



Bar News was first published in the winter of 1985, edited by Ruth McColl. Its advent was welcomed by then president, Murray Gleeson, in a column titled 'What the Bar Needs'. He commenced by noting a plan to replace the carpet in the Bar Common Room and went on:

There is reason to believe that funds for such lavish expenditure will soon be available. However, the answer to all our problems does not seem to lie in interior decoration. If, however, an appeal is directed to the mind rather than to the senses we may achieve a result. That is the idea of this publication.

It is hoped it will provide, on a different level, some of the facilities of the Common Room: a medium for scandalous information; an occasion of privilege for defamation; and a forum for ideas about the Bar.

What the Bar needs is a good free journal. The people who have participated in this enterprise are to be congratulated. Its success could be important to us all.

Under Ruth McColl's long-standing editorship *Bar News* was indeed a great success, becoming the journal of record of the NSW Bar, by the NSW Bar.

Its reputation was burnished and enhanced by its subsequent editors (in order) Justin Gleeson, Andrew Bell and most recently Jeremy Stoljar. Under their leadership *Bar News* established itself as one of the great institutions of the bar.

As the incoming editor I intend to carry on where the previous editors left off, encouraging legal writing and analysis of the highest order. I also want to return *Bar News* to its roots, with a renewed focus on the current state of the New South Wales Bar and its increasingly diverse membership. As the journal of record for the NSW Bar, *Bar News* should record what the bar was, what it is, and perhaps most importantly as a forum of ideas, what it can be.

As this is the summer edition, there is a focus on some great reading to enjoy over the holidays, including some fascinating book reviews and excerpts from two recent books.

We are pleased to publish the full text of Chief Justice James Allsop's brilliant 2017 Sir Maurice Byers Lecture. In thoughtful and beautiful prose, Justice Allsop examines the concept of what it means for the law to reflect human values, by reference to a wide variety of areas of law.

Arthur Moses has written an excellent president's column examining the importance of adequate representation for defendants in criminal proceedings, and the impact of inadequate funding of legal aid in NSW.

Other legal analysis includes an article of great practical value by Mark Brabazon, the chair of the Bar Association's Costs Committee, which examines when cancellation fees can be charged, and when perhaps they should not.

Anthony Cheshire returns to consider again when criticism of the judiciary amounts to contempt, in a fascinating examination what happened when three federal government ministers described the Victorian Court of Appeal as 'divorced from reality' and 'hard-left activist judges'.

It is important to look back at how the bar has changed, for worse and for better. In this edition there is a wonderfully entertaining piece by Keith Mason that examines the intersection of art and the bar, principally between 1935 and 1949 when Sir Frederick Jordan was chief justice (nicknamed 'Frigidaire Freddie', he was said to give his wife a cold whenever he got into bed). The article reveals how views that are now rightly regarded as repugnant were, at the very least, tolerated by leading members of society.

Kate Eastman, Sophie Callan and Aditi Rao examine another form of ugly conduct at the bar, in their thoughtful article on sexual harassment.

Each of us can no doubt recount observing or experiencing sexual misconduct at work – for many it involves witnessing conduct directed at a woman in our presence.

I recall my first meeting with a member of the New South Wales Bar. It was 1989. I was one of a number of College of Law classmates who had gathered at the end of the course to congratulate one of our fellow graduates

who, unlike us, had made the brave decision to go straight to the bar. It was a Friday afternoon, and as we gathered in her tiny room to celebrate her new career we were unexpectedly joined by a much older member of her new floor. He had heard some noise and wandered to the doorway. He looked around and announced to no-one in particular in a booming and slurred voice 'Geez, you've got big tits, haven't you?'. Finding that his amusing repartee was not engendering the usual positive reaction, he wandered off. My colleague left the bar within 18 months.

It is hardly Harvey Weinstein territory, but as the article by Kate Eastman, Sophie Callan and Aditi Rao records, conduct like that,



and worse, has been consistently reported at the New South Wales Bar. Their excellent piece, subtitled '... the bar cannot be the last bastion where sexual harassment and assault is countenanced in the workplace', examines the consequences for the bar generally, and perpetrators in particular, of engaging in acts of sexual harassment.

An important aspect of *Bar News* is to publish pieces that depict current life at the NSW Bar, in good times and bad. In this edition you will find two pieces by Kylie Nomchong that record both ends of that spectrum. There is a short note that records the long-standing successful bench and bar lunches that Kylie has organised for many years. There is also a serious piece that discusses the concept

of 'vicarious trauma', which occurs when barristers in the course of their practice are exposed to trauma suffered by others. Kylie discusses ways that barristers can deal with the feelings of hopelessness and despair that can be experienced after doing such work.

