

PROFESSIONAL PEOPLE

By DR. G. RALEIGH WEIGALL and
MR. D. I. MENZIES, Q.C.

These two papers were delivered at a meeting of the Medico-Legal Society held on Saturday, 17th September, 1955, at the British Medical Association Hall, Albert Street, East Melbourne.

DR. G. RALEIGH WEIGALL: The subject of this paper was suggested to the committee last year by the President, Mr. Phillips, who had been impressed by the book, *Professional People* written by two Englishmen, Roy Lewis and Angus Monk.

He felt that a discussion on the problems raised in this book, particularly adapted to the circumstances concerning the medical and legal professions in Australia today, might be of interest to this Society, and certainly would be good for it; and I was instructed first to read, mark and inwardly digest the book.

This I have done with great pleasure and interest which I am sure will also have been the experience of those of you who have read it.

To those who are not familiar with the book, I would explain that it deals with the origin of the various professions; traces their evolution and development to their present standing in England, with many interesting comments on the factors which influenced such development—and it then goes on to make a prophecy or forecast as to what the future may hold for them.

My task, as I understand it, is not to epitomize the book—which is far too good as well as much too long to be subjected to such a fate—but rather with its very substantial help in the background, to deal with these matters as they concern the medical profession in Australia—the changes that have occurred, the present status and aspirations of the profession, and if I can surmise as to what the future holds for us.

It is customary and desirable at the beginning of a paper to define the subject matter or title and curiously enough here we are in difficulty right at the start.

The discussion of the definition of the term “Profession” occupies many pages of this book and even then it is left indefinite.

One of the troubles about defining the term is that it is so commonly used loosely, particularly in the adjectival form. For instance, when one of us has perhaps accomplished a neat and successful piece of brick-laying or carpentering, one's wife may, seeking to compliment one and encourage further activities, say that it is "a very professional job". We may perhaps use a similar adjective to encourage her efforts at sewing, but I do not imagine that we deem bricklaying, carpentering or needlework to be professions.

The Oxford English Dictionary defines a profession as "A vocation in which a professed knowledge of some department of learning or science is used in its application to the affairs of others, or in the practice of an art founded upon it".

This definition seems to be too wide to cover what we usually understand by the word: it would confer professional status for instance on photographers, the better type of gardener and other craftsmen of the higher sort, such as goldsmiths, and so on.

It seems necessary to include in the definition some reference to the facts that:

1. More than "professing" a knowledge "of learning or science" is involved. Admission to a profession is by examination and approval by a competent body of members of that profession.
2. That a definite standard of professional conduct or "ethics" must be insisted upon and departure from that standard can involve exorcism from the profession.
3. This is the hardest to include in a definition, but should refer to the existence of an element of trust between the professional man and his patient or client. He is engaged to do the best he can by a person who knows he himself is not competent to assess the difficulties to be overcome, and the degree of success to be expected.

A doctor does not undertake to cure a patient, or a lawyer to get his client all he wants, but both are obliged by their professional conscience to do the best they can in that direction: and in general their remuneration is not determined by the result they achieve in the case.

The layman must be able to trust the professional man with things that are very important to him, but of which he knows very little.

With great respect to the O.E.D. I think these points should be included in what we regard as an adequate description of a real profession.

I have rather stressed this point, and would like to feel I have your agreement with it, as I propose to refer to it again a little later in a rather important connection.

The first group of professions with which Lewis and Maude deal, are Doctor, Priest, Lawyer and Architect—why they are placed in that order I must leave you to form your own opinion; it is not alphabetical or chronological, but there must be some good reason. It is at any rate with the first of them I must concern myself. In my share of this evening's discussion, there obviously is not time to recount the extremely interesting history of the development of the medical profession through the centuries: it is worth reading the book for that alone. I will refer only to two events in comparatively modern times which are landmarks in the organization and control of the practice of medicine.

In 1832 an association of doctors was formed, members of which included the members of ten previous separate organizations—the Colleges of Physicians and of Surgeons and the Society of Apothecaries. This association in 1856 became the British Medical Association which became and still is the verifying and negotiating body for the whole profession.

This was followed by the passage of the "Medical Act" in 1858 which set standards of qualification and rules of practice for the medical profession, under the direction of the General Medical Council, on which were represented the Venerable Colleges; the Medical Corporations of the United Kingdom and Ireland; the profession and the Crown. This is still the directing body, without whose sanction no one can legally practise in Great Britain.

In this country we have the Medical Board of the several States which are essentially the same in structure, functions and standards as the G.M.C. and has the same power of registering and deregistering doctors here.

These bodies have been performing their functions, it will thus be seen, for nearly 100 years, and control the standard of knowledge and of conduct very much the same now as they did at their inception.

But instead of going into history any more fully it would be better for me to deal with changes and trends in the profession in this country over the more recent times, and of which I have some personal knowledge.

I was a little surprised when I found I could claim to have taken an intelligent interest in medical practice in Melbourne for over 40 years, longer than you would think I hope by looking at me—but it is a fact due to the early age at which scholastic prerequisites made it necessary for one to select one's career, and to the fact that my father always interested me greatly in things to do with his practice and was ready and willing and able to talk most interestingly on topics such as we are dealing with this evening. My recollections, reinforced no doubt by his subsequent reminiscences, thus go back to the period first before the First War, and what a variety of changes have occurred between then and now, many of them directly attributable to or hastened by the effect of the two wars.

