

Dear Sir,

In *Bar News* (Summer 2008/2009), an article written by David Ash appeared on Richard O'Connor, the third member of the first High Court.

The article contained a number of historical photographs of the court but also one which purported to be 'the Barton Ministry' in its first term of office. The photograph bore a code indicating its source as the National Archives. That photograph is indeed catalogued as indicated by the author. However the photograph is sadly not that of the first federal ministry but the second. The Archives is wrong.*

The photograph appearing (page 85) in *Bar News* shows as Governor-General Lord Tennyson, the second governor-general, the first being Lord Hopetoun. The Archives has perhaps been responsible for Sir Robert Garran choosing the wrong photograph for his work, *Prosper the Commonwealth* (page 120), published in 1958 (one would have thought he would of all people have known the difference) and for Professor Geoffrey Sawer making the same error in his work, *The Australian Constitution* (page 125), notwithstanding at page 122 he includes photographs of all governors-general up to Sir Ninian Stephen.

I acquired my photograph of the actual first federal ministry in about 1975 in a junk shop near the Court of Petty Sessions in Liverpool St in Sydney. It seemed an important piece of history.

It may be that Hopetoun had not created much of an impression. He had been a popular governor of Victoria (1889 – 1895). In 1898 he declined to become governor-general of Canada (the position going to another Scot, the Earl of Aberdeen). Hopetoun took the oaths of office on 1 January 1901, and swore in the Barton Ministry. He left Australia for good, in ill health in late 1902. Interestingly his son, the second marquess was offered the position of governor-general of Australia in 1935, but declined, instead becoming



The second Barton ministry, as published in *Bar News* Summer 2008/2009



The first Barton ministry

viceroys of India (1936 – 1943).

I have, by the way, had my photograph taken out of its frame, multiple copies have been made and I will be sending several to the Archives.

John Sackar QC

*** Any failure to detect the pictorial error was not the failure of Ash but that of the editor, who is pleased (but surprised) to find himself in the company of Sir Robert Garran and Professor Sawer.**