

# MEMORIES OF HICKSONS

By The Honourable Justice Michael Kirby AC CMG

Tuesday 1<sup>st</sup> April, 2008

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Our ref: Memories of Hicksons



## MEMORIES OF HICKSONS

**The Hon Justice Michael Kirby AC CMG**

### **O'CONNELL STREET**

My encounter with the law firm Hickson, Lakeman and Holcombe ("Hicksons") lasted a little more than a decade. It began accidentally. I had completed my law degree whilst articled to Ray Burke (resurrected as an acting judge of the Compensation Court of New South Wales) in the small Sydney solicitors' firm of M A Simon and Co. I completed my articles of clerkship there when, despite good academic attainments, I was rejected by all the big firms to whom I had applied. In those days, even more than today, the legal profession depended upon whom you knew, not who you were. My family had no connections with the law. Examination results were not, alas, enough to make sure you got on.

Towards the end of my articles, in 1961, the principal of the firm, Maurice Arthur Simon, offered me a position as a partner in a new office he was planning to open in Newcastle. I had hardly ever gone beyond the perimeters of Sydney and then only on circuit to the country towns where the Compensation Commission cases took me. So I declined this offer and began the search for my first job as a solicitor.

Ultimately that search was crowned with success. John Bowen, principal of the respected Sydney firm of Ebsworth and Ebsworth, offered me a job. I had images of myself as a leader in maritime and shipping law - the work that Ebsworths did in abundance. The very name "admiralty" seemed to be beguiling. I therefore thought that it was in keeping with my own aspirations for a life of importance and dignity. These happy fantasies were soon to be shattered. The Menzies Government went to the people on 9 December 1961. The Government was defeated, the Coalition losing 14 seats and just clinging to office. Several of their stalwarts lost their seats. One of these was the Honourable Fred Osborn CMG, federal Minister for the Navy. He lost the seat of Evans in Sydney. His misfortune became my calamity. Mr Osborn was a partner in Ebsworths. He hurriedly announced his return to legal practice. Apparently



there was no room for both of us. The job offer to me was withdrawn. I still wonder whether I have a legal cause of action against Ebsworths for breach of promise. But for the hand of fate, I might well have become a leading expert in admiralty law. That was not to be.

It became essential and urgent for me to look for a new employer. Time and my articles were running out. I was becoming anxious. But in those days of full employment, no young lawyer was left on the shelf for long. Work was in abundance and I did not feel that I would be unemployed for long. On the Saturday morning after Ebsworths withdrew their offer I looked in the *Sydney Morning Herald* amongst the positions vacant. There in the section still called "men and boys" was an advertisement by Hicksons for a solicitor. I do not remember its exact terms. I think it might have referred to Mr Holcombe's idea that the new recruit should become a kind of in house advocate. In any case, I circled the advertisement and several others. I telephoned the given number to make an appointment.

Late one sunny morning in January 1962 I walked across O'Connell Street from the office of M A Simon and Co at number 26 to the opposite side (I think it was 13 O'Connell Street). There on about the fourth floor, I was ushered into a new world. It seemed so much larger, more spacious and sunny than the dark side of the street in which I had served out my articles. The open office space gave way to a large office with windows opening onto the street in which sat a small wiry man with shirtsleeves rolled up and a pugnacious expression on his face. This was Bruce Andrew Holcombe. He had a minor speech impediment. He stumbled over words, as if his mind was always racing ahead of his tongue. He also seemed to be full of boundless energy, constantly shrugging his shoulders as if bristling for a fight. In fact, as I was discover, he often did bristle for a fight. Happily, never with me.

Mr Holcombe (it took many years for me to call him "Bruce") explained the job he had on offer. It involved taking over a tiny litigious practice and providing advice on a wide range of legal problems that arose in the firm. He explained that the Hicksons was mainly engaged in land title conveyancing. Much of the work of the solicitors was for Finance Corporation of Australia ("FCA"), a big mortgage finance company. This was Hickson's bulk business. It was very profitable. Mr Holcombe did not want



the solicitors engaged in that business distracted in the slightest way by having to worry too much about the law. Not in the least. The law was not their concern. Their concern was conveyancing and making money. I received a distinct impression that Mr Holcombe was a kind of entrepreneur sitting on the top of a large pile of conveyancing with the occasional and irritating distraction of legal problems. This is what he wanted to get away from. A bright young solicitor was the solution.

