

Bar opposes waste of Public Money on Staffing Judicial Commission of New South Wales.

The President has criticised the waste of public monies in appointing an array of senior executives to the recently formed Judicial Commission of New South Wales which is to investigate complaints into the conduct of State Judges and Magistrates.

The Commission budget will cost New South Wales taxpayers \$648,000 in its first year including some \$300,000 for salaries for senior staff. The backlog of cases awaiting trial in the District Court is 4,000 for the State and actions recently commenced in the Supreme Court are subject to delays of seven (7) to ten (10) years in the case of jury trials and four (4) to six (6) years in the case of non jury trials. It would be a more efficient use of public monies to pay for the appointment of more Judges to hear cases rather than dissipate it on a Commission for which there is little perceived need and which has recently been criticised by the Chief Justice of the High Court, Sir Anthony Mason as encouraging groundless complaints by disappointed litigants. This serves to detract from the reputation and standing of Judges.

The Bar opposed setting up of the Commission. Disclosure of the extent of the bureaucracy to keep Judges under surveillance only confirms our worst fears. □

Right of Appearance of Former Judges Changes

The Bar Council has amended Rule 7 of the Bar Association Rules. The effect of the amendment is that a barrister who is a former judicial officer may not practise as a barrister in any court or before any officer exercising judicial or quasi-judicial functions if he or she has been a member of or presided in such court or exercised such function nor in any court inferior to that of which he or she was a member for a period of a minimum of two years to a maximum of five years. The length of the prohibition on appearance during the two to five year period will depend upon the duration of the former judicial officer's term of office. The Council retains a general discretion to vary the Rule in particular cases.

The recent spate of judicial resignations has led to much discussion of this topic, and it was the subject of a session at last year's Australian Bar Association conference at Ayres Rock. It has been debated in the Bar Council in each of the last three years. Recent consultations with the Chief Justice of New South Wales, the Chief Judge of the Federal Court, and the New South Wales Attorney General made it clear that the Association would receive no practical assistance in enforcing its Rule prohibiting a former Judge from appearing in his or her former Court. The Council therefore concluded that amelioration of the Rule was inevitable. □

Extension of Arbitration to Personal Injury Actions in Sydney District Court.

The President has accepted in principle the Government's decisions to extend the existing system of arbitration by lawyers to personal injury actions in the District Court in Sydney.

A system of arbitration by lawyers has been in operation in the District Court and Magistrates' Courts since 1983. However the District Court matters had been restricted to claims for \$20,000 or less which effectively ruled out most personal injuries actions.

Under the new proposal the consent of the parties is not required before matters may be referred to arbitration, but either party has the right to demand a rehearing by a Judge if they are dissatisfied with the arbitrator's decision. This allays the Bar's concern at any measure which prevents a litigant being able to approach the Court.

The proposal requires 30 new arbitrators to be appointed, 15 from the Bar and 15 solicitors.

The Bar will assist the Government in the implementation of the scheme in the hope that it will be successful in reducing the backlog of actions. □

Appointments

The Association congratulates the following members on their appointments since the last report. (Styles and titles as at the date of appointment).

FEDERAL COURT OF AUSTRALIA

Judge: W.M.C. Gummow, Q.C.

M.R. Einfeld, Q.C.

SUPREME COURT OF NEW SOUTH WALES

Judge: Jane H. Mathews

P.J. Newman

DISTRICT COURT OF NEW SOUTH WALES

Judge: J.X. Gibson, Q.C.

J.B. Phelan

D.D. Levine, Q.C.

D.A. Wheelahan

W.H. Knight

P.J. Phelan

LAND & ENVIRONMENT COURT

Judge: N.A. Hemmings, Q.C.

CROWN PROSECUTORS

L.M. McSpedden, J.P. Booth

P.J.P. Power, L.J. Attard, B.M. James

Obituaries

With deep regret the Association records the names of those members and ex-members who have died since the last report.

The Honourable S. Isaacs, Q.C.

The Honourable E.P.T. Raine, C.B., E.D.

N. Mackerras

G.A. Crawford

P. Griffin

L.G. Tanner, Q.C.