



STOP PRESS

A monthly newsletter from the NSW Bar Association

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“Servants of all yet of none”

No. 59 March 1999

President's Column

The Election

As usual, the Government and Opposition solemnly maintain there is no law and order auction. Each does so with a straight face. In the meantime, the law and order issue runs rampant. Suddenly, the Coalition sees the need to increase the police force by 2,500. Mr Hannaford tells us that there is to be “grid sentencing” (whatever he contemplates by the term), “sentencing benchmarks” and “public accountability”. The underlying assumptions seem to be that there is a crisis of public confidence in the justice system, and gross inconsistencies in sentencing.

Both assumptions are false. The first comes from unhappy press reports of emotionally charged statements by distressed people in a few spectacularly nasty cases, and from talk back radio. All that is supposed to be a measure of public opinion.

But consider what the NSW Law Reform Commission had to say on the subject in 1996:

Without full facts it is likely that the public's view of sentencing will be based on a conception of crime which is distorted by stereotypes, often involving images of violence which is fuelled by an erroneous belief that crime can be punished away. This means that at least the polls for conducting surveys of community attitudes require a high degree of sophistication.

There is precious little evidence of significant inconsistencies in sentences, so the perceived evil which grid sentencing will defeat seems to dwell largely in the imagination of the Coalition. I cannot tell you what the grid sentencing proposal involves because the Opposition declines to release the policy. But don't worry, it is all a social necessity and has nothing to do with an electoral law and order auction.



Ian Barker QC, President.

The Government is keeping up with the game.

Suddenly, according to the Premier's press release of 1 March 1999, the Government has discovered inconsistencies and deficiencies in sentences relating to such diverse offences as home invasion, sexual assault and drug importation.

An application is to be made to the Court of Criminal Appeal to set guidelines pursuant to the curious *Criminal Procedure Amendment (Sentencing Guidelines) Act 1998*.

The Act purports to allow the Attorney General, and nobody else, to ask the Court of Criminal Appeal to set guidelines, in the absence of any case before it. The Director of Public Prosecutions is excluded from the process. There is no provision for a contradictor, except the Senior Public Defender if he or she chooses to turn up.

Whether the Court will be receptive to such applications remains to be seen, but the Premier's announcement is merely crude electioneering.

The press release tells us that:

The Carr Labor Government will ask

the NSW Court of Criminal Appeal to develop clear and consistent sentencing guidelines covering six major classes of crime.

You will note that the press release says it is the Government who will make the application, not the Attorney General acting independently in the interests of justice. And where, may we ask, is the evidence that there is any significant inconsistency in the imposition of penalties for sexual offences under the *Crimes Act 1900*? Are people marching in the streets demanding an increase in the life sentence already provided for in respect of importing commercial quantities of heroin?

As with the Coalition's policy on sentencing (whatever it really is), the underlying assumptions are false.

According to Don Weatherburn from the Bureau of Crime Statistics:

- The odds of being robbed at knife point are about 1 in 4000.
- About 3% of people will be assaulted or threatened with assault in any one year.
- Less than 1% will suffer a robbery of any kind.
- The homicide rate has not risen in 20 years.

Crime rate figures appear to have plateaued, yet the political clamour is for heavier sentences. At election time politicians become expert criminologists, asserting that heavier sentences will reduce crime. It is a doubtful premise, to put it mildly.

As Dr Weatherburn recently observed:

Since 1988 the average prison term served by all NSW prisoners has increased by at least 30 per cent. None of this had any obvious effect on crime.

Continued on page 2

Bar Council Business for January

President's Report

Sir Maurice Byers: The Bar Council noted with deep regret the death of Sir Maurice Byers Kt CBE QC on 16 January. Sir Maurice was a former President of the Bar Association between 1965 and 1967.

Meeting with NSW Opposition

Leader, Ms Kerry Chikarovski MP: Barker QC advised that he, McColl S.C. and the Executive Director met with Ms Chikarovski on 28 January 1999. The NSW Opposition Leader stated that the Coalition's law and order policies would be released progressively in the weeks leading up to the 27 March poll. Matters raised included insufficient legal aid funding; acting judges; reduction in country District Court sittings; and pre-trial disclosure. The President advised that he would write to Ms Chikarovski on these issues and others, including changes to the motor accident legislation to allow the setting of fees. The issues would also be raised by the Executive Director with the Shadow Attorney General.

Goods and Services Tax: Gzell QC is to chair the Bar Association's GST Working Party. Other members are Slater QC, Durack S.C. and Mark Richmond. The Executive Director

advised that he was a member of the Law Council's GST Working Party. As such, he will examine how the working parties of the various Bar Associations, Law Societies and the Law Council might cooperate to reduce unnecessary duplication.

Motor Accident Scheme: Bar Council asked that Morrison S.C. speak on behalf of the Bar at the public inquiry into the scheme being conducted by Shelley Miller QC. (Miller QC is a Canadian silk who conducted a similar inquiry into the scheme in Alberta some years ago). Bar Council endorsed the approach Morrison S.C. proposed to take regarding the inquiry. Morrison S.C. to work with the Common Law Committee on the issue.

