

# Law Council Report

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## Migration Work and Lawyers

The Law Council, supported by constituent bodies, has continued to oppose strongly the Government's plan to require lawyers to register as migration agents if they held clients with migration applications.

The Government has agreed that lawyers who only give general migration advice will not have to register, but it is insisting that lawyers who help with applications must register. This appears to be the first time lawyers have been required to register with the Government before being eligible to provide legal services in a particular area of the law.

The new scheme was supposed to start on 1 July, but the Law Council has been advised that the legislation establishing the scheme will not be dealt with by Parliament until the Budget sittings.

The LCA maintains its firm opposition to registration of lawyers. When the legislation for the scheme becomes available the LCA will consider whether there are grounds for challenging the constitutional validity of the legislation.

## Many Questions on Cost of Justice

The Law Council and its constituent bodies have now been working in connection with the Senate enquiry into the cost of legal services for several years. The Senate committee's report is expected to be out by the middle of the year.

The Law Council made a major initial submission in 1989. Later it made several more written submissions on particular issues, and proposed the introduction of a uniform mediation system in all Australian courts.

Representatives of the Law Council (and of the constituent bodies) gave evidence at public hearings held by the committee some time ago. A few weeks ago there were more public hearings in Canberra, when the LCA President, David Miles and the President of the Law Society of New South Wales, John Marsden, appeared and gave evidence.

Subsequently, David Miles received a request from the committee that he provide written answers to 42 questions - most of them dealing with major issues - which the committee had not dealt with when he gave evidence.

In the meantime, work has been proceeding on the preparation of responses the substantial range of discussion papers issued by the committee. The detailed work on these responses has largely been done by the constituent bodies, with the Law Council bringing all the material together for presentation to the committee. There will also be a final general written submission summarising the Council's views as to the issues on which the Senate Committee should concentrate in its report.

## Advocacy Institute Swamped with Applicants

The Australian Advocacy Institute established by the Law Council has been swamped with applications from lawyers wanting to undertake its courses.

At the first workshop on basic advocacy skills, held in Adelaide, 62 took part. Another 30 were unable to be accepted because of lack of space.

Mention of the Institute in a newsletter recently sent to LCA members has brought a flood of enquiries and applications. The Institute will hold further workshops (they have already been held in Brisbane, Hobart, Melbourne and Adelaide) as follows:

Melbourne	July 25-26
Perth	August 15-16
Townsville	September 26-27
Sydney	October 17-18
Brisbane	November 7-8
Melbourne	November 21-22

For information, please contact Anne Craig, Australian Advocacy Institute, Law Council of Australia, PO Box 1989 Canberra ACT 2601, or DX 5719 Canberra. Telephone (06) 2473 788 Fax (06) 2480 639.

The Institute's Chairman is Mr Justice George Hampel of the Supreme Court of Victoria.

## Legal Professional Privilege Fight

The Law Council is engaged in a debate with the accounting profession over legal professional privilege.

The accountants have vowed to fight to have legal professional privilege apply to communications between them and their clients on taxation matters.

LCA President, David Miles, says it is shallow and dangerous to see legal professional privilege simply as something that gives lawyers a competitive edge over accountants. He says the proper functioning of the legal system depends on legal professional privilege, and that is its sole but extremely powerful justification and the reason why it does not apply to communications between clients and other advisers, such as accountants.

## The TPC Turns to Lawyers

The Trade Practices Commission announced at the COJI hearing in Canberra (see above) that it will next turn its sights on to the legal profession in its current study of competition in the professions.

Much of the debate on legal professional privilege was stimulated by the TPC's study of the accountancy profession, and the accountants' claims in the area.

The Law Council will be heavily involved in assisting the TPC with its study and in commenting on its findings.

## Australia-Wide Admission At Last

The thorny question of national or reciprocal admission to legal practice is coming to a head and is likely to be implemented on New Year's Day next year.

This will happen as part of the government "mutual recognition" plan that will mean that all professions and trades in Australia will be subject to a new principle: that a person "registered" (meaning, for lawyers, admitted to practice and holding a practising certificate) in one State or Territory is entitled to "registration" in any State or Territory.

This is the gist of the "mutual recognition" legislation which the Commonwealth Government will bring into the Australian Parliament, acting for all Governments. The Law Council has been working for some time to devise suitable practical arrangements for a new regime, having taken the initiative early in 1991.

