

## Transcover Sitrep

During the latter part of 1987, the Executive and the Accident Compensation Committee, with the assistance of the Bar's public relations consultants, designed a strategy to keep the Transcover issue alive and to expose its deficiencies to the public and the media.

Transcover was selected rather than both Workcare and Transcover because:

- (a) Transcover affects everyone;
- (b) Those injured in work accidents are represented by their union officials (although those officials have failed dismally in looking after their rank and file over Workcare);
- (c) Road accident victims were otherwise leaderless, unorganised and unrepresented;
- (d) It is hard enough to expose the deficiencies of one system let alone two;
- (e) The public relations experts advised it;
- (f) The coalition's promise to restore the Common Law applies to both.

The strategy developed as follows:

(1) We demonstrated that the media could be prevailed upon to run anti Transcover stories to counter the Government's pro Transcover and anti Lawyer campaign if the stories were well done.

Such stories followed up by letters and argument were run in The Manly Daily (organised by Coombs), the St. George Leader (organised by David Mitchell and Kingsford Dodd) and the Central Coast News (organised by Ellis). These cuttings can be inspected by arrangement with Yvonne Grant at the Association's office.

(2) We helped arrange for Terry Willessee to run a programme on Transcover. The programme was radically cut at the last minute and was a disappointment but at least we did manage to get a programme on Transcover onto TV. screens.

(3) A joint meeting with the Law Society's Accident Compensation Committee was held in early January and thereafter a full meeting of their Regional Presidents was arranged. These meetings were addressed by Handley and Coombs and the methods used in Manly, Gosford and St. George were outlined. The Regional Presidents were given the task of organising similar coverage in local newspapers throughout the state. This bore fruit in Newcastle, Wollongong and the border regions, particularly.

(4) Accident victims contacted the Bar. They later formed a Citizens for Accident Justice Committee which promoted the issue to the public.

(5) Handley and Coombs were invited to discuss Transcover on radio, particularly on Margaret Throsby's show.

(6) A High Court challenge to Transcover was mounted and a press conference arranged to publicise it. Extensive

TV., radio and press publicity was obtained. The Bar funded that challenge and Sir Maurice Byers lead it.

(7) The Bar has also supported the preliminary legal argument in *Wright's* case. Wright seeks to recover damages under the Trade Practices Act for an employment injury caused by misleading and deceptive conduct contrary to Section 52 of the Act. The deception relied on is that a safe system of work existed. Sir Maurice Byers again led for the plaintiff. The case was heard by Lee J. Judgment was reserved, and was handed down on 20 April 1988. Lee J found for the Defendant employer on the ground that the corporation's conduct was not in trade and commerce. Our advice is that such a finding is highly debateable and leave to appeal to the Court of Appeal has been sought, and the application listed for 2 May.

(8) Some of the lies being told about Eric Gruber and Transcover were exposed by Handley in a further press conference on Monday 15th February.

On March 19 the government of NSW changed hands. Nick Greiner became Premier and John Dowd, Attorney-General. The Bar Council immediately attended upon the new Attorney both to welcome him to the office but also to ensure that the new Government's pre-election promises to dismantle Transcover and Workcare would be implemented.

The new Government intends to commence inquiries concerning the restoration of common law rights to both victims of motor vehicle and employment-accidents. In the case of restoration of common law rights for motor vehicle victims, it is probable that there will be modifications to full common law rights, both to eliminate small claims and to limit general damages.

In neither case will reforms be implemented overnight. The Compensation Board may be dismantled and private insurers brought back into the field both for motor vehicle and employment related accidents.

Mr Greiner has said that the restoration of common law rights will be retrospective to 1 July 1987.

The High Court litigation which challenged the constitutional validity of Transcover remained in the list for hearing on 13 April until late the day before when, by consent of the plaintiffs and the State, the case was stood out of the list. This became possible because the Attorney-General John Dowd issued a Press Release that afternoon, later supplemented by a letter to Ken Handley. These reaffirmed the Government's pre-election commitment to dismantle Transcover with effect from 1 July 1987, and to appoint representatives of the Bar Association and Law Society to the Committee which will work on the scheme of the new legislation. The constitutional challenge remains on foot in the meantime. It was gratifying to find out that the Commonwealth and, we believe, all other States were intervening in support of the plaintiffs. □

J.S. Coombs

## New South Wales Judicial Salaries Fall Behind

The Thatcher Government in the United Kingdom recently announced substantial increases in salaries for Britain's top Civil Servants including Judges. The Judges were awarded a 7.4% increase. The increases were made following a report by the Review Body on Top Salaries. It was the first review since 1985. One of the reasons the Review Body gave for the increases which exceeded the rate of inflation was the difficulty in recruiting Circuit and High Court Judges.