He also made it clear at the outset that he hated barristers. Only later did I learn that, after war service, Bruce Holcombe had attempted to practise at the Bar for a few years but without success. Whether it was the scar of that experience or intellectual conviction, I cannot tell. But Holcombe had no respect for the Bar whom he regarded as money grubbing selfish bandits. Given his own apparent interest in making money out of land conveyancing, it always seemed to me a case of the pot calling the kettle black. But Holcombe's intense and oft proclaimed dislike for barristers was to be my opportunity.

Holcombe was a man of snap judgments. He was also a very clever man. He had graduated with First Class Honours from the Sydney Law School. He always had a high respect for intellectual achievement. He was a good lawyer but one who had grown bored with the law. Now his love was property development, making money and running a big, successful and efficient law office. It was a seller's market for young solicitors. Holcombe seemed impressed that I had been engaged in student politics and was, at the time, President of the Students' Representative Council of Sydney University. He was a quirky man who, whilst pretending to have contempt for idealism was actually quite interested in the notion of public service. This was later to exhibit itself in his support for the work that I and our team at Hicksons were to do for the New South Wales Council of Civil Liberties. It was also revealed in Holcombe's later work as a member of the Council of the Law Society of New South Wales.

Holcombe offered me the position. I accepted. He immediately introduced me to Roger Lakeman, his business partner. Lakeman was quite a contrast. He was a larger man and seemed swarthy with fading good looks and, as I remember, a beautiful voice and fine dark eyes. He was extremely smooth in every way. He was also a



good lawyer. His field of expertise lay in land law. I remember how he would take off his glasses which were large and dark rimmed and would look at title deeds or other conveyancing documents squinting his eyes in the process. Then he would produce a flow of legal advice which appeared to be of a very high order. Lakeman was a somewhat more civilised man than Holcombe. Indeed, I considered that he was far more civilised than I. He was keenly interested in art and music. I received the distinct impression that, by 1962 he too was bored with the law. But like Holcombe he saw it as an adjunct to a busy life of land conveyancing and property development.

There were various notables from FCA and property companies who would wander into Lakeman's offices. They were precious visitors. Lakeman seemed very happy with his new recruit. And so it was settled. They did not appear to trouble the third partner, Charles Spice, about my appointment. Mr Spice was a man with impaired vision who seemed to live in his own little world. He had a few clients who were also involved in the business of conveyancing. Holcombe, Lakeman and Spice were an unlikely trio. In fact, as I look back, I cannot see that the first two had much in common with the third. Spice always seemed to be on the outer. But Holcombe and Lakeman were like twins. Their different personalities appeared to complement each other. They were like the classical pair of policeman known to every criminal lawyer - the old soft and hard. Lakeman seemed a softie. Holcombe seemed hard. In reality, as I look back on it, I suspect that the opposite may have been the case. Holcombe, as I was to find, had a warm heart. To those whom he liked and respected he was almost boundless in his generosity.

### **CASTLEREAGH STREET**

I had a vision that I would at least be sitting in an office on the sunny side of O'Connell Street. But it was not to be. I went with Holcombe to an old office on the third level of number 10 Castlereagh Street. It was one of those narrow buildings with a stone facade that boasted two large bay windows and a central section with cheap glass and timber panelling. I occupied the central section. In the bay window on my left was Miss Yvonne Patterson. She was the sole female "partner". But she was not a true partner at all. She was simply on the letterhead, seemingly for



appearance's sake. The room with the right bay window was occupied by Mrs Foley, who was Miss Patterson's sister. I am not sure whether, at that time, she was admitted to practice or was a law clerk. In any case, I had little to do with them or with Ian Butcher who was a clerk working for them in this adjunct office of the conveyancing factory of Hicksons.

