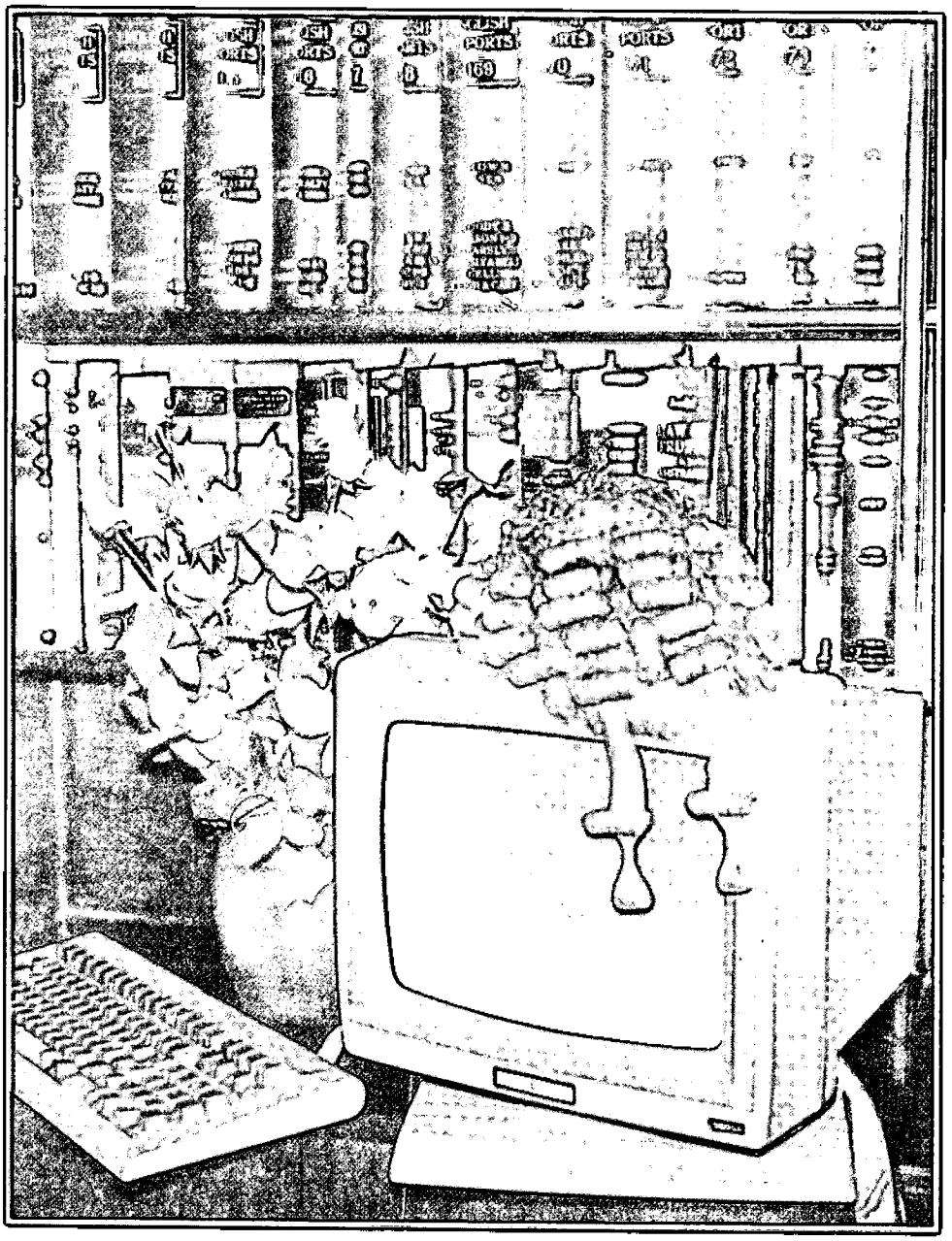
Bar News

The journal of the NSW Bar Association



Spring 1985

In this issue

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Bar notes

Common Law Listing

The Bar Council is having discussions with his Honour Mr Justice Slattery, Chief Judge at Common Law, to pursue ways in which the system of Common Law listing may be improved. It appears that the following are among the factors which prevent cases getting on:

(a) Inaccurate estimates of hearing time given at call-overs.
(b) Unavailability of judges: the Common Law Division supplies judges to the Commercial List, Court of Criminal Appeal and any other stray inquiry going — Common Law cases get the rest.
(c) Limits on the Master's jurisdiction.

Consideration is being given to listing more cases per day and setting up a motor vehicle list.

Statistics supplied by the List Clerk in the Common Law Division demonstrate how the Common Law list has been moving this year.
(See the accompanying table)

Anyone who wishes to contribute their ideas on how to keep the Common Law List moving should contact Gormly QC.

Intellectual Property Rules:

The Rules Committee of the Supreme Court has settled the Intellectual Property Rules. All intellectual property matters are now assigned to the Equity Division.

The Rules, especially those concerning patents, are based substantially on the 1977 English Rules but have been integrated with the Supreme Court Rules. Some novel features are:
(i) The need for leave or confirmation for service outside the State is dispensed with.
(ii) In proceedings for amendment of the specification of a patent, provision is made for an agreed statement of scientific and technological facts to be presented.
(iii) In proceedings for infringement or revocation of a patent, provision is made for directions to be given in relation to proposed experiments and for the conduct of such experiments, with power to direct that evidence respecting experiments should not be admissable unless

Month	Total of Matters Listed		Not Reached Jury	Not Reached Non-Jury	Not Reached Motor Vehicle Assessment	Total % Not Reached All Matters
January & February	Jury	105	29	8	—	37 = 14%
	Non-Jury	75				
	M/V Ass	86				
	TOTAL	266				
March	Jury	102	20	4	8	32 = 15.3%
	Non-Jury	58				
	M/V Ass	49				
	TOTAL	209				
April	Jury	81	6	1	2	9 = 5%
	Non-Jury	50				
	M/V Ass	48				
	TOTAL	179				
May	Jury	68	7	6	3	16 = 8.2%
	Non-Jury	60				
	M/V Ass	67				
	TOTAL	195				
June	Jury	96	14	6	3	23 = 11%
	Non-Jury	54				
	M/V Ass	59				
	TOTAL	209				
July	Jury	68	13	Nil	Nil	13 = 7.5%
	Non-jury	59				
	M/V Ass	52				
	TOTAL	179				
August	Jury	71	3	4	Nil	7 = 4.1%

the experiment has been conducted in accordance with directions.

