

Victorian Reports launch 2016

Speech of Justice Macaulay

Melbourne (17 August) and Sydney (18 August)

Honoured guests, ladies and gentlemen, I am delighted to speak on behalf of the Victorian Council of Law Reporting, the body responsible for publishing the authorised reports of Victoria's courts. The Council's authority stems from the *Council of Law Reporting in Victoria Act 1967*. Its function is to '*prepare, publish and sell or arrange for the preparation, publication and sale of reports of judicial decisions of any court in Victoria*'.

The first volume of the Victorian Law Reports (1861-1862) was published by Butterworth & Co (Australia) Ltd in 1863. Butterworth remained the publisher of the VLRs, renamed the VRs from 1957 onwards, until volume 5 of the VRs in 2002 which shows the publisher to be LexisNexis Butterworths. LexisNexis Butterworths remained the publisher until this month, ending with Vol 46.

As all here know, there has been a debate about the relevance and value of authorised reports for a long time, not just here in Victoria but around the common law world. The debate has been sharpened by the tremendous development in free public access reporting of cases on such sites as the ubiquitous Austlii, and Jade Barnet. Platforms such as these have performed the great community service of providing timely, free public access to legal decisions in Australia. Similar platforms provide the same services overseas.

I joined the Council in mid-2014. By then, under the leadership of the former chair Justice David Beach, the Council was well underway in its thinking about the true value and merit of authorised reports and how to meet the challenge of online free public access reporting of the "raw" unreported decisions. The Council had just received a report from a consultant who had been engaged to help the Council

think through these issues and to provide a recommendation about the future. That consultant was Michael Green of Jade Barnett.

Mr Green's report in mid-2014 recommended that the Council explore a new model for authorised law reporting to meet the challenges of the online environment, to improve timeliness and to make the reports available to other providers to gain maximum industry dissemination.

In light of that report, the Council decided to do two things:

- **first**, to survey the Victorian and wider Australian market to obtain a better understanding of consumers' needs and desires.
- **second**, to conduct a competitive tender process for proposals to address those needs and desires.

The survey was undertaken by **Insync Surveys**: it was illuminating. In some respects it reported what was expected, yet it provided empirical assurance of those themes. These were the key lessons:

1. Beyond simply providing an enduring record of the most significant decisions of the Court, there is still market demand for authorised reports: that demand however is subject to certain conditions, including that the *quality* of the reporting must add value as a service;
2. The most highly valued feature of the authorised reports lay in the headnote;
3. Other conditions included timeliness and pricing; and
4. Different users have different preferences for the medium: online/print/both/on other research platforms etc.

The Council then implemented the competitive tender process. A pleasing number of publishers - some experienced, some new - tendered proposals. After a shortlisting process, and numerous rounds of interviews, the candidates came down to five, then to three and then finally BarNet was selected to be the new publisher.

As you know, BarNet has created a special purpose company, Little William Bourke, to become the new publisher of the *Victorian Reports*.

The work was not over. There was then a rigorous negotiation process with LWB to settle on the contract. Following that there was a three-way negotiation process between the Council, LWB and other publishers to negotiate Platform Inclusion Licenses -- LexisNexis and Thompson Reuters being the first among them. These licenses will allow the newly published (and past) *Victorian Reports* to be made available to the subscribers of those publishers on their respective research platforms.

All throughout this period, there was the delicate matter of the transition from the reporting of those cases still in the pipeline with LexisNexis, edited by former editor Laurence Maher, to the reporting of those cases to be published by LWB under the new editor Peter Willis SC. For my part, and indeed for the whole Council, I am immensely grateful to LexisNexis for the professionalism, grace and cooperation of its staff and personnel in assisting this transition process. We are delighted to have continued our relationship with LexisNexis by having the *Victorian Reports* continue to be available on its online platform.

Most significantly, we are delighted with the new dedicated *Victorian Reports* platform created by our new publisher, LWB, unveiled here tonight. We are excited by its fresh appearance and functionality. We look forward to its continuing development. It embodies the very ideals which we sought and which we believe will enhance the relevance and value of our authorised reports.

The result is that the *Victorian Reports* are:

- Available on the dedicated *Victorian Reports* website published by Little William Bourke, with its own unique functionality: including, a freely available searchable database, and with a variety of subscription options including pay-per-view;
- Available on the online platforms of both LexisNexis and Thompson Reuters and, in the future, other publishers with whom we reach agreement;
- Available in a timely manner, with decisions to be uploaded to the various platforms, case by case, as soon as they have passed through the selection, editing, approving and uploading processes. Indeed you will see the first three of the LWB Vol 47 cases up on the site today!
- Available also in traditional hard copy format, and
- And all for a range of pricing models which we believe will well accommodate the needs of our different categories of users.

It has been a long and challenging process, accomplished by the voluntary efforts of so many hard workers on the Council. I principally wish to acknowledge the dedicated work of Michael Pearce SC, Laurie Atkinson (Director of the Law Library of Victoria), former honorary secretary Denis Davies (Herbert Smith Freehills), Peter Bartlett (Minter Ellison) and the tireless and dedicated work of the former editor, Laurence Maher. Of course, there were others who played their roles but mostly we watched on with grateful admiration for those I have named.

Our driving ambition has been to **achieve the widest possible dissemination at the lowest cost**. That will remain our ambition along with a dedication to continue to monitor and enhance the value of the authorised reports, and their timely delivery.