My work was to cultivate the promising field of litigation. I brought with me the expertise, and all the tricks, of having worked on the opposite side in compensation battles for the worker. Now I was engaged on the side of insurers. Occasionally a trickle of plaintiffs' or workers' cases would come my way, either from friends or contacts that I had or through the special legal service which the Commonwealth had established after the War for returned servicemen. Bruce Holcombe had connections with this agency, being a returned serviceman himself. But this was a small flow.

My chief work was to attend to the litigation that came in from Prudential Insurance Co. That was the company that Holcombe had secured before my arrival because of his connections with the general manager, Mr Hugh Tattersall. Tattersall was a distinguished and extremely well dressed man whom I always met in Holcombe's presence. Holcombe kept that connection very much to himself. The flow of work from Prudential was quite small. There was a small amount of workers' compensation work. Occasionally, very interesting problems of insurance law would come forward. I learned a very important lesson in acting for insurers. Sometimes I would prepare my learned advice for Prudential. Calling upon precedents high and low from England, Australia and everywhere else, I would suggest that the claim should be dismissed and contested in court. Mr Tattersall and Joe Schembri, his claims manager, would thank me most courteously for my advice but then instruct our firm to settle the case. Repeatedly they made the point that though the law might be on their side, considerations of commercial morality dictated that they should pay the claim. Although this was not a universal rule, it was common enough. It has affected my view of insurers and insurance law ever since.

The other stream of work concerned problems that arose in the conveyancing factory. Often these were extremely complex and sometimes urgent problems that took me into areas of law with which I was not then much familiar. In such



circumstances when the going got really hard there was but one solution. It was the solution dictated by Holcombe himself. "Brief Morling". Trevor Morling was at that time an extremely busy junior barrister at the New South Wales Bar. He later became a silk and later still a highly respected judge of the Federal Court. He was wonderfully efficient. Any brief delivered to him seemed to be answered within twenty-four hours. His secretary, Miss Perry, would type the advice on thick good quality paper. Back it would come with modest fees, in those days still expressed in guineas. Holcombe would insist that the fees be paid at once. He was always rigorous in the payment of counsel's fees. He did not like the Bar; but he made one exception for Trevor Morling. Other barristers whom we briefed at that time included David Rolfe (later a QC), Harvey Cooper and Brian Herron (later District Court judges) and the irascible Jim Baldock. And all of them had to be paid quickly so that Holcombe could continue his denunciations of them unabated.

The year 1962 went quickly by. Soon the work grew and I was joined by a young lawyer, Geoff Williamson. He gave support in the growing litigation section of the firm. Towards the end of 1962 a couple of new insurers began to send files for the advice of Holcombe's young and promising junior solicitor. Eagle Star Insurance and South Australian Insurance began to engage Hicksons. The files would land on my desk. I can still remember the thrill of seeing a beautiful new file. A new problem. The challenge was partly a legal and partly a commercial one. I set myself high standards. I worked long days and weekends to provide advice of a quality that other firms did not produce. This was how I filled my days. It closed the void left in my personal life.

At the end of the day I would hurry down to George Street to catch a bus to City Road, back to the campus of Sydney University, there to take my lectures in Economics. I was an evening student. This was actually my excuse to keep my oar in the pond of student politics. After a full day in court, and with lectures and student committees at last over, I would walk to Redfern Station to catch the train home. In Concord I found my evening meal bubbling away on a saucepan. No microwaves or take-aways in those days.



In December 1962 the student politicians of Sydney University decided that there was an urgent need to send a delegation of Australian university students to Nigeria. Why, I cannot remember. The delegation was the brainchild of Peter Wilenski, then the up and coming star of the National Union of Australian University Students later to be private secretary to Prime Minister Whitlam and later still head of several federal departments. He and Jeremy Davis (Vice-President of the Sydney SRC) conceived the idea that I should lead this delegation. So, indeed, I was selected. The other members included people who were to go on to fame and fortune. One was John Niland (subsequently Vice Chancellor at the University of New South Wales). Another was Graham Richardson (later a Coalition member of the House of Representatives). Another was Dr V J A Flynn (numismatist and expert in the Persian language). And another was John Clark who was to work for Unilever. To me the idea of going overseas on a Boeing 707 was an astonishing prospect. I had never been much further than Katoomba. I could not resist the proposal. The suggestion was that our delegation would leave in December 1962 and return in March 1963. Whereas this was entirely satisfactory for the languid Summer vacation of university students it did not really fit into the busy programme of a young solicitor.

