

2787

HICKSONS PROFESSIONALS DINNER



CRUISING YACHT CLUB OF AUSTRALIA

DARLING POINT, SYDNEY

15 MAY 2015

ALAN BLANCH'S RETIREMENT FROM
HICKSONS – THE MUSINGS OF PARTNER # 7

HICKSONS PROFESSIONALS DINNER

CRUISING YACHT CLUB OF AUSTRALIA

DARLING POINT, SYDNEY

15 MAY 2015

ALAN BLANCH'S RETIREMENT FROM HICKSONS – THE
MUSINGS OF PARTNER # 7

The Hon. Michael Kirby AC CMG*

PRESENT AT THE CREATION

I was Partner # 7 at Hickson Lakeman & Holcombe (HLH). I followed Mr Hickson, Roger Lakeman, Bruce Holcombe, Charles Spice and Yvonne Patterson in the pecking order. Not sure about the other two. But it does not matter now.

I joined the Firm in 1962, soon after completing my law degree at the University of Sydney. I was recruited by Bruce Andrew Holcombe (Partner # 3) to be a kind of in-house counsel. In this, as in so many other things, Bruce Holcombe was in advance of his time.¹ He was also generous, both to me and to my brother David who was likewise later to be an employee and then a non-equity partner. I think that it was my departure for the Bar, followed by that of David Kirby, James Poulos and Bruce Odling, that brought Mr Lakeman and Mr Holcombe (for so I

* Employee of Hickson Lakeman and Holcombe, Solicitors, Sydney (1962-63); Partner (1964-7); Barrister (1967-74); Deputy President of the Australian Conciliation and Arbitration Commission (1975-83); Chairman of the Australian Law Reform Commission (1975-84); Judge of the Federal Court of Australia (1983-4); President of the New South Wales Court of Appeal (1984-96); Justice of the High Court of Australia (1996-2009)

¹ A.J. Brown, *Michael Kirby – Paradoxes – Principles* (Federation Press, Sydney, 2009), 58, 72, 78, 86.

called them whilst working for them) to a realisation that they had to be more generous in sharing the capital of the firm with the eager young men who worked for them. This, in turn led to Alan Blanch's appointment to the Firm in 1967.



Before we get to that notable event, it is appropriate to recognise that this occasion is not one solely for lamentation on the 'retirement' of Alan Blanch. In fact, the 'retirement' is solely from his role as a Partner. He will continue to be engaged by the Firm as a consultant on 3, 4 (or I would predict more) days a week. This dinner marks the announcement of the appointment of new Associates to the Firm. I am delighted to hear that all of the appointees in 2015 are women. This helps to redress the ill-balance that existed in the genders: including when I arrived in 1962. At that time the 3 equity partners were men (Lakeman, Holcombe and Spice). The appointment of Yvonne Patterson as the 4th (non-equity) partner was itself rather unusual for the legal profession in 1962. In my class at the Sydney Law School, of 100 students only 5 were women. But one of them was Bronwyn Setright who, even then, more than adjusted the balance.



Looking at this dinner from the perspective of the Age of Dinosaurs, a few observations can be stated:

- * First, it would have been astonishing if such a dinner had happened at all back in 1962. I cannot remember a single social event of HLH during the years (1962-67) that I was associated with the Firm. The extent of the culinary hospitality was limited to occasional biscuits with morning tea. And dried biscuits at that.
- * Secondly, had such a dinner occurred in those glory days, there would have been nowhere near as many lawyers present. Back in those times, I would estimate that the total compliment of lawyers (excluding articled clerks) was no more than 15, including the partners. Plus Mr Christie, the ever prudent accountant, who wore braces and kept the Trust Account in order. Yet that was a middle sized firm in Sydney for those days.
- * Thirdly, had such a dinner occurred, there was no way domestic partners would have been invited. Bruce Andrew Holcombe was far too Presbyterian to have extended his non-existent culinary hospitality to married partners, still less any hangers on who were not married. "Living in sin", he would have described it, probably with a snarl;

- * Fourthly, it would certainly have been surprising to have seen so many women lawyers at the dinner; and astonishing to know that a number of them were associates and partners, several of them equity partners.

