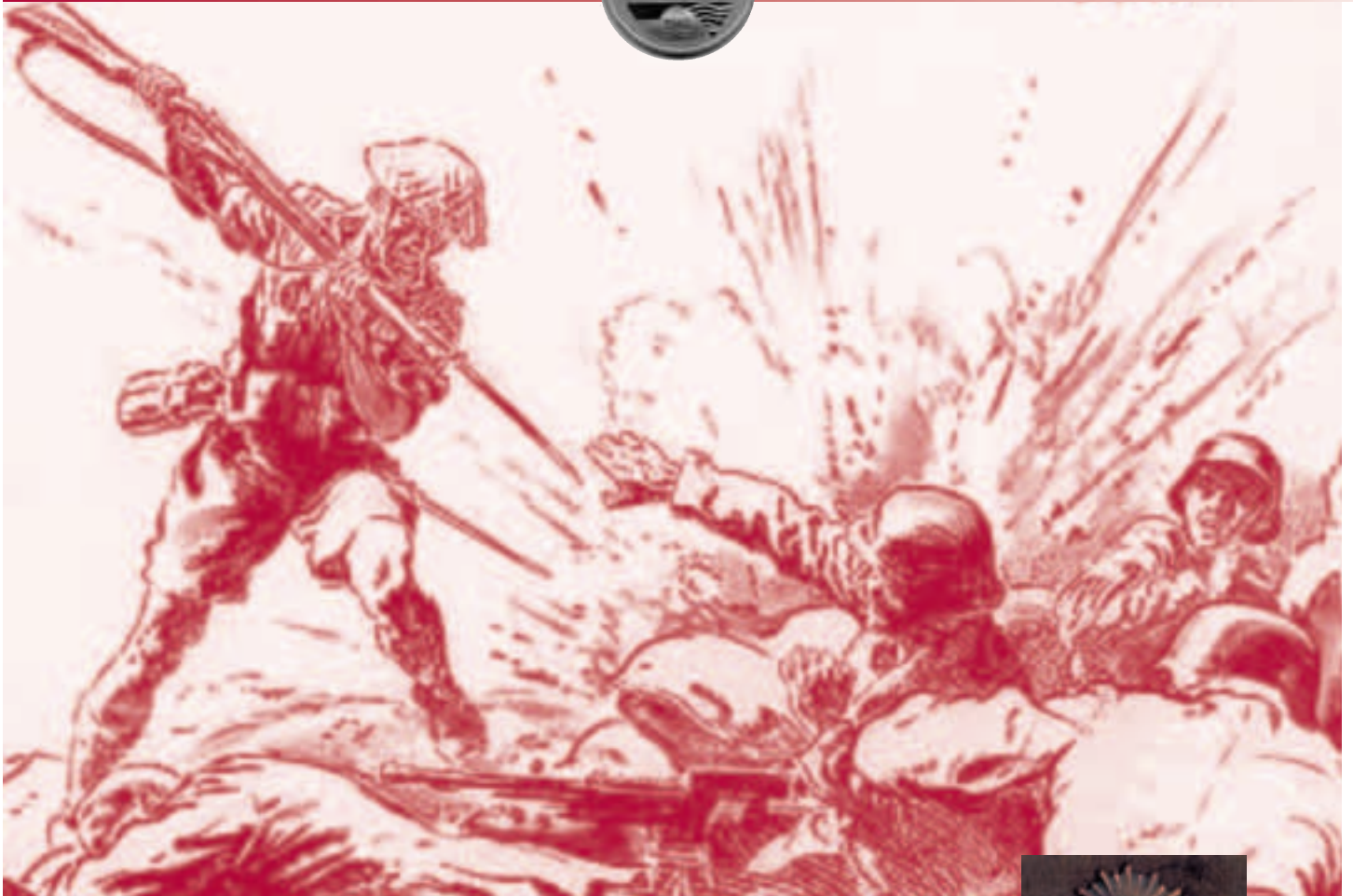
The severity of Walter Campbell's injuries was such that it was thought for a time that his flying days were over. Not so it proved. Though his leg injury was to trouble him for the rest of his long and eventful life, Walter returned to flying duty as an instructor after a year's convalescence. An entry at this time in his logbook by an assessor records his capacity as an instructor as "above average" and also comments, prophetically "has a very good instructional manner and voice".

In 1945, much to his relief Walter Campbell would be posted to 102 Special purpose Squadron flying state of the art four-engined Liberator aircraft. The squadron had been formed to support clandestine operations behind enemy lines. He finished the war as a Flight Commander in this squadron.



Walter Benjamin "Wally" Campbell and an extract from his RAAF pilot's logbook recording a "distinguished pass" in aerial reconnaissance training  
Source: W. D. P. Campbell Esq.





Artist's depiction of the action in Syria, 1941 for which Private J. H. Gordon was awarded the Victoria Cross on the recommendation of his company commander, Nort Stable – original drawing by K. J. Petts, 1943, U.K. National Archives. At right – (above), WW II era Australian Army collar badge; (below), colour patch of 2/12<sup>th</sup> Battalion



## THE WAR'S INITIAL PHASES FOR AUSTRALIA

Twelve days after the declaration of war, the Australian Government announced that a force of one division and auxiliary units, some 20,000 men in all, would be raised for service at home or abroad “as soon as circumstances permit”. As in the First World War, this force was to be a special, all volunteer force, a Second Australian Imperial Force. The First AIF had comprised 5 Divisions. In a deliberate attempt to demonstrate continuity with, but so as not to detract from, the reputation of its predecessors, the Divisional numbering of the 2<sup>nd</sup> AIF followed consecutively on that of the 1<sup>st</sup> AIF. Thus the first division raised was the 6<sup>th</sup>, with three others, the 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> following. The arms and services of these divisions adopted the prefix “2/” in their numbering so as to distinguish them from their 1<sup>st</sup> AIF predecessors.

The advance elements of the 2<sup>nd</sup> AIF left by ship for the Middle East in January 1940. By then Jim Douglas



Jim Douglas, right, and a fellow officer at a pre-war “TEWT” – Tactical Exercise Without Troops  
Source: Douglas family

and George Lucas were in training at Redbank.

Another in training at Redbank was Brisbane Barrister, Norton Sheridan (“Nort”) Stable. His low AIF enlistment number, QX 164, testifies to his being one of the very first Queenslanders accepted into the AIF. He was enlisted into the AIF on 21 October 1939, one day prior to his 30<sup>th</sup> birthday, at the military depot then located at Water Street, Spring Hill in Brisbane. According to one of his last Supreme Court Associates, Queensland Bar member Bob Hume RFD, he always maintained that he was sworn into the AIF on a “Collins Gem Dictionary” which very quickly had had its gold lettered title blocked out with ink! Nort Stable would serve as an infantry officer throughout the war, being discharged as a Major on 14 February 1946.

After completion of initial employment training, Douglas and Stable embarked







in early May 1940 with the other members of the 18<sup>th</sup> Brigade for what they then expected would be service with the 6<sup>th</sup> Division in the Middle East. En route, the 18<sup>th</sup> Brigade was diverted to the United Kingdom to bolster its defences following the fall of France. The brigade arrived in the UK in June 1940. By then, Jim Douglas was posted to 2/12<sup>th</sup> Australian Infantry Battalion as a platoon commander. Another officer in this battalion at the time was Lieutenant C. E. J. Foley, father of Queensland Bar member and former Attorney-General, Matt Foley.

### Tobruk

The 2/12<sup>th</sup>'s principal action in the Middle East was its participation in the defence of the port of Tobruk in what is now Libya. The battalion was deployed there by ship in April 1941 to reinforce the garrison there commanded by (then) Major General Leslie Morshead.

On 3 May 1941, 2/12<sup>th</sup> battalion took part in a brigade sized counter attack against the encircling enemy. Local counter attacks and aggressive patrolling characterised the defence of Tobruk



The officers of the 2/12<sup>th</sup> Battalion, Lopcombe Corner, U.K. July 1940  
Lt. Jim Douglas is seated front row, second from right. Lt. C. E. J. Foley is pictured in the second back row, fourth from the left.

Source: "Of Storms and Rainbows" – Official History of 2/12<sup>th</sup> Battalion

The Australian forces diverted to the UK were reorganised so as to allow the creation of additional units. One of the units formed in this fashion was 2/31<sup>st</sup> Battalion. Nort Stable became a platoon commander in this battalion. This battalion became part of the newly formed 25<sup>th</sup> Brigade.

The 2/12<sup>th</sup> Battalion left the UK on 17 November 1940, arriving in the Middle East on 31 December 1940. The 2/31<sup>st</sup> Battalion followed a few months later, disembarking in Egypt on 9 March 1941.



N.S. "Nort" Stable – extract from group portrait of the officers of 2/31<sup>st</sup> Battalion, U.K. 1940.

Source: Battalion Archives.

denying the enemy information about the detail of perimeter defences, gaining information concerning his strength and positions, denying the same to the enemy and tying up large numbers of his troops who might otherwise have pressed forward to the Suez Canal zone. The following is an excerpt from an account of the counter attack, written by Jim Douglas' platoon sergeant, George Harper and published in the battalion's official history, "Of Storms and Rainbows" (at p. 140):

*"B Coy came behind as support, and were to man the position when it was taken. However, the Engineers had not cut the wire and A Coy went to ground when they were fired on, and we did likewise. I remember the Transport Officer walking amongst us when we had gone to ground. I thought at the time he must be brave, or a fool, to be up on his feet with so much lead flying about.*

*There was quiet a lot of gunfire from the Italians and men were being killed and wounded. We had been issued with small entrenching tools, a small shovel which was strapped to our equipment and hung down the leg. However, it proved to be too clumsy in the desert, and used to charge the leg. So accidentally on purpose, many of us had*

## Lest we forget... Active Service Deaths

A large donation by prominent Brisbane businessman, T.C. Beirne in 1935 enabled a School of Law at the University of Queensland to open the following year. For some four decades thereafter, the T.C. Beirne Law School was the only law school in Queensland. Its first students graduated in 1938. There were 30 students at the law school in 1939. Five law degrees were awarded that year.

Over the course of the war, five of the early student body of the law school were killed on active service – Harley Charles Stumm, Harold Graham Pace, Alexander Charles McNab, George Douglas Rutherford Avery and Chester James Parker. Stumm and Pace were members of the Queensland Bar at the time of their deaths. McNab had fully qualified for admission but war service prevented his being called to the Bar. Avery and Parker had not fully completed admission requirements at the time of their deaths. The first volume of the University of Queensland Law Journal, published in 1951 was dedicated to their memory. The dedication to them in the volume was in these terms:

*"These men were outstanding in their generation. All had shown promise of high achievement, and all had won the respect and affection of their fellows by the qualities of character and humanity which they possessed. The loss which a nation suffers when men like these are taken is one which can not be remedied, but the inspiration which is afforded by the sacrifice they made will not be lost, for they will not cease to be remembered with honour while any of those who knew them remain."*

The biographies that follow are reproduced with the kind permission of the T. C. Beirne School of Law. The Bar Association is privileged thereby to be able further to perpetuate their memory. To read the biographies of their all too brief lives and to recall that it was only in June this year that Sir Harry (Bill) Gibbs, another outstanding member of the law school's early student body and the Queensland Bar who served in the war, died is to be reminded of the enormity and tragedy of the loss their deaths occasioned to family, the profession and our country.

*Continues...*







lost them. However, when we went to ground in the advance and came under fire, what shovels were left came into instant use, and were handed around the platoon, one to another. I know that I felt much safer once, rather like an ostrich, I had dug a hole for my head and chest.

It seemed a long time waiting for A Coy to do something, when all of a sudden there was a mad rush, and A Coy personnel came running through us. Our men then did the same, then everything went quiet bar an odd shot or mortar bomb. I was just starting to panic when someone behind me said 'Come on George'. I said, 'I can't. Jim's ahead [Lt Jim Douglas, his Pl Comd], and he hasn't told us to retire'. The voice said 'I'm Jim'. 'Good on you' I said, and cannot put into words how relieved I felt about being able to get out of it! We were the last away. On our way back a mortar bomb dropped close to use, so we ran to the right, and one dropped close again. This happened a few times and I had the idea that they could see us. I was pleased when we got out of range."

Many years after the war, Jim Douglas came to write an account of another of the actions in which he was involved at Tobruk in May 1941 for the editor of his battalion's official history, excerpts of which are published in that work. It gives a good indication of the dogged defence of the perimeter posts of Tobruk, this one a post known as S8:

"As I remember we occupied Post S8 on the night of 14<sup>th</sup> May. We were attacked about midnight on the 15/16 May from about the South-East Quarter. On the same night we got into communication by telephone for the first time with both company headquarters and battalion headquarters Cpl Benneworth was in charge of the signal detail connecting the phone. We had heard that the 2/10 Bn proposed to straighten the line to the EAST and we expected troops to come in from that direction.

Early in the evening, we heard what appeared to be the movement of tanks, or heavy vehicles from the direction of posts S6 and S7. I reported this several times to Captain Vincent at company headquarters, only to be told "Jimmy was it raining at the time". In other words, Vincent was paying no attention to the situation at all.

Somewhere about midnight, after having endured spasmodic fire, a barrage came down on us. I am inclined to think that it was a mixture of mortar and artillery fire. It may have been only mortar. At the same time the Germans commenced to fire flame tracers over the post from different directions, so that it crossed where the post was. On

reflection, I would not be surprised if this came from some of the tanks five of which were counted in the B Coy area. However, it could just as easily have been ground fire.

When the barrage started we got most of the troops under cover. As soon as the barrage lifted we got them up into the fighting pits. Almost immediately we made out the figures of enemy troops coming in towards us. In the forward post, having regard to what we knew about the 2/10, one of the men in that post, on seeing the enemy troops, challenged them, and said "Are you blokes Aussies?", to get the reply "Yes, we are Aussies". A stick bomb was then thrown into the pit and Tom Barry, the Bren gunner, was killed, and his Bren gun put of action. Ned Maxwell and, I think, John Blinco come back to the middle of the post from the forward post, and reported what had happened.

Steps were taken immediately to re-occupy the forward post. However, the situation was that it was too shallow to provide proper protection to the defenders and the top of the stairs, leading into it, was sandbagged, and Tom Hartnett was stationed there with his Tommy-gun. Also Maxwell and Blinco remained with him.



In the meantime a vigorous fire fight had developed, and grenades and small arms fire were exchanged. This went on, to my recollection, for about three hours, although I am not at all certain on this point as, in such circumstances, one tends to lose track of time.

The men were steady, and the fighting was intense. It shortly became apparent that all the men could not be fitted into the weapon pits available. However, this was taken care of, because a number of men had to be detailed to spend their time simply reloading the Bren magazines. During this time a tank on the EAST fired on us constantly. The Germans attacking us, who turned out to be Panzer Grenadiers, were equipped with a flame thrower. Fortunately, the man carrying it, before he had to bring it into action, was shot and killed, from Eric Newlands' post at the rear.

During the attack I spent my time going from post to post, observing how things were going. Otherwise, I can only speak of incidents which happened as I saw them. When we took over the stores from 2/23 Bn, we were told the grenades were seven second

grenades, but one four second grenade had been mixed up with them.

It was necessary, and the troopers were so instructed, to release the firing pin and then count to four before they threw the grenades, in case they were thrown back. All of the grenades went out, presumably including the four second one. None of them exploded in the post, and none of them came back.

As I was going from post to post, you (George Harper, Pl Sgt) were standing on the ladder near the center post, throwing grenades. As I passed, you said "Jim, Jim hand me up my rifle!" which I did. You thereupon shot their officer right in the forehead. When we looked at him afterwards, he had in his hands a demolition charge, which would have blown up most of the post. He had undone the string and was about to pull it, when you got him. In so doing you saved the post. At one stage I passed the rear ladder, and Benneworth was standing there with a shovel in his hands. He was otherwise unarmed. I said "What are you doing here lad?". He said "I am going to kill any bastard that tries to come down here". I left him there but made sure that he was armed.

Towards dawn we saw a tank, and men who were obviously prisoners, being taken away to the SOUTH but Eastward of our position. They must have been the garrison from S10.

The next morning, there were six dead, and one wounded, outside the post. Obviously, the Germans had removed most of their wounded when they retired. The wounded men, whom we took prisoner, told us that they got caught in their own mortar fire. The truth of it was that it was our grenades.

We were not able to get back into communication until the next night.

In the meantime, the counter-attack on S10 had gone in, and had been successful. Unfortunately we thought the attackers were Germans, and fired on them, fortunately with no success.

The day following that, the counter-attack by the 2/23 Bn was mounted. We had got into communication in the meantime and the Official History indicates that our presence was known to the counter-attacking force. I do not agree with the Official History in this respect. We certainly came under barrage fire from our artillery, and also from the Germans artillery. We had to steer the 2/23 Bn men away from attacking our post.

The attack taught us good lessons, because we quickly rigged Dannert wire around the post, and to disperse our fire power, dug





*weapon pits on the side. In the attack, the communication trenches between the fighting posts were useless to us, as they were too deep to be manned."*

(Reproduced by kind permission of Jim Douglas' surviving sons, Francis Douglas QC and the Honourable Justice James Sholto Douglas from the late judge's personal papers).

## Syria

The 2/12<sup>th</sup> Battalion was withdrawn from the Tobruk perimeter by sea on the nights of 26 and 27 August 1941. The unit trained in Palestine before joining other Australian forces then garrisoning the newly captured, former Vichy French protectorate of Syria.

Nort Stable's 2/31<sup>st</sup> Battalion formed part of the 7<sup>th</sup> Division, the major formation deployed in the successful invasion of Lebanon and Syria under the command of Lieutenant General John Lavarack, later to become Queensland's first native-born Governor.

Towards the end of that often forgotten, but hard fought campaign, Stable, by then a company commander, was involved in a night assault on a fortified position at the top of a hill known as "Greenhill", North of Djezzine, in Syria, manned by French Senegalese troops. He was later to comment to Bob Hume that they were formidable opponents. The company's line of march for the assault took it up a dry wadi. The ground was rough and it was necessary for the troops to hop from rock to rock. While doing so, they came under fire from a French Hotchkiss machine gun. Bob Hume recalls that Stable always maintained thereafter that it was fortunate for him that he was leaping from rock to rock when the machine gun opened fire as the bullets from it passed between his legs, chopping away the inside leg of his "Bombay bloomer" shorts. Stable's two forward platoons were pinned down by machine gun fire. On his own initiative, one of the men in Stable's company, Private J H Gordon, crept forward over an area swept by machine-gun fire and grenade explosions and succeeded in approaching close to the machine gun post; he then charged it from the front and killed the four machine-gunners with his rifle mounted bayonet.

Gordon's action completely demoralised the enemy in this sector and the company advanced and took the position. For this action and other acts of gallantry the following day he was awarded the Victoria Cross. His citation

and recommendation for that award were written by Norton Stable. Only one other VC was awarded in that campaign, to a young Australian artillery officer, Roden Cutler.

Jim Douglas, by then seconded from his battalion to the staff of its parent formation headquarters, 18<sup>th</sup> Brigade, left the Middle East with that formation in mid-February 1942, as part of a general recall of the 6<sup>th</sup> and 7<sup>th</sup> Divisions following the outbreak of hostilities with Japan. He arrived back in Australia in late March 1942.

Nort Stable did not return to Australia with these formations. He was then suffering from malaria and remained behind in a British convalescent depot. While there, and following a request by British authorities, he was seconded to the Royal Trans-Jordan Police undertaking liaison duties with the Bedouin tribesmen and later acting as a police prosecutor in Jerusalem. The latter appointment suggests that the occasion for his recruitment may have been as much his legal as his military experience.

George Lucas was to serve as a staff officer as well as an artillery officer in the Middle East. While in that theatre, he took part in the ill-fated defence of Crete. Jim Douglas was later to recount that one of the great sights of the War was George Lucas, 6' 4", heavily built and wearing nothing but a pair of shorts, standing defiantly on the bow of a destroyer on evacuation from Crete. The ship on which George had first embarked had been sunk and this was all he had to wear.

Stable and Lucas each returned to Australia to undertake further staff appointments.



George Lucas, right, with a fellow officer, standing on the Allenby bridge over the River Jordan, 1941  
Source: Lucas family

## Lest we forget... Active Service Deaths

*Continued*

### Harley Charles Stumm

29 August 1913 –  
13 May 1944



Harley Charles Stumm was born in Gympie on 29 August 1913, only son to the Stumm family, of the property "Penlan Downs" in the Longreach area. After completing his schooling at The Southport School, Harley Stumm enrolled at the University of Queensland to study Arts-Law in 1932.

Harley took up residence at St Johns College and quickly became involved in University life. He represented the College in rowing, cricket and athletics, the University in rowing and football and was a member of the Combined Australian Universities' Rugby Football Team which toured Japan in 1934. He was also an active member of the dramatic and debating societies.

Harley Stumm met his future wife, Lorraine Streeter, also a student of the University of Queensland, at a rugby union match at the Brisbane Exhibition ground. She wrote in her autobiography *I saw too much: a woman correspondent at war* that he impressed her as "a tall, handsome man, with dark curly hair, a cheery smile and a big voice".

In Harley Stumm's application for the 1935 Rhodes Scholarship we see the high regard in which he was held from several testimonials. The headmaster of The Southport School wrote: "Generally I consider him to be a splendid type of young Queenslander – sincere, manly and honourable, who would not only hold his own at Oxford but would strongly commend Australian manhood at that university."

Having won the Scholarship, he set sail for England in August 1935. After Lorraine was admitted to the Degree of Bachelor of Arts and awarded a Diploma of Journalism, she set sail to England to join him.

At Oxford Harley entered Balliol College, studied Law and read at

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## DEFENDERS OF MALAYA AND GUESTS OF THE EMPEROR

In the early evening of 15 February 1942, at the Ford Motor Factory at Bukit Timah, Singapore, Lieutenant General Arthur Percival, General Officer Commanding Headquarters, Malaya Command surrendered the forces under his command, to Lieutenant General Tomoyuki Yamashita, commander of the opposing Japanese 14<sup>th</sup> Army.

Percival was left with little choice other than to surrender. He was facing an enemy with total air supremacy, no longer in control of the city's main water supply, burdened with the responsibility of a civilian population in excess of 1 million people and had no pre-prepared lines to allow defence in depth on the island. The Malaya/Singapore Campaign had proved to be the greatest defeat of British Arms in history.

With Percival's decision some 80,000 British, Indian and Australian troops passed into Japanese captivity, joining the 50,000 already captured in the course of that campaign. The Australians comprised the 8<sup>th</sup> Division, 2<sup>nd</sup> AIF (under strength at 2, instead of the usual 3, brigades) and its supporting arms and services, in all 14,792 personnel. In the months of February and March 1942, another 2,736 were to be captured on Java; 1,137 on Timor; 1,075 on Ambon; and 1,049 at Rabaul in forlorn defensive operations against overwhelming odds. Seventy-one women from the Australian Army Nursing Service were amongst them. All told, over 21,000 Australians were to pass into Japanese captivity in these months. Of these, some 36%, 8031 persons, were to die in captivity.



Len Draney  
Source: Draney family

Three of the Australians, who became prisoners of war at Singapore as a result of the surrender were Brisbane barristers – Lieutenant Len Draney of 2/10<sup>th</sup> Field Regiment, Royal Australian Artillery, Lieutenant Tom McCawley of 2/26<sup>th</sup> Australian Infantry Battalion and Lieutenant (later Captain) Vaux Nicholson, by then also an officer with 2/10<sup>th</sup> Field Regiment.

Another 2/26<sup>th</sup> Battalion officer and Brisbane barrister who served in Malaya was Major Mark Hoare, who commanded its A Company from the outset of the campaign, but who was fated not to pass into captivity. Tom McCawley also served in A Company, acquiring the nickname "Dice" for reasons now lost to history. One of Hoare's fellow company commanders at the time was Captain R.W.G



Vaux Nicholson in tropical kit just prior to embarkation for Malaya.  
Source: Miss L. Nicholson, daughter.

(Above) Jack Kelly's personal identity tags. (The circular tag is removed from the body and the octagonal tag should, given time, be placed inside the dead soldier's mouth, between the teeth and lips.) Source: Kelly family

(later Sir Reginald) Swartz, who after the war entered the Commonwealth Parliament, became a Minister and was knighted. Like McCawley, Nicholson and Draney, Swartz was destined to spend the next three and a half years as a "guest of the Emperor". Fate also played a hand in the life of another later notable Queensland lawyer, Jack Lawrence Kelly in relation to the Malayan campaign. The then Lieutenant Kelly was in Australia under orders to proceed to Malaya as an officer reinforcement for the 8<sup>th</sup> Division at the time when the Singapore capitulation occurred.



Mark Hoare  
Source: B. L. P. Hoare Esq.





## How had all this begun?

2<sup>nd</sup>/26<sup>th</sup> Battalion had been formed at Grovely, Brisbane in November 1940. Most of its members had enlisted in the aftermath of the Fall of France which brought with it confirmation that, for the time being, Britain and her Commonwealth were all that stood between freedom under parliamentary democracy and a particularly odious dictatorship. Mark Hoare was an original member of 2/26<sup>th</sup> battalion, the vast majority of whose officers, NCO's and enlisted men came from Queensland. After its formation, the battalion conducted its initial training at Redbank, near Ipswich. From there it went to Bathurst Camp, New South Wales for brigade training with its sister battalions in the 27<sup>th</sup> Brigade, the 2/30<sup>th</sup> from New South Wales and the 2/29<sup>th</sup> from Victoria. Second/10<sup>th</sup> Field Regiment was the artillery regiment allocated to provide direct artillery support to 27<sup>th</sup> Brigade.

With the rest of the battalion, Hoare and McCawley embarked for Malaya by troopship in July 1941, arriving in Singapore in August. From then until 7 December 1941 the battalion conducted training and prepared various defensive positions in the Malaya peninsula. Mark Hoare's legal skills were also employed by the Army during this period. His battalion's routine orders for 7 November 1941 record his acting as judge advocate at a District Court Martial that assembled at Jasin, near

Malacca on the south-western side of the Malay Peninsula. The duties of a judge advocate, then as now, were to advise the court martial members, and rule upon issues of law and procedure, rather like the role of a judge in a criminal trial, though without the responsibility for passing sentence. The court martial tried charges laid against an infantry private for striking a superior officer, striking a person in whose custody he had been placed and failing to appear at a place of rendezvous appointed by his commanding officer. A conviction was recorded and 21 days detention was awarded in respect of the first and last charges.

Len Draney had deployed to Malaya with the original contingent of 2/10<sup>th</sup> Field Regiment earlier in 1941. Vaux Nicholson followed later with the reinforcements for that unit after completing corps training at Holdsworthy in New South Wales. The reinforcement contingent paraded through Martin Place, Sydney prior to embarkation.

One of Draney's and Nicholson's fellow artillery officers in the 2/10<sup>th</sup> Field Regiment was Brisbane solicitor Captain J. J. (later Sir John) Rowell, who, after the war, became President of the Queensland Law Society.

Second/26<sup>th</sup> battalion was to give a good account of itself in the hostilities that followed the Japanese invasion of the Malay peninsula in December 1941. The



The 2<sup>nd</sup> Reinforcements for the 2/10<sup>th</sup> Field Regiment parade through Martin Place, Sydney 1941, prior to embarkation for Malaya – Vaux Nicholson is second from the front, "X" at his feet.  
Source: Miss L. Nicholson, daughter.

## Lest we forget... Active Service Deaths

*Continued*



Lincoln's Inn. He was awarded his Bachelor of Arts with third class honours in Jurisprudence in 1937 and his Bachelor of Civil Law in 1938, and was admitted to the English Bar. In the "Report for Year 1936/7 on Rhodes Scholars from Queensland" the Warden of Rhodes House wrote that Harley Stumm was: "Of sterling quality and character, who has a high sense of responsibility, and whose industry has been untiring. He radiates honesty and good nature, and is esteemed by everybody."

During his time at Oxford Harley Stumm joined the Oxford University Air Squadron and took flying lessons, gaining his Certificate of Competency in June 1936.

While waiting to be admitted to the Queensland Bar Harley Stumm read in the Chambers of Mr B.F. Fahey where he also practised after his admission early in 1939. During his short time as a legal practitioner his outstanding personality attracted him to all those with whom he came in contact.

On returning to Brisbane, Lorraine and Harley married on 1 July 1939 at St Mary's Church, Kangaroo Point. Soon after they found a little flat at Kangaroo Point, Harley received a cable stating he was to report immediately to RAF Headquarters in Singapore. They had been married six weeks and he left on his 26<sup>th</sup> birthday. His wife later joined him in Singapore and she wrote that at that time, "No one dreamed that Singapore was in danger".

In his spare time Harley wrote. His first manuscript *After Victory* was printed in Singapore. In this he argued that only a world union, starting with a union in Europe, would prevent world wars

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## Lest we forget... Active Service Deaths

Continued



from occurring. At the time his ideas were considered idealistic and wishful, but now that the European Union is a reality, his vision seems very prescient. He also

published *A Rifle and Kay*, an adventure/love story whose two main characters were based on himself and Lorraine.

On 22 June 1941 their daughter Sheridan was born.

And on 8 December 1941 the first Japanese planes raided Singapore. In January 1942 his wife and child returned to Australia, just before the fall of Singapore on 14 February 1942.

Harley was transferred from Singapore to Sumatra. When Sumatra fell to the Japanese, he flew out in an old Hurricane which gave up over Central Java and landed head first in a paddy field. He fractured every bone in his face and was knocked unconscious, but was revived by some Javanese who rescued him from the paddy field and took him by ox cart to the nearest police station. From there he was transported to an Australian hospital ship evacuating the wounded to India.

After he recovered in a hospital in Colombo, Sri Lanka, he was ordered to report to the RAF 11 Squadron of Blenheim Bombers based there. By November 1942 11 Squadron had a new Commanding Officer, Wing Commander Harley Stumm. He had taken part in 70 raids in Singapore, and having survived the crash in Java, his superiors felt he had earned his promotion. The Squadron carried out many operations against the enemy in Burma, and in July 1943, as a result of these operations, Harley was awarded the Distinguished Flying Cross.

Harley Stumm's wife and daughter arrived in Colombo Harbour in 1944 where they were to travel on to Delhi with him. Harley hadn't seen his daughter, now three, since she was six months old. The family flew to Delhi together in a Mosquito bomber. On

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experience of the battalion in the campaign is neatly summed up by the following entry in the Battalion's war diary for 27 January 1942:

*"This is the fifth withdrawal since 18 January and in every case a long march is involved. It appears that the role of this Bn [battalion] is to assist in the extraction of trapped BRITISH and Indian tps [troops]. Morale low and troops in the state of physical exhaustion."* (emphasis in original)

An entry for 30 January 1942 in the war diary includes the remark *"Lack of air support appalling"*.