(iv) Contrary to previous practice, the Commissioner of Patents upon appearing in any proceedings is required to give reasonable notice to the other parties of objections he proposes to take and of the evidence thereof.

(v) Directions are to be sought from the earliest practicable time after the institution of proceedings, and these directions are to be given by a judge. This procedure is designed to introduce the practice of a judge monitoring a particular case from the outset with a view to the case being allocated for hearing to that judge.

The new Rules will appear as Part 81 of the Supreme Court Rules.

The twenty-third Australian Legal Convention

The twenty-third Australian Legal Convention was held in Melbourne from August 4 to 9. The title of the Convention "Destinations in Law", appropriately emblazoned on the back of a Melbourne tram in the convention logo, summarised the Convention's main theme — its topics were more concerned with questions of policy and overall professional planning for the future than with improving the ability to practise of the individual conventioneer.

This, unfortunately, is becoming the practice of Australian legal conventions, although there was a welcome departure from it in Brisbane in 1983 where the convention was almost entirely devoted to black letter law.

The Convention did have the expected comic relief. An American psychologist, Dr Jerome Murray, gave a series of lectures with topics such as "From Uptight to All Right" and "How to Live with a Lawyer".

These were particularly well attended by accompanying persons and no doubt left those who came to the convention better adjusted.

The social programme was magnificent. It included a Colonial Ball (to which one gained access by a boat on the Yarra) organised by the Young Lawyers, two evenings of home entertainment, an evening at a restaurant, and a day trip by steam train to Ballarat. This was on a beautifully restored Australian version of the Orient Express known as the Melbourne Limited.

The only problem was that the inevitable industrial action meant it had to start and finish outside the metropolitan area and there was no electricity on board for lighting or coffee. The problem of lighting was not of importance, as by the time the train returned, there was no one on it who was sober enough to read.

The next legal convention will be held in Perth in September 1987.

In the meantime, and of far greater relevance to the Bar, the Australian Bar Association will be holding its second biennial conference at Alice Springs and Ayers Rock from July 2 to 9, 1986.

Details of this conference will be supplied to all members within the next few weeks.

— *D.M.J.Bennett, QC.*

Coming events

November 7-9 — Lawasia Energy Law Symposium — Jakarta (Contact Lawasia)
November 8 — Masters and Readers Dinner
November 22 — Bench & Bar Buffet Dinner
November 25 — Annual general meeting, NSW Bar Association (1.30pm).

1986

June 19-21 — 10th Annual Conference of the Australian Mining and Petroleum Law Association Limited (Regent Hotel, Melbourne) (Enquiries: A. Rosenthal, DX 104 Melbourne)
November — NSW Bar Association Sesqui-centenary Ball (University of Sydney Great Hall and frontlawn)

A missive from the West

Dear Editor,

This Society was pleased to see the inaugural issue *of Bar News.*

I would not wish to comment on any of the matters raised in the article *The View from Across the Dingo Fence* by I.D.F. Callinan, QC. However Mr Callinan points out that 27 visiting Silks have taken advantage of the right to practice in Western Australia.

One can add to that a number of juniors. Of course, not all of them are members of the New South Wales Bar.

Whilst we would wish to make our interstate brethren feel at ease amongst friends during their stay in Perth, might I point out to them the need not only to be admitted here but to maintain current practice certificates.

A goodly proportion of the funds so reaped goes to maintenance of the Supreme Court Library, and it needs the funds.

I understand that following a recent trial in Perth before the Chief Justice, his Honour inquired informally of the Barristers Board as to which of the three interstate counsel appearing in the matter had current practising certificates — and found that none had.

It is worth pointing out that it is the preferred position of the entire profession in this State that where an interstate Silk is briefed a local junior should be briefed, whether from the independent Bar or the amalgam.

By the way, Mr Callinan is in error suggesting that there are eight resident Silks in Perth. There are 12 in active practice — eight at the independent Bar, one in an amalgam firm and three at the Crown.

With kind regards,

H.H.Jackson,
President,
The Law Society of Western Australia,
Perth, Western Australia.

Computerised legal data bases Something useful, or a gimmick?

— *R.H. Macready*

During the past year a number of computerised legal data bases have become available to members of the Bar.

Judging by the number of subscribers to some of these services it would appear that members of the Bar still regard such systems with reserve, or perhaps, scepticism. This may not be unusual given that in general members of the Bar tend to be conservative.

Unlike many solicitors, members of the Bar do not appear to be computer literate and there is no widespread acceptance by the Bar of the use of computers for usual and commonplace functions like word processing and accounting.

To consider the question posed by the title of this article it is first necessary to look at the type of information that is available at the moment on computerised legal data bases. Then consideration can be given as to how this information is accessed and the problems which spring to mind given the nature of the information available.

In Sydney there are a series of data bases presently or soon to be available. These include:
(a) CLIRS
(b) Estopl
(c) Overseas data bases
(d) Miscellaneous data bases.

I will deal with each of these in turn.

(a) **CLIRS**

This is currently the most extensive of the data bases that might be of interest to barristers in their everyday practice.

It comprises a range of data bases some of which are of more interest to solicitors than barristers. It contains, for instance, data bases which have details of mineral and geological surveys kept by the Department of Mines. The data bases maintained within CLIRS that are most likely to be of interest to barristers include the following:
(i) Commonwealth Acts
(ii) Commonwealth Law Reports
(iii) New South Wales Acts
(iv) New South Wales Principal Acts and Reprinted Acts
(v) New South Wales Law Reports
(vi) New South Wales Unreported Judgements
(vii) New South Wales Supreme Court Practice Notes
(viii) Victorian Acts
(ix) Victorian Principal and Reprinted Acts
(x) Victorian Law Reports
(xi) Victorian Unreported Judgements

As the method of searching these data bases involves the scanning of the text of the data base to look for words or groups of words it is important, in order to judge the usefulness of the data base, to know precisely what text has been incorporated for any given sets of reports.

By way of example the CLIRS data base for Commonwealth Law Reports at this stage contains the head notes of cases reported in Volume 1 to 127 and the full text of cases reported in Volumes 128 to 147 Part 3.