Viewed from the perspective of 1962 the times are certainly changing.

My recruitment in 1962 to be in-house counsel came with no fringe benefits whatsoever. I was expected to offer legal advice across the whole range of legal problems that might arise in the Firm. If I got into difficulties, my instructions were clear and simple: consult Trevor Morling. Mr Morling, an outstandingly efficient and able lawyer (later to grace the Federal Court of Australia) worked *with* (some suspected occasionally *for*) Miss Perry. She was the most ruthless secretary in Wentworth Chambers but always charming. Together, they set a cracking pace. Trevor Morling's opinions were invariably returned within a day of delivery of the brief and consultation. It was a standard that I followed thereafter to the ruination of my social life. I still do.



OVER THE SANDWICH SHOP

Back in 1962, the Firm was already expanding; but only marginally. Its principal office was at 13 O'Connell Street, where I was interviewed for my position. That was where power of the Firm resided - in the persons of Lakeman and Holcombe. It was also where the 'factory' could be found, churning out the mortgage documents for Finance Corporation of Australia (FCA) which was the biggest client. This was the money making engine that Lakeman and Holcombe had attracted to their business. It constituted about 90% of the turnover.

A small colonial outstation had been established to take the overflow of lawyers of that time. It was like the Maldives Islands or St Helena in the British Empire. This is where Miss Yvonne Patterson and I were located at 11C Castlereagh Street. Later, and from time to time, our numbers were supplemented there by Brian Butcher, Mrs Foley (sister to Miss

Patterson) and the young Geoff Williamson, plus secretaries and clerks. Our branch office was small and antique. Like most people in the colonies, we longed to be called to the more modern, large and windowed office space in O'Connell Street. But that was not to be.

However, by 1965, the entire Firm was moved to 42 Hunter Street, Sydney. It owned its own building – or at least Lakeman, Holcombe and Spice did. That building was built atop a sandwich shop, busy on the ground floor of Hunter Street. Our building faced what had once been a beautiful colonial sandstone building that ran on the opposite side of Hunter Street to the corner of Pitt Street opposite the old *Sydney Morning Herald* building. In the building opposite ours I recall, Minter Simpson & Co. Solicitors had once had a large swag of offices. But they, and everyone else, were bundled out of the building when the sandstone came tumbling down to the demolishers' hammers. This was the era of the Asko-Hungarian Empire that gathered pace after the election of the Askin Coalition Government in 1965. The city became awash with cranes and building work. The result was the horrible ANZ banking building that went up during my service in Hunter Street. We wailed and lamented. But Bruce Holcombe told us to stop complaining and get on with our work. Cranes and hammers, for him, were the instruments of progress.

Bruce Holcombe had many good qualities. They included financial generosity to the young (almost entirely male) lawyers who worked in the Firm. He was specially generous to me, even partly funding an overseas adventure that took me to Nigeria, Ghana, Malaya and Singapore in my loyal service to the Students' Representative Council of

the University of Sydney.² It was when I returned from that junket (as the students viewed it) that I was made a nominal partner. My name went on the letterhead, together with my ever increasing number of under-graduate degrees. I worked with the ferocity of a modern lawyer who slaves in the back rooms of top tier legal firms, early in the morning till late at night. I was a harbinger of what was to come in the law.

Bruce Holcombe was not, however, modern in respect of women employees. When a female secretary arrived at the office one day in the early 1960s, dressed in a pantsuit, she was dismissed on the spot. She had no avenue of redress. To Holcombe, she was guilty of exhibiting a gross lack of respect for the standards of the firm. The tyrants of North Korea were milksops by comparison to Bruce Holcombe on pantsuits.



I brought into the office my every growing library of law books, including authorised report series of the Supreme Court of New South Wales and the High Court of Australia, to which I was later myself to contribute. More than this, I quickly brought clients into the Firm. Their officers

² *Ibid*, 57-59.

watched my performances (sometimes as a solicitor advocate) in courts, mainly the Workers' Compensation Commission – just metres (or as we said in those days, yards away). At the time, the judges of the Workers' Compensation Commission were Theo Conybeare (Chairman) and Judges Wall, Williams QC, Ferrari, McGrath, Gibson and Westcott. My efforts as HLH's 'in-house counsel' were crowned with such success that, one after another, big insurers started to demand that I share my professional favours with them. Bruce Holcombe was delighted.