These changes it seems might be put into two groups:

1. *General Changes* that affect all sections of the community as well as the doctors.
2. Those particularly applicable to the medical profession in the period under review.

As regards General Changes—

1. A levelling process has taken place so that there is now nothing like the distinction of social status or of wealth that there were one or two generations ago. A man now is judged more by what he is himself and what he can do rather than by his ancestry. As regards inherited wealth, income tax and probate duty has levelled that down and income in wages has levelled it up, so there is no longer as wide a distinction between rich and poor as there was. The status of a professional man as such tends to be similarly affected.
2. General increase in standard of education and greater opportunity for anyone with enough brains and enthusiasm to obtain higher education has made it possible for them to enter fields such as professional careers which were previously inaccessible to them.
3. Possibly as a corollary of these changes, one notes a decline in standards of formality, of behaviour and manners, and of dress. This latter deterioration at least may be related to the decline in availability of domestic servants—one can hardly help with the washing-up, make a bed, carry out the dust bin and attend to one's car in the morning suit and silk-hat which our professional forebears regarded almost as a uniform.

4. The increased rush and bustle of modern times is commonly attributed to the telephone, motor car and air travel, but I think unjustly so. I do not see that there is much more strain involved in getting an urgent summons on the telephone than from a boy on a bicycle, or to travel for an hour in a car than in a horse-drawn carriage. I think it might be fairer if we blamed it at least in part on the growth of the week-end habit and the drive for outdoor games and exercise which most men nowadays, including myself, regard as well worth a bit of extra bustle during the week in order that we can hustle round a golf course or indulge in strenuous tree felling or digging in some country retreat in our thus earned leisure time.

Next are the changes which affect my profession in particular.

Outstanding of these are the really tremendous advances in medical knowledge which have taken place even since I was a student, and are still going on at such a rate that it is quite impossible to keep pace with them in all directions at once—hence the increase in specialization.

Forty years ago it was possible for a well-trained, keen and intelligent doctor to keep himself so well informed that he could be nearly, if not quite, as good in all branches of the healing art as anyone was then—so that he could conscientiously carry out a complete medical practice, and do everything, or very nearly everything, that could be done for his patient from the womb to the tomb—that was a true general practitioner.

But now such a well-informed and conscientious man is aware that for a number of his patients more can be done either in investigation or treatment than he can do. So he refers them to specialists: whose numbers have grown correspondingly and the nature of these specialists have grown narrower as each subdivision of a major subject develops more and more intricate techniques.

So now it takes a good man all his time to keep abreast of progress and incidentally to further progress in that field alone.

Take Surgery as an example.

Whereas say thirty years ago a general surgeon dealt with almost any surgical condition, now it is divided up so that we have:

Brain and Neurological Surgeons

Thoracic and Cardiovascular Surgeons

Gynaecologists and Urogenital Surgeons
Orthopaedic and Paediatric Surgeons
Ear, Nose and Throat and Ophthalmic Surgeons

So that, as it has been said, soon all that will be left for the general surgeon is the small area within three inches of the navel.

This progress has of course led to very much better technical work being done in many fields and successful treatment of numerous conditions previously regarded as irremediable.

It has also led to some change in the relationship between the general practitioner and his patient—but he still does and must continue to play a very important part.

He should still be the first to see any sort of illness developing in the people in his practice. About ninety-five per cent of them he will be well able to treat himself alone.

He can pick the other five per cent in which specialist help is needed and advise on a suitable specialist for that particular patient. By doing this he should enhance rather than lessen his status with the profession and with the patient. His is often the credit for such a case being brought to a successful conclusion by his awareness of the nature of it and what should be done for it or by whom, though he is no longer the patient's only doctor as he might have been a generation ago; he is but one of perhaps four or five who have had a share in treating him if his condition has been serious or obscure—radiologist, pathologist, consulting physician and/or surgeon, transfusion and anaesthetic specialists may all have had a finger in the pie—and the numbers are growing all the time, and the cost of illness is growing and the death-rate is decreasing, and the average age of the community has increased so much that a new specialty "Geniatrics" has developed—and as Pepys so wisely remarked, "What will be the end of it all, God knows".

There are many more changes one has seen developing over this period, but the only other one with which I have time to deal this evening is the increased interest of the State in providing controlling and directing medical services and ancillary activities.

This has taken the form of legislation concerned with health departments and control of hospitals, and financial and other provisions to provide medical care for increasingly large sections of the community.

Included in these activities are:

1. Extension of the provisions of the Workers' Compensation Act to cover all forms of illness or disability arising from or in the course of their employment, including on the way to or from their work, of all employed persons earning up to £2,000 per annum.
2. Extension of repatriation medical benefits to ex-service men and women for disabilities which may be quite unrelated to their service: and to their widows and dependants. These beneficiaries are classed as war-widows, though in many cases the death of the husband was only remotely, if at all, attributable to either war. But they are provided with a free medical service.
3. Pensioner medical service is available free to all old-age, widow or invalid pensioners.

In both these services the doctor is paid by the Government for each service rendered at a rate fixed by it, at a lower level than the ordinary fee.

