

The new barrister's library

By David Ash

In time, the new barrister will earn a room, or something near to one. The room may have shelves. In former days, these shelves would have contained an exotica of reports, the Britannic blue of the All Englands, the imperial calf of the more expensive CLR's, and the olive green *New South Wales Reports* of the 1960s.

The new barrister may not need the reports. There may be access on the floor, in a neighbour's room, or on the net. So what about the shelving? Do you leave them empty? Do you cover them with photographs of your spouse or with your child's pottery? What will instil confidence in a doubting solicitor or a nervous client? And what is useful for you? This is one man's potted guide.

There are plenty of books on advocacy to wile away the briefless hours. An early effort of the College of Law, *The Advocacy Book*, was published in 1985, and its distinguished list of authors includes Tony Bellanto [QC] (then a crown prosecutor), Hidden [J], Norrish [DCJ], Foster and Timmins. I also like the older books, for advocacy itself has its own history, its own development and change. Birkett's *Six Great Advocates*, published by Penguin in 1961, has marvellous – and marvellously dated – sketches of Erskine, Marshall Hall and the rest. Birkett himself, it will be recalled, was the one who asked that question about the co-efficient of brass.

Penguin also published Richard Du Cann's *The Art of the Advocate*. Du Cann, who died in 1994, had the distinction of being born in Gray's Inn, so he is likely to know something. I am fond of Judge J W Donovan's *Tact in Court*, containing 'sketches of cases won by art, skill, courage, and eloquence, with examples of trial work by the best advocates, and hints on law speeches'. It exists in various forms; the one on my shelf is the sixth enlarged edition from 1915.

As for fiction, the traditionalist will opt for the collections of A P Herbert and Henry Cecil, while the young[er] gun might settle for Grisham or Turow. O's *Forensic Fables* are good. Whether you put Rumpole on your shelf is a quandary, but at any rate, if there is to be poetry, it should be compiled by the only QC worth anything to that old hack, Arthur Quiller-Couch. My copy of his compilation of Victorian verse is an \$8.50 edition from Tyrell's Book Shop at Crows Nest. Published by the Oxford University Press, it is inscribed 'to my future friends and pupils at Cambridge: this propitiatory wreath'.

Which touches on an important point: how do the impoverished build a library? The sources are few. Misguided relatives. Helpful colleagues. Retiring colleagues. Colleagues helpfully retiring. And the secondhand bookshop. The last can be in realtime. It can also be online. At abebooks.com, the searcher will find used copies of *The Advocacy Book* from a Newport dealer and from Goulds in Newtown.

As to texts, there is no shortage of legal publishers telling the new barrister what new products to buy. Much of it is topnotch stuff. But the simple fact cannot be avoided. New texts are expensive.

Make a virtue out of necessity. Provided you realise the limitations of the products, build up a good secondhand library. Go into colleagues' rooms and have a look at the books they will only give you on a blood oath to return, and you will have the idea.

Everyone will have their peccadilloes. To my mind, a good general out-of-print library includes the 12th edition of *Bullen & Leake*, Greig & Davis's *Law of Contract*, Starke's *Assignment of Choses of Action in Australia*, Glanville Williams's *Joint Obligations* and Helmore's *Law of Real Property in NSW*.

If I am looking at crime, I generally get my bearings by stealing a glance at the now replaced green three-volume Butterworths looseleaf, *Criminal Law and Procedure: New South Wales*. Only then do I badger someone who knows what they're talking about.

If you have finally received your first fee, or if there is a legacy somewhere from a maiden aunt, two works are well worth getting. The first is Quick & Garran's work on the Constitution. Apart from its continuing relevance,⁴ it is the acme of a work of annotation. The best entrepot is probably a copy of the 1995 facsimile reprint by Legal Books. The other, of course, is Blackstone, something which in one form or another should be available at a very reasonable price, although if my irrationality is anything to go by, the older the edition, the more comfortable you feel. These four volumes of stale ancient leather stand up well to senior colleagues' Johnny-come-lately law reports, whatever they bind them in.

