

## THE FIRST FIFTY YEARS

*Presidential Address delivered to the Law Students' Society of Victoria at the Fiftieth Annual Meeting by Mr. F. Maxwell Bradshaw, M.A., LL.M., April 7, 1937.*

Any view of the history of the Law Students' Society of Victoria must of necessity be incomplete, and no doubt will contain some inaccuracies, for memories can hardly provide perfect records of what occurred, say, forty years ago. My sources are the daily press, the second and fourth volumes of the minutes (officially known as Volumes I and III), memoranda and letters in the possession of the Society, and of several former members, *The Summons* (the Society's magazine at one time), and finally the personal recollections of a number of members of the legal profession who were, at one time or another, actively associated with the Society.<sup>1</sup>

Unfortunately, little is known of the foundation of the Society. In 1887<sup>2</sup> a number of articled clerks formed what was known as "The Articled Clerks' Law Debating Society." The proceedings at the initial meeting, the number present and the business transacted is unrecorded and long forgotten. All we can say definitely is that the Society was founded early in that year, and that the original Committee, as stated in the printed rules, were: President, A. P. Blake; Vice-Presidents, G. W. G. Butler and T. P. Derham; Treasurer, W. McGregor; Secretary, C. E. Gardiner; Committee, A. Cameron, F. Loader, R. Beckett, J. FitzGerald, B. Kidson, J. M. Finlayson and H. W. Hunt. One other whom we know to have attended the initial meeting was the present Mr. Justice Starke.

During the first year of the Society's existence, Dr. Hearn was Dean of the Faculty of Law, but there is no record of his associating himself with the Society. From the beginning it appears that debates on hypothetical legal problems were conducted much in the same manner as at present. When Professor Jenks took charge of legal education he cast a spell over the Society, and it became predominantly absorbed in the serious side of life. However, as we shall see, this did not mean that frivolities were altogether excluded. On April 24, 1890, the Society sufficiently unbent to amend its constitution for the purpose of permitting debates on other than legal subjects. Somewhere about this time the name was changed to "The Articled Law Clerks' Society."<sup>3</sup>

September 1, 1891, is a red-letter day in our history, for then appeared the first issue of *The Summons*. Mr. F. J. Tucker, whose brilliant career closed with an untimely death, was Editor, with Messrs. C. J. Ahern and J. FitzGerald as Sub-Editors. This sixteen-page journal was clothed in a yellow cover, depicting an angel with a

1. Among those who have supplied me with information, I am especially indebted to Messrs. J. FitzGerald, F. C. Purbrick and W. F. Weigall for their great assistance, willingly given, in tracing the history of the Society.

2. Minutes of Annual Meetings held between 1894 and 1895; Annual Reports dated 20/2/1890 and 4/2/1896.

3. The third Annual Report, dated 20/2/1890, uses the old name. Early in 1891 the new name was definitely in use.

trumpet, over which was the motto, *Justitia Ante Omnia*. In December, 1892, a much more ornate cover in green was produced, with the same supernatural figure on the left-hand side, pointing a young undergraduate to a Judge writing with a quill.

When *The Summons* was issued the legal community was very disturbed as the result of a Bill in Parliament to amalgamate the two professions of barristers and solicitors. The Bill was fostered by misinformed idealists, who imagined that, after its passage, barrister and solicitor would mean the one thing, and legal costs would be halved. The Articled Law Clerks' Society was moved to righteous indignation, and took a strong stand in opposition to the Bill. It even went to the length of petitioning both Houses of Parliament. The Society's idea of its own importance may be seen from the Fifth Annual Report: "A petition was presented by the Society against the Bill, as well as by the Bar and the Attorneys, but without effect." Some amusement was caused by the fact that two of the most prominent members, Messrs. Starke and Hotchin, both, of course, destined to be solicitors, made use of the amalgamation to join the Bar—perfectly consistent conduct in that there never was objection to facilities being created for transfers.

While it opposed amalgamation, the Society was willing to do its best to straighten out the tangle which amalgamation had caused. To this end, after some setbacks, it obtained the passage through Parliament in 1894 of an amendment to the Legal Profession Practice Act 1891, by which an interpretation clause was added to remove ambiguity in Section 11, Sub-Section 2, of that Act. This should give us some indication of the standing of the Society in those days, and its sense of responsibility as regards the interests of the profession.

Amalgamation was not without its effect on the Society. Hitherto it had been for articled law clerks who were to become solicitors. Those destined to be barristers pursued the University course. Following amalgamation, it was felt, if the Society were to continue on a truly representative basis, those entering the profession by either course should be eligible for membership. Accordingly, on July 28, 1892, the necessary alterations were made in the constitution, and the name was changed to "The Law Students' Society," the words "of Victoria" being added possibly about 1905.

