LALOR COMMUNITY RELATIONS ADDRESS

PLAYHOUSE, CIVIC SQUARE, CANBERRA

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A TRADITION OF ANTI-HEROES

Foreign observers and newcomers to Australia must find some of our objects of national pride and celebration curious, to say the least.

We commemorate the modern history of Australia, in the knowledge that it began very largely by accident and as a direct outgrowth of Britain's loss of the penal colonies in America, following the American Revolution. Our colonial history started with nothing more elevated than the establishment of a prison colony. The rough early settlers showed little tolerance and less respect for the indigenous people of the continent, who had lived for thousands of years in harmony with its special environment.

The Eureka Stockade in 1854 is celebrated today, 3 December. Yet this is a tale of a group of gold diggers who defied the legitimate authority of government. They broke the law. They refused to pay taxes. They hoisted a rebel flag over a stockade. They resisted, with arms, a body of the Queen's troops sent by the lawful government. They were defeated in the assault. In fact it was all over in a matter of minutes. Three soldiers and more than 30 diggers were killed. The leaders of the rising were tried for treason, though even in this there was an element of fiasco as each accused was acquitted.

In the very month of the Stockade, there was born the archetypal Australian anti-hero, Ned Kelly. The century of his execution has just been celebrated. It has inspired a great outpouring of writing.[1] The most extravagant prose has been used in praise of a group of bush rangers who (in the eye of the law at least) were desperados : guilty of the murder of three policemen and other innocent civilians. Yet Ned Kelly is celebrated today and the judge who tried him is burnt in effigy in Melbourne streets.[2]

I have even read the suggestion that Ned be made a saint : though the proponent was prepared to settle for what was apparently thought the next best thing : a posthumous knighthood!

Critics of the Kelly legend say that Kelly had to be invented because there are so few genuine Australian heroes. Royal Commissions of Inquiry might denounce Kelly as 'cruel, wanton and inhuman'. But on the other hand, Professor Manning Clark sees the admiration of Kelly as an Australian quest for 'the life of the free, the fearless and the bold'. Historian Clive Turnbull says that, in Kelly, there are to be found 'those qualities which are deemed the most desirable in the Australian conception of manhood — courage, resolution, independence, loyalty, chivalry, sympathy with the poor and ill-used'.[3]

Many commentators have said that but for the chance of time, the Kelly Gang would have been at Gallipoli, showing the courage in that field of war which is still the chief object of our military pride. Yet Gallipoli must seem to outsiders a strange battle for a country to commemorate. Ten years ago, I stood at Anzac Cove not far from Golibolu in Turkey. I looked down to where the Australian and New Zealand soldiers stormed the impossible cliffs and fought bravely, but unsuccessfully, against the valiant Turkish defenders. One can see from that battlefield where Xerxes crossed the Hellespont, leading his troops across the Dardenelles from Persia to the conquest of Greece. We celebrate Anzac because it was the first great battle, after our country was united in Federation, in which the spirit of its soldiers was tested. But 60 years before, at Eureka, on this day — led by Peter Lalor — an earlier test had demonstrated, within Australia, important and enduring features of the Australian people.

Stung by Kellymania, a recent correspondent to The Age[4] declared that he was thoroughly bored with the 'wild and woolly' Ned Kelly legend. He lamented the lack of real interest in Peter Lalor, the hero of Eureka who 'fought only when violence was thrust upon him' and who knew quite well that he could die by the gun or the gallows but was prepared to do so. Australians, it was suggested, would have far preferred Lalor if he had only died in battle or at the end of a judicially-ordained noose. 'They often seem to prefer a dead "hero" to a live thinker', said the writer.

Of other Australian leaders, Mr. Whitlam has been equally pessimistic :

> Our chief men and our chief efforts have been singularly associated with failure and frustration. ... There is a deep poignancy in the fate of a remarkably long list of our chief figures from the very beginning : Phillip embittered and exhausted; Bligh disgraced; Macquarie despised here and discredited at home;
>
> Macarthur mad; Wentworth rejecting the meaning of his own achievements; Parkes bankrupt; Deakin outliving his superb faculties in a long twilight of senility; Fisher forgotten; Bruce living in self-chosen exile; Scullen heartbroken; Lyons dying in the midst of relentless intrigue against him; Curtin driven to desperation ... and Theodore suddenly struck powerless at the very time when his power and ability were at their peak and most needed.[5]