The New South Wales Law Reports presently contain the full text from Volume 65 State Reports (NSW) to Volume 72 State Reports (NSW) and the New South Wales Law Reports from 1971 to 1984 Volume 2 Parts 1 to 3.

The Victorian Reports at present comprise the full text of the reports from 1969 to 1985 and certain reports from 1957 onwards.

The process of adding further parts of the New South Wales and Victorian Reports is continuing. It has been indicated that the data base will be extended to the law reports of other States of Australia subject to satisfactory negotiations with the States concerned.

(b) Estopl

Most barristers will be aware of the regular monthly printouts of the looseleaf service of Estopl which digests unreported judgements.

Estopl also provides an online service to search this facility by means of a computer. This has the benefit of having the most up to date information, i.e. the search can be made to include the most recent additions to the data base which may not yet be in the last reprint of the Estopl information.

Recently there has been an announcement that this data base is to be extended to allow a linking of Commonwealth Law Reports to English authority, i.e. one can, by searching the data base, find out whether the High Court has considered a particular English case and if so obtain the reference to the High Court case which considered it.

This data base is also in the preliminary stages. It presently extends back to Volume 64 of C.L.R. It is intended to extend this further to Volume 40.

(c) **Overseas Data Bases**

Various statements have been made about the possibility of linking through CLIRS into data bases in Europe.

It was proposed that through CLIRS access would be had to the Eurolex data base which contained information of United Kingdom reports. From what little information is available the possibility of this happening is somewhat uncertain at the moment.

Apparently the data base has been acquired by an American data base operator and transferred to America. Whether access will be able to be obtained to

these overseas data bases through CLIRS will have to wait the outcome of discussions between the various operators.No doubt announcements will be made by them as soon as agreement is reached.

Recently Butterworths have made available in Australia the Lexis data base which has full text access to a large number of U.K. cases (53,000) back to 1945. These cases are from the usual reports and a large number of specialised reports.

They include recent unreported cases. There is also access to various specialised topic libraries and English statutory information. Certain European data bases are available and importantly it also gives access to the Lexis data base in the United States.

This has been in operation for some years and is extensively used in the United States. It includes a wide variety of United States legal material and reports.

(d)Miscellaneous Data Bases

There are other data that are available to anyone who has the appropriate hardware to communicate with the data base.

An example of this type of data base is that provided by Aussinet and CCH which is a listing of a large number of articles dealing with taxation matters.

The data base does not provide the full text of the articles but is a bibliographical list of articles, whether they be in accountants' journals or otherwise, dealing with tax matters. It enables one to search for articles on given taxation subjects or for articles dealing with given sections of the Income Tax Act.

From what little has been said above it would become apparent to a reader that the method of searching in a data base must be substantially different to that currently employed by members of the Bar in their traditional research techniques.

The computer has the ability to be able to scan large amounts of text in order to find occurrences of given words or numbers. This ability is the key matter which is utilised in legal data base searching. The effectiveness or completeness of the search will depend on two factors.

These are:

1. The appropriate choice of words to be searched; and
2. The extent of the data base available for searching.

So far as the first factor is concerned the appropriate choice of words to be searched is a skill which can only be acquired through training and practice. CLIRS offer detailed training seminars which are of great assistance in achieving a basic level of skill in searching techniques.

It is not the purpose of this article to discuss in detail the various searching techniques which can be used to search any given data base.

It can be said, however, that the technique involves quite a different approach to standard research techniques and also requires skill on the part of the person carrying out the search. The skill level required assumes a detailed knowledge of legal principles and the method of expression of legal principles by the courts in order to pick the right words for the search.

For this reason such searches would normally have to be carried out by the barrister himself. It is not a question of being able to ask a secretary to make some simple entries on a keyboard to carry out the search.

The equipment needed to access a data base does not have to be complex in the sense that any person can operate it with the minimum amount of training.

In general the equipment would, if one were purchasing equipment to install in one's own chambers, comprise (i) a terminal which consists of a keyboard and a screen, (ii) a modem which allows the communication between the terminal annd the data base and (iii) a printer.

The communication medium for such equipment in the Sydney area is via Telecom telephone lines and it is desirable to have a line specially installed for this purpose.

Such equipment if it were to be installed by an individual barrister would normally cost between $3000 and $4000 and can be installed without any great difficulty. Points to watch include the following:

(1) Telephone lines should be separate lines not passing through a switchboard.

(2) The rate of communication through the modem to the data base is important. The equipment should have the capability of communication at 1200 BPS on a full duplex basis. Although equipment is available at 300 BPS and is somewhat cheaper, this is not suitable for CLIRS and in any event because it operates at a slower rate the costs in the long term of searching data bases would outweigh the initial capital savings.

(3) It is worth checking specifically with CLIRS or other data bases whether the equipment proposed to be bought will be compatible.

Some word processing systems which may be installed by groups of barristers can also have the capability of communication with data bases.

This requires a system which has the software for communications, a modem and a printer which is capable of receiving and printing at the rate of the data transfer, normally at least 120 characters per second.

It should be noted, however, that for some systems the cost of the software to give the system the ability to communicate with a data base may outweigh the costs of a single installation using merely a simple terminal, modem and a printer.

Whether the facility to communicate with a data base is had by one barrister or by a group of barristers a useful factor in the way they operate is that each individual person has his own account with the data base.

This account is safeguarded by certain passwords which are changed at regular intervals and all charges for searching the data base are sent direct to that person. The passwords ensure that a system cannot be readily abused.

There are a number of areas that spring to mind when one is considering the present usefulness of these computerised data bases. These are as follows:

1. The size of the data base.
2. The cost of using such data bases.
3. Whether the data base will replace the conventional legal library.
4. Whether the data base's greater currency requires that it must be used.
5. The misues of such data bases by over extensive citation of cases.

I will deal with each of these in turn.

1. **The size of the data base.**

From the short review of the data bases mentioned above it is apparent that the extent of the information presently available on the data base in no way approaches the mount of information normally available through conventional searching methods such as the Australian Digest system.That Digest covers reports from many courts in all States of the Commonwealth.

At this stage CLIRS data base falls far short of this. This does not mean however that it cannot be successfully used at this stage.

For instance the Commonwealth Law Report section of the CLIRS data base would enable one to very quickly search and see all the subsequent references by the High Court to an earlier case it had decided.

When one carries out a task such as this one can view the results of the search on the screen of the terminal and at the same time print out the results on the printer so that one has a permanent list of the cases which have subsequently considered the given earlier case in the Commonwealth Law Reports.