Nervously I approached Holcombe who had the reputation for a volcanic temper. I told him that I would have to offer my resignation from Hicksons as I had this offer to travel and I intended to accept it. Holcombe's instant response took me aback somewhat:

*"Not only will I not accept your resignation. I want you to go on this trip. You must go. It is a great honour for you. I am going to give you a letter of credit with a bonus. And when you come back, we are going to put you on the letterhead".*

This was pure Holcombe. He was in some ways a hard man. But he also respected diligent work. He liked those who went beyond the mere necessities. He also rather liked my involvement in the activities of university students. Perhaps I was doing something that he had wished he could have done when he was at Wesley College a couple of decades earlier. His rather combative personality would probably have ruled him out for most elected positions. He was always picking fights. But he was a



interested in what I was up to. He never complained about absences for examinations or student functions. On the contrary, he encouraged academic pursuits. He thought highly of those who strove after them.

### **HUNTER STREET**

When I returned from Nigeria, Holcombe was true to his word. I was quickly placed on the letterhead of Hicksons. One by one my added degrees of BEc and LLM joined the BA LLB that graced the Firm's notepaper. In about 1964 Hicksons moved. Holcombe and Lakeman had found a building in Hunter Street at number 42. It was a rather austere place, newly painted in battleship grey. There was a busy sandwich shop on the ground floor and an entrance beside that led to a lift serving the floors on which the partners and solicitors of Hicksons were all now housed together.

Holcombe had one floor. Lakeman was on another. Up at the top was the ill-begotten relative of the conveyancing factory, which was my domain. I had a large office overlooking Hunter Street. Originally we looked out at the fine sandstone building which had belonged to the English Scottish & Australian Bank on the corner of Hunter and Pitt Streets. Up the street I could see the P & O Building with the Tom Bass' new side mural. The bank building later came down and was replaced by the rather ugly construction that stands there to this day. I remember lamenting the passing of the old era for in that building had been found the graceful old offices of Minter Simpson and Co. I remember serving documents there. It had a long office with a wide corridor and beautiful wood panelling. All of this fell to the demolisher's hammer to be replaced by a tall building of indifferent appearance that was to be my view from 42 Hunter Street. Now the battleship grey building has disappeared. Often I walk past and think of the ghosts of times past who laboured there so mightily on problems that seemed so important.

The efficiencies of the new building were notable. It became easier for the firm to be integrated. Any problems that arose on the lower floors were hastily presented to the litigation and advice department on the upper floors. The solicitors who occupied the offices below included Bob English, John McDonald, Gunnar Molltenbeck, David Ross, Ian Bullock, John Connell and Alan Osburg. They lived in a world that I barely knew.



Somewhere in the middle of the building were Diedre Collins and Mr Christie. Diedre Collins was an energetic blonde who marshalled the "girls" in those days before word processors to deliver the typed product with accuracy, speed and efficiency. She and Holcombe were a great pair. Mr Christie was an accountant who was in charge of the firm's accounts. In Hicksons, with its large factory of conveyancing, this was no small thing. Mr Christie, a small overweight man with the classical worried appearance of a banker, kept his humourless mien through all the crises that blew up daily in Holcombe's mind. Holcombe was punctilious about the trust accounts. He was always extremely censorious about solicitors who fell from grace. I imagine that that was why he was later elected a member of the Law Society Council. But that was to be after my departure from Hicksons.

To a very large extent Holcombe left the litigation section alone. Every now and again I would hear of crises and chaos on the lower floors. On one occasion, I remember, a female employee of rather determined personality turned up for work in a pants suit. This would have been in about 1965. Holcombe dismissed her on the spot. He did not have advanced ideas about women's liberation. But in other things, such as civil liberties, he sometimes showed glimmers of idealism whilst pretending to a well-honed disdain. In part, I think that this was because of a fascination with ideas. Generally speaking, they were not backed up by a lot of idealistic passion. The passions of Holcombe and Lakeman, so far as I saw them, were chiefly for real property development in which they were major investors and from which they would gain both legal business and healthy profits.

