

# Motions & Mentions

## Staying Out of Touch

In the Winter issue, *Bar News* explained how Counsel could make absolutely sure that their case got on to the front page of the newspaper. A new twist has been added to that proposition by the efforts of Cassidy Q.C. who got his name into the newspaper, but not on the front page and, further, so enraged a journalist that he promised never to mention Cassidy Q.C.'s name again.

Cassidy Q.C. was appearing for a doctor before the Medical Disciplinary Tribunal and asked for a ruling that his client's name not be allowed to be published because the case was "the sort of thing that appeals to the yellow press". According to the report which appeared in the *Stay in Touch* column of The Sydney Morning Herald on 7th October 1987, Judge Sinclair then asked Cassidy Q.C. to explain what he meant by the term "yellow press" and was informed that it meant "the daily press . . . or the media".

Clearly stung by this bold, all embracing submission, *Stay in Touch's* response was to report the incident and then to vow "this will probably be the last time his name (i.e. Cassidy Q.C.) will appear in this yellow column".

Cassidy Q.C.'s submission had satisfied the golden rules for ensuring one's case gets into the newspaper: "keep it short, keep it snappy and be up-to-date". This was not, however, his ostensible purpose and this leads *Bar News* to remind counsel of the golden rules to be invoked when no publicity is sought i.e. have the case put back as long as possible, extend each sentence to the length of the average paragraph, use obscure multi-syllable literary allusions, as much Latin or law French as the judge will permit and speak quickly.

Self-effacing counsel are reminded of the availability of all the above rules which should be moulded to suit the occasion.

At least Cassidy's application appears to have resulted in such reports of the case as appeared in the Herald's news columns thereafter being less unfavourable to the doctor than is often the case. □

## International Union of Lawyers

The Union Internationale des Avocats (International Union of Lawyers) is the oldest International Association of Bars and Lawyers having been founded in 1927. Its primary objectives are to establish and maintain regular communication and exchanges on an international level between participating bars and individual members, to promote the development of legal research in all areas and to study problems of professional organization and ethics. It holds a congress every two years and regular seminars in different parts of the world. In August 1987 it held a congress in Canada in which topics included bank security in international contracts, technology transfer, the role of lawyers in malpractice suits, family law, professional secrecy, etc. Members who wish to join the U.I.A. may contact Ian Hunter Q.C. at 4 Essex Court, Temple, London EC4Y 9AJ England (Fax: (Groups 2 and 3) 01.353-3421).

## Canberra Legal Convention to mark Australia's Bicentenary

The Law Council of Australia has announced that a special Bicentennial Convention (the 25th Australian Legal Convention) will be held in Canberra in 1988.

The Bicentennial Australian Legal Convention will run from Sunday 28 August to Friday 2 September, and will be addressed by some of the world's leading jurists. The Convention is an Endorsed Bicentennial Activity.

The Convention theme will be 'BEYOND 200' and will focus attention on what the legal profession has learned from Australia's first 200 years that can be put to good use as the nation enters its third century.

The Governor-General, Sir Ninian Stephen, will open the Convention at the Canberra Theatre on Monday 29 August, and sessions during the week will be held mainly at the Lakeside Hotel and the new Hyatt Canberra (the rebuilt and enlarged historic Hotel Canberra).

The Convention is being planned by a committee of representatives of the Law Society of the ACT and the ACT Bar Association, the Convention host organisations. Committee chairman is Mr David Crossin OBE.

The legal profession and Australia will be honoured by the presence of three leading world legal figures at the Convention:

The Chief Justice of the United States Supreme Court, the Hon. William Rehnquist

The Vice President of the Supreme People's Court of the People's Republic of China, Mr Ren Jianxin

Lord Justice Sir Michael Mustill of the UK Court of Appeal.

There will be many other distinguished international and Australian speakers leading the wide variety of business sessions during the Convention.

The principal sponsor of the Convention will be computer hardware and software and business systems marketers STC.

It is expected that many lawyers and their families from throughout Australia will want to take advantage of the opportunity to visit Canberra at the height of the spring season in 1988 and to see Australia's striking new Parliament House which will have been opened by the Queen and taken over by the Parliament shortly before the Convention.