Why it should be a lower fee is hard to understand. The attitude that returned servicemen with disabilities attributed to war service, and poor old pensioners, should be objects for compassionate or concessional treatment is fair enough. But why should the medical profession alone be the one to show the compassion or make the concessions, when it is the Government and not the pensioner who is paying and which expects and gets the same standard of service for which other people pay ordinary fees?

Finally we come to deal with the more frankly socialized form of medical service, available to all with no means test or other criteria as a basis for eligibility, i.e. *The National Health Service*. Briefly I would remind you that, as it stands at present, the National Health Service provides a substantial refund of medical, surgical and hospital costs out of government funds to all who have insured themselves by joining an approved society. So that the government benefit plus the society's payment may leave them to bear only one-tenth of the cost of their illness; the patient pays the doctor of his choice for the services he receives, just as he did before and he is refunded up to ninety per cent of this by the government and the society in equal parts.

The fact that the whole amount is not met we regard as important. That the patient has to bear some of the expense him-

self tends to prevent him from demanding too frequent visits about trivialities and also tends to safeguard public funds from the inroads which might be made into them by this being done under a free-for-service if the government were bearing the whole cost.

Most important to us is that we retain our freedom from government control.

We are still paid by the patient—who may or may not get some rebate from the government, but we are his private doctor, chosen by him, can be changed by him and responsible to him for our handling of the case, and he to us for the charge we make for doing so.

If it be true that "Who pays the piper, calls the tune" (as the Minister of Health does in England), then it can equally well be said, "Who only rebates a portion of the listener's fee cannot decide the piper's programme".

A very different system was forced on the profession in England under which the Ministry of Health pays the doctor so much per head per year for every patient on his list, irrespective of the demands made upon him; tells him what he can do and what he cannot do for his patient, and has made his life a burden of filling in forms of every conceivable sort, and has assumed disciplinary powers over him in all directions, including, under certain conditions, even where he shall practise. It prohibits him from selling his practice if he has any National Health Service patients—and practically all the doctors had to join it as ninety-seven per cent of the people are on some doctor's list, and doctors cannot prescribe free medicine for them or treat them in the government-controlled hospitals unless he works under the scheme.

So few patients can afford to pay for this service through taxation (it cost £470 minimum in 1951-52) and also pay privately for their medical service, their drugs, and their hospitals that private practice has been almost entirely killed.

The doctors have become the paid servants of a government department, dominated by its regulations rather than by the best interests of their patients. Every British medical journal contains sad records of the quarrels, arguments and disputes arising between doctor, patient and government under this system.

We have thus been much more fortunate in this country than in England in having this trend to socialization developed along lines which are much better for both the public and the profession than is the case in England.

The reasons for this difference appear to be:

1. We have here a very limited profession with about ninety-five per cent of practising doctors belonging to the British Medical Association and willing to follow its advice and to contribute to funds for providing legal and other costs when the need arises. In England only sixty per cent of doctors belong to the British Medical Association.
2. Here we have a strong capable and energetic Federal Council, composed of men actively engaged in various forms of practice and closely in touch with the practising profession through the various State Councils which they represent.
3. Generally speaking the Government and Minister of Health have been willing to listen to advice from those best able to give it and assist in its implementation. In doing this they may well have been influenced by an appreciation of the attitude of the people of this country being much less favourable towards control and regimentation than they are in England. There, they had a so very much tougher time in the wars than we did here, and had become so used to queues, shortages, regulation of supplies of all sorts and government officials controlling everything that they wanted, that they were conditioned to accept the same modifications of their freedom in medical matters.

I do not think the Australian public would have accepted anything of the sort with the same placidity—any more than Australian doctors would have been willing to work under it. We have thus been able to maintain in the face of all these changes that have occurred the cardinal points that we regard as essential to maintaining our professional status—the retention of the doctor-patient relationship built up by hundreds of years of tradition and valued by both parties, and freedom from government control in carrying this on.

It has been truly said that “the price of freedom is eternal vigilance”.

This vigilance is certainly called for in this case, and the Councils of the British Medical Association can literally be said to be working overtime exercising this watchfulness over suggested amendments and regulations of the various services I have mentioned.

But this is not the only direction in which we must be vigilant, if we are to remain worthy of the freedom we enjoy and the status of professional people.

The extra condition I introduced into the definition of "Profession" earlier in this paper referred to the element of trustworthiness as part of the attributes of a professional man.

We must be worthy of this trust to be fully worthy of the title—and our association must remain as vigilant in this direction as it is in watching trends of legislation.

Now we come to the last part of what I set out to answer:

Where do we go from here?

This I think is the hardest part of the task set me, and I can deal with it only in general terms.

All I can reasonably be sure of is that we won't go backwards.

I cannot see any government lessening the benefits it or its predecessor has given to its electors. Any effort to narrow the provisions of the Workers' Compensation Act back to where they were when they provided only protection for the worker from the genuine hazards of his occupation would be impossible from a political point of view. So would restriction of repatriation benefits to those who could show that their disability resulted from war-service.

No government would dare to risk its political life by lessening the free medicines available or the proportion of medical fees it pays at present.

The lessening of taxation which such a reduction in services would permit would not be sufficiently apparent to appeal to a large enough section of the electors to keep such a government in power.

Rather I imagine the trend will be towards offering more "free" this or "free" that—in both cases "free" is in heavily inverted commas indicated that it only can come out of heavily increased taxation.