When I started, HLH had only one major insurer, Prudential Assurance Company Limited. Its origins were English and it lived up to its name. Very few claims were rejected and fewer still were contested in court. It was a delightful, but not a particularly remunerative, client. My efforts, however, attracted a bevy of insurers who were happily litigious: Eagle Star Insurance Co.; Century Insurance Limited; South Australian Insurance Co.; and then the biggest prize of all; Manufacturers' Mutual Insurance Co. (MMI). This was the jewel in the insurance crown in 1964 that had, until then, largely been captive to the charms of A.O. Ellison & Co. However, Jack Perram, the claims' manager of MMI saw me at work and wanted me immediately. Thus began the love affair between MMI and Hicksons. It is an affair that has effectively endured to the present time.

Many a fat file came to us from MMI. Each one of them I welcomed covetously. The numbers expanded and never contracted. The service we gave them was outstanding and successful. In an increasing number of cases I appeared without briefing counsel. Naturally, I showed great judgment in selecting for appearances only those cases that I felt I was bound to win. The flood of work continued after I left the Firm to join the

New South Wales Bar in July 1967. Later still, MMI was acquired by Allianz Assurance Co. They have continued to be a major client of Hicksons. The work of FCA faded away when it was acquired by Esanda and later by the ANZ Banking Corporation. But MMI/Allianz proved to be a precious prize that has kept on giving.

My calculation of the approximate worth of the business secured by me and brought to Hicksons in 1964, multiplied over the 51 years since 1964 (and allowing the discount required by the High Court) brings home a verdict of billions of dollars. My tax invoices is in the mail. I enjoin all the Partners of the Firm, and all the Associates who are admitted on this night, to go forth and do likewise. Nothing less will do. The future depends upon it.

ALAN BLANCH – BOY FROM THE BUSH

I left HLH on 26 July 1967 and was admitted to the New South Wales Bar the following day in the old Banco Court of the Supreme Court of New South Wales by Chief Justice, Sir Leslie Herron. Accompanying me into chambers were a number of rich briefs from the Firm. Because Alan Blanch joined the Firm in 1968, his arrival happened shortly after my departure. We never worked together in HLH. But I came to know him as a conscientious young solicitor. In this way, I came to know the story of his life.



Alan Blanch was born in country New South Wales in 1946. He grew up near Port Stephens and the beautiful Myall Lakes. Too much beauty is not good for a lad. So he was sent to Sydney and specifically to Knox Grammar School as a boarder. After completing secondary school, he matriculated to the University of Sydney where he became a resident at St Andrew's College. That College was well known at the University, at the time, as a place of much merriment and alcohol. It was famous for much drinking and the pursuit, by its all-male residents (or by most of them) of the fairer sex. Close-by the College were the attractions of the Women's College and the Royal Prince Alfred Hospital nurses quarters.

Whereas Alan Blanch was reputed to have enjoyed his life at St Andrew's College to the full – a period over which, with discretion, I draw a protective veil - back home in the country things were more austere. His father encouraged him to come back 'home' in order work long hours, by day and night, driving trucks. For these duties he paid nothing at all. That was a very good training for his future life as a senior partner

in a large legal firm. It meant that he always had a very clear idea of the value of work and money. And a belief that excessive payments were not obligatory to secure excessive hours from those who were fortunate enough to have the opportunity of work. These were parsimonious instincts that were very strongly shared by Bruce Holcombe, himself a product of St Andrew's College and of the stern Presbyterian parsimony it exhibited. Alan Blanch shared the parsimony in all things, save alcohol and women.

Alan Osburg, on the other hand, joined HLH as an Articled Clerk in 1967. At that time he was obliged to undertake 3 years of articles whereas the rules changed permitting Alan Blanch to qualify after only 2 years of articles. Such are the injustices of a life in the law. Alan Blanch was born under a lucky star.

