

As barristers embrace technology, it is a brave new world for their clerks†

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Clerks are the law's middlemen: organising, negotiating and fixing their barristers' professional and personal commitments. They belong to one of the smallest occupational groups in the world. This article explores the way that technology has changed the way barristers work over the past 60 years. It will describe how chambers were run in the 1960s, 70s and 80s, by way of comparison with modern sets. It will examine the technologies that have made the biggest impact on the role of the barristers' clerk. In particular, the functionality of hand-held devices, including mobile telephony, email and the internet has given barristers more autonomy than ever. In order to survive, and more importantly, to thrive in all this disruption, clerks need to reinvent themselves. Finally, this article will highlight some of the technologies being embraced by tech-savvy clerks; who are redefining their role and securing their place in chambers for years to come.

## Introduction

### A The barrister's clerk

Despite the overlap of legal work between solicitors and barristers, barristers are ostensibly the specialists in advocacy. They are a much smaller group in number than solicitors.<sup>1</sup> They are sole practitioners who join together in chambers, where they

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share costs, but not their profits. At the heart of most traditional barristers' chambers is the clerk. Many new barristers have no idea what a clerk is or does.<sup>2</sup> Sometimes described as 'the Law's Middleman', the clerk mediates the diverse interests of the legal system: barristers, solicitors, judges, associates, list officers and often the clients.<sup>3</sup> By accommodating the demands of the law and the barristers in chambers, the clerk is a counsellor, negotiator and 'fixer'.<sup>4</sup> A clerk's duties are primarily administrative, including managing their barristers' diaries, liaising with solicitors in relation to their barristers' availability and recovery of fees, as well as responsibility for accounts and junior staff employed by the floor. In the 1980s, Barristers' clerks remained one of the smallest occupational groups in Australia and this is very likely true today.<sup>5</sup>

A number of barristers' clerks in Sydney and Melbourne have contributed their personal histories and valuable insights to this article.<sup>6</sup> Together, these clerks manage or have managed the practices of hundreds of barristers, including some long-since retired silks and judges admitted to practise before the Great War. We are indebted to these co-contributors for their time, candour, and good humour.

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<sup>1</sup> As at 30 September 2015, there were 28,766 solicitors holding practicing certificates in New South Wales with almost half based in the Central Business District of Sydney. In the corresponding survey period, the number of barristers in New South Wales was 2,350. Statistics about solicitors retrieved from The Law Society of New South Wales Practising Solicitor Statistics, on 30 May 2016 at <http://www.lawsociety.com.au/cs/groups/public/documents/internetregistry/1143952.pdf>. Statistics about barristers retrieved from The Bar Association of New South Wales Barrister Statistics, on 30 May 2016 at <http://www.nswbar.asn.au/the-bar-association/statistics>.

<sup>2</sup> JA Flood, *Barristers' Clerks: The Law's Middlemen* (Manchester University Press, 1983) at 16.

<sup>3</sup> JA Flood, *Barristers' Clerks: The Law's Middlemen* (Manchester University Press, 1983) at 2.

<sup>4</sup> B Abel-Smith and R Stevens, *Lawyers and the Courts: A Sociological Study of the English Legal System 1750-1965* (Harvard University Press, 1967) at 215.

<sup>5</sup> JA Flood, *Barristers' Clerks: The Law's Middlemen* (Manchester University Press, 1983) at 4.

<sup>6</sup> In Sydney: Paul Daley, now retired and consulting part-time to 11<sup>th</sup> Floor Wentworth and 5<sup>th</sup> Floor St James Hall Chambers; Margaret Ashford, Senior Clerk of 6<sup>th</sup> Floor St James Hall Chambers; and Emily Giles, Clerk of Tenth Floor St James Hall Chambers. In Melbourne: John Dever, of Dever's List; John Kelly of Foley's List; Michael Green and Luke Hales, of Green's List; and Tammy Young, of Young's List.

## **B Traditional role of the barristers' clerk**

Little seems to have been written on the role of the barrister's clerk, particularly prior to the late 1970s. One rich source is John Flood's thesis, *Barristers' Clerks: The Law's Middlemen*,<sup>7</sup> which was published as a book in 1983. Flood's thesis provides a fascinating historical insight into 19<sup>th</sup> Century legal traditions and is also a window into the role of the clerk in Flood's own time. It can be gleaned from Flood's narrative that from the early 1800s to the late 1970s, the role of the clerk changed very little. There were some innovations in that time, but the most significant shift was the growth in the number of barristers in chambers. In larger chambers, clerks would need junior staff to assist the clerk in their duties.

In the early 1800s, London barristers practised from chambers in arrangements similar to those seen in modern London and New South Wales. A clerk in Georgian London or early colonial New South Wales had a more personal – almost servile – relationship with their barristers than they do today. The barrister and clerk were also more interdependent – probably driven by the clerks' close connections with the solicitors and their capacity to direct work to their barristers. In 1823, Charles Lamb wrote of his father's experience as a barristers' clerk in London.<sup>8</sup> According to this brief account, John Lamb clerked for Salt of King's Counsel. Lamb's role as his barrister's clerk is summarised thus:

*He was at once a clerk, his good servant, dresser, his friend, his flapper,<sup>9</sup> his guide, stopwatch, auditor, treasurer. [Salt KC] did nothing without consulting [his clerk], or failed in anything without expecting and fearing his admonishing. He put himself almost too much in his hands; had they not been*

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<sup>7</sup> JA Flood, *Barristers' Clerks: The Law's Middlemen* (Manchester University Press, 1983).

<sup>8</sup> C Lamb, 'The Old Benchers of the Inner Temple' in *Last Essays of Elia* (1823), reprinted in C. Lamb, *The Old Benchers of the Inner Temple* (F Mackinnon, ann. 1927) at xiv. See also, J Flood, 'Barristers' Clerks' (1979) 4 *The Journal of the Legal Profession* 23 at 23. Retrieved on 31 May 2016 from [http://www.law.ua.edu/pubs/jlp\\_files/issues\\_files/vol04/vol04art02.pdf](http://www.law.ua.edu/pubs/jlp_files/issues_files/vol04/vol04art02.pdf).

<sup>9</sup> In Swift's *Gulliver's Travels*, a flapper is a servant employed by someone important to flap their eyes or ears when their attention is required. See J Swift, *Gulliver's Travels* 1726) Part 3, Chapter 2.