We cannot alter this trend, though we may be able to delay it by making the present system work so well that no one will demand a better one.

What we must do is to adapt ourselves to the changing trends of political thought as we have to the other changes that have come over professional life in our time—adapt ourselves to the changes in outer forms if need be, but without varying in the least our fundamental principles, which entitle us to retain the status enjoyed by our fathers and to be worthy of it. Co-operation

of the professions as a whole, mutual understanding of each other's problems and ideals would help a lot to maintain the traditional standing of professional people, and that is one way in which a society such as this can be of great value.

I would like to conclude with a quotation from the end of the book to which I paid a tribute in the beginning:

"The conclusion of a historical review of the professions is that professional people have inherited the leadership in Britain today. That leadership will be in good hands if they can remain professional in the best sense, as we have tried to elucidate it. They need, however, to work much harder to strengthen an influence that is already waning. They need to protect themselves and to defend their ideals. They need to face the fact that they are an aristocracy of a sort and to understand and uphold the personal attainments, as well as the exercise of power which is implied in that word."

MR. D. I. MENZIES, Q.C.: Mr. Chairman and gentlemen, I was a little surprised to hear our Chairman say that he thought that my qualifications to speak on this subject tonight were best justified by his research into our common history. I mean the history of that part of the British Isles that is north of the Tweed. From this I gathered that he thought the Menzies were cattle duffers which was a very splendid qualification to speak on this particular subject. I might say, had he carried his investigations further, I am sure he would have found, if I may coin the phrase, we were "more duffed against than duffing", but, speaking entirely for that part of the society for whom I speak especially tonight, the lawyers, and referring to Australia, I would be bold to say that we do not consider "bush-ranging" to be a necessary qualification to speak with authority about this particular subject, and that neither do the authors of the books that we are discussing tonight.

These two gentlemen have written two books—one they have entitled the *English Middle Classes*, and the second *Professional People*. The second book is a detailed analysis of part of the study of their early book; and those of you who are familiar with the books will know that their survey is both a disturbing and an alarming one, because the views they have formed after a very exhaustive survey is that the position of the middle classes is precarious, and that part of the middle classes that is represented by the professional people is even worse. Indeed, if I may summarize their thesis; it is this—that the situation of professional

people in the United Kingdom has deteriorated seriously over the past fifty years or so, and is now critical both for themselves and for the community of which they are the elite. Now perhaps we need not discuss the concluding phrase and we can assume, for the purposes of our discussion, that the professional people are the elite of the community in and for which they carry on their practices, but I must say that our authors make good the conclusion which they express, that the position of professional people in England and in Scotland has deteriorated very badly over the past decade or so. May I illustrate how serious they show it to be when I say that—and here I generalize—that their conclusion is that there are very few professional people in the United Kingdom whose net earnings exceed £2,000. Moreover, and perhaps more importantly, they point out that there has been a very considerable loss of prestige—more perhaps for the lawyers than for the doctors—because, as they say, it was not many years ago since the doctor always entered by the back door, whereas barristers at any rate usually came in at the front door. They only came for dinner. But by and large, they paint what is a very disturbing picture of the situation of professional people in the United Kingdom, and they contend that this is basically due to the decay of what our authors regard as the core of professional practice, namely, the relationship between the professional man and client; between the doctor and patient, solicitor and client, barrister and client, and so forth. In that relationship they find the basic element to be this—that the professional man is ultimately responsible for what he does for his client. That responsibility rests fairly and squarely on the professional man himself. It does not rest upon a government department, it does not rest upon a borough, it does not rest upon a group of people; it rests upon the individual who undertakes to do his best—as Dr. Weigall has said—for his lay client is in a situation where the lay client is in no position to judge, so that the relationship is one of complete confidence in the professional man in whom the lay client puts his trust.

It would be laborious to trace, in any great detail, how this deterioration has come about, but if I may summarize what our authors have to say, they attribute it to three causes.

First, the enormous pressure for professional services. The pressure of demand has been so intense that the result has been the provision of quantity rather than quality. Now, that is illustrated again merely in the book and in relation to the United

Kingdom, particularly by what has happened in the professions of doctors and dentists under the National Health Schemes. It is pointed out that adequate medical attention and adequate dental attention was beyond the means of many people who required it, but as soon as these services could be had almost free by those who required them, there was an excessive demand. Indeed many who did not need professional services asked for them. The result was that the professional men could not meet the demand, and, at the same time, maintain the quality of service that had been provided in the days when the demand was less. The result, our authors say, was the ideal that nothing but the best is good enough for everybody has meant in practice that nobody is getting the best except outside the system. They point out that those who have remained in private practice, both in medicine and in dentistry, and have kept the flag of private practice flying, have retained many patients, because there are still a considerable number of people who are prepared to pay out of their own pockets for the best, rather than to accept what they conceive to be the second best, at the expense of the State. Nevertheless, the result overall has been a falling off in the quality of the service that has been provided by the professions.

Our authors say, however, that this pressure is not the only source of deterioration, and in the second place they refer to a matter that is probably quite inevitable, namely, the increase in specialization. That as practices become more specialized, so the doctor or the lawyer may know more about the particular ailment or the particular problem that is brought to his attention, but less about the person who brings it to him, and there has, therefore, been some loss of the human relationship which was of great value in professional practice. That, of course, could be developed, but I hope I have made the point clear, and I do not want to spend too much time over that, because I want to turn as soon as possible to the situation in Australia.