But before we leave the old Articled Law Clerks' Society it should be mentioned that the Supreme Court prizes were originally given as the result of that Society's efforts. When founded, one of the first matters considered was the fact that there were no prizes for articled law clerks. The matter was raised again in 1889, and in 1891 there was a most interesting correspondence between Chief Justice Higinbotham and Mr. Justice a'Beckett, on the one hand, and the then Secretary of the Society, now Mr. Justice Starke, on the other, as a result of which a scheme of prizes for articled clerks was drawn up. The first winner of one of these prizes was Mr. S. A. Ralph.

During 1895 the manner in which the Supreme Court prizes were awarded caused considerable discussion on account of new regula-

tions which had been drawn up for admission to practise. Proposals by Messrs. Brahe and Lucas, that the rules for the allocation of the prizes be altered, met with vigorous opposition from Mr. Starke, who described it as preposterous that the Society should take the matter up. Looking back, it is not without interest to note the vigorous and outspoken attitude taken up by the Society whenever its interests were affected.

The most valuable source of information as to the Society is the old minute book, dating from 1893. In it are pasted the notice papers for meetings—just the same size and style as those which summoned you here to-night. On the earliest of these we have Mr. S. K. Hotchin billed to justify suicide, and Mr. C. J. Ahern as one of the counsel to argue the legal problem to be debated. The first page of the minutes reminds us of the times through which the community was then passing. It records the meeting of May 25, 1893. At this meeting the Treasurer reported that £2/15/2 was credited to the Society in the City of Melbourne Bank, which had stopped payment, and then are added the words, "he having drawn out the greater part of the Society's funds previous to the suspension." The Treasurer who had this financial sagacity is now Sir Arthur Robinson.

One amusing feature of the meetings in the middle 'nineties is that the notice paper usually contained two subjects—one a debating subject and the other a legal problem. This resulted almost invariably in the following minute being inserted: "Owing to the lateness of the hour, the debate on the second subject was postponed."

We do not know the original meeting-place of the Society. In 1892 it met for the Fifth Annual Meeting at the Thistle Café, Little Collins Street. The frequently changing venue included company board-rooms, the Port Phillip Club Hotel, Rubira's Café and the Vienna Café, until in June, 1925, it was decided that the use of this room should be obtained from the Law Institute of Victoria.

Turning to some of those who were prominent in the Society during its first fifteen years, the original President, as we have stated, was Mr. A. P. Blake. In 1889, Mr. A. B. Mallam held that office. In 1891, Mr. A. C. Destrée, whom we first hear of as Vice-President in 1889, was in the Presidential chair. Mr. Destrée was one to whom the Society owed much. He was noted for his polished manners and immaculate dressing. Little did the meeting which in February of that year elected as his successor, Professor Harrison Moore, recently arrived to occupy the chair vacated by Professor Jenks, realize that it was electing one who was to be world famous as a constitutional lawyer. Of him, Mr. F. C. Purbrick, of Wangaratta, writes: "He was very regular in presiding at our meetings, and I do not think the debt the students of those years owe to him has ever been sufficiently acknowledged. It was not merely the illumination of his lectures, but the very real and kindly interest he took in us all, ever ready to help and advise." Professor Moore remained President till 1901, when at his suggestion the present system of electing Presidents from those recently admitted to

practise was adopted, and Mr. H. C. Winneke, now a Judge of County Courts, was elected.

The most notable Vice-President during this period was Mr. Joseph FitzGerald, one of the founders of the Society, and one whom it has been our privilege to have had associated with the celebration of our Jubilee. Mr. FitzGerald was Vice-President from 1890 or 1891 until 1901, and during that period rarely missed a meeting. It was he who, by correspondence, kept the Society in touch with many kindred bodies, not just in Australia, but overseas as well.

In the 'nineties the Society was most fortunate in its Secretaries—a fact frequently testified to by resolutions recorded in the minutes. In 1891, Mr. H. E. Starke was Secretary. During his period of membership he was the most prominent person in the Society. After being admitted to the Bar he still attended meetings, and was frequently styled "the member for Selborne Chambers." One thing on which former members are unanimous is that, if ever there was a fight, he was in it. Mr. M. M. Phillips, now Master-in-Equity, was the next Secretary. He was succeeded in 1893 by Mr. W. F. Weigall, and he in turn by Mr. F. C. Purbrick, from 1894 to 1896.

As to some of the early incidents, as far as I can tell, it must have been about 1890 that the uniforms of two Carlton policemen were borrowed by two members for use at a smoke social. At the conclusion of the social these two gentlemen, being very happily disposed, proceeded to arrest all and sundry in the street outside. This continued until they were arrested, and so spent the night. Next morning preparations were made for their liberation. Not only the members of the Society, but nearly the whole University, paraded outside the old City Court. Traffic was congested, and for a time the tramlines were blocked. The Leader of the Bar, Mr. Purves, Q.C., with him Mr. Coldham, appeared for the defence. The great Q.C. felt that the immense throng, both inside and outside the Court, was not altogether calculated to assist him in his advocacy, and in characteristic fashion, but without result, gave expression to his views. Despite this impediment, the Court was persuaded to acquit.

