

Calling Counsel

In R.V. Jaquith (17 February 1989) the English Court of Appeal made the following observations about Counsel involved in a case giving evidence within the proceedings.

1. No advocate should ever give evidence if that could possibly be avoided.
2. Where it was not possible for an advocate to avoid giving evidence, he should take no further part in the case. It necessarily followed that, if he was not being led, the trial must stop and a re-trial be ordered.
3. There was a duty on counsel to anticipate circumstances in which he might be called upon to give evidence. Experienced counsel ought to be able to anticipate whether such a situation might arise. If so he should withdraw from the case.
4. Where it came to the notice of a legal adviser, through an accused person, that one of his co-defendants had attempted to pervert the course of justice, there was a duty on the legal adviser, usually the instructing solicitor, to take a detailed proof at once to provide a record and for further investigation.
5. Where the giving of evidence by an advocate caused real embarrassment or inhibition or difficulty regarding cross-examination by other advocates, the judge should exercise his discretion to withdraw the case from the jury.

Their Lordships did not seek to lay those matters down as ones of principle, there might be others to be added; they merely thought that they deserved consideration.

(The Times, 21 February 1989)

Second Greek/Australian International Medical and Legal Conference

Eminent legal and medical speakers guarantee high standards at the Second Greek/Australian International Medical and Legal Conference in Athens and Corfu in 1990.

The success of last year's conference is indicated by the 80 percent repeat acceptance rate for the second conference scheduled for 25th May to 1st June next year.

Already, there has been overwhelming response to the preliminary announcement, with over 500 people from both professions having registered their intention to attend.

Speakers will include Sir Ninian Stephen, Sir Gustav Nossal, Mr. Justice John Phillips, Professor Graham Burrows, Dr. Paul Nissele, Professor Steve Cordner, Dr. Nick Bouras from Guy's Hospital, London and a number of eminent Greek speakers including Professor Papadatos of the University of Athens.

State Bank Victoria will again be the major sponsor of the conference with the Bank's Chief Executive Officer, Mr. Bill Moyle, attending as a keynote speaker.

The conference will include four full days of sessions with a social program featuring a full day cruise to Kassiope and a performance at the Herod Atticus Theatre by internationally

acclaimed young pianist, Demetri Sgouras. There will also be tours to Egypt and Turkey before and after the conference.

Contact: Second Greek/Australian International Medical and Legal Conference: C/- Secretariat I.C.M.S., P.O. Box 29, Parkville, Victoria 3052. Telephone (03) 387.9955. □

Winds of Change

Whether an amendment should be granted is a matter for the discretion of the trial judge and he should be guided in the exercise of the discretion by his assessment of where justice lies. Many and diverse factors will bear upon the exercise of this discretion. I do not think it possible to enumerate them all or wise to attempt to do so. But justice cannot always be measured in terms of money and in my view a judge is entitled to weigh in the balance the strain the litigation imposes on litigants, particularly if they are personal litigants rather than business corporations, the anxieties occasioned by facing new issues, the raising of false hopes, and the legitimate expectation that the trial will determine the issues one way or the other. Furthermore to allow an amendment before a trial begins is quite different from allowing it at the end of the trial to give an apparently unsuccessful defendant an opportunity to renew the fight on an entirely different defence.

Another factor that a judge must weigh in the balance is the pressure on the courts caused by the great increase in litigation and the consequent necessity that, in the interests of the whole community, legal business should be conducted efficiently. We can no longer afford to show the same indulgence towards the negligent conduct of litigation as was perhaps possible in a more leisured age. There will be cases in which justice will be better served by allowing the consequences of the negligence of the lawyers to fall upon their own heads rather than by allowing an amendment at a very late stage of the proceedings.

(Kettman v. Hansel Properties [1987] A.C. 189 at 220 per Lord Griffiths.)

USA - National Employment Law Institute Conference

The National Employment Law Institute Conference will be held in Vail, Colorado, from 10 to 17 March, 1990.

The conference attracts delegates from all around the U.S.A.

The papers which are presented are of a high quality and quite informative. Some of the topics at the last conference were: Developments in Employment Discrimination; Wrongful Termination and Emerging Torts; Age Discrimination and Affirmative Action.

Many of the topics discussed, as well as recent developments in the U.S.A., are of interest and relevance to Australians.