The third element that is noted in this book is that the steady growth of the employment of professional men, either by the State or by local government or by industry, has eaten away what is the basis of professional practice, namely, the professional man/client relationship, and that as employment of professional men has increased, so has the core of professional practice been weakened.

The thesis is that in the United Kingdom itself, these developments have been accompanied by lower standards, by loss of

status, by the disappearance of outstanding rewards for professional men of outstanding eminence, and by a general falling off in the rate of overall earnings. In conjunction with those special developments, our authors found that the general conditions have borne heavily upon professional men, and that the two current phenomena which affect everybody, namely, a steeply rising cost of living and crippling taxation, have affected professional men more than they have affected other people in the community—with the result that, by and large, the professional man in the United Kingdom is badly off. The conclusion is then drawn that the professional men, being badly off, the community itself is the poorer, and that it is up to the professions to correct the situation, so far as they can, both for their own security and for that of the community in which they live. Now that, by and large, is the thesis of the books, and the present enquiry which we are making tonight is whether what is said to be true of professional people in the United Kingdom is true of professional people here, and of course my special concern is with the problem whether it is true of lawyers in this community.

In considering this you will no doubt agree with me if I make the assumption, that the authors do not make, but which I think their study warrants, that professional people are indeed the elite of the community, and their situation is not only of importance to themselves but it is of great importance to those whom they serve, and to those who live in the community which they serve. What I want to do on the basis of that assumption is to examine a number of problems—grouped under three headings—and to make something in the nature of a comparative study. I will pay attention particularly to a comparison between the standards of professional people fifty years ago and today; the rewards of professional people fifty years ago and today; and the standing of professional people fifty years ago and today. Now I am sure that everyone will appreciate the difficulties of making such comparisons. First of all, it is difficult to find an appropriate basis for comparison. It would, of course, be possible to choose a man of great eminence fifty years ago and a man of great eminence today, and to compare their situation; but that would not be entirely satisfactory. It might be possible to choose an average man or a typical man of fifty years ago, and choose one today, but that itself does not altogether meet the problem, and in any case how is it to be determined who is typical and who is not. Moreover the difficulties are made the greater by lack of any

reliable data. It follows that I must work upon a comparatively narrow basis, and must protect myself in advance by saying that any conclusions that are offered are both tentative and to some extent speculative. So what I have had to say must be regarded both as incomplete and to a certain extent speculative, and I should add this, that there is a natural tendency, and I think probably a laudable tendency, to magnify the past at the expense of the present. It is probably true that there were always giants in the past days, so that what I have to say must to some extent be discounted by the reflection that those that are near at hand look less formidable and less magnificent than those who occupied the stage a few decades previously. At any rate, making all those allowances, I would address myself to these three problems, and with particular reference to the law, I would make the comparisons that I have already indicated.

You will remember that in the first place I wanted to compare the standards of fifty years ago with today. Now let me make it clear, I am not comparing ethical standards in any way. I suppose there were always rogues and there were always people who were almost saints, and there were always those who lay between the two, and this third group comprised the bulk of any profession. This is probably true now as then, so I am not comparing ethical standards. Rather, I am comparing standards of professional conduct, and with some diffidence I offer this conclusion for discussion, that although professional standards are high today, they are not as high as they used to be. Now that, I know, is daring and it may be wrong, but I will do the best I can to support it, and in doing so, I want to give what I think will be a striking illustration though it will I know be more impressive to those who are lawyers than to those who are doctors. Going back to 1906, I find that in that year Mr. Isaac Isaacs left the Victorian Bar to become a Justice of the High Court of Australia; so did Mr. H. B. Higgins. In the same year, Mr. L. F. B. Cussen was appointed from the Victorian Bar to the Supreme Court. Now, those who are not lawyers here, probably know more of Mr. Isaacs, or Sir Isaac Isaacs as he became, than of the others, but let me say that the appointment of Mr. Cussen to the Supreme Court of Victoria was one of the most momentous appointments in Australian legal history; never has there been such a judge of the Supreme Court. So that when I tell you in one year two members of our Bar left the Bar for the High Court of Australia, and one left it to achieve a position of outstanding