*the purest in the world. He resigned his title almost to respect as a master, if [his clerk] could ever have forgotten for a moment that he was his servant.*<sup>10</sup>

This inversion of the ostensible master/servant relationship between Salt KC and his clerk was not unusual and is likely a product of the commercial relationship between the two. In Victorian London, clerks ensured their barristers were busy and the clerks received commissions from their barristers' fees. Clerks' commissions were a fixed percentage according to an agreed scale. However, clerks at this time were notorious for demanding commissions above the scale, usually at the cost of the instructing solicitors. Complaints from the solicitors' branch of the profession crowded the pages of the *Legal Observer Journal of Jurisprudence* for a number of years in the 1840s.<sup>11</sup>

The first chambers in Australia were formed shortly after the 1823 establishment of the Supreme Court of New South Wales.<sup>12</sup> The New South Wales Bar Association incorporated in 1836.<sup>13</sup> In the early 1840s, barristers began practising in Melbourne (which at this time was part of the Colony of New South Wales).<sup>14</sup> Until the 1860s, the Sydney and Melbourne Bars were primarily made up of barristers who had been admitted in England or Ireland, before emigrating.<sup>15</sup> The New South Wales Law Almanac for 1886 lists 80 barristers "currently practising in the Colony" with

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<sup>10</sup> A Smith, 'Barristers' clerk' (18 March 2010) *The Oxford Times*. Retrieved 31 May 2016 from <http://www.oxfordtimes.co.uk/business/profiles/5069700.Barristersclerk/>.

<sup>11</sup> For example, 'Practice of Retainers' (1838-1839) 17 *Legal Observer Journal of Jurisprudence* 145 at 149.

<sup>12</sup> The New South Wales Act *Geo iv c 96 1823* authorised the issues of a charter to erect and establish a Court of Judicature in New South Wales.

<sup>13</sup> Bar History. Retrieved 1 June 2016 from <http://www.nswbar.asn.au/the-bar-association/bar-history>.

<sup>14</sup> Public Record Office of Victoria. Retrieved 1 June 2016 from <http://prov.vic.gov.au/publications/provenance/provenance2014/legal-profession-colonial-victoria>.

<sup>15</sup> Public Record Office of Victoria. Retrieved 1 June 2016 from <http://prov.vic.gov.au/wp-content/uploads/2014/10/HarrisonR-F041.jpg>.

admissions dating back to 1841.<sup>16</sup> Unfortunately, there is little written about the men who clerked for the Colonial barristers of the mid- to late-19<sup>th</sup> Century.

Dever's list in Melbourne is the longest running list of barristers in Australia. It dates back to the mid-1800s, when Theophilus Druce began its operation.<sup>17</sup> Percy Dever began working for the list in 1946 and became its clerk in 1964. Percy's son, John, now heads up Dever's list assisted by two younger Devers.

A Sydney clerk of note in the first half of the 20<sup>th</sup> Century was Tom Ozard, who clerked on Phillip Street from 1912 to the 1950s, including at University Chambers.<sup>18</sup> Ozard would have been busy, with University Chambers one of just two floors in Sydney with more than fifty barristers. He has been described as having a personality as big as the people for whom he clerked.<sup>19</sup>

Many clerks see it as part of their role to mentor pupils, promote junior barristers and support their busy silks. The real skill in the role lies in the care with which clerks deal with barristers. Clerks must have patience, tolerance and understanding. 'The molding of a barrister is a very delicate operation.'<sup>20</sup> In 1976, a senior London clerk described his tasks in the following terms:

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<sup>16</sup> *New South Wales Law Almanac for 1886* (Thomas Richards, Government Printer, Sydney). Retrieved 1 June 2016 from <http://lawalmanacs.info/almanacs/nsw-law-almanac-1886.pdf>. Solicitors of note in the 1886 Law Almanac include Messrs Robert and Reginald Allen, Mr Alexander E Hemsely, and Mr FB Freehill, along with the address of their office. Unfortunately, the Almanac does not include the barristers' chambers or the names of their clerks. The following year, the Almanac included the barristers' chambers – see, *New South Wales Law Almanac for 1887*, retrieved 1 June 2016 from <http://lawalmanacs.info/almanacs/nsw-law-almanac-1887.pdf>.

<sup>17</sup> History of Dever's List, retrieved 1 June 2016 from <http://www.deverslist.com.au/website/history.html>.

<sup>18</sup> CJ Bannon, 'Old Phillip Street' (Summer 2012-2013) *Bar News* at 76.

<sup>19</sup> J Hocking, *Lionel Murphy: A Political Biography* (Cambridge University Press, 2000) at 23.

<sup>20</sup> JA Flood, *Barristers' Clerks: The Law's Middlemen* (Manchester University Press, 1983) at 54.

*A barrister's clerk does everything for his governor, even sewing on his fly-buttons because the typist couldn't do it, as there was no time to take his trousers off.*<sup>21</sup>

According to one former clerk of the New South Wales Bar, “No request to the clerk is unreasonable unless it can said to be outrageous.”<sup>22</sup>

An article published in 2008 by a (now former) clerk at Blackstone Chambers in Sydney, identified the most significant changes to the role of the barristers’ clerk in the previous 10 to 15 years (that is, from the mid-1990s). The author reported that those changes had been caused by technological developments.<sup>23</sup> Examples include, the online publication of daily courts - enabling the clerk to look up the time and location of their barristers’ matters the day before the mention or hearing; and the use of online diaries to manage their barristers’ commitments and availability. Furthermore, the internet has enabled online libraries and websites for chambers and lists.<sup>24</sup>

## **C The different clerks’ practices at different Bars**

The structure and day-to-day operation of barristers’ chambers varies throughout most common law jurisdictions. In Australia, the majority of barristers practise in New

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<sup>21</sup> J Flood, ‘Barristers’ Clerks’ (1979) 4 *The Journal of the Legal Profession* 23 at 23. Retrieved 31 May 2016 from [http://www.law.ua.edu/pubs/jlp\\_files/issues\\_files/vol04/vol04art02.pdf](http://www.law.ua.edu/pubs/jlp_files/issues_files/vol04/vol04art02.pdf)

<sup>22</sup> K Hall, ‘Introduction to Clerking’ (1980) for the Barristers’ Clerks Association of New South Wales at 1, retrieved from [http://barristersclerks.org/wp-content/uploads/ken\\_hall-introduction\\_to\\_clerking.pdf](http://barristersclerks.org/wp-content/uploads/ken_hall-introduction_to_clerking.pdf).

<sup>23</sup> L MacDonald, ‘A Clerk’s Life: Change Brings Challenges’ (2008) *Australasian Law Management Journal* at 11.

<sup>24</sup> D Perry, ‘The role of barristers' clerks - current, historical and the English and Australian approaches’ (2016) 43.1 *Brief* 32 at 32.

