

January 1944

A Soldier Visits Australia's Courts

George J. Robinson

Follow this and additional works at: <https://digitalcommons.du.edu/dlr>

Recommended Citation

George J. Robinson, A Soldier Visits Australia's Courts, 21 Dicta 20 (1944).

This Article is brought to you for free and open access by the Denver Law Review at Digital Commons @ DU. It has been accepted for inclusion in Denver Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

A Soldier Visits Australia's Courts

BY SGT. GEORGE J. ROBINSON*

We arrived at the court to find that it had just finished its session for the week, and everything appeared to be locked. We approached a guard and told him we were attorneys in the States and would appreciate being allowed to wander around the building. He immediately displayed an eager interest to show it to us himself and off we went. He first took us to a room where barristers take solitude for study, and introduced us to one who was quite occupied, but willing to drop everything to show us around himself. We told him we'd return after a while and could talk then when he'd not be so busy.

The guard then took us into a library—what a grand sight it was to see those stacks of law books. We were familiar with most of them, but tucked into a corner was a set of *Corpus Juris*, to which, the barrister later told us, resort often is made to find cases in point, both English and American. There was also the set of *Halsbury*—quite similar to the *C. J.*, and quite authoritative, being compiled by the outstanding authorities upon the particular subject and reviewed by a group of lords and outstanding barristers, thus being quite acceptable to be cited as authority in its own right.

We then went into the court room. It was quite similar to the impression I'd receive by walking into an old cathedral—not that it was lavish in its appointments nor of architectural grandeur, but it was impressive from its own atmosphere. Ahead of us was the bench for the chief justice and four associate justices, all of whom sit on cases of extreme importance or on appeals from the supreme court, which is presided over by one justice. To the left of us was the jury box; in front of the bench were the tables for the barristers; to the rear of that was a box for the law students; back and overhead, the gallery for the public. Solemnity reigned. Leaving there, we went into another room, and here the guard's eyes twinkled. Yes, there were the FEDERAL REPORTERS, reports of the various states, and believe it or not, the 1908 REVISED STATUTES OF COLORADO! Rather antiquated, but really a welcome sight. Also we saw the leading law reviews. As you know, the dominion organization here is fashioned from our own—the separation of powers, state rights and the like—hence, American decisions are used often as authorities for Australian interpretations. In this room was a United States major from the judge advocate's department, poring over case law. It was really a sight, and before long we were in a real session, talking of this and that.

*Member of the Colorado bar, formerly of Lakewood, now in the Armed Forces.

We then returned to visit with the barrister, who seemed concerned that we might have left without seeing him. We were introduced to an older barrister who had just bade his son goodbye, and with a voice of pride, he said, "That son of mine was one of the first to shoot down a Jap plane in the defense of Australia." He then talked of some of his law experiences, the outstanding of which was his appearance before the Privy Council of England, where he had taken an appeal. Our barrister then took us to the cloak room to show us the robes of the justices and barristers. The barristers wear black robes and short white wigs in all trials, for the justice will not "hear them" unless they are properly garbed. An interesting feature of the robe was a neckpiece that hung down the back. This, the barrister explained, had a useful purpose not too long ago. The practice of law was considered a most honorable profession, for which no fees could be taken; so when a barrister had well presented his client's case, the client would reach around and tuck money into the little pocket that is concealed in the neckpiece. During criminal hearings in the supreme court (which compares to our district courts) the justices are robed in red, with ermine trimmings, the robes costing from 200 pounds (\$600) and up. In civil trials the robes have no trimmings and are black. The wigs fall past the shoulder, and they, too, are expensive, running over \$60. The barrister then said, when the session becomes warm, first the chief justice throws his wig aside, quickly followed by his associates, and then by the barristers in turn.

The king's counsel is an outstanding barrister, who receives his appointment directly from the king, and represents him in all matters that concern the Crown. He ranks immediately below the associate attorney general, and bears an enviable position among barristers. His robe is of silk, and his wig, too, is long.

There are only two courts of original jurisdiction in the Australian states, namely, the magistrates court with limited jurisdiction of 200 pounds and minor criminal offenses. Solicitors appear before this court, not barristers. All other matters go to the supreme court or from the magistrates court on appeal. Solicitors are not recognized in the higher court. On appeals or appearance before the latter, they must engage a barrister to represent them. Now a solicitor is in a position not comparable to one found in the States. He acquires his training by serving as an apprentice to a barrister for five years—bound to faithfully serve him, and the barrister to properly train him. The apprentice accompanies the barrister to court, listens to trials, and performs sundry tasks—no holidays are permissible in this period. From time to time he's subjected to examinations, and upon the completion of the term, with recommendations from landholders and barristers and others, he is given consideration by the court. If

acceptable, he pays 50 guineas, equivalent to about \$175 (where do you suppose he musters such a sum in this period?). After practicing five years, he is then allowed to become a barrister. One can also become a barrister by procuring a LL.B., which entitles him to automatic admission with no bar exams. In fact our friends were quite astonished to learn of the ordeal of bar exams that we go through, but said that our legal education was unsurpassed and that they were amazed at the amount of legal knowledge our attorneys possess when they've talked with them.

The federal courts are quite similar to our circuit courts—traveling courts convening where cases merit attention. Appeals from those courts go to the Privy Council in England.

The matter of fees is quite interesting. No barrister can refuse any case brought to him—he sets the fee, but if the client feels it unjust, takes the question to a tax adjuster, who calls upon the barrister for an itemized statement. Then, in a huddle with client and barrister, he sets a fair fee. Costs of the court and of both parties' counsel are assessed against the losing party; and the tax adjuster procures payment, if necessary, by levying taxes upon the property of the loser. So law can be an expensive game, though fees here are not on the same high level as at home. For example imagine preparing the will and associated papers for an estate of \$150,000 for a fee of \$75!

Business Opportunities

OFFERED BY IVOR O. WINGREN*

To the Colorado lawyers who are having a difficult time in getting enough money to meet the installments on their income taxes, the following money making propositions are offered for quick returns. Address all inquiries to Thomas J. Morrissey, United States Attorney, Denver, Colorado.

OPPORTUNITY No. 1

THE LOST BONANZA

(As told by an Old Prospector)

I spent some years prospecting with old prospectors in the Silverton district, covering the Continental Divide east of the Rio Grande River, and some ninety miles west of a railroad town called Espanola. I had heard many rumors of a lost mine from Mexican shepherders.

*Assistant United States District Attorney, Denver. NOTE: Mr. Wingren is not paying the regular Dicta rate for these advertisements.