In an addendum written in Changi about a year later the Battalion's then commanding officer, Major Tracey (the commanding officer, Lieutenant Colonel Boyes, having been killed in action on 12 February 1942) commented in respect of this reference to "low morale" that it *"was disproved by the actions subsequently fought by the Bn"*. He continued:

*"On many occasions tps were lacking in vitality due to days of heavy fighting without respite followed by long night marches and the necessity of digging in on arrival at the new position, but NOT on any occasion did they fail to give a good account of themselves when called on. This Bn always fulfilled its allotted role and NOT on any occasion yield an inch until ordered to do so."* (emphasis in original)

The 2/10<sup>th</sup> Field Regiment provided effective fire support during the campaign to various British, Indian and Australian units. Artillery fire from this unit held off the Japanese from advancing in the vicinity of the Mersing River bridge, Johore from 17 January 1942 until 26 January 1942. Later, on Singapore Island, one eye witness described seeing the barrels of the 25 pounder guns of 2/10<sup>th</sup> Field Regiment glowing red to white hot, for a distance of 2 feet back from the muzzles – the result of hours of non-stop and desperate shelling of Japanese landing sites.

The casualty statistics of the campaign are eloquent proof that Major Tracey was not trying to rewrite history in his addendum. Australian troops comprised about 12% of the British forces deployed in the Malaya campaign. Yet they sustained nearly three-quarters of all the battle-deaths suffered by British forces during both the retreat through Malaya and the siege of Singapore, proof enough of the intensity of their contact with the enemy, relative to other forces deployed.

Mark Hoare did not see the close of hostilities. He received orders recalling him to Australia and was one of those evacuated from Singapore prior to the surrender.

Harley Stumm's wife had been able to join him at Singapore. They had been able to share married life together during the period preceding Japan's commencement of hostilities. They had the joy of seeing their infant daughter Sherry christened in Singapore in 1941. Harley flew fighters with his RAF unit throughout the Malayan campaign. He would probably have agreed with the war diary comment about air support. The RAF was outnumbered and mainly equipped with obsolescent or obsolete fighter aircraft that were no match for the first class Zero fighters of the Japanese. With the rest of the RAF, he was eventually evacuated to Sumatra, fortuitously surviving a crash landing there. His wife and daughter were evacuated to Australia and it was not to be until 1944 that he was reunited with them.

The now prisoners of war of the surrendered Malaya Command, Draney, Nicholson, McCawley and Rowell amongst them, were initially concentrated in and in the vicinity of Changi Prison on Singapore Island. Some of the prisoners were destined to remain in that location for the remainder of the war. Many did not. The Japanese sent drafts of prisoners to Thailand, Burma, Borneo and Japan itself.

McCawley went with one such draft to the Thai/Burma border, working on railway construction. While there he acquired another nickname, "White Jap", because he managed to teach himself conversational Japanese. He survived his captivity and returned to Australia to be discharged from the Army in February 1946, subsequently returning to practice at the Brisbane Bar. He died in Brisbane on 29 March 1985 and is buried at Pinaroo Lawn Cemetery.

### Sandakan

A few months after the fall of Singapore, Draney, Nicholson, Rowell and 1495 others were crammed into the filthy, below decks, holds of a small Japanese cargo ship, the *Ube Maru*, which then departed Singapore for Sandakan on Borneo's north east coast. Nine days later, on 18 July 1942, they arrived in Borneo. To protect the oilfields that they





had captured in Borneo, the Japanese Imperial Army had decided to build a military airfield at the port of Sandakan using forced prisoner of war labour.

On arrival, the prisoners were marched 12 km to the site of a prisoner of war compound. They were set to work building the planned airfield. The accommodation for the prisoners was appalling. Their water was drawn from a filthy creek, and their food was mostly a very small quantity of vegetables and a couple of handfuls of dirty rice each day. Initially unbeknown to the Japanese, the prisoners organised themselves into a fighting force ready for a possible Allied landing. A secret cache of homemade weapons was assembled.

In 1943, about a year after the arrival of the original contingent, further Australian and British prisoners joined them at Sandakan. Shortly after that, their Japanese guards were replaced by Japanese officered Koreans.

Conditions at Sandakan camp became progressively more brutal over time, especially when, following a betrayal, the Japanese found the weapons cache and secret radios in the camp in July 1943. Rations, never adequate, were reduced. The leader of the clandestine fighting force, an 8<sup>th</sup> Division signals officer, Captain Lionel Matthews MC, was identified by the Japanese following the torture of other suspects. He was arrested and, though subjected to prolonged and brutal torture, refused to implicate other prisoners. Matthews was executed by beheading in March

1944. He was posthumously awarded the George Cross.

The Sandakan prisoners suffered from malaria, dysentery, vitamin deficiency, beriberi and bone deep tropical ulcers. They had to supplement their meagre rice ration by eating weeds, slugs, grasshoppers, frogs and rats.

Sir John Rowell was later to recall that, apart from these privations, boredom and despair were killers. There was little the men could do to combat the brutalities to which they were subjected. Boredom and despair they could and did fight. The academically trained among them, including Draney, Nicholson and Rowell, organised and presented lectures. Prisoners came thereby to study law, medicine, economics and accountancy. Draney and Rowell wrote and produced theatrical entertainments. Odd scraps of paper were scrounged from any available source to write down dialogue. One play was a courtroom drama. The judge's robe was a scarlet blanket with his wig an improvisation from a white towel. The barrister's robes were manufactured from dark blue loincloths with the wigs again made from white towels.

In August 1943, with the apparent intention of facilitating control of the enlisted men by depriving them of their leaders, most of the officer prisoners, Draney, Nicholson and Rowell among them, were moved from Sandakan to Kuching on the western side of Borneo. After the officers were taken away, conditions for the 2,500 enlisted prisoners at Sandakan deteriorated sharply. Of these



Prisoner's Barracks, Kuching, Borneo 1945  
Source: Draney family.

## Lest we forget... Active Service Deaths

*Continued*

arrival at the military airport, Lorraine Stumm wrote, "A young RAF airman ran across to the bomber and said, "Who are these civilians, what are they doing in a military aircraft?" Harley, now a Wing Commander in charge of 45 Squadron said: "This (pointing at me) is a war correspondent and this (pointing at Sherry) is her typewriter. That is an order." "Yes sir," said the airman...He got away with it, heavens knows how..."

Six weeks after their arrival in India, two Mosquitos, one of which was flown by Harley Stumm, engaged in a fighter affiliation exercise (a form of operational training) with some B25s. Witnesses said the Mosquitos turned together after passing through the B25s, but when executing a half loop, Harley Stumm's "machine seemed to just break up". He died in the accident on 13 May 1944.



**Harrold Graham Pace**  
31 October 1916 –  
13 May 1942

Harrold Graham Pace, known throughout his life as Graham, was born in Brisbane on 31 October 1916. His father, Arthur H. Pace, was a solicitor, and his mother, Jeanie Christie Pace daughter of William Butler of Kilcoy Station, Kilcoy.

Pace attended Windsor State School, obtaining a state scholarship to attend Toowoomba Grammar School as a boarder for his secondary schooling. He obtained an open scholarship to the University of Queensland in the Senior Examination. During his early schooling he took part in several sporting activities and was an NCO in the Toowoomba Grammar School Cadet Corps.

Choosing to follow his father's profession, Graham Pace entered the University in 1934 where he soon made his mark. A sound student of any subject that he undertook, in law, where his academic interests lay, he was brilliant. The calibre of his

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## Lest we forget...

### Active Service Deaths

*Continued*

scholarship was illustrated by his results – in the fifteen subjects which made up the three final years of his course (the years of subjects of legal study) he received merits in eleven and plus passes in three and this in a period when only outstanding efforts were rewarded with grades above a pass. He was admitted to the Degree of Bachelor of Arts. Awarded a Masonic Scholarship in 1937, Pace proceeded to his Bachelor of Laws in 1939. In 1940 he sat for the Honours examination in Law and was awarded Seconds. On 23rd April 1940, he was called to the Bar.

Pace had a strong sense of public duty, and his University interests were far from being academic only. He played a full part in undergraduate affairs – in social life, through the activities of the Union and the Law Students' Society, and in the Debating Society, which knew him as a lucid and forceful debater. He was well known not only among his fellow law students, but also throughout the University as a whole. He was a keen tennis player, sailed with the sixteen-foot skiffs and was fond of golf.

Pace's mother inherited from her father a small property near Kilcoy where he spent nearly all his holidays, enjoying riding, camping and shooting.

It was during his University years that he met his future wife, Ida Frances Keenan, also a graduate of the University of Queensland (BA 1938). No one who knew Graham was surprised that he enlisted early in the RAAF, in February 1940. After Ida and Graham were married (in St Andrew's Church of England, South Brisbane), they travelled to Perth where she stayed while he trained at Pearce Air Force base.

After his training, Graham served as a pilot in Australia until 1941, and then with Squadron in operations in the Western Desert. This was a critical time in one of the most critical campaigns in the Empire's history. On the 13th May 1942 – in his twenty-sixth year – he was shot down in action at Derma, Libya. His parents,

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men, only six were destined to survive. By early 1945, with the airfield rendered unusable by Allied bombing and an Allied landing imminently anticipated, the Japanese decided to evacuate Sandakan. So began a series of forced marches of prisoners to Ranau in north west Borneo. Save for six who managed to escape during the course of these marches, all of the other prisoners died from disease, starvation, overwork, beating or shooting either during the marches or upon reaching Ranau.

For Draney, Nicholson and Rowell, conditions at Kuching were scarcely an improvement over Sandakan. The privations that they endured and saw at each of these places would haunt them for the rest of their lives.

Liberation came in September 1945 with the arrival of troops from the 9<sup>th</sup> Australian Division. Draney, Nicholson



John Rowell, centre and Vaux Nicholson to his immediate right with fellow newly liberated POW's, Kuching, Borneo September, 1945  
Source: Miss L. Nicholson, daughter.

and Rowell had the satisfaction of witnessing the Japanese surrender and of seeing their former guards marched away into captivity. Here, too came the news that the brutal Colonel Suga, who had commanded all Japanese prison camps in Borneo, had committed suicide while in



Hospital Ship Wanganalla, above and right (docked at Brisbane) which brought Draney, Nicholson, Rowell and other 8<sup>th</sup> Division ex-POW's back to Australia  
Source: Miss L. Nicholson, daughter.



captivity at Labuan, Borneo, by slitting his throat with a blunt kitchen knife.

Draney, Nicholson and Rowell and other ex-POW's were repatriated to Australia by sea on board the Hospital Ship Wanganella. The ship deliberately took a lengthy, circuitous route back to Australia to allow time for the various diseases from which they were suffering to be treated and so that they could be fed a specially planned diet gradually to restore their health and digestive systems. Experience had by then showed that too ready an introduction of ordinary dietary staples often had fatal results for men whose digestive systems had long been unaccustomed to such food. The Wanganella arrived back in Australia in mid-October 1945 disembarking some ex-prisoners in Sydney before continuing to Brisbane where she docked at Hamilton wharves to disembark Queensland ex-POW's. It was here that Draney,



Vaux Nicholson, just disembarked from the Wanganella, reunited with his parents, Brisbane, October, 1945  
Source: Miss L. Nicholson, daughter.

Nicholson and Rowell were reunited with their families.

Nicholson, Draney and Rowell are each now dead. Vaux Nicholson never did get to play rugby for the Wallabies. On his return, he played in some club fixtures. However, the privations that he had endured as a POW prevented his ever regaining the form and fitness that had enabled him to play first class fixtures. He completed his legal studies at the University of Queensland, commenced practise at the Bar and was eventually appointed a District Court judge. At both the Bar and on the Bench he is recalled as being calm and nearly unflappable.

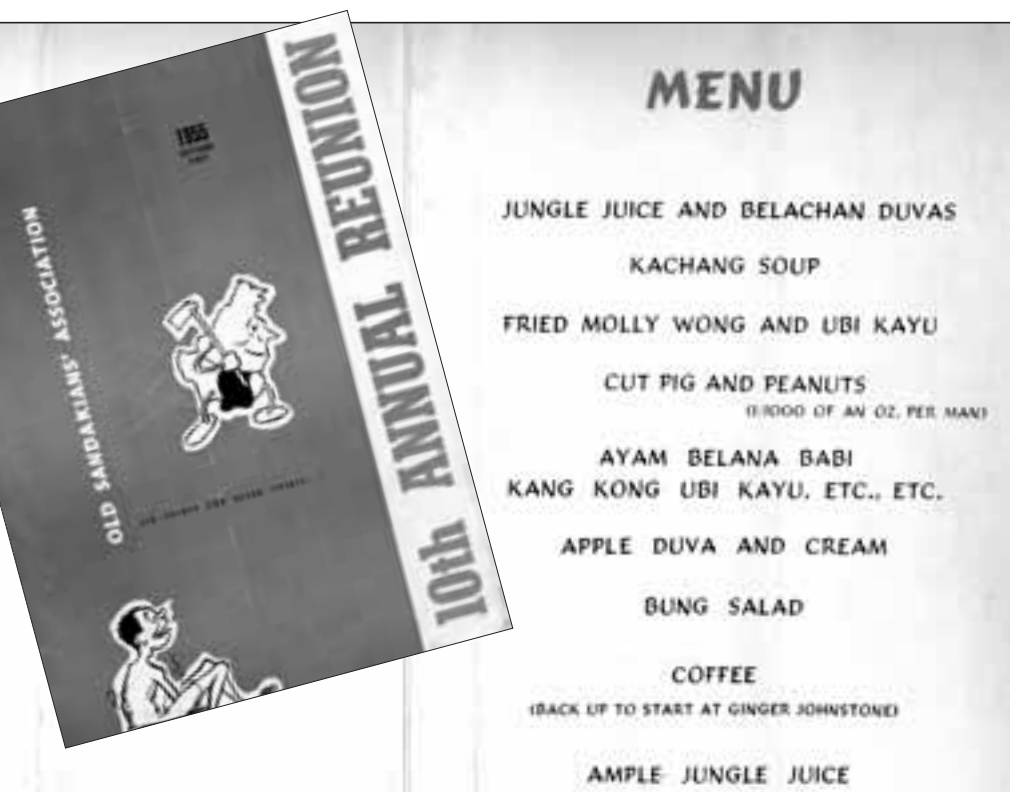




Front page of wartime Australian Army Newspaper, "Table Tops", recording the death of Colonel Suga  
Source: Miss L. Nicholson, daughter.

Len Draney resumed practise at the Bar and took silk shortly before his retirement in the 1970's. He had a commanding practice at the Queensland Bar, especially in common law work for defendants. He did not have much sympathy for those he suspected of malingering but, if he assessed a claim of pain and suffering as genuine, a wise insurer usually took his advice and settled. On pain and suffering, Len Draney was an expert.

For decades after the War, Draney, Nicholson and Rowell and fellow "Old Sandakians" met annually to recall shared privations and enjoy a bond of friendship that endured for all the rest of their days. Memorials to those who did not survive Sandakan have been erected near the site of the former POW camp in Borneo and at New Farm Park, in Brisbane, just to the right of the Brunswick Street entry gates.



Menu from Old Sandakian's Association 10th Anniversary Dinner, 1955  
Source: Draney family

## Lest we forget... Active Service Deaths

*Continued*

his wife and a daughter (born a month before his death) survived him.

Graham's sister, daughter and grandchildren all went on to study at this University. His sister Ella Loranthe Greenup graduated with a Bachelor of Science in 1942 and his daughter, Judith Nave, was awarded her MBBS in 1966. His granddaughter, Helen Tuttle, was awarded her BE Hons in 1992 and her ME in 2000, and his grandson Mark Nave was awarded his BE Hons in 1995 and PhD last year.

With his early record of all-round attainment, his clear and able mind, his strength of character and personality, the Bar and the community lost in Graham Pace a man of great talent.



**George Douglas Rutherford Avery**  
24 July 1918 – 22 October 1942

George Douglas Rutherford Avery was born 24 July 1918. He was the second son of a pastoral family of Mt Ryde, Longreach. Avery grew up in Western Queensland and after completing primary school at Longreach attended high school in Rockhampton.

As a high school student Avery impressed the principal, Robertson, as "a lad of definite ambition and of remarkable independence of thought and ideas". Before the age of 14 he presented to the principal "a suggested outline of his future life". One of the schemes related to a career in journalism – the other to service in the Australian Air Force.

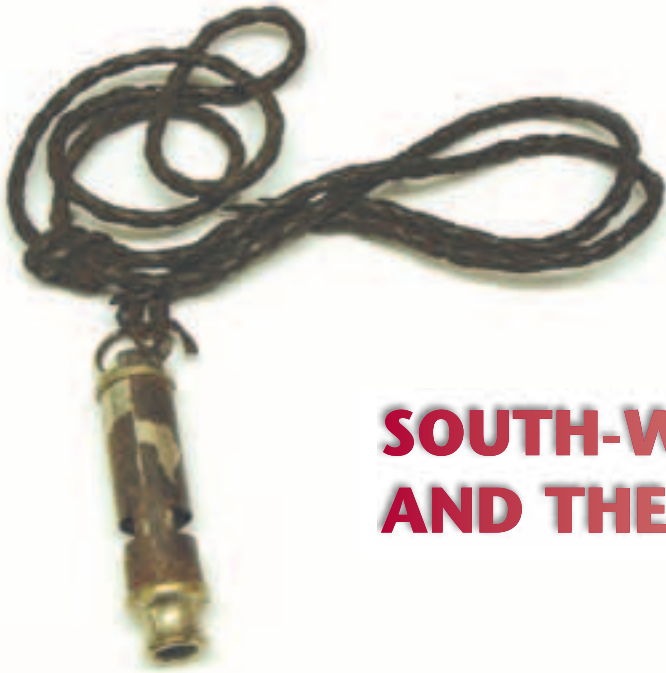
In March 1935 Avery moved to Brisbane and enrolled as an undergraduate in Arts-Law at the University of Queensland. He took up residence in Emmanuel College, having been granted a bursary by the College Council.

Throughout Avery's education he was a very keen sportsman. In his junior

*Continues...*







## SOUTH-WEST PACIFIC AREA AND THE HOME FRONT

The fall of Singapore was a precursor to Japanese occupation of the Indonesian Archipelago. Shortly thereafter, Darwin was bombed, with many casualties, military and civilian. Air raids on Broome and Townsville followed. Japanese troops landed along the northern coast of Papua New Guinea and proceeded to cross the Owen Stanley Ranges towards Port Moresby. Rabaul was taken, becoming a major base for the Japanese. With the passage of time and the insouciance that prolonged peace brings it is difficult for later generations to appreciate just how real these events, coming as they did in quick and proximate succession, made the threat of invasion feel to most Australians and their government. The war was no longer remote and that lent purpose and the apprehension of imminent danger to service on the



J. L. "Jack" Kelly 1941 – his officer's whistle is shown above.  
Source: Kelly family

home front as well as for those deployed to Papua New Guinea to meet the invader.

In May 1942, Jack Kelly, by then a subaltern with 9<sup>th</sup> Battalion, moved to Rollingstone, north of Townsville to engage in formation training with the members of other battalions of 7<sup>th</sup> Brigade. In July 1942, the brigade and later the 18<sup>th</sup> Brigade deployed to Milne Bay on the south-eastern tip of PNG. One of the battalions in the 18<sup>th</sup> Brigade was the 2/12<sup>th</sup>, by now returned from the Middle East. Posted to the 2/12<sup>th</sup> at the time as its Intelligence Officer was Lieutenant Charles Groves, who had been admitted to the Queensland Bar in 1933 and, just prior to hostilities, had elected to cross the rolls. By chance, in August 1942, he was temporarily detached from the battalion so as to attend a course of training in Canberra. Also posted to the 2/12<sup>th</sup> at the time was Lieutenant Peter Connolly, recently joined as an officer reinforcement. He, too, was temporarily detached from the Battalion, but present at Milne Bay serving on the headquarters of the 18<sup>th</sup> Brigade. Groves and Connolly had each been early entrants into the Second AIF.

### Milne Bay

The two brigades were placed under the overall command of Major General Cyril Clowes and became known as "Milne Force". The Milne Bay area is a narrow strip of land between the mountains and the sea ranging in width from a few

hundred metres to 3 kilometres at its widest point, perpetually soggy with sago and mangrove swamps. It is notorious for torrential rain and during World War II was a malarial pest hole.

In the last week of August 1942, a force of Japanese marines landed and attacked the base and its associated airfield. The landing was part of a two-pronged attack on Port Moresby – via Milne Bay and over the Owen Stanley's. Had the Milne Bay base and its airfield been taken, Port Moresby would have become indefensible, consigning to the Japanese command of the northern approaches to Australia. Jack Kelly fought a platoon commander's war at Milne Bay in close contact with a ruthless, determined enemy in the fighting that ensued. That fighting continued until the Japanese retreated on September 5, 1942. Later, British Field Marshal Sir William Slim, who had no part in the battle, but who became post war Governor-General of Australia, chose to preface his seminal history of the 14<sup>th</sup> Army and the war in Burma, "*Defeat into Victory*" with the following remarks:

*Australian troops had, at Milne Bay, inflicted on the Japanese their first undoubted defeat on land. Some of us may forget that, of all the allies, it was the Australians who first broke the invincibility of the Japanese army. Those of us who were in Burma have cause to remember". Slim was a soldier's soldier and not given to undeserved praise. Jack Kelly and Peter Connolly were amongst those Australians who "first broke the invincibility of the Japanese Army".*





## Owen Stanley Ranges – The Kokoda Track

Air raids continued on the airfield at Milne Bay, but the focus of the land battle in PNG moved to the Owen Stanley Ranges and to what became known as the Kokoda Track, and its “stairway to heaven”. RAAF Squadrons based at Milne Bay ranged far out into the Coral Sea interdicting Japanese shipping and air raids directed at their own base and Port Moresby. Other aircraft from the base provided fighter cover for bombers targeting the Japanese base area at Rabaul. In the middle of September 1942, the 8<sup>th</sup> Fighter Group of the United States Army Air Corps replaced the RAAF squadrons based at Milne Bay. At 1715 hours on 5 October 1942 one of the American aircraft, a stricken Bell P39 “Airacobra” fighter, crashed into the 2/12<sup>th</sup> Battalion Headquarters area near the airfield. The battalion adjutant was killed instantly. Charles Groves was badly burned. He had but recently resumed duty with the battalion after completing his training course. Groves died of his injuries in a nearby casualty clearing station in the early hours of the following morning. A funeral service for him and the adjutant was held later on the morning of the 6<sup>th</sup>. The very next entry in the battalion’s War Diary for that day records the return of Lieutenant Peter Connolly to duty with the 2/12<sup>th</sup> to replace Groves as the battalion’s intelligence officer. The Australian War Memorial’s Roll of Honour card recording Groves’ death



Tom Parslow in later life as a Brigadier commanding the then 7 Task Force (now 7 Brigade), the most senior Army Reserve position in Queensland. Right – Jungle warfare: Japanese bunker – after and before.

Source: T. Parslow QC

denotes his occupation as “Barrister at law” with his home address then being with his parents at Chermiside Street, Teneriffe in Brisbane.

Many others who were or would come to the Queensland Bar served in Papua New Guinea. Tom Parslow was another who fought an infantryman’s war in the jungle there. So, too, did Jim Dunn. Each was commissioned from the ranks in the course of his service.

### On the offensive

After the Japanese advance over the Owen Stanley’s towards Port Moresby had been halted, Australian and American forces took the offensive. By September 1943, the Allies were able to launch a combined amphibious and airborne operation that had as its aim the clearing of all Japanese forces from the Huon Peninsula, Lae to Madang, in south-western PNG. On 4 September 1943, the 9<sup>th</sup> Australian Division, of which Jim Dunn’s 2/15<sup>th</sup> Battalion formed a part, embarked from Milne Bay and carried out an opposed landing a narrow beach fifteen miles east of Lae. Battles at Scarlet Beach, near Finchshafen and along the northern coast of the Huon Peninsula from Lae to Sio. On 22 January 1944, Dunn, then a Lance Corporal, and some fellow members of 2/15<sup>th</sup> Infantry Battalion gained brief respite from these operations to bathe and wash their jungle greens in the Kelanoa Area at the mouth of the Sazomu River, which empties into the



## Lest we forget... Active Service Deaths

*Continued*

and senior school years he especially excelled in athletics: he captained the School athletics team and won inter-school competitions. At the University of Queensland his sporting career continued: he represented Emmanuel College in athletics, hockey and football, and represented the University at inter-varsity athletics and hockey carnivals. For his high achievements in athletics, Avery was awarded his “Half Blue” in 1937, the University of Queensland following the tradition originating in Oxford and Cambridge of awarding Blues and Half-Blues for high sporting achievement.

From the outset, George Avery demonstrated an interest in and commitment to community, political and social life. He became a regular member of the International Relations Club and was elected Secretary Treasurer of the club in 1936 and later President. He was also elected Secretary of the Men’s Club in 1937 and in 1938 President. Avery was also involved in the University Debating Society.

An academic scholarship application provides a glimpse of another aspect of the character and personality of this young man and his active social life. He wrote, with the customary restraint and formality of the time, “I am fond of dancing and attended as many University dances as I considered possible without prejudicing my work.”

Perhaps it was at one of these dances that a campus romance between Avery and Kathleen Madgwick began. Kathleen was a student of the Faculty of Science at the time. They later married and had a daughter. (Kathleen completed her Bachelor of Science in April 1943).

Henry Alcock, University of Queensland Professor of History and Economics 1922-1948, described Avery as having “a good deal of drive, combined with an insouciance that often makes it rather charming”.

In 1938 Avery received a Freemasons Scholarship at the same time he was admitted to the Degree of Bachelor of

*Continues...*







Jim Dunn, seated, extreme left, with fellow members of 2/15<sup>th</sup> Battalion 22 January 1944 at the washing and bathing at the mouth of the Sazomu River, Kelanoa Area, New Guinea  
Source: AWM: Negative 064055

Bismark Sea on the coastline, facing out towards the island of New Britain. They had marched over 15 kilometres the previous day from Sio, also on the northern coastline, to get there.

The day after the 9<sup>th</sup> Division made its landing near Lae, an American parachute regiment with a detachment of Australian artillery in support, were dropped in an airborne operation onto Nadzab in the Markham Valley twenty-five miles north-west of Lae. A landing strip was cleared quickly. The 7<sup>th</sup> Australian Division was then progressively air landed. The 18<sup>th</sup> Brigade formed part of that Division. Peter Connolly, by then a Captain and detached back to brigade headquarters as Brigade Intelligence Officer, took part in this operation and those that followed.

The 7<sup>th</sup> Division's initial objective was also Lae, as part of a converging operation with the 9<sup>th</sup> Division. Both forces met with opposition from the Japanese, but by 16 September 1943 Lae had been occupied.

The 7<sup>th</sup> Division then directed its advance towards the head of the Markham Valley. Ground troops captured the airstrip at Kaiapit and troops were transported thereto by aircraft to continue the advance into the Ramu Valley. Climatic and terrain conditions were severe. Progress was therefore comparatively slow as all supplies and ammunition had to be flown in by aircraft to airfields constructed in the valley, whence they were manhandled over the rugged country to the forward areas. Fighting was confined chiefly to patrol clashes, but at the end of January

1944 a well coordinated attack by one brigade group drove the Japanese from their most commanding position at Shaggy Ridge and opened the way for an advance northward in the direction of Madang. This was finally accomplished in April 1944, when troops from the Ramu Valley occupied Madang.

## The Home Front

Controlling all of these operations was Headquarters New Guinea Force on which Bill Gibbs was by then serving. Others who came to serve in Papua New Guinea were Jim Gibney and Bill Grant Taylor. Gibney served with an Australian Intelligence Corps Field Censorship Company while Grant Taylor was deployed there with an anti-aircraft unit.



Captain Peter Connolly, right Brigade Intelligence Officer, 18<sup>th</sup> Brigade and fellow staff officer, Dumpu, Ramu Valley, New Guinea, 9 February 1944  
Source: AWM: Negative 070478

In August 1940, during the course of his Arts/Law studies at the University of Queensland, Bill Grant Taylor had volunteered for service with a militia infantry unit, the 61<sup>st</sup> Battalion (Cameron Highlanders). Initially that involved part time service. After graduating in Arts in 1941, he undertook full time duty with that unit before being transferred to the Artillery when he was accepted into the AIF. His military file includes the following comments that were made by instructors at one of the courses that he came to attend at the School of Artillery, "Very Good. A lucid and convincing speaker" in respect of his instructional abilities and, under "General Remarks", "An excellent student. Capable and industrious." Apart from his New Guinea service he also served in on the Home Front in Australia with a search light unit.



W. M. "Bill" Grant-Taylor, centre right, rear row, with fellow members of his anti-aircraft unit.  
Source: M. Grant-Taylor S.C.





D. M. "Doug" Campbell  
Source: D. J. Campbell S.C.

Two other members of the Queensland Bar who served in the Artillery on the Home Front during the War were Rex King and Arnold Bennett. At one stage they were each fellow battery commanders in a unit deployed in the Northern Territory.

Also serving on the Home Front was Douglas Malcolm Campbell. He enlisted into the Army in September 1940, following an earlier, unsuccessful attempt to enter the RAAF. Colour blindness had denied him entry into that service, as it would for many. In the Army, he was initially allotted to the Royal Australian Engineers and eventually came to command a search light unit deployed on Mount Coot-tha, overlooking Brisbane. By coincidence, Bill Grant-Taylor was also deployed in this position on air defence duty and the lifelong friendship between these two men dated from this time.

In those days, as well as a kiosk, a small zoo was located there. One afternoon Doug received a message from the guard posted at the bottom of the hill that another "Doug", General Douglas MacArthur, was on his way up, followed, in hot pursuit, by most of the top brass in Brisbane who assumed that MacArthur was on a snap inspection of the anti-aircraft defences. They were wrong. General MacArthur had brought his wife and young son, Arthur, up to Mt Coot-tha to show Arthur the zoo. Doug Campbell arranged for someone to take Arthur down to the animals while he, the General and Mrs MacArthur had afternoon tea in the kiosk. This trip became a regular outing for the MacArthurs and Douglas Campbell got to know them particularly well. He was

later to tell his son, yet another Douglas, with his wry smile, that he always felt that afterwards his superior officers showed him much more respect than they had hitherto been inclined to show. Doug Campbell developed a strong regard and respect for MacArthur. After the close of hostilities, Campbell, by then a military lawyer, would come to meet the MacArthurs again when deployed to Japan as a war crimes prosecutor. His experiences in that posting are described elsewhere in this publication in the "War Crimes" section. Douglas Campbell's transfer to the Legal Corps was a sequel to his admission to the Queensland Bar in 1943. It would be 5 years before he was able to commence practice at the Bar.



Ralph Cormack  
Source: Cormack family (via his former judge's clerk, His Honour Judge Forno)

Another barrister to serve on the Home Front was Ralph Cormack. He had moved to Townsville to commence practise at the Bar there in 1937. He enlisted in August 1941 and, being well educated but a little older than most (born 1908), his lot proved to be a series of administrative staff officer postings in Line of Communications Headquarters in both Townsville and at Victoria Barracks, Brisbane. His duties included the acquisition of property for defence purposes such as military command posts, hospitals and accommodation for the influx of American and Australian troops in Queensland after the commencement of the Pacific War. He was discharged from the Army in the rank of Captain shortly after the end of hostilities. He resumed practise at the Bar in Townsville, becoming Northern Crown Prosecutor with a right of private practice and then a District Court judge in that city in 1959 upon the reintroduction of the District Court.

## Lest we forget... Active Service Deaths

*Continued*

Arts. By the end of that year he completed one section of the final Law subjects. In 1939 he carried on his studies externally, having started teaching primary classes at The Scots College, Warwick.