Accommodation demands will be very heavy in Canberra throughout next year and early registration for the Bicentennial Convention will be essential.

Registration information will be available early in 1988.

Those interested in attending the Convention are invited to contact

Bicentennial Australian Legal Convention  
Capital Conferences Pty Ltd  
PO Box E345  
Queen Victoria Terrace  
CANBERRA ACT 2600  
(062) 85 2048

so that further information can be provided. □

## Repayment of, and Preclusion from Social Security Benefits after 1 May, 1987

Inquiries through the Bar Council have revealed that in most instances involving workers' compensation settlements the attitude of the Department of Social Security is in accordance with the Schedule hereto.

Members are advised that there may be some variations depending upon the exercise of the discretion of the individual delegates, however so far enquiries have revealed that practice has been in accordance with the Schedule.

It is stressed that the formula provided here was one in connection with a workers' compensation lump sum redemption under s.15 of the old Act. There may be some different considerations applicable in respect to common law settlements. This may well require some consideration to apportionment of settlement monies to isolate the pain and suffering and general damages components from loss of earning figures.

Members of course should be reliant on their own assessment of the legislation referred to. This information is provided only as a guideline not as a definitive statement of the law.

Members are invited to pass on their comments and any information as to the operation of this system to the Registrar so that a continual review of the practice of the Department can be maintained. In the event of any difficulties the Department will be further approached for guidelines.

### Schedule

If your client is awarded a full rate of Workers' Compensation payments, your client would owe the Sickness Benefits received for the duration of the award. If the Workers' Compensation payments are ongoing, further benefits are precluded until the award payments are ceased. If the award is for a partial incapacity payment, and the weekly rate is less than that for Sickness Benefits, the charge on past benefits will be assessed at the reduced rate of the award, and future benefits will be reduced on a dollar for dollar basis according to the Workers' Compensation award rate.

In the case of a lump sum settlement, the standard method of charge calculation is as follows:—

- Section 10 and 16 allowances are deducted from the total lump sum Redemption.
- The remainder, termed the "economic loss component" is divided by the Average Male Weekly Earnings at the time of settlement.
- The product is a figure in a number of weeks known as "the Preclusion Period."
- The Preclusion Period is extended from the day after the date last worked or the day after the last date of weekly Workers' Compensation payment, whichever is latest.

For the duration of the Preclusion Period all Sickness Benefits paid prior to and on 30.4.87, and all benefits paid

on or after 1.5.87 are recoverable. Where the Preclusion Period ends in the future, benefits are precluded until the last day of the Preclusion Period, after which benefits may again become payable. Where the last date of the Preclusion Period falls in the past, no benefits are recoverable after that date.

At the time of an award or settlement, the insurance companies involved are legally obliged to inform the Department, and to settle the financial obligation to the Department prior to release of moneys to the claimant. □

### Gifts

The following gifts were presented to the Association:

A white bordered, burgundy table runner and 24 napkins, all of Irish linen — for the Boardroom table — by the Silks of 1985.

A portrait titled "The Judge" by Francis Lymburner — by the Silks of 1986. These Silks also presented the following books to the Library:

The Oxford Dictionary of Quotations

The Oxford Companion to Art

The Oxford Companion to English Literature

The Oxford Companion to Music

The Oxford Illustrated Dictionary

Hallan's "Domesday Book Through Nine Centuries" 1986.

Prest's "Rise of Barristers: A Social History of The English Bar 1590-1640" 1986.

Postema's "Bentham and the Common Law Tradition" 1986.

Rickard's "H.G. Higgins" 1984.

Still life "Flowers" by Chris Capper — by Meagher Q.C. and B.W. Walker.

NSW Bar Association Annual Reports 1964-1983, and NSW Law Almanacs 1958-1986, also Benjamin Sidney's "Discord Within the Bar" — by the Honourable H.H. Glass Q.C.

National Court Rules of Papua New Guinea — by Sir William Prentice M.B.E.