Concerns raised re publication listing lawyers: A leaflet inviting practitioners to advertise in the forthcoming publication, *Australia's Best Barristers and Solicitors*, has prompted letters of concern from various bodies, including a joint letter from the Law Institute of Victoria and Law Society of NSW and from the Victorian Bar. The Executive Director was asked to write to the publisher of the directory advising that the NSW Bar Council shared the concerns of the other professional bodies and individual members.

New cameras and video monitors: Bar Council agreed to a request from the Education Manager to purchase new cameras and video monitors. It was also agreed that the old equipment be donated to the Bangladesh Bar Association.

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* * * *

Contact: Norman O'Bryan
Barrister
Aickin Chambers
28th Floor
200 Queen Street
Melbourne 3000
Telephone: (03) 9601 6512

President's Column

Continued from page 1

Barristers' Resolution Service

I would like to express my personal thanks, and those of the Bar Council, to Mary Walker, Chair of the ADR Committee for her tireless efforts on the Barristers' Resolution Service and the Kit (February *Stop Press*). Thank you also to the ADR Committee for all its work on the agreements — work which has finally come to fruition. While most of us were having our Christmas break, Walker, and Kate Southam and Nicole Hyde of the Bar Association, were working to make sure the launch of the service and kit fell into place seamlessly. My heartfelt thanks to all of them.

NISAD

A total of \$24,000 has been donated to the Bar Association's charity, the Neuroscience Institute of Schizophrenia and Allied Disorders (NISAD). The directors of NISAD have advised me that they have considerable trouble fund raising due to the stigma attached to schizophrenia. NISAD has worked hard to make its research work known to members and continues to do so this month by including its newsletter *Headlines* with this edition of *Stop Press*. For those who have not yet donated, please take a look at the newsletter and reconsider your response.

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At the Lectern

February saw the commencement of the Advocacy Committee training program for 1999. *A Train The Trainer* program was conducted by Taylor S.C., Chair of the Advocacy Committee, Her Honour Judge Ainslie-Wallace and Greg Laughton.

The *Train The Trainer* program is designed to improve the skills of members teaching in the Bar Practice Course and of tutors.

Later in the month, the very popular *Cross Examination Workshop* was

conducted. Initially catering to forty members, this was later expanded to fifty, due to the huge response from members wishing to attend. Many members were still unable to be placed in the course and a further workshop is being considered for later in the year.

One aspect of the program almost all participants commented upon was the amount of energy and skill contributed by the large number of senior counsel who led the individual workshops.

Special thanks go to Shand QC, Murray

QC, Robberds QC, Stitt QC, Neil QC, Tobin QC, Wheelahan QC and Cranitch S.C. Demonstrations by Porter QC, Gyles QC and Burbidge QC of cross examination technique set a very high standard for participants to follow and were truly examples of best practice in cross examination technique. Much of the success of the workshop is attributable to the work of Her Honour Judge Ainslie-Wallace, Glissan QC, Walmsley S.C., Greg Laughton and Hugh Marshall as advocacy trainers and through the management of Taylor S.C.

Appointments

Supreme Court of NSW

Paddy Bergin S.C. has been appointed to the bench effective 1 March 1999.

The Hon. Rex Smart QC has been appointed to act as a Judge and a Judge of Appeal effective 4 March 1999 and expiring on 3 March 2000.

Virginia Bell S.C. has been appointed to the bench effective 25 March 1999.

Public Interest Law Clearing House

Ruth McColl S.C. has been appointed President of PILCH effective 26 February 1999.

University of NSW

Peter Dwyer (11/St James Hall) has been appointed Adjunct Associate Professor, Faculty of Medicine, School of Physiology & Pharmacology, University of NSW effective 5 February 1999.

Crown Advocate

Terence Buddin S.C. has been appointed Crown Advocate effective 22 March 1999 to 21 March 2006.

Acting Crown Advocate

Peter Berman has been reappointed Acting Crown Advocate effective 21 February to 21 March 1999.

Local Court

Roger Prowse has been appointed a Magistrate and Mining Warden effective 22 March 1999.

Magistrates

Sean Flood, Associate Professor Gregory McCarry, Suzanne Seagrave and Eve Wynhausen have been appointed Magistrates and Mining Wardens effective 22 March 1999.

Acting Magistrate

Stephen O'Connor, Solicitor for Public Prosecutions, has been appointed an Acting Magistrate and a Mining Warden effective 5 March 1999 to 30 June 1999. Mr O'Connor has also been appointed a part-time member of the Victims Compensation Tribunal.

Golden Anniversary



Hughes QC and Barker QC.

On 18 February 1999 Bar Council invited The Hon. T E F Hughes AO QC and his guests to drinks to celebrate his 50th Anniversary at the Bar.

The Bar is indebted to Hughes for his

many years of professional service which include serving as President of the Bar Association between 1973 and 1975 and as Attorney-General of the Commonwealth between 1969 and 1971.