In April 1940 he commenced war service with the RAAF. Avery rose to the rank of Flying Officer and saw service in Libya, Greece, Malta and New Guinea. The last squadron he flew with was the 100 Squadron which was formed in February 1942. It was the first RAAF squadron to be equipped with Australian built Beaufort Torpedo Bombers.

In October 1942 Flying Officer Avery was killed while on duty in an aircraft accident at Townsville, leaving behind his wife and young daughter. He was 24 years old.

In an obituary published in the first Queensland University Law Journal (1951) a friend of George Avery wrote:

"Mr Avery, during his College, University and Service life, showed great energy and singleness of purpose, he put his whole effort into whatever he undertook and spared nothing in his aim to give his best."



Alexander  
Charles McNab

27 July 1918 –  
2 May 1943

Alexander Charles McNab (known by friends and family as Lex) grew up in Brisbane and attended the Brisbane Boys' College. He entered the University of Queensland's Faculty of Arts in 1936, taking Arts and Law subjects offered by the Faculty at that time, including Latin, English and Philosophy. During his school and University years he was well known as an outstanding sportsman in cricket and tennis.

Lex McNab was awarded his Degree of Bachelor of Arts in April 1939. In the same year he was awarded a

*Continues...*







## Final Australian Campaigns

By late 1944, though considerable Japanese forces remained on the island of New Guinea in the Aitape-Wewak region and on the islands of Bougainville and New Britain. Australian forces gradually took over former American bases in northern New Guinea and the islands mentioned, as United States troops were redeployed for the invasion of the Philippines. Despite having been cut off from their supply base at Rabaul, and often having to rely on their own resources for survival, the Japanese in these places refused to concede defeat and they continued to fight the Australians in long and bloody battles.

That these forces were cut off from the major supply base that the Japanese had established at Rabaul was the result of the gradual gaining of superiority in the air and at sea by the Allied Forces. Ray Smith was one who took part in those air battles. As the accompanying photo records, the hazards of air operations in the South West Pacific Area were not confined to hostile aircraft or ground fire. Inevitably, the intensity of sustained air operations in wartime conditions meant that maintenance or fuel quality lapses occasionally occurred, sometimes with fatal consequences for



Ray Smith, pilot with fellow Beaufort bomber crew and squadron members including, far right, the unit chaplain, immediately after his return from the bombing mission on which both engines of the aircraft temporarily failed.

Source: AWM: Negative: OGO 340

pilot and crew. Ray Smith and his crew had a brush with death on one bombing mission when both engines on their twin-engine aircraft failed. By a feat of superb airmanship, Ray managed to maintain control of the aircraft, restart the engines and return safely to base. After the War, he practised at the Bar for a time before entering State Parliament in 1957 as Member for Windsor, a seat he retained until his resignation in 1969. He later returned to practise at the Bar. Ray also maintained his RAAF connection, finally retiring as a Group Captain in the Air Force Reserve.

For Walter Campbell, memory of the year 1944 ever carried a tinge of sadness. His older brother, Cpl Archie Gordon Patrick "Pat" Campbell, AIF, died of wounds sustained in action on 4 November 1944, aged 24 years. In September 1944, 23 British and Australian members of the elite Services Reconnaissance Detachment/Z Special Unit, of whom Pat Campbell was one, travelled from Australia to the outskirts of Singapore Harbour. Their mission was to attack and destroy enemy shipping in the harbour from small submersible boats using magnetic limpet mines. Of the party, six persons, including the leader Lt Colonel Lyon, had taken part in the similar, spectacularly successful Operation Jaywick. Unfortunately, on this occasion, the commandos were intercepted by the Japanese. In the actions that followed, 13, including Campbell, were either killed in action or died of wounds. The remainder were captured and later executed by the Japanese. Walter Campbell would give his son Wallace, a member of our Bar, the additional given name Patrick to commemorate his gallant brother.

In New Guinea, between November 1944 and August 1945 the 6<sup>th</sup> Division fought in the Aitape-Wewak region. On Bougainville, the Australian 3<sup>rd</sup> Division, together with troops from the 11<sup>th</sup> and 13<sup>th</sup> Brigades, conducted demanding patrols interspersed with some sharp fighting, including the bloody battles at Slater's Knoll in March and April in 1945. Jack Kelly and Tom Parslow each served in the final battles on Bougainville. Other Australian forces undertook difficult operations on the island of New Britain, pushing the Japanese back towards Rabaul.

In 1945, Australian forces launched three military actions against Japanese-held Borneo: at Tarakan, at Labuan-Brunei Bay and at Balikpapan. These were the biggest and final Australian campaigns of World War II. One of the Australian formations deployed in Borneo was the 18<sup>th</sup> Brigade, on the Headquarters of which Peter Connolly continued to serve as Intelligence Officer. By war's end his outstanding qualities as a staff officer saw him come to be selected for staff college and field rank.

Another later member of the Queensland Bar to take part in the landings at Tarakan was Edward (Eddie) Nyst. By that stage of the war, Eddie was serving the Royal Dutch Army as a member of that country's expeditionary force sent to the Far East to assist in the reclaiming

of present day Indonesia, then a Dutch colony of many hundreds of years standing known as the Netherlands East Indies. Eddie's father had been Netherlands Consul at Marseilles, France in pre-war days. In the French resistance uprising that occurred in conjunction with the Allied Invasion of Southern France in August 1944, Operation Anvil, Eddie fought as a member of the maquis (a French guerrilla formation). With the



Brigadier Chilton, Commander 18<sup>th</sup> Brigade with his principal staff officers including Captain Peter Connolly, Intelligence Officer – Balikpapan, Borneo 24 August 1945  
Source: AWM: Negative 114476

liberation of Marseilles and using his father's Dutch connection, he then enlisted in the Dutch Army and thence travelled from the U.K. across the Atlantic Ocean, traversed the Panama Canal and the Pacific Ocean and arrived in Australia. A period of training in jungle warfare at Canungra in the Gold Coast hinterland followed for his unit. The unit then deployed with Allied Forces in the invasion of Borneo.

Peter Connolly and Bill Gibbs were each mentioned in dispatches for the sustained brilliance of their staff work in the positions they respectively occupied on formation headquarters in New Guinea during the war.



E. M. J. "Eddie" Nyst, Royal Dutch Army  
Source: Eddie Nyst





## SELFLESSNESS & PROFESSIONALISM

The determination of barristers of sufficient age and capacity to complete military service during World War II exemplified the public service while underlies the professionalism of the bar. Self-interest ran last in their eyes. Though they would have regarded military service as a duty correlative with citizenship, the reality is the field for their application of legal talent was consequently much diminished.

It may be the imperative of service to the nation and the call to arms were then more readily taken up than would now be the case. I have in mind the rumination which attends any suggested engagement in major contemporary conflict.

Six decades ago, young barristers or barristers-to-be, many of whom went on to lead the bar and adorn the bench, enthusiastically enlisted when on the every cusp of their early careers, or in some cases even admission. Remember, even of those I knew, these distinguished names: Hanger, Stable, Gibbes, Hart, Lucas, J A Douglas, D M Campbell, W B Campbell, Andrews, E S Williams, Kelly, Dunn, Sheahan, Connolly (of whom, sadly, only Connolly now survives). The selflessness involved in that enlistment was then not infrequently augmented by respected leadership within the services – no doubt borne of natural intelligence, wisdom and courage, and there were not a few displays of heroism (Andrews and Campbell esp).

Those who could not serve, generously (or appropriately) adopted measures, in their practices at home, to protect the right or prospective rights of their colleagues engaged in combat. C G Wanstall, for example, “sidelined” himself into government service. Across the board briefs were marked to the absent barrister and accepted by the resident barrister as trustee, with half the fee remitted to the colleague on service.

Those of us who joined the bench while our by then rather time-honoured colleagues who had served in World War II were still present, sensed their particular depth of worldly-wise balance and common sense. In the nicest possibly way, their example promoted us into more acute perception of the significance of judging our fellows, and navigating them through the darker corners of the law.

Although those Judges, former barristers, sought no accolade or even expression of appreciation, one’s natural instinct was to feel overwhelming gratitude and particular respect. And I have no doubt, their experiences cemented belief in the rule of law: the law of war may help secure orderliness in conflict, but armed conflict is by nature arid, and if anything even approaches a guarantee it will not recur, it is rigorous international devotion to the rule of law. That is what secures our freedom. That is what they fought for. We do well to remember this in the context of current conflicts.

THE HON PAUL DE JERSEY AC  
Chief Justice

## Lest we forget... Active Service Deaths

*Continued*

Freemason Scholarship and went on to complete his Law degree at the end of 1940. He was previously in 2/14th Queensland Mounted Infantry (Militia) and in March the following year he was accepted into the Royal Australian Air Force. With the degrees of BA and LLB, he had qualified for admission to the Queensland Bar, but his volunteering for war service prevented his being actually admitted.

He entered the Empire Training Scheme for pilots. After his training in Tamworth, NSW and Ontario, Canada he proceeded to England where he served for more than a year, flying Hurricanes with the RAF. With the Japanese advance on Australia, Lex McNab and other Australian service personnel were recalled and he was posted to Darwin in 1942. As a Flying Officer he flew Spitfires with 452 Squadron from Northern Territory bush airstrips. In May 1943, during operations against Japanese air attack he was lost in action over the Arafura Sea. The Commonwealth War Graves Cemetery at Daly Waters, Northern Territory, bears a War Memorial Cross listing those who died in war service for whom there are no graves, including Flying Officer A. C. McNab. Lex McNab died at the age of twenty-four.

Lex McNab had married Margaret Enid Macdonald, daughter of an MP, at St John’s Cathedral, Brisbane in August 1940, shortly before he left for England. Their only child, a son (Ross), was barely one year old when his father died.

Flying Officer McNab was to have been the third lawyer in succession in a legal family. To this end prior to the war he had been Associate to Sir Roslyn Philp, the Senior Puisne Judge of Queensland (at that time the most senior judge in the State after the Chief Justice).

His great grandfather had started the firm Chambers McNab & McNab, later Chambers McNab Tully & Wilson, and his grandfather and father had been members of the firm. Although Lex McNab did not survive the war to join the firm, his son did and was a partner

*Continues...*







(Below) Air Force Bombing Route Map – Target München (Munich) 26/27 March 1944

Source: Broad family, from the private papers of His Honour E. G. Broad DFC

In England's East Midlands, near the City of Lincoln, lies RAF Waddington. Except for a brief period in the 1920's, RAF Waddington has been an air force base since 1916. During the Second World War, it was a Bomber Command base. One of the squadrons to which it was host was 467 Squadron, Royal Australian Air Force, equipped with Lancaster heavy bombers.

On 8 August 1944, after completing his Empire Air Training Scheme training and then operational conversion training, Edmund George (Eddie) Broad was posted to 467 Squadron as a pilot.

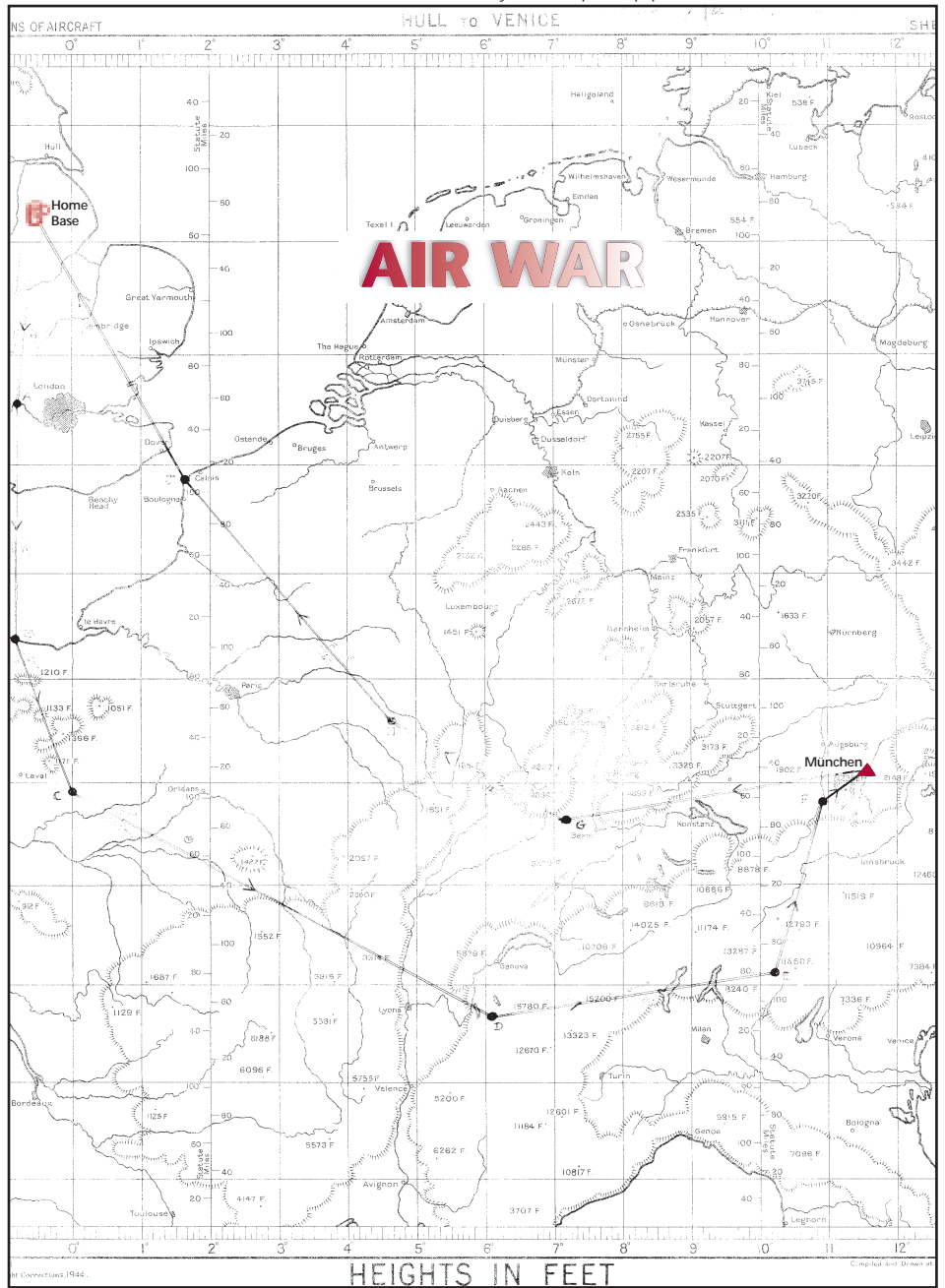
Years after the War, in a speech given on 30 April 1977, Marshal of the Royal Air Force Sir Arthur T. Harris, Bt GCB, OBE, AFC, LLD, Air Officer Commanding-in-Chief, Bomber Command; February 1942-September 1945 and Eddie Broad's ultimate superior would state:

*"The Lancaster beyond doubt, was a major factor in beating the Nazi enemy down to defeat - as even the enemy admitted. No aircraft....can be an effective weapon of war unless the aircrew that man them are of superlative quality.*

*This country, and its allies owe these young men, the Many that died, the Few that survived, a debt that can never be met in full. It is due to them and their kind in other Services, that Britain is not a mere slave market in a Nazi Empire. Never forget it."*

A full operational tour for a front line bomber pilot consisted of 30 operational missions. After an initial mission to Chatellerault as second pilot on the evening 9/10 August 1944, Eddie Broad would come to fly 31 further operational missions as first pilot of a Lancaster bomber over Europe, command, as a Squadron Leader, 467 Squadron's "A" Flight and win the Distinguished Flying Cross. The dates, targets and aircraft registration numbers applicable to these missions are as follows:

- 14.8.44 Quesnay LM267
- 15.8.44 Gilze Rijen NF908 PO.C
- 16/17.8.44 Stettin LM267
- 18.8.44 Bordeaux JA909 PO.E
- 25/26.8.44 Darmstadt JA909 PO.E
- 29/30.8.44 Konigsberg LM632
- 31.8.44 Rollencourt LM226 PO.P
- 5.9.44 Brest JA909 PO.E
- 10.9.44 Le Harve JA909 PO.E
- 12/13 .9.44 Stuttgart JA909 PO.E
- 17.9.44 Boulogne NF908 PO.C
- 18/19.9.44 Bremerhaven LM642 PO.K
- 23/24.9.44 Dortmund Ems PA169 PO.H



- 6.10.44 Bremen PA169 PO.H
- 11.10.44 Flushing PA169 PO.H
- 19/20.10.44 Nurnberg DV396 PO.B
- 28/29. 10 .44 Bergen PA169 PO.H
- 6/7.11.44 Ems Wesser Canal PA169 PO.H
- 11/12.11.44 Harburg PA169 PO.H
- 26/27.11.44 Munich PA169 PO.H
- 11.12.44 Urft Dam PA169 PO.H
- 18/19.12.44 Gdynia PA169 PO.H
- 27.12.44 Rheydt PA169 PO.H
- 28/29.12.44 Shipping, Moss NF908 PO.C
- 5/6.1.45 Houffalize NG197 PO.G
- 8/9 .2 .4 5 Politz ME432
- 22.3.45 Bremen RF180
- 27.3.45 Farge PB762 PO.B
- 4.4.45 Nordhausen PB762 PO.B
- 8/9.4.45 Lutzendorf LM646 PO.A
- 16/17.4.45 Pilsen ME487 PO.H

He was still on duty with the squadron at the end of the war in Europe on 8 May 1945. After the end of hostilities he was involved in the transporting of recently released prisoners of war from various collection points in Europe back to England.

The odds against Eddie's surviving these missions were significant. Post war analysis of Bomber Command casualties in respect of any given 100 aircrew deployed in a front line bomber squadron disclosed the following:

- Killed on operations . . . . . 51
- Killed in crashes in England. . . . . 9
- Seriously injured in crashes . . . . . 3
- P.O.W. (some injured) . . . . . 12
- Shot down but evaded capture . . . . . 1
- Survived unharmed . . . . . 24





Orders for operational missions assigning targets would arrive at Bomber Command bases by SECRET telex message. Crews would then be assembled, briefed and issued target maps. Flight planning and a meal would follow thereafter, followed by a vehicle ride out to the flight line where the crews would pre-flight their aircraft, assisted by ground staff. Upon the take off signal, one after one, the Lancaster bombers would take off into the darkening sky. A mission such as the one Eddie Broad flew on the evening of 26/27 November 1944 would take many hours, involving a curving south-easterly path across the Channel, over southern France and into northern Italy, crossing the Italian Alps, skirting neutral Switzerland and thence over Bavaria, unloading the bomb load at the assigned target in Munich and thence back in a sweeping north-western path to Waddington. Constant concentration and vigilance were required of both pilot and crew on such a mission.



Officers' Mess RAF Waddington, 3 December 1944 "S" for Sugar Celebration – Eddie Broad is second from the left, seated.  
Source: AWM: Negative UK 2209

impression that he has been captured in a pensive mood, perhaps reflecting on the odds of his completing his operational tour.

For his sustained devotion to flying duty in his operational tour, Eddie Broad would be awarded the DFC. The citation for that award reads as follows:

*"Squadron Leader BROAD, as captain and pilot of aircraft has shown outstanding*



The famous 463/467 Squadron Lancaster bomber "S" for Sugar, which survived the War, now on display at the RAF Museum, Hendon, pictured at war's end when engaged in ferrying released POW's to the U.K.

Source: Broad family, from the private papers of His Honour E. G. Broad DFC

On the evening of 3 December 1944, the officers posted to RAF Waddington gathered in the Officer's Mess to celebrate the return to the flight line after refurbishment of Lancaster PO-S, "S for Sugar". "Sugar" had already been flown on 100 operational missions and was returning to the flight line for further operational service. The odds against an aircraft surviving for so long, as the aircrew casualty statistics reveal, were astronomic. There was cause for celebration. One celebrant in the mess that evening was Eddie Broad. Other photos of the occasion in the Australian War Memorial Collections Database show that the evening was a merry one. The photo in which Eddie, quite coincidentally, is depicted gives the

*leadership, courage and devotion to duty which have contributed largely to the success of many sorties.*

*On two occasions, despite one of the turrets of the aircraft being out of action, he has pressed home his attacks with the utmost determination.*

*Both in the air and on the ground, Squadron Leader BROAD has set an inspiring example of skill and gallantry."*

Ned Williams followed a similar but later path to Eddie Broad through operational conversion training prior to being posted to a front line Lancaster bomber squadron shortly prior to the end of the European war. He, too, flew missions

## Lest we forget... Active Service Deaths

*Continued*

for almost two decades before retiring from the firm to be an academic in the University of Queensland T.C. Beirne School of Law. The firm was later merged to become the national firm Corrs Chambers Westgarth.

The study and practice of Law and an association with the University of Queensland has continued on in the McNab family. Lex McNab's granddaughter, Catharine McNab, graduated in Arts and Law with Honours from the University of Queensland in 1999. She is currently doing her PhD in Psychology at Melbourne University. His first grandson, Alexander McNab, graduated from UQ with Honours in Law and in Economics (with the University Medal) in 2001. His third grandchild, Malcolm McNab, studied Architecture at UQ, changed to Arts and Commerce, and joined the international accounting firm Ernst & Young at the beginning of 2003.



Frank Glynn Connolly, barrister and friend, wrote in Lex McNab's obituary in the first Queensland University Law Journal (1951) that:

*"The Law was his ambition. He had a strong personality, and his rare sense of humour made many friends. To them such brief career, with ending so different from its pre-war promise, may well serve as an epitome of that time. Lex, no doubt, would have been the first to smile with Horace saying:*

*Vitae summa brevis spem nos vetat incohare longam.*

*(The total of our days is small and forbids us to commence hope for a distant future.)"*

*Continues...*







D. G. "Bob" Andrews, front row, second from the right, with fellow course members and instructors, having just gained his wings.

Source: D. Andrews S.C.

immediately after the end of the war in Europe returning newly liberated prisoners of war to the United Kingdom.

Stewie Given was destined by fate not to join a bomber squadron. He arrived in the U.K. in March 1944 and, after further training, was posted to the RAF's No. 577 Squadron. This squadron provided detachments for co-operation with Army and Navy anti-aircraft guns at many airfields in the Midlands and Wales. Hurricanes and Oxfords formed its initial aircraft inventory being replaced by Spitfires in June 1945, while Vengances were added for target-towing a month later. It was in July 1945 that Stewie ceased duty with the squadron. He embarked for Australia the following month and was discharged from the RAAF at its Sandgate depot in October 1945.



Pilot Officer Bob Andrews in the cockpit of his Hurricane fighter

Source: D. Andrews S.C.

In the Middle East, prior to the final defeat of the Germans and Italians there in 1943, an intense battle was fought between rival air forces, each trying to gain air supremacy so as to support the seesawing land battles across the North African coastline. One Queensland barrister, Graham Pace, whose life held such great promise, as his obituary elsewhere in this publication discloses, was shot down and killed in May 1942 in Libya in the course of these air operations. Another future member of the Bar and Queensland Chief Justice, Dormer George ("Bob") Andrews very nearly lost his life. Flying a Hurricane fighter as a member of the Royal Air Force's No. 127 Squadron, Bob Andrews was shot down in aerial combat near El Alamein in October 1942. He survived, badly wounded in his left arm. He came down over enemy lines and was captured. The condition of his arm was such that amputation was necessary. Occasionally, exchanges of very badly wounded prisoners occurred between the combatants. Bob Andrews was the beneficiary of such an exchange, which occurred in neutral Turkey. From there he was taken to Alexandria in Egypt before being repatriated to Australia in 1943.

Years after the end of the War and by now a judge, Bob Andrews had occasion to visit Cologne in Germany in the course of sabbatical leave. While there he presented some Queensland Reports to a local university. He and one of the university's law professors exchanged pleasantries, including their wartime experiences. It transpired that not only had the professor, too, served in war, but that his service had been with the

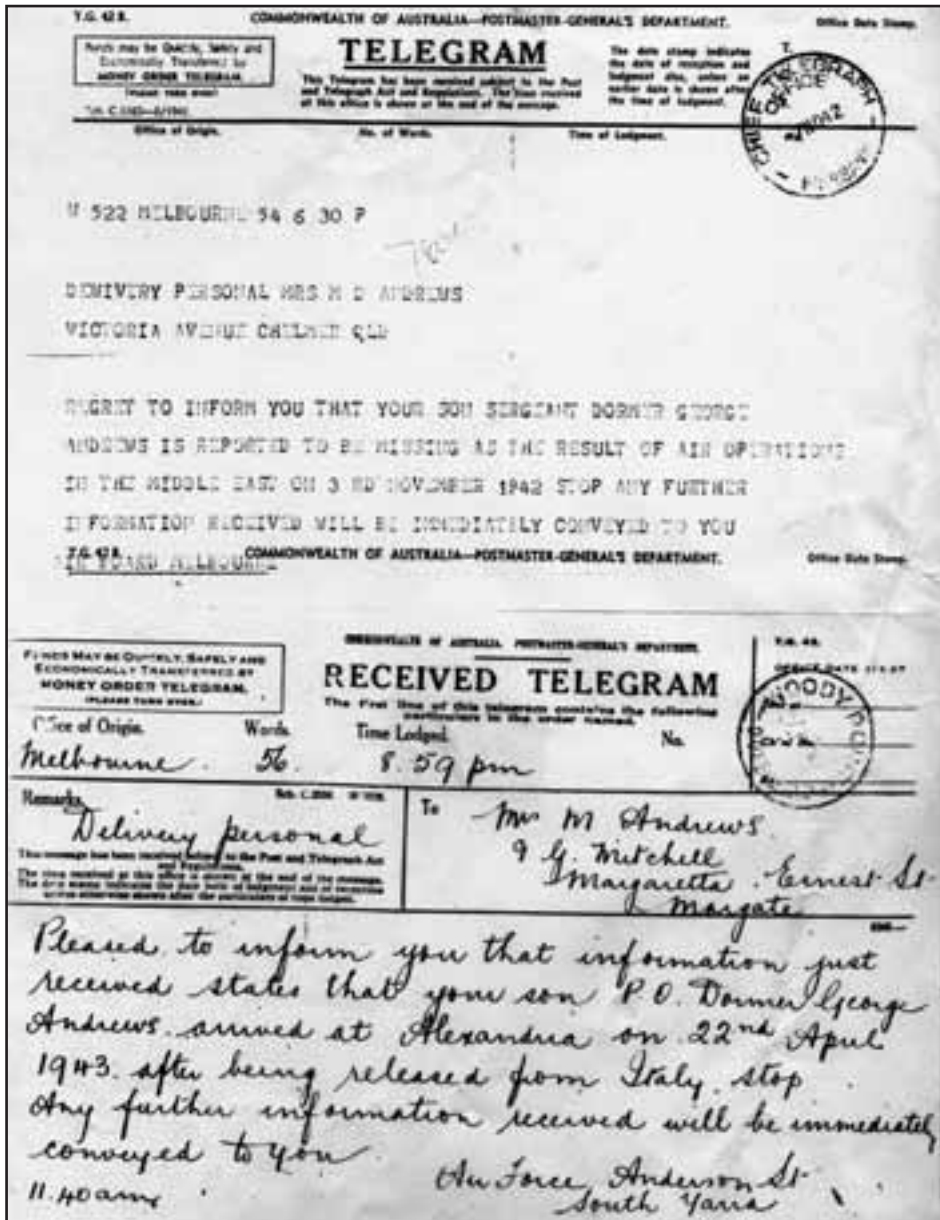
Luftwaffe and that he had also flown over El Alamein. Upon Bob's giving further detail of what he recalled of the circumstances of his being shot down, the professor tendered him an apology. He said that, from the description, he believed that he was the pilot who had shot Bob down. Bob's response was to complain that he wished that he had shot down the professor, because the German had shot off the wrong arm!

Even after the Axis Powers surrender, Allied aerial operations from North Africa continued. In 1943, Bernie McLoughlin made a lengthy journey from the UK to the Middle East and experienced further frustrating delays there before he could join No. 458 Squadron, RAAF in January 1944. These delays at least meant that Bernie was able to visit The Holy Land, including Jerusalem. He initially flew as a second pilot before being allocated his own crew as a first pilot.

The squadron operated Wellington bombers specially equipped to undertake maritime strike and reconnaissance missions in the Mediterranean Theatre. A particular special equipment item was the "Leigh light". The Leigh light was a small but powerful (22 million candela) searchlight forward mounted on the aircraft. (The aircraft pictured on the front cover is equipped with one.) The standard method of anti-submarine attack using this device was to approach a surfaced submarine at low level using radar and then turn on the light at the last moment, before it had a chance to dive, the light blinding its lookouts and providing illumination for the bomb aimer. For this device to be used patrols, of necessity, had to be flown at night. Further, experience had also shown that U Boats preferred to surface to recharge batteries and be resupplied not only at night but also in rainy weather conditions (on the theory that this would reduce hostile Allied air activity). Recognising this, 458 Squadron continued to mount patrols in what were often marginal night flying conditions. An added hazard was that, because the Mediterranean was not a priority theatre, the Wellingtons had not been equipped with the latest and most accurate altimeters. In such flying conditions even minor altimeter accuracy limitations could prove fatal for an aircraft and its crew. Apart from submarines, the squadron also operated against enemy shipping.

The squadron operated from a number of bases along the North African





The official telegrams that notified Bob Andrews as missing in action (top) and upon his release on a POW exchange. Source: D. Andrews S.C.



Bob Andrews, second from the left and fellow released POW's in Alexandria, 1943 after the POW exchange in Turkey. Source: D. Andrews S.C.

## Lest we forget... Active Service Deaths

Continued



**Chester James Parker**  
29 July 1916 –  
11 August 1942

Chester James Parker entered the University of Queensland's Faculty of Arts as an Open Scholarship holder (he came fourth in the State) in 1935, after having attended Townsville Grammar School. From the outset he had decided upon a legal career, and enrolled in Arts-Law at the University of Queensland. He chose to do Honours in English Language and Literature as it was considered good preliminary training for life at the Bar.

Chester Parker took up residence at St John's College, Kangaroo Point. He wrote in a scholarship application that his initial experience of college and University life quickly led him to conclude, "that preparation for specialised examinations was not the sum total of what the University offered to its students". He further wrote that as he had chosen Law as a profession, he "was therefore eager to take advantage of the many opportunities for self-expression which the various University Clubs and Societies provided". He went on to become an active member of the debating and dramatic societies, and served on the committees of both. Chester Parker was also Secretary of the Student Union in 1936 and President in 1937.

A keen sportsman during his three years at College, Chester Parker was active in inter-college sport, representing St John's in football, cricket and tennis, and gaining a College Blue. He also represented the University in football and captained the B grade team in 1936, which won the inter-varsity carnival that year.

Chester Parker was admitted to the degree of Bachelor of Arts with Second Class Honours on 29 April 1938, the same year he headed for Oxford University, having won the Rhodes Scholarship.

Continues...