eminence on the Supreme Court, I am telling you that the Victorian Bar suffered a very severe loss indeed. Now you may say, "Well, that being so, surely the Bar was substantially weakened?" No doubt it was, but let me tell you who remained, and for this purpose I exclude altogether those distinguished barristers who did not become judges, and I take only those who became judges of the High Court or the Supreme Court or acting judges of these courts. There was left at the Victorian Bar, notwithstanding those three appointments, Mr. Frank Gavan Duffy, who was later appointed to the High Court and became Chief Justice of the High Court of Australia. Mr. William Irvine was left practising, and he eventually became Chief Justice of Victoria, and amongst lawyers it is only necessary to mention the name of Sir William Irvine to set a standard for integrity, dignity and strength. In addition to those two, there was Mr. H. E. Starke. Mr. Starke became a justice of the High Court, and for many years was a most powerful influence on that very powerful court. There was left Mr. Stewart McArthur. Mr. McArthur became a justice of the Supreme Court of Victoria, and he too was a man of very great distinction. It is interesting to record, having regard to my collaborator tonight, that Mr. T. a'B. Weigall who remained as a member of the Bar became an Acting Justice of the Supreme Court, and so did Mr. Chomley. That is not all. Mr. F. W. Mann had a large practice, and in due course he became a justice of the Supreme Court and Chief Justice of the Supreme Court of Victoria. His contemporary was Mr. W. J. Schutt, who went on the Supreme Court about the same time, and was a man of great distinction. Among more junior members of the Bar, there was Mr. J. R. Macfarlan, who became a justice of the Supreme Court; there was Mr. J. G. Latham, who as Sir John Latham became Chief Justice of the High Court of Australia; and there was also a very junior barrister—very well known in this Society as Sir Charles Lowe, present Senior Puisne Judge, sometime Acting Chief Justice of the Supreme Court of Victoria. In all, that must be conceded to be a very remarkable situation. Losing three men of such capacity, the Bar should nevertheless have been left with men of such outstanding distinction. May I add—and I refer now to people who were not at the Bar in 1906, but who came to the Bar shortly afterwards, that from its small numbers, about one hundred I think, the Victorian Bar produced three other lawyers of outstanding distinction. The present Chief Justice of the High Court at that time was a university student, and he came to the

Bar in 1910. At the same time there was at school in Melbourne two other men, one of whom is now the Prime Minister of Australia; the other is the Chief Justice of Victoria, who before becoming Chief Justice of Victoria was Lieutenant-General, commanding battle formations. I mention these things because it is a distinction appreciated outside Australia that this small Bar should not only produce lawyers of this calibre, but should also produce public men who have taken such a great part not only in Victorian affairs, but in Australian and in world affairs. Now, there was the situation in 1906. I do not answer it, but I ask the question—"Are the prospects for the next fifty years as good?" And let me add that I think a profession is to be judged by its best men. It is entitled to be judged by the best men it produces, and I think we can be proud that both professions that are represented here tonight stand up to the test if they are judged by the best men they have produced over the past few decades. It is fortunately true, that the best set the standard for those who are not quite so good, and because there is a high standard at the top, it follows that there is a high standard below. It is not surprising therefore that in 1906 there were at the Victorian Bar a very strong body of men who occupied, as it were, the middle position. I have mentioned the great names, but you can add to them others. There was Mr. Bryant; there was Mr. Purvis; there were a number of others, and generally the standard was extraordinarily high. So far as I can gather, the same was true of the solicitor side of the profession too. I do not think that I am being over-modest when I say that in comparison the standard today is not quite as high. I am inclined to think that our profession has become a little more pedestrian. It may be that this is partly the result of social pressure of other sorts, but we do lack the colourful personalities that were almost typical of the profession in those days. It is on this sort of basis—I cannot elaborate it any more tonight—that I do offer to you for consideration the conclusion that, high as our standards are today, they are not as good as they were.

Now in explanation of the conclusion just offered, I would suggest that it may be due to the fact that professions were more attractive fifty years ago than they are today; that a higher percentage of good men were attracted to them; that there was a greater lure, as it were, to join a profession then than there is now. I would add to that what I think is beyond dispute, that the standards of general education of professional men were higher

then than they are now. That is not altogether our fault. Dr. Weigall has already referred to specialization at an early stage. Then there is no longer the insistence that a professional man should be a well educated man outside his own particular specialty, and I do believe that we suffer some loss because that is so. I would also join with Dr. Weigall in suggesting to you that there is this further reason, that the professional man then led a less distracting life than does the professional man today. There are all sorts of reasons for that, but I believe that it is true, and I do not want to say any more about it.

Now I know it is unwise to generalize, but it may be that what I have indicated as being true of the legal profession, and for which I have given some reason, is probably true of other professions as well. So far as the doctors are concerned, I leave it to them to answer for themselves, but if one were, for instance, to refer to the artists of our community, or the architects of our community, I think there is a good deal to be said for the view that there were higher standards of professional achievement fifty years ago than there are today, and it may well be that the same considerations have produced the same result.

Now let me go on to a comparison of rewards, and in comparing these I think it is necessary to take into account first of all professional earnings—professional fees, as it were—and the opportunity for further earnings. Perhaps I can illustrate that by taking the case of a solicitor. The man who is a solicitor earns his professional fees; in relation to that, he has the opportunity of earning commissions which I think are generally regarded as part of the remuneration of a solicitor. Nowadays he is also in the way of becoming a director of a company or a number of companies and of earning fees as such. So the first element in any comparison of rewards is to take the capacity to earn. Secondly, I think it is proper to take into account what might be regarded as distinction for professional eminence. This is probably truer for lawyers than for doctors, because the crown of professional practice is to be appointed a Judge, with all the distinction that it carries, and this is a very real element in considering whether or not the lawyer is well regarded in comparison with other people in the community. The man who achieves the success of being appointed a Judge is a man of whom the community thinks well, and to whom the community accords a good deal of status and regard. This is something properly to be taken into account. The third element to be taken into account is, no doubt, security. I

do not say much about that, because professional practice is notably insecure, and if we become professional men we cannot complain that we are insecure—we have taken that into account in becoming professional men, and there is no basis for complaint that we have not the same security as a man who has an established business, or a man who has a permanent employment. Another element to be taken into account in assessing rewards is the amount of leisure that the profession allows to those who follow it, and finally this—I think it is fair—to take into account the costs of establishment in a particular profession. Now may I run through those five headings again, taking them in reverse order.