Committees for 1999

On 15 February 1999 the President wrote to chairs and convenors of committees and sections about the significance of the work they carry out representing all members of the Bar Association.

"I believe the work of committees and sections to be amongst the most important carried out by the Bar Association," the President said.

The following is a full list of Bar Association committees.

Committees and Sections are also being encouraged to discuss their work in articles prepared for *Stop Press* such as the item on page 4 prepared by Gzell QC, chair of the GST Committee.

Wherever possible, members are asked to provide *Stop Press* items on PC (Word 97 compatible) disk.

ADR & Arbitration Committee

Mary Walker (Chair), Arthur Leslie QC, Michael Finnane QC, Chris Barry QC, Peter Jacobson QC, Geoff Lindsay S.C., Steven Rares S.C., Sandy Street S.C., Ray McLoughlin S.C., Campbell Bridge S.C., Peter King, Bryan Pape, Richard Bell, Stuart Torrington, Jeremy Gormly, Robert Angyal, Ian Davidson and Bruce G. Smith. Staff contact: Nicole Hyde - ph: 9229 1723, fax: 9221 1149 or email: nhyde@nswbar.asn.au

Advocacy Committee

Peter Taylor S.C. (Chair), Judge Ann Ainslie-Wallace, Ian Temby QC, Brian Donovan QC, John Graves S.C., Phil Greenwood S.C., Graham Segal, Paul Conlon, Greg Laughton, Hugh Marshall, Peter Miller, Christopher Simpson, Kate Traill, Craig Leggat, Peter Berman, David Mallon, Paul King, Rashda Rana, Mario Sindone, Patrick See and Robert Bellamy. Staff contact: Roger Owens - ph: 9229 1722, fax: 9221 1149 or email: rowens@nswbar.asn.au

Bar Rules Committee

Peter Taylor S.C. (Chair), Bret Walker S.C., Peter Garling S.C., Ian Harrison S.C. and Simon Kerr.

Bar History Committee

Geoff Lindsay S.C. (Chair), the Hon. Dr James Macken, Sandy Street S.C., Robert

O'Neill, Greg Poole, Bill Walsh, Simon Kalfas, Frances Grant, Frank Holles and Francois Kunc. Staff contact: Chris Winslow - ph: 9229 1715, fax: 9221 1149 or email: cwinslow@nswbar.asn.au

Common Law Committee

Richard Burbidge QC (Chair), Brian Murray QC, Andrew Morrison RFD S.C., Russell McIlwaine S.C., Anna Katzmann S.C., John Sharpe, Ross Letherbarrow, Phillip Perry, Brian Ferrari and Andrew Stone. Staff contact: Lynne Colley - ph: 9229 1713, fax: 9221 1149 or email: lcolley@nswbar.asn.au

Criminal Law Committee

Tim Game S.C. (Chair), Ian Barker QC, Tony Bellanto QC, Michael Green QC, Malcolm Ramage QC, John Nicholson S.C., Paul Byrne S.C., Terry Buddin S.C., David Buchanan S.C., Peter Johnson S.C., Virginia Bell S.C., Bob Greenhill S.C., Glenn Bartley, Michael Ainsworth, Elizabeth Fullerton, Peter Berman, Daniel Howard, Phillip Boulten, Stephen Odgers, Chrissa Loukas, Lloyd Babb and David Re. Staff contact Lynne Colley - ph: 9229 1713, fax: 9221 1149 or email: lcolley@nswbar.asn.au

Education Committee

Justice Kevin Lindgren (Chair), Bruce Collins QC, Clarrie Stevens QC, Peter Taylor S.C., John Nicholson S.C., David Nock S.C., John Graves S.C., Phil Greenwood S.C., Richard White S.C., Ross McKeand, Carolyn Davenport, Chris Hodgekiss, Sylvia Emmett, Greg Laughton, Paul Blackburn-Hart, Terry Morahan, Janet Oakley, Jennifer Stuckey-Clarke, Simon Kerr, Rashda Rana and Bruce G. Smith. Staff contact: Kelly Wright - ph: 9229 1712, fax: 9221 9241 or email: kwright@nswbar.asn.au

EEO Committee

Chris Ronalds (Chair), Sylvia Emmett, Kate Traill, Richard Cobden, Nye Perram, Domonique Hogan-Doran, John Bowers and Michelle Painter. Staff contact: Nicole Hyde - ph: 9229 1723, fax: 9221 1149 or email: nhyde@nswbar.asn.au

Facilities & Functions Committee

Dennis Wheelahan QC and Jacqueline

Gleeson. Staff contact Lynne Colley. Ph: 9229 1713, fax: 9221 1149 or email: lcolley@nswbar.asn.au

Family Law Committee

Grahame Richardson S.C. (Chair), Robert Lethbridge, Jan Stevenson, Peter Maiden, Richard Bell, Michael Errington, Greg Johnston, Brian Knox, Robyn Druitt, Richard Schonell, Anne Rees, Neill Macpherson and Greg Watkins. Staff contact: Lynne Colley - ph: 9229 1713, fax: 9221 1149 or email: lcolley@nswbar.asn.au

Fees Convenor

Greg McNalley. Staff contact: Helen Barrett - ph: 9232 4055 and fax: 9223 6680.