That passage was written in 1971. The past decade may have even reinforced Mr. Whitlam's sentiments. Significantly, the 'Whitlam industry' is now said to be on the way to overtaking even the Ned Kelly industry. At least 12 books have been written on the former Prime Minister since his fall in 1975. Our fascination with these subjects extends even into our own time.[6]

So here we have it. A country began as a prison, over long contemptuous of people here thousands of years before, celebrating on this day a pathetically unsuccessful and short-lived revolt, idolising a 'desperado', annually commemorating a failed military enterprise and dealing out a generally poor hand to many of its leaders: all to the tune of 'Waltzing Matilda': a stirring song which itself condemns lawful authority. Do we have here a contra-suggestible nation of anti-heroes? Is it all as simple as this?

THE FACTS OF EUREKA

Some would doubtless think it strange, even 126 years after the event, for a judge to take part in a celebration of the Eureka Stockade and the leadership of Peter Lalor. Certainly the Governor of Victoria at the time, Sir Charles Hotham, would have found it quite insupportable. When he wrote to London, to report the unhappy events of the Stockade, he put forward most eloquently the view that legitimate government must always uphold and enforce even unpopular laws. This is what Hotham wrote:

> So long as a law, however obnoxious and unpopular it may be, remains in force, obedience must be rendered, or government is at an end. Concessions made to demonstrations of physical force bring their speedy retribution; the laws which regulate the gold fields are as I found them and until they are legitimately repealed or modified, it is my duty to maintain them.[7]

The dispute which broke out in the gold fields has been blamed by some upon the dishonesty of the colonial judiciary and by others on the indifference of the unelected colonial administration.

So far as the judiciary is concerned, it is said that a magistrate named Dewes wrongly, and to the outrage of the gold diggers, acquitted the owner of the Eureka Hotel of the charge of murdering a popular miner named Scobie. The community denounced the magistrate Dewes. It accused him of having a financial interest in the Eureka Hotel which led him dishonestly to protect his friend the publican. The discontent of the community at the injustice of the magistrate's action led, on 19 October 1854, to a large assembly burning the Eureka Hotel to the ground. Latler, Mr. Dewes was removed from office and his conduct criticised as

> tending to subvert public confidence in the integrity and impartiality of the Bench[8]

The hotel proprietor was also charged and convicted of the manslaughter of Scobie, the digger. In a sense, the law responded to the community's demand that its procedures should be impartial and just and that guilty men should be brought to trial and punished.

The unrest which arose out of the Scobie murder on 6 October lasted to the Stockade itself. The flames of the Eureka Hotel were easily rekindled at the Stockade. The gold diggers were inflamed by an attempt of the Governor to enforce a licence fee resented as unjust, unequal and unfairly imposed.

The injustice of the fee was that it fell equally on miners, whether or not they discovered gold. The inequality of the fee was that it fell heavily on miners whilst the landed squatters paid little or no tax. It was unfairly imposed because English liberties had been founded on the constitutional principle that there should be no taxation without Parliamentary representation. Within living memory, the American Revolution had been fought, at least in part, for this principle. Yet at the time of Eureka the principle was not observed in Victoria. Sir Robert Menzies, paying tribute to the motivation of the gold diggers resisting the Governor's force of arms said:

> The Eureka Revolution was an earnest attempt at democratic government[9] ... so far as the Eureka revolt indicated any general movement at all, it was a fierce desire to achieve true Parliamentary government and true popular control of public finance.[10]

From the Labor side of politics, it has been said that the Eureka Stockade marked the beginnings of trade unionism in Australia.[11] Dr. H.V. Evatt pointed to the fact that though English and Irish diggers took the lead, participants in the Stockade came from many countries 'united in defence of the Southern Cross'.[12] He declared that the Stockade:

> was of crucial importance in the making of Australian democracy.[13]

When Labor and Liberal politicans agree that this was an event important for Australia's national identity, democratic aspirations and resistance to unfair authority, we can safely assume that Eureka is a national and in no way a class, sectional or partisan event.