Base wt  
96 / 165

**SECRET**  
**IMMEDIATE**

%'95

STAND BY FOR B/CAST  
WAD B92 CON B52 SYE B89 EKN B60 T W R  
V GPE HBC 116/9 ' OP OP'

ROM HQ BOMBER COMMAND 091610B  
TO AIR MINISTRY WHITEHALL NOS 1 3 4 5 6 7 8 91 92100 GROUPS  
AND XXXX. ALL BOMBER COMMAND BASES AND STATIONS IN THESE GROUPS  
1 2 3 AIR DIVISIONS EAAS MANBY RNA CONTROL LEIGHTON BUZZARD  
INFO ADMIRALTY  
SECRET QQQ BT

BOMBER COMMAND INTELLIGENCE NARRATIVE OF OPERATIONS NO 1052 SECRET  
-----  
ADDENDUM TO BCINO 1051

NIGHT 7/8 APRIL.

BOMBER SUPPORT BY 100 GROUP

13/14 MOSQUITOES COMPLETED HIGH  
LEVEL INTRUDER PATROLS AND ESCORT DUTIES AND CLAIM ~~XXXX~~ 1 FW 190  
DESTROYED. 4/4 A/C FORMED A MANDREL SCREEN, 4/4 A/C OPERATED JOSTE  
AND PIPERACK AND 5/6 A/C CARRIED OUT SPECIAL DUTY PATROLS.  
DAY 8TH APRIL

3 MOSQUITOS OF 8(PF) GROUP COMPLETED MET RECCE. FLIGHTS.

NIGHT 8/9TH APRIL

HAMBURG (BLOHM AND VOSS). 164/173 HALIFAXES OF 4 GROUP, 84/90  
HALIFAXES AND 99/100 LANCASTERS OF 6 GROUP, 59/60 LANCASTERS  
AND 14/17 MOSQUITOS OF 8(PF) GROUP ATTACKED OVER 8/10-10/10THS  
THIN CLOUD WITH TOPS 2,000 FT. INCREASING LATER TO 8/9,000 FT.  
A MET. RECCE. MOSQUITO OF 8(PF) GROUP ALSO COMPLETED ITS TASK. THE  
T.I.'S DISAPPEARED INTO CLOUD LEAVING A GOOD RED GLOW AND  
THROUGH A MOMENTARY GAP THE ~~XXXX~~ M/B ASSESSED THEM AS BEING  
ON THE A/P. AND INSTRUCTED THE M/F TO BOMB THESE GROUND MARKERS.  
LATER HOWEVER, THE M/B CALLED FOR, AND DIRECTED THE ATTACK ON  
TO SKY MARKERS WHICH WERE REPORTED AS WELL PLACED IN RELATION TO  
THE GROUND MARKERS. BOMBING IS CONSIDERED TO HAVE BEEN FAIR  
WITH SOME UNDERSHOOTING. THE GLOW OF FIRES WAS OBSERVED FOR SOME  
DISTANCE AND NUMEROUS EXPLOSIONS WERE REPORTED WITH TWO EXTRA  
LARGE ONES AT 2234 HRS. AND 2238 HRS. SLIGHT TO ~~MODERATE~~  
MODERATE H/F INEFFECTIVE S/L'S AND SOME ENEMY FIGHTER ACTIVITY.  
CLAIMS: 1 U/I E/A )  
2 FW 190 ) DAMAGED.

1 JET-AIRCRAFT )  
1 U/I T.E. E/A) DESTROYED.

ATOT 2224/2246 HRS. 5 A/C ARE MISSING.

Bomber Command Intelligence Summary  
7/8 April 1945

Source: Broad family, from the private papers of His Honour E. G. Broad DFC

coastline and, as the war progressed, the squadron or a detachment operated from Malta, Corsica and Sardinia before being deployed to the Italian mainland. Apart from maritime strike and reconnaissance missions, the squadron also flew conventional bombing missions on occasion, for example, in support of Operation Anvil, the invasion of Southern France. There were, of course, off duty moments. Bernie recalls some memorable concert parties and mess functions, as the invitation depicted attests. Deployment with a squadron detachment also taught Bernie something of the way bureaucracy can operate, even in wartime. On one such deployment, the military supply system confused the detachment with the

whole squadron with the result that the detachment received the full ration and messing entitlements of an air force squadron. The men of that detachment, Bernie included, never ate (or drank!) better during their operational service as a result. The error was not solicited but, its having been made, Bernie quickly appreciated that to disclose it would probably cause more trouble than just quietly to enjoy its benefits. It was a salutary lesson for a young man not only as to the foibles of large organisations but also in the exercise of discretion, and one Bernie never forgot.



An invitation to a 458 Squadron Officers' Mess function  
Source: His Honour B. M. McLoughlin

The squadron's final move took it to Gibraltar in 1945, with missions being flown out into the Atlantic as well as in the Mediterranean. By this stage of the



Bernie McLoughlin with fellow Wellington bomber crew members  
Source: His Honour B. M. McLoughlin

war, contacts with U Boats and enemy shipping were infrequent. The need for maritime strike and reconnaissance missions to be flown diminished to the point where there no longer existed a need for 458 Squadron to remain on the order of battle. It was disbanded at Gibraltar and its members dispersed to other postings. For Bernie that did not mean the end of the war but rather a journey to a transit camp in Egypt to await reassignment to the Pacific Theatre.





## OUR PROUD LEGACY

If it is possible to say any war was just or noble, it was the Second World War. That great and savage conflict was more than a contest for territory, or for treasure. At its heart lay the struggle of free peoples against tyranny, a particularly cruel type of tyranny the world has rarely experienced.

The Second World War witnessed our coming of age as a state and nation. With conflict on our doorstep in the Asia-Pacific region, the defence of Australia was, in the end, left to Australians; at Kokoda, in the Coral Sea and in numerous other theatres of battle.

It also saw the emergence of a new Australia, an Australia built on new relationships forged with the United States and other allied nations; an Australia where all citizens were seen as equals in the war effort. This of course included the emergence of Australian women as central, some would say crucial, participants in the war effort, both in domestic industries and in the armed services.

During the war members of the Queensland Bar served with distinction not only in the armed services but also as legal counsel and as judicial officers. The most famous was Sir William Webb<sup>1</sup>. Born in Brisbane and admitted to the Queensland Bar in 1913, Sir William served as Crown Solicitor and Secretary of the Queensland Attorney-General's department from 1917 to 1922. He served as the Queensland Solicitor-General from 1922 to 1925, when he was appointed a judge of the Supreme Court of Queensland and President of the Queensland Industrial Arbitration Court. Sir William was appointed Chief Justice of Queensland in 1940.

From 1943 to 1945 Sir William led three Australian commissions which investigated war crimes committed by Japanese military forces. Appointed a judge of the High Court of Australia in 1946, Sir William was that same year appointed as the Australian member and President of the International Military Tribunal for the Far East. Proceedings of the Tribunal took more than two years. When sentence was pronounced on war criminals tried by the Tribunal, Sir William described the Tribunal as the most "important criminal trial in history".

Winston Churchill said "All great things are simple, and many can be expressed in simple words: freedom, justice, honour, duty, mercy, hope." It was for these things and more that "the greatest generation", as they have been called, fought and served.

Following the war, that greatest generation returned to their homes and families and set themselves the task of building a peaceful and prosperous nation. Many of those Queenslanders who participated in the war returned to the legal profession, or took up the practice of law, as the pages of this edition of the Queensland Bar News reveal. Many of them distinguished themselves through their significant contributions to the legal profession, to the judiciary, to the Queensland Parliament, and to the communities in which they lived.

Amongst the many veterans who served the state in a legal capacity following the war were Tom Paslow RFD ED QC and Denis Galligan QC, both of whom were appointed Solicitors-General for Queensland.

On the 60<sup>th</sup> Anniversary of the end of the Second World War, I am honoured to be the First Law Officer of our state, entrusted, as are all legal practitioners in Queensland, with upholding those enduring values and traditions, maintained through the rule of law, for which so many Queenslanders sacrificed so much.

**LINDA LAVARCH MP**  
Attorney-General and  
Minister for Justice

<sup>1</sup> Further biographical information on Sir William Webb, from which information for this article has been drawn and is gratefully acknowledged, can be found at the Australian War Memorial homepage: <http://www.awm.gov.au/findingsaids/process.asp?collection=private&item=webb>

## Lest we forget... Active Service Deaths

*Continued*

He wrote in his Scholarship application that he intended to "read at Oxford for a Bachelor of Arts degree in the Honours School of Jurisprudence, proceed to the degree of Bachelor of Civil Law at the end of the third year, be admitted to the English bar, and return to practise in Queensland."

His Rhodes Scholarship application reveals how highly Chester Parker was regarded by his peers. The Headmaster of Townsville Grammar School wrote in his testimonial that:

"In a long experience, I have never known a more resolute worker. If genius is the art of taking pains, he has it. ... He showed courage both physical and moral; a fine type of young manhood; quiet, strong, sincere. ... His unassuming manners, his tact, his sterling good sense, his loyalty, his very real ability, together with his altogether unusual capacity for hard work, and the healthy body which accompanies his healthy mind, should go far..."

Here we will hand the story of Chester Parker over to one who knew him well, his colleague Frank Glynn Connolly, barrister. In the first Queensland Law Journal, 1951 he wrote:

*I last saw Chester Parker in his rooms at Christchurch, smiling as usual, boiling tea. He had newly arrived in Oxford as Queensland Rhodes Scholar for 1938. It was his climax to a distinguished University career; he was finishing law. Or so we all thought. Three years later I heard he was killed in action in the Mediterranean.*

*We first knew Chester in 1935. From the Townsville Grammar School, where as head prefect he had captained cricket, football, and tennis teams, he had carried off one of the Open Scholarships, as well as a Rotary bursary for North Queensland. In a short while he was again distinguished, as an all-rounder with a magnetic smile. Indeed it is his personal charm one recalls most easily. He was a favourite, with popularity wider than is usual. He became President of the Union, and most University people before the war knew him well.*

*Continues...*







## LOVE AND MARRIAGE

Amid all the carnage and horror of war, or perhaps even because of it, the romances related in this article flourished and matured into lifelong partnerships which, quite literally, proved to be, for richer for poorer, in sickness and in health and 'til death do us part.



Mavis and Jack Kelly  
Source: Kelly family

Jack Kelly met his future wife, Mavis, while detached from his unit in Papua New Guinea to attend an Army Co-operation Course run by the Royal Australian Air Force in Canberra. One of the Women's Auxiliary Air Force staff at the RAAF establishment, whose beauty matched her evident efficiency, caught his eye, and the reverse must also have been true, for the attraction was instant and mutual. They married in January 1944. The young couple honeymooned at Stanthorpe – for four days. Jack was under orders to return to his unit in PNG and that was all the time that could be spared. In one sense, time enough it was, for their first child arrived later that year, perhaps lending new meaning to the term “inter-service co-operation”. Sadly, Mavis' death in their middle age brought their marriage to a premature close. Jack remarried, again happily, in later life and is survived by his second wife, Belle.

Wally Campbell, then just embarked on his Arts/Law studies came to meet his future wife “Georgie”, the then Miss Georgina Pearce, in McLeod's Bookstore in Elizabeth Street, Brisbane. Georgie was then a teacher specialising in children with speech disabilities. A meeting of minds blossomed into a romance that survived the separation that followed Wally's enlistment in the RAAF in 1941. The pair married in 1942 and, in older life, graced Government

House together in a highly successful Vice-Regal partnership.

Another future Queensland Chief Justice, Bob Andrews married during the war. Following his repatriation to Australia, Bob married the then Miss Joan Merle Tear in 1943.

Jim Douglas, also by then returned from the Middle East, was another who married in 1943. He had met Miss Marjorie Mary Ramsay in 1935. There is no doubt that the outset of war delayed their marriage. They met while Jim was in Brisbane from Townsville as associate to his father, the Honourable Mr. Justice R. J. Douglas, then the Northern Supreme Court Judge. The judge was down sitting on the Full Court at the time. Jim and Marjorie were introduced in Queen St, near the Treasury Building where Marjorie used to work as the librarian in the Crown Law office. Jim was with his father's former associate, Des McCawley, the son of McCawley CJ, later to become a distinguished barrister himself, and as is described elsewhere in this edition, also after having been an AIF officer and a POW in Changi. Des was also Marjorie's mother's first cousin. Marjorie was with one of Jim's classmates from Nudgee College, Russell Neville. He became a doctor, served in the Army Medical Corps and later married Marjorie's sister. Jim and Marjorie married while Jim was on leave. They

honeymooned briefly at Coolangatta, having borrowed a car from Jim's cousin, Father Frank Douglas, who had married them. Father Douglas was one of The Honourable Mr. Justice E. A. Douglas' sons and was then the curate at the Burleigh parish. Coincidentally, Jim and Marjorie dropped him off at the house next door to the Burleigh church. That house was owned by the parents of a young woman whose daughter would later come to marry Jim and Marjorie's youngest son, now the Honourable Justice James Douglas. The world is indeed a very small place!

In January 1944, Jim was posted to Duntroon to undertake a staff course. Doubtless calling in aid her experience as a librarian in the Crown Law Office, Marjorie also secured a position in Canberra, as the Air Raid Warden's librarian. She recalled that no-one ever wanted to borrow a book! Two enduring benefits came from that time in Canberra. Firstly, as Jim would always later maintain, it was in undertaking this course that he learned to study. Secondly, one Robert Ramsay Douglas, later also to grace the Queensland Bar and, for all too brief a period, the Supreme Court bench, was conceived there! Marjorie, baby Robert and Jim also endured the separation that wartime duty brought when Jim was posted away to the United Kingdom later in 1944, destined not to return to Australia for





Jim and Marjorie Douglas  
Source: Douglas family

over a year. The circumstances of that posting are described elsewhere in this edition.

Bill Gibbs and Muriel Dunn also married during World War II – in 1944 during a period when Bill was back in Australia from his duty in PNG. As with the Jim and Marjorie Douglas, the war undoubtedly delayed their marriage. Bill and Muriel had met at university and their marriage anticipated by several decades the now unremarkable phenomenon of the law school romance.

Doug and Cath Campbell married in April 1945. They had two weeks together before Doug had to return to military duty. For them, too, a lengthy period of separation followed while Doug undertook war crimes trial work in

Morotai and then Japan. It was late 1946 before they were reunited. It was a decade or so before their much loved son, now Douglas Campbell S.C., arrived. Young Doug insists he was “worth the wait”.

Tom Parslow also met his future wife, Margaret, during the war. His postings to New Guinea and then to Bougainville delayed their marriage. They married in 1946, soon after Tom’s return to Australia. Tom recalls that he and his best man each wore their officer’s uniforms as that was, at that stage, after years of military service, the best attire his best man possessed!

For Len and Molly Draney, the war brought with it the dreadful uncertainty of a loved one whose fate was unknown for a number of years. The Japanese were slow to release details, via the Red Cross, of those who had become prisoners of war. Len survived, but the horror of what he had seen and experienced remained with him for the rest of his days. That he and Molly enjoyed almost half a century of life together after Len’s repatriation was a tribute to the strength and depth of their relationship.

Perhaps it is wrong to conclude on a note of sadness, but that is the nature of war. All of the marriages thus far described



Two future Knights of the Realm and their respective Ladies at a post-war ball – (L) Ned and Dorothy (“Dot”) Williams, (R) Wally and Georgie Campbell.  
Source: W.D.P. Campbell, Esq.

were loving, enduring and lifelong. Yet so, too, were the marriages of Harley and Lorraine Stumm, Graham and Ida Pace, George and Kathleen Avery and Lex and Margaret McNab, to each of which marriages war lent a quality of tragic brevity to the adjectives “enduring” and “lifelong”. The comparisons evident give pause for thought on war and the meaning of “Lest We Forget”.



Doug and Cath Campbell  
Source: D.J. Campbell S.C.



Margaret and Tom Parslow  
Source: T. Parslow QC



Len and Molly Draney  
Source: Draney family







# QUEENSLAND BAR – V

NAME	REMARKS
<b>NAVY</b>	
Boreham, Geoffrey Gibson	Transferred to solicitors roll by election filed 16 March 1939.
B/V18 Dunn, Lex Seymour	
O'Driscoll, Andrew Florence	
B4057 Duncan, Ernest	
27251 Lahz, Damian Pasteur	
Kelliher, Denny Joseph	United States Navy – submarine service
B4829 Kimmins, John Patrick	District Court Judge
26767 O'Connor, John Michael	
B3477 Sydes, Bertram	
<b>ARMY</b>	
Q200030 Webb, George Sydney	Struck off roll of barristers on admission as a solicitor on 3 August 1948.
Q185053/Q2951 Graham, Murray Douglas	
QX47020/Q367 Henderson, Neville Vicars	
N100348/N65898 Desmond, James Joseph	Died of war caused injury or disease on 26 June 1943
Q202805 Seymour, John	
Q201516 Drake, James George	Transferred to solicitors roll by election filed 17 March 1939.
Q202841 Bale Theo John	Transferred to solicitors roll by election filed 20 March 1939.
Q213110 Palmer, Arthur Milford	Transferred to solicitors roll by election filed 17 March 1939.
QX13635 Boden, William Herbert	
QX50976/Q100251 Copley, Patrick Kerry	
Q140623/Q143117 Barry, Thomas Maurice	
Q202983 Gillies, Henry	
QX24868/QX60250/QX700063/Q140212	
Townley, Kenneth Russell	Supreme Court Judge
Q122884 Brown, Leslie	Supreme Court Judge
NX97509 Guinane John Patrick	
Q201698 Bradford, Arthur Edward	
QX35403/Q135264 Mack, William George	KBE; Chief Justice of Queensland
QX6266/Q185077 Fry, Thomas Penberthy	ED
Q226857 Wright, Percy Frederick	Transferred to solicitors roll by election filed 30 March 1939. Readmitted as a barrister on 30 July 1946
QX19190/Q71052/Q185277 Bennett, Arnold Lucas	Kt; QC
Q89694 Cormack, Ralph Francis Joseph	District Court Judge
QX6344 Hart, Graham Lloyd	Supreme Court Judge
QX 2021 Groves, Charles	Killed in Action 6 October 1942
QX16518 Hall James Friend	
QX36477/Q111515 Casey Daniel Joseph	
NX236/248 McCaffrey, John Francis	
QX164 Stable, Norton Sheridan	Supreme Court Judge
QX6020/110350 Foote, Stewart Clarence	Struck off Barristers Roll on admission as a Solicitor on 15 April 1954
QX17527 McCawley, Thomas Desmond	Prisoner of War – Thai/Burma Railway.
QX11446 McCready, Russell Lang	
QX13636 Draney, Leonard Laurence	Prisoner of War – Sandakan, Queen's Counsel
QX19528 Yeates, Herbert Nelson McCrae	
QX6095 Lucas, Geoffrey Arthur George	AC; Supreme Court Judge
QX19083/QX47419/Q11634 King Reginald Raby Mulhall	Queen's Counsel
QX33980/Q11255 O'Callaghan, James Patrick	
QX34149/Q185902 Gibbs, Harry Talbot	MID; GCMG, AC, KBE, Chief Justice of Australia
Q107464 Mylne, Vivian Martin	Queen's Counsel, District Court Judge
QX50085 /Q11579 Cuppaidge, William Edmund	
QX17902/Q185932 Prentice, Anthony Graham	Prisoner of War - Malaya, Struck off Barristers Roll on admission as a solicitor on 9 May 1950
Q16732 Julius, Max Nordau	
Q144305 Nixon, Neville	
QX45282/Q128093/Q108734 Campbell, Douglas Malcolm	Supreme Court Judge
QX32649/Q269812 Matthews, Ronald Henry	Supreme Court Judge
QX6453/Q185116 Hoare, Marcus Bertram	CMG, Supreme Court Judge
QX30561/QX63044 Dodds, Stuart	
Q135113 O'Shea, John Joseph	
QX18513 Lee, William Francis	

NAME	
QX57348/Q127146 Goodwin, John Taylor	
Q102460 Duncan, Ernest	
Q226857 Wright, Percy Frederick	
QX43411/Q16725 Donovan, Francis Patrick	
QX45284/Q108351 Grant-Taylor, William Murray	
Q21862 Spanner, Kenneth Peter	
Q108356 Maloney, James	
QX6097 Douglas, James Archibald	
QX47308/Q75603 Sheahan Charles Dean	
NX98410/N242881 Martin Lloyd George	
QX8777 Menzies, Andrew Charles Colin	
QX35526/Q16731 Henderson, Peter William	
QX48761/Q11616 Finn, Vincent James	
QX50076/Q135056 Becconsall Henry Archibald	
QX36935/Q7627 Auriac, George Edward	
Q108363 North, Octavius Joseph	
QX13914 Nicholson Vaux Morriset	
Connolly, Frank Glynn	
QX9500 Connolly, Peter David	
Q146295 Wyman, Clive Alexander	
Q122364 Cronin, Clarence Edmund	
QX52921/Q268268 Bradley, Raymond Keith	
QX40823/146779 Kelly, Jack Lawrence	
NX128985/N218765 Wynter Guy Douglas	
Q15995 Hurley, Bryan Dominic	
QX30839/146782 Dunn, James David	
SX26994/S31594 Ryan, Kevin William	
QX43161/146780 Parslow, Thomas	
QX59072/Q123064 Gore, Maxwell Hunter	
QX4952 King, Ronald John	
QX49022 McNamara, James Leo	
QX39753/Q140261 Smith, Walter Frederick Gordon	
QX49624/Q146344 Day, Philip Denny	
Q45097 Cronin, Kevin James	
Q39598 Thompson, Gordon	
QX61001/Q25 Cameron, Kenneth Boyce	
QX55279/Q138018 Mallon, Paul	
QX57060/Q265062 McCawley, Leo Francis	
QX47287/Q145117 Matthews, Ronald Thomas	
QX51717/Q513053 Gibney, James Thomas	
NX45192 Ousley, William John	
Q220375 Jensen, Lee Richard Graham	
V158048 Gifford, Kenneth Harril	
Q226857 Wright Percy Frederick	
NX140640/N40200/N238746 Milverton, Edward Farnham McDonald	
SX37055/S40147 Webb, Sydney George	
NX107763/N318856 Staunton, James Henry	
Q100704 Hollingworth, Jack	
QX36605/Q4206 Hair, John Harrington Love	
VX68956 Moylan, Bernard Joseph	
NX77274/N279765 Jones, Dudley Fearnside	
Q143445 Jayasuria, Alfred William	
Q16726 Callaghan, John Spain	
Nyst, Edward M. J.	
<b>AIR FORCE</b>	
5731 Amiet, William Albert	
276173 O'Sullivan, Daniel Brian	
275965 Bennett, Clyde Kinsey	





# WWII NOMINAL ROLL

REMARKS	NAME	REMARKS
Chairman of District Courts	273316 O'Hara Redmond 019119/272033 Seaman, George	
Supreme Court Judge	275042 Devlin, Reginald Edward George	Died on Active Service, 20 May 1943
Supreme Court Judge	275532 Muir, Andrew Purdie	Transferred to solicitors roll by election filed 29 March 1939.
Queen's Counsel	274161 Godsall, Harold George	
Name removed from Barristers Roll on admission as a solicitor 25 October 1960	70656 Stumm, Harley Charles	DFC; RAF; Killed in flying accident 13 May, 1944; Rhodes Scholar
District Court Judge	123110 Fogarty, Michael Vincent	
Prisoner of War – Sandakan, District Court Judge	270824 Pace, Harrold Graham	KIA 13 May 1942
Australian and British Army – Last remaining WW2 veteran admitted to the Queensland Bar to hold a current practising certificate as a barrister.	434683 McCarthy, Victor Elliott	
MID; CSI, CBE, Supreme Court Judge, MLA	207018 O'Sullivan Francis Mellin	
Name removed from Barristers Roll on admission as a solicitor	123297 Bennett, Colin James	
CBE, RFD, Supreme Court Judge, Major General and Judge Advocate General, Australian Army	430334 Duncan, Ernest	
Supreme Court Judge	434828 Williams, Edward Stratten	KCMG, KBE; Supreme Court Judge; Chairman of the XII Commonwealth Games Committee, Brisbane 1982; Commissioner, Australian Royal Commission of Inquiry into Drugs, 1977.
Supreme Court Judge	414469 Cook, Sydney Dane Robinson	
RFD, ED, QC – Solicitor General	404557 Andrews, Dormer George	Prisoner of War, Middle East; Kt; Chief Justice of Queensland
District Court Judge	405827 Campbell, Walter Benjamin	AC, Kt, Governor of Queensland, Chief Justice of Queensland
Transferred to solicitors roll by election filed 24 October, 1972	429411 Wyman, Clive Alexander	Name removed from Barristers Roll on admission as a solicitor
District Court Judge	440970 Wright, William Alfred	
QC (Victoria)	44365 Hurley, Bryan Dominic	
District Court Judge (NSW)	414949 McLoughlin Bernard Michael	District Court Judge
French Maquis (rural guerrilla bands of the French Resistance) and Royal Dutch Army	147420 Asche, Keith John Austin	AC; Chief Justice and later Administrator of the Northern Territory
Transferred to solicitors roll by election filed 22 March 1939. Founding partner Macrossan & Amiet, Solicitors, Mackay.	429405 Galligan, Denis Vincent	QC, Solicitor General
Transferred to solicitors roll by election filed 16 March 1939. Founding partner Kinsey Bennett & Gill, Solicitors.	79814 Nolan, Maurice	
	437628 O'Connor, Williams James	Public Defender
	Smith, Percy Raymund	MLA
	170731 Kelly, John Joseph Anthony	Federal Court Judge
	453212 McMahan, John Denis	
	434914 Given, Alan Stewart	District Court Judge
	271950 Mocatta, George Houlton	
	426996 Hockings, Ian Thomas	
	426278 Roots, George Richard	
	275579 Price, Kenneth Bennion	
	016146/405294 Broad, Edmund George	DFC, District Court Judge
	151944 Wyvill, Lewis Francis	QC, Aboriginal Deaths in Custody Royal Commissioner
	20886 Holland, Kevin James	
	78007 Goodman, Harry Bretnien	
	4710 Humphries, Allan James	
	440480 Killen, Denis James	AC, KCMG; MHR; Minister for Defence, Minister for the Navy.
	435869 Dwyer, Michael Maxwell	
	79034 Brown, Alan Joseph George	
	441102 Behm, Clyde Arthur	
	<b>Notes:</b>	
	1. This table has been compiled by the cross referencing of entries on the Supreme Court's Queensland Bar admission roll with the World War Two nominal roll, maintained by the Department of Veterans' Affairs (DVA): <a href="http://www.ww2roll.gov.au/">http://www.ww2roll.gov.au/</a> As the DVA roll shows only Australian enlistments, where it was possible, from other information, to identify an individual who served in an Allied Force during World War Two, that person's name has also been included.	
	2. Entries are listed according to arm of service and, within each arm of service, by order of Bar admission. Each of those who were admitted to the Queensland Bar and could be identified, irrespective of whether an interstate admittee or a later crossing of the rolls has been included.	
	3. Details of those made POW and any wartime decoration or mention in dispatches are first included in the remarks column. Thereafter, subsequently awarded honours are shown along with the individual's most significant professional attainment after admission. Other high and responsible, non-judicial offices held are also shown.	
	4. In a few cases, where the name on the admission roll and a name or names on the nominal roll did not admit of precise correlation, a value judgement has been made based on age, the admission date, place of birth and enlistment date. For any resultant errors and any other inaccuracies the Bar Association sincerely apologises to individual and to the family of the individual concerned.	







## WAR CRIMES

Retired Japanese Naval Captain Murakami, a POW camp commandant, flanked by his American defence counsel, standing before the Military Commission, Tokyo, on sentencing

Source: As with all photos, unless otherwise indicated, D. J. Campbell S.C., from his late father's private papers.

In the immediate aftermath of the Japanese surrender, an International Military Tribunal for the Far East (IMTE) was established. It was the exact counterpart of the International Military Tribunal which sat at Nuremberg to try Germany's leaders. In the Kellogg-Briand Treaty of 1928, the international community had renounced the use of force for the settlement of international disputes. During World War II, Allied leaders repeatedly warned that those responsible for violating laws or customs of war would be held to legal account. To this end, the IMTE was established by the Allied Powers to try the leaders of Japan though not, as a matter of deliberate policy, the Emperor, for three types of war crimes committed during World War II, but also including some pre-war incidents such as the Nanjing Massacre:

- "Class A" (crimes against peace);
- "Class B" (war crimes); and
- "Class C" (crimes against humanity).

The tribunal's jurisdiction did not extend to individual Japanese war crimes. Those were dealt with separately by courts martial or other tribunals in various locations throughout the Asia-Pacific region.

Members or former members of the Queensland Bar had a very particular association with both the IMTE and individual war crimes trials. The Chief Justice of Queensland and later High Court judge, Sir William Webb, was appointed a member of the IMTE. Less well known is that another Queensland judge, Mr. Justice Mansfield, later Chief Justice and Governor of Queensland acted as a prosecutor before the IMTE. Each of these judges were granted leave from their courts to undertake these roles.



Morotai, 26 September 1945. Mr Justice Alan Mansfield of the Supreme Court of Queensland, then a member of the Australian War Crimes Commission (2<sup>nd</sup> from left in dark shirt), with his staff, including Captain K. R. Townley, then a Legal Officer attached to Advanced Land Headquarters. Source: AWM Negative 116766

Mr Justice Mansfield's undertaking of a prosecutorial role as a serving judicial officer was not unique in those times. An Associate Justice of the United States Supreme Court, the Honourable Robert Jackson, served as his country's Chief Prosecutor before the counterpart tribunal at Nuremberg.

His prosecutorial duties took Mr Justice Mansfield to many places in the Asia-Pacific region gathering evidence. One of his assistants in this task was another Queensland barrister and later Supreme Court judge, Ken Townley, then an Army legal officer attached to Advanced Land Headquarters. When photographed on 26 September 1945 on the island of Morotai, Mansfield and Townley were engaged in collecting evidence from various Japanese prisoners for use in subsequent war crimes proceedings. Morotai is one of the most northerly islands in the Indonesian archipelago and forms part of the Maluku Islands (Moluccas). It had been the site of a network of Japanese airfields until captured by the Allies in 1944. Then it became a staging post for the invasion of the Philippines and the site of forward Land and Air Headquarters for the Allied Forces.