GST Working Party

Ian Gzell QC (Chair), Anthony Slater QC, John Durack S.C. and Mark Richmond.

Human Rights Committee

Nick Cowdery QC (Convenor).

Legal Aid Committee

Stephen Norrish QC (Chair), Ian Barker QC, Michael Green QC, John Nicholson S.C., Geoff Lindsay S.C., Tim Game S.C., Anna Katzmann S.C., John Spencer, Elizabeth Fullerton, Phillip Boulten, Stephen Odgers, Robert Hulme, Jane Needham, Paul King and Dean Jordan. Staff contact: Lynne Colley - ph: 9229 1713, fax: 9221 1149 or email: lcolley@nswbar.asn.au

Library Technology Committee

Paul Donohoe QC (Chair), Peter Taylor S.C., Selwyn Gibb, Bryan Pape, Ross McKeand, Jeff Kildea, Julian Trebeck, Mark Dempsey, Simon Gregory, David Robertson, Alex Howen, Stuart Bell, Michael Lawler, Jonathon Priestley, Tim Moore and David Newhouse. Staff contact: Lisa Allen - ph: 9229 1726, fax: 9221 1149 or email: lallen@nswbar.asn.au

Professional Conduct Committee 1

Phil Greenwood S.C. (Chair), George Palmer QC, Wayne Haylen QC, Peter Callaghan S.C., Tony Meagher S.C., Terry Buddin S.C., Michael King, Ross Letherbarrow, Jan Stevenson, Elizabeth

Committees for 1999

Cohen, Robin Margo, Christopher Simpson, Christine Adamson, Leonie Flannery, Bob Sorby, Andrew Bell, Susanne Weress (Lay Member), Kate Nacard (Lay Member) and Dr Stan Ross (Academic). Staff contact: Helen Barrett - ph: 9232 4055 and fax: 9223 6680.

Professional Conduct Committee 2

Tony Bellanto QC (Chair), Ian Temby QC, Bruce Collins QC, John Graves S.C., Stephen Walmsley S.C., Robert Tonner, Murray Aldridge, David Arnott, Hugh Marshall, Lindsay Ellison, Gregory Burton, John Fernon, Kate Traill, Jane Needham, John Blount (Lay Member), Professor Deborah Saltman (Lay Member) and Professor David Barker (Academic). Staff contact: Helen Barrett - ph: 9232 4055 and fax: 9223 6680.

Professional Conduct Committee 3

Dennis Wheelahan QC (Chair), Stephen Norrish QC, Martin Einfeld QC, David Davies S.C., Peter McEwen S.C., Steven Rares S.C., Philip Dowdy, Chris Craigie, Martin Blackmore, James Stevenson, Brian Knox, Jacqueline Gleeson, Nye Perram, Simon Kerr, Jonathon Priestley, Michelle Painter, Dr Richard Klugman (Lay Member) and Professor Ivan Shearer (Academic). Staff contact: Helen Barrett - ph: 9232 4055 and fax: 9223 6680.

Professional Conduct Committee 4

Ian Harrison S.C. (Chair), Paul Webb QC, Robert McDougall QC, Philip Hallen S.C., Peter Johnson S.C., Grahame Richardson S.C., Bill Kearns, Danny Feller, Chris Leahy, Mark Williams, Philip Mahony, Rhonda Henderson, Daniel Howard, Lloyd Babb, Professor Derek Anderson (Lay Member), Phil Marchionni (Lay Member) and Francine Feld (Academic). Staff Contact: Helen Barrett - ph: 9232 4055 and fax: 9223 6680.

Professional Standards Committee

Robert McDougall QC (Chair), Michael Slattery QC, John Agius S.C., Sylvia Emmett, Douglas Timmins and Anthea Fox. Staff Contact: Helen Barrett - ph: 9232 4055 and fax: 9223 6680.

Regional Bar Representatives

Ralph Coolahan, Newcastle, ph: (02) 4926 2614
Robert O'Neill, Parramatta, ph: 9635 1000
Geoffrey Radburn, Lismore, ph: (02) 6621 2854
Bill Walsh, Orange, ph: (02) 6361 7893
Stuart Hill, Wollongong, ph: (02) 4228 8977

New Members of the Bar Association

January

David Ash, Frederick Jordan, Owen Harrison, 44/Edmund Barton, Joshua Wilson, Victorian Bar, George Lucarelli, 15/Wardell, Justin Clyne, 15/Wardell, Shereef Habib, 10/Wentworth, Katherine Hawes, Queen's Square.

February

Adam McLean, 5/Wentworth, Lesley Whalan, Frederick Jordan, Carmen Champion, Blackstone, Francis Coorey, Forbes, Patrick Keyzer, (Academic Member) UTS Law, Ignatius Asuzu, 4/Wentworth, Ian McLachlan, 2/Wentworth.