Alan Blanch was articled to John McDonald, then a partner of the Firm. Having been through the courtesies then observed in the legal profession, of a call on the Deputy Prothonotary, Alan Blanch had little thereafter to do with John McDonald. He worked for a time in the Firm's FCA factory on level 1 of the office in 42 Hunter Street. There he came under the baleful eye of Ian Bullock.

Alan Blanch was admitted as a solicitor of the Supreme court of New South Wales on 13 July 1970, also in the old Banco Court in St James's Road. The small blue *Law Almanac*, which I retain from those times, shows that, soon before, the Firm had moved to the Law Society Building at 170 Phillip Street. This was appropriate, because by this time, Bruce Holcombe had himself been elected a councillor of the Law Society of New South Wales. This was a proper election because

Holcombe loved solicitors. He did not like barristers. Only Trevor Morling was exempted from this distaste. After I left the Firm in 1967, it took Holcombe years to forgive me for going over to the dark side.

ALAN BLANCH IN COMMAND

In 1973, at the age of 26, Alan Blanch was admitted as an equity partner of the Firm. He was then but 26 years of age: in the prime of youth. Sadly, Roger Lakeman died within 6 months of this appointment. Bruce Holcombe succumbed to cancer about 3 years later. This left the young partners, especially the two Alans, with very substantial debts to repay and no certainty that the clients, won in earlier days, would be retained by the new configuration. Fortunately, MMI remained central to the business.

Luckily for him, Alan Osburg had long pursued an interest in horse racing. In 2002 he invested in a champion, *Exceed and Excel*. It proved a winner and was sold for a huge sum that lifted the burden of debt so far as Alan Osburg was concerned. He quickly joined the Alternative Establishment by being elected member of the Australian Jockey Club. Alan Blanch, on the other hand, had no such ambitions or financial relief. His only hope of survival lay in the Firm. He then began to devote his infamous hours to his work.

In the result, Alan Blanch emerged as a most accomplished lawyer. He retained and built upon established clients who noted his skill and loyalty. Moreover, in the course of his work, he was appointed by the New South Wales Bar Association to act as solicitor for them in their professional cases. By accepting this retainer, he must have known that

he was challenging the dark prejudices of Bruce Holcombe towards the Bar. Holcombe would have been torn between gratification and infuriation. However, there could be few higher compliments paid to a solicitor of this State than to receive the retainer that Alan Blanch won and has maintained. Essentially, he was interested in the law and its application. Not for him a great passion about management, bureaucracy and figures. Alan Blanch is the archetypal solicitor of the old school. And this is doubtless why Bruce Holcombe engaged him in the first place and quickly enlarged his role in the Firm.



In 1982, Alan Blanch married Arliss. She is herself a formidable person. She worked for Simon Sheller and Bob Hunter on the 11th floor when she decided to study law. With Alan, she produced three accomplished children. Caroline won the Supreme Court Prize in Victoria after graduating from the famous Melbourne Law School. As Gareth Evans (who also won that prize) endlessly reminded me, it was the most prestigious prize in the law for Victoria if not the world. Caroline went on to Harvard University in the United States. At the Kennedy School she

met her future husband who now works in the White House in Washington D.C. She has her own demanding job as a consultant. For mysterious reasons, she was never tempted to work for her father in the Firm. Perhaps she had seen the hours he put in, as she grew to maturity. There are also two sons, Edward and Andrew. Edward is developing an electronic games business in Melbourne and has his Master of Architecture. Andrew has a great interest in music and is accomplished in classical guitar, and is in his second year into a PhD at the Australian National University. Alan and Arliss are inordinately, but justly, proud of their children. As Alan Osburg demonstrated in the equine species, breeding in life is everything.

Having quickly worked out all the recurring issues in the law, Arliss herself undertook a law degree which she won with at least a distinction average in every subject. Rumour has it, that in their pillow talk, they found nothing more exciting than to exchange thoughts on the latest High Court dissents – including by a certain HLH Old Boy. However, some of the fun went out of that activity since my retirement in 2009. Perhaps it was this, rather than his 70th birthday, that has led Alan Blanch to consider retirement. Pillow talk is now confined to sweet nothings.

Reliable sources have informed me that a unique feature of Alan Blanch's office technique is that he still answers his own telephone. Not for him a guardian dragon. This is definitely an indication of his training and upbringing. I observe the same rule. It is a mark of old age.

