

AUSTRALIAN LAW JOURNAL

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The 41st Premier of Victoria, John Cain, died in Melbourne on 23 December 2019. He was 88 years of age. He was born at Northcote, Victoria, where his father, of the same name, also became leader of the Australian Labor Party and 34th Premier of the State. John Cain Snr led three governments, although his first government lasted only 4 days. His son became the first Labor Premier of Victoria to win re-election, which he did twice. However, on the third occasion the victory was narrow and the government was plagued by severe financial problems.

John Cain was educated at Northcote High School, Scotch College and the University of Melbourne. At the latter, he took the LLB degree and in 1957 began practice as a suburban solicitor with wide-ranging work. He never acquired a city office. He became a member of the Council of the Law Institute of Victoria (1967-76) and concurrently of the Executive of the Law Council of Australia (1973-76). Between 1972-73, he served as President of the Law Institute of Victoria.

On the establishment of the Australian Law Reform Commission in January 1975, Mr Cain was appointed concurrently with Mr F.G. Brennan QC of the Queensland Bar (later Sir Gerard Brennan) as an additional part-time member of the Commission (see 49 ALJ, 642). Since 1973 he had been assisting in the establishment of local community legal referral

services in Melbourne. The experience he gained in local legal practice was specially helpful to the ALRC in addressing the subject matters of its first reports on references from the Whitlam Government: *Complaints Against Police* (ALRC 1), *Criminal Investigation (Interim)* (ALRC 2) and *Insolvency: the Regular Payment of Debts* (ALRC 4).

Part of the political success of John Cain was attributed to his earlier participation in a group of moderate supporters urging political change, including in the federal government. These supporters included a number of experienced lawyers, Richard McGarvie, Frank Costigan, Xavier Connor, Alistair Nicholson, Peter Heerey, Howard Nathan, Jim Kennan, John Button, Michael Duffy and Barry Jones (“the Participants” or “Independents”). They played a key role in persuading the ALP to intervene in the Victorian Branch in September 1970. This helped to open up its internal processes. The consequent reforms eased the way for the election of the Whitlam Government in the federal election of 1972.

In 1973, John Cain had been elected Vice-Chairman of the Victorian Branch of the ALP and soon afterwards embarked on a political career in the Victorian Parliament as Member of the Legislative Assembly for Bundoora, a position he held from 1976-92. Shortly before that election, he resigned from the ALRC and his stated political objectives at the time were noted in this journal (56 ALJ 379). As recorded, they included a focus on “law reform in Victoria in a number of different areas including the administration of justice, criminal investigation, race discrimination, class actions, legal aid, victimless crimes, the creation of a special office of Public Prosecutions and freedom of information legislation”. He fulfilled these promises.

Immediately after his election to the Victorian Parliament, he became Shadow Attorney-General in 1976. He was elected Leader of the Opposition in 1981. Soon after Premier Lindsay Thompson called a State election for April 1982, John Cain led the ALP to a 17-seat swing in its favour, thereby terminating an interval in opposition that had lasted since Cain's father had held office 27 years earlier.

The "Participants" supported Cain as Premier encouraging him to introduce many of the reforms he had identified before entering Parliament. As well, the new government introduced many socially liberal reforms including extension of weekend trading hours for shops (about which he had reservations); extended night club hours; provision for nude beaches; legalisation of sex work venues; and authorised Sunday VFL football (now AFL), an especially popular obsession in Victoria. He also supported the creation of a great tennis centre in Melbourne.

Even after his government scraped back for its third term, significant reforms were accomplished or begun, including campaigns to reduce public smoking; shifting hospitals to outer suburbs of cities; and reforms of voting differentials in country and regional Victoria that had made Coalition control of the Legislative Council of Victoria easier.

John Cain was a stickler for very stern views about probity in public office that may be contrasted with views sometimes held today. In 1985 he advised the dismissal of the Governor (Sir Brian Murray) for accepting while in office a gift of an air ticket to travel to the United States, in the midst of financial difficulties involving the State Bank of Victoria. That bank was later sold to the Commonwealth Bank of Australia, differences in the ALP caucus eventually arose that led to Cain's resignation as

Premier on 7 August 1990. He remained in Parliament until the following election when he did not recontest his seat.

His subsequent career included academic appointments to the University of Melbourne and Deakin Universities; appointment as a trustee of the Melbourne Cricket Ground (1999-2013); and as a member of the Commonwealth Observers' Group to the South African elections in 1994 that resulted in the return of the ANC Government led by Nelson Mandela. In office, and after, he was insistent on equal opportunity for women. He required organisations reliant on public funds or established on public land to drop restrictions on female membership.

On his death, observers praised his stoic personality; courage and integrity and his achievement of many law reforms. His early legal posts, including on the ALRC, made his career one of legal as well as political achievement. He is survived by his widow of 65 years, Nancye, two sons and one daughter. One of his sons, also John Cain, serves as a Judge of the County Court of Victoria and as State Coroner. It is believed that although a former Premier, John Cain refused a high civil honour, considering (like Paul Keating) that public service in elected office was its own sufficient reward.

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