## Morotai Trials

Douglas Malcolm Campbell had the singular experience of undertaking war crimes defence and prosecution work, including acting as a prosecutor before the IMTE. Toward the war's end he had transferred from the Royal Australian Engineers to the Australian Army Legal Corps. The following account of his experience in war crimes work is reproduced by kind permission of his son Douglas Campbell S.C. from a family memoir his father wrote:

*"When the peace treaty was signed I was sent to Morotai Island to take part in the war trials. Some war trials were held on Ambon early in the piece, but most suspected Japanese war criminals were being sent to Morotai to await trial. On Morotai I shared a tent with Major Ken Townley as he then was.*

*Shortly after my arrival I was appointed defending officer in three trials which were coming up. In each trial I was assisted by a Japanese civil lawyer who had been flown out from Japan. They were not of much assistance as they knew no English Law or much International Law but were someone to whom the accused could communicate freely in their own language.*

*The trial which has attracted most attention over the years and also the most stringent criticism was the trial of naval officer 2<sup>nd</sup> Lieutenant Hideo Katayama, and two other naval personnel, Ensigns Toyogi Takahashi and Shigeo Nemuro. They were charged with beheading the crew of a Hudson bomber, namely, Squadron Leader John Scott, Flying Officer Donald King and Flight Sergeants Robert Maxwell and Keith Wright, which had come down near Ambon on 27 March 1944. The 4<sup>th</sup> South Seas Despatch Fleet had a sub-command on Ambon. Katayama was a cipher clerk twenty-seven years of age who had no combat experience. Both he and his family were Christians. Both his parents had been killed in the bombing of Hiroshima. He was demobilized in Tokyo and became the adopted son of the Reverend Harada, a Methodist Minister for the Evangelisation of Japan. In the meantime he married Yuri, a Japanese dancer, and they were due to have their first child. He surrendered himself to the authorities after seeing his name in the newspapers in a list of persons who were wanted for war crimes, and after consulting his aunt, Mrs Winifred Yamagouchi, an English woman who had married his uncle, a Japanese diplomat. He accepted her assurance that he could rely on being dealt with fairly.*

*The tribunal which tried the three accused was convened under the Australian War*

*Crimes Act 1945, and was made up of two senior army officers and a flight lieutenant. There was a fourth member of the execution squad who was never brought to trial, but Katayama was the senior officer. The judge advocate was Captain Travers who afterwards became Mr Justice Travers of the Supreme Court of South Australia. He was not a regular army officer but was one of a number of civilian lawyers who were given temporary commissions to help out with the war trials. I think he was appalled by the naked barbarism of the act.*

*The prosecutor was Captain John Williams who afterwards became a judge of the New South Wales District Court. His son, Evan, wrote the script of the film "Blood Oath" which was released in the late 1980s. Although Evan Williams called it fictional drama inspired by the war trials, it was treated by many of the public as being completely accurate. The Tan Toey POW camp on Ambon was virtually run by a Japanese civilian interpreter named Ikeuchi who was bad news. Of the 1,100 Australians interned there only 300 odd came out alive. Strangely enough I met up with John Williams again at Trafalgar Towers, Maroochydore, just before he did. We both owned holiday units in Trafalgar without knowing it.*

## Obedience to superior orders

*Katayama's defence was that he acted in obedience to superior orders which were transmitted to him by his naval staff captain, Captain Kawaski. He claimed that the orders had come down from the Vice-Admiral Seigo Yamagata, the commander of South Seas Fleet. His evidence was that the airmen had been sentenced to be beheaded by a 'temporary' court martial presided over by Baron Commander Masimitsu Takasaki, and that beheading was an acknowledged method of execution which was within the powers of a court martial to impose, as was in fact the position. He understood that they had been convicted of strafing a native village killing a number of habitants. His belief was that they had been found to have violated International Law as well as*



Some of the accused Doug Campbell defended at war crimes trials at Morotai.

## Lest we forget... Active Service Deaths

*Continued*

*With Honours in the School of English Language and Literature, he won the Rhodes Scholarship; and arrived in England in October, 1938 just after Munich.*

*From this point, and in his last phase, his record once again is of an all-rounder. In August, 1939, he took an Oxford Scholarship in Law, and in November volunteered for active service.*

*In 1940 he was commissioned, in the R.N.V.R., as Sub-Lieutenant in an Armed Merchant Cruiser "Dunvegan Castle." In August that year she was torpedoed in the North Atlantic. Most of the crew lost their lives, but Chester, surviving an ordeal in icy waters, with a few others was rescued and given six weeks' leave.*

*Then he was posted Navigator in a Corvette, H.M.S. "Pheony" and in November, 1940, arrived at Alexandria. While here he endeavoured to be transferred to the R.A.N., but owing to circumstances of this vital time it became impossible.*

*By a strange fate this part of his life becomes recorded, and in literature. Geoffrey Williams, another officer on board, was author of a small book, "One Eye on the Clock," describing service in this ship. Chester, the only Australian, became the Digger of the piece.*

*In 1942 he was posted 1st Lieutenant, Second in Command H.M. Submarine "Thorn", a large submarine, with crew of fifty.*

*Submarine "Thorn" left Haifa on special patrol duty in late July. Her last message was received just after Lieut. Parker's birthday. Due back at base in early August, nothing further is known of her. No sinking of "Thorn" has been claimed; nor were survivors found.*

*She was therefore officially presumed lost by mine actions.*

*Such was the short, sad, gallant record of Chester Parker, all-rounder."*

*Continues...*







Sugamo Prison – remand prison for Japanese war crimes suspects, where some of those convicted were later hung and others served lengthy terms of imprisonment

*Japanese Martial Law in an issue from national Defence General HQ (Boeisho Shireibu) and later in an issue from South General HQ (Nampo Sogun). Under International Law soldiers are expected to disobey orders which are obviously illegal. The effect of a Japanese soldier disobeying the orders of a superior could have been catastrophic for him. There was a strong tradition in the Japanese armed services of unquestioning obedience to orders. I remember one naval witness telling me that they had learnt to swim by being taken out to sea in a boat and told to jump over the side, which they all did to a man. Nevertheless, the defence did not prevail and each accused was convicted of a war crime and sentenced to be shot.*

*Baron Takasaki was a shadowy figure in naval intelligence. It had been reported in the Japanese press before the outbreak of war that he had been cashiered from the navy following his involvement with a geisha girl. He came to Australia and was in Melbourne for a time and in Darwin, undoubtedly in both places as a spy. As soon as war was declared he was reinstated into the navy and for one period at least was the head of the naval branch of the kempei-tai, the Japanese equivalent of the Gestapo.*

*Although the prosecution had in its possession a detailed account by Katayama written in his own hand in English of what occurred, no officer in the Japanese chain of command was called. As for Baron Takasaki, he was arrested early and tried by an Australian Court who were poorly informed, for being responsible for the death of a number of prisoners of war. A lot of buck passing went on among Japanese officers in the higher echelon putting the blame for what occurred on junior officers. Takasaki was a graduate of Cambridge University and spoke flawless English. He so impressed members of the Australian Court that he was acquitted. My information was that he had been handed over to the Dutch who summarily executed him. Whether that is right or wrong I do not know. But I do know that he never surfaced again.*

## Appeals

*We lodged appeals against the convictions on behalf of each accused. It was reported in the Australian newspaper on 20 July 1981, in one of a series of four articles on Katayama that the JAG had recommended to the confirming authority: (1) that Uemura should have his conviction set aside; (2) that Takahashi was too junior an officer to know whether the orders were legal; and (3) that Katayama should have known the orders were illegal but the fact that they came from Baron Takasaki could be viewed as a mitigating circumstance. I do not know where this information was unearthed but I can say that it would be unprecedented for the JAG's recommendation to be totally ignored by the confirming authority. It was certainly not the advice I received on Morotai as to the result of the appeals.*



War Crimes Tribunal members in session, Morotai.

*I received a letter of thanks from the three accused; indeed I received letters of thanks from all the accused I defended in Morotai. I will not quote them but to indicate their tenor, I will quote a letter I received from the commanding officer of a number of co-accused I defended, naval Captain Wadami Shirozu, Commander 20<sup>th</sup> Garrison Unit. It read as follows:*

*"For your labourers as leader of the defence in the trial of nine of my subordinates, my defendants and I express our thanks. Last night I read in detail the record of your pleading in the Court Room of yesterday. Our feelings are overwhelming when we realise that you, an Australian, charged with the defence of accused who were Japanese, faced your task with an attitude of impartiality, laying aside all feelings as an Australian, and gave all that you had to the work. As you not only said all that we would have wanted said, but also pointed out countless things that we could not possibly have thought of, every one of the accused is absolutely satisfied. We have now to await the verdict, but – having had the finest possible defence – we have not an ounce of regret, whatever the outcome be."*

*I happen to know that the Japanese authorities made a request to Army HQ that I be made available as a defending officer in other trials. I only mention the matter because it seemed to have bearing on my being promoted to the rank of major over the heads of a number of legal officers who were senior to me. At the conclusion of the trials in which I was involved, I received advice that I had been appointed Australian Legal Officer, Legal Section, Supreme Command Allied Powers, Tokyo and was instructed to fly to Melbourne to be briefed.*

*The briefing was attended by an Australian Army officer, Lieutenant Colonel Duncan Goslett MC, the very epitome of a professional soldier, who came to the briefing carrying a swagger cane. He was to be appointed the Chief Administrative Officer of what was to be designated 2 Australian War Crimes Division, Legal Section, SCAP, and I wondered how we would ever get on. He thawed quickly and we became firm friends, keeping in touch with each other until the day he died.*

*The adjutant was to be Captain Findlay Munro whom I knew. He had been ADC to Sir Leslie Wilson before commencing practice as an architect in Sydney. We had offices allocated to us in the Meiji Building opposite the Japanese palace. Fin would stroll into the office about 9.30am after a heavy night, whereas Gos would punctually commence work at 8.30am. Something or someone had to give, and it was Gos (as called him). Fin was a superior secretary, that is the best way to describe him, observing the diplomatic niceties, with the result that we were invited to most of the Embassy functions. At the end of his military career Gos was acting in charge of the Australian Army Reserve in New South Wales and he gave a dinner for Fin at Victoria Barracks. When I heard this I felt that the wheel had turned full circle.*

*Major Harold (Bill) Williams who had been in business in Japan for twenty years before the outbreak of war came up as an interrogator and adviser on Japanese affairs.*



Australian War Crimes Tribunal convened under the War Crimes Act, in session, Morotai. Doug Campbell present as defending officer.





We were billeted by the Americans at the Tokyo Kai Kan which had been an exclusive Japanese club in pre-war days. The top floor had been pulled down to prevent anyone overlooking the Imperial Gardens. We ate in what was called the gold room, done out in gold and Japanese black lacquer. There was a candlelight cabaret which operated seven days a week on the fifth floor.

## Tokyo

Shortly after my arrival in Tokyo I was visited at the Meiji building by Yuri, Katayama's young wife, and Mrs Yamagouchi accompanied by their family lawyer. It had become known at Morotai that I was going to Japan. I had the unpleasant task of informing them of the outcome of the trial. Mrs Yamagouchi was appalled. Katayama had been educated in English ways. His second language was English and he had been brought up in a Christian tradition. I drafted a signal to Army HQ in Melbourne asking that his case be reviewed. The signal was vetted by Gos who was very good with signals using the correct military terminology and abbreviations. At the time the Labor Party was in power in Canberra and it was a plank of their policy to abolish capital punishment. However, Cabinet was not prepared to intervene in this instance and act contrary to popular sentiment.



Military railway parcel check issued to Doug Campbell

A few weeks later I received a letter from Yuri's aged father written in Japanese in the ancient script by a professional scribe. It began formally: "Impatient spring has overtaken us. The cherries have blossomed and on vale and hill the buds on the trees are sprouting vigorously". And he went on to thank me for the help I had already given the family and asking for my further help. It was on rice paper about four feet in length. I showed it to David Sissons, a Fellow of the National University, some years later when he called on me in my chambers to discuss some of the Morotai war trials. He was writing a book on



Supreme Court, Yokohama, venue of "B" Class War Crimes Trials in Japan.

*Japanese-Australian relations and hoped to devote a chapter to the Morotai trials. He took the letter away with him but the calligraphy was too ornate for post-war translators. He eventually met an old Japanese Historian when he was in Canberra passing through who helped him with the translation. I have had the letter framed.*

*I met Yuri again when she visited me at Empire House with her lawyer when I was preparing to return home. She presented me with an expensive shot silk summer kimono, and the largest bottle of sake I had ever seen. It was very generous of her as living conditions were not easy, even for wealthy Japanese at this particular time. In return I gave her a few items in short supply which had accumulated in my cupboard which was all that I had.*

*Katayama was moved from Morotai to Rabaul. The execution of his sentence was delayed pending the trial of Captain Kawaski, his staff officer. On Morotai he was described by the Reverend Gordon Yon who was the Australian padre as his right hand man. He was someone to whom both Japanese and Australians could relate. He helped the Camp Commandant handle a mass of paper written in Japanese. Kawaski was not tried until July 1947 in connection with the death of the Australian Airmen and he was acquitted. Katayama destroyed his credibility somewhat by issuing a statement that he had no part in their death but by that time he had become desperate. He was brought before a firing squad early in the morning of 22 October 1947 and died bravely. A diary of his which he kept during his internment was published in Japan in 1958 where he has become something of a folk hero. His ghost will never be laid to rest while people who knew him are still alive.*

*Last year I was interviewed by a reporter from the Yamiuri Shimbun, the largest Japanese daily paper. A report had been released in Japan that a much higher*

## Lest we forget... Active Service Deaths

*Continued*

### Other Deaths on Active Service

Preparation of the Nominal Roll has revealed the names of three other persons who had been admitted to the Queensland Bar and who died during World War II. They were:

**James Joseph Desmond** – Desmond was born on 6 November 1900, according to the WW2 Nominal Roll. It may be though that he altered his age for enlistment purposes as, according to Commonwealth War graves Commission records, he was aged 55 at the time of his death in 1943. He was admitted to the Queensland Bar on 6 May 1924. His name was struck off the roll of counsel by order of the Full Court on 17 July 1928. The roll does not record the occasion for the striking off. No account of any disciplinary hearing appears in the Queensland State Reports or Weekly Notes for 1928. He enlisted into the Australian Army in Paddington, Sydney on 11 November 1940. He was then living at Bondi. He achieved the rank of Lance Sergeant, serving in an anti-aircraft defence unit in the Northern Territory. He was discharged from the Army on 15 September 1942 and died from war caused injury or disease on 26 June the following year, leaving a widow, Mrs Florence Rossalie Desmond.

**Reginald Edward George Devlin** – Devlin was admitted to the Queensland Bar on 6 September 1932. He transferred to the Solicitor's Roll by an election filed in court on 31 March 1939. He was born in Townsville on 17 November 1902 and enlisted in the RAAF on 30 March 1942. He died on active service at Townsville on 20 May 1943 while posted to 3 Fighter Squadron Headquarters as a Flying Officer. He left a widow, Mrs Irene Mary Devlin.

**Charles Groves** – Groves was born at Mareeba, Queensland on 11 February 1911. He was admitted to the Queensland Bar on 24 November 1933 and transferred to the Solicitor's Roll by an election filed in court on 20 March 1939. He was killed in New Guinea on 6 October 1942 in circumstances elsewhere related in this edition. He was unmarried at the time of his death.







Doug Campbell on the balcony of his room in the Tokyo Kai Kai with Con Rolfe, American Independence Day, 1946. During the war, Miss Rolfe had worked at Bletchley Park House and was one of the team that cracked the German cipher machine "Enigma".

*percentage of Japanese were convicted and sentenced to death by Australian courts than by American courts. I was in no position to dispute the figures. I know this, however, that a Japanese suspected of war crimes was luckier to be tried before Australian court in 1947 than he would have been in 1945.*

## Without regard to rank unique

*The organisation formed to implement the decision to try war criminals without regard to rank was unique in military history. Ordinary military administrative procedure was inadequate to cope with all that was entailed.*

*A delegation to convene war trials was granted under the Australian War Crimes Act to various commanders in the Pacific region.*

*The war trials in Japan were convened under the authority of a letter order issued by the Supreme Commander in December 1945. Legal Section, SCAP, was designated a special staff section of General Headquarters to advise the Supreme Commander on legal matters of a general nature as well as on matters connected with the war trials. Besides American and Australian divisions, it had divisions from the United Kingdom, Canada and China. It was broken up into sections, notably Law, Investigations, Registry and Prosecution.*

*SCAP had ordered that an indictment be issued implicating the Sumitomo Company, one of the three largest cartels in Japan, which had used POW labour in the Niihama-Besshi copper mine which it owned and operated. It was the oldest copper mine in Japan. Many POWs had been killed descending vertical steel ladders to the 19<sup>th</sup> level, suffering from berri-berri and malnutrition. After working on the case for a few weeks with an American Attorney,*

*I was instructed by Colonel Alva Carpenter, the head of SCAP, to take over the case as chief prosecutor. Major Renchard, an American legal officer, was to assist me.*

*Nineteen accused were named in the indictment. It was the largest B class trial to be held in Japan. Captain Phillips, an American criminal lawyer from St Louis, was the chief defending officer, assisted by a number of American legal officers and Japanese lawyers.*



Majors Doug Campbell, Australian Army and John Renchard, United States Army Legal Section, war crimes prosecutors, Yokohama, Japan 31 August 1946.  
Source: AWM Negative 133331

*The trial took place before an International Military Commission convened by the Supreme Commander at the Japanese Supreme Court House at Yokohama, and was presided over by Colonel Moss, the Canadian Judge Advocate General, who had practised before the Privy Council in appeals from Canada. Members of the Commission included representatives from America, Australia and the Netherlands. The principal accused was a retired naval captain named Murakami who was in charge of the POW camp from which the labour was recruited. At times the court room looked like a Hollywood set because of the publicity which attended the trial which was one of the earliest war trials to be conducted in Japan. The senior Australian officer in the camp was Lieutenant Peter Withycombe, a solicitor from Newcastle in New South Wales. His offsider was Lieutenant (Sandy) Sanderson whom the Japanese found a tough nut to crack. Both officers had been discharged from the Australian Army but were brought back to give evidence at the trial. Of the nineteen accused, Murakami was sentenced to be hung, others were given different terms of imprisonment, and there were a few acquitted.*

*It was in the nature of a postscript to the trial when I received an invitation from Alva Carpenter from Switzerland about three*

*years later to his third marriage. I wish I could have gone.*

*Murakami's name appeared in a list of war criminals published in the Japanese press as having been executed at Sugamo prison. I have no reason not to accept this except that I received a telephone call from Loy Hennessy, the manager of Mount Morgan, one day when I was Central Judge, to say that he had been entertaining a number of Japanese from the Sumitomo Company, one of whom was named Murakami who told him that he had an unhappy experience during the war using POW labour. That he was the same Murakami I knew, I very much doubt.*

*I will not say anything more about the trial. A full transcript of the proceedings is held by the Columbia University; but I will mention that it was the practice of Colonel Moss to adjourn to chambers whenever things became heated, or whenever Captain Phillips objected to a line of questioning on the novel ground that it was inflammatory. He always ended up by saying something to the effect "I cannot see any signs of the mind of the Court become inflamed Captain Phillips".*

*But I cannot leave the trial without mentioning a Japanese interpreter I had. He had the amazing facility of being able to write English upside down so that, sitting opposite me at the bar table, I could read what he was writing without him turning it around.*

*There was one amusing incident in which I was involved with Fin Munro that has nothing to do with the war trials. He reminded me one day that Emperor Hirohito was due to open the Diet, the Japanese House of Parliament, that morning. It was the first sitting of the Diet to be held since the war and he thought it was an historic occasion and we ought to make our way up there to see the spectacle. We ordered a staff car and, as chance would have it, came out of a side street just as the Emperor's entourage was passing. Due to some inept driving on the part of "Bluey", our Australian driver, we finished up in the middle of the procession behind the Emperor's limousine between it and the horse guards. There were very few cars on the streets in Tokyo at that time. On arrival at the Diet we were whisked away by the ushers and seated in the midst of members of the royal family. Fin was wearing his old ADC's uniform with silver stars on the epaulettes and was mistaken for a three star American general. MacArthur had issued strict instructions that no occupational personnel were to attend the ceremony on*





any pretext whatever as it was to be regarded as a Japanese occasion. As it turned out, we were the only occupational personnel present at the official opening of the Diet by Hirohito. When we got back to the office and told Gos what had happened he was agape.

Another amusing incident not entirely to my credit happened on the occasion I took a SCAP staff car to a party given by the Manila girls. They were called the Manila girls rather disparagingly by the then Minister for Immigration. Actually they were a small group of very competent Australian girls who worked for the American forces and had moved forward with them to Manila and from there to Japan. The orders were that the drivers of staff cars were not to be kept waiting beyond a certain time. You were supposed to send the car away and call for another car when you needed it. I had lost track of time and when I went down to my car I found it surrounded by military police. I would have been in trouble but for the fact that I left the party in company with an American general, General Casey. There were salutes all round – if you are an American you don't need to be wearing a cap or hat to salute – and I drove off unchallenged.

### "A Class" trial

Perhaps I should say a word or two here about the "A" class trial. The trial was designated "A" class because the accused were leading Japanese political figures charged with crimes and against peace or against humanity. Other trials designated "B" or "C" class trials denoted the trials of military personnel or civilian personnel who were associated with the armed services. Class B trials dealt with breaches of the laws and customs of war. (The Red Cross had managed to contact the Japanese Government after the outbreak of hostilities to ask whether it would abide by the Hague Conventions relating to the treatment of prisoners of war, but received an ambiguous reply). Class C trials were concerned with other allegations. In addition Military Occupation Courts were set up to try offences committed by members of the occupation force. Japanese Courts were permitted to exercise jurisdiction in so far as acts constituted a breach of Japanese law with the reservation that the Occupation Courts could always intervene. Sir William Webb, the Chief Justice of Queensland, was appointed President of an International Tribunal consisting of eleven members in the A class trial. His appointment was criticised in some quarters and a formal objection was taken to it by Japanese

counsel on the ground that he had been given a commission in 1944 to investigate atrocities allegedly committed by Japanese troops and to take statements from surviving witnesses. However, his appointment was supported by the Australian Attorney-General, Bert Evatt, and cabinet elevated him to the High Court. The Chief Prosecutor was an American criminal lawyer whose name escapes me for the moment but whose main qualification seems to have been that he came from Harry Truman's home town. Comyns Car KC was the leader of the British team and was mainly responsible for drafting the indictment. Alan Mansfield, a judge of the Supreme Court of Queensland, was a member of the prosecution team. Many of us thought it was inappropriate for him to have accepted the appointment. Alastair MacDonald, his Associate, managed to smooth the path for him by reason of his personality. A rule of practice was adopted that questions could only be asked through the President to avoid bedlam. As it was, the trial dragged on for two years. Six of the twenty-eight accused were convicted and sentenced to be hung, thirteen were sentenced to terms of imprisonment and the remainder were acquitted.



Left to right – Colonel Alva Dexter, head of the Legal Section SCAP, Lieutenant Colonel Duncan Goslett and Captain Findlay Munro in court listening to the final addresses in the Sumitomo case.

Among those sentenced to be hung was Hedeki Tojo, a former Prime Minister and head of the military cabal that had plunged Japan into war. He attempted to commit hara-kiri before the sentence was carried out.

One of Comyns Car two junior counsel was Christmas Humphreys, whose father was old Mr Justice Humphreys, who sat on the Criminal Court in England until approaching the age of ninety. I had arranged to call on Christmas Humphreys some years later when I was in England at his chambers in the Old Bailey where he was sitting as a judge. A few minutes before I was due to arrive, a bomb exploded outside the Old Bailey shattering the façade and damaging adjoining buildings. Had the



Entrance to the Tokyo Kai Kai, formerly a rich-man's club, which served as a billet for officers on MacArthur's staff, including Doug Campbell

bomb gone off a few minutes later I would have been caught in the explosion.

Comyns Car kindly invited me to go to England after the trials and follow him around for a few months before becoming admitted to the English Bar. I was not disposed to do so because I did not find him a very engaging personality. He was the President of the British Buddhist Society and his idea of relaxation over the weekend was to take up his prayer mat and retire to a Buddhist temple in the country where he could meditate or contemplate or whatever else he did.

It is not fully realised even today what a magnificent job MacArthur did in Japan based on an understanding of the Japanese character. He was not a young man and he came through a strenuous military campaign lasting three years. The old Meiji constitution had only introduced the trappings of democracy. Farmers were shackled to the land by ground rents and surcharges benefiting for the most part absentee landlords. MacArthur repealed the old constitution with a new and more liberal constitution, and implemented a policy of land reform stamping out feudalism.

He made a decision not to put Emperor Hirohito on trial as a war criminal against the wishes of the British, Russian and Australian governments. Only one incident marred the occupation and that was when a half-crazed Japanese attempted to shoot MacArthur as he entered the Dai Itchi building where he had his office. He worked there every day from 10.30am until late in the evening. The American Embassy where he lived was the scene of very few large functions while he was in residence.

MacArthur offered me a trip home via America. But I decided to go straight home. Cath and I had only lived together for a couple of weeks since our marriage on 2 April 1945." \*

\*Reproduced from "Some Reminiscences" by the Honourable D. M. Campbell QC by kind permission of D. J. Campbell S.C.







## THE END OF HOSTILITIES AND THEREAFTER

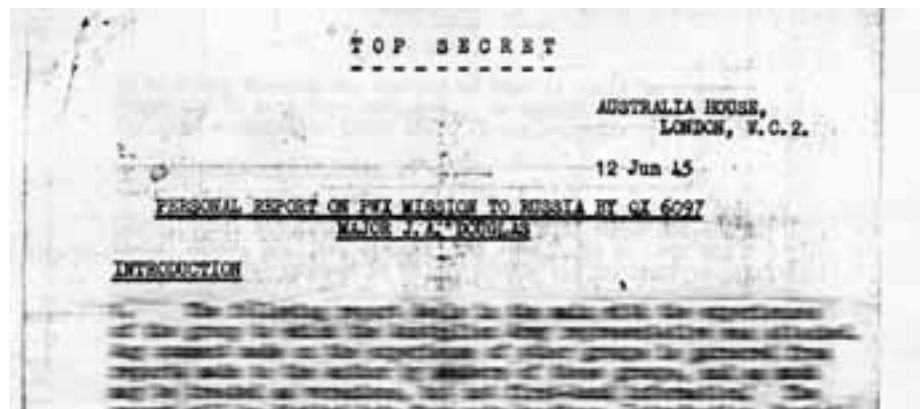
On their return to Australia from the Middle East, Norton Stable, George Lucas and Jim Douglas each held various formation headquarters staff appointments. Each would come to finish his post war civilian career as a Supreme Court judge.

By war's end, Stable had been seconded from duty as a general service officer to take up an appointment at Australia House in London as the Chief Legal Officer for Australian Forces in the U.K. He journeyed there by ship across the Pacific. By coincidence, one of the officers with whom he came to share a cabin on that voyage was Jim Douglas, then also on his way to take up a staff appointment at Australia House in London. Stable was later fondly to recall that Douglas had had the foresight to equip himself with half a dozen bottles of Bundaberg Rum to "ease the pain" of a long sea voyage! Apparently, the cabin mates toasted themselves with the last of it as the ship entered San Francisco harbour. From there they travelled across America by train to New York where they formed part of the Australian contingent that participated in a ticker tape parade down Wall Street.

At the end of the war in Europe, Jim Douglas, by then a Major, was attached as an Australian representative on a British military mission which was sent to Russia, tasked with locating and repatriating British and Australian prisoners of war who had come into Soviet hands. His personal report of his experiences during that mission, submitted upon his return to Australia

House in London in June 1945 was, at the time, very highly classified. The reason for the then security classification is not hard to discern upon an inspection of the document. It is no mere travelogue but instead is replete with astute, apprehensive comment as to Soviet post-war intentions that the later outbreak of the Cold War was to prove all too accurate. Douglas thought very seriously about making a career in the Army after the war. He had enjoyed his military service and, as his last posting indicates, the Army had come to regard him as a capable field rank staff officer, suitable for employment in sensitive postings. After reflection, he opted to complete his legal studies and instead follow family tradition and practise at the Bar. On the Bench he was to prove an uncanny judge of the credibility of witnesses, which talent many ascribed to his wide experience of men and affairs during his war service.

In September 1945 Bernie McLoughlin was in a transit camp in the Middle East. His beloved 458 Squadron had disbanded earlier in the year with the end of the war in Europe. The end of hostilities in that theatre had not though brought with it the termination of his RAAF service. At the time when Japan surrendered, he was under orders to proceed to the Pacific Theatre to take up another maritime strike/reconnaissance posting. Bernie remembers the sensation of a great weight having been lifted that accompanied the news of that surrender. He did not though find the transition from war to peace difficult. When asked to describe why that was so, he referred to an incident he had experienced while serving with a detachment from his squadron in Malta. He and a fellow officer had been granted local leave and gone shopping at the markets. Armed with their purchases they were walking back to their quarters. They passed a



First page of Jim Douglas' classified report of his mission to Russia (text blurred deliberately for publication)

Source: Douglas family, from the late judge's private papers.





sentry post. The sentry came smartly to attention and presented arms. After one of life's significant pauses, Bernie and his friend realised that they were the recipients of this compliment and hastily had to reorder parcels so that each had a right arm free to return the salute! At heart, though he had applied himself diligently to flying duty and, for all its hazards, enjoyed it, he had remained a civilian, hence the delayed realisation that the sentry's actions had been directed at him and his friend.

Another factor that eased Bernie McLoughlin's translation to life as a civilian and barrister after the War was the number of ex-servicemen in a similar position. The old Inns of Court in Adelaide Street where he came to take up chambers was replete with them. There was a bond of shared understanding and experience among them that provided mutual support and complemented and enhanced the camaraderie of what was then a much smaller Bar than today. There was more. Before the War, Brisbane society, to Bernie McLoughlin's observation, had been narrow and parochial. He had come to know well and greatly respect and like three of the squadron's chaplains – Bob Davies (later an Anglican bishop in Tasmania), Fred McKay (later Moderator-General of the Presbyterian Church of Australia) and Johnny McNamara (a prominent figure in the Catholic Church in Melbourne). For Bernie McLoughlin, a boy schooled at Marist Brothers, Rosalie, those wartime associations challenged and changed forever that narrow parochialism. His post-war civilian career culminated with his appointment as a District Court judge.

458 Squadron held its 60<sup>th</sup> Anniversary Australian Reunion in Canberra in November 2005. The surviving members have decided that it will be their last formal reunion. Bernie McLoughlin would not have missed it for the world.

### Educational opportunities

For many others, the end of the War brought educational opportunities. For Tom Parslow, for example, those opportunities meant that he was able to complete university matriculation and then his law degree at the University of Queensland. There were many ex-servicemen in the classes, which were conducted in Old Government House in the grounds of what is now Queensland University of Technology. The then Dean of the University of Queensland Law



School, Professor Walter Harrison, remarked to Tom that he had thoroughly enjoyed the years when the classes had comprised a high proportion of ex-servicemen. Harrison was firmly of the view that most students went to University at too young an age and would be better to embark on tertiary studies with some experience of life behind them. The Professor claimed that Parslow and his contemporaries had proved his point. During Parslow's final year of legal studies he had read in Doug McGill K.C.'s chambers in the old, Adelaide Street Inns of Court. Bill Gibbs had a room on one side of McGill's and George Lucas a room on the other. Lifelong friendships were formed amongst these men. He was tempted greatly to join them in private practice upon his graduation and admission. However, he had had to work his way through Law School and he and Margaret had two infant children. When a legal officer's vacancy arose in the Crown Law Office, he accepted it. He would retire as the then permanent head of that office – Solicitor-General and a Queen's Counsel. Before retiring, he was offered, at age 59, appointment as the Central Judge. He declined. Both his age and then state of health, as well as the dislocation that the move would bring were disincentives. On many an occasion in the course of his lengthy service in the Crown Law Office, it fell to him directly to advise State Premiers, from Vince Gair to Joh Bjelke-Petersen, that a proposed course of conduct was neither lawful nor could be made lawful. Such advice was not always greeted with equanimity. For someone who regarded (and still does) the furnishing of frank, dispassionate, apolitical legal advice as the cardinal duty of the Crown Law Office and who had survived three years of jungle warfare, the occasional irritation of politicians was never intimidating.

