James Merralls' AM QC

40 Years as Commonwealth Law Reports Editor

Speech Notes

29 May 2009

Jim Merralls' association with the Commonwealth Law Reports commenced in 1960 when, as appears from Vol 103, he became a reporter. His now epic term as editor commenced with Vol 118 in 1969. Since then the special anniversaries have kept on coming. On his 25th anniversary as editor, John Batt called him "the doyen of law reporters and editors of law reports in Australian and a point of reference when any question about reporting arises".

Such a question did arise in a case in the High Court in Perth in 1984. The case was *SW Hart & Co Pty Ltd v Edwards Hot Water Systems*. Jim Merralls appeared for the appellant with Robert Anderson, who later became a judge of the Supreme Court of Western Australia. I appeared as junior to David Malcolm QC.

At p 40 of the transcript Mr Merralls referred to a Federal Court case, *Fire Nymph Products Ltd v Jalco Products Pty Ltd* (1983) 42 ALR 355. Upon his citation of the case the following exchange occurred:

> "Gibbs CJ: Are they the ALRs as they are commonly known?
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> Mr Merralls: Yes, Your Honour.
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> Gibbs CJ: They are the Australasian – A for Australasian is it?

Mr Merralls:	I do not know. I do not take them, Your Honour.
Gibbs CJ:	It may well be right, I am just asking.
Mr Merralls:	They were called the Australasian Argus Reports.
Mason J:	But they are now called the Australian Law Reports.
Mr Merralls:	They are Australian, are they?
MasonJ:	Yes.
Mr Merralls:	So they are. Thank you. It is the ATRs, their bedmates, that are Australasian, I think, they have a few New Zealand cases in them.
Mason J:	I have often wondered why there are no New Zealand cases in them.
Deane J:	They are very prompt, Mr Merralls.
Mr Merralls:	Not prompter than the ALJR, Your Honour, and they are not reliable. They are reliable enough in this case…."

A dinner to mark Jim Merralls' 30th anniversary as editor in 1999, Justice Sundberg expressed the wish that he would remain as editor, at least until 2009, so that he could surpass Sir Frederick Pollock's record as editor of the Law Reports[1].

In Volume 80 of the Commonwealth Law Reports, which was a special edition containing previously unreported cases that had subsequently acquired greater significance, Sir Anthony Mason observed that Mr Merralls "has provided much more than just the string to bind this

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[1]   RA Sundberg, "James Merralls AM QC" (Spring 1999) 110 *Victorian Bar News* 39 at 40.

historical collection of cases … He is largely responsible for the very high standard we have come to expect of the Reports"[2].

Volume 217 was the 100th volume which Jim Merralls edited. I attribute to him what my predecessor, Chief Justice Murray Gleeson said:

> "The selection of case suitable for inclusion in the Commonwealth Law Reports is a primary task of the editor. This is a heavy responsibility. It requires the confidence of the publishers, the subscribers, and, above all, of the Court itself.   That confidence is sustained by Mr Merralls' professional eminence as a barrister, is extensive legal knowledge, and his personal integrity and commitment. He involves himself closely in the whole process of editing and reporting, including the summarising of arguments of counsel, and the composition of headnotes: these are the activities which, in the current jargon, add value to the raw material. The worth of that material is for others to judge, but as to the value of his contribution there can be no argument. The Court itself is a major user of this series of reports. All the Justices take a close interest in the quality of the publications. It is a testimony to Mr Merralls' success that his work is deeply appreciated within the Court."

On my own behalf and those of the other justices of the Court, I join with my predecessor in expressing our appreciation for the work that Jim Merralls has done as editor of the Commonwealth Law Reports for the past 40 years and trust that he will comfortably exceed the record set by Sir Frederick Pollock.

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[2]   Sir Anthony Mason, "Foreword" (1994) 180 CLR vii at ix.