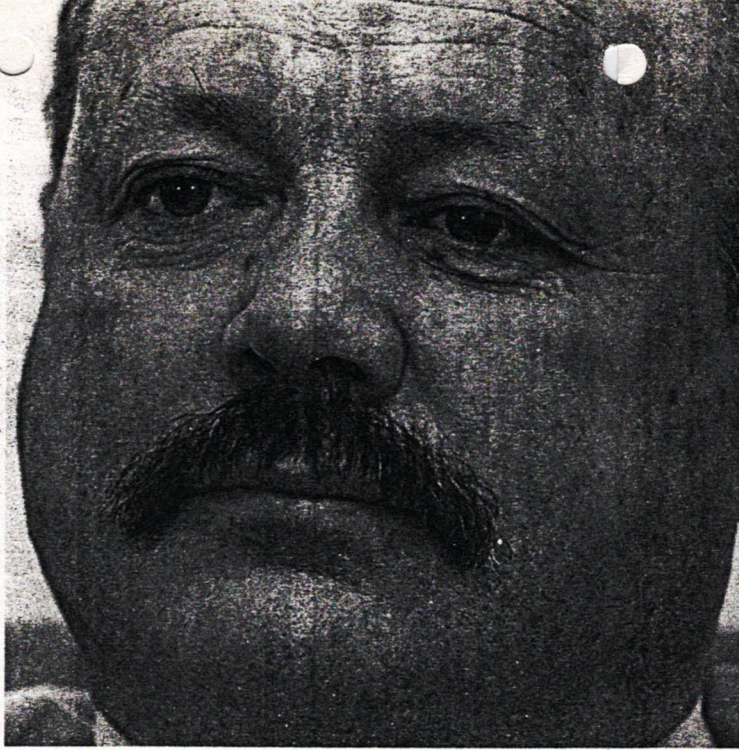


By ROBERT MANNION



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Lester Dempster . . . 'Here I am in this free country and I've got to hide under my desk'

PHOTO JOHN SELKIRK

TAKING ON LAWYERS

THE battler. The little guy up against city hall. The way people talk about Lester Dempster, 48, it's almost too clichéd to be true.

Twelve years ago he quit as an assistant lands registrar to set up a conveyancing business, and ever since he's had the sort of fight that must make him wish he really had only taken on city hall.

He believed his substantial experience with the Land Transfer Office was enough to attend to the buying and selling of land — in a 1994 court decision a High Court judge said that in a practical sense Mr Dempster had more skills than "very many" solicitors — but he was instantly in conflict with New Zealand lawyers, who argue that only they are entitled to do this work.

Mr Dempster says some of that feeling can be traced at least as far back as a memorandum from then minister of justice Henry Greathead Rex Mason, a lawyer, who, on July 5, 1939, argued against registering non-lawyers because "it would create disturbance to a business and be unfair to [legal] practitioners to hand to others the easier and more remunerative portions of the work".

The Auckland District Law Society has injunctioned Mr Dempster; threatened bankruptcy proceedings for refusing to pay court costs; asked the Registrar of Companies to reject his company name; sent memos to Auckland lawyers urging them to do him in. They even wrote to the Northern Territory government (to no result) trying to stop him from being licensed as a conveyancer there. Several Australian states allow for non-lawyer conveyancers. Mr Dempster has been to the High Court 21 times.

Tanned and stocky, he combines an easy manner with the look of someone who'd be pretty good hanging on to a ball in a ruck. When we meet in his office behind St Patrick's Square in Auckland it is only days after another court reversal. But he seems a long way short of stopping. A sign in the reception area brazenly proclaims: "Conveyancers and Land Registration Consultants." Conveyancing licences from the Northern Territory and the Australian Institute of Conveyancers are pinned on the wall, beneath a card showing a burning houseboat about to disappear over a waterfall.

"Lester's straight," says one source in the business community, "he just wants to go about his business, really."

By chance, a friend of mine used to share an office lease and he recalls Mr

Dempster often stopping for a coffee: "He was an eternal optimist. There was never ever any talk of giving up. To Lester this was like a religious pursuit, that the Law Society has a monopoly that it shouldn't have. He's not there for the money or for the glory. He believes he's being shut out of a market that he wants to be in."

Mr Dempster and his separated wife, Vicky, still work together. Yes, they say, the pressure did have something to do with the amicable split.

If all battlers need heroes, a land law reformer called Robert Torrens might be Mr Dempster's. Last century Torrens established a new rule: the title of register at the Land Titles Office was to be a guarantee of ownership. This ended previous battles. Also, Torrens expressly aimed for a system that could be free of lawyers. In fact, ever since 1870 the Land Transfer Act has allowed for non-legal landbrokers. It's just that successive administrations have resisted approving. No new applications were granted after the time of Mr Mason's memo. By 1962 only 10 landbrokers were left. By 1978 none.

All this was the meat of Mr Dempster's latest case — seeking a review of the registrar-general of land's denying his application for a landbroker licence. In a decision publicised this week, Justice Fisher ruled that while the Land Transfer Act 1952 does allow for landbrokers, it is overridden by the Law Practitioner's Act 1982 which doesn't. He said the landbroker licence had been effectively rendered meaningless. But he accepted that Parliament's original intention had been "tolerably clear that the reason for introducing landbroker licences was to provide a professional alternative to solicitors for conveyancing matters".

ASIDE from being cheaper, Mr Dempster says he offers the advantage of specialising. Lawyers say a law degree counts for more. But, by way of making a point, Mr Dempster cites a statement in a pamphlet from Auckland lawyers Glastor Ennor (who also act for the Law Society) claiming: "Settlement day is the day when you become the legal owner of the property." Mr Dempster

says you become the legal owner on registration of title. I put both options (without disclosing sources) to Auckland Law Society president Robert Chambers and asked him to choose. He said the second (Dempster) version was "the correct answer". When I disclosed the sources, he said it was far more complicated and the other version was also correct. Glastor Ennor's Tim Jones said he deplored "point scoring" by Mr Dempster and the pamphlet was not a legal treatise, and in practical terms reflected the contractual situation. It's a fine point.

Mr Dempster says his father left the home early. His mother died when he was 10 and he and his twin brother moved to a great-aunt in Pt Chevalier before returning to their original Onehunga home. Passing School Certificate, he went straight from school to Lands and Survey, also becoming a drummer with a band called The Smoke, singing covers of songs like Steppenwolf's *Born To Be Wild*.

Out on his own, at first he only did complex conveyancing, for subdivisions and the like. But when challenged by the Law Society he decided to go the whole hog and do simple house-purchasing conveyancing as well. In the early years the business was inundated with work. But during the property slump, he returned to a life-long interest in fitness, obtaining an instructor's diploma and thinking he might change career.

He and Vicky had no children. He hasn't become involved with anyone else. "No, no I'm not. In fact, I don't really have time. I've had a chance with two or three, but my energies are all in this rightly or wrongly. I'm probably a bachelor by now." The same preoccupation accounts for hobbies and interests. He is finishing a home on Waiheke.

Essentially, Dr Chambers says, the Law Society opposes anyone seeking to do legal work who is not properly qualified. Mr Dempster has, however, at least the hope of a win. The Trans-Tasman Mutual Recognition Bill now being considered could extend Australian-style deregulation here. He says the only people complaining are lawyers.

A few years ago he saw a lawyer coming down the corridor to serve him with a bankruptcy notice, and hid under the table. He and Vicky laugh over it now. But on all fours he did some thinking: "I thought, here I am in this free country of New Zealand and I've got to hide under my desk because I'm too good at my job."

He thought there must be something wrong there somewhere.