The LCA is now pressing for some changes in the proposals to ensure that State and Territory Supreme Courts deal with appeals from decisions of local registration bodies (courts, admission boards, Law Societies or Bars) and, so that

those bodies have the opportunity to scrutinise applications before the applicant is able to practise in the local jurisdiction.

The LCA has sought clarification as to how the mutual recognition principle is to operate in relation to jurisdictions with separate branches of the legal profession and those with fused professions.

The LCA President has asked all constituent bodies to consult urgently with the admitting authorities in their jurisdictions to discuss admission arrangements and to settle what post-admission, academic and practical requirements might be needed. □

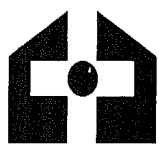
## Mediation Training for the Bar

On 23 April 1992, the Bar Council accepted recommendations from its alternative dispute resolution task force (Coombs QC, McColl, Walker and Angyal) and resolved to offer two types of training courses in mediation to members of the Bar.

The first course is a three-evening, six-hour course providing a basic grounding in the techniques of mediation. This course is designed to cater for barristers likely to be briefed to appear for a party at a mediation in Settlement Week 1992, as a result of the Chief Justice's pilot project of court-annexed mediation, or in a privately-arranged mediation. (The former two schemes are described elsewhere in this issue.)

The second course, to be held in August, will be an intensive four-day course designed to equip participants to mediate disputes and is expected to satisfy accreditation requirements for, eg. participation as a mediator in settlement weeks and probably for inclusion on the panel used by the Australian Commercial Disputes Centre to select mediators for its compulsory third-party mediation scheme (described in this issue at page 9).

Final timing, content and costings of the August courses are currently being finalised and will be announced to the Bar as soon as possible. □



## CHRISTIAN MEDITATION GROUPS

Two ecumenical Christian Meditation groups meet in the crypt of St James' Church at the top of King Street in the city.

One meets on Wednesday mornings at 7.45 a.m. and concludes at 8.30 a.m. The other meets on Fridays at 12 noon, concluding at 1.00 p.m.

The groups follow the method and teaching on Christian Meditation of Benedictine Monk John Main and are affiliated with a network of similar groups.

Anyone who already meditates, or who is interested in starting to meditate is welcome. Enquiries:

Richard Cogswell 285 8813 (W)  
810 2448 (H)

## Balancing the Bar's Books

*By Lyn Murray, who founded Barristers Management Services based on seven years' experience managing barrister's financial and administrative affairs.*

When the cold west winds of June begin to blow and the Tax Man cometh, barristers can be left asking themselves some leading questions: How much have I earned? What tax deductions do I need? What can I claim? What about superannuation?

Though sometimes caricatured as distracted figures, hurrying along, robes flapping and papers flying, barristers more often appear awesomely competent.

And yet I have found that there is one area in which (naturally with many honourable exceptions) they let their control and self-confidence falter and even become disorganised, and that is the area of ... money.

Many have only limited administrative assistance. They work in less structured business systems than solicitors, and often make do for secretarial support with help from the floor typists, paid by the hour. Computers are being used increasingly, but many barristers do not have time for the discipline and changes that computers require.

An awareness of their needs, derived from seven years spent managing finance and administration for barristers, led me to set up Barristers Management Services (BMS). The idea came to me after observing a similar external service set up for specialists at a major Sydney hospital, which administered all the doctors' accounts, including raising invoices, issuing receipts and following up overdue accounts.

BMS is designed to meet the particular requirements of each individual barrister, as the time their work requires may range from several days to only a few hours each week. No job is too small, since the system is set up to accommodate all barristers' requirements.

All BMS client's affairs are handled on the BMS computer system, using purpose-designed software, with each barrister's fees and accounts being maintained separately (and in full confidence).

BMS does all its work, except for initial interviews and periodic consultations, off barristers' premises, since work space there is usually at a premium.

Services provided by BMS include:

- Preparing memo of fees.
- Following up all outstanding fees.
- Monitoring and reporting on cash flow and profitability.
- Reconciling and analysing chequebooks, bank accounts and credit cards accounts.
- Recording and controlling expenses.
- Paying accounts.
- Preparing tax records for accountants' purposes and helping maximise potential tax savings.

BMS offers a free initial one-hour consultation, in which an analysis of the barrister's administrative needs is carried out. □