

*Ex parte* MACAULAY.

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1930.

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May 22.

*Attorney—Misconduct—Dishonesty—Name struck off the rolls—  
Application for re-admission.*

*Street, C.J.  
Ferguson, J.  
Halse  
Rogers, J.*

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Where a solicitor has been proved guilty of theft and his name has been struck off the rolls, the Court will not, except in very exceptional circumstances restore it.

## MOTION.

The applicant, whose name had been struck off the rolls in 1925, on proof that he had misappropriated his clients' money, applied for re-admission. He had previously made two such applications. On the present application, it was established by the applicant that he had repaid the whole of the money he had misappropriated. He also produced to the Court testimonials as to his good character since 1925.

*Mack, K.C., and Hutton*, for the applicant.

*Pitt*, for the Incorporated Law Institute of New South Wales.

STREET, C.J. In this case we do not think that any circumstances have been made out which would justify us in yielding to the application to allow the name of the applicant to be restored to the roll of solicitors of this State. His name was removed from the roll in November, 1925, on proof to this Court that he had been guilty of gross dishonesty. The circumstances showed that, acting as solicitor both for the purchaser and for the vendor on the sale of real estate, he received from the purchaser the balance of the purchase money, a large proportion of which he did not account for. In cases of that character, transactions relating to real estate, members of the public are compelled to repose confidence in solicitors. They are compelled to entrust them with money, and unless the Court insists on a high standard of conduct on the part of solicitors—unless the Court punishes severely any lapse from the proper standard—the public will never be properly safe-

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guarded and the profession will never retain the respect which it ought to have in the community.

Mr. Macaulay has made two applications to have his name restored to the roll since he was removed from it. On each occasion he has been told that his application was premature, and that he had come too soon. I think now that we should go further than that. I think for myself, and my colleagues agree with me in this, that we should lay down a rule that where a solicitor has been proved guilty of theft he should not, unless in very exceptional circumstances, ever be allowed again to be held out to the public as a solicitor in whom confidence might be reposed. Here there are no exceptional circumstances. Mr. Macaulay was not a young man. He was not an inexperienced man. It has not been suggested that he took this money without premeditation, and to meet some sudden emergency. There are no elements of excuse that I can see. He simply proved that he was dishonest in dealing with his clients' money.

In those circumstances I am of opinion that, consistently with the rule by which I think we should be guided in the future, Mr. Macaulay's application must be refused.

FERGUSON and HALSE ROGERS, JJ., concurred.

*Application dismissed with costs.*

Solicitors : *R. H. Levien ; T. Michell & Gee.*

**1930.***Ex parte* TURNBULL ; *Re* DUFFELL AND ORS.*May 12.**Street, C.J.*  
*Ferguson, J.*  
*James, J.*

*Liquor Act, 1912 No. 42, ss. 57-133—Offence—Sale of liquor on a Sunday—Members of club supplied with liquor—Payment.*

Where the property of a club is vested in trustees in trust for the members, and liquor is kept on the club premises for consumption by members, the supply of liquor to members in return for payment does not constitute a sale within the meaning of s. 57 of the Liquor Act, 1912.

PROHIBITION.

The facts sufficiently appear in the judgment.

*Paterson*, for the applicant. The facts do not constitute a sale. The club was licensed under the Liquor Act, 1912.