Bar Notes

The 1990 ABA Conference

The Fourth Australian Bar Association Conference was held in Darwin from 7-12 July. The conference is a biennial event; the three previous conferences being held in Surfers Paradise, Alice Springs and Yulara and Townsville respectively. The conference was attended by about two hundred barristers, judges and accompanying persons but such is the conservatism of the bar that every accompanying person was of a different sex to the accompanying delegate. This is certainly not the case at international law conferences and future organisers may well have to consider whether this indicates some breach of the anti-discrimination legislation.

The four days of sessions covered four main themes. The first was Independence of the Judiciary, with particular emphasis on the problems associated with professional misconduct and removal of judges. The second concerned the erosion of the protection against self-incrimination before Tribunals and courts. In the course of these discussions a particularly horrifying account was given of the procedures of the new Victorian Guardianship and Administration Board which, applying procedures which would make an old-line Chinese communist proud, makes decisions which read like the script of "A Streetcar Named Desire" in relation to the less competent members of the community.

The third day was devoted to problems associated with long civil and criminal trials and the management techniques which barristers and judges need to develop in relation to them. Young J. of our Supreme Court was able to point out that, although a number of long cases had been set down before him, no proceedings in front of him had ever run more than three weeks. Differing views are held as to what this indicates.

The final day was devoted to three aspects of a barrister's practice: the need to develop alternative dispute resolution techniques, the acquisition of proper skills in the leading of evidence and cross-examination and a paper enticingly entitled "What Every Barrister Needs to Know About Capital Gains Tax and Income Tax". The main message from this last paper was that attending law conferences is still tax deductible.

The Darwin Bar provided an enjoyable, if somewhat alcoholic, social programme of which the highlight was the final banquet on 12 July. Each state and territory was required to act out a short sketch. A bench comprising Toohey J., Handley J.A. and Judge Gunning of the District Court of Western Australia listened to sketches by New South Wales, Victoria, Queensland, Western Australia, the Australian Capital Territory and Darwin. Tasmania was not represented and the South Australians declined to perform. The bench unanimously decided that all of the sketches presented were of negative merit and accordingly that the winners were South Australia, zero being the highest score. This result was somewhat surprising in the face of a sophisticated attempt by the New South Wales team to corrupt the Bench by bribery.

In accordance with tradition, it is likely that the conference will make a loss which will be paid for by the Bars of Australia. This is considered to be appropriate on the basis that those who do not attend ought to be subjected to a financial disadvantage in order to encourage them to attend in the future.

The next conference will be in 1992, probably in Broome or Cairns. On the basis of precedent, it should be worth attending. ❑ D.M.J. Bennett QC

Cameras in ICAC: The Committee Reports

Readers with a high boredom threshold may recall the article "Lights, Camera: Cross Examination" in the last issue of *Bar News*, which dealt with proposals for televising of ICAC and, by extension, courtroom proceedings.

Subsequent to the writing of that article, in a report published in June 1990[1] the Parliamentary Committee on the ICAC recommended that ICAC proceedings not be televised, but that the Attorney General appoint a working party to report on means of improving electronic media coverage of court proceedings in NSW.

The Committee differentiated between the ICAC and court proceedings by focussing on the investigative, pre-trial role of ICAC and especially the power of ICAC to compel answers to questions which would be inadmissible in subsequent proceedings.[2] The Committee said "what may be a 'balanced and fair report' of an ICAC hearing may be a report of evidence totally inadmissible in a subsequent trial and the sensational nature of and wide publicity given to many ICAC hearings may well prejudice a potential jury accordingly".[3]

On the other hand, the Committee did not see similar problems arising in the case of televising of actual trials, and found that, given the British Bar report recommending televising of trials, that the televising of NSW courts should be examined in detail.[4]

A number of bodies, including the Bar Association, and some individuals made submissions to the Committee. Although no new arguments for or against televising proceedings appear to have been canvassed, a succinct summary of the problems the proposal poses was given in a written submission by noted media academic Professor Henry Mayer. Professor Mayer, as paraphrased by the Committee, said that "television was a 'very poor provider of accurate information', and that televising hearings would therefore detract from, rather than contribute towards, a factual or rational understanding of the work of the ICAC".[5] ❑ Richard Phillips.

1 Parliament of New South Wales Committee on the ICAC, *Report of an Inquiry Into a Proposal for the Televising of Public Hearings of the Independent Commission Against Corruption* June 1990, 32.
2 op. cit., 27.
3 ibid.
4 ibid. 28
5 op. cit., 9.