South Wales, Victoria, Queensland and South Australian. Together they have over 5,500 barristers practising either in sets (chambers or lists) or in individual offices.<sup>25</sup>

All state and territory Bars in Australia are regulated by the Bar association for the particular jurisdiction where they practise. The legal professions in Queensland and New South Wales remain divided, so that members of the independent Bar practise solely as barristers. In the other jurisdictions, although maintaining an independent Bar, the professions are officially fused. As well as these distinctions, each Bar has its own ways of running chambers and there are distinct differences in the clerking systems. The New South Wales and Victorian Bars dominate in numbers and hold fastest to the tradition of barristers' clerks.

Chambers in New South Wales are run from 'floors' where barristers are physically located together in the same set of chambers. These chambers usually own or lease one or more consecutive or adjacent floors in a building. Phillip Street is the legal heart of Sydney. Just three or four blocks of Phillip Street from King to Hunter Streets and around Martin Place house the greatest concentration of barristers in New South Wales. Each chambers is managed by one clerk. In New South Wales, barristers' clerks do not operate on a commission basis and they do not invoice their barristers' instructing solicitors on behalf of their barristers. In New South Wales, each clerk looks after on average 24 barristers.<sup>26</sup> Clerks in New South Wales are paid salaries, usually by an incorporated entity of which the clerk's barristers are the directors. To support the commitment to pay their clerk (and their other chambers expenses), barristers in New South Wales pay floor fees. These clerks will therefore be paid,

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<sup>25</sup> There are 2,350 barristers at the New South Wales Bar – retrieved 30 May 2016 from <http://www.nswbar.asn.au/the-bar-association/statistics>. Membership of the Victorian Bar is 2,002 barristers – retrieved 4 March 2016 from <https://www.vicbar.com.au/about-us/about-the-victorian-bar/bar-statistics>. According to the Queensland Bar Association website, the Queensland Bar has just over 1,000 barristers. Of these, more than 900 are at the private bar - retrieved 4 March 2016 from <https://www.qldbar.asn.au/#/about-the-bar>. The South Australian has just 214 members – retrieved 30 May 2016 from <http://www.sabar.org.au/barristers-chambers/barrister-search/Results>. The Tasmanian and West Australian Bars each have fewer than 100 members, assisted by practice managers or executive officers (not clerks).

<sup>26</sup> These numbers can vary from as few as 10 to as many as 120 barristers.

whether or not their barristers have work or are being paid for the work they have done.

The physical proximity of clerks and barristers, the ratio of clerks to floor members and the commission system are the three biggest distinguishing features of the way that clerks manage their barristers' practices in New South Wales and Victoria.

In Victoria, clerks have 'lists' of barristers for whom they provide administrative and organisational assistance. The barristers on a Victorian clerk's list are not confined to or determined by their physical location. At this time, there are fourteen clerks' lists, each with their own website and links to contact details for all of the barristers in that list.<sup>27</sup> Most of the lists have 75 to 250 barristers managed by one clerk. In order to manage these numbers, some clerks in Victoria have junior clerks or other staff to assist in the day to day running of the list. For example, Dever's list has almost 300 barristers, based in various chambers in and around a small concentration of streets in the legal centre of Melbourne, as well as some who practise outside Victoria.<sup>28</sup> The Victoria Bar Rules require that members of the Victorian Bar who engage a clerk must render their accounts through the clerk.<sup>29</sup> The payment for fees is then made to the barrister by the clerk.<sup>30</sup> The clerks in Victoria are paid a commission on their barristers' fees. Under this system, barristers do not have to pay their clerk unless they have been paid by their solicitors. The clerks in Victoria are therefore particularly motivated to ensure their barristers are paid.

In Queensland, Tasmania and South Australia, the numbers of barristers practising at the independent Bars of those states are significantly fewer than in Victoria and New

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<sup>27</sup> Retrieved on 4 March 2016 from <https://www.vicbar.com.au/about-us/about-the-victorian-bar/bar-statistics>.

<sup>28</sup> Retrieved on 4 March 2016 from <http://www.deverslist.com.au>.

<sup>29</sup> *The Victorian Bar Incorporated Practice Rules* (22 Sep 2009) Part VIII – Fees, Rule 188(b). Retrieved on 30 May 2016 from [http://www.vicbar.com.au/uploads/publications/The\\_Victorian\\_Bar\\_Incorporated\\_Practice\\_Rules\\_220910.pdf](http://www.vicbar.com.au/uploads/publications/The_Victorian_Bar_Incorporated_Practice_Rules_220910.pdf).

<sup>30</sup> *The Victorian Bar Incorporated Practice Rules* (22 Sep 2009) Part VIII – Fees, Rule 188(d)(ii). Retrieved on 30 May 2016 from [http://www.vicbar.com.au/uploads/publications/The\\_Victorian\\_Bar\\_Incorporated\\_Practice\\_Rules\\_220910.pdf](http://www.vicbar.com.au/uploads/publications/The_Victorian_Bar_Incorporated_Practice_Rules_220910.pdf).



South Wales. The Western Australian Bar was established in 1963.<sup>31</sup> Its current membership is fewer than 100 barristers, practising mainly in Perth. Barristers' chambers in Perth do not have clerks in the traditional sense. Their chambers are run by practice managers. Barristers at the territory Bars of the Northern Territory and Australian Capital Territory while even smaller in number, also cluster into chambers and are managed by clerks or practice managers.

## **Part 1 – The face of chambers in the 1960s, 70s and 80s**

Of the two divisions within the legal profession, the Bar has largely maintained its traditions, including the structure of chambers, education and training, and career paths. Despite changes such as the abolition of the requirement for junior counsel to appear with senior counsel, the introduction of direct briefs and the establishment of chambers beyond the city court precinct, the Bar prefers to remain a supporter of 'traditional, paper-based systems'.<sup>32</sup> Older barristers continue to rely heavily on their clerks.<sup>33</sup>

In a 1980 speech to the New South Wales barristers' clerks association, Ken Hall listed the functions of the barristers' clerk as fifteen distinct tasks, which can be categorised into keeping floor accounts, housekeeping (fridge, kitchen and stationery), recruiting and supervising floor staff (not including barristers' private

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<sup>31</sup> Australian Bar Association website - retrieved on 4 March 2016 from <http://www.austbar.asn.au/the-state-bars/western-australian-bar-association>.