The Bar Association is active in many areas through its committees. It is important that *Bar News* record their activities. To that end this edition starts by including reports from



WHAT THE BAR NEEDS

In the early part of this century an American Vice-President, Thomas Riley Marshall, rescued himself from the obscurity that usually overtakes holders of that office by observing: "What this country needs is a good five-cent cigar."

In one respect time has not dealt kindly with his proposition. Changes in the value of money have produced the result that a five-cent cigar would today be a disgusting article, quite unlikely to be made of tobacco.

Worse still, the recreational practice to which he referred is now widely regarded as acceptable only when indulged in by consenting adults in private. The ash-tray is as useful in polite company as the cuspidor.

Nevertheless, the homespun wisdom underlying the thought is to be admired. It is based on the recognition that to complicated problems there are often simple solutions, and that the remedy to public difficulties may be found at a more private level.

The problems of the bar in 1985 are more than sufficient to tax us. We know well enough what we do not need.

To identify our enemies and declare them anathema would be emotionally gratifying, but politically unprofitable. A more positive solution may be to concentrate upon a revival of our corporate spirit.

A new carpet in the Bar Common Room (tastefully furnished in the style of former President McGregor, indulgently elaborated by Meagher QC, and now in a state of aesthetic collapse) might draw more members to a central meeting place.

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A.M. GLEESON

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the Young Barristers' Committee and the Technology Committee.

There are few things that will have had and will continue to have a more significant effect on practice at the bar than the advent of technology. It was ever so. In the first edition of *Bar News* in 1985 Chief Justice Sir Laurence Street wrote an article titled 'Computerisa-

tion: our servant not our master' in which he said: 'there is room for justifiable fears that the day-to-day administration, and even more importantly the development, of the law may be crushed under too great a weight and proliferation of decided cases being fed into the data base'.

In the second edition of *Bar News* R H Macready wrote a lengthy piece titled 'Computerised legal data bases; Something useful, or a gimmick?' which concluded by opining that computerised data bases 'may well become a useful tool as a different means of researching topics' but 'the likelihood of them supplanting existing data bases is somewhat remote'.

In a more positive take on technology and its effect on the bar, in this edition Ting Lim discusses a number of changes that the Bar Association's new Technology Committee is working on, while I have written an article on using a tablet in lieu of hardcopy briefs.

Bar News will continue to be the journal of record of the NSW Bar. To that end it is appropriate to record our 46 newest members who graduated from the Bar Practice Course in February, including 21 women. It is also great to include a photo of the October 2017 silks.

As noted, as this is the summer edition there is some great light reading as well. Richard Beasley and Justice Michael Pembroke were both good enough to allow us to publish extensive excerpts from their recent books.

Geoffrey Watson has penned the amusing and true tale of Lord Trevethin, lord chief justice of England, who learnt about his resignation when he read the announcement in the Times.

Kevin Tang gives us the history of the Star Chamber, explaining why that expression came to mean the exercise of power without regard for personal rights or liberties.

The Furies continue to provide agony-aunt-like advice to the worried barrister, while our new column *Advocatus*, questions why readers are encouraged to charge far below commercial rates.

There are some interesting book reviews, including Justice Robert Beech-Jones' review of *The Trials of Justice Murphy* by Stephen Walmsley, and Carolyn Dobraszczyk's review of *The Charles Manson Murders* by Simon Davis, a book of particular interest perhaps as Manson died as this edition was going to print.

I am keen for *Bar News* to be both accessible and enjoyable to read and to that end we have altered the style and started to include more illustrations, cartoons and photographs. Illustrators and photographers of the bar are encouraged to contribute to future editions. And while I am calling for volunteers, *Bar News* is of course no more than the sum of its contributors. Do not feel that you have to be a member of the Bar News Committee or an invitee to be able to contribute. If there is an issue that you think you can express

elegantly, amusingly or poignantly (or better still, all three) drop me a line. At its essence *Bar News* should be the home of brilliant writing, and while one might not discern this from the content of some of our submissions, I am confident there is no better place to find brilliant writers than at the NSW Bar – so take a few hours off and write something interesting.

Finally, I would like to thank a number of people who have assisted me take my first steps as editor. First, Jeremy Stoljar, who was such a wonderful editor, and who was good enough to spend considerable time assisting me to understand what is needed. Second, I give thanks to the members of my committee who have been a great source of ideas, a solid sounding board and who have individually greatly contributed to this edition. Finally, I would like to thank Chris Winslow of the Bar Association who, working all hours, has patiently steered this edition to the printer.