There was to be one last legal duty for the State for Tom after his retirement. The Cairns Supreme Court list had blown out and then Chief Justice Sir Walter Campbell was determined personally to reduce it. The Chief's then Associate was unable to attend the

appointed circuit because of pressing exam commitments. A chance meeting with Tom Parslow provided what for both him and Sir Walter proved to be a most happy solution, a sentiment perhaps not shared by the Far Northern legal community at the time. Neither before nor since has a member of the Senior Bar held a position, however temporarily, as a judge's associate. They spent the weekend before the circuit commenced exhaustively reviewing the relevant court files. Each was well aware that time spent on reconnaissance was never wasted. Tom then systematically gave "warning orders" to the relevant solicitors by telephone. For those for whom that proved insufficient, the Chief offered encouragement about finalising the action at a callover. Most cases settled. There were only two trials on the circuit and, by the time the two old warriors departed, the Cairns list was a problem no longer.

### The Bench and the turf

Ned Williams had recently joined an operational bomber squadron when the war in Europe ended. For a time, training for possible deployment in the Pacific as part of Bomber Command's proposed "Tiger Force" continued. As that likelihood diminished, he was granted leave to pursue legal studies at the University of London. These he completed, with honours, in record time. His war service and academic attainments would stand him in good stead upon his motion for admission as a barrister shortly after his return to Australia in late 1946. He had not completed the then requisite 15-month period as a student at law and neither had he completed the final Bar Board exam. McGill K.C. appeared for him before the Full Court to seek waiver of these requirements. The application succeeded, the Full Court finding that Williams' war service and academic attainments constituted "special circumstances" (see *In re Williams* [1947 QWN 8]). His conspicuous success at the Bar and later as a Supreme Court judge amply vindicated the wisdom of the indulgence extended to him on his admission. His old tail gunner, Jock McWhannel, eventually became a Supreme Court bailiff. The two, by then judge and bailiff, were often to be seen enjoying each other's company over coffee.

Ned had a life-long interest in horse racing and gave years of devoted service







## ANCIENT TRADITIONS

Camaraderie and discipline are vastly different words. Yet they bear a strong relationship to each other. Both are essential features of the armed services and the legal world.

I came to the Bar after the War. I had served in the RAAF as an Air Gunner. On coming to the Bar I was overwhelmed by the number of ex-servicemen in practice. To put it mildly they were a mixed lot and could point to an incredible variety of experience.

Here were those who had served, in literally every theatre of war. There was no form of service activity with which they were not familiar. Here were to be found those who had served with the RAN, the Rats of Tobruk and flown against enemy targets in many places of the world.

There were a number who were to become Judges of the Courts. There were several who became Chief Justice – Sir Walter Campbell, Sir Dormer Andrews.

The camaraderie they had experienced was incredibly real and true. It is impossible to live on a ship without sensing the loyalty of those around you. It is impossible to run a ship or battalion or aircraft without observing discipline.

Not surprisingly the elements of discipline which all observed were recalled with a touch of jocularly. But its presence was not to be denied. Similarly with camaraderie. Loyalty to one's fellows is not to be dismissed.

I was one who came to the Bar years after the end of World War II but the presence of camaraderie and the observance of discipline were not to be denied.

I was fortunate to be helped in my work by the late Justice Graham Hart. He personified good fellowship and comradeship. He was quick to observe that in the law there were many disciplines to be observed – confidences were not to be treated lightly. Every case called for painstaking attention. This was a discipline not to be shrugged away.

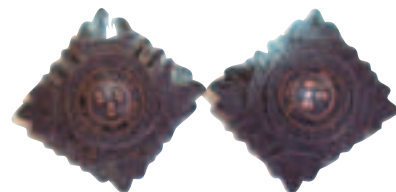
The ghosts and experiences of the past are constant companions. They remain as lively instructors or features to be observed by the modern Bar.

The great Edmund Burke was to leave a remarkable body of philosophy and policy behind him. He combined a vast understanding of human nature and the realities of life in this world. *Men he observed cannot enjoy the benefits of a civil and uncivil society.* The truth of that aphorism comes home to us each day with force and relevance.

The maintenance of the law is crucial in the conduct of human affairs. It is here that comradeship and discipline find a ready relevance.

At a time when our society has become unsettled these ancient traditions of the Bar have grown to their importance and pertinence.

**SIR JAMES KILLEN AC KCMG**



Top to Bottom

Tudor Crown – WW II Major's rank badge belonging to Doug Campbell

Returned from Active Service badge

Colour patch of the 2/10th Field Regiment (Len Draney's)

Lieutenant's stars or "pips" (Len Draney's)

Doug Campbell's Engineer's Unit colour patch





as Chairman of the Queensland Turf Club.

Eddie Broad was also in England at the end of the European war. For him, too, there was further training for possible Pacific deployment. On 9 June 1945, in the course of that training, Squadron Leader Broad came to make the following entry in his pilot's log book: "*Base – Snailwell – Base. Saw Dante win the Derby.*" While on stand down, Eddie had sought permission from his commanding officer to see the English Derby at Epsom. The CO's response was, "*Go and do some cross country flying*". He did as he was told, flying from the squadron base at Waddington to the airfield nearest the racetrack and back again with some fellow racing enthusiasts! None who knew him in those days would have been surprised to learn that he became a longstanding, highly dedicated Chairman of the Brisbane Amateur Turf Club! Sir John Lavarack, by then Governor of Queensland, presented the Distinguished Flying Cross he received for his wartime service upon Eddie's return to Australia.



Squadron Leader E. G. Broad being congratulated by Queensland Governor, Lt. Gen. J. D. Lavarack on being presented with his Distinguished Flying Cross decoration, 1946.

Source: Broad family.

Eddie Broad's interest in racing was lifelong. He gave great service to the Brisbane Amateur Turf Club over many years.

Unlike Vaux Nicholson, fate was kinder to Eddie Broad in relation to international rugby. He became a member of the highly successful 1947-1948 Wallaby team. Thereafter, he devoted much time to sports administration, becoming a member of the Organising Committee for the 1956 Olympic Games held in Melbourne. Only thereafter was he admitted to the Bar. He joined fellow RAAF pilots Bernie McLoughlin and Stewie Given on the District Court in 1968. During his time on that bench, he gave further service to the Commonwealth as a member of the Defence Force Discipline Appeals Tribunal.

## Remembering Jack

Jack Kelly was serving as an infantry officer in Bougainville at the end of the Pacific War. His last duties there included the collection and repatriation of the surrendered Japanese forces. In some ways that duty was more challenging than the hostilities preceding it requiring, as Jack would recall, the exercise of considerable restraint against a bitter enemy who had given no quarter. He was conscious of a certain restlessness on demobilisation. He had been a diligent saver during the War. Perhaps that was just as well. He did not immediately resume his legal studies, was disinclined to resume a pre-war Department of Public Instruction appointment and instead took up a job as a travelling salesman for the National Cash Register Company. He was not a conspicuous success. Smooth talk and glib generality about the virtue of a product did not come naturally to Jack Kelly. In late 1946 he resigned from this employment and returned to University early the following year to complete his legal studies as a full time student. As an ex-serviceman, his university fees were paid by the Commonwealth and a textbook and modest student allowance were also paid to him. Part time work during the University vacations in the Department of Customs and, later, in the Commonwealth Crown Solicitor's office also helped to make ends meet. He also joined the recently re-raised Queensland University Regiment as an officer in the Citizen's Military Forces. It was convenient to attend parades, as the regiment was then based as the Defence Force's Alice Street depot, only a short walk away from the then site of the Law School. Jim Dunn and Tom Parslow were each fellow officers in that unit at the time. This association and the shared experience of front line infantry service again saw the formation of lifelong friendships. Jim Dunn, too, would come to serve as a Supreme Court judge. Yet another who served post-war in that unit who later became a Supreme Court judge was Peter Connolly.

Jack Kelly completed his legal studies in 1949 and was admitted to the Bar that same year. Graham Hart moved his admission. He did not immediately commence practice. A chance meeting with then Public Service Commissioner Jock McCracken led to a temporary appointment as Private Secretary to Frank Nicklin, then Leader of the Opposition. That, in turn, led to an introduction to Arthur Fadden. While Jack was wondering whether to commence

practice, an offer came from Fadden to serve as his private secretary. Jack accepted and served for three years as Private Secretary to the Deputy Prime Minister. It was while he held this office that Fadden was appointed KCMG. Jack Kelly accompanied Sir Arthur to London where the knighthood was conferred in the course of an audience with King George VI. They were amongst the last to see the King alive and stayed on to represent Australia at the late King's funeral. Kelly's appointment with the Deputy Prime Minister finished in January 1953. The knowledge that he had acquired of the Country Party made him muse about standing for Parliament for that party. Sir Arthur Fadden counselled him against that notion, remarking that he "*didn't have mud on his boots*". Instead, Jack commenced practice and the Bar the following month, initially occupying a desk in a corner of the Old Inns chambers of the by that stage Graham Hart QC.

Jack Kelly resumed his Army career also in 1953, having reverted to the reserve of officers while Fadden's private secretary. He would later command his old battalion, the 9<sup>th</sup>, undertake court martial work for the Army in Vietnam and end his Army career in 1982 as Judge Advocate General holding the substantive rank of Major General. During his tenure of that office he superintended the drafting and introduction of the *Defence Force Discipline Act 1982*, a long overdue and far reaching reform of Australian military law that for the first time brought coherence to what had hitherto been a Byzantine morass of Imperial and single service statutes and regulations. His appointment that year as a Commander in the Military Division of the Order of the British Empire was fitting recognition not just of this singular contribution but also of a lifetime of military service from the moment of his first commissioning in 1941. At the time of his retirement as Judge Advocate General, Jack Kelly was one of the very last of his generation remaining on the active list in any branch of the Australian Defence Force. In his legal career, too, Jack Kelly excelled. His final Queensland judicial appointment was that of Senior Puisne Judge of the Supreme Court in 1985. Upon taking up that office, he was required not only to take an oath of office but also one of allegiance. Having done so, he referred in the remarks that he made thereafter to the number of times that he had taken an oath of allegiance over his lifetime and trusted that no-one had any doubt as to his







loyalty to Her Majesty. With Jack Kelly, such a doubt would have been unthinkable. Moreover, for him, as for most of his generation, there was no relevant distinction between loyalty to the Crown and loyalty to Australia.

### Service to veterans

Mark Hoare never forgot the vagaries of fate and warfare that had led to his not passing into captivity. After returning to Australia he served in staff appointments before resuming practice at the Bar. Like many, he joined the RSL. In his case though membership was accompanied by a singular purpose. That his comrades in arms had come to suffer so terribly troubled him. He did not wallow in survivor's guilt but instead spent much of what would otherwise have been his leisure time assisting veterans. He sought office in the State RSL, eventually becoming State Vice President, so as to pursue veterans' entitlements issues. His son, Bruce, a longstanding member of the Queensland Bar, recalls from his youth accompanying his father on many an occasion to Greenslopes Repatriation Hospital where Mark would write letters and fill out pension applications or entitlement review requests for disabled veterans. In recognition of years of such dedicated service, he was made a Companion in the Order of Saint Michael and Saint George (CMG) in the New Year's Honour's List of 1965, shortly prior to his appointment as a Supreme Court judge.

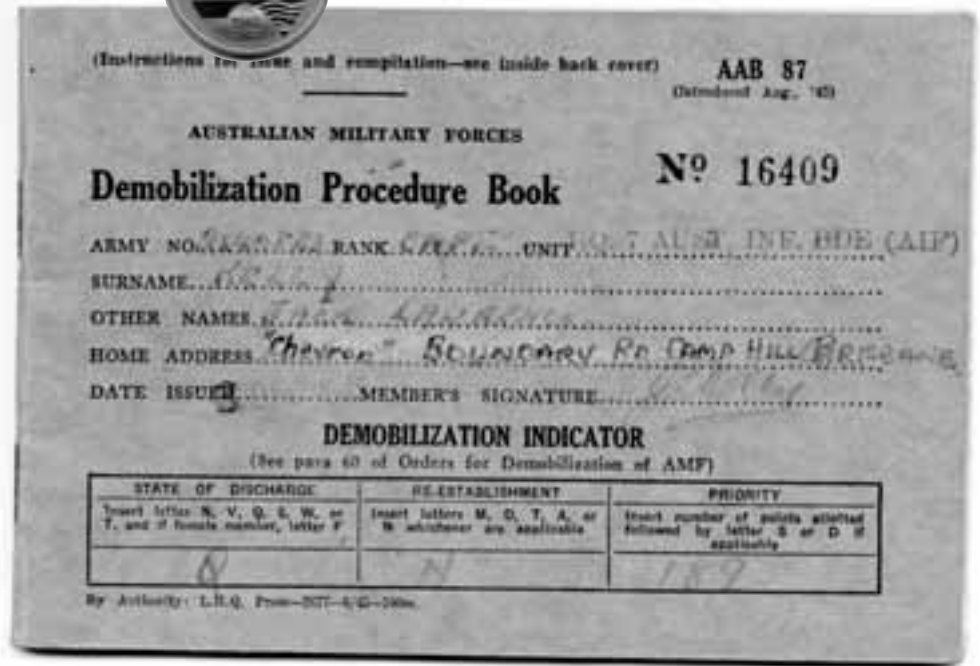
### Chief Justice of Australia

After his New Guinea service, Bill Gibbs was posted to Army Headquarters in



Major H. T. "Bill" Gibbs, Director of Research and Civil Affairs (Centre left, front row) and the members of his staff, Melbourne, Victoria 3 September 1945

Source: AWM Negative 114767



Captain Jack Kelly's Demobilisation Procedure Book  
Source: Kelly family.

Melbourne. He held a staff appointment concerned with the administration of Papua New Guinea. On the very last day of the Pacific War, he and his staff gathered for a formal photograph. They would soon be disbanded and demobilised. His experience in and in relation to New Guinea provided the inspiration for the thesis Bill submitted for the conferral of the degree of Master of Laws from the University of Queensland Law School. There was no such thing as a "course work" Masters in those days. He resumed his war-interrupted practice at the Bar, becoming, in 1961, the first graduate of that law school to be appointed to the Supreme Court of Queensland. He resigned from that court in 1967 to take a Federal judicial appointment followed, in 1970, by his appointment as a judge of the High Court of Australia. He became Chief Justice of

that court in 1981 and retired from office on reaching the compulsory retiring age in 1987.

### Chief Justices of Queensland

With characteristic determination, Bob Andrews overcame the limitations of his grievous wartime wound. He was discharged from the RAAF on medical grounds in 1944 and resumed his legal studies, achieving outstanding results. He commenced practice at the Bar in 1947. Upon the reintroduction of the District Court, he became one of its inaugural judges in April 1959, the first of a number of judicial commissions that culminated in his appointment as Chief Justice in 1985. His immediate predecessor in that office was his fellow patient at the RAAF convalescent depot in 1943, Walter Campbell. Sir Walter, as he had by then become, had resigned to take up office as Governor of Queensland in what proved to be a highly successful and popular appointment.

The desirable criteria for selection as a bomber or flying boat pilot in the Empire Air Training Scheme included not only good educational attainments and the physical strength to operate the controls of larger aircraft but also more phlegmatic qualities. During his tenure as Governor Sir Walter was to display the latter conspicuously in his firm but measured resolution of a crisis in government precipitated by Sir Joh Bjelke-Petersen in what proved to be the last weeks of his Premiership. That was one of the last of many services faithfully performed by Walter Campbell for the Crown and his country over more than half a century.





## OUR DEBT OF GRATITUDE

World War II is often described as the last war in which the Australian community believed with moral certitude that right was on its side.

In Europe we had an enemy clearly identified, whose social policies and system of government (Nazism and Fascism) were alien to the principles on which Australia was based.

In Asia our enemy's objectives were based upon the principles of military imperialism, and were clearly believed to be the occupation and subjugation of Australia itself.

In such an easily understood contest of morality and systems of government, the willingness of Australia and its people to sacrifice even life itself was understandable. The threat was real and imminent. Modern methods of communication brought the threat into the home of every Australian citizen.

No wonder that Australians, following the precedent established in the first great world conflict, sacrificed their lives across the battlefields of the world in what was seen as a great crusade to rid the world of these dangerous threats.

The actions of that generation of Australians meant that our society, young though it was in terms of years, but based upon foundations of hundreds of years of Western European social development, survived the challenge.

The debt of gratitude to those who fought this war and those who supported those who fought can never be repaid in full. Over the years we have seen the acknowledgement by new generations of Australians of this debt of gratitude to the World War II generation.

Yet, as the years have unfolded, the moral certitudes that underpinned the willingness to sacrifice by that generation have come into question. We have come to understand that the fertile ground in which Nazism and Fascism grew was founded in the failure of the victors of the Great War to establish a just peace. We better understand how Japanese military imperialism merely echoed the imperialism of our own European forebears and how attempts to impose economic sanctions on Japan merely reinforced the power of military extremists.

In many ways, we still have not learned the lessons that should have been drawn from the sacrifices of the World War II generation. Peace can only be sought through societies which exhibit the hallmarks of justice which lawyers dedicate their life to achieving.

Whilst World War II provided the impetus for the foundation of international institutions directed towards the avoidance and ultimate elimination of war, we have allowed those institutions to become corrupted, both at a personal and an institutional level. The great moves to support the establishment of universal human rights for all people of the world have been subverted by ethnic, political and ideological disputation. Advances have been made but the road ahead still remains rocky.

Societies across the world still do not operate on principles of justice to their own citizens. We only vaguely acknowledge that the millions of dead caused by Nazism and Fascism were exceeded by the tens of millions of dead caused by the Communism of Stalin and Mao and their successors.

Whilst conventional war on a world scale has been largely avoided, conventional wars in places as far afield as Korea, Vietnam and the Middle East have destroyed the lives of millions.

Today, the war against terror affects the lives of the entire world including all of us here in the once regarded safe haven of Australia. Given the forces that drive the militant Islamists who seek through bullet and bomb to impose their own narrow view of the great religion of Islam on the world, no society is any longer safe from the threat of terror.

There is a real challenge to all lawyers and persons who believe in the principles inherent in the phrase "The Rule of Law" in meeting the challenge that the actions of government in the war against terror pose. The moral certainties that underpinned the World War II generation are more difficult to find when one is faced with the potentiality that your next door neighbour is, by terror and violence, seeking to destroy both your life and that of the society in which you live.

No matter what harsh measures governments may be forced to take to defeat the threat of terrorists, the legal profession must always be prepared to be accountable for ensuring that the actions of government do not themselves become merely another reflection of the lawlessness of the terrorist.

In the aftermath of World War II, that generation created the principles of war crimes and the creation of international tribunals to judge and punish those guilty of crimes against humanity. The policies of ethnic cleansing and genocide practiced in the Balkans over recent decades have provided much of the impetus for the creating of the International Criminal Court which seeks to apply these principles in a more effective way to the international criminals of the early 21<sup>st</sup> century.

There is much that the legal profession, particularly those of the Common Law world, need to do to contribute to these international developments. Within our own society however, we must never allow the principles that our forefathers in World War II gave their life to defend to be subverted by the immediate exigencies of the current conflict.

The principles of justice that the legal profession constantly seeks to refine and apply to new and changing circumstances are as important today as they were in the darkest days of World War II. Just as our forefathers maintained and applied those principles in the darkest days of war, so must we continue to do so as we fight the current battles of the war on terror.

**LAWRENCE SPRINGBORG MP**  
**Shadow Attorney-General**





# BRIEFS

## CRIMINAL LAW AND EVIDENCE LINKED

Law lecturers Dr Bridget Cullen-Mandikos and Ms Heather Douglas are among the winners of the 2005 Griffith Awards for Excellence in Teaching. They won the Teaching Team Award for their innovative approach to learning. They conceptualised and implemented a "linked curriculum" in fourth-year courses on "Criminal Law" and "Evidence" which provides students with learning synergies in traditionally disparate law courses.



*Partners in Crime (and Evidence): Dr Bridget Cullen-Mandikos (left) and Ms Heather Douglas*

In what is believed to be a first for an Australian law school, Dr Cullen-Mandikos and Ms Douglas designed an oral moot assessment tool that requires students to integrate their knowledge across the two separate law courses.

The awards comprise a \$5,000 professional grant for each category. The recipients will be presented with individual medals and certificates at the university's graduation ceremonies in March/April 2006.

## THE BAR, THE BENCH AND TURNING 70

A valedictory ceremony was held last month to mark the retirement of Justice McHugh from the High Court of Australia – an honour reserved usually only for retiring Chief Justices.

Among his valedictory remarks on behalf of the Bar, Tom Hughes QC said:

"This event is an occasion for regret. It is the inexorable result of an arbitrary age limit the product of an anachronistic misconception that people who have led an active and useful life are over the hill at age 70; that they have reached, as it were, the bank of the river Styx to be ferried over to the other side. What nonsense...."

His Honour was, it seems, sympathetic to this submission:

"If there had been no constitutional bar to my remaining a member of the Court, I would have continued to serve on this Court for so long as I believed I had the capacity to perform the heavy – bordering on the oppressive – workload of the Court. The compulsory retirement age of 70 for Federal Judges no doubt seemed sensible in 1977 when it was introduced with bipartisan political support. But given the

increasing longevity of Australians, I doubt if it is now.

"One rationale for the amendment was that some Federal Judges continued to remain on the bench after it appeared they were no longer capable of performing judicial work adequately. The real difficulty these days, however, is not to get Judges to leave a Court, but to stay on until 70. Apart from the three Chief Justices of this Court, I will be the first Justice of the Court to serve to the age of 70 since the constitutional amendment was introduced in 1977. All other Justices have retired some years before reaching the age of 70."

And, on the Bar itself, His Honour held equally firm views:

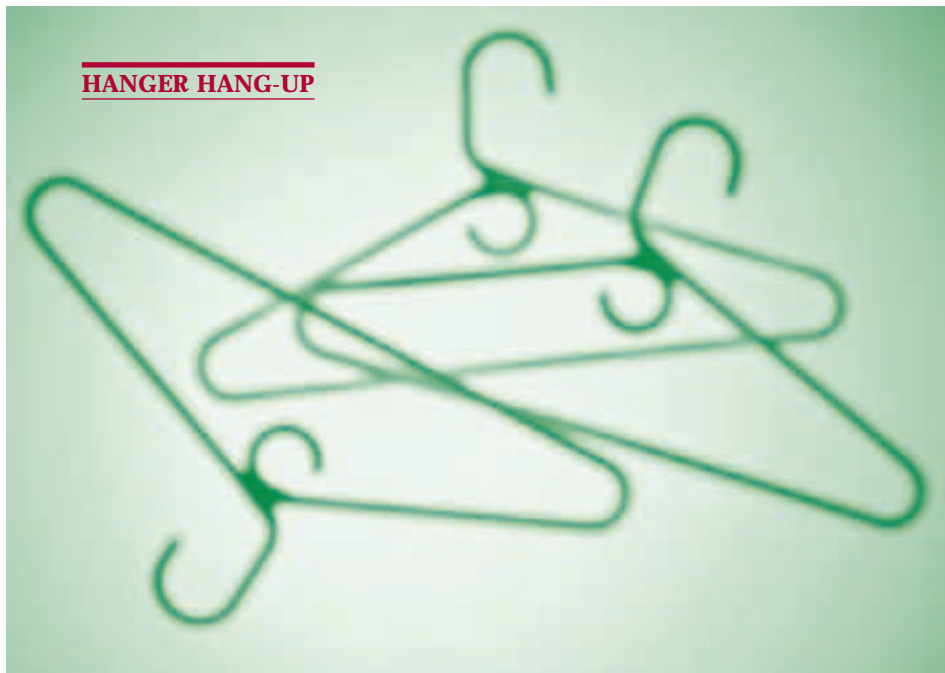
"You do not have to sit in this Court for long before realising how central to the work of the High Court, and all Courts, is the contribution of the practising Bar and advocates such as yourself, Mr Hughes. Few people of my age still have heroes. The experience of a long lifetime teaches that most heroes turn out to have, if not feet of clay, at least serious flaws that ultimately diminish their stature

in the eyes of their worshipers. But, since I was a young man, Sir Owen Dixon has been, and remains, my judicial hero and his views about the contribution of advocates to the administration of justice is identical with mine. I should like to quote what he said about the importance of advocacy on the occasion when he first presided as Chief Justice at Melbourne. He said:

*'For my part, I have never wavered in the view that the honourable practice of the profession of advocacy affords the greatest opportunity for contributing to the administration of justice according to law. There is no work in the law which admits of greater contribution. A community owes a duty to a Bar composed of men*

*– I interpolate 'and women' – who, being conscious of the dignity of the profession of advocacy and possessing a proper legal equipment, conduct causes before the Courts of Justice from the high and very firm ground on which it is the tradition of an independent Bar to stand.'*

I believe what the Chief Justice said on that occasion was completely accurate in every respect".

**HANGER HANG-UP**

A man named Chrysler – or apparently named Chrysler – was recently put on trial in Britain for stealing more than 40,000 coat hangers. He admitted taking said implements but jumped into the witness box in his own defence ...

Counsel: What is your name?

Chrysler: Chrysler. Arnold Chrysler.

Counsel: Is that your own name?

Chrysler: Whose name do you think it is?

Counsel: I am just asking if it is your name.

Chrysler: And I have just told you it is. Why do you doubt it?

Counsel: It is not unknown for people to give a false name in court.

Chrysler: Which Court?

Counsel: This court.

Chrysler: What is the name of this Court?

Counsel: This is number 5 Court

Chrysler: No, that is the number of this Court. What is the name of this Court?

Counsel: It is quite immaterial what the name of this Court is!

Chrysler: Then perhaps it is immaterial if Chrysler is really my name.

Counsel: No, not really you see because ...

JUDGE: Mr Lovelace?

Counsel: Yes, m'lud.

JUDGE: I think Mr Chrysler is running rings around you already. I would try a new line of attack if I were you.

Counsel: Thank you m'lud.

Chrysler: And thank you from ME, m'lud. Its nice to be appreciated.

JUDGE: Shut up, witness.

Chrysler: Willingly, m'lud. It is a pleasure to be told to shut up by you. For you, I would ...

JUDGE: Shut up, witness. Carry on, Mr Lovelace.

Counsel: Now, Mr Chrysler – for let us assume that is your name – you are accused of purloining in excess of 40,000 hotel coat hangers.

Chrysler: I am.

Counsel: Can you explain how this came about?

Chrysler: Yes, I had 40,000 coats which I needed to hang up.

Counsel: Is that true?

Chrysler: No.

Counsel: Then why did you say it?

Chrysler: To attempt to throw you off balance.

Counsel: Off balance?

Chrysler: Certainly. As you know, all barristers seek to undermine the confidence of any hostile witness or defendant. Therefore, it must be equally open to the witness, or defendant, to try to shake the confidence of a hostile barrister.

Counsel: On the contrary, you are not here to indulge in cut and thrust with me. You're only here to answer my questions.

Chrysler: Was that a question?

Counsel: No.

Chrysler: Then I can't answer it.

JUDGE: Come on, Mr Lovelace! I think you are still being given the run around here. You can do better than that. At least for the sake of the English Bar, I hope you can.

Counsel: Yes, m'lud. Now, Mr Chrysler, perhaps you will describe what reason you had to steal 40,000 coat hangers?

Chrysler: Is that a question?

Counsel: Yes.

Chrysler: It doesn't sound like one. It sounds like a proposition which doesn't believe in itself. You know – perhaps I will describe the reason I had to steal 40,000 coat hangers... perhaps I won't ... perhaps I'll sing a little song instead ...

JUDGE: In fairness to Mr Lovelace, Mr Chrysler, I should remind you that barristers have an innate reluctance to frame of question as a question. Where you and I would say "Where were you on Tuesday?", they are more likely to say "Perhaps you could now inform the Court of your precise whereabouts on the day after that Monday?" It isn't, strictly, a question, and it is not graceful English, but you must pretend that it is a question and then answer it, otherwise we'll be here forever. Do you understand?

Chrysler: Yes, m'lud.

JUDGE: Carry on Mr Lovelace.

Counsel: Mr Chrysler, why did you steal 40,000 hotel coat hangers, knowing as you must have that hotel coat hangers are designed to useless outside hotel wardrobes?

Chrysler: Because I build and sell wardrobes which are specifically designed to take nothing but hotel coat hangers.

**CHRISTMAS CLOSURE**

THE REGISTRIES OF THE SUPREME AND DISTRICT COURTS BRISBANE WILL BE CLOSED DURING THE CHRISTMAS/NEW YEAR PERIOD (24/12/05 TO 2/1/06 INCLUSIVE).

OPENING OF THE REGISTRIES FOR URGENT MATTERS MAY BE ARRANGED BY CONTACTING THE SECURITY CONSOLE SUPREME COURT ON 3247 4771

The Principal Registrar and Staff wish all clients a Merry Christmas & A Happy New Year







## NEOLOGY contest

Members will recall our challenge to show that the Queensland Bar was just as clever as the smart alecks contributing to the Washington Post neologism competition.

We extended the range of entries to include the taking of any word from the dictionary, altering it by adding, subtracting or changing one letter and supplying a new definition.

We were, by QBN standards, overwhelmed by the response. Flushed by this overwhelming response, we have decided to wave the incentive of a bottle of good red wine before you once again with an invitation to see if you can improve on the entries below. (Yes, there's been a slight, shall we say, relaxation of the rules, but the judges are prepared to overlook this slight indiscretion).

**CONSLUTANT** A promiscuous expert witness

**FEUDICIAL** The manner in which a decision maker acts when displaying a prolonged hostility to a witness

**LITTERGATION** A case about complete rubbish

there not a firestorm of anti-lawyer jokes here?"

According to Galanter, whose enquiries brought him several times to these shores, the expansion of lawyer numbers in the UK has been even more dramatic than in the US (this will surprise many), yet British lawyer jokes, while attributing "lying, greed and trickiness" to lawyers, do not portray them as a "pestilential affliction", worthy of mass drowning. British lawyers are seen as "funny in the way that golfers and salesmen are funny" or Scotsmen, perhaps. Three generations ago, Britain was awash with jokes about canny Aberdonians, the mainstay of the tear-off calendar industry and joke-book publishers. Many of those hoary libels could have been re-worked as anti-lawyer jokes along with outworn jest categories. This seems not to be happening.

The reviewer concludes:

"Television and Yellow Pages are shrill with advertisements by solicitors asking 'Have you been injured? Was someone else to blame?' and listing not only 'slip, trip and fall' but medical misdiagnosis as tickets for fortune. None of this seems likely to improve the lawyer image, and not all the blame is to be laid on the litigious excesses of America; without bloody minded or greedy clients, lawyers would be out of business. If a fearless British investigator, backed by an inexhaustible Anonymous Fund for the Humanities, were to explore in-depth the joke-worthiness of the British legal scene, might he not, as Marc Galanter does from time to time, come up with some serious misgivings about where we are heading."

### GOING, GOING, GONE

MR KENT: Alright, can I just ask another couple of questions with the greatest respect. You've spoken about meeting Leanne at the Oxley Hotel? - - Yes.

How often do you drink alcohol? - - Every day.

And how good is your memory? - - Absolutely shot.

Alright. That's the evidence in chief, thank you, Your Honour.