Vale

Gordon Henry Johnson 1923 - 1999

The NSW Bar Association notes with sadness the passing on 4 February 1999 of Gordon Henry Johnson, a former member of both 9/Wentworth and 14/Wardell. Born in England, Johnson served with the British navy during WWII and migrated to Australia in 1947. He was admitted to the Bar on 1 February 1962 and appeared mostly in District Court civil matters. He also served on the RANR Legal Panel after the first Voyager Royal Commission in 1964. He retired from the Panel in the early 1970s as a Lieutenant Commander. A memorial service was held at the Naval Memorial Chapel HMAS Watson on 10 February. A copy of the eulogy delivered by Johnson's son Paul is available from the Bar Library.

Bar Briefs

The Bar Association has been asked to join a committee convened by the Hon. Justice JJ Spigelman, Chief Justice of NSW to review the structure and framework of the Rules of Court. The Senior Vice President will represent the Bar on the committee. The aim of the review is to find ways to reduce costs incurred by the court, the profession and the relevant parties.

The Bar Association was asked to assist with a review of civil procedures proposed by the Director General of the Attorney General's Department. Stephen Walmsley S.C. will represent the Bar on the Quality team conducting the review.

Mr James Stevenson will represent the Bar Association on a new Supreme Court Possession List Practice Note Committee.

Submissions Sought

The Australian Law Reform Commission's, *Review of the adversarial system of litigation: Experts background paper*. This paper discusses current practices, perceived problems and possible reforms relating to the use of expert evidence and other uses of experts in proceedings before courts and tribunals exercising federal jurisdiction. Heydon QC is preparing a report for Bar Council. Comments and submissions should be sent to the Secretary, Australian Law Reform Commission, GPO Box 3708, Sydney NSW 1044: or emailed to: info@alrc.gov.au by 31 March 1999.

The Senate Standing Committee for the Scrutiny of Bills has invited submissions in relation to its review of "the fairness, purpose, effectiveness and consistency of right of entry provisions in Commonwealth legislation authorising persons to enter and search premises."

The Committee is required to report by 27 May 1999. The Committee would like to receive any views from the Bar by 23 March but the deadline can be discussed with the Committee Secretary, Mr James Warmenhoven.

For more information, contact the Committee Secretariat on ph: (02) 6277 3050 or fax: (02) 6277 5838.

Taxing Times - GST Bulletin

As reported in the February edition of *Stop Press*, Gzell QC, Slater QC, Durack S.C. and Mark Richmond are currently looking at how the Federal Government's proposed GST will impact on the Bar.

Here Gzell QC writes the first report in a continuing series.

Barristers earning \$50,000 must register

If the legislation is introduced in its present form, all barristers earning \$50,000 or more per annum will be required to register with the Commissioner of Taxation.

For those of you interested in references to the provisions of the proposed legislation, the above requirement is spelt out in section 25-1 of *A New Tax System (Goods and Services Tax) Bill 1998*. References in brackets hereafter are to that euphemistically styled piece of legislation.

1/11th of Barristers' fees are taxable

In providing your services as a barrister, you make a "supply" (section 9-10 (2) (b)).

If your supply is for consideration, made in the course or furtherance of an enterprise that you carry on, is connected with Australia and you are registered or required to be registered, it is a 'taxable supply' provided it is not 'GST-free' or 'input taxed' (section 9-5). Barristers' services are almost certain not to fall within either exclusion (divisions 38, 40).

The tax payable is 1/11th of the taxable supply. This is clumsily expressed as 10% of the 'value' of the supply which is defined as 10/11 times the price (sections 9-70, 9-75).

Offset of 1/11th of certain inputs

You make a 'creditable acquisition' if your acquisition is in carrying on your enterprise, is not input taxed (section 11-15), is a taxable supply, you are liable to provide consideration and you are registered or required to be registered (section 11-5). The amount of the credit is the GST payable on the supply of the thing (section 11-25), ie 1/11th of the purchase price.

Two of our major inputs will not, however, entitle us to an input tax credit.

No credit for salary and wages

Because an 'enterprise' does not include the activities of an employee (section 9-20 (2) (a)), the services of an employee are not a taxable supply and hence no creditable acquisition arises.

No credit for interest and bank charges

Because the lending of money or the creation, keeping and closing of a cheque or deposit account is a 'financial supply' (section 40-5 (2)) and a financial supply is input taxed (section 40-5 (1)), no taxable supply and, consequently, no creditable acquisition arises.

Library Books and capital equipment

For income tax purposes, library books and equipment are not deductible because they are on capital account. If a library book or an item of equipment costs less than \$300 it is depreciable at the concessional rate of 100% (*Income Tax Assessment Act 1936* section 55 (2) (a) (i)).

For GST purposes an acquisition is a creditable acquisition whether or not it is on capital account. There are exceptions for certain types of non-deductible expenses such as penalties (section 69-5 (3) (a)) and a relative's travel expenses (section 69-5 (3) (b)) but library books and capital equipment of whatever cost will give rise to a creditable acquisition.