In addition one can use special features available to jump from report to report to look at the particular passage where the earlier case is referred to in order to form a view as to whether or not it is likely to be of interest.

In this respect the searching time may be far shorter that the time taken searching through the Digest and looking at individual reports to try to see the relevance of any particular case that has commented on an earlier case. The present state however of the extent of the data base available for searching indicates that it is not yet in any sense a replacement for the standard means of researching a topic.

2. **The cost of using such data bases**

The searching of computerised data bases is not cheap.

Normally there may be charge for logging on to the system and thereafter charges are based on the time spent actually connected to the data base. The charges for CLIRS start at a base of $100 per hour if only one hour of sarching is done per month and reduce substantially if there is more use of the system than one hour per month.

However these costs for an individual barrister can represent a substantial item of expenditure. It does of course encourage one to carefully plan out the area of the search and the terms to be searched before using the terminal to access the computer.

The other area where costs are important is the time involved in copying out information from the data base. By this I do not mean the actual results of a search which would normally list the cases referred to, but where one sought to have copied from the computer data base the terms of an Act or the full text of a case.

This would involve quite some time and expense if one were to access the hard copy of the materials being searched by having them printed out from the computer.

There may of course be times when this is necessary, for instance a New South Wales barrister might well wish to have copied out details of an A.C.T. Regulation or Act or part of a Victorian Statute if he needed it urgently. However, as mentioned, it is a factor which will substantially affect the cost of using the service.

3. Whether the data base will replace the conventional legal library

The question involves a consideration of the respective roles to be played by both standard law libraries and by computerised legal information retrieval systems.

Given that a good library today costs somewhere between $5000 and $10,000 per annum to maintain, the additional costs imposed in also accessing a computerised legal data base must give rise to the question as to whether one or both are necessary.

The costs involved in accessing computerised legal data bases are substantial and accordingly they are not suited to a careful and lengthy consideration of any given piece of written material.

Accordingly, having found via a computerised legal data base the case that one thinks governs the point there is always the need to be able to sit down and consider the case at length. Certainly it can be done by the computerised legal information system either printing out the case or by viewing it on the screen, but this becomes too expensive.

It seems therefore that one is bound still to have access to a library of law reports and statutes. Apart from the question of the consideration of the report for preparation of an argument there is also the necessity to have the written material for citation to the court.

While on this subject a current problem ought to be mentioned, that is that access is normally had over Telecom telephone lines. There quite often is interference on these lines which affects the quality of the reproduction of the material obtained from the data bases. Although not normally such as to render it inaccurate, it is annoying and may require a repeat transmission of some parts of the information.

4. Whether the data base's greater currency requires that it must be used.

One thing to note about the systems now developing is that there is access to very recent up-to-date listings of unreported judgements.

Given that these are now available even say to all members through the equipment provided by the Bar Association in the Bar library, it may well be that the ordinary standards of prudence in advising or preparing for a case will require that one should use these means of access in order to have properly carried out one's duties in researching a given subject before advising or presenting an argument in court, i.e. the very availability of the most up-to-date information may increase the level of care which is expected of barristers in researching problems.

5. The misuse of such data base by the over extensive reporting or citation that are necessary in cases.

There is with any system which allows an easy reproduction of a large number of cases commenting on a specific topic the danger of quoting large numbers of

cases to a court in the support of a proposition. Such cases may well only have marginal relevance on the point at issue.

Because of the ready availability of the large number of cases which tends to occur from the use of a computerised legal data base, greater care will have to be exercised by barristers in the way in which they cite cases in support of propositions put to the courts.

Although as mentioned a legal data base may encourage access to a greater number of cases, it should not be considered the sole cause of the extensive citing of slightly relevant judgments to support propositions.

This already exists as a problem because of the ever increasing volume of reported decisions. As always care will be needed to restrict cases to only those that elucidate the principles in question.

If one were to return to the heading of this article and after this short review ask the question, are legal data bases useful or merely a gimmick, one would be forced to conclude that at this stage they have some serious restrictions.

The most important of these is the present restricted data base compared to the existing data bases available through conventional searching techniques.

They are expensive and at this stage do not necessarily provide a mean of supplanting the existing legal data bases.

They do however have some advantages. In certain areas they can quickly search out and scan material to provide useful listings of cases commenting on earlier cases.

They also provide an alternative means for researching a problem. This is a very useful facility and prevents one from becoming too caught up in the traditional way of searching for authorities on a point.

It may in fact allow access to a greater volume of material than is presently available. However clearly the area is one which is developing at a fast rate and it at this stage is too early to form hard and fast conclusions as to the usefulness of the data bases.

If they continue to expand the extent of the coverage of the data base, they may well become a useful tool as a different means of researching topics.

The likelihood of them supplanting existing data bases is somewhat remote and accordingly the cost penalties for using them may be high.

However time will only tell and it is to be hoped that many at the Bar are prepared to put some effort into using the system in its early stages so the Bar can play a part in the development of these data bases.

A toast for Leonie, a roast for the Bar

Thank you Mr President for a typically generous and gracious introduction. Already you have seen, Dame Leonie, that dining with the Bar is like dining with the Borgias. If you are not poisoned by the food, you are stabbed by your host.

This is a unique and timely occasion. In the two decades and more that I have attended these dinners, it has been uncommon for us to have a Guest of Honour who is literate, (that is, well acquainted with literature), let alone one who comes to us from a literary apogee, the Chair of Australian Literature at Sydney University.

I do not not mean that we have had guests who have been unable to read or write, many have been able to do both.

Necessity demands that our guests be able to speak. Some have done so, at great length.

Tonight marks a change of course. Dame Leonie has been the Professor of Australian Literature at Sydney University since 1968. Prior to that she was for five years an Associate Professor at the University of New South Wales.

From such a distinguished background in the teaching of English it must indeed be a shock to step down tonight into this sink of illiteracy; to be met by our President, who adopts a smiling manner to hide among other vices, his awful English.

Do you feel, looking at us, that the Australian Association for Teaching English and the Australian Council for Educational Standards, of which august bodies you have for many years been a member, have still a long way to go?

Sheller QC

It is said that in order to practise at the Bar an aspirant should be able to read. After all law lists are published every day to tell Counsel where to go, though nowadays you can get the Clerk to read them.