EUREKA, LALOR AND LAW REFORM

Why have I been chosen to make this address in 1980? As you have heard, I am the Chairman of the Australian Law Reform Commission. That Commission is a permanent body established by the Australian Federal Parliament for the orderly review, modernisation and simplification of the federal laws of our country. Nowadays, the pent-up frustration with unjust laws and unfair administration of those laws need not lead to a stockade, gunfire and death. Soon after the Eureka Stockade, and doubtless hastened by concern that it should ever have come to this, Victoria adopted a system of elected Parliaments which was the first step here on the road to the modern representative democracy. One of the advantages of having lawmakers who are periodically accountable to ordinary people through the ballot box is that laws are more likely to be made which are sensitive to the community's modern sense of fairness. Thus it was not long after an elected Parliament assembled in Melbourne that a different system of taxation was introduced, reforming the unjust licence fee on the gold diggers which had led to the Stockade.

Rules which courts enforce in our country are made, for the most part, by Parliament or by the judges themselves. Sometimes, they get out of step with society's sense of right and wrong. Some of our criminal laws may fall into this class. Certainly, some of the earlier attitudes to women, to Aborigines, to the poor and to others may be seen today as discrimination. Attitudes to personal morality and to the role of the family appear to be changing. Sometimes the social base of the law itself changes. Law reform exists to help lawmakers cope with these difficult problems, so that they will not be swept under the carpet and met with delay and indifference as happened when the gold diggers objected to the licence fee.

Henry Lawson, commenting on those who died at Eureka, referred specifically to the fact that one of the causes for which they died was reform of bad, outdated laws:

> But not in vain those diggers died. Their comrades may rejoice;
> For o'er the tyranny is heard the people's voice;
> It says: 'Reform your rotten law, the diggers' wrongs make right;
> Or else with them, our brothers now, we'll gather in the fight.[14]

THE LAW AND BETTER COMMUNITY RELATIONS

One of the forces leading to the need for law reform today is the influx into the Australian community of so many people from a unique variety of linguistic and legal cultures. Absorption by osmosis of the common law of England, unreasonable for Old Australians, is specially unfair in the case of newcomers. For a newcomer arriving from a non-English speaking culture there is a distinct risk of a legal culture shock. The provision of interpreter and translation services in courts, important though it is, is inadequate to overcome the problems of a new legal culture. Especially as more migrants come from the Middle East and Asia, the needs of adjustment are much more sophisticated. Literal translation of what is happening is merely the first step in communication. A range of measures is required to ensure that migrants understand at least the rudiments of the Australian legal system and that those involved, whether judges, police, lawyers, court clerks, social workers and others, are made sensitive by their training to the cultural characteristics and differences of a very large and growing minority of the population of this country.

There is a great deal of evidence that the experiences and expectations of migrants concerning police and legal procedures make it difficult for them to understand the way we typically do things in Australia. For example, Australian courts have adopted the adversary system of trial. In most countries of the non-English speaking world, a different system of court trial exists under which the judge or magistrate is in charge of a judicial inquiry. Under this system, the defendant can rely on the judge to protect and even advance his interests. Under our system the judicial officer is, to a very large extent, a neutral umpire. We use juries in serious cases. In most of the countries from which we now draw our immigrants, jury trial does not exist. The Law Reform Commission's latest task on the reform of the laws of evidence in Federal Courts requires us to examine these and other issues relevant to the ethnic communities.

Quite apart from institutional differences it must be frankly acknowledged that the difficulties are not all on the one side. Cultural stereo-types about various migrant groups undoubtedly exist in the minds of many Australians, including educated Australians. The behaviour of even those who work in the legal system can be distorted by such stereo-types.

It cannot be said too often that, even with the inadequate data we have on the incidence of crime in Australia, it appears quite clear that migrants do not breach the criminal law more frequently than non-migrants. Compared to people born in Australia, surveys that have been undertaken point to the fact that people born overseas tend to be much more law abiding. Proportionately, they are under-represented in our prisons.This fact is of particular interest since migrants, as a whole, come from a slightly lower socio-economic status group than the average Australian born. Crime indices tend to be higher in lower socio-economic groups, other things being equal. Yet news reporting frequently lays emphasis upon the ethnic background of an offender. Specific attention is called to his or her ethnic origin, distorting the reality which more balanced examination of the data will disclose.