Next the Society had to restore the uniforms to the two Carlton policemen, who, for their act of generosity, were being widely sought by police headquarters. While the inquirers were held off by a Secretary much too astute for them, another member succeeded in returning the clothes to their rightful wearers.

Rumour has it that, because of this episode, certain members felt that justice was not what it ought to be—whether because the two pseudo-constables were arrested, or because they were discharged, I am unable to say. In consequence, it is said, the Society was provided with its famous banner—an embroidered silk figure of Justice holding very unbalanced scales, one hand lifting the bandage off an eye for a sly peep.

The banner remained as a treasured possession of the Society until the theatre night at the old Alexandra. The Society occupied the gallery. Under it was the dress circle, which projected somewhat

over the stalls. Over the edge of the gallery the banner was hanging. The performance thoroughly displeased the audience, and was repeatedly interrupted by considerable uproar. One actor, upset by the cat-calling he was receiving from the gallery, was foolish enough to tell the members of the Society to behave themselves. A body which had held up the traffic of Melbourne on one occasion was not going to stand this treatment! Vengeance must be had, and a speedy vengeance, too! Fortune was on the side of the Society that day, for a large canvas cover, used to protect the seats when not in use, was found rolled up at the back of the gallery. Quickly this was carried to the front, and flung over the rail, so as to completely envelop the dress circle. In so doing the Society did not wait to effect a recovery, but, under cover of the general pandemonium, made as dignified an exit as was possible in the circumstances.

This, however, was not the last that was seen of the banner. For the minutes of the meeting of November 23, 1901, record that Mr. Embling stated that the banner was then in his possession, and desired to know to whom he should hand it over. The Secretary was appointed to receive it. Its eventual fate is not known.

On August 8, 1895, there took place the most famous meeting in the history of the Society, when Mr. J. L. Purves, Q.C., delivered an address entitled "Reminiscences of the Bench and Bar." Such was the excitement that admission had to be strictly by ticket—the profession, the members of the Society, and a limited number of their friends being invited. A hint from Mr. Coldham caused all invitations to ladies to be withdrawn. Professor Moore presided—in those days, extremely youthful-looking, pedantic, precise, and in manner very English. The Athenæum was packed with about 300 persons. Judge Molesworth sat in the front row. This was the setting in which, for three hours, the Leader of the Bar delivered a most Rabelaisian lecture. As he proceeded, the chairman's manner became colder and colder, his lips screwed up more and more, and no one was more relieved when the end came.

In those days the Society had a library, "very conveniently situated," we are told, "on the Block." It originated as the result of Messrs. Fox and Overend presenting the Society with three volumes. Mr. H. A. Darvall, of Messrs. Darvall and Horsfall, was Librarian. Not only did the Society have a library and a Librarian, but on July 28, 1892, a very elaborate set of rules dealing with the library were added to the constitution. Further, there was a set of equally elaborate regulations made by the Library Committee, exercising powers given by the rules. Lastly, there was a printed catalogue containing the rules, the regulations, the names of the Librarian and his assistant, and a complete list of the volumes in the library—the whole fifteen of them, and the two on order! What has become of the library is a mystery.

The quarterly issues of *The Summons* give very faithful reports of the Society's meetings. Among these we note that it recorded that on February 24, 1898, Prof. Jethro Brown, then of the University of

Tasmania, attended a meeting of the Society. An earlier number states that Professor Moore was "practically admitted to practice, the only condition being that he should satisfy the Judges as to whether he had sufficient knowledge of the Statute Law of Victoria." During the late 'nineties, among the names most frequently mentioned in *The Summons* are those of the present Chief Justice of Victoria, Sir Frederick Mann, and Mr. Justice Macfarlane.

Despite the fact that the magazine well maintained its initial high standard it was never financially a success. For the first few years Messrs. Harston, Partridge & Co. printed it for £2/10/- an issue of 200 copies. Yet in one year the total subscriptions for the year only amounted to £2/10/-. *The Summons* was only saved from extinction after the publication of its fourth number by the poem, "A Dream of Fair Judges," by the late Gavan Duffy C.J. This poem not only had the immediate effect of increasing the circulation, but twice on later occasions was reprinted and revived the magazine at critical times.