Paying GST

Since none of us has a turnover of \$20 million (section 27-15 (3) (a)), the 'tax periods' attributable to barristers will be the quarters ending 31 March, 30 June, 30 September and 31 December (section 27-5) unless you elect to return on a monthly basis (section 27-10 (1)).

You must provide the Commissioner with a GST return by the 21st day of the month following the end of the tax period (section 31-10) and you must pay the Commissioner your 'net amount' for the tax period by that date (section 33-5 (1)), ie your GST less your input tax

credits (section 17-5 (1)) less any 'adjustments' (section 17-5 (2)).

Accrual accounting

Unless you account on a cash basis, the GST payable on a taxable supply is attributable to the tax period in which an invoice is issued (section 29-5 (1) (b)). A barrister earning \$500,000 or less can elect to account on a cash basis (section 29-40 (1)).

Bad debts

If we are forced to return on an accruals basis, the most important adjustment will be that for bad debts. You have a 'decreasing adjustment' if you made a taxable supply, the whole or part of the consideration has not been received, you write off as bad the whole or part of the debt and you notify the recipient of the supply in an approved form of the write-off. The amount of the decreasing adjustment is 1/11th of the amount written off (section 21-55).

Approach to Commissioner

Section 29-45 provides that the Commissioner may permit a person to account on a cash basis if he is satisfied that it is appropriate having regard to the nature and size of the enterprise, the nature of the accounting system in use and how one accounts for income tax purposes.

Your committee is of the view that barristers in private practice should be the subject of such a ruling and have suggested to the Australian Bar Association that we approach the Commissioner with a view to obtaining an indication from him of his willingness or otherwise to issue a blanket ruling to this effect.

A New Tax System (GST Administration) Bill 1998 proposes amendments to the *Taxation Administration Act 1953*. If you are dissatisfied with a 'reviewable GST decision' you may object in accordance with the present Part IVC (new section 62 (1)). Item 12 in the new definition of reviewable GST decisions is refusing to permit you to account on a cash basis (new section 62 (2)).

If the Commissioner refuses to grant a blanket ruling it will be necessary to run a test case. Any volunteers?

Rain dampens course but not spirit

The Bench and Bar had hoped to extend its record of three consecutive victories when it faced the solicitors at Manly Golf Club on 21 January 1999 for the annual match.

The Mace (the Sir Leslie Herron Trophy) had been polished and was sitting proudly in the rooms of the Bar Association, Peter Maiden having finally prised it from the clutches of the District Court judges.

On the morning of the match the weather turned from overcast to heavy rain. Despite the weather, all the teams arrived for battle (with the exception of Wheelahan QC whose secretary informed the organisers that his knees would not support him if he had to walk on wet ground).

Despite their best endeavours, the Bench and Bar was defeated ten matches to seven.

Justice McInerney presented the Mace to Roger Williams of the solicitors in an amusing speech at the match dinner.

However, there were Bench and Bar highlights including:

- Neil QC and Neil Francey were runners up in the event with 43 points (a fantastic effort in the conditions).
- Macfarlan QC and Alec Leopold had the best back nine with 22 points.
- Justice Steele had the quinella with the longest drive and nearest the pin.
- The Bradman prize was awarded for the first time (officially). Winner Hugh Marshall, who 24 hours before had undergone an eye operation, was heard later to

complain that it wasn't his fault that fellow recipient Judge Delaney did not keep watch on Marshall's ball as he hit it out of sight. Further it was a great pity that His Honour (the only District Court Judge playing in the event) could not hit his own drives out of Marshall's sight on any hole.

- Cassidy QC won the only "novelty prize". After hitting his ball onto the green at the 8th hole, Cassidy somehow managed to fall backwards into the adjoining dam, losing his club in the process. After being fished out he went on to finish his round oblivious to the constant rain drenching the other players.

Finally, all members of the Bench and Bar extend their appreciation to Acting Judge Sinclair for all the effort he has put in over the years as team captain. We wish him a prosperous retirement.

D.M. Flaherty

ESCAPE TO FRANCE!

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Getting to know ... The Bar Library



(From left) Serena Monzo, Lisa Allen (Librarian) and Chris Winslow (Assistant Librarian).

The library provides an information service to NSW Bar Association members and visiting barristers from other states (if introduced to the librarian by a member). It is open Monday to Friday from 8:00am to 6:00pm.

The library has access to a range of commercial database and searching services, which may assist in your research. The library offers an

interlibrary loan service for library users. Staff can also access the Australian Bibliographic Network and overseas libraries via the Internet to locate and obtain books and articles.

Please contact Lisa Allen, Chris Winslow or Serena Monzo if you have any questions about these services. Ph: 9233 4025 or 9233 4001, fax: 9231 1904 and email: library@nswbar.asn.au.