In so far as the costs of professional establishment go, I suggest to you that although today they are substantial, they are not unduly heavy. Taking into account the advantages that are available to those of quite ordinary ability in the way of getting government scholarships and things of that sort, there is a comparatively easy road open to the person of good ability to become a professional man, and once he acquires his professional qualifications, he can establish himself now pretty quickly, and I believe that is true now of both our professions. In the early years of professional practice, rewards are without doubt a great deal more generous than they were a number of years ago. When I come to the matter of leisure, all I would say is that the opportunities of the professional man for leisure are far less than enough, and we are certainly worse off than those who occupied similar positions a number of years ago. I think the pressure is on the professional man, and therefore he has lost a good deal of leisure that he once enjoyed. When I refer to security, I would say that a professional man has little, and should expect little, but that earlier, when taxation was less, a man who occupied a leading position in a profession did have the opportunities to make savings for old age, whereas now, taxation being what it is, there is very little chance to make savings out of a lifetime of professional practice. There is much less over than there used to be from what is required to meet the cost of living.

That brings me to the position of the professional man's earnings, which I want to deal with at greater length. Here I put forward something which may not be generally accepted, but the conclusion that I have reached, after a survey, incomplete as it is, of the position, is that at the present time, professional men are fairly well off. Now here, I believe, we are in an incomparably

better position than people in England, and I want to give you some figures to make my point. I do not put these forward with any great authority, but I believe they indicate generally what is the actual position in my own profession. At the present time, the average gross receipts of a member of the Bar would not be below £2,750, and that takes into account the man who is just starting, and the man who is past his practice. The net figure is not much lower than the gross, for, fortunately for a barrister, his overheads are extraordinarily low, and I think it would not be out of the way if you said that his net receipts were about ninety per cent of his gross receipts. It is very different of course for solicitors. I think that a young man of good ability coming to the Bar, can expect to earn something like £700 a year in his first year. I think he can expect to earn something like £2,500 in his third year. I think that by the time he has been there for a number of years and has moved, as it were, into the position of a good practice, he can expect something like £5,000, rising as his practice grows to something like £7,000 to £8,000. If he goes on, he can earn more. Queen's Counsel can expect to earn somewhere between £7,000 and £10,000 and there are a number who earn a good deal more. Now I know each profession has a somewhat grandiose notion of what the other professions earn, and I say this now, as a matter of safeguarding our own profession. I don't believe that there is at present any barrister in Victoria whose professional earnings would exceed £15,000. I should perhaps say something about the positions of barristers in England. There are many of them who do not earn £500 a year. The ordinary Queen's Counsel would not, I think, earn more than £5,000. Many would earn less. The men who are in leading practice would earn a good deal more, say £20,000 up, and the top one or two might earn a lot more. There are a small number who earn big fees; a large number earn substantial fees, but the largest number earn quite low fees. I would say, by and large, that the position of barristers in Australia is incomparably better than the position of barristers in England. So far as solicitors are concerned, the latest information that I have (and it is now quite out of date), is that obtained from a survey that was carried out in 1949, which related to fees during the year 1947-1948. This showed that fifty-five per cent of the solicitor-principals earned less than £1,000 a year net, and only eight per cent earned over £2,000 net. I have discussed that with a number of solicitors, and I do not think, that even at the time, it was regarded as a

true indication of what were the earnings of solicitors in Victoria. What has happened since I do not know, and I have no information at all which would be of much assistance. There is no doubt that earnings now are substantially larger, and what might be regarded as some sort of guide is that in 1947, the year of this survey, a man who qualified as a solicitor and who went into a solicitor's office as a salaried clerk would get somewhere about £300 a year, whereas he would now expect to get something like £1,000 a year. I do not suggest for one moment that the earnings of solicitor-principals have increased in like ratio. They unfortunately are under price control. I do not know why they in fact submit to it so complacently—I know a number who do not, and they do not seem to fare any worse than those who do—but it is true that with the bulk of solicitors the scale of fees is adhered to, and the scale of fees is far too low and should be raised. Moreover there is no need for solicitors to adhere to the scale as they are inclined to do because they can charge more if their client agrees. I now pass to judges—because I am moving up through the profession—and I think it is quite general knowledge that for years the salaries of judges have been far too low. In the 1890's the salaries of Supreme Court judges were reduced to £2,500 a year—you notice, reduced—they were cut down after the catastrophe of 1890, and they remained at £2,500 a year until 1945. Since 1945 they have been increased, and they have been increased over that period from £2,500 to what is an effective £4,250, where they now stand, although an increase is in prospect. Even so they are too low, having regard to the earnings of other people in this community. If one would look for a proper basis for salaries for judges, I would submit to you that the new salaries for High Court judges would provide a reasonable basis. The Chief Justice of the High Court now gets £7,500 a year, the other judges get £6,000 a year, and that might well be regarded as a proper basis for the earnings of our Supreme Court judges. I believe myself that this community should do a great deal more for judges in addition to paying these salaries, in the way of providing professional assistance for them, libraries, and the amenities that a business man regards as normal. We do not do it in Australia, but we should. If that were done, salaries that were based on the High Court salaries might well be regarded as reasonable. In considering salaries of judges, it is of course necessary to take this into account, that it is part of the tradition of the legal profession that a man who becomes a judge usually accepts a good deal less

than he was earning from his practice at the Bar; to become a judge is not a matter of improving the appointee's financial position; it is a matter of taking the highest position in the profession at a reduced earning rate.