MIGRANTS AND POLICE

Migrant contacts with the police can pose difficulties for both. In the post-war years, police in Australia had to cope with many and rapid changes in Australian society. They were confronted, often for the first time, with members of the public whose lifestyles and values were at variance with the traditional Anglo-Celtic concepts or who were unfamiliar with the procedures accepted as routine in this country. A breakdown in understanding between police and the migrant population was not unusual or specially remarkable. For instance, a particular difficulty in police/migrant relations is the unfamiliarity of many migrants with some Australian police procedures. By way of example, fingerprinting in Italy is used only for the most serious crimes. In Australia, it is a more routine practice. For an Italian, the experience of fingerprinting can be quite traumatic. Likewise bail is most unusual in European legal systems. Many migrants have mistaken the payment of bail for payment of a fine and have been surprised by subsequent arrest for non appearance at court.

Suggestions to overcome some of these difficulties have included the specific recruitment into police forces of more migrants, providing police with an opportunity to learn other languages, in-service training of police officers and production of information in various languages to help migrants understand their rights. The Australian Law Reform Commission suggested important safeguards in the criminal investigation process, designed to equalise the position of non-English speaking persons being interrogated by Federal police.

The Federal Government adopted these recommendations in the Criminal Investigation Bill 1977.[15] However, the Bill lapsed and has not yet been re-introduced.

MIGRANTS AND THE COURTS

A study undertaken at the Central Court of Petty Sessions in Sydney has indicated that all migrant groups, except the Greeks, were legally represented in court substantially less frequently than Australian born accused in the same interval.[16] A clear association has been shown to exist between having legal representation and the outcome of criminal proceedings. A person who is represented has been found to have six and a half times better chance of securing an outright decision in his favour than an unrepresented accused. A person who is not represented appears to have a three times greater likelihood of being sent to prison than one who is represented. The New South Wales Anti-Discrimination Board has drawn attention to the importance of representation in proceedings under the Mental Health Act. Under that Act, a hearing before a magistrate determines whether or not a person involuntarily committed to a psychiatric centre, will be held for treatment and if so for how long. If further treatment is considered, the magistrate decides if the patient is to be released or detained. In the case of non-English speaking patients it is often difficult for doctors to secure a history and make a diagnosis, because of the problems of communication. Yet in practical terms, a person's liberty can depend upon his ability to communicate in such circumstances.

THE OPERATION OF THE SYSTEM

Sometimes entirely without intending it, our legal system can operate unfairly upon persons from a different cultural background. In the criminal trial especially, the impression which the accused may make on a magistrate, judge or members of the jury may be critical. Yet people from different cultural backgrounds and with different accepted modes of behaviour may act in a way that seems quite alien for the simple reason that it is alien. Witnesses may appear excited. The fair administration of justice requires that migrants' cultural and linguistic backgrounds should be taken into account in assessing their conduct and their later evidence in court. But without regular contact with migrants and familiarity with their ways how is this fairness to be achieved?

In criminal cases, legal punishment, especially of confinement , can have an aggravated affect if the sentence is imposed on a person not able to communicate adequately in English. To be removed from an environment which is culturally familiar and from those with whom one can communicate, and imprisoned in an Australian gaol can add a special, exquisite punishment which the non-migrant prisoner may not suffer. Furthermore, the migrant removed from his or her family may leave close relatives alone, isolated, resulting in profound punitive effects that fall unequally upon innocent parties: wives, children and the old. This is not, of course, to say that migrants must be exempt from punishment for wrongdoing. It is simply to call to attention the way in which the criminal justice system, particularly, operates unevenly in its punishments in a country with a large migrant population.

Quite apart from procedural matters, there are areas of the substantive criminal law which may need to be changed to reflect our new society. One instance relates to the defence of provocation to a charge of murder. Should the standard of provocation be an objective or a subjective one? This issue was dealt with in a working paper by the Victorian Law Reform Commissioner 'Provocation as a Defence to Murder'. The Commissioner said:

> In this State, where there is a considerable cultural mix and where it has been asserted, for example, that Melbourne has the largest Greek population of any city outside Athens, it would seem an insoluble problem to pin-point the qualities or characteristics of the ordinary man when considering such a man's (or woman's) ability or propensity to lose his (or her) self-control.