<sup>32</sup> The Hon TF Bathurst, *iAdvocate v Rumpole: Who Will Survive? An Analysis of Advocates' Ongoing Relevance in the Age of Technology* (2015) Australian Bar Association Conference, Boston, at 11. Retrieved on 30 May 2016 from [http://www.supremecourt.justice.nsw.gov.au/Documents/Speeches/2015%20Speeches/Bathurst\\_09072015.pdf](http://www.supremecourt.justice.nsw.gov.au/Documents/Speeches/2015%20Speeches/Bathurst_09072015.pdf). See also, A Stanfield, 'Online Courts: The Way of the Future?' (2015) 2(2) *Law Society Journal* 50.

<sup>33</sup> JA Flood, *Barristers' Clerks: The Law's Middlemen* (Manchester University Press, 1983) at 49.

secretaries), managing reception and the switchboard, floor libraries ('not as to noting up').<sup>34</sup> On most floors, these tasks would have been done manually.

The face of chambers was revolutionised in the 1990s, mainly by computers, the internet and smart phones. The tasks managed by clerks in the 1960s still needed to be done, but their mode of execution changed utterly in the thirty years that followed.

## **A      Telephones, fax machines and libraries**

The development of telephones from a party-line supervised by a government employee to mobile devices, undetectable at the bar table, has given barristers a direct link to instructing solicitors and clients. The need to rely on their clerk as the central agency from which barristers collected messages is diminishing. The importance of the telephone has not diminished over the past 60 years, but its functionality has been revolutionised.

In the early days of telephony, there was a centrally-controlled telephone exchange for each floor. One or more operators would sit in a telephone exchange room, wearing headsets and speaking into microphones, physically removing and inserting lines to connect incoming calls to their destination. One clerk recounted with deep reverence the level of attention required to do this job well. Interrupting or speaking to telephone operators while they were taking and transferring calls was apparently not advisable. Often, the number of telephone lines on these old systems were fewer than the number of barristers and staff on the floor. Demand regularly exceeded supply, day and night. There were not enough telephone lines for staff to make personal calls at certain times of the day.<sup>35</sup> Some chambers had to issue requests that clerks and floor staff not use the telephones between 4 and 6pm, as this was the busiest time of day for the barristers. In the pre-mobile phone era, barristers rang

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<sup>34</sup> K Hall, 'Introduction to Clerking' (1980) for the Barristers' Clerks Association of New South Wales at 7, retrieved from [http://barristersclerks.org/wp-content/uploads/ken\\_hall-introduction\\_to\\_clerking.pdf](http://barristersclerks.org/wp-content/uploads/ken_hall-introduction_to_clerking.pdf).

<sup>35</sup> JA Flood, *Barristers' Clerks: The Law's Middlemen* (Manchester University Press, 1983) at 40.

chambers from a public telephone both in the court complex ‘at least twice a day’.<sup>36</sup> One of the clerks interviewed for this article described the system of allocating the night switch lines as ‘strictly hierarchical’. Senior barristers working late could have a direct line switched through to their room. All other phone calls would be taken by an after-hours messaging system or messaging service.

Some clerks and the busier barristers wore pagers so that the messaging service could page them with telephone messages. Pagers exploited the same transistor technology used for walkie-talkies and car radios. A pager was the size of a small mobile phone and could be hooked onto the user’s belt. Text messages were received on a small backlit display, at the top of the pager. Pagers were particularly popular with clerks from the early 1970s to the mid-1990s.

Somewhere between the telephone and the facsimile machine, some chambers also used telex machines to send particularly urgent messages. The 1978-79 Annual Report of the Victorian Bar includes an announcement that the Bar Association has installed a telex machine for members’ use.<sup>37</sup> A number of law firms and barristers’ chambers had telex machines in the late 1970s and early 1980s.<sup>38</sup> Once facsimile (fax) machines and email became affordable and widely-used, the telex machine soon declined in popularity, in both the financial and legal sectors of the business community.

The fax machine, introduced into business in the mid-1970s, can be described as the creator of the sense of urgency that is commonplace in legal practice today. A fax ‘hot-off-the press’ could bring all work to a standstill, while the fax was considered

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<sup>36</sup> JA Flood, *Barristers’ Clerks: The Law’s Middlemen* (Manchester University Press, 1983) at 45.

<sup>37</sup> *Annual Report of the Victorian Bar Council 1978-1979*, presented at the Annual General Meeting of the Victorian Bar Council on 24 September 1979, at 9. Retrieved 2 June 2016 from [https://www.vicbar.com.au/GetFile.ashx?file=GeneralFiles/AnnualReportArchive/1970-1979/AR\\_VB\\_1979.pdf](https://www.vicbar.com.au/GetFile.ashx?file=GeneralFiles/AnnualReportArchive/1970-1979/AR_VB_1979.pdf)

<sup>38</sup> Including Blackstone Chambers, MLC Centre and Wentworth Chambers, Phillip Street, Sydney; and Owen Dixon Chambers, William Street and Latham Chambers, Bourke Street, Melbourne. See, ‘Business Law Section Members Committee’ in the *Australian Business Lawyer* (1986). Retrieved 2 June 2016 from <http://www.austlii.edu.au/au/journals/AUBusLawyer/1986/6.pdf>.

and responded to, by facsimile. The value placed on the fax machine to a lawyers' work was acknowledged in scales for legal courts costs where a separate higher charge was allowed for the sending and receiving of facsimiles, than for a letter.<sup>39</sup> Indeed, the reference to sending faxes in the (now repealed) 1977 *Federal Court Rules* also referred to the cost of attending to sending telegrams and telexes. It must be borne in mind that the early fax machines transmitted data just one page at a time. In order to send a multi-page fax, the operator had to feed each page within a certain amount of time following the page before, before the allowable time for inactivity expired. If the operator paused for too long, the machine treated the operation as ended. When this occurred, the operator had to redial and reconnect with the receiving fax machine and then contact the recipient by telephone to inform them that there were more pages to come. Fax coversheets were essential for communicating to the recipient how many pages to expect.

The technology that enabled fax machines to store multiple pages into memory and then send in one seamless multipage transaction, arrived at the same time as computers. The advent of memory technology and the affordability of personal computers rang the death knell for the popularity of the fax machine

In its heyday, the fax machine enabled instructing solicitors to forward on urgent faxes received from the opponent and to demonstrate the urgency of a matter for counsel by sending their own correspondence to counsel by fax. Similarly, the fax machine was at least a day quicker than sending the same document via the Document Exchange (or 'DX'). A Melbourne clerk reflected that when he first heard of the fax machine, he said to his colleagues at the time that if solicitors can send a brief in 30 seconds, they will want an opinion in 30 minutes. In an interview for the New South Wales Bar Association's journal on his 40<sup>th</sup> anniversary as a barristers' clerk, Paul Daley observed that practice at the bar flourished and sped up in the 1980s.<sup>40</sup> Daley

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<sup>39</sup> Under the *Federal Court Rules 1977* (Cth) Schedule 2, which are no longer in force. Pursuant to the current *Federal Court Rules 2011* (Cth) Schedule 3, the cost of creating a documents includes delivery or transmission. This reflects the fact that most documents are created and sent electronically, from the same operator as part of one function (item 20.3).