Members of the Bar certainly write in profusion. Some have had material published: Stein on Locus Standi; Young on Declaratory Orders are but examples.

An English barrister, Foskett, chose a more promising title, *Compromise,* which means, of course, to bring a person under suspicion by indiscreet action. Foskett is of the Midland and Oxford Circuit but, sadly, his book gives no insights into the high life at St Hugh's College, Oxford, in 1950 when Dame Leonie was teaching there and earning a Doctorate of Philosophy.

Alas none of these written outpourings of the Bar has attracted even bare reference in the ultimate authority, the *Oxford History of Australian Literature.*

Madam, as the Editor, can you explain this?

Perhaps it is not surprising. Two of the notorious authors of that crowd-pleasing paperback, *Equity: Doctrines and Remedies,* are members of the Bar.

They announced, in the preface to the first edition, to those who bothered to open the book, the forlorn hope that it would not be considered "difficult to read, disgusting to touch and impossible to understand".They knew what was inside.

That hope even they had to abandon by the time they wrote the preface to the second edition. By then others knew what was inside.

We barristers are no literary lions. William Charles Wentworth, one of the first barristers admitted in New South Wales, a founder of Sydney University driven from Australia by the unveiling in the Great Hall of a marble statue of him, wrote a peom called *Australasia,* which for some reason not clear to me, gained second place in a competition at Cambridge University. He alone of the Bar is mentioned in the *Oxford History.*

Mind you, the *Oxford History* was published in 1981, just before our colleague, Benjamin Sidney, sprang into print. But he does not count.

I am told Ben no longer practises at the Bar. He awaits his rightful place in the *History of Australian Literature.*

Judges have fared little better. Not for want of trying. Thirty five Justices and Chief Justices of the High Court have toiled for nearly 90 years to produce 150 volumes of short stories, novels, melodrama, no poetry and no recognition from the *Oxford History.*

Among the memorabilia adorning the walls of their palace in Canberra are no Medals of Honour from literary societies. However, in line with modern practice, the Court plans to increase production over the next 90 years.

By contrast the Supreme Court can hold its head high in your presence. Mr Justice Barron Field, spelt "on" not "en", a judge well known to the New South Wales lawyers present, but for the benefit of others, named second of the judges of the 1814 Supreme Court of New South Wales. He was indeed unique. A poetic judge.

The Bar has slight regard for his literary achievements. Our historian has written that Barron Field's verse was not well received by the critics when it was published, and since then it has been more laughed at than read.

Disraeli, who somehow met Barron Field in Gibraltar, described his as a noisy, obtrusive, jargonic judge, ever illustrating the obvious, explaining the evident and expatiating on the commonplace — things nowadays not done on the Bench.

But the *Oxford History of Australian Literature* sees him in a different light. Lovingly it recounts that he published a tiny volume, modestly called *First Fruits of Australian Poetry.*

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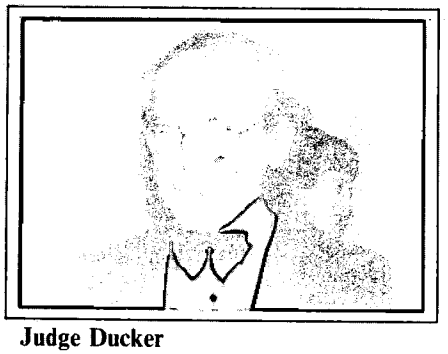
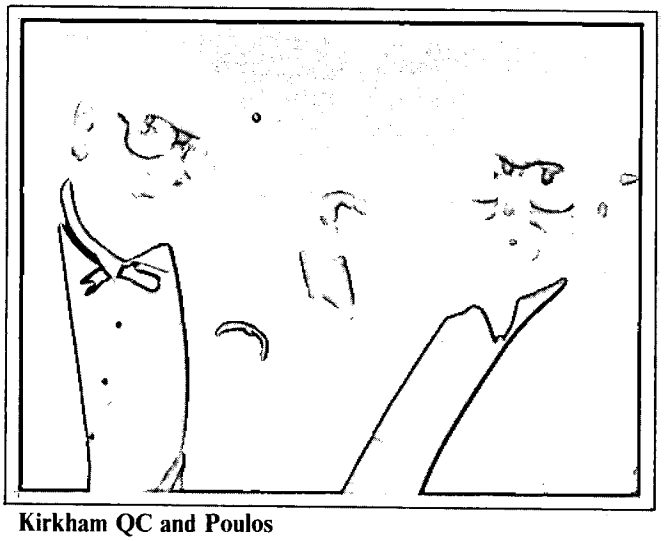
** C.S.C. Sheller, QC, proposing the toast for Dame Leonie Kramer at the Bench and Bar dinner on July 5, 1985.*