Full implementation of the award in the Autumn of 1988 will mean increases of \$10,543.00 for Lord Lane, the Lord Chief Justice, while the eleven Lords of Appeal and Lord Donaldson of Lymington, the Master of the Rolls will receive \$9,923.00.

*Bar News* sets out below a list of judicial salaries in the United Kingdom, converted into Australian dollars based on the exchange rate as at 6 May 1988:

1. Lord Chief Justice	\$206,765.00	(£85,250)
2. Lords of Appeal Master of the Rolls }	\$191,000.00	(£78,750)
3. Lords Justices of Appeal	\$183,602.00	(£75,700)
4. High Court Judges	\$166,139.00	(£68,500)
5. Senior Circuit Judges	\$123,452.00	(£50,000)
6. Circuit Judges	\$111,083.00	(£45,800)
7. Master of the Supreme Court	\$90,952.00	(£37,500)

Salaries of New South Wales Judges increase annually, but have recently only been increased to keep up with inflation.

The salaries of the New South Wales Judges, including expenses, are as follows:

1. Chief Justice	\$115,356.00
2. President of the Court of Appeal	\$107,902.00
3. Judge of Appeal Supreme Court Puisne Judge } Chief Judge of the District Court }	\$105,077.00
4. District Court Judge	\$91,104.00
5. Master	\$87,999.00

It is expected that there will shortly be announced an increase in the New South Wales judicial salaries. *Bar News* hopes the Remuneration Tribunal will heed the wisdom of the English Review Body. □

## Assistance to Court Reporters

*The Bar Council is liaising with the Chief Justice, Chief Judge of the District Court, the Court Reporting Branch and with senior officers of the Attorney-General's Department with regard to seeking improvements to the New South Wales court reporting service. A number of proposals are in the course of implementation. However,*

*the major problem is lack of trained court reporters. There are currently 25 vacancies in the Branch for Court reporters but, so far, it has not been possible to attract appropriate people to fill them.*

*Accordingly, great strains have been placed on the existing staff court reporters as there are simply too few to go around too many courts. It thus behoves the Bar to assist the court reporters in any manner which they suggest could improve their working conditions. In this regard, the Council has received a request from the Chief Court Reporter to promulgate to the Bar the circular which appears hereunder. The Bar Council requests every barrister to make every attempt to comply with his request.*

Because of the current shortage of Court Reporters, the Court Reporting Branch is experiencing considerable difficulty in covering courts and promptly producing transcripts. As this situation is likely to remain so for quite some time, the assistance and co-operation of all members of the Bar is sought in making the Court Reporters' load a lighter one. Naturally, anything that assists the Reporters ultimately benefits the Bar, ie. better quality transcripts, hopefully sooner. The Bar should understand that the Branch is required to cover the same number of courts but with less staff; hence, Reporters are required to spend longer periods in court without relief and, as a consequence, there will be delays in providing transcripts. Accordingly, members of the Bar are earnestly requested to read and heed the following DO'S and DON'TS:

- DO be aware of the presence of the Court Reporter.
- DO ensure that your witnesses are aware of the presence of the Court Reporter and are instructed to speak clearly, audibly and not too quickly.
- DO speak and ask questions at a reasonable pace so as to be heard and recorded clearly and accurately.
- DO assist Court Reporters by spelling unusual names and providing copies of documents from which you propose to read.
- DO NOT speak over the witness or other speakers: the Court Reporter can only record one person at a time; further, speaking over the witness is distracting to the Reporter and thus makes for inaccurate recording.
- DO NOT rustle papers or have audible private conversations at the Bar table: these distract both witness and Reporter.
- DO NOT expect the impossible from the Court Reporter. Remember, every hour of taking evidence in court requires 2 hours of transcription work with typists at the Court Reporting Branch.
- DO NOT order transcripts unnecessarily; this will relieve the Reporter from transcribing to a typist evidence which is not required and thus will permit him more time in court recording "live" evidence the transcript of which is really required.

On behalf of the Court Reporters, I thank all members of the Bar for reading the above. PLEASE try and comply with the foregoing — it WILL improve the service the Branch is trying to provide.

M.K. McLoon  
Chief Court Reporter

## Appointments pursuant to the Legal Profession Act

The Legal Profession Act 1987 commenced on 20 February 1988. Following submissions by the Bar Association and the Law Society the Attorney General, the Attorney-General of NSW, R.J. Mulock, made the following appointments.