Continuing Legal Education Program
THE BREAKFAST SERIES

Election 1999
BARKER QC critiques the law and order policies

Only four days before the New South Wales election, the NSW Bar Association President, Ian Barker QC will outline the Bar's response to the announced legal policies of both major political parties in the State election.

Venue The NSW Bar Association Dining Room
 Lower Ground Floor, Selborne Chambers
 174 Phillip Street Sydney 2000

Date Tuesday, 23 March 1999
Time Breakfast from 7.15 am till 8.30 am
 Barker QC to speak from 7.30 am

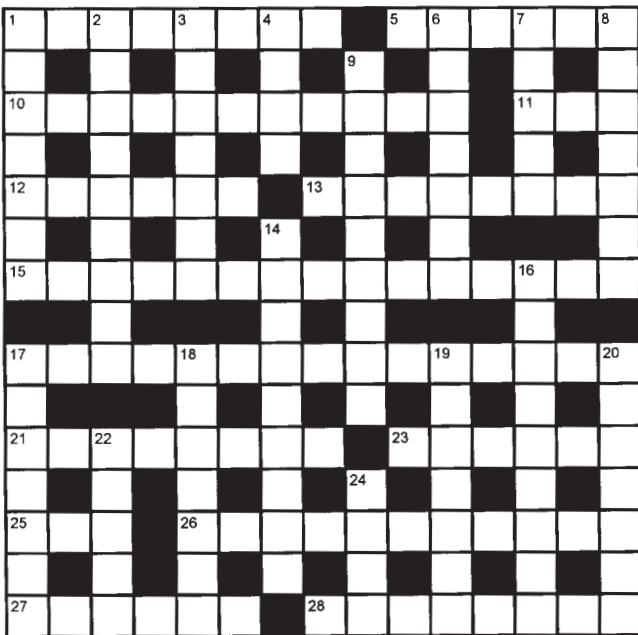
Cost \$30 (price includes a continental or full English breakfast)

Early registration is advisable as places are limited. The media has been invited to attend.

To register for this meeting, members should forward payment to the NSW Bar Association, at DX 1204 Sydney. Members can obtain further details by contacting Roger Owens on ph: 9229 1722, fax 9221 1149 or email: rowens@nswbar.asn.au. Media enquiries should be directed to Kate Southam on ph: 9229 1732 or email: ksoutham@nswbar.asn.au

CROSSWORD

by Rapunzel



The solution to this crossword will be published in the next edition of *Stop Press*.

Across

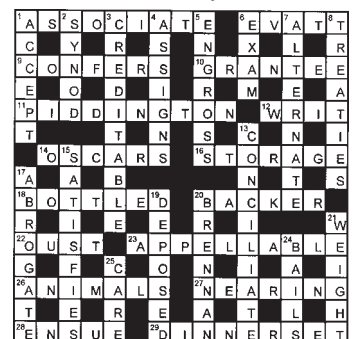
1. Giving away win a drag (8)
5. As Oscar found, he could start setting fire (6)
10. Section commentary or cut Ian onto Stan? (11)
11. Hand out fifty, little girl (3)
12. Please chant, as prescribed (6)
13. Leaves false clues amid less materials (8)
15. Laminated motorists' authorities (off dress circle vine) (7,8)
17. Discounters met a mutilation with sophisticated sums (8,7)

21. Lands marked by a period in western development. That is, within marks less than periods (8)
23. Avenue mediator (6)
25. Oz Foreign Minister becomes Opposition leader in Washington (3)
26. Race parrots? Sounds like checkups on our communal health (6,5)
27. Artful American car: Republican (6)
28. Ancient inspirer of music in modern times drops half her harp about with enjoyment (8)

Down

1. Add wear and tear what's given (7)
2. Free-for-alls. En masse it hurts (9)
3. With this, what's mine should be yours. Me liable, you say? (7)
4. Old school back, yet not English leader (4)
6. Cure following a bad start, and find not guilty (7)
7. Yesterday's look? Easy as pie! (5)
8. Seems in disarray, this giver of dues and deserts (7)
9. Frenchman drops me here in France, laid back with me subject lost and feeling murderous (9)
14. African cruiser crashes style fest (6,3)
16. Put end to battery within applied corporal punishment (9)
17. Unravelling deed with cash on delivery inside (7)
18. Renounce reusing renig (US) (7)
19. Tenth month made short work of sucker (7)
20. Says "fit", which should ... (7)
22. Over his ... Armes/A militarie Vest of purple flowd (Milton, PL x.240) (5)
24. Mum brings maiden over (with champagne), so actor drops mumble! (4)

Solution to February Crossword



Practising Certificate

Renewal forms will be forwarded to the holders of a practising certificate during April.

To help the Bar Association build a more complete picture for the database, a new form has been designed which includes areas of practise.

To ensure your information is accurate, please fill these forms out fully.

For further enquiries contact Marie Johns on ph: 9229 1740 or email: mjohns@nswbar.asn.au

Legal Aid Travel Allowance

The Bar Association last year took up with the Legal Aid Commission the discrepancy in its travel allowance available to barristers and solicitors undertaking Legal Aid work.