Alan Blanch has won and maintained his svelte figure (comparatively speaking) by a most severe regime of gymnastics at Tattersalls Club in

Sydney. According to my informants, he can be seen every morning relaxing by the pool, reading the *Sydney Morning Herald* dressed in speedos that make Prime Minister Abbott's outfit look positively Edwardian. Actual exercise is rarely observed. The ethos of the place helps to calm the overworked spirit.

Alan Blanch lives, as the late Justice Roddy Meagher kept telling me, in a huge mansion with liveried servants at Vacluse. His special recreation is overseas travel with Arliss (First class, of course) and skiing: the latter a dangerous habit that he no doubt picked up in Canada, his wife's place of birth.

EXAMPLE AND ENCOURGEMENT

Alan Blanch has devoted his entire professional life to this Firm. He has been scrupulously honest, professional and attentive to clients and considerate to staff. If this dinner is any example, he has been gradually won over, in his mature age, to an appreciation of the truism, constantly propounded by Justice Gaudron in the High Court, that talent in legal practice is definitely not confined to the Y chromosome. Perhaps Arliss brought him around on that account. The increasing numbers of women in this Firm is a healthy corrective. Bruce Holcombe would be scandalised. But that is not necessarily a bad thing.



This day, at breakfast, I spoke in the huge ballroom of the Westin Hotel at 1 Martin Place. The occasion was the annual Golden Gavel Award competition of the Young Lawyers of the State. I am not sure that Bruce Holcombe would have approved of such excessive devotion to humour either. But all of us in professional life need more humour and a greater capacity to laugh at ourselves and the ways of the profession we have chosen. Each decade, in my experience, we laugh at different foibles.

At lunchtime today, I was recalled to the self-same ballroom. It is a wonder that the Westin did not offer me sleeping facilities in the house. But perhaps Bruce Holcombe's ghost walks there too and economy is the rule. The lunchtime event was to celebrate the winners in the awards in the Pride in Diversity Competition. These are awards for the public and private sector organisations, and individuals, who have done most for the employment of LGBTI employees. This means lesbian, gay, bisexual, transgender and intersex people.

I came to Hicksons 3 years ago to urge an increase in the number of women employees and women partners. Clearly you have heeded my call. Tonight's announcements show that the injunctions of Partner # 7 were duly observed. Now I give another commandment to you. The categories of prejudice and discrimination are not confined to race and gender. In these categories Hicksons still has a way to go. But at today's lunchtime awards the top prize for LGBTI professional employment went to Allens, one of the largest and oldest Australian legal firms. Coming close behind was Herbert Smith Freehills, which has lifted its game since the Australian Freehills office merged with the English Herbert Smith office. Hicksons needs a similar injection of new ideas about the value of diversity. Diversity is good for individuals. But it is also good for employers.³ I shall be returning to the Firm, and watching and counting and enquiring. I would be proud if Hicksons would take this on as a new future challenge. Let Hicksons be a leader in providing a welcoming space to partners and staff from sexual minorities. Experience shows it is good economics.

I last came to an event at the Firm to speak about pro bono work.⁴ I am glad that one partner will take a lead in responsibility for this part of the work. Experience teaches that this too is good for legal firms and those who work in them. As I explained, by reference to my own experience in HLH, Bruce Holcombe always encouraged pro bono work. He knew it made the lawyers involved see the value of their lives. Lawyers who do this become happier, more energetic and more accomplished. For his

³ Lord John Browne, *The Glass Closet: Why Coming Out is Good for Business* (London, 2014)

⁴ M.D. Kirby, Hicksons Professional Talk, *Pro Bono*, transcript of the Hon. Michael Kirby AC CMG talk, Wednesday 17 December 2014 v4 10_02_15 edits.Doc

part in encouraging the enlargement of pro bono work – and for getting back to the support that Bruce Holcombe gave on his score - I congratulate and thank Alan Blanch.



To all who deserve congratulations, I offer them from on high. But above all, congratulations are due to Alan Blanch for a lifetime's service. And also to Partner # 7 for contributing a client ultimately worth billions. These are the makings of legends in the law. And Alan Blanch is certainly such a legend.