### The Professional Conduct Review Panel:-

Pursuant to section 126(2)(a):

Mr. F.J. Gormly, Q.C. for a term expiring on 1 March, 1991, and pursuant to section 126(2)(b)

Mr. D. Lane for a term expiring on 1 March, 1990, and pursuant to section 126(2)(c)

Mr. John O'Neill for a term expiring on 1 March, 1991, the latter to be Chairperson pursuant to section 126(3)

Mr. P. Wolfe, for a term expiring on 1 March, 1990

Ms. C. Petre for a term expiring on 1 March, 1991, and

Ms. L. Cohen for a term expiring non 1 March, 1990

### The Professional Standards Board:-

Pursuant to section 127(2)(a):

Mr. I. Barker, Q.C. for a term expiring on 1 March, 1991

Mr. R.A. Conti, Q.C. for a term expiring on 1 March, 1991

Mr. R.L. Hunter, Q.C. for a term expiring on 1 March, 1991

Mr. K. Murray, Q.C. for a term expiring on 1 March, 1991

Mr. C.S.C. Sheller, Q.C. for a term expiring on 1 March 1990

Mr. T. Simos, Q.C. for a term expiring on 1 March, 1991

Mr. H.D. Sperling, Q.C. for a term expiring on 1 March, 1990.

Pursuant to section 127(2)(b)

Mr. P. Boesenberg for a term expiring on 1 March, 1991

Mr. P. Campbell for a term expiring on 1 March, 1990

Ms. H. Conway for a term expiring on 1 March, 1990

Mr. N. Corkill for a term expiring on 1 March, 1989

Mr. J.D. Edelman for a term expiring on 1 March, 1991

Mr. B. Folbigg for a term expiring on 1 March, 1990

Mr. J.H. Herron for a term expiring on 1 March, 1991

Mr. C. Houen for a term expiring on 1 March, 1990

Mr. P. Kerr for a term expiring on 1 March, 1989

Mr. E. Stevenson for a term expiring on 1 March 1990

Mr. C. Vass for a term expiring on 1 March, 1990

Mr. N. Forrest for a term expiring on 1 March, 1991

the latter to be Chairperson pursuant to section 127(3).

Pursuant to section 127(2)(c):

Dr. M.E. Costigan for a term expiring on 1 March, 1991

Mr. G. Warwick Smith for a term expiring on 1 March, 1990

Mr. F.J. Amor for a term expiring on 1 March 1989, and

Mr. K. Eccleston for a term expiring on 1 March, 1990.

### The Disciplinary Tribunal:-

Pursuant to section 128(2)(b):

Mr. R.J. Ellicott, Q.C., for a term expiring on 1 March, 1990

Mr. A.M. Gleeson, Q.C. for a term expiring on 1 March, 1991

The Hon. T.E.F. Hughes, Q.C. for a term expiring on 1 March, 1991

Mr. F. McAlary, Q.C. for a term expiring on 1 March, 1991

Mr. R.P. Meagher, Q.C. for a term expiring on 1 March, 1989

Mr. D.A. Staff, Q.C. for a term expiring on 1 March, 1990.

Pursuant to section 128(2)(c):

Mr. D. Castle for a term expiring on 1 March, 1990

Mr. I. Dunlop for a term expiring on 1 March, 1989

Mr. D. Hunt for a term expiring on 1 March, 1990

Mr. A. Mitchell for a term expiring on 1 March, 1991

Mr. D. Patten for a term expiring on 1 March, 1989

Ms. A. Plotke for a term expiring on 1 March, 1991

Mr. D. Barr for a term expiring on 1 March, 1990.

Pursuant to section 128(2)(d):

Rear Admiral G. Griffiths for a term expiring on 1 March, 1990

Miss N. Keesing, A.M. for a term expiring on 1 March, 1989

Dr. U. Gault for a term expiring on 1 March, 1990

Mrs. B. Ingold, M.B.E. for a term expiring on 1 March, 1989, and

Mr. D. Mahon for a term expiring on 1 March, 1991. □

## Double Check on Legal Aid

The Fees Committee has recently been dealing with a matter in which Counsel was briefed by a solicitor on the Bar Council's "Blacklist".

Counsel was aware that the solicitor was so listed. The solicitor told Counsel, however, that the matter was one in which a grant had been made of legal aid for the purpose of enabling Counsel to be briefed. Counsel accepted the brief accordingly.

Counsel has not been paid, and the Fees Committee has been endeavouring to obtain payment of Counsel's fees. In the course of doing so, the Committee has discovered that the solicitor misrepresented to Counsel the true position respecting the grant of legal aid. In the particular case, legal aid had been granted to the solicitor in relation to his own proper costs, but had not been granted for the purpose of the briefing of Counsel.

The solicitor in question has had his name removed from the Roll of solicitors, for reasons unrelated to the matter upon which this note is commenting.

In the result, Counsel is entirely without remedy.

The above circumstances are brought to the attention of the members of the Bar, for the purpose of forewarning them that, in any case in which a solicitor asserts that legal aid has been granted for the purpose of enabling Counsel to be briefed, it would be prudent always to confirm by direct contact with the Legal Services Commission that such a grant has indeed been made for that purpose, or to insist upon seeing a copy of the letter from the Commission granting legal aid. □