<sup>40</sup> R Sofroniou, 'Paul Daley: 40 years not out' [2001] *Bar News* 24 at 27.

credits technology for this change of pace, citing the fax machine and photocopier as the biggest innovations of that time.<sup>41</sup>

The fax partially replaced the phone as a mode of immediate communication, with the ability to fax a query late at night, early in the morning or on the week-end, when phones were not operational. A major problem with the fax machine was the same trouble that beset the spirit duplicator – the text on the page would fade over time. To overcome this problem, fax operators would often photocopy the fax onto standard paper, imprinted with long-lasting toner. This double-handling and additional cost was a short-coming that dogged clerical staff for years before standard paper fax machines were introduced in the mid-1990s. However, plain-paper faxes coincided with the emergence of high-quality printers and email. Fifteen years after it was first widely-used by the legal community, the fax machine was largely redundant with the entry of commercial internet providers.

The fax machine has had its day in the sun, but it is almost completely obsolete in all chambers. This view was expressed almost universally by the clerks interviewed for this article. One notable exception was a Sydney clerk who said that the fax is invaluable and used daily – for sending floor members' coffee orders to a café on Phillip Street.

Until reported judgments and other legal resources were digitised and made available via online publishers' websites, barristers needed access to libraries to conduct their research. Bar associations and barristers' chambers all over Australia continue to maintain libraries, but their size and upkeep has changed significantly. One of the most time-consuming tasks associated with maintaining a hardcopy law library is

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<sup>41</sup> R Sofroniou, 'Paul Daley: 40 years not out' [2001] *Bar News* 24 at 27. It is interesting to note from an historical perspective, that Paul Daley's career as a barristers' clerk overlaps with the careers (at the bar) of the Hon CR Evatt QC (admitted 1926), Sir Garfield Barwick QC MHR (admitted 1927), Nigel Bowen QC (admitted 1936), JR Kerr QC (later Sir John, admitted 1938), Maurice Byers QC (admitted 1944), Lionel Murphy QC (admitted 1947) and TEF Hughes (admitted 1949). The most senior junior when Daley started clerking (AM Cohen) was admitted in 1905. See *New South Wales Law Almanac 1961* (Blight, Government Printer Sydney, 1961) - retrieved 1 June 2016 from <http://www.lawalmanacs.info/almanacs/nsw-law-almanac-1961.pdf>.

noting-up cases and updating services. Since the early 1990s, electronic databases have replaced hardcopy libraries. All updating and noting-up is now managed electronically by the database service providers. All judgments (including unreported judgments) are now made available to courts' websites and AustLII within minutes of their publication in court.

The affordability, reliability and searchability of electronic legal research databases has made them very popular. This has had a significant impact on the face of chambers. Prior to the 1990s, chambers housed libraries, usually within a part of the floor that was windowless (rooms with windows attract a higher premium to be paid their occupants). Some of the larger floors employed a librarian to return books to their correct location, and to update the catalogue, practice services and case notations.

As computers and photocopiers were introduced into chambers, it became essential for libraries to include a photocopier. Later, catalogues migrated onto computers with searchable databases of the entire collection. All of these services needed to be maintained and the clerks usually employed staff for these tasks.

## **B Copiers, computers and instant coffee**

Many older barristers would remember the introduction of the photocopier to chambers. Some judges complain that photocopiers are responsible for the sudden increase in the volume of documents produced in proceedings.<sup>42</sup> The problem is not just a product of the way that solicitors and barristers prepare matters for trial. Particularly with commercial cases, the volume of documents is generated by the parties long before there is any hint of a dispute or potential for litigation.

Before the invention and affordability of the photocopier, documents had to be copied first by hand (in the 19<sup>th</sup> Century), and by making carbon copies, and - in the 1970s - using spirit duplicators. Carbon copies were useful for typed documents as they require only firm pressure for effective imprint. However, carbon copies would often

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<sup>42</sup> C Einstein, 'Reflections on the Commercial Litigation Landscape - Lessons from the Past – Moving Forward' (2005) 26 *ABR* 145 at 147.

fail with more than 4 imprints. Spirit duplicators could produce dozens or hundreds of copies of documents, but the smell was horrible and the text (usually light purple in colour) eventually faded. The rules of many courts in Australia still stipulate that writing on paper must be permanent.<sup>43</sup> Clearly, the relevant law-makers had early faxes and spirit duplicators in mind when they drafted these requirements. In addition to these short-comings, older readers will recall a time when even the most sophisticated printers and photocopiers would jam and fail if the operator inserted the paper the wrong way up.

It is usually the role of the instructing solicitor to prepare and update briefs to counsel, so the photocopier has had a less prominent role in chambers than in law firms. Photocopiers as a shared resource, have been replaced, to an extent, by individual printers connected to personal computers. The ability of lawyers to draft, amend and print and copy their own documents has cut-out the ‘middleman’.

Computers have revolutionised production of work and documents, methods of communication, and systems for document retention and record-keeping. Prior to the introduction of personal computers, barristers’ secretaries and the clerk’s staff all used typewriters. In the 1960s, typewriters had no memory or erasure function. A mistake on certain types of documents often mean having to retype them. Carbon paper was placed between two sheets of plain paper to make copies of the original. To fit all three (or more) sheets into the typewriter, each needed to be very thin, which meant they could be quite flimsy. Many typists were so proficient that they had to slow their natural typing speed to accommodate the design of the typewriter. If the typist struck the keys too quickly in succession, the arms of the keys would clash and jam together.

The IBM ‘Golfball’ or ‘Selectric’ typewriter was released in 1961 and was very popular throughout the 1970s.<sup>44</sup> Instead of a ‘basket’ of keys all swinging into stamp the inky ribbon, the Golfball had a rotating and pivoting sphere that moved into position electronically. Of course, there was only one font available on these

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<sup>43</sup> For example, Rule 4.3(4) of the *Uniform Civil Procedure Rules 2005* (NSW).