While on *The Summons*, I cannot resist quoting portion of its report of the annual meeting, 1893: "The first peg upon which to hang a speech was an innocent-looking motion by Mr. Hopkins, that the Committee's report be taken as read. Mr. Starke attacked the Secretary's (Mr. Phillips) figures in regard to the members of the Society and sundry minor points which were replied to by interjection, but he was not able to be really happy until Mr. Tucker had spoken. Mr. Tucker had, when Editor of *The Summons*, denounced the Amalgamation Act in no measured terms, and even admired the attitude of the Bar Association. In a recent number of *The Summons* Mr. Tucker saw a leader complacently tolerant of that revolutionary measure. Naturally, the former editor felt that the policy of the magazine had become weak and vacillating, and naturally also, Mr. Starke seized the opportunity to attack the Government. . . . Then Mr. Starke further relieved his abundant energy by giving in a notice of motion to the effect that the final examination was not stiff enough."

We now approach the reorganization of the Society in 1901. Hitherto, its main strength had come from articulated clerks and newly-admitted members of the profession who had completed the articulated clerk's course. The University had not been strongly represented. Gradually, however, towards the end of the century, fewer new members were brought in from either source of supply, and the Society was fast becoming a gathering of younger members of the profession. These in turn began to drop out in the ordinary course of events, and as a result the year 1900 was a very barren one for the Society. Five of the ten meetings lacked a quorum. In 1901 the annual meeting was postponed while overtures were made to the University students. As a result of a joint meeting, where, incidentally, the present Chief Justice, Sir John Latham, the leader of the University delegation, somewhat shocked the older members by venturing to be severely critical of the views of Mr. Justice Starke, an understanding was

reached, the whole committee resigned, two secretaries were substituted for one, and the subscription was reduced from 10/6 to 5/-. It was not, however, till September 26, 1901, that the first legal debate for the year 1901 was held.

In 1902, when the present Chief Justice of Australia was secretary, he reported that the active members were almost all newcomers, showing the great breach with the past that had been created.

*The Summons* went more or less on its own way after the reorganization. Its later numbers are not very interesting. There were few articles, little news, and that rather wooden, and on May 1 the last number appeared of this magazine, which had, by then, become mainly a digest of recent Victorian decisions.

The history of the Society becomes now less colourful. We have no minutes to provide interesting details. No magazine was published. The fact that not many were entering the profession somewhat confined the scope of the Society, and the activities for the year usually consisted of about eight legal debates, the annual meeting, and a lecture.

In 1905 a new constitution was drawn up. The printed edition is signed "Harold Cohen, President; Francis P. Derham, Secretary." In 1909 Mr. Justice Dixon was Secretary. About that time the holding of an annual ball was commenced. During this period Justices Lowe, Duffy and Martin, of the Victorian Supreme Court, were active members of the Society.

Records are scanty as to the years that follow. We know that one who did a great deal for the Society at this period was the Right Hon. R. G. Menzies, who was President for 1917-1918 after being Secretary for some time. Coming on to 1922, when Dr. Coppel was President, the question of opening the Society to women was raised. Many and fierce were the debates on this topic. Eventually, the feminists won, and women were admitted. For a short time several women students became very active in the Society, but soon it lapsed back into an all-male organization, except for occasional breaks, when a few women students would attend a meeting.

At this stage social events were coming into prominence again, and the annual ball received, it would seem, a somewhat disproportionate amount of attention at meetings. Nevertheless, serious matters continued to have chief place. A number of the anecdotes concerning this period will have to be left for some later chronicler to record, for obvious reasons.

The present volume of the minutes dates from September 9, 1924. At that time, about £80 used to be spent on the annual ball, for the running of which novelty, decorations, finance and programme sub-committees were appointed. In those days the great problem facing those running these functions was to obtain a supply of "wonkers," which I understand to have consisted of portion of the anatomy of a pig attached to a stick.

Another revision of the constitution took place in 1924, after the committee appointed for this task had spent an extraordinarily lengthy

time in preparing its report. During the same year the publication of a magazine was considered and rejected on the recommendation of the committee—in this Society the recommendation of the committee being almost invariably accepted.

In 1926 Mr. Gamble, then President, instituted the practice of the President giving a prize of two guineas for forensic oratory.

The name of Mr. Harold Holt, now member of the House of Representatives for Fawkner, which appears as President in the list of office-bearers for 1932, reminds us that several former members have entered Parliament. Among these are the Hon. H. I. Cohen, Hon. F. W. Eggleston, Mr. T. D. Oldham and Hon. W. Slater.

In 1933, an innovation was made by the introduction of a criminal trial—now an annual affair. A crime was committed and witnesses of the event gave evidence at the trial before the President and a jury.

I hope that the consideration of the events of the past may lead to the growth of tradition, which, in our small way, after the manner of the English Inns of Court, will do something to impress on each succeeding generation of lawyers, that we who have an exclusive right of practice have also a corresponding duty to maintain a high standard of professional conduct.