What may provoke an Italian or Frenchman or Vietnamese beyond endurance may not be the same as what will provoke an Englishman. The time is fast approaching, if it has not already arrived, when it is quite unsafe in Australia to judge the 'ordinary man' by the characteristics of the 'ordinary Englishman'. Such an approach is perfectly valid in a society of Englishmen. It was acceptable in a community of transported, antipodean Englishmen. It may be doubted, however, whether it is still the fair standard for an Australian society whose cultural composition has so radically changed.

In fact, the process of adjustment to new national circumstances has already begun in the law. In Glavonjic v. Foster[17] Mr. Justice Gobbo had to deal with the case of a motor accident victim, with a very limited command of English, who refused to undergo brain surgery treatment. The question arose as to whether his refusal was reasonable. He said he had little faith in the likely success of the operation. In judging what was reasonable the court applied the test : what would a reasonable man in the position of the plaintiff (Glavonjic) have done.

Applying that test, it held that the plaintiff's refusal was reasonable, Mr. Justice Gobbo — himself one of the first Australian judges from a non Anglo-Celtic background, said:

> That is not to say that one simply applies a subjective test and considers whether the plaintiff thought it was reasonable for him to refuse surgery. It is, however, appropriate to adopt the test that asks whether the reasonable man in the circumstances as they existed to the plaintiff and subject to the various factors such as the difficulty of understanding and the plaintiff's medical history and condition that affected the plaintiff, would have refused treatment. In my opinion, applying the broader test, I am of the view that the defendants have not discharged the onus which is upon them. ...[18]

MIGRANT WOMEN

Other migrant groups, perfectly law abiding, suffer special problems. Many migrants, in coming to this country, lose the support of an extended family. Women may be subject not only to the inequalities and discrimination suffered by women in many societies, including Australia. Their status as women in their own societies may conflict significantly with the status and roles expected of them in this country. A recent newspaper report revealed that many New South Wales Government funded womens' refuges in Sydney are catering increasingly for women migrants. Half of the Marrickville Women's Refuge, for example, is said to comprise migrant women.

The family and employment disadvantages of women often force them into a cocoon of their own language and culture, causing crises when they are exposed to ours. In cases of domestic violence, police in our culture (unlike others) may generally be reluctant to intrude. Yet where they do intervene it is not a criticism of the police to say that they may be more likely to accept what is said by a man able to communicate in English than by a woman who has little or no ability to speak the language. The frustration and injustice caused by this predicament is not difficult to imagine. The distress experienced by women in illegal migrant situations, where there is a family breakdown, violence or abuse is even more acute. These women are a silent group who through fear and sometimes through ignorance are unable to go to recognised authorities for protection and guidance. They are susceptible to blackmail, including from amongst their own number. It is for that reason that amnesties may be specially desirable to remove the causes of such injustice.

Migrant women may be particularly disadvantaged in understanding the Family Law Act of this country. It embodies principles which are often quite at variance with the law and customs of their country of origin. For example, in custody matters, migrant women may often assume that their husband or his family would be more likely to be granted custody of the children, as is frequently the case in other cultures. Ignorance about our legal system compounded by an inability to communicate and an ignorance of where to start is all too often the tale of the migrant in Australia with legal problems. The fear which many people have about the law and its institutions is magnified by assumptions brought from other countries and an inability, by communication, to remove misapprehensions.

THE LEGAL PROFESSION

In addition to all these problems, misunderstandings frequently arise between lawyers and migrants. A number of studies have indicated that migrants are more likely than native born Australians to think that lawyers are dishonest, that they are mainly interested in making money and that they tend to take the side of authority rather than their client. In many cases, there is a serious communications breakdown between a migrant and his legal advisor. One confusing aspect of the legal profession in most parts of Australia is the divided profession: solicitors and barristers. This division is simply not known in most countries from which non-English speaking migrants are drawn. In the case of migrants, the trust and understanding that may be built up over a long period of time with a solicitor must suddenly, and in their view unaccountably, be transferred to a barrister, whom they see briefly before the case, in circumstances generally of great stress and confusion.

Many studies have shown that lawyers in Australia continue to be drawn predominantly from families with high education and income backgrounds. A study of the legal profession in Victoria revealed what a small proportion of migrants make their way into the legal profession. The Bench in Australia, whether the magistracy or the judiciary is still overwhelmingly Anglo-Celtic. The legal profession is overwhelmingly Anglo-Celtic. The law has been called the last Anglo-Celtic bastion of our country. One is faced with the situation that an important profession in society, integral to the orderly running of society, does not yet reflect the composition and diversity of our society. I can see no ready solution to this problem. But it must be kept steadily in mind for it is unhealthy for a profession so important to the just ordering of Australia to be so little affected by the radical cultural changes that are felt everywhere else. At the very least, it behoves lawyers and courts to be alert to the changes in the general Australian population and the need to review our laws and procedures to take account of those changes.

