

# Letters to the Editor

Dear Editor

I refer to an item appearing at page 27 of the edition of *Bar News* Winter 1992 headed "Is This A Record?" and comprising a photocopy of a letter from the Legal Aid Commission of NSW to Mr I R Sanderson of Counsel dated 31 December 1991, which referred to payment of a memorandum of fees dated 25 October 1984.

The item gives the impression that the commission has been tardy to the extent of seven years in the payment of fees to counsel.

The facts, as evident from the commission's papers, are that the fees were rendered by Mr Sanderson to his instructing solicitor in July and October 1984, but that the solicitor did not forward them to the commission until 21 August 1991.

The commission paid the fees in December 1991.

T A Murphy  
Acting Director, Legal Aid Commission of NSW

Dear Editor

I refer to your story headed "Is this a record?" on page 27 of the *Bar News* Winter 1992. I enclose, for your information, a copy of a cheque advice slip which will be immediately recognisable to those of us receiving payment from the Legal Aid Commission in relation to criminal matters.

You will note that the advice letter is dated 23 March 1992, following on an invoice dated 18 March 1992.

My covering letter to the memorandum of fees was in fact dated 9 March 1992, but was probably not received in the commission until the 11th or 12th. Not a bad effort in any event, with the added bonus that the amount allowed was in fact equivalent to the amount claimed.

Michael M Kozlowski  
Church Street Chambers, Newcastle

PS: The cheque was attached (and quickly banked, in case of error!).

Dear Editor

I refer to the letter appearing on page 27 of the *Bar News* under the question "Is this a Record?". The answer is "No".

I enclose a copy of a letter\* I received in late 1991, also from the Legal Aid Commission. I suppose it's possible I was spared a 20% deduction in view of the date on which the solicitor forwarded the memo to the commission. The fees were ultimately paid on 27 February 1992.

John Whittle  
Blackstone Chambers

\*Accompanying letter from the Legal Aid Commission of NSW is dated 10 December 1991. Reference is made to Mr Whittle's memorandum of fees dated 29 July 1983, forwarded to the Commission by his instructing solicitors on 11 April 1991. The Commission states that the "memorandum has been approved in full in the sum of \$1,125.00 and a cheque for this amount will be forwarded to you in due course". Mr Whittle advises payment was received 27 February 1992. ... Editor

Dear Editor

Miles CJ has obviously stirred the proverbial hornet's nest with his letter concerning the taking of the oath.

I recall an incident in Newtown Court of Petty Sessions many years ago where the magistrate was attempting to swear a witness who was deaf in his left ear. The court constable handed him the Bible and gave him the usual instruction, at the commencement of which the witness moved the Bible to his left hand, cupped his right ear with the other hand and replied, "Eh". Patiently the constable moved the Bible across and started again. With equal patience the witness repeated the earlier pantomime. After this had gone about three times, the magistrate, attempting to restrain his laughter, allowed the oath to be administered south paw.

Fun as these reminiscences are, the manner of taking the oath is not of great moment. Section 11A of the *Oaths Act* does not identify the hand in which the Book is to be held. Of more importance, it provides that the oath shall not be regarded as invalid if the section is not followed and provides, in ss 6, a general saving of the common law.

D I Cassidy QC  
Chalfont Chambers

Dear Editor

Proof of foreign law is often regarded as vexed and difficult. The International Trade and Business Law Committee of the Law Council of Australia is interested in researching practical problems associated with proof of foreign law. If, as is suspected, significant problems are being experienced by the profession, the committee will work towards solutions to those problems.

The committee would like to hear from members of the profession about their experiences in proving foreign law. We are particularly interested in the following:

- (a) Under what circumstances has proof of foreign law been necessary?
- (b) On how many occasions has proof of foreign law been required?
- (c) How did you locate an appropriate expert?
- (d) What was your experience with the process?
- (e) Was there a genuine conflict, in the litigation context, between the various experts called to prove foreign law.

The committee is also contemplating the establishment of a register of foreign law experts. If any of your members are admitted to practise in an Australian jurisdiction as well as a foreign jurisdiction, or if any member has a foreign law qualification, the committee would appreciate his or her contact with us giving relevant details of qualification and/or experiences.

Kindly forward any response to Ms Ivy Kristo, International Law Section, Law Council of Australia, GPO Box 1989, Canberra ACT 2601.

Mary Anne Hartley  
on behalf of the  
International Trade and Business Law Committee  
of the Law Council of Australia