In about 1966 I became interested in moving from my parents' home. After all I was now 27 years old. The days of evening meals on boiling saucepans were coming to a close. Holcombe recommended the acquisition of a home unit in "Clifton", a building in Kirribilli which was then on the drawing boards. He helped me to arrange the finances to buy my first home. Again, he was generosity itself. I never had to ask him for an increase in my salary. He was always a jump ahead of that. By the standards of the day he paid generously. Although I went on the Hicksons' letterhead, I was in truth no more than an employed solicitor. I had no capital interest in the firm. At the time it must have been one of the most prosperous legal



firms in Sydney. Holcombe, Lakeman and their minor player Spice were not forthcoming with a share of the capital. Lakeman had a son whom he hoped would succeed him. Holcombe had a nephew whose passion was tennis but who, he hoped, would eventually take his place. In those dreams there was little space for the clever young solicitor.

I brought my library into the office in Hunter Street. Holcombe provided the bookshelves. My set of the *Commonwealth Law Reports* was then up to volume 110. Little did I think that by volume 185 I would be writing my own contributions to that series. In the mid-1960s my legal opinions were written for other members of the firm and for clients, mainly insurers. But even then I enjoyed stating a legal problem and solving it.

By about 1965 the number of insurers who were using Hicksons had increased significantly. And the flow of work from those who were already there was also stepped up. Century Insurance sent work and occasionally a file would come up from the Government Insurance Office. But the biggest coup of all was Manufacturers' Mutual Insurance. They were the biggest players in the workers' compensation field. Their work came to Hicksons this way. Their Deputy Claims Manager was John Perram. Unlike most of the claims managers he made it his business to visit the Workers' Compensation Commission and to watch his lawyers at work. By this time, with Holcombe's encouragement, I was doing some of the advocacy in the cases which Hicksons had received from other insurers. Perram rather liked this. One day he telephoned to invite me over to meet Mr Jack McMartin. He was the big claims manager of MMI. I remember sitting in his office in O'Connell Street, nervously anxious to impress the great man, and listening, without interruption, to a somewhat louder and craggier version of Holcombe denounce the legal profession. I had heard it all before. The long and short of our conversation was that MMI was offering me some work. I was assured that if I did it well there would be more. And MMI expressed the hope that I would save them money by appearing in some of the cases myself. It was an exciting prospect. And it was one that fitted neatly into Holcombe's own designs.



By the end of 1965 I was appearing regularly in the New South Wales Workers' Compensation Commission. In those days there were only four judges: Conybeare (the Chairman), Rainbow, Dignam and Wall. My success rates were no worse than the barristers who were retained by other firms - sometimes better. This seemed to impress MMI.

The work became a trickle which turned into a river and then became a flood. It certainly was enough to keep my articled clerk, David Barnett, and me busy. My brother David Kirby, now a judge of the Supreme Court of New South Wales, John Bagnall, now a judge of the Compensation Court, Jim Poulos now one of Her Majesty's Counsel, Ray Waterson, who is a distinguished legal academic and later Alan Blanch and many others kept the work of the litigation section growing wider still and wider. Later still there came other employees who went on to high public service. They included Justice Rod Howie, now a judge of the Supreme Court of New South Wales; Justice Alan Boulton, now a Senior Deputy President of the Australian Industrial Relations Commission, Danny Gilbert, head of a large Sydney law firm and fine supporter of legal education and other community causes, and the Hon Bob Debus, later the Attorney-General for New South Wales.

I had a wonderful secretary, Thelma Smith (later Rea). She was fast, efficient, beautiful and unfailingly pleasant. She must have regarded me as something of a cold fish. I began the habit of a lifetime, working weekends keeping the files up to date. Every Monday Thelma would find piles of work and hours of dictation on the primitive platter recordings which were used for dictaphones in those days before tapes. Those habits have not changed.

