

The Late Frank Rutledge Louat Q.C.

The only practising Doctor of Laws at the N.S.W. Bar for many years, Frank Rutledge Louat died at Dijon in France on 26th January, 1963, during a vacation visit to that country. A man of innumerable interests of an intellectual, artistic, and social nature, Louat was perhaps as well known both in the Australian community and internationally as any lawyer in Australia, and his loss will be widely felt.

After an education at Sydney Church of England Grammar School and the University, he was admitted to the Bar in 1925, obtained his Doctorate in 1933 and took silk in 1953. He was made a Chevalier of the French Legion of Honour in 1958 for his work in furtherance of Australian-French relations. Among his numerous distinctions, he was President of the N.S.W. Constitutional Association from 1940 to 1946 and a trustee of the National Art Gallery from 1958 and took part as the British member in the all-nations Council which arbitrated on the French-Indian Territories after India achieved independence.

Louat was a good Bar man, always eager to assist in furthering the interests of the Bar and willing to carry out any task which might be imposed on him to that end. A memorial service, arranged by the Association was held in St. James Church on 7th March, 1963, and attended by Mrs. Louat, and many Judges, fellow members of the Bar, Solicitors and other friends. A memorial address was given by the Chief Justice of the Supreme Court of N.S.W. (the Hon. L. J. Herron) in terms which will long be remembered by those who heard it.

INTERSTATE NOTES

Victorian Bar

From a Correspondent

As a State under the Judicature Act, Victoria has, of course, no separate courts administering law and equity; nor is it the practice for Supreme Court judges to be allocated exclusively to one branch of work(1). Judicial specialisation survived the Judicature Act until 1886 when Mr. Thomas a'Beckett, an equity barrister, was appointed to fill a vacancy on the common law side of the court. So that his experience would not be wasted Mr. Justice a'Beckett came to share the equity work with Mr. Justice Holroyd, and in the course of time the strict division between equity and common law or divorce judges was relaxed. In turn, the composition of the lists became more varied until the multiplication of motor cars changed the character of so much common law work. To New South Wales' eyes, indeed to English, the lists of the Victorian court contain a curious admixture of business. A leading New South Wales silk not long ago flew to Melbourne to appear on a company motion, only to find most of the morning in the court in which the motion was to be heard taken up with the hearing of applications for the remission of bail. There is no commercial court: all causes to be heard before a judge alone are taken in the one list.

But because most of our judges sit in all kinds of cases, the question whether particular work is more appropriately undertaken by an equity or a common law judge

is of small interest. It will be remembered that it was not until after the last war that the Lord Chancellor—at the suggestion of an Australian judge—transferred revenue business to the Chancery Division of the High Court from the King's Bench Division, which had acquired it when it was merged with the Exchequer Division in 1880. It does not surprise that revenue work should have been thought to belong more appropriately to the Chancery side, as, in modern taxation cases, the conveyancer's skills are usually of greater importance than the cross-examiner's wiles. It is perhaps surprising that this fact should have been recognised in England so recently. Once made, the change seems to have been complete, for Lord Justice Diplock, who before his appointment to the Court of Appeal was a judge of the King's Bench Division not unversed in commercial matters, in a recent case admitted that it was not until his judicial promotion that he had encountered the provisions of the Finance Act 1894(2). A judge of the Victorian Supreme Court might well be heard to say that he last had to consider the taxation legislation in a professional capacity the day before his appointment to the bench. Few taxpayers take advantage of the jurisdiction vested in State courts by the Commonwealth Income Tax Assessment Act and Estate Duty Assessment Act, probably because it is thought that the Commonwealth will be more ready to appeal from an adverse decision of a Supreme Court judge than of a judge of the High Court exercising original jurisdiction. The accuracy of this assumption may be doubted: the High Court in its appellate jurisdiction has shown no disinclination to reverse the decision of one of its members sitting alone.

These reflections are given point by the announcement that Mr. J. A. Nimmo Q.C. will be an Acting Judge of the Supreme Court during the absence on leave of Sir Charles Lowe. Sir Charles Lowe will retire from the court on 10th December, 1963. Although before the war he had an extensive common law practice, Mr. Nimmo has enjoyed little recent association with the civil jury courts in which he will sit for some months, his practice having been mainly in the field of income and estate taxation. Mr. Nimmo has had previous judicial experience (if that word may be used in disregard of the decisions in *Shell Co. of Australia Ltd. v. Federal Commissioner of Taxation* (1930) 44 C.L.R. 530 and *Reg. v. Coppel ex parte Viney Industries Pty. Ltd.* (1962) V.R. 630) as a member of the Taxation Board of Review and an inspector for the investigation of the affairs of a company under the Companies Act. He was recently elected to the Victorian Bar Council and was at the time of his appointment the only member of the Council occupying chambers in Equity Chambers.

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The death of Mr. Basil Buller Murphy has deprived the Bar of one of its best-loved members. Basil Buller Murphy was perhaps out of place in the harsh glare of

- (1) Mr. Justice Barry in recent years has sat only in the divorce court. This arrangement facilitates his Honour's arrangements in connexion with his work as the judicial member of the Parole Board.
- (2) *Morgan v. I.R.C.* (1963) 2 W.L.R. 416, at p. 427.