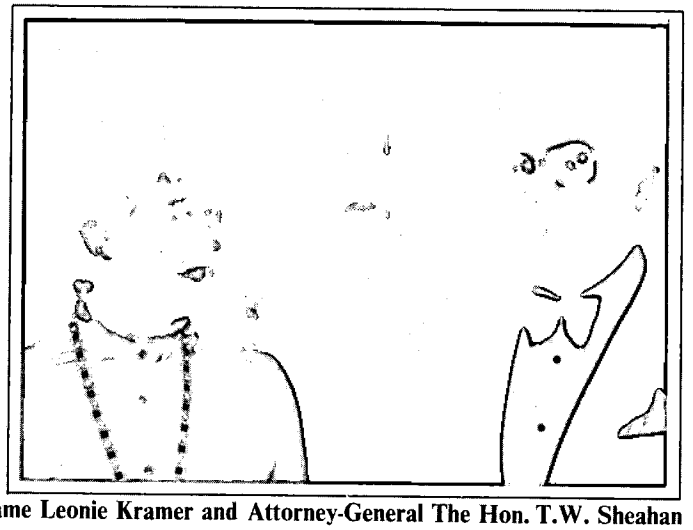
At the Bench and Bar dinner



Judge Ducker

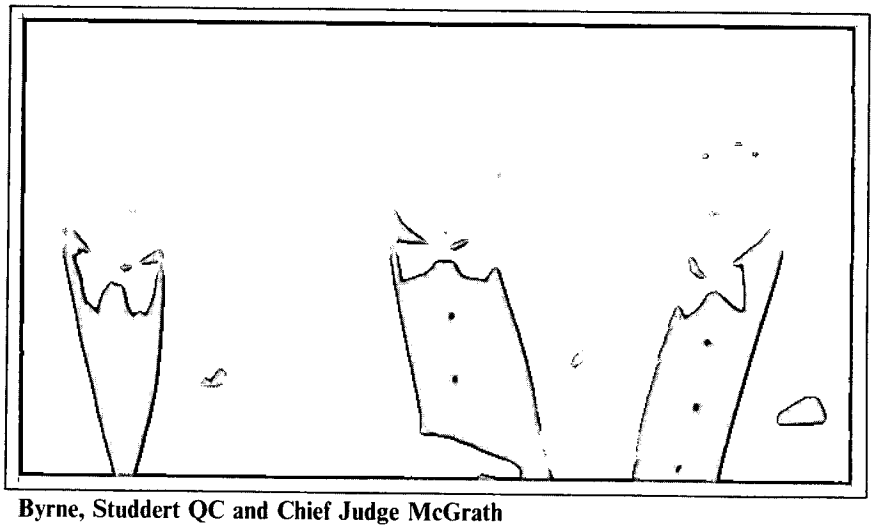


Kirkham QC and Poulos

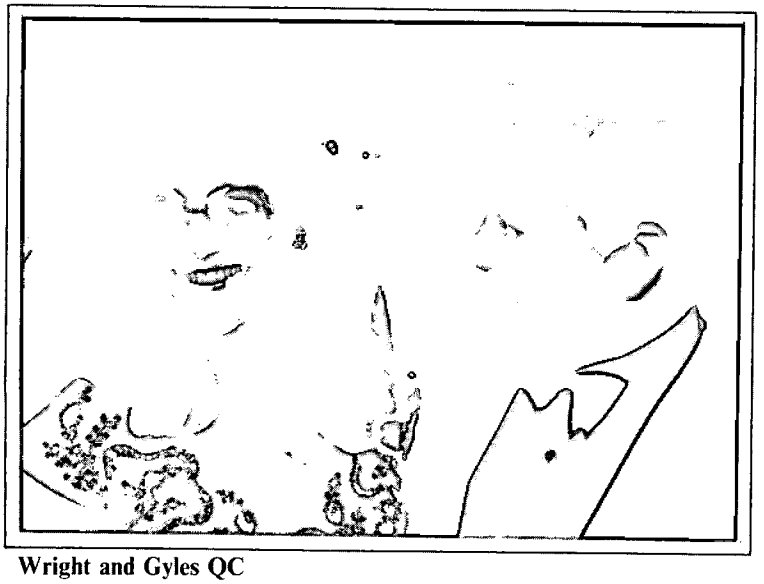


Dame Leonie Kramer and Attorney-General The Hon. T.W. Sheahan

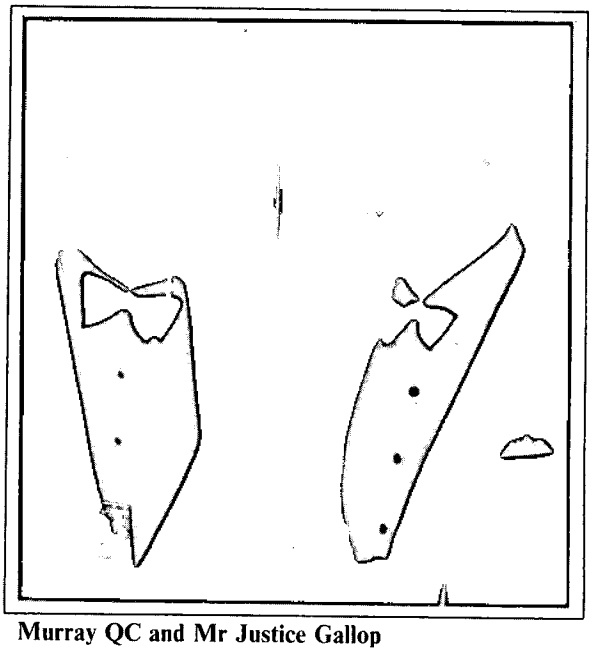
Bennett and Bennett QC



Byrne, Studdert QC and Chief Judge McGrath



Wright and Gyles QC



Murray QC and Mr Justice Gallop

This is not the place to start a revival of Barron Field's poetry, if that were possible. That is for the Supreme Court to do. But I would like to read part — well the first line — of the poem for which, according to the *Oxford History,* he is best remembered.

The poem is called *The Kangaroo.* The first line consists of two words "Kangaroo, Kangaroo".

Call your poem *The Kangaroo* and then say nothing in the first line but repeat the title twice, is surely illustrating the obvious and explaining the evident, if not expatiating on the commonplace.

But who are we, poor lawyers, to challenge the authority of the *Oxford History of Australian Literature* and wonder how it has preferred such a poem to the treasure to be found in the *New South Wales Law Reports?*

Madam, the list of your achievements and the honours earned by you is long. You are Fellow of both the Australian College of Education and the Australian Academy of the Humanities. Melbourne University has conferred upon you an Honorary Doctorate of Laws and the Australian National University an Honorary Doctorate of Letters.

In January, 1977 you were appointed a Commissioner of the Australian Broadcasting Commission and on the first of January, 1982 you became its Chairman. At the time you were appointed a Commissioner you were one of the few women professors in Australia.

You yourself, however, judged it quite mad to appoint commissioners according to their sex. You were the first woman Chairman of the ABC and one of the very few women heads of large organisations in Australia, public or private.

In 1976 you were appropriately honoured with the Order of the British Empire, and in 1983 made a Dame Commander of that Order.

During your time as Chairman of the ABC, there occured in May, 1983 a confrontation with members of the Government. To television audiences during that time you came across as a person of integrity and courage, and above all loyalty to those who worked with you.

I understand the Australian Council for Educational Standards is critical of "progressivism". Who would not be critical of such a hideous word and all it stands for? It ranks with President Reagan's "progressivity". I congratulate you.

Madam we welcome you here tonight. We hope that our company will give you as much pleasure as yours surely gives us.

Slip of the List

The Sydney Morning Herald's need to contain the ever-growing Law List which it publishes each day, Monday to Friday, by abbreviating the names of cases listed for hearing, is understandable.