FRYBERG J: Cross-examination?

MR COPLEY: How long has your memory been absolutely shot? - - So long as I can remember.

### FOOL'S PARADISE

Lawyer jokes are, as we all know, legion. Recently, an American professor, Marc Galanter, became a little troubled about this apparently universal mockery of our profession and produced a book, *Lowering the Bar*, in which he groups various types of lawyer jokes under generic headings such as "The Lawyer as Economic Predator"; "Lawyers as Formentors of Strife"; "The Lawyer as Morally Deficient" and "Death Wish jokes".

This book came to the attention of the Times Literary supplement whose reviewer, ES Turner, says this:

"If this book is right, there are no lawyer jokes in Holland. 'In civil law countries' the author explains, 'With their smaller number of lawyers and larger contingent of Judges, lawyers do not seem to play an important part in the public imagination.' In the Netherlands they lack social influence. A Dutch sociologist is quoted as saying, 'No need for jokes. The Dutch couldn't care less.' Which brings us, belatedly, to Britain. Why is

### PERSONALIA

Family Law Barristers Keith Slack and Kevin Laphorn have been appointed Federal Magistrates.

Federal Magistrate Slack sits in the Brisbane Registry whilst Federal Magistrate Laphorn has been appointed to the Newcastle Registry.

Appointment pieces will appear in the Personalia section of the next issue of QBN.

BRIEFS



**HIGH-TECH (WITH THE METER RUNNING)**

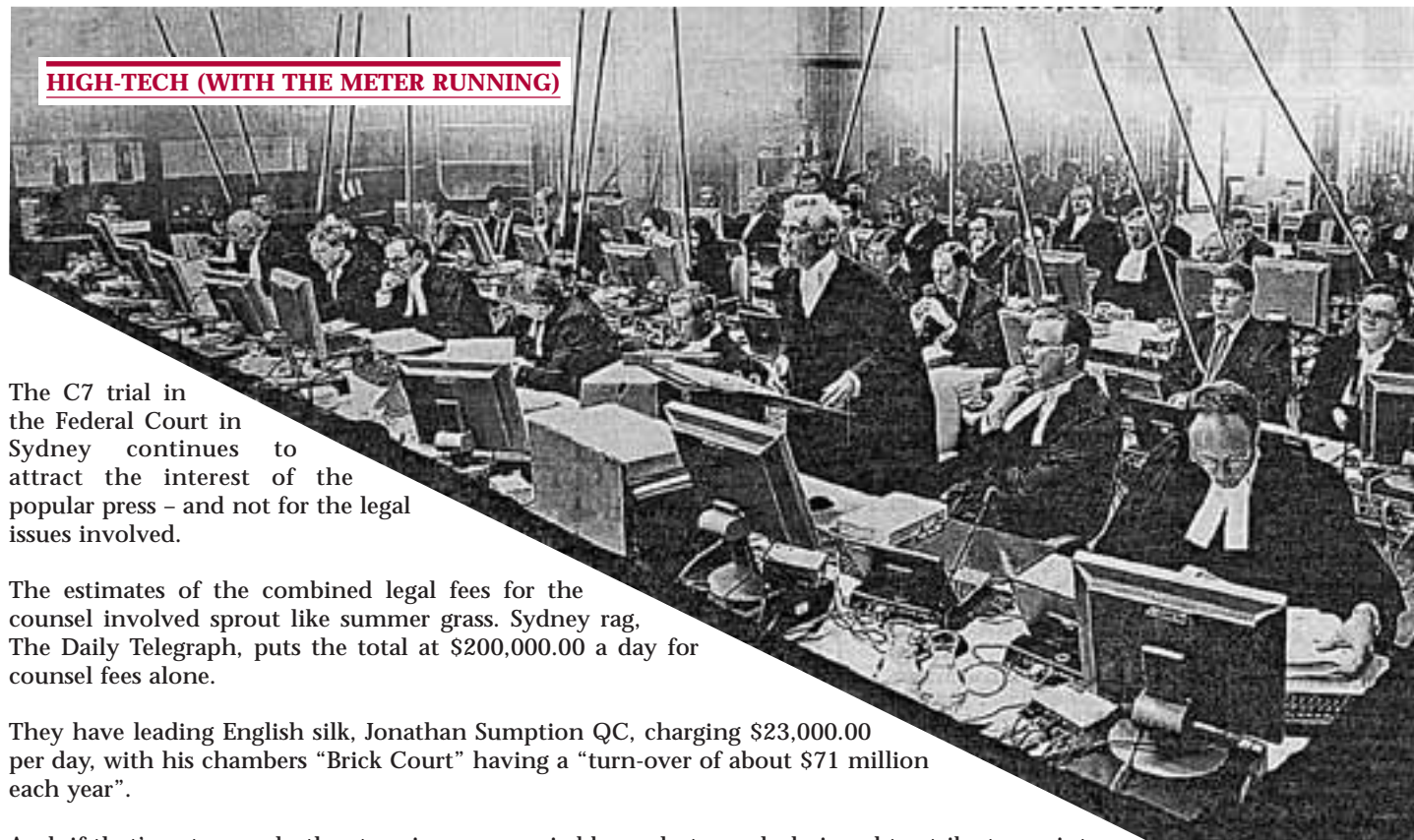
The C7 trial in the Federal Court in Sydney continues to attract the interest of the popular press – and not for the legal issues involved.

The estimates of the combined legal fees for the counsel involved sprout like summer grass. Sydney rag, The Daily Telegraph, puts the total at \$200,000.00 a day for counsel fees alone.

They have leading English silk, Jonathan Sumption QC, charging \$23,000.00 per day, with his chambers “Brick Court” having a “turn-over of about \$71 million each year”.

And, if that’s not enough, the story is accompanied by a photograph designed to strike terror into the heart of all card-carrying Luddites. As the article explains:

“Computers run the length of four Bar tables, while huge plasma screens are set up for teams of solicitors and the public gallery.”



BRIEFS

**OVER BEFORE IT BEGAN**

From the Public Hospital’s Commission:

Commissioner: Mr McDougall.

Mr McDougall: Mr Farr.

Commissioner: Oh, Mr Farr still? You’re still going are you?

Mr Farr: I haven’t started yet.

Commissioner: Oh.

**DEFENDANT DISADVANTAGE?**

Its hard to get the judge on side when you appear for a defendant with a name like this:

*Grove v Bastard* (1848) 2 Ph 619; 41 ER 1082

Spotted by a member who tells us, lest it be thought that he fibbeth, that it is “cited by Meagher, Gummow and Lehane 4<sup>th</sup> Ed, p. 606”. He goes on to say that it “isn’t a typo (unless, of course, the typo is in the ER’s)”.

*Does this mean you looked up the ERs to check? Get a life! – Ed.*

**EDITORIAL VACANCY**

With this special issue of QBN I hang up my editorial visor.

To the best of my knowledge, the Council has not been inundated with requests to either edit this august journal or to assist in doing so. Accordingly, I suspect that any such offers will be warmly received. In the absence of any such offers, it is highly likely that an, as yet unsuspecting, member will be volunteered (in the Bar Council sense of the word). Indeed,

names of said “volunteers” have already been bandied about.

My last issue is also the one into which I have had the least input; this issue has been produced largely through the magnificent research efforts of John Logan SC for which he should be both thanked and heartily congratulated.

I am very grateful to all those who have assisted me in my almost 7 years with QBN, particularly over the last

four and a half years when I have been editor.

I want to thank particularly John Miesen at Impulse Printing. John has been more tolerant than I had a right to expect and it has been a genuine pleasure to work with him. His layout ideas and designs have been instrumental in giving QBN its current format and flavour.

PETER MURPHY SC





## A Full Agenda

In my first President's Page may I first pay tribute to Glenn Martin SC. In particular, I wish to recognise formally his tireless efforts as President of the Association over the past two and a half years. However, his contribution extends well beyond that. He has contributed enormously to the Bar over a period of more than twenty-five years serving as the Secretary of Barristers Chambers Limited between 1985 and 1987; as a Director of Barristers Services Pty Limited between 1994 and 1999; and as a member of the Bar Council between 1988 and 1993 and 1999 to 2005. Few people have had such an active and important impact upon the affairs of the Bar. I know that the membership as a whole would join with me in thanking Glenn and wishing him the best as he settles back into "paid employment".

In the past few weeks, the Association has, in co-operation with the Queensland Law Society, been active in preparing submissions to both the Senate Legal and Constitutional Legislation Committee on the *Anti-Terrorism Bill (No2) 2005* and the Queensland State Government on the *Terrorism (Preventative Detention) Bill 2005*. I should like to thank all those from the Bar who contributed to the submissions, and in particular Hugh Fraser QC, Susan Anderson, Michael Hodge and Carla Klease for their work on the Queensland Bill.

In preparing our submissions, the Association has been mindful to ensure that the new regime strikes an appropriate balance between protection against terrorism and ensuring fundamental rights and liberties. The contents of the *Anti-Terrorism Bill (No 2) 2005* are, in general, opposed by the Bar Association. The Bill goes too far; it treads heavily on the fragile and invaluable rights and liberties of the subject without providing adequate safeguards to protect the individual against an abuse of power. The Association also opposes, in principle, the contents of the *Terrorism (Preventative Detention) Bill 2005* which was introduced into the Queensland Parliament on 22 November, 2005. Preventative detention is both unneces-

sary and an attack on the fundamental rights and freedoms of all Queenslanders. The Bill lacks appropriate safeguards to protect the public from any abuse of the substantial powers granted under the legislation.

There has been insufficient time to consider whether there is any real likelihood that the major intrusions on individual rights which both Bills propose, will reduce the risk of terrorist activity. Even if the detention provisions are justified, the significant erosion of lawyer-client confidentiality requires more mature consideration. These are by no means the only issues raised by these Bills.

The Bar Association and Law Society have called on the Queensland Government to withdraw the legislation and subject it to public scrutiny and debate. It is interesting to note that the equivalent Victorian legislation will be debated when the Victorian Parliament resumes in February 2006 to allow, as Premier Bracks noted the "Victorian community time to examine the provisions". The joint submissions will shortly be posted on the Association's web site. While the Association's submissions identified the significant shortcomings in the Bills we nevertheless have made constructive suggestions as to how the particular sections might be changed in order to achieve a proper balance.

In a few short days, Nguyen Tuong Van will be executed in Singapore. The Bar Association and the Law Society have jointly written to the Hon. Lee Hsien Loong MP, Prime Minister of the Republic of Singapore, to appeal to his Government to spare the life of this 25 year old Australian. We did not deny the seriousness of the crime, nor did we seek to challenge or question the judicial processes which led to his conviction. We questioned and condemned in the strongest terms the continued use of the death penalty. The Association reinforced the long held view of the Australian Bars that we are implacably opposed to the imposition of the death penalty.

As members are aware, the Bar Council, after receiving a well-considered report from the CPD Committee, resolved that the CPD Rules be amended so as to require that, from 1 April 2006 in the areas of Advocacy, Ethics and Practice Management, a barrister must obtain at least one CPD point in two of the three areas. The resolution is an important forerunner to the adoption of a professional standards scheme. Part of such a scheme would be the adoption by the Association of appropriate risk management strategies. It is pleasing to note that at the Annual General Meeting held on the 17<sup>th</sup> of November members endorsed the approach of the Bar Council.

We have been very fortunate with the quality of the CPD presentations. I would like to thank all those who have contributed. CPD events restore some of the camaraderie of the Bar which has suffered in recent years, at least in part from changes in the way the Bar does its work. I hope that continues.

A number of significant initiatives will be undertaken in the provision of CPD in the coming twelve months. The programme for the Bar Association Conference in 2006 will be structured to reflect the new CPD regime and have strong elements of Advocacy, Ethics and Practice Management. The Conference will be held at Sanctuary Cove between 3 and 5 March, 2006. Expressions of interest can be forwarded to Mrs Helene Breen at the Association office.

I look forward with great enthusiasm to the next twelve months and I encourage members to take an active involvement and interest in the affairs of the Association. I should like to thank all who have done so in the past year, and in particular those who have helped me on the Professional Conduct Committee: David Jackson QC, Robert Bain QC, Michael Byrne QC, David Boddice SC, David Tait SC, Roger Traves SC, Paul Favell, and Madeline Brennan, as well as Mrs Robyn Moore, who carried the significant burden of attending to all the administrative tasks of the Committee.

PETER LYONS QC



# Sir Harry Gibbs and the Constitution

*The Sir Harry Gibbs Oration delivered at the Banco Court, Supreme Court of Queensland, 4 November 2005  
by D.F. Jackson Q.C.*

## Introduction

It is a great privilege to deliver the first of the Bar Association's Orations to honour the memory of the Right Honourable Sir Harry Gibbs, GCMG, AC, KBE, a Justice from 1970 to 1981 and Chief Justice from 1981 to 1987 of the High Court of Australia. He was a most distinguished member, and product, of the Queensland Bar. He was also one of its great promoters and defenders.

Sir Harry had a long life. He was born in 1917 and was eighty-eight when he died earlier this year. His involvement in constitutional affairs took place largely in the second half of his life. In years to come those delivering this Oration will not have known or seen him. I had the good fortune, however, to know him for forty-two years. I was his Associate in 1963 and 1964, I appeared before him on a number of occasions as a junior barrister in the period until he moved to Sydney in 1967, and I argued many cases, constitutional and non-constitutional, before him in the High Court. We also were on friendly terms and after his retirement from the Court I saw him regularly socially, discussing, in the way of lawyers, the failings of others. I hope I may be forgiven if I include in these remarks some personal observations.

This paper will deal principally with his decisions on constitutional matters when a member of the High Court. It should be remembered, however, that his involvement in affairs concerning the Constitution was not only as a jurist. From an early point after retirement from the Court he was active in commenting on constitutional matters, including decisions of the Court which he had left. He was the first President of the Samuel Griffith Society, and held that office for the thirteen years preceding his death. He was also active in the campaign against the proposal for an Australian republic, in 1999.

Perhaps golf and bowls are not as popular as they were, perhaps it is the compulsory retiring age of 70, but it

seems more common now than it was at the time of his retirement from the High Court for former Justices to comment publicly on issues which are constitutional or on the constitutional/political boundary<sup>1</sup>. He was a very private man and I was rather surprised that he would expose himself in that way to inevitable criticism.

I have to guess at the factors which led him to take a more public role. They included, I think, a feeling that the legal order had changed very dramatically, and not altogether for the better, from that prevailing when he entered it. Another was that, when a judge, his reasoning on the constitutional issues he regarded as important had most often reflected a minority view, although he was not necessarily be in the minority in the actual result. Having left the Bench he was more free to express his own views.

## The Federalist

What were those views? It involves no original detective work on my part to say that his approach to the Constitution was federalist. That was evidenced in later life by his presidency of the Samuel Griffith Society. It is a body which is avowedly federalist in its outlook.<sup>2</sup>

It is perfectly legitimate, of course, to hold or express views about the Constitution which are federalist, or centrist, or anything else, but those terms are labels at a high level of abstraction. What Sir Harry Gibbs meant, I think, by being federalist was that he had an underlying conception that the nation brought into being by the Constitution was a federation of States, and that the States and the new polity, the Commonwealth, each had its "role" in government nationally, and regionally. In one sense, of course, that does no more than to restate the question, and in a way which assumes answers to a number of underlying issues. In particular, in speaking of the "roles" of the polities in the federation, does one start with an *a priori* view of what the Constitution was intended to

effect? Does one look only at the words of the Constitution? And in any event, what approaches should be adopted to interpreting the words of the Constitution? Notwithstanding difficulties of that kind, what one can say about such statements is that – and no doubt this itself involves significant elements of restating the issue – they reflect an underlying view that the Constitution involves two levels of government, federal and State, and that, by interpretation or implication, the ambit attributed to the powers of the Commonwealth should not reduce the States to financial mendicants, to impotence in development of policies or to being mere agents of the Commonwealth.

The federalist view could be seen in one of his first constitutional cases on the High Court, *Victoria v The Commonwealth* (1971) 122 CLR 353, the issue being whether the Commonwealth could levy payroll tax on the payrolls of the States. Whilst he held the tax valid, he said<sup>3</sup>:

"... The intention of the Imperial legislature in enacting the Constitution Act was to give effect to the wish of the Australian people to join in a federal union and the purpose of the Constitution was to establish a federal, and not a unitary, system for the government of Australia and accordingly to provide for the distribution of the powers of government between the Commonwealth and the States who were to be the constituent members of the federation."

and:

"In some respects the Commonwealth was placed in a position of supremacy, as the national interest required, but it would be inconsistent with the very basis of the federation that the Commonwealth's powers should extend to reduce the States to such a position of subordination that their very existence, or at least their capacity to





function effectually as independent units, would be dependent upon the manner in which the Commonwealth exercised its powers, rather than on the legal limits of the powers themselves. Thus, the purpose of the Constitution, and the scheme by which it is intended to be given effect, necessarily give rise to implications as to the manner in which the Commonwealth and the States respectively may exercise their powers, vis-à-vis each other.”

The sources of this approach to the Constitution do not immediately appear. I doubt, however, that his practice as a barrister made much contribution to it<sup>4</sup>. I know that he gave advice on a significant number of constitutional matters when at the bar<sup>5</sup>, but he did not appear as counsel in many such cases. According to the *Oxford Companion to the High Court of Australia*<sup>6</sup> he appeared as counsel in 28 cases in that court. Only two of them were constitutional. Each was an excise case<sup>7</sup>. In one he challenged the State law; in the other he defended it.

The more likely cause, I think, is no more than a reflection of the times, and of geography. Although Sir Harry lived in Sydney from 1967, he was very much a product of Queensland, and returned to it frequently. He had grown up when there was not the ease of interstate travel that exists today, and when the governments of the States played a much greater part in the affairs of individuals. It was a time also when the activities of the Commonwealth government in States other than New South Wales and Victoria seemed somewhat remote. In the legal area there were few federal judges. The High Court itself had had very few members from States other than New South Wales and Victoria. Its premises were in both Melbourne and Sydney, and its trips to other States were annual “visitations”. In short, in New South Wales and Victoria the Commonwealth was a more familiar entity than in the other States. There was also a conception, held rightly or wrongly, that there were some areas which really were the “preserve” of the States and should be left to them. “States rights” was a political slogan, but it was thought to have a natural and rational, perhaps even constitutional, base.

Sir Harry’s first few years as a Justice of the High Court were initially relatively “quiet” in constitutional terms. That changed dramatically, however, during

the Whitlam government from 1972 to 1975, and thereafter. The Labour Party had been out of office for many years, nearly a quarter of a century, and it came into office with plans for Commonwealth legislation in many new areas. The Fraser government which followed it was also quite prepared to use Commonwealth powers<sup>8</sup>. So too have succeeding Commonwealth governments, whatever their political hue. There has been a vast increase in the amount of federal legislation since 1972 and, as one might expect, the legislative ambitions of the Whitlam government and its successors gave rise to a considerable amount of constitutional litigation during Sir Harry’s period on the High Court.



Launch of the Bar Practice Course 1983. (From left:) Sheahan J, Gibbs CJ, DF Jackson QC

It would be impossible in a limited time to discuss each of the constitutional issues with which Sir Harry Gibbs was concerned, but I would like to make particular reference to four aspects, namely:

- (a) the composition of the Commonwealth Parliament;
- (b) “money”;
- (c) the judiciary; and
- (d) Commonwealth legislative powers.

### *The Composition of the Commonwealth Parliament*

The Constitution provides for two Houses of Parliament, the House of Representatives and the Senate<sup>9</sup>. The former, the lower House, is to be elected in proportion to population; the greater the population of a State, the more members it is to have<sup>10</sup>. The upper House, the Senate, is to have equal numbers of Senators for each Original State<sup>11</sup>. Thus Tasmania has as many as Queensland. Their possible terms are twice as long as those of members of the House of Representatives<sup>12</sup>. The convention is that the government of the day is the party which has the majority in the House of Representatives, and the Prime Minister is in that House.<sup>13</sup>

Except in relation to money bills, the Senate has the same powers as the House<sup>14</sup>. We have had a relatively rigid party system, more so than in the United States, and the Senate has not been quite the “States’ House” which some envisaged, even though for quite long periods the government of the day has not had a majority in that House. The possibility of disagreement between the Houses on the enactment of legislation will arise from time to time, particularly if the Opposition in the House has, or can secure, a majority in the Senate. Such disagreements are to be resolved by the procedure of s.57 of the Constitution<sup>15</sup>. It involves dissolution of both Houses, i.e. “double dissolution”, and ultimately a joint sitting of the Houses following the consequent election, if the disagreement continues.

In April 1974 the Governor-General Sir Paul Hasluck proclaimed a double dissolution under s.57 because of failure by the Senate to pass six laws proposed by the Whitlam Government<sup>16</sup>. After the election, at which the Government was returned, the Senate again had not passed the Bills, and the Governor-General convened a joint sitting.

Actions were then brought by two Opposition Senators, and by the State of Queensland, seeking, to put it shortly, injunctions to prevent the holding of the joint sitting: *Cormack v Cope, Queensland v Whitlam* (1974) 131 CLR 432. The applications failed, it being left to the plaintiffs to challenge the proposed laws if they were ultimately passed. An important question, not then finally resolved, was whether the issue was justiciable, i.e. was it an issue which the High Court could decide, or was it for Parliament itself.

The six Bills were passed at the joint sitting and the possible challenge foreshadowed in *Cormack v Cope* emerged in *Victoria v The Commonwealth* (1975) 134 CLR 81, in which the validity of the *Petroleum and Minerals Authority Act 1973* was in issue. The challenge succeeded, it being held that the Senate had not “rejected or failed to pass” the Bill when it was first in that House before the double dissolution.

In *Victoria v The Commonwealth* the arguments advanced against intervention by the Court were somewhat different from those advanced in *Cormack v Cope*<sup>17</sup>. These arguments failed, and the principle was thus established that the Court could



determine whether the requirements of s.57 had been satisfied. This was an important decision as to the respective roles of parliament, the executive and the judiciary. Sir Harry was one of the majority, and an echo of the federalist can be heard in his observation<sup>18</sup> that:

“Under the Constitution the Senate does not occupy a subordinate place in the exercise of legislative power. It is an essential part of the Parliament in which the legislative power of the Commonwealth is vested. It is expressly provided by s.53 of the Constitution that, except as provided in that section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.”

Issues as to the composition of the Houses of Parliament arose again in the *Territory Senators Cases, Western Australia v The Commonwealth* (1975) 134 CLR 201 and *Queensland v The Commonwealth* (1977) 139 CLR 585.

The government of the territories is dealt with by s.122 of the Constitution. It provides amongst other things that the Commonwealth Parliament may “allow the representation of such territory in either House of Parliament to the extent and on the terms which it thinks fit.” Section 7 of the Constitution, however, provides that the Senate shall be “composed of” senators from the States and the issue in the cases was whether “representation” of the Territories could be by a person who was a senator<sup>19</sup>, or had to be by some lesser form of representation.

In the first case the Act was held valid by a majority of 4:3, Sir Harry being a dissident. His view<sup>20</sup> was

“... the Senate is an essential part of the Parliament in which the legislative power of the Commonwealth is vested. The requirements that the Senate shall be composed of senators for each State, directly chosen by the people of the State, and that equal representation of the original States shall be maintained, were not mere details of legislative machinery. They were obviously regarded as indispensable features of a federal Constitution and as a means of enabling the States to protect their vital interests and integrity. If the Senate has in practice not fulfilled the role that was originally expected of it, that is not to the point.”

A further challenge was mounted by Queensland a little later, largely on the basis that Sir Edward McTiernan (one of the majority) had retired and been replaced by Sir Keith Aickin, it being thought he would be more amenable to the States’ case, and on the basis of some



Portrait: the Hon Sir Harry Gibbs

broad hints from Sir Garfield Barwick that another challenge would be worthwhile<sup>21</sup>. The perception of Sir Keith’s likely view was correct, but the result in the case was the same, because Sir Harry Gibbs and Sir Ninian Stephen felt that their duty required them to follow the earlier decision. The reasons for judgment in the case deal in detail with the circumstances in which the High Court should overrule its previous decisions. The following passage<sup>22</sup> from Sir Harry’s reasons, in which he maintained his previous view, but felt obliged to follow the Court’s earlier decision, indicates the measure of the man:

“No Justice is entitled to ignore the decisions and reasoning of his predecessors, and to arrive at his own judgment as though the pages of the law reports were blank, or as though the authority of a decision did not survive beyond the rising of the Court. A Justice, unlike a legislator, cannot introduce a programme of reform which sets at nought decisions formerly made and principles formerly established. It is only after the most careful and respectful consideration of the earlier decision, and after giving due weight to all the circumstances, that a Justice may give effect to his own opinions in preference to an earlier decision of the Court.”

He was, as I have said, a man of strong views but he recognised that the

institution was greater than the individual<sup>23</sup>.

### “Money”

To function governments need money. To obtain it they impose taxes, and by s.51(ii) of the Constitution the new Commonwealth was given power to make laws with respect to “taxation; but so as not to discriminate between States or parts of States”.

For most of us, when the gloomy subject of taxation is mentioned, one’s mind turns to income tax. But that was not always so, and certainly it was not so at federation when the main sources of colonial revenue were duties of customs and duties of excise<sup>24</sup>.

The Constitution provided in s.88 that within two years after the establishment of the Commonwealth, the Commonwealth was to provide for uniform duties of customs. The imposition of uniform duties of customs would trigger the operation of a number of other provisions of the Constitution, of which two are of present relevance.

One was s.92, which provided that “trade, commerce and intercourse among the States” was thereafter to be “absolutely free”. The duties imposed by the colonies on intercolonial movement of goods would thus be abolished. The other was s.90 which provided that on the imposition of uniform duties of customs, the Commonwealth’s power to impose duties of customs and excise would become exclusive. There was a transitional provision for the first ten years<sup>25</sup>, but the effect thereafter was that States’ principal sources of revenue had gone.

There was also a provision in s.96 that during the first ten years after the establishment of the Commonwealth, and thereafter until Parliament should otherwise provide, the Parliament might “grant financial assistance to any State on such terms and conditions as the Parliament thinks fit”.

The very broad scope given to s.96 in the *Uniform Tax Cases*<sup>26</sup>, together with high rates of income tax, has enabled the Commonwealth to be dominant in Commonwealth-State financial relations. It has maintained a system of grants, often tied to the requirement that the States adopt particular courses of action. The freedom





of manoeuvre of the States has become significantly reduced.

This was a topic on which Sir Harry felt that the system had become rather badly skewed, and should be changed<sup>27</sup>. In the nature of things there was relatively little he could do about this judicially, but his underlying view was reflected in his views on excise.

I mentioned above that the Constitution denied the States the power to impose duties of customs or excise. The practical extent of that deprivation depended on the ambit of the terms “duty of customs” and “duty of excise”. No particular difficulty arose in relation to duties of customs, but the position in relation to duties of excise was different in two significant respects, how to identify a duty of excise, and how to approach the determination of that issue.

The difficulty in identifying duties of excise arose because at federation the scope of the term in s.90 was not entirely clear. The meaning which it had in practice in Australia at that time was as a reference to the taxes imposed on the producers of beer, spirits and tobacco products, and it seemed apparent enough that it would apply to any tax imposed by reference to manufacture or production on manufacturers or producers of any type of goods. The concept, however, had a number of much wider meanings, particularly in England where it referred to whatever taxes – some quite unrelated to goods, or to their manufacture or production – were administered by the Excise Commissioners.

In *Parton v Milk Board (Victoria)* (1949) 80 CLR 229 it had been held that a tax on a commodity at any point in the course of production or distribution before it reached the consumer was a duty of excise. As the concept of duty of excise continued to be expanded by judicial decision, the areas of possible State taxation were reduced correspondingly. That led the States to exercises in considerable ingenuity to develop taxes which were not imposed on a step in production, manufacture, or distribution of goods.

The principal course adopted, which Sir Harry had defended successfully as a barrister in *Whitehouse v Queensland*, was to impose a licence fee, not based on dealings in the goods in the period for which the licence would be in force, but



Launch of the Bar Practice Course 1983.  
Gibbs CJ and Campbell CJ.

based on the dealings which took place in the previous licence period. Legislation along these lines was adopted enthusiastically by the States. Because it involved a very “legalistic” distinction, it gave rise to the second question adverted to earlier – how should the issue be approached, as one of substance or as one of form.

In *Dickenson's Arcade Pty Ltd v Tasmania* (1974) 130 CLR 174 and *M.G. Kailis (1962) Pty Ltd v Western Australia* (1974) 130 CLR 245, *H.C. Sleight Ltd v South Australia* (1977) 136 CLR 475 and *Logan Downs Pty Ltd v Queensland* (1977) 137 CLR 59, Sir Harry looked at the issue as one of form<sup>28</sup>. Whilst that view was also held by some other members of the Court, form had not always prevailed over substance in this connection<sup>29</sup>, and in *Ha v New South Wales*<sup>30</sup>, the form (or “criterion of liability”) approach was rejected, leaving *Whitehouse v Queensland* and its companion case *Dennis Hotels v Victoria* sidelined to practical irrelevance. My own view is that that is where those decisions deserve to be. They represented, I think, an approach which did not sufficiently reflect the fact that a constitution was being interrupted, and that its prohibitions should not be avoided by tricks of legislative drafting.

The other aspect I wish to discuss in this section concerns s.92 of the Constitution – “trade, commerce and intercourse among the States shall be absolutely free”.

The operation of s.92 had been the subject of many cases, before, and during, the time that Sir Harry was a member of the High Court<sup>31</sup>. The tests to be applied were not altogether clear, however, and their application was being eroded by dicta from some of the Justices, who felt that these tests were quite inappropriate.

Just over a year after his retirement, the Court unanimously decided *Cole v Whitfield* (1988) 165 CLR 360 in which it adopted the new test of non-discrimination, namely that a law would only contravene s.92 if it discriminated against, to put it shortly, interstate trade or commerce, in order to prefer intrastate trade or commerce.

The decision in *Cole v Whitfield*, to my mind, was the catalyst for to Sir Harry “going public” on constitutional issues. (At least he did not go so far as Sir Garfield Barwick who announced that the decision was “tosh”). In fact the *Cole v Whitfield* approach seems to have been largely satisfactory. There have been many fewer s.92 cases.

### The Judiciary

In any consideration of Sir Harry Gibbs’ work as a member of the High Court it needs to be remembered that the period was one of profound change for the Australian legal system and for the High Court itself.

One feature was that appeals to the Privy Council were finally abolished, and the role of the High Court as the final appellate court for the nation confirmed. Another, of great long term significance, was the establishment of the two large federal courts, the Family Court of Australia<sup>32</sup> and the Federal Court of Australia<sup>33</sup>. Each took from the Supreme Courts some of the federal jurisdiction previously exercised. Additional federal jurisdiction was also given to them. Conflicts inevitably arose, especially where a federal court was given exclusive jurisdiction in a matter. These conflicts are now largely of historical interest, but I would mention one area, namely the “accrued jurisdiction” of the Federal Court. The accrued jurisdiction was held to permit the Court to decide issues not arising under federal law but sufficiently factually connected with the circumstances which had attracted federal jurisdiction. *Phillip Morris Incorporated v Adam P. Brown Male Fashions Pty Ltd* (1981) 148 CLR 457<sup>34</sup>. It will come as no surprise to hear that Sir Harry was not in favour of the existence of such a jurisdiction.