<sup>44</sup> IBM100 – Icons of Progress– The Selectric Typewrite (IBM History online). Retrieved 2 June 2016 from [https://en.wikipedia.org/wiki/IBM\\_Selectric\\_typewriter](https://en.wikipedia.org/wiki/IBM_Selectric_typewriter).

typewriters, there were no italics and to make text bold, the operator would backspace and retype the text. Underlining was also achieved by backspacing and typing an underscore over existing text, punctuation and spaces.

In barristers' chambers, computer technology was originally applied to 'scheduling, accounting and billing'.<sup>45</sup> In the early 1980s, accounts would have been kept by hand in ledgers or journals. The calculator was an essential aid. By the end of the decade, with the advent of the personal computer, some of the more sophisticated floors had computers and spreadsheets to manage the accounts. The early accounting packages and spreadsheet software were not released onto the market until the late 1980s.<sup>46</sup> Eventually, word processing on computers replaced most typewriters.

Purchasing the early iterations of personal computers and printers was a significant financial investment; and using them could be heart-breaking. It was common for versions of software and different platforms to be incompatible. Not all printers 'spoke to' all computers. Many barristers' first computers and laptops were purchased under pressure from their instructing solicitors. In the early years of adoption (particularly before Windows95) many barristers dictated their memoranda onto audio tapes that would be delivered to a typist who transcribed the document into WordPerfect or other word processing software. Before email, the internet and USB drives, the document would be saved by the typist onto a floppy disk and delivered back to the barrister, usually via the clerk or a member of the clerk's support team. In the 1960s, '70s and '80s, most floors employed a young (usually male) member of the support staff to run errands, affectionately known as the floor's 'runner'. Runners were always busiest at the start and end of the court day, delivering and retrieving trolleys of folders and books. Included in their tasks would be the delivery and retrieval of barristers' dictation tapes and floppy disks. As late as the mid-1990s, law firms would allow barristers to use their in-house word processing services, particularly if they were working together on big matters. With documents being sent

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<sup>45</sup> D Perry, 'The role of barristers' clerks - current, historical and the English and Australian approaches' (2016) 43.1 *Brief* 32 at 32.

<sup>46</sup> For example, LotusNotes (now IBM Notes) was released in 1989. See, *The history of Notes and Domino* (14 Nov 2007). Retrieved on 30 May 2016 from <http://www.ibm.com/developerworks/lotus/library/ls-NDHistory/>.



as attachments to emails and with most barristers now doing their own typing, the runner is virtually extinct.

Before the espresso coffee culture took hold in the legal community, most barristers were happy to drink instant coffee made in the floor kitchen or by coffee machines that graced so many offices at this time. It is likely no coincidence that going out for coffee became popular at the same time that smoking was banned in offices.<sup>47</sup> For some clerks, this transition was not an easy one. Some of the barristers found smoking cigarettes and cigars in chambers a habit that was hard to kick. There were rumours in the mid-1990s that the lessor of one of the larger floors at the top of an expensive commercial building in Martin Place threatened to sue a particular floor of barristers unless a very senior Silk ceased and desisted from smoking. The air conditioning systems had betrayed his attempts to hide the habit and complaints from adjoining floors only made matters worse.

Cafés in the legal precincts of cities all over Australia were packed with smoking lawyers for a decade, until smoking was eventually banned in eating establishments.<sup>48</sup> There is nowhere left for barristers to smoke and work at the same time, so many have given up the habit altogether. It is a welcome relief to colleagues, visitors and staff that barristers' chambers no longer wreak with the stench of instant coffee and cigarette smoke.

## **C Hardcopy messages, couriers and the transcript box**

In the decades leading up to the advent of the internet, telephone messages were written out in hand by receptionists and left in pigeon holes for the recipient. After normal business hours, messaging services could page the clerk or barrister. Reception for Foley's list in Melbourne has a huge bank of pigeon holes that were once used for barristers' messages [pictured]. These days they are empty, since all barristers have their telephone messages either transferred seamlessly to their mobile

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<sup>47</sup> Pursuant to the *Smoke-free Environment Act 2000* (NSW).

<sup>48</sup> Including a new provision in the *Smoke-free Environment Act 2000* (NSW) introduced by amendment in 2015, which bans smoking within a certain distance of commercial outdoor dining areas.

phones or (if the barrister is not available to take calls) conveyed to them by email in real time. These days, most barristers give their mobile phone numbers to their instructing solicitors and so take their calls directly, particularly after hours.

Couriers still feature in the legal landscape, but their use is not as prevalent. Again, they have been replaced with emails and electronic drop-boxes. The costs and time savings have been significant and justify the cost to barristers who have invested in more modern technology. Even court transcript is delivered electronically. There was a time on Phillip Street (when the Attorney General's office was still on the corner of Hunter Street), transcript was collected from an unlocked metal box attached to a load-bearing column on the pavement outside the main glass doors to the building. There was no security and (apparently) no fear of theft. This has all changed. The transcript box no longer exists and neither does that building. Court transcribing services have since been privatised and a day's transcript can be finalised and emailed to the parties and their legal representatives on the same day, usually by 7pm.

Many of the previously manual tasks identified in Ken Hall's speech<sup>49</sup> have since been automated. Accounting, recruiting, library services and ordering food and other supplies have all been revolutionised by computers and the internet.

With fewer barristers and support staff using photocopiers and coffee machines or delivery messages and collecting transcript, barristers barely need to leave their chambers. There are fewer reasons for barristers to employ staff or for clerks to employ runners to take care of these tasks. There is a lot less human traffic in chambers. Lifts are no longer crammed with smelly bicycle couriers. They have been replaced with café staff in black aprons delivering macchiato, freshly squeezed juice and biscotti. These changes have saved on costs to the barristers, but they have also reduced the activity in and sociability of chambers.

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<sup>49</sup> K Hall, 'Introduction to Clerking' (1980) for the Barristers' Clerks Association of New South Wales at 7, retrieved from [http://barristersclerks.org/wp-content/uploads/ken\\_hall-introduction\\_to\\_clerking.pdf](http://barristersclerks.org/wp-content/uploads/ken_hall-introduction_to_clerking.pdf).

## **Part 2 – The impact of disruptive technologies on barristers’ clerks**

### **A A revolution in communication technologies**

As well as mobile telephony, email has drastically reduced the need for a central agency in chambers. Most correspondence between instructing solicitors and their barrister now takes place directly, rather than through a receptionist or the clerk. There are a number of significant advantages to email. The most obvious advantage is that while it is an informal style of communication, the correspondence is in writing - creating a transcript of what might otherwise have been a telephone call. Unlike conversations, barristers do not need to take file notes of email correspondence. Other advantages include the low-cost and speed of the correspondence; the convenience of replying at any time; being able to attach documents; and the ease with which others can be included in (and excluded from) the exchange.