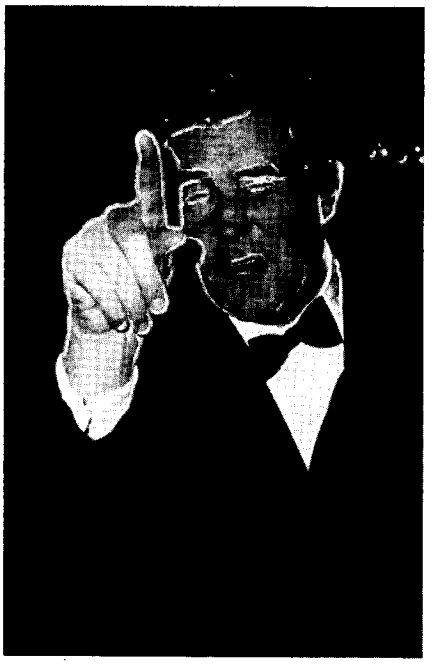
But sometimes this can give rise to an eyebrow or two. For example, among the cases listed recently for the Industrial Commission were the two following entries:

Appln for an award Beauty rapists, etc., Awd

. . . Appln and disp. re shit allow.

We are assured these matters related to beauty therapists and shift allowances, respectively.

A tribute to The Honourable Mr Justice P.A.McInerney by R.P.Meagher, QC.



"When Jubal struck the corded shell . . ."

Nearly sixty years ago, at the remote hamlet of Collector, there was born Peter Aloysius McInerney. Today the unlettered shepherds of Collector, the companions of his youth, are erecting in honour of him, their greatest son, a large equestrian statue.

By the age of one, he was extraordinarily large: 6'6" and 24 stone. He developed an intense dislike of smaller shepherds, and small people in general.

It remains to this day. He regards them as not only stunted in growth but also as the possessors of mean, misshapen thoughts; and probably Sodomites as well. This explains the character of half the world in general and one floor of barristers in particular.

Discarding his smock and crook, he came to Sydney to be educated. This process did not take place at Riverview.

After some years as associate to Sir John Clancy and Sir Cyril Walsh, he arrived at the Eighth Floor Selborne, where, for the delectation of his colleagues, he sang his native woodnotes wild. It was as the poet said:

When Jubal struck the corded shell,
His listening brethren stood around,
And, wondering, on their faces fell,
To worship the celestial sound.

Timidity was as unknown to him as modesty is to his brother Mr Justice ——— ; and a sympathetic tolerance of an opposing point of view was equalled only by his passion for Chancery.

His success at Common Law was legendary. As Mr Herron, the President of the Law Society, said: "His success in this area did much to contribute to the chronic state of penury which afflicts all insurance companies". His success at the criminal Bar was equally sensational.

He developed a marked aversion towards "equity poofters".

He played sport, golfing at the Australian Club where he often did a birdie on the twelfth.

He was a spectator at Rugby matches where he treated referees as he treated his opponents in court, regarding them, to quote Mr Herron again, not only as suffering from abysmal ignorance, but also of insurmountable hearing deficiency.

In recent months his health has been the source of great consternation. He suddenly started eating lettuce leaves and stopped drinking whisky. He shrivelled sadly. He became nervy, and jumped when approached.

He had a heart attack. He visited Dr Chang (and St Vincents ordered an elephant against the contingency of a transplant).

He failed his medical. He will try again. We pray for him.

At his swearing in, after congratulating himself on his good fortune at having been on the Eighth Floor Selborne, he wondered why he and his colleagues were referred to as the "Princess Margaret Set". It was because people kept mistaking him for Lord Snowdon.

Appointment to the Bench

Mr Justice Burchett

On 3rd June 1985 James Charles Sholto Burchett QC was appointed a Judge of the Federal Court of Australia.

His Honour was born at Goodooga New South Wales in 1930, and was educated at Barker College and the University of Sydney, from which he graduated a Bachelor of Laws with honours.

He was admitted to practice as a solicitor in 1956 and to the Bar in 1959. He took silk in 1974.

His Honour developed a busy practice at the Bar which from time to time involved travel to various parts of the globe, a circumstance of which his Honour was not heard to complain.

His Honour was the author of two works on aspects of taxation law, a visiting fellow at Wolfson College Cambridge in 1976, and in 1980 lectured in China on criminal and arbitration law at the invitation of the Chinese Government.

His Honour was, at the time of his appointment, chairman of the Law Council's Legal Aid Advisory Committee. — *J.Hislop*

Golf: Bench & Bar v. Services

After several days of cold, showery weather, the 12th July delighted all the golfers who turned out for this annual match. It was perfect.

Twenty six members played at Royal Sydney, with the Services fielding 54.

Again this year the Stableford scores of all who played were averaged out and counted for the aggregate trophy (pairs). Those whose combined handicaps were 35 or less were in A Grade, and the rest in B Grade.

There are three trophies. The original, pre-World War II trophy was mislaid during the War. When the match was reactivated in 1946, both the Bench & Bar and the Army produced new trophies. The original then turned up at Victoria Barracks.

For the first time in many years, the Bench & Bar won a notable victories — not only in the close contest for the Aggregate, but also in A Grade. The scores were:

	Aggregate	A Grade	B Grade
Bench & Bar	37.7	41.2	35.6
Services	37.4	37.6	40.0

The formidable pair of Judge Solomon and Rod Skiller returned the best score for the Bench & Bar. The Irish mafiosi — C.O'Connor and Wheelahan — were runners up.

It was good to see several new faces from the Bar. All members are most welcome to play in these annual events

Bench & Bar plays the Solicitors at Manly on the last Thursday of the long vacation, and the officers of Her Majesty's Services at Royal Sydney on the first Friday of the District Court short vacation.

Tennis: International win

The men's doubles in the French Senior Open tennis championships held in Monte Carlo in July was won by Callaway QC and an American friend.

Their vanquished opponents were none other than Pancho Segura and Vic Seixas, both great players in their time.

Not content with that triumph, Cal Callaway and his wife Denise went on to be runners-up in the mixed doubles.

Justice denied

The proceedings before Mr Justice Liddy in the Industrial Commission, where many an industrial stoppage is the subject of a hearing, recently commenced with the usual command of "Silence".

Counsel and others in court rose to attention and faced the Bench, only to hear a series of muffled noises from behind the door to the Judge's chambers — some bumping against the door and much rattling of the doorknob, but no judge. The lock was stuck!