CONCLUSION

A large number of those who led the Eureka revolt, and not a few who died, were not English. Of course, a number were Scottish and many were Irish. But there was also a sizeable number of non Britishers. In the actual Eureka command, 'foreigners' certainly predominated. Though the Irish took a leading part, there were two Germans, including Frederick Vern, who it was that first moved that the diggers burn their licences.[19] They were joined by an American and a Canadian.[20]

Since these early days, the role in Australian life of people from countries other than the British Isles has increased apace. The Commissioner for Community Relations (Mr. Grassby) has helped by his enthusiastic endeavours to bring home to us all the remarkable changes in the makeup of our country. No country other than Israel has such a high proportion of ethnic minorities. Our legal system should be sensitive to these changes. Its substantive rules, its procedures and its personnel should come to reflect, by orderly processes of reform and renewal, the changes which have taken place. Whilst clinging to the virtues of the legal system we have inherited, we should show Peter Lalor's resolution to reform the law to meet the requirements of our new, diverse, more interesting and multi-cultural community.

FOOTNOTES

1. See e.g. N. Brown, 'Ned Kelly : Australian Son'; C.F. Cave, 'Ned Kelly : Man and Myth'; K. Dunstan, 'Saint Ned'; J. Molony, 'I am Ned Kelly'; J. McQuilton, 'The Kelly Outbreak 1878-1880'. These recent additions to the Kelly Library are reviewed in The Bulletin, 11 November 1980, 97.

2. For the alternative point of view, see P. Ryan, 'Redmund Barry : A Colonial Life 1813-1880' and Sir Zelman Cowen, 'Redmund Barry Oration — Extract', Australian Law News, November 1980, 6; See also Sir Zelman Cowen, Address to the Annual Dinner of the Chamber of Commerce and Industry, South Australia, 21 November 1980, mimeo, 13.

3. Cited in K. Dunstan, 'Ned!, a condensed version of 'Saint Ned' in Readers' Digest, June 1980, 191, 238.

4. O. Gray, 'Lalor Makes a Better Hero', Letter to The Age, 27 October 1980, 12.

5. E.G. Whitlam in Young's biography of Theodore, cited in W.F. Broderick, 'Gough Whitlam : His Blessed Dawn and the Tragic Flaw of Omnipotence', The Age, 13 November 1980, 11.

6. Broderick, ibid.

7. Sir Charles Hotham, Letter to Sir George Gray, No. 162, 20 December 1954 in G. Blainey, Eureka Documents, Melbourne, The Public Record Office, 6, 8.

8. ibid, No. 148, 5.

9. R.G. Menzies, Melbourne Sun, 17 July 1946, cited in Historical Studies of Australia and New Zealand, Special Eureka Supplement, University of Melbourne, December 1954, 79.

10. R.G. Menzies, Melbourne Sun, 9 July 1946, cited loc cit.

11. W. Foregan Smith, Report of Speech to Annual Convention of Australian Workers' Union, Sydney Morning Herald, 2 February 1938, cited ibid, 78.

12. H.V. Evatt, Golden Jubilee Souvenir of the A.L.P., 1890-1940, Sydney, 1940, cited ibid, 78.

13. Evatt, loc cit.

14. Henry Lawson, cited in L. Fox, Eureka and Its Flag, 1973, 14.

15. See the Law Reform Commission, Criminal Investigation, 1975. The relevant provisions of the Criminal Investigation Bill 1977 (Cwlth) are clauses 18 (notification of rights in a language in which the accused is fluent); 22 (communication with relatives or friends); 27 (presence of a competent interpreter).

16. Bureau of Crime Statistics and Research (N.S.W.), Pilot Study of Central Court of Petty Sessions, Sydney, 1973, cited in Jakubowicz and Buckley, Migrants and the Law, 1975, 25.

17. [1979] V.R. 536.

18. ibid, 538.

19. Fox, 5.

20. See Special Eureka Supplement, op cit, 45.