As to reference works, if you are writing on a regular basis, you should have a style guide. The Australian Government's *Style Manual* is the best option, proof that common sense and consistency do not have to be privatised in a globalised world. I have a fourth edition, although the sixth was published in 2002. You have to have a *Fowler's*, it's only a question of whether you opt for Sir Ernest Gowers' second edition revised, or R W Burchfield's third edition. You can split your own infinitive as to which is better.

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As to dictionaries, the *Macquarie* is becoming commonplace. I refer above to the High Court's use of Quick & Garran in a 2006 decision. In the same case, the court refers not once but twice to the *Macquarie*.⁵ Being a case involving constitutional words, their Honours were of course scrupulous to use the 2001 Federation edition.

The other work I like is Megarry's *Miscellany-at-Law*. While there was a second similarly-named work turning other turf in the same ground, it is the first especially which reminds us that the practice of law is largely about wit. Not the ill nature which passes among too many observers as wit,⁶ but a real and warm understanding of humanity coupled with a mastery of words.

The first copy I found when I went to abebooks.com is listed as being in good condition, for US\$6.33 plus US\$6.06 postage, from a bookshop in Faulconbridge. You need to read it, because otherwise you might miss Scrutton LJ's observation that 'counsel appearing before us, each of whom said his case was too plain for argument, and took a long time in arguing it, buried the court under authorities, to a few of which I must refer.'⁷ His Lordship's judgment was reversed.

⁴ See eg *Dalton v NSW Crime Commission* [2006] HCA 17, [26].

⁵ *Dalton v NSW Crime Commission* [2006] HCA 17, [117].

⁶ As to which see Addison's essay for the 13 September 1711 issue of *The Spectator*, found in the Everyman's Library edition published by Dent.

⁷ *Reckitt v Barnett, Pembroke and Slater Ltd* [1928] 2 KB 244, 258; revd [1929] AC 176.

New barristers survey: December 2005

By Margaret Holz & Hugh Stowe

In late 2005, the New Barristers Committee conducted a survey of the background, life and practice of barristers of six years call and under. The survey was conducted to:

- ◆ establish benchmarks against which members of the junior bar can compare their own practice, and thereby assist practice management and development;
- ◆ compile information relevant to a decision to come to the Bar, for use in career presentations to students and solicitors;
- ◆ examine the extent of career satisfaction, and the nature of work-life balance at the junior bar; and
- ◆ compile information relevant to CPD programs offered by the Bar Association.

This short article summarises key findings of the survey. References to 'barristers' or to 'the Bar' are to those surveyed, unless the context is otherwise.

Response rate

The total survey group was 607. Of those, 224 barristers responded, representing a very respectable response rate of 37 per cent. Obviously, this is only a sample of individuals who chose to respond to the survey, and not a census of all barristers in the group. There is no way of telling whether people of a particular income, work load or overall satisfaction were more likely to respond to the survey. However, it does provide some useful insights for barristers to take into account in the management of their practices.

Intake and attrition

Over the last eight years, the average annual intake of new barristers has been 87, of whom 27 per cent have been women. Of all new barristers admitted from 1998, the total attrition rate has been 11 per cent (being 15 per cent for females, and nine per cent for males).

Demographic

The median age of persons coming to the Bar is 33 years (being 34 for men, and 33 for women), with five per cent being under 26 and eight per cent being over 48 years. New barristers come from a wide range of backgrounds with the median level of prior legal experience being four years. Some nine per cent of new barristers report having no prior legal work experience at all. A further four per cent have less than one year prior experience. Thirteen per cent having had more than 15 years of experience in the law.

Income

The median taxable income (i.e. gross less expenses) over the first six years of practice was as follows:

Up to 1 year	\$78,000
1 year	\$90,000
2 years	\$80,000
3 years	\$140,000
4 years	\$130,000
5 years	\$200,000
6 years	\$120,000

Gender differences were apparent in the income results. The median taxable income is \$130,000 for men and \$77,000 for women. This compares with a pre-Bar median income of \$85,000 for men and \$75,000 for women.