Now I have stated the position, as I have been able to understand it, in the legal profession, and I say this without further elaboration, that my general impression is at present that earnings of doctors, dentists, accountants, architects, engineers in private practice are reasonably satisfactory. Dr. Weigall has said nothing about this particular subject, but I see here a number of people who know what evidence was given recently in the Arbitration Court about the earnings of doctors in private practice. My understanding of that evidence is that figures that were revealed did show a reasonable rate of earnings for the doctors of this community. May I say this, I do not think professional men should be ashamed if they earn good money; they should earn good money, and there is no reason for underestimating the amount that is earned. The community should understand that professional men should be well paid, and professional men should not be ashamed of letting it be known that not only do they expect a proper return, but they are getting it. To do so will help to attract the right men to professional life.

The position of a salaried professional man is, I believe, somewhat different. The salaried professional man earns substantially less than the man in private practice, and I say that is right that this should be so. The salaried professional man does not take the chances that the man in private practice does, and one of the reasons why the man who takes the chances gets more is that he takes the risk, and if a man does not take the risk, he should not expect the greater reward of the man who does. If a man chooses security, well, he should be prepared to accept the price of security. It may be that the difference is too great—about that I express no opinion—but I am confident that the earnings of salaried men are substantially less than of those who are in private practice. I would add that I regard it as unfortunate from the point of view of the professions that salaried professional men have, almost of necessity, to resort to wage fixing tribunals for the purpose of having their salaries assessed. I do not think it does the profession very much good, but I have no alternative suggestion to make, because as things stand at present, particularly when salaried men are employed by governments, there are the normal wage fixing authorities, and if they want more than is

given internally, their only resort is to go to public wage fixing tribunals and have their salaries fixed. There is one addition I want to make, and that is this, that I believe that the professional men who are employed in administration usually do very well indeed. People like engineers and chemists, who occupy very good positions in this community, are, I believe, properly remunerated for their very able services. It is an obvious tendency for the professional man going into commercial practice—he usually goes in professionally, to change over to administration, where he does extremely well. It is partly attributable to his professional training and to his own capacity, and he is well regarded.

I should not conclude this review of rewards without reference to the influence of the cost of living and taxation, because although these things affect everybody in the community, they do bear more hardly upon the professional man than upon the business man or the man on the land. The professional man has no capital appreciation; he has no expense account; and he has no perquisites. This being so, taxation affects him more than a man who has some or all of those things, and I would suggest that it is a matter of first-rate importance for all professional people to obtain the right to have as a taxation deduction some proper provision for their own superannuation. This is being discussed in England following the Millard Tucker Report, and professional organizations here are pressing for the same sort of justice. It should be granted, because the professional man's only asset is himself and the results of his depreciation are only too obvious.

The third comparison I must make—and I know I have spoken far too long—relates to the standing of professional men in the community; and again I would say that although it is high at the present time, it is probably not as high as it was. This is partly due to the fact that perhaps we are not doing as good a job as we did, as I suggested earlier. It is, however, partly due to the fact that others in the community have improved their position—*vis-à-vis*, the professional man: I think, of course, of the business man, who not only earns a good deal more, but whose standing in the community is a good deal better than it was fifty years ago. Perhaps too our loss of standing is due to egalitarian notions, which make it unattractive to people to recognize that everybody is not on exactly the same level, notions to which no one really adheres.

I am altogether at one with Dr. Weigall when he says the present situation requires the greatest vigilance from both profes-

sional people themselves, and from professional organizations. To run quickly through the matters upon which vigilance is necessary, I would put foremost, the maintenance and improvement of professional standards. Our future is very largely in our own hands, and we must secure it by improving our own standards, and by responding to the trust that lay clients, of necessity, place in us. Secondly, I would say that we should charge on a scale which admits of work being well done. We should, as professional men, prefer to do a smaller amount of good work than a larger amount of work that is not thoroughly done, and if we feel that that involves charging higher fees, we should take the risk and charge the higher fees. We should not sacrifice quality for quantity. Vigilance is required further to protect the professional man—client relationship. That is a matter dwelt on at length in Lewis and Maude's books, because I believe that the relationship has been more under fire in England than it has been here. I do not believe, in our professions here, that there is any real danger of the professional man-client relationship being lost as things stand at present, but if what has happened overseas is any indication of what might happen here, we must be resolved to protect that relationship as the essential of our professional life. We must be vigilant, further, and this relates particularly to professional men who are employed on salaries, to resist non-professional control of professional men and their activities. That is not altogether easy. It requires a good deal of tact, and it requires a good deal of resolution, but I believe, if we stand firm that when professional men are employed, they must be employed upon conditions that are compatible with professional practice, we will get our own way. And finally, I would say, that we must co-operate with other professional men and organizations in matters of general importance to all professional men. No profession stands by itself. We stand together in this community, and we must bring our joint power to bear upon matters of general professional importance.