As a result, from 1 March 1999 the travel allowance for barristers became 35 cents per km. To claim the allowance barristers must obtain prior approval from the Commission and the distance from counsel's chambers to court must exceed 70 km.

The Legal Aid Commission has also responded to the Bar Association's submission to the Government for an increase in the fees paid to barristers.

In a letter dated 4 March the managing director of the Legal Aid Commission, Mr Mike Cramsie, advised that he supported the Bar Association's view.

"Unfortunately, without an increase in funding the Commission is unable to provide an increase in fees paid to counsel by the Commission," wrote Mr Cramsie.

"However, I can advise the Commission has prepared a submission to Treasury seeking additional recurrent funding to enable an increase in the fee scale for counsel in criminal matters commencing in the 1999/2000 financial year. The Attorney General has endorsed the Commission's approach to Treasury," he advised.



On 2 February 1999, staff and students from Tranby Aboriginal Co-operative College attended drinks in the Common Room at the invitation of the 1997 silks. During the occasion, Anna Katzmann S.C. presented Tranby's Director of Studies, Ms Yvonne de Vries, with a cheque for \$20,500. The donation was made by the 1997 silks to support Tranby's objective of offering self-determination in education for Aboriginal and Torres Strait Islander people. Pictured from left (back row) are: Buchanan S.C., Walmsley S.C., Cogswell S.C., Johnson S.C., (Front row): Ms de Vries and Katzmann S.C.

Supreme Court Rooms

On 10 February 1999 the Executive Director raised concerns regarding the Legal and Witness rooms on Level 9 of the Supreme Court with the Court's Chief Executive Officer, Ms Nerida Johnson.

Members had complained about the Legal Room being locked, empty of furniture and filled with boxes of records. The Executive Director had also received reports from barristers about one of the two Witness rooms having no furniture and the other having inadequate lighting.

In a letter dated 23 February the Chief Executive Officer advised that the boxes had been removed from the Legal Room. However, Ms Johnson pointed out that on occasion files are placed in the two lockable rooms on Level 9 at the request of legal practitioners involved in complex cases.

Ms Johnson advised that she would investigate the concerns raised about the witness rooms regarding the lack of furniture and lighting in an effort to resolve the matter.

On the Move

The new address for the High Court in Melbourne (effective 19 February 1999) is Level 17, Commonwealth Law Courts Building, 305 William Street, Melbourne Victoria 3000.

Ph: (03) 8600 3000.

The Federal Court's new address effective 22 March 1999 is also 305 William Street. Ph: (03) 8600 3333, Fx: (03) 8600 3280/3281/3282.

The DX remains unchanged (DX 435 Melbourne).

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Walkabout

10 February – the President met with the Attorney General to discuss the issues of legal aid, judges superannuation and election policy announcements.

23 February – the President spoke at a Law and Order Forum organised by NSW Young Lawyers held in the Parliament House Theatre.

26 February – President spoke about the Community of the Bar at the ceremony to welcome new Readers to the Bar. The ceremony was addressed by Chief Justice Spigelman who spoke about the adversarial system.

27 February – the President chaired the Future Government Policies session at the Crime Prevention Solutions for NSW Forum sponsored by the Australian Section of the International Commission of Jurists, the NSW Bar Association and the Law Society of NSW. The Senior Vice-President gave the closing address.

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Coming Up

15 Bobber

19 March - **The Hon Justice Katz.**

Speaker: Jackson QC.

The Hon Justice Hely. Speaker:

Jacobson QC.

Tickets for 15 Bobbers cost \$12 or \$20 at the door. All 15 Bobbers are held in the Common Room and start at 5pm; speeches begin at 5.30pm.

PIAC Conference

28 April - *Courting the Public Interest*

– public interest law. Venue: Metcalfe Auditorium, State Library of NSW.

Speakers include Attorney General Jeff Shaw QC MLC and barrister Stephen Gageler (11/Wentworth). Contact: Melissa Franklin of PIAC on ph: 9299 7833, fax: 9299 7855 or email: piac@fl.asn.au

Anniversary Dinner

17 May - Supreme Court's 175th Anniversary Ceremonial Sitting &

Dinner. Sitting - 9:30am Banco Court.
Dinner - 7:30pm for 8:00pm, Dockside, Balcony Level, Cockle Bay Wharf, 201 Sussex Street, Sydney.

Bench & Bar Dinner

17 September - Bench & Bar Dinner, 7pm for 7:30pm, Regent Hotel.
Enquiries should be directed to Sharron Smyth ph: 9229 1739 or email: ssmyth@nswbar.asn.au

Papers to Note

Federal Court of Australia

Practice Note No 14 has been issued by Chief Justice Black with a view to eliminating or reducing the burden of discovery.

Speeches

Cowdery QC gave an address on the crime prevention proposals put forward during the run-up to the NSW Election at the Law and Order Forum organised by the NSW Young Lawyers Association, 23 February 1999. A copy is available from the Bar Library.

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