Two copies of the Royal Commission of Inquiry into the Chamberlain Convictions — by the Honourable Mr. Justice Morling.

Reports of the 51st and 54th Conferences of the International Law Association; report of the 1962 International Congress of Jurists; photograph of the opening ceremony of the First Commonwealth and Empire Legal Conference (1955) in Westminster Hall — by H.J.H. Henchman Esq., Q.C.

New South Wales Act, Vols 0-48 (1894-1952) — by Bannon Q.C.

Chart of principal source materials in respect of the Humber Ferry case (1348) — by Baldock.

27 Volumes of Ruling Cases — by His Honour Judge Bell.

Hogan's "The Honourable Society of King's Inn" 1986 — by Cowan.

McDonald's "Australian Bankruptcy Law and Practice" — 5th edition — by G. Ellis.

Beattie's "Crime and the Court in England 1660-1800" 1986 — by Korn.

Fricke's "Judges of the High Court" — by B.W. Walker.

The Association appreciates these gifts and thanks the donors. □

## Listing

State of the common law list in the Supreme Court at August 1987

### Common Law Division

#### Number of Matters awaiting Hearing

##### Motor Vehicle List

	July	August
General List	(1098)	1154
Readiness Hearing — Notices Issued	(893)	925
Total Matters in List	(1991)	2079

##### Non Jury Matters

General List	(3033)	3244
Readiness Hearing — Notices Issued	(882)	657
	(3951)	3901

##### Jury Matters

General List	(2772)	3020
Readiness Hearing — Notices Issued	(1166)	1060
Total Matter in List	(3938)	4080

#### Total Number of Matters awaiting Hearing

Motor Vehicle List	(1991)	2079
Non Jury List	(3915)	3901
Jury List	(3839)	4080
	(9745)	10,060

Of the matters presently in the General List hearing dates for matters will be allocated as follows:—

Motor Vehicle List	August	50
	September	40
	November	50

All matters where a Notice to Set Down for Trial before **21st December, 1984** will be allocated a hearing date.

Non Jury List	August	50
	September	40
	November	50

All matters where a Notice to Set down for Trial before **18th October, 1984** will be allocated a hearing date.

#### Jury List

All matters where a Notice to Set Down for Trial before **25th January, 1983** have been allocated a hearing date.

#### Commercial List

Average delay from  
Commencement to Hearing — 8 months

## Report of Professional & Public Affairs Director

My first assignment was to assess the implications for the administration of the Bar of the Legal Profession Act 1987 which is likely to be proclaimed in January 1988.

I soon formed the opinion that it would be necessary to computerise the Bar Association if it were to effectively and efficiently meet its obligations under the new Act, in particular the issue of Practising Certificates and the new disciplinary proceedings.

I discussed the matter with various executives of the Law Society and investigated a number of options.

A consultant, Mr Marc Demarchelier, was subsequently appointed and he has now assumed responsibility for the project.

In order to assist the Bar Association in funding the cost of computerisation an application for a grant has been made to the Law Foundation.

I have also been involved in discussions with the Attorney General's Department concerning amendments to the Legal Profession Act and the preparation of Regulations and administrative procedures to facilitate implementation of the Act.

I have dealt with a number of enquiries from Members, academics, Crown employees and non-practising barristers in industry about different aspects of the new legislation.

I have participated in several accident compensation committee meetings and have continued to liaise closely with the Bar Association's Public Relations consultant in the area, Dougherty Communications. The Bar's Transcover advertising campaign has precipitated a number of enquiries from the public and we are hopeful a popular television show will soon run a before and after 1 July 1987 story to demonstrate the reduced damages available under Transcover.

The problem of court delays have caused the Bar Association great concern and it was against this background that the President asked me to prepare a submission to Bar Council on the English Recorder system. Council has now approved the recommendations of a working party and the scheme based on a model operated successfully in Britain has been proposed by the President to the Attorney General. The President has also asked me to prepare a paper on "Official Referees" as another method of combating court delays.

I have enjoyed the work to date, finding it both important and stimulating. I look forward to continuing contact and co-operation with all members of the Bar. □