After several minutes delay and some hurried repairs, and another call for silence, the offending door was opened and His Honour emerged, bowed, and then remarked: "That is what is known in this jurisdiction as a temporary lockout".

Supreme Court country sittings 1986

Circuit	Sittings Commencing
Goulburn	10.2.86 (3)
Newcastle (Jury)	10.2.86 (3)
Wollongong (Jury)	17.2.86 (3)
Albury	3.3.86 (3)
Orange	3.3.86 (3)
Newcastle (Non-jury)	7.4.86 (2)
Wollongong (Non-jury)	28.4.86 (2)
Tamworth	28.4.86 (3)
Coffs Harbour	19.5.86 (2)
Newcastle (Jury)	26.5.86 (3)
Wollongong (Jury)	2.6.86 (3)
Dubbo	2.6.86 (3)
Newcastle (Non-jury)	23.6.86 (2)
Lismore	23.6.86 (3)
Wagga Wagga	14.7.86 (3)
Newcastle (Jury)	5.8.86 (3)
Broken Hill	11.8.86 (3)
Narrabri	11.8.86 (1)
Wollongong (Non-jury)	25.8.86 (2)
Grafton	1.9.86 (3)
Newcastle (Non-jury)	8.9.86 (2)
Griffith	22.9.86 (3)
Bathurst	13.10.86 (3)
Newcastle (Jury)	10.11.86 (3)
Armidale	10.11.86 (1)
Wollongong (Jury)	17.11.86 (2)

From Roll to Roll

Persons who have had their names removed from the Roll of Barristers to the Roll of Solicitors from Friday, 5th July, 1985 to Friday, 2nd August, 1985 inclusive:

Friday, 5th July, 1985:

Edward Stewart Marr
Geoffrey William Charlton
Martin Kenneth Earp
Marie-Claire Poole
Kevin Dominic Hall Brennan
Judi Buyers
Michael John Baker
Cyril Brown
Vasso Paul William Tsolakis

Friday, 2nd August, 1985:

Noel Albert Davis
Richard John Manuell
Anthony Pascal Ingegneri

Reading — 1985

The Legal Education and Reading program of the Bar Association of New South Wales moved into a new phase early this year. This was the culmination of many years' effort.

Two principal changes were introduced.

The first involved amendments to the Bar Rules published by the association; more especially, Rule 97 et seq. These "Reading Rules" were amended to formalise the supervision of Readers by their Masters and to lay the foundations for the second change.

The second change involved the introduction of a semester system of lectures, seminars and workshops designed to provide an intensive program of practical instruction for Readers in their first three months of practice.

The first semester program commenced immediately following the Supreme Court's first admission ceremony (in February) this year. The second semester program commenced (in August) on the Tuesday following the Court's admission ceremony after the mid-year vacation.

The admission dates of February 14, 1986 and August 8, 1986 have been chosen by the Barristers Admission Board as preferred admission dates for barristers intending to practise, and the Reading programs will commence immediately following those dates.

Our hope is that persons intending to commence practice at the New South Wales Bar will make their plans so as to fit in with the Association's lecture programs.

The amendments to the Reading Rules appear to have been well accepted by Masters and Readers alike. The few misunderstandings which have arisen have had their origins, more often than not, in a failure to consult the terms of the Reading Rules.

Under the new Rules a Reader still undertakes, as was formerly, a reading period of twelve months. The first three of those months would, in most cases, now coincide with one or other of our two lecture programs. That ties in with the terms of the new Rule 98(b).

This rule, which has been the subject of some misunderstanding, provides: "a Reader (as a requirement of the Reading Program) shall not, during a period of three months commencing on the date of his enrolment in the Reading Program, appear in any Court or Tribunal other than with, or with the approval of, or on behalf of, his Master".

The object of the Rule is not to prevent Readers from earning an income at the outset of their practice, as some unkind souls have hastily assumed.

The object is to ensure that Readers, for the protection of the public as well as for their own protection, do not undertake Court appearances for which they have insufficient experience.

The Rule closely reflects its own object. There is no absolute prohibition; Readers are placed under the supervision of their Masters. There is no limitation on the nature or frequency of appearances which might be undertaken by a Reader under the supervision of his or her Master.

There is no limitation on a Reader undertaking chamber work; the Rule is directed at appearances in Courts and Tribunals. Readers have a "right" to expect that they will be supervised by sympathetic Masters.

The duties of a Master have been, and will continue to be, assumed by a wide range of experienced counsel.

The Reading Rules have always been administered on the basis that appropriate arrangements can be made to accommodate the special circumstances of individual Masters and Readers. The new Rules (by Rules 97 and 100) continue this tradition.

There have, however, been some ambitious attempts on the part of a limited number of Readers to seek extensive dispensations in respect of various parts of the new Reading Program.

While all applications for dispensations with all or part of the Reading requirements are dealt with sympathetically by the Reading Commitee (and the Council of the Association) dispensations have been granted only sparingly and usually only on the condition that the Applicant make up that part of the program with which he or she may, at a particular time, be unable to comply.

While full credit is, and must be, given for a Reader's earlier experiences as a solicitor or in other areas of practice, the mere recitation of those experiences is not of itself enough to justify a dispensation.

In each case the best procedure, for all concerned, is for an applicant for dispensation to talk to the Association's Education Officer (Helen Barrett) as a preliminary, if need be, to a written application addressed to the Chairman of the Reading Committee (currently O'Keefe QC).

In all cases, whether relative to dispensations or otherwise, it is essential to the continuing success of the Reading Program that Readers and Masters feel free to consult and inform the Association as to their particular problems.

The service which the Association provides, through its Reading Program, depends on the co-operation of all parties involved, at whatever level. We have been fortunate in the assistance voluntarily given to the Association by its members.

Members of the judiciary and senior and junior counsel have contributed considerable time and effort, most notably, in the provision of lectures, seminars and workshops and accompanying notes.

Approximately 18 Judges, Registrars, Deputy Registars, Magistrates and the Prothonotary together with some 47 Senior Counsel and 52 Junior Counsel have participated in our lecture program to date. The program continues to expand.

From this program (and seminar programs soon to be announced) the Association may ultimately publish a series of notes of practical significance for advocates. Certainly there appears to be a demand for the notes so far produced for the benefit of Readers.

The publication of these notes (and, the Association hopes, the use of video tapes from time to time) will help extend the reach of the Association's educational services.