Every month I would go through each file and send a report to the clients. This was a way to avoid problems with limitation periods. It also tended to keep the clients happy. I recall one Anzac weekend going through my files. I discovered to my horror that the time for appealing in a case had expired. We had instructions to appeal. The time was fixed as 21 days by special legislation. Generally then, as now, the time for appeal was 28 days. Never will I forget my emotions at this discovery. The blood ran from my face and out of my hands as my mistake came home to me. Back in the



1960s there was a completely different attitude to time limits. The smallest infraction was usually fatal. I was mortified.

On the following working day the notice of appeal was filed. The opponent did not notice the time problem. For weeks I watched anxiously, every day, to see if an application would be brought to strike out the notice as out of time. It was not. This experience taught me that even a conscientious lawyer can sometimes make mistakes. It was another lesson that I never forgot when, as a judge, applications were made to me to excuse small, understandable errors.

### **SEVERANCE**

By 1967, with my years of university and university politics coming to a close, I had some serious choices to make. Feelers had been put out to me by various firms including Taylor and Scott to see if I would return to the fold of plaintiffs' litigation. I had a conversation with Neville Wran, then a barrister, later Premier of New South Wales. He urged me to take the plunge and come to the Bar. I took his advice. I told Holcombe of my plans. He was upset and hurt. Very hurt. It seemed to him a kind of betrayal. Here I was contemplating a departure for the Bar which he despised. It was as if I had decided to worship Satan.

At first Holcombe and Lakeman offered me more handsome inducements to stay with them. Eventually the inducements even rose to a capital share in the partnership. I think they had in mind that I would take a 10% share. I imagine this would have placed me in a position roughly equal to the mysterious Charlie Spice. But by now my heart was set on the move. So I looked around the office in 42 Hunter Street and began to prepare myself for the severance. It was a difficult thing to do. I had built up a very busy practice with many new clients all of whom seemed highly satisfied with their young solicitor with his workaholic ways. Ultimately, Holcombe promised to give me support at the Bar. However, he made it perfectly clear that he would expect preferential treatment in return. On my departure a large number of briefs were prepared which, by sheer coincidence, landed on my desk to keep my early days at the Bar busy. I need not have worried. Before long the table in my chambers was groaning with briefs. The weekends of work became longer. The part that



Hicksons played in my practice became smaller. By the end, it had disappeared entirely. For me by 1974, Hicksons was a memory of the past. The decade had run its course.

Every now and again I would see Bruce Holcombe and occasionally Roger Lakeman. Some time in 1972 Lakeman telephoned me with the news that a very good home unit in Darling Point Road, Sydney was for sale which he would recommend to me. I did not believe for a moment he had a personal angle. He was always very correct and somewhat formal in his dealings with me. I remember that I went through that unit in Eastbourne Towers with Lakeman and with my partner, Johan van Vloten. Perhaps he wondered who Johan was. Perhaps he knew. The purchase did not go ahead. Subsequently he pointed us to *Ranalagh*, further down Darling Point Road. Lakeman was always eagle-eyed about property. I knew that anything he recommended would be a good buy. However, by this time I was well and truly ensconced in the Bar. And not long after, at the end of 1974, I was appointed to my first judicial office.

Holcombe turned up at my welcome ceremony as a Deputy President of the Australian Conciliation and Arbitration Commission. Tom Hughes QC, President of the Bar, bid me welcome with words recorded as "Your Honour is so vain". To this day he swears that he actually said "urbane". Holcombe was to be proud of my work in the Law Reform Commission. He lived long enough to see me well placed in my career in the judiciary. My memories of Roger Lakeman are warm but not so vivid. My memories of Bruce Holcombe are both warm and vivid. His wife Jean was a quiet and homely woman who, I think, had the proper measure of his restless personality and foibles. They had no children. He seemed lost after she died.

The last time I saw Bruce Holcombe he was undergoing chemotherapy at Sydney Hospital. There in his pyjamas he seemed smaller than usual. He had lost the short cropped grey hair. His skin had a yellow parchment colour about it. He was not his old self. But the jaunty vigour of his face and of his energetic movements remained untamed. He was a highly intelligent, very opinionated and often creative lawyer. He gave me handsome chances. He was generous and supportive. When I think of Hicksons, I think of my fellow employees and co-workers, the clients, the claims



managers, Mr Christie, Roger Lakeman and Charlie Spice. But most of all I think of Bruce Holcombe.