Arguments about the ambit of the powers which might validly be conferred on the Family Court also were before the Court of a significant number of occasions<sup>35</sup>.



## Major Decisions on Commonwealth Legislative Powers

Whilst many decisions on this topic in which Sir Harry participated are also now of historical interest only, they were important in their time. May I mention some which have an enduring effect.

First the *Seas and Submerged Lands Act Case* (1975) 135 CLR 337, in which the Commonwealth was held to have sovereignty over the territorial sea and sovereign rights in respect of the continental shelf. The States' cases in relation to the continental shelf was always rather speculative, but their argument in relation to the territorial sea was much stronger. It failed when the majority took the view that the instruments which established the colonies had described boundaries which were land boundaries. The territorial sea was therefore external to the States, and they had no sovereign rights in respect of it. Sir Harry dissented, saying<sup>36</sup>:

“For the purposes of the municipal law of Australia there exists that division of sovereign authority which is characteristic of, if not essential to, a federal constitution. ...The Convention recognises that the sovereignty of Australia extends to its territorial sea: it says nothing as to whether that sovereignty is vested solely in the Commonwealth or is divided between the Commonwealth and the States.”

Secondly, *Bradken Consolidated Ltd v Broken Hill Proprietary Co Ltd* (1979) 145 CLR 107 raised the question whether the *Trade Practices Act 1974* bound the Crown in right of a State. Sir Harry held that it did not, saying<sup>37</sup> that although the Commonwealth could legislate so as to bind a State:

“the States are neither subjects of the Commonwealth nor subordinate to it. It is a consequence of our federal system that ‘two governments of the Crown are established within the same territory, neither superior to the other’ It seems only prudent to require that laws of the Parliament should not be held to bind the States when the Parliament itself has not directed its attention to the question whether they should do so.”

Thirdly, *Koowarta v Bjelke Peterson* (1982) 153 CLR 168 dealt with the validity of

the *Racial Discrimination Act 1975* (Cth) which was sought to be supported by inter alia, the external affairs power. Sir Harry held that the law was invalid. His view<sup>38</sup> was that a law giving effect within Australia to an international agreement would only be valid under s.51(xxix) if the agreement was with respect to a matter which itself could be described as an external affair, and that no effective safeguard against the destruction of the federal character of the Constitution would be provided by accepting the suggestion of Evatt and McTiernan JJ in *R v Burgess; Ex parte Henry* (1936) 55 CLR 608, that the power given by s.51(xxix) might not be attracted if entry into a convention was merely a device to procure for the Commonwealth an additional domestic jurisdiction. He said<sup>39</sup>:



Opening the Inns of Court 1986.

“It is apparent that a narrower interpretation of par.(xxix) would at once be more consistent with the federal principle upon which the constitution is based, and more calculated to carry out the true object and purpose of the power which, after all, is expressed to relate, not to internal or domestic affairs, but to external affairs.”

Fourthly, *The Commonwealth v Tasmania* (1983) 158 CLR 1 – the *Tasmania Dam Case* – concerned the validity of the *World Heritage Properties Conservation Act 1983* (Cth). He held the law invalid. He said<sup>40</sup> in respect of the external affairs power that the problem of construction which arose was whether due regard should be had to the fact that the Constitution is federal in character and that the federal nature of the Constitution required that some limits be imposed on the power to implement international obligations. He went on to say<sup>41</sup> that:

“The division of powers between the Commonwealth and the States which the Constitution effects could be rendered quite meaningless if the

federal government could, by entering into treaties with foreign governments on matters of domestic concern, enlarge the legislative powers of the Parliament so that they embraced literally all fields of activity. ...Section 51(xxix) should be given a construction that will, so far as possible, avoid the consequence that the federal balance of the Constitution can be destroyed at the will of the executive. To say this is of course not to suggest that by the Constitution any powers are reserved to the States. It is to say that the federal nature of the Constitution requires that ‘no single power should be construed in such a way as to give the Commonwealth Parliament a universal power of legislation which would render absurd the assignment of particular carefully defined powers to that Parliament’.”

Fifthly, *Queensland Electricity Commission v the Commission* (1985) 159 CLR 192. This was when the lights went out in Queensland as a result of a prolonged strike by electricity workers and the Commonwealth sought to pass a special law dealing with it. Five Justices held it invalid, as discriminating against the State. Once again Sir Harry said<sup>42</sup>:

“It is now clear in principle, and established by authority, that the powers granted by s.51 of the Constitution are subject to certain limitations derived from the federal nature of the Constitution. The purpose of the Constitution was to establish a Federation. “The foundation of the constitution is the conception of a central government and a number of state governments separately organised. Constitution predicates their continued existence as independent entities”: .... The fundamental purpose of the Constitution, and its “very frame” ... reveal an intention that the power of the Commonwealth to affect the States by its legislation must be subject to some limitation.”

## Conclusion

This paper has been concerned with Sir Harry's approach to constitutional law, a topic on which he had particular views. A broader perspective of the man may be seen in Justice G.N. Williams' essay in *Queensland Justices on the High Court of Australia* (2003), where the many fields covered by his judicial and non-judicial activities are discussed.



His views on some constitutional topics did not command a majority at the time they were expressed, but constitutional law has its swings and roundabouts. I would not be surprised if were sought to re-agitate some of his views if the industrial legislation presently proposed by the Commonwealth is enacted. One might expect to see issues, such as whether the corporations power<sup>43</sup> means that any law which says that a trading or financial corporation must, or must not, engage in certain conduct, is necessarily valid. And the question how the heads of power in s.51 are to be read together may be revisited. Does the presence of the conciliation and arbitration power in s.51(xxxv) affect the ambit of other powers, such as the corporations power.

I started on a personal note. May I conclude on one. Sir Harry Gibbs was unfailingly courteous and pleasant. He inspired great respect and affection from those who knew him well. I have said that he was a very Queensland man; he was also a great Australian.

- 1 There were always exceptions, of course. Sir Isaac Isaacs was an advocate of constitutional reform. Dr Evatt retired from the High Court to go into politics. I counselled Sir Harry against public involvement in controversial issues, but to no avail. I thought it would do his reputation no good. Amongst other things I said: "You ought to be careful. People will say you're the first Justice since Bert Evatt to leave the High Court to go into politics." He took badinage in good spirit, but his views were strongly held and, on occasions when he spoke publicly, could be expressed with some vigour.
- 2 The first of the Society's "Immediate Objectives" is "The need, in view of the excessive expansion of Commonwealth power, to redress the federal balance in favour of the States, and to decentralise decision making." In the entry for Sir Harry in the *Oxford Companion to the High Court of Australia*, 2001 at 303, I bear responsibility for describing the Samuel Griffith Society as "a conservative body formed to promote the discussion of constitutional law and related issues". "Conservative", I think, was an inexact description of the body. It has sponsored many papers from contributors from all parts of the political and legal spectrum.
- 3 122 CLR at 417-18
- 4 Except perhaps in relation to duties of excise, a matter discussed below.
- 5 I saw some of them in the 1970s.
- 6 (2001) at 165.
- 7 *Brown's Transport Pty Ltd v Knopp* (1957) 100 CLR 117; *Whitehouse v Queensland* (1960) 104 CLR 609. In the latter case he also appeared in the Privy Council appeal, (1961) 104 CLR 621.
- 8 As in *Murphyores Incorporated Pty Ltd v The Commonwealth* (1976) 136 CLR 1.
- 9 *Commonwealth of Australia Constitution*, s.1. As in many other respects, the model of the United States Constitution in the names of the Houses followed.
- 10 *Constitution*, s.24. An "Original State" is to have a minimum of five members: *ibid*.
- 11 *Constitution*, s.7.
- 12 *Constitution*, ss. 7, 13.
- 13 Whilst the Constitution makes reference to a "Federal Executive Council" (s.62) and to "Ministers of State" (s.64), the office of Prime Minister is not specifically referred to.
- 14 *Constitution*, s.53.
- 15 Section 57 provides:
 

"57. If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried, and if the proposed law with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the Governor-General for the Queen's assent."
- 16 They were the proposed *Commonwealth Electoral Act (No. 2) 1973*, *Senate (Representation of Territories) Act 1973*, *Representation Act 1973*, *Health Insurance Commission Act 1973*, *Health Insurance Act 1973* and the *Petroleum and Minerals Authority Act 1973*.
- 17 They were summarised by Barwick CJ (134 CLR at 117-8) as being:
 

"The Commonwealth ... advanced an argument of great significance. The submission was that this Court has no power to declare that a law which had not been passed in accordance with the law-making requirements of s.57 of the Constitution was invalid, a submission somewhat akin to, though not identical with but of like consequence to, a submission which had been made by the Commonwealth in *Cormack v Cope* (33). ... it was claimed that as long as an Act has received Royal assent the Court cannot entertain the question whether it was passed in accordance with the constitutional requirements relating to the law-making processes. The argument has two distinct bases: first, that the question whether the constitutional law-making process had been followed is not in any case a justiciable matter; second, that the decision of the Governor-General that the Bill was a proposed law within the operation of s.57, a decision to be implied from his assent to the Bill, was decisive and unexaminable by the Court. There was another somewhat cognate submission, namely, that in any case the provisions of s.57 are directory only, so that failure to observe them will not produce invalidity."
- 18 134 CLR at 143
- 19 As provided for by the *Senate (Representation of Territories) Act 1973*
- 20 134 CLR at 246
- 21 See *Attorney-General for New South Wales, Ex rel. McKellar v. The Commonwealth* (1977) 139 CLR 527 at 532-3
- 22 139 CLR at 599. The first sentence of this passage was referred to recently by McHugh, Gummow and Heydon JJ in *McNamara v Consumer Trader and Tenancy Tribunal* [2005] HCA 55.
- 23 The composition of the Houses of Parliament arose in other cases in this period. See *Attorney-General for the Commonwealth, Ex rel. McKinlay v The Commonwealth* (1975) 135 CLR 1 and *Attorney-General for New South Wales v The Commonwealth Ex rel. McKellar* (1977) 139 CLR 527.
- 24 Harrison Moore, *The Constitution of the Commonwealth of Australia*, 2nd ed. (1910), p.530. Of course the introduction of the goods and services tax turns the clock back in some respects.
- 25 Section 87
- 26 *South Australia v The Commonwealth* (1942) 65 CLR 373 and *Victoria v The Commonwealth* (1957) 99 CLR 575.
- 27 He was not alone in this view. As early as August 1944 the Rt Hon W.A. Watt, in his Foreword to Deakin's *The Federal Story*, said that "the financial relations between the Central Government and the States" were the "outstanding weakness" of the Constitution.
- 28 In *Logan Downs* he said (137 CLR at 64):
 

"... conflicting opinions have been expressed as to whether the criterion of liability under the statute imposing the tax, or the practical effect of the legislation, is determinative of the question whether the tax is a duty of excise. I accept the former view, although as I endeavoured to explain in *Dickenson's Arcade Pty Ltd v Tasmania* (17) that does not mean that the name given to tax by the taxing statute, or the form of the provisions of that statute, will be decisive; it is still necessary to determine the legal effect of those provisions according to their proper construction."
- 29 See e.g. *Peterswald v Bartley* (1904) 1 CLR 497 at 511; *Ha v New South Wales* (1995) 189 CLR 465 at 498.
- 30 (1995) 189 CLR 465
- 31 Three instances during his membership are *S.O.S. (Mowbray) Pty Ltd v Mead* (1972) 124 CLR 529, *Holloway v Pilkington* (1972) 127 CLR 391 and *North Eastern Dairy Co. Ltd v Dairy Industry Authority of New South Wales* (1975) 134 CLR 559.
- 32 *Family Law Act 1975*
- 33 *Federal Court of Australia Act 1976*
- 34 An attempt to review that decision failed in *Stack v Coast Securities Pty Ltd* (1983) 154 CLR 261.
- 35 See e.g. *Russell v Russell* (1976) 134 CLR 495; *Reg v Demack, Ex parte Plummer* (1977) 137 CLR 40; *Reg v Lambert, Ex parte Plummer* (1980) 146 CLR 447; *Ascot Investments Pty Ltd v Harper* (1981) 148 CLR 337
- 36 135 CLR at 385-6
- 37 145 CLR at 122-3
- 38 153 CLR at 200-201
- 39 153 CLR at 200
- 40 159 CLR at 205.



Ceremonial Sittings: Banco Court, Wednesday, 9 November 2005

# Centenary of "Legal Practitioners Act 1905"

## Speech by The Hon Paul de Jersey AC

I acknowledge the presence of Her Excellency the Governor of Queensland, Ms Quentin Bryce AC. Her Excellency's presence adds great lustre to an otherwise important occasion in the legal history of the State, and I thank Her Excellency for honouring us in this way.

We also particularly welcome this morning the Attorney-General, the Hon Linda Lavarch MP, Judges of the Federal and Family Courts and the District Court, including the Chief Judge, the Chief Magistrate and Magistrates, Tribunal members, retired Judges, the Director-General, Ms Rachel Hunter, University Deans, the Presidents of the Bar and the Law Society, and Ms Kylie Torlach, President of the Women Lawyers Association, seated at the bar table together with Ms Naida Haxton who, admitted in 1966, is the female barrister from this jurisdiction longest in practice. I also especially welcome students from Somerville House and Brisbane Boys College. We warmly welcome all present this morning, and are grateful for your presence.

Justice Fryberg regrets his inability to be present: he is conducting a criminal trial in Cairns.

We gather to celebrate the centenary of landmark Queensland legislation, the *Legal Practitioners Act 1905*.

This legislation allowed, for the first time, the admission of women to the practice of the law in Queensland. It was enacted a century ago, but after as long as almost half a century for which women had been denied that right – that is, from the establishment of the Supreme Court in 1861. And so at last a proper measure was in 1905 secured: half the population was at last accorded a right previously unjustly denied them; and the whole population was accorded at last the right to retain a lawyer of choice, not limited to those of one gender.

This overdue advance was of monumental significance: the public, the profession and the courts have been and remain the beneficiaries. We gather because we Judges consider this historically significant event worthy not

only of distinctive acknowledgement, but also celebration: its beneficial significance extends to all judges, the entire profession, all Queenslanders.

How was the advance effected?

Section 2 of the Act is in these terms:

"In like manner and subject to the same conditions as in the case of a man, a woman shall be entitled to admission as a barrister, solicitor, or conveyancer, as the case may be, and shall be entitled to practise as a barrister, solicitor, or conveyancer, as the case may be."

Section 3 of the Act goes on to provide:

"Every such woman shall be entitled to same rights and privileges, and shall be subject to the same liabilities and obligations, as a male barrister, solicitor, or conveyancer."

The Victorian Parliament had taken the step in 1903, and Tasmania the following year. South Australia followed Queensland by six years in 1911, New South Wales in 1918 and Western Australia in 1923. New Zealand had established the right substantially earlier, in 1896.

The position previously taken had been that legislation conferring rights on a "person", for example in relation to legal practice, was ordinarily to be taken to refer to a man only, an aspect interestingly discussed by Dr Jocelyne Scutt in an article, "Sexism in Legal Language", published in *The Australian Law Journal* in 1985 (59 ALJ 163). The case law shows the reluctance of courts even to utilize interpretive provisions, including the feminine within the masculine, to liberalize the application of these provisions in the context of legal practice.

The English Court of Appeal rather doggedly drew a high watermark in *Bebb v Law Society* ((1914) 1 Ch 286), and the South Australian Full Court in 1920 in *re Kitson* ((1920) SALR 230), determining that notwithstanding a South Australian woman was statutorily entitled to admission as a solicitor, she was not

entitled to be made a notary public: reminiscent, perhaps, of the episcopal challenge currently facing the Anglican Church.

Those old cases abound with comforting – some would say unctuous acknowledgements that the intelligence and wisdom of women is at least equal, very often exceeds, those capacities in men; but the ultimate sheltering behind limits in the power of the court: "it is a matter for the parliament", suggests ultra conservative masculinity may have reigned just a tad.

The second reading of the Queensland bill was moved in the Legislative Assembly by Mr Kenna, the Member for Bowen, on 28 September 1905. Unsurprisingly some of the language now grates, although we should not judge too harshly from the contemporary perspective.

Mr Kenna spoke well, ending with reference to the admission of women to the Bar of the Supreme Court of the United States. He did however refer to that "experiment" as having proved "eminently successful", adding that "women have been able to conduct themselves with professional decorum, and have shown just as much skill and assiduity, and mental acumen in this profession as men".

The Attorney-General, in offering "no objection" to the passage of the bill, as he put it, rather missed the point in then saying: "There is no reason on earth why (women) should not be allowed to enter into competition with men in the legal profession".

Overall the debate in the house was dignified, until a Mr Rankin yielded to temptation, and while, as he said, favouring the bill "very heartily", felt constrained to add: "I do not know that the admission of women will conduce to the despatch of business in court, especially if we get good looking barristers."

When the bill reached the Legislative Council, its consideration was deferred for a time on the request of one McPherson, who described it as "rather a revolutionary bill in its way". During debate on 18 October, while not





opposing the bill, that member felt it necessary to say this:

“I yield to no man in my respect for woman, whether young or old, or rich or poor; and I honour every woman in her endeavours to participate in the world’s work. But the practice of the law is not very ennobling in itself; in fact it is sometimes rather sordid. It will not elevate the mind of any woman to engage in its pursuit...But if the House, in its motherly or grandmotherly wisdom, considers that this bill is a reasonable one, and that woman, under certain conditions, should be compelled to cut her hair and wear a wig, I do not object to it.”

Read through contemporary eyes, those sentiments appal. If uttered now, they would rightly be condemned.

Now of course we look back, from the sophisticated 21st century, with bemusement these developments should have taken so long, or that their being decreed should ever have been necessary. But they were, and they have been – though without immediate practical consequence.

The first Queensland woman solicitor, Agnes McWhinney, was not admitted until a decade later, in 1915, and Katherine McGregor became Queensland’s first woman barrister in 1926. The advent of our first actively practising woman barrister had to wait five more decades, until we saw Naida Haxton develop a busy, successful practice in the late 1960’s. The first woman Queen’s Counsel was not appointed until 1987 – Susan Kiefel.

Judicial appointment depends on admission to practice. At the beginning of the last decade of the last century, the ranks of our judiciary and magistracy were stocked exclusively by men. Now, of a Supreme Court of 24 Judges, 7 are women, including the President of the Court of Appeal; of a District Court of 36, 6 Judges are women, including the Chief Judge; and of a Magistracy of 85, just short of one-quarter, 21, are women.

This last year has witnessed a welter of commemorations of the 60th anniversary of the conclusion of World War 2, and related events. It is refreshing to be able to celebrate, today, an event of utterly positive complexion. There are underlying comparisons: the legislation we recall today should not have been necessary; it

was the culmination of a prolonged campaign; and it followed a lengthy period in which the community was denied a benefit it should have been enjoying. But it was progressive legislation for all that, to be celebrated then, and now.

As we approach the sesquicentenary of this court, it is a matter at least for remark that for its first hundred years, no female counsel actively appeared before the court; and that it was not until after 132 years that a woman Judge was first appointed to its ranks. Yet it may be noted ours has for some years now been the superior court in Australia, save for the Family Court, with the highest proportion of women Judges.

Our focus today is not so much on the courts, as on the profession. While the passing of this legislation may be, for many contemporary practitioners – female or male, no more than a piece of old history, a few moments’ reflection confirms it as an extremely important, a most significant piece of Queensland history. It is an unfortunate aspect of busy lives that once battles are won, the victories are often soon taken for granted. Hence today’s sittings, itself a noteworthy event in the life of the courts and the State.

## Speech by Glenn Martin SC

A milestone such as a centenary can serve as a very useful point at which a community can review the initial event, its place in history and its effect, in this case, on the legal profession.

As has already been observed, Queensland was neither the first nor the last of the jurisdictions to take this sensible step. In fact, a survey of jurisdictions shows that we were in about the middle of a period in which the profession was opened up in this way. From 1875 through to 1925, countries which had a recognisable legal system made changes to allow women to practise as lawyers. A similar move had occurred earlier to allow women to practise medicine. That advance was met with resistance even greater than that later experienced in the law. For example, in Edinburgh in 1870, several women were denied entrance to clinical instruction when male students rioted in order to prevent their entry. But then, they were Scots.

Studies have demonstrated that there was a universal lag in the admission of women to law as compared to medicine. This phenomenon occurred in nations

with very different legal regimes: states with common law and those with civil law, states where most lawyers were public servants and those where most were in private practice, and states where only lawyers could appear in courts and those which had no restrictions on appearance.

Nellie Franz, in her work *British Women enter the Professions* suggested that, so far as the law was concerned, barristers resisted admission of women to their ranks for so long because they “had established off-duty customs which were not altogether praiseworthy – that is, they had taken to amusements somewhat beneath a group of learned men.”<sup>1</sup>

Other, perhaps less exciting, views were expressed by Richard Abel who thought that a major influence on women entering the profession was the growth in the number of universities “which displaced or reduced the importance of apprenticeship in the common law and rapidly expanded” in the civil law world as well.<sup>2</sup> Robert Stevens has asserted, so far as the United States is concerned, that “women [had] found it more difficult to become lawyers than doctors

... because the legal profession was institutionalised and had, in general, been granted licensing powers earlier than the legal profession.”<sup>3</sup>

Whatever the position in the United States it did not prevent the colony of Maryland seeing probably the first female practitioner in the western legal system. Margaret Brent practised in Baltimore in the 1640s. She prosecuted more cases than any other attorney in that period and would probably have continued with success but for taking the wrong side when she funded an army of mercenaries to quell a Protestant-led rebellion.

The French were remarkably resistant to the idea of a woman *avocat*. In 1894, Jean Signorel said of the male monopoly of the bar: “What has eternally been a human institution cannot fail to be a divine institution.”<sup>4</sup> Of course, he may only have been answering Madame Potonie-Pierre who spoke at a women’s rights congress a few years earlier in Paris. She suggested that women lawyers would simply be more honest than men, that they should replace “[those] sly and crafty



speechifiers, [those] experts in chicanery and dupery.”<sup>5</sup>

In defence of the “other side”, so to speak, there were many male lawyers who supported and encouraged the entry of women into the profession. Whether such support was always welcome might have been questionable. In 1911, an anonymous male (there tended to be a lot of anonymous supporters) writing in an English journal said that the only legitimate argument advanced by the opposition to women was “that the places where legal cases are held, namely the courts, are not fit for women to abide in, partly because of the physical and partly because of the moral atmosphere.”<sup>6</sup>

On the other side of the Channel, though, a Belgian Redemptorist, Francis Xavier Godts, still railed against the French decision to admit women to the Bar. In a startling attack, he linked feminism to a long chain of events from the Protestant Reformation to the French Revolution and then to socialism generally.

I suspect that sometimes the support for women in the law, indeed women

in the workforce, as expressed by some male lawyers, was not always wanted. As recently as 1974, Lord Denning, the secular saint of judicial activists, had this to say about women and work:

Many a married woman seeks work. She does so when the children grow up and leave the home. She does it, not solely to earn money, helpful as it is: but to fill her time with useful occupation, rather than sit idly at home waiting for her husband to return. The devil tempts those who have nothing to do.<sup>7</sup>

May I conclude with two personal observations about lessons I have learnt from women lawyers.

The first<sup>8</sup> was from Justice White, when she was my tutor in Introduction to Law. She taught me the meaning of *carpe diem*. Until then I thought it meant fish of the day.

The second<sup>9</sup> was recently in the Court of Appeal. The President was dealing with a proposition which I had been urging upon the Court and your remarks caused

me, in breach of all the rules of advocacy, to say that I could not grasp the logic of your Honour’s analysis. Your Honour said:

Mr Martin, if the world was an entirely logical place, it would be the men who ride horses side saddle.

May it please the Court.

1. Nellie Alden Franz, *British Women enter the Professions*, (Cincinnati, 1965), p 277
2. Richard Abel, “Lawyers in the Civil Law World”, in *Lawyers in Society*, ed. Abel and Lewis, 2:35.
3. Robert Stevens, *Law School: Legal Education in America from the 1850s to the 1980s* (Chapel Hill, 1983), p.82
4. Jean Signorel, *La femme-avocat* (Toulouse, 1894), p.46
5. Cited in Albisetti, James C., “Portia Ante Portas: Women and the Legal Profession in Europe, ca. 1870-1925”, *Journal of Social History* - Volume 33, Number 4, Summer 2000, pp. 825-857
6. “Of the Admission of Women to the Legal Profession: A Word in Favour, by a Solicitor” *Englishwoman* 9 (Jan-Mar 1911): 299
7. *Langston v Amalgamated Union of Engineering Workers* [1974] 1 WLR 185 at 192
8. This is not true.
9. Nor is this.



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## The Roving Eye of the Far North



(L to R): Jones J; Bryant CJ; Coker FM; Registry Manager Mr Cotta.

Cairns welcomed practitioners and judicial officers from across the North and the rest of Queensland to "Hot Topics in the Tropics", the North Queensland Law Association's biennial conference. Tradewinds Hotel on the Esplanade provided a picturesque location for a stimulating and engaging event held over two days in late August.

Much fun was had by those who attended the FNQLA Cox Plate race day at the Verandah Bar at Cannon Park Racecourse in October, although it must be said that Makybe Diva seemed to be the only winner.

After many months of hammering, drilling and plastering, the renovations to the Family Court premises in Cairns

are complete. Her Honour the Chief Justice Diana Bryant attended in Cairns on 12 September 2005 to officially declare the new second court room open. A warm welcoming address was given by His Honour Justice Jones, the resident Far Northern Supreme Court Judge and both Judges White and Bradley of the Cairns District Court were in attendance. Federal Magistrate Coker also made an address to the large gathering of family law solicitors and Counsel from both Cairns and Townsville on behalf of Justice Monteith who, regrettably, was unable to attend due to ill health. Justice Monteith's energy and commitment to family law in Far North Queensland is acknowledged. His Honour has been instrumental in having the new courtroom and expanded premises installed

in Cairns. It is to be hoped that his Honour is well enough to return to the bench in the new year.

The renovations have added not only an additional court room, but also five new interview rooms, a large practitioners room (with a view), two large conference rooms and an additional floor to house a larger registry, staff and counseling rooms. The Registry is now fortunate to have two permanent security staff. The expansion of the Cairns Registry is in keeping with the ever-growing case load arising in the Cairns area.

The Bar welcomes Joshua Trevino. Joshua is a former judge's associates from Brisbane, and has joined Trinity Chambers where he has found a warm welcome.

**THE ROVING EYE**

## 2005 Bar & Bench Golf Day



(L to R) Greg Egan; The Chief Justice; Mark Gynther.

The winners of this year's E.J.D. Stanley Golf Trophy were again McMeekin SC and Charrington with a fine score of 46 stableford points. Ulrick and Peterson were close runners up with a score of 44. The trophy was again presented to them by the Chief Justice who we thank for his attendance at the luncheon with Mrs de Jersey. Charrington also won the J.A. Griffin perpetual trophy for the singles event with a score of 40 stableford points. Lois Griffin was runner up with a score of 37 points followed by Scott McLeod on 35. Nearest the pin awards went to Holt SC, Robin Chesterman and Anderson. The



Mrs Kaye de Jersey; The Chief Justice; Mrs Robin Chesterman; Chesterman J; Mrs Sarah Egan; Greg Egan; Mrs Lois Griffin.

longest drive awards (normally won by Rackemann J) went to Swindells and McMeekin.

The "most use of the course" prize went to Jeff Rolls and the "hard done by" award went to Boyce QC whose score card was locked up in the boot of Brian Boulton's car. An enjoyable luncheon was had by all. Many thanks to Peter Steele for prizes donated and to Robin Chesterman and Lois Griffin for their unerring eyes for detail in the tallying of submitted cards.

**GREG EGAN**



# Odds & Ends

## Conference Column

### The International Council of Advocates and Barristers

The International Council of Advocates and Barristers will be holding its third world conference in Hong Kong and Shanghai from 15 to 19 April 2006.

The International Council of Advocates and Barristers is an organisation formed by the Bar Associations in jurisdictions where there is a separate profession of an independent referral Bar. Its members are currently the Bar Associations of Australia, England and Wales, Hong Kong, the Republic of Ireland, New Zealand, Northern Ireland, Scotland, South Africa and Zimbabwe.

The objects of the Council include the promotion and maintenance of the rule of law and the effective administration of justice. Its focus falls on matters particularly important to the Bar worldwide, including: regulatory issues, better training for the profession, and strengthening the independent Bar as a prerequisite to an independent Bench. Very successful conferences have already been held in Edinburgh and Cape Town.

Those who have attended have had the benefit of hearing from a wide range of speakers such as Mary Robinson UN Commissioner for Human Rights, the Hon. Anthony Gubbay (the former Chief Justice of Zimbabwe), Param Cumaraswamy, UN Special Rapporteur on the Independence of the Judiciary, Justice Ian Callinan (High Court of Australia), and Justice Dikgang Moseneke (Constitutional Court of South Africa).

Speakers of similar calibre will participate in next year's conference.

#### DETAILS:

Date: **15 to 17 April, 2006**

Place: **Hong Kong**

Venue: **Island Shangri-La Hotel,  
Hong Kong**

Date: **19 April, 2006**

Place: **Shanghai**

Venue: **Pudong Shangri-La Hotel,  
Shanghai**

Should you wish to receive a registration brochure before they are generally released please send your contact details (including an e-mail address) to:

World Bar Conference Secretariat

Level 5, 107 North Quay

Brisbane 4000

Tel 617 3238.5100

Fax 617 3236.1180

E-mail [mail@worldbaronline.com](mailto:mail@worldbaronline.com)

## Bar Association of Queensland

### New Members

The Association would like to extend a warm welcome to the following new members who have joined/rejoined since June.

#### July

**Baraataraj**, Subramaniam

**Houghton**, Troy

**Lakis**, Harry

**Luchich**, Madelaine

**Murphy**, Kevin (Rejoin)

**Telford**, Paul, William

**Walker**, Paul

**Wheatley**, Mark William

**Wightman**, Ian Donald

#### August

**Carol**, Robert, Boyd

**Fredericks**, Kerri-Lee

**Hurrey**, Peter Grindell

**Lee**, Graham, Merick

**McCafferty**, Patrick, James

**Murray**, David, James (Rejoin)

**Ramli**, Salehkon

**Ryan**, Craig, John

**Wessling-Smith**, Benjamin

**Yu**, Xianwei (Roger)

#### September

**Denton**, David, Hope

**Duncan**, Philip, James

**Frizelle**, Ann, Joy

**Martin**, Robin Leslie

**Scott**, Robert, Peter

#### October

**Squaldino**, Tiziano, Frank (Rejoin)

#### November

**Anghel**, Thalia

**Grimshaw**, Murray Lawrence

**Poiner**, Richard George (Rejoin)

**Press**, Cameron Douglas (Rejoin)

**Macpherson**, Neill Terence (Rejoin)

**McKenzie**, Kathryn Yvonne

#### Senior Counsel appointments

**Davis**, Peter J

**Devereaux**, Brian G

**Devlin**, Ralph, P

**Dunning**, Peter J

**Kelly**, Liam F

**MacSporran**, Alan J