For more details contact Les Kaufman on (03) 608.7517 or fax (03) 600.0796. □

Changing Roles

The following persons transferred from the Roll of Barristers to the Roll of Solicitors on Friday, 19 May 1989 and have not been admitted for five years:

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Michael Joseph Corbett
Michael Hamilton Corrigan
Stephen David Davidson
John Martin Exner
Poornananda Gnanakaran
Shanthini Gnanakaran
Alexis Lynne Hailstones
Stephen John Hall
Michael William Hogan
Anthony Sylvester Jeffries
Peter Ernst Jorm
Mohammed Iqbal Khan
Jennifer Anne Laing
Kieran Maurice Lane
Ian Longfield Marjason
Andras Markus
Karen Jane Metcalfe
Michael John Middleton
Geraldine Ann O'Toole
Catherine Alice Ridge
Inez Cassandra Siciliano
Niranjan Sinnetamby
Ruth Grace Smith
Anthony Francis Walsh
Catherine Anne Watts
Judith Irene Wilson
Mary Agnes Young
Andrew Thomas Zbikowski-Spence

The following persons transferred from the Roll of Barristers to the Roll of Solicitors on Friday, 19 May 1989 under the L.P. Act:

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Pervaiz Ahmad Buttar
Errol John Considine
John Richard Cooke
Hugh Stephen Cullinan
John Leslie Cunningham
Robert Alfred William Field
Andrew John George
Brian Alexander Given
Barbara Jill Guthrie
John Kenneth Whalan Hughes
Kim Louise Hurley
Nargis Shamsher Kanji
Leslie Laurence Keady
Maureen Ann Kingshott
Lindsay Graham Le Compte
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Paul Henry Burton
Jeffrey Denham Chard
John Conomor
Brendan Gregory Docking
Bruce Graeme Finlay
Alvan James Freeman
Edwin Hermann Fritchley
Stephen John Higgins
Li Li Kuan
Sandra Evelyn McCullough
Kirsten Elizabeth Mallam
Cia Papas
Peter John Julian Robinson
Susan Granville Taylor
Robert Allen Walker
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Beverley Baron Bignold
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The following persons transferred from the Roll of Barristers to the Roll of Solicitors on Friday, 4 August 1989 and have not been admitted for five years:

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Michael Robert Davis
John Colin Harris Dewdney
Adrian Geoffrey Diethelm
Christine Maree D'Souza
Francisco Esparraga

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Kim Christine Gould

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Robin Lynette Gurr
Phillip James Hetherington
Matthew David Howison
Richard Thomas Kenna
James David Lonergan
Janette Belva McClelland
Leslie John McKay
Daniel John MacCallum
Carolyn Denise Mall
David Alexander Nimmo
Mark Anthony O'Neill
Jane Elizabeth Peters
Louis Eric Wilson Ribot
John Leonard Richardson
Susan Lynette Robey
Clifford Anthony Russell
Carolyn Ann Stott
Phillip Raymond Thompson
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Peter Stirling McDougall
Edmund Patrick Hugh McNeile
Jane Frances Merkel
Noel Henry Peters
Garry Clifton Pickering
Peter Francis Tilbrook
David Anthony Turley
George Zdenkowski

The following persons transferred from the Roll of Barristers to the Roll of Solicitors on Friday, 22nd September 1989 under the L.P. Act:

Wendy Louise Ambler
Carol May Fletcher
Francis Bernard Healy
Kingsley John Perry

Corporate Lawyers

The next Australian Corporate Lawyers' Conference will be held in Melbourne on Wednesday, 8 November, 1989 (which is the day following Cup Day) at the Hyatt Hotel. The format will be a one-day conference with an array of interesting speakers drawn from the business and legal community.

A detailed conference program will be available soon.

For further information contact Graymore Williams Pty Ltd, Level 3, 575 Bourke Street, Melbourne, Victoria 3000. Telephone (03) 629 7848; Fax (03) 614 6587. □

Old Editions of Books

Justice Einfeld is at present working on a scheme under which old editions of textbooks, digests and the like, instead of being thrown away, can be sent to Courts, Legal Aid Officers and the like in African countries where they are in short supply. The scheme has not yet got off the ground but when it does, in the next few months, requests will be made to members of the Bar to donate outdated books rather than throw them away. Collections will take place several times a year.

Accordingly, it is requested that members who intend to throw books away refrain from doing so for the time being so that when the scheme commences a substantial number of books will be available for collection. □

Endless Nightmares

"The application of the [Limitation] Act to the circumstances of the present case is extremely difficult. It is a piece of legislation the obscurity of which has long been deplored by judges both in England and Australia. It was, of course, introduced as a result of a recommendation of a Law Reform Commission. This Court was the beneficiary of extremely able and persuasive arguments by counsel on behalf of both the applicant/plaintiff and the defendant/employer. Nonetheless the obscurities of [the] legislation have not been fully elucidated."

*(Meagher J., Dousi v. Colgate Palmolive Pty. Ltd.,
12 May 1989)* □