### **THE FUTURE**

I would not want you to think that, these memories of the past, indicate that the early days of Hicksons were golden years for the law. Fifty years ago, when the firm was founded, and forty years ago when I joined it, the law was by no means perfect. It was not so good if you were an Aboriginal Australian, denied basic civil rights. It was not so good if you were a woman. There was not a single woman judge in Australia in those years. It was not so good if you were an Asian Australian or a person of colour or a migrant. Nor was it so good if you were a homosexual Australian. Then you were truly oppressed.

We were less questioning about the content of the law forty years ago. Now we realise that lawyers have responsibilities for the content as well as the practice of law.

In the forty years since I was a member of Hicksons, much has changed. Most of the changes have been for the better. But the chief lessons that I was taught by Holcombe and Lakeman remain true today. The practice of law demands high standards of lawyering and fidelity to the client. I often think that my five years as a solicitor, dealing directly with clients, gave me a perspective of the law that is somewhat different from that of many other judges who went straight to the Bar. For me the law was, and is, a helping profession that seeks to solve problems justly. It is not a theoretical exercise to be turned off at the end of an hour's consultation with a client. This is another lesson I learned at Hicksons.

I hope that these lessons continue. Some things will change. The Civil Liability Bill 2002 (NSW) and like legislation limiting personal injury cases and capping recovery promise great changes to civil litigation. Already the legal profession has demanded some alterations. The President of the New South Wales Bar (Mr Bret Walker SC) has indicated that the Premier has agreed to some changes. Old areas of practice



will fall away. The world does not owe lawyers a living. But will new areas of practice take their place?

Thirty years ago, when accident compensation legislation was in the offing in the Federal Parliament, Lionel Murphy, as Federal Attorney-General, met a hostile meeting of the legal profession. He promised that as one door closed on legal practice, another would open. Accident compensation fell with the dissolution of the Federal Parliament on 11 November 1975. But it is true that new areas of legal practice arose. They came in the form of the *Trade Practices Act* (ensuring fairer market conduct), the *Family Law Act* (ensuring a more humane law of domestic relations) and the reforms of administrative law (ensuring legal accountability of Ministers and public servants).

Were those innovations simply the product of the generation of boundless optimism and idealism - of the young people in the 1960s who wore flowers in their hair? Or were they an indication that legal practice always moves to fill a vacuum? Is there the same idealism and dedication to justice today that will create new fields worthy of the legal profession? One that is sometimes mentioned is the enactment of human rights legislation. A cursory glance at the English case books shows the impact which the *Human Rights Act 1998* (UK) is now having on the law in Britain. We, in Australia, are now one of the few countries without the legal discipline of a comprehensive charter of human rights. There is resistance to such laws both at federal and State levels at this time. The dominant paradigm is the free market. Its disciples resist legal intervention. Yet somehow it seems impossible to assert that the role of law and of lawyers will shrink whilst the power of the state and corporations exerts itself without true accountability.

This is the gauntlet that must be thrown down on the fiftieth anniversary of Hicksons. It is not enough to look backwards to the glories of the past. Sometimes those glories were covered in tarnished gold. It is essential to look to the future so as to ensure that the legal practice that Lakeman and Holcombe and others like them built in the 1950s to 1970s will continue, in new hands, to be a place of high ethics, fine lawyering and a force for justice under law to be reckoned with.



## Memories of Hicksons – The Honourable Justice Michael Kirby AC CMG

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AC CMG. Justice of the High Court of Australia. From which were drawn remarks at the occasion to mark the fiftieth anniversary of the founding of the firm Hickson, Lakeman and Holcombe by amalgamation with J B Weir & Co on 1 April 1952. The celebration was held at the office of Hicksons, Sydney on 8 May 2002.

Re-printed for the Hicksons Dinner, Tuesday 1<sup>st</sup> April, 2008.