Despite the obvious benefits of using email to communicate, most of the clerks interviewed for this paper bemoaned the sheer volume of emails received every day and the impersonal nature of those communications.

Whereas all telephone calls would have been received via the clerk or receptionist twenty years ago, it is more common now that only business-related telephone calls are made to barristers via the chambers land line. Barristers often take personal calls on their mobile phones or simply exchange mobile phone text messages with family and friends.

Even court lists are no longer ‘the preserve of the clerk’.<sup>50</sup> Instead of waiting for the clerk to return from collecting the following day’s court lists, court lists are now published online and available sometimes more than a day ahead of the fixture. Court diaries can be administered by the barristers themselves, and often shared in electronic form with the clerk.<sup>51</sup> No longer are clerks needed to assist with the day-to-

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<sup>50</sup> JA Flood, *Barristers’ Clerks: The Law’s Middlemen* (Manchester University Press, 1983) at 49.

<sup>51</sup> D Perry, ‘The role of barristers’ clerks - current, historical and the English and Australian approaches’ (2016) 43.1 *Brief* 32 at 35.

day running of a barrister's practice. Only in Victoria, with all fees rendered through the clerk, do clerks have a direct impact on a barrister's practice.

## **B Changes to the way barristers are briefed**

For better or for worse, many barristers now receive their briefs electronically. The most obvious advantage of e-briefing is the speed with which the documents can be sent to the barrister. This is particularly helpful when the matter is urgent.<sup>52</sup> Other advantages include the ease with which barristers can be briefed, despite the tyranny of physical distance between the instructing solicitor and counsel. A further, subtle benefit of e-briefing is that scanned or PDF versions of documents can be searched electronically. As Day and Dobraszcyk observe, briefing by email allows barristers to read the material wherever they are, including on mobile devices (like iPads and iPhones). However, they also warn that solicitors tend not to include considered observations with electronic briefs and there is an unrealistic expectation about how quickly the barrister can attend to providing assistance or advice, including with non-urgent matters.<sup>53</sup>

Law firms argue that e-briefing is more environmentally friendly, but many barristers complain that the law firms have passed the cost of printing to the barristers. The reality is that many barristers still print documents in order to read them and to prepare for trial. Preparation involves highlighting and writing on documents, a process that for most barristers has not yet found an equivalent process on a computer.

One Queensland barrister describes the ideal brief as arriving in a 'physical form' printed single-sided on A4 paper, accompanied by an electronic version in Word or

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<sup>52</sup> The New South Wales Bar Association website suggests that electronic briefing is something in-house counsel might consider discussing with a barrister or their clerk, when briefing a barrister direct. See, *For In-house Counsel*, retrieved 2 June 2016 from <http://www.nswbar.asn.au/briefing-barristers/in-house-counsel>.

<sup>53</sup> K Day and C Dobraszcyk, 'Electronic Briefs – Briefing by Email' (Summer 2013-2014) *Bar News* at 53.

PDF on a CD or USB stick.<sup>54</sup> Gone are days when barristers were briefed on a folded sheet of paper wrapped in pink ribbon.

Although the portability of an electronic brief is useful, its constant presence on a laptop or in the Cloud (rather than its physical location in chambers) has meant the erosion of ‘working hours’. Correspondence starts earlier in the working day and often does not finish until late at night. Weekends are spent checking emails and responding to queries and crises as they arise, rather than waiting until Monday morning to deal with them.

### **C The demise of barristers’ secretaries**

Barristers have become self-sufficient in relation to many of the tasks that in the past fell to their secretary. The proliferation of personal computers and laptops has meant that many barristers do their own typing, rather than dictating memoranda and submissions for a secretary to transcribe.

In addition to this self-sufficiency, many barristers can manage most of their daily tasks without having to leave their desk. Legal research, printing documents, ordering coffee and stationery, and even choosing the music to listen to while working have all been automated. The devices to operate and process these functions have become smaller and easier to use. A motivating factor in developing this self-sufficiency is costs savings. Indeed, it is advisable for junior barristers to keep their costs to a minimum, while they work on establishing relationships and a practice at the Bar.<sup>55</sup> The result is that many barristers establish efficiencies and skills that relieve against the need for a secretary, even when their practices become busy and successful. The multi-functionality of the mobile phone has also assisted in the transition away from needing a secretary. Barristers use their smart phones as a diary, an alarm clock, a note-taker, a voice mail service, and an on-line directory.

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<sup>54</sup> A Sinclair, *The Ideal Brief* (3 Nov 2015) at [11] and [18]. Retrieved 2 June 2016 from <http://www.innsforcourtsc.com.au/The%20Ideal%20Barristers%20Brief.pdf>.

<sup>55</sup> C Wood and K Day, ‘Challenges Facing the Junior Bar’ (Winter 2009) *Bar News* 43.

Because many barristers do not have a secretary, the result for clerks is that they are often asked to do photocopying and other administrative tasks that would have otherwise fallen to a personal assistant or secretary.<sup>56</sup>

### **Part 3 – A brave new world for barristers’ clerks**

Of the two branches of the legal profession, the Bar has long been regarded as the more conservative and old-fashioned. It is not hard to find pejorative descriptions of barristers and their clerks that include the word ‘anachronism’. Some of these references are buried in apparently scholarly debate about pressing issues of public interest. For example, in 1995 the then attorney-general, Jeff Shaw, told State Parliament wigs were “anachronistic” and only serve to make the court appear mysterious and “out of touch with community values”.<sup>57</sup> In a recent call to abolish the rank of “senior counsel”, one commentator opined that it is “elitist, anachronistic and in economic terms makes no sense”.<sup>58</sup> The way barristers dress in court has been the subject of similar remarks, with some suggesting that robes and wigs “lend themselves to caricature or even ridicule [and] have led many to dismiss the bar as at best anachronistic and at worst absurd”;<sup>59</sup> giving the courtroom an “anachronistic

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<sup>56</sup> L MacDonald, ‘A Clerk’s Life: Change Brings Challenges’ (2008) *Australasian Law Management Journal* at 12.

<sup>57</sup> R Macey, ‘Judges to decide on wearing wigs’ (2007) *Sydney Morning Herald*. Retrieved 2 June 2016 from <http://www.smh.com.au/news/national/judges-to-decide-on-wearing-wigs/2007/07/15/1184438149578.html>.

