

MEDICO-LEGAL SOCIETY OF VICTORIA VOL. XII



THE PROCEEDINGS OF THE
MEDICO-LEGAL SOCIETY
OF VICTORIA

1970-1974

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**THE PROCEEDINGS OF THE
MEDICO-LEGAL SOCIETY
OF VICTORIA**

During the Years
1970, 1971, 1972, 1973 and 1974

Edited by
DOUGLAS GRAHAM
and
DAVID P. GALE

Vol. XII

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OF THE
MEDICO-LEGAL SOCIETY OF VICTORIA

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Committee: Drs. Billings, Forster, Upjohn and Bush, and Professor Attwood; Messrs. Hulme, q.c., Rogers, Fullagar, q.c. and Todd and Professor Waller.

FOREWORD

The Medico-Legal Society has been in existence for over forty years and in assembling this, the twelfth Volume of the Proceedings, we have included not only the papers read before the Society in the years 1970 to 1974 but also a table of all the papers included in previous volumes of the Proceedings and a table of office-bearers of the Society since its inception. In such a volume an Introduction by Dr. Guy Springthorpe who has been closely involved in the affairs of the Society throughout its existence was clearly appropriate, and we are grateful to him for supplying it.

As previous editors have done, we acknowledge responsibility for abridging the discussion of all papers in this volume. We have been guided in our task by the nature and content of particular papers and of the ensuing discussion as well as by economic considerations. Those latter considerations have recently compelled the Committee of the Society to cease the practice of transcribing the discussion. Whilst this step will relieve our successors from an invidious task, we express the hope that neither that nor our efforts in assembling this Volume will detract from the quality and the variety of members' contributions to discussions at meetings.

Lastly we wish to record our gratitude to Mr. R. K. Todd, the former Hon. Secretary (Legal) of the Society for the substantial assistance which he gave in preparing this Volume.

DOUGLAS GRAHAM
DAVID P. GALE

Honorary Editors.

Melbourne, February 1976.

INTRODUCTION

The foundation of the Medico-Legal Society of Victoria in 1931 depended, like many historic events, on the combination of a fortunate chance and the appropriate moment.

In Victoria, the medical and also the legal profession had had an interesting and often distinguished past. Before the organized doctors became the Victorian Branch of the B.M.A., there were two Societies, the Medical Society of Victoria, and the Melbourne Medical Association, both of which had scientific and social objectives. After the amalgamation, the M.M.A. decided to carry on its social interests. This covered a variety of activities. At about monthly intervals there were evening lectures, picnics in the Dandenongs, visits to the zoo, the National Gallery etc. At all of these functions, wives and daughters could attend. The piece de resistance was the Annual Dinner, appropriately confined to members only. Before I became Honorary Secretary of the M.M.A. in 1928, Dr. Douglas Stephens had acted for many years in this onerous post. On studying the Minutes I was pleased to note that they often had committee meetings at the old Vienna Cafe where the Hotel Australia now stands.

During my term of office until 1939, our Annual Dinner was held at the Hotel Windsor. I recall nostalgically we usually had a seven course meal including wines and sometimes champagne. All of this out of the annual subscription of one guinea. This triumph was made possible because members in those days were slaves to duty, and although we had over 200 members, only 60 or 70 attended this dinner. These pleasant customs were interrupted by the last World War and when it ended no one came forward to carry out our programme and although we still had several hundred pounds in the bank, the Association wound up.

It was the practice at each of these dinners to invite distinguished guests from other walks of life. I remember a marvellous evening when we entertained the artists, and on another occasion, the officials of the racing clubs. In 1931 we had as our guests, members of the Legal Profession. Our President that year was Dr. Mark Gardner, a well known eye specialist. In proposing the toast of our guests, he suggested that the time might be ripe to form a Medico-Legal Society, to further the mutual interests of both professions. This idea was favourably received and quite soon afterwards, the Society was founded. Dr. Gardner

was a notable figure in the medical world of Melbourne in those days and had been distinguished as a sportsman. He was in England carrying out post-graduate studies in ophthalmology when World War I began. He enlisted in the A.M.C. and was for a considerable time seconded to Units of the Polish Army. Amongst his Army distinctions was a high Polish Order—if my memory is correct—the Order of the White Eagle.