<sup>58</sup> Greg Barns, ‘The Empire Strikes back’ (21 Feb 2014) *Lawyers Weekly* retrieved 25 May 2016 from <http://www.lawyersweekly.com.au/opinion/15131-the-empire-strikes-back>.

<sup>59</sup> J Lambert, *Enforcing Intellectual Property Rights: A Concise Guide for Businesses, Innovative and Creative Individuals* (Gower Publishing Ltd, 28 Sep 2012) at 123.

feel”.<sup>60</sup> Meanwhile, other more disparaging uses of the word often appear in provocative headlines.<sup>61</sup>

Barristers’ clerks have not escaped this line of criticism. The United Kingdom’s Royal Commission into Legal Services, allegedly exposed anachronistic traditions, restrictive practices and sexism in the customs of barristers’ clerks.<sup>62</sup>

Despite the derision levelled against the Bar for its seemingly antiquated traditions and mode of dress, with or without wigs and its centuries of tradition, barristers and their clerks are following their instructing solicitors and practice managers and they are modernising. The main driver of change in legal practice is technology, often in response to client expectations and requirements. Richard Susskind, one of the lead writers in technology and its impact on the law, describes the current state of the legal market as that of a buyers’ market.<sup>63</sup> Although barristers are removed from direct client instructions<sup>64</sup>, the changes caused by technology to solicitors’ practices has a flow-on impact to chambers.

Today, most barristers’ floors are managed with the use of sophisticated technology. Many clerks share their barristers’ electronic diaries and so can readily respond to requests for availability. Most of the billing and invoicing systems used by the Victorian clerks are very sophisticated and are closer in functionality to what one would expect in a boutique law firm or investment bank. These accounting systems allow the barristers to enter the time spent on a particular matter until it is ready to be

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<sup>60</sup> J Mason, *Construction Law: From Beginner to Practitioner* (Routledge, 14 April 2016) at 20.

<sup>61</sup> For example, Eoin O’Dell, ‘Wigs and Gowns on Judges and Barristers – Silly anachronism or necessary solemnity?’ (25 July 2007) *Cearta.ie*. Retrieved on 25 May 2016 from <http://www.cearta.ie/2007/07/wigs-and-gowns-on-judges-and-barristers-silly-anachronism-or-necessary-solemnity/>; and T Anthony, ‘Australia’s anachronistic advocates’ immunity: Lessons from comparative tort law’ (2007) 15.1 *Tort Law Review* 11.

<sup>62</sup> RL Abel, *English Lawyers Between Market and State: The Politics of Professionalism* (OUP, 2013) at 33. See also, *Royal Commission into Legal Services* (1976), also known as the Benson Commission.

<sup>63</sup> R Susskind, *The End of Lawyers: Rethinking the Nature of Legal Services* (Oxford University Press, 2010) at 270.

<sup>64</sup> The exception is the direct access brief.

invoiced to the instructing solicitor. The invoicing step is completed by the clerk, who shares the database online with their barrister. The clerk can use this system to check for unpaid invoices. Most of the Victorian clerks who use online billing systems insist all their new barristers must use it too. Only the most senior, long-standing barristers would be excused.

Many clerks have websites that feature links to a detailed directory of all of their barristers, with search functions that allow the user to refine the list - to return just female barristers (for example). Other features that clerks make available via their websites include news about their barristers' achievements, links to legal resources, online libraries, and educational videos. Green's list delivers podcasts via its website and its clerks have a Twitter account and share professional musings via an online blog. Tammy Young provides sophisticated data analysis to her barristers and their instructing solicitors about the type of work being done by the members of her list. Foley's list comes with a briefing App for Apple or Android that enables potential clients or instructing solicitors to contact the clerk 24 hours a day.<sup>65</sup>

Most of the clerks interviewed for this article agree that technology has made certain aspects of their job easier, but all bemoaned the impersonal nature of communicating by email; it takes away the human touch. Making a telephone call is still regarded as a quicker and more effective way to cut through tricky situations and imparts a level of care and personal attention that is appreciated, but often missing in professional practice. In the same way that John Lamb took so much care of Salt KC in the early 1800s, the modern clerk is aware of the personal care and attention-to-detail needed to manage a modern barrister's practice.

## **Conclusion**

Each generation since the mid-20<sup>th</sup> Century has grown up with a new innovation from the transmission of news, information and entertainment via the wireless to

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<sup>65</sup> Barristers' Clerks website via the Victorian Bar's website. Retrieved 24 May 2016 from <https://www.vicbar.com.au/barristers-clerks/barristers-clerks>.



communication via text and instant messaging. Innovation through technology has had a momentous impact on our professional and personal lives.

Despite its reputation as conservative, the legal profession has experienced major changes in the practice of law over the last 60 years, including the growth of large law firms and global expansion; the rise of in-house counsel; the commercialisation of legal practice structures through incorporated legal practices' multi-disciplinary practices; and the listing of law firms on the stock exchange. Technology has been the driver of management practices and the core tools for workplace tasks, organisation and communication. The Bar has not been immune to these innovations.

Susskind suggests that most lawyers are 'late adopters' of new technologies. His analysis that lawyers' reliance on the past to provide solutions for the future, means that clerks may have the role and responsibility of leading their barristers into the braver new world of disruptive technology.<sup>66</sup>

Many barristers begin their working lives in law firms. These practitioners bring to their practice at the Bar a suite of highly-developed technical skills acquired in professional environments that are also technologically advanced. It goes without saying that along with their wigs and robes, they will carry these skills with them into chambers and into the court room. It is not unusual to see young barristers at the bar table, accessing law and documents on their iPad, as the proceedings unfold.

Critics of the way that barristers run their practices have argued that efforts to modernise barristers have been slow to take hold.<sup>67</sup> However, changes are afoot. Technology is a significant driver in the modernisation of the bar and its practices. Technology can also save time and for barristers, and - for all lawyers - time is a valuable commodity. Technology enables greater workplace flexibility for barristers, including the new army of working mothers who are forging successful careers at the

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<sup>66</sup> R Susskind, *The End of Lawyers: Rethinking the Nature of Legal Services* (Oxford University Press, 2010) at 22.

<sup>67</sup> J Mason, *Construction Law: From Beginner to Practitioner* (Routledge, 14 April 2016) at 20.

bar - a workplace that is often more flexible and autonomous than most commercial law firms.

Where does this technological revolution leave barristers' clerks? All evidence points to significant changes in the way that chambers are run and that the beating heart of chambers is still the clerk. The barrister-clerk relationship remains one of deep trust and mutual respect. As long as barristers continue to work in lists or sets, barristers' clerks (however described) will play a vital role in managing their collective practices.