I believe the success of this venture was due to two factors, the time was indeed ripe, and we were fortunate to obtain as foundation members acknowledged leaders of both professions. Mr. Justice McArthur was our first president and Dr. Mollison, doyen of forensic pathologists, our second. The original plan of having four evening meetings a year for papers and discussion, and an annual dinner has continued with increasing membership. At first doctors outnumbered lawyers about two to one and in the earlier years the readers of papers were in about the same ratio. For some years now however, the membership has been more equally divided.

I had the privilege of being Honorary Treasurer for the first 25 years of the Society. Over this period the Annual Subscription remained at one guinea and for this sum we received copies of the Proceedings published at varying intervals and a substantial contribution towards the Annual Dinner. The honorary auditor over this period was Jim Tait, recently Sir James, who although retired from the hurly burly of legal practice, sits with distinction on many Boards. Doubtless his training with our Society contributed to his success in the realms of higher finance.

For many years the after dinner speeches have charmed the suitably primed listeners. Without doubt, the funniest of these orations occurred when, at some expense to the Society, we imported a highly praised after dinner speaker from Sydney. On these occasions it was our custom to have several martinis, or the like, during a somewhat boisterous, but always well conducted, Annual Meeting before the dinner, and then participate in wine and other beverages with the meal. After this, our speaker was introduced, rose to his feet, and began, "Gentlemen, tonight I propose to discuss the differences between natural and unnatural vice", whereupon he collapsed to the floor in what we assume was a state of patriotic fervour.

Our meetings and the published Proceedings have remained our chief activity. We started off in 1931 with one of the greatest medical orators of the day, Wood Jones, Professor of Anatomy at

the University of Melbourne. During the discussion of his paper he was not so gently needled by Eugene Gorman who referred to the Edinburgh body snatchers, who procured corpses for dissection at the University, or so it was alleged. At our second meeting, Gorman chose a somewhat provocative title for his address, "Medical Murderers". However, despite this tendentious beginning, we continued to grow in members and status.

Our proceedings are well worth reading and often the discussion has been of high standard. When one considers we had discussants of the calibre of Owen Dixon and Wilbur Ham, in the early days, this is not surprising. When lecturing to embryo psychiatrists I have liked to quote Sir Owen from his paper, "Science and Judicial Proceedings" (Volume 2.), "Now the object of the parties is always Victory, not objective truth, and the ease or difficulty which attends the performance of these tasks (the giving of expert evidence) will of course vary greatly with the nature of the thing to be explained. Perhaps two observations may be usefully made. The first is that it is not when medical or scientific conceptions are intricate, but when they are vague, that the process is troublesome. It is perhaps for this reason that scorn of the law is more widespread amongst psychiatrists than anatomists".

Dr. A. E. Brown's paper in Volume 1 (25.2.33) on "Ethics of Abortion", is in this class, sensible, and at that time courageous. A lengthy discussion followed and particularly notable were the remarks of Wilbur Ham in moving a vote of thanks to the speakers. He gave, I think, a marvellous summary in half a page of the discussion under three headings, The role of the church, the Law and the public opinion.

In more recent times other outstanding discussants have emerged—P. D. Phillips with his lucid analysis of almost any topic, but a shade prolix in his final address to the jury. The Dr. Ostermeyer M.D., M.A., Dux of Scotch College, Honorary Physician at the Melbourne Hospital. No words of mine can describe the impact of his furious loquacity. It was said that he always spent the day before our meetings at the Public Library preparing himself.

Our constitution has altered little over the years. Recently, moving with the times, we have admitted women members, and in Volume 3, a new Rule 17 states, "Speeches during discussion at meetings are to be limited to five minutes unless the Chairman, at the request of members present, extends that time". I

seem to recall an awkward occasion when someone moved that a certain member who wished to speak a second or third time “be no longer heard”, and the motion was carried.

We have been well served over the years by our Office-Bearers and Committees—a labour of love, I expect: but I would like to add a particular word of praise to our editors. The way they have reduced the sometimes rambling remarks of discussants to prose, almost worthy of Bacon’s essays, has been a notable feat.

To conclude, perhaps the greatest contribution to the well-being of our two professions has been the friendliness and mutual understanding that has developed. I believe we have all enjoyed being members of our Medico-Legal Society.

GUY SPRINGTHORPE