



Judicial Conference of Australia

EXECUTIVE COMMITTEE

MINUTES OF MEETING: 2015/4

Held by teleconference on **Thursday 24th September 2015**
commencing at 5.00 pm Eastern Standard Time

Participating

Justice Steven Rares (President) in the Chair
Judge Michael Baumann, AM
Justice Robert Beech-Jones
Chief Justice Alan Blow, OAM
Justice Timothy Ginnane
Justice Judith Kelly
Justice Glenn Martin, AM
Magistrate Marc Sargent
Justice Michael Walton

Apologies

Judge Allan Fenbury
Chief Magistrate Graeme Henson
Justice Hilary Penfold, PSM
Judge Brian Withers, AM

In attendance

Christopher Roper, AM (Secretary)

1 Minutes of the previous meeting

The minutes of the previous meeting held on 23rd July 2015 had been circulated.

Resolved:

That the minutes of the meeting held on 23rd July 2015 be approved.

2 President's report and business

2.1 Recent correspondence in regard to the superannuation surcharge and taxation of redundancy payments

Copies of previous and recent correspondence had been circulated. The President mentioned that Justice Penfold had noted that Territory judges had not been exempted but the JCA's most recent letter to the Attorney-General had not referred to this. Justice Kelly confirmed this, noting that Territory judges were in the same position as Supreme and Federal Court judges who had not been exempted.

The President asked that Justice Kelly send him details of the legislation upon which the assessments issued to affected Northern Territory judges were based. Justice Beech-Jones suggested that Justice Kelly also provide details of what she knew in regard to the situation in the ACT.

Justice Kelly said that the Solicitor-General of the Northern Territory had put a recommendation that the legislation be amended to correct the anomaly, and that she thought the Government of the ACT had already legislated.

The President said that he would circulate a draft of the letter he proposed to send to Justices Kelly and Penfold for checking and input.

Chief Justice Blow reported that Tasmanian Supreme Court judges were receiving assessments for excess contributions tax and he thought this was because the Tasmanian Government had not set up the superannuation fund as a constitutionally exempt fund. The President asked Chief Justice Blow to send him details of what had happened to judges in Tasmania, and of the structure of the Tasmanian superannuation fund.

Judge Baumann reported that the Chief Judge of the Federal Circuit Court had met that day with the Attorney-General, and so it would be timely to raise with the Attorney-General that Tasmanian judges were also affected like Federal Circuit Court judges. He said that he would circulate to Federal Circuit Court judges the letter which the President had recently sent in regard to them, and he noted that this advocacy by the JCA would assist in encouraging them to join the JCA.

2.2 Remuneration Tribunal's freeze on judicial salaries

A letter from Mr Conde in reply to the President's letter had been circulated. It was noted that the Remuneration Tribunal had since, and recently, announced that it would be undertaking a review. It was noted that details of this review would be circulated to all members with the weekly news and media distribution.

It was agreed that there was nothing more that the JCA needed to do at this stage.

Justice Ginnane asked if the Federal Court would put in a submission. The President said that he was not sure but thought that the Court had, in the past, produced detailed statistics and comparisons for the Remuneration Tribunal. He said he would find out what would be happening, and report.

2.3 Excess contributions tax – effect on Federal Circuit Court judges

A copy of a letter from the President to the Federal Attorney-General had been circulated, and was noted.

2.4 Social media and judicial officers – proposed conference with the ALJA

The President reported that it had been thought that Malcolm Turnbull might be asked to speak at this proposed conference, but that this was now unlikely. The Secretary pointed out that there were at least four different major issues which arose in this area for judicial officers, and so that it was quite complex and that it would be valuable not to focus on just one of them. He proposed that a distinctive feature of the proposed conference be that a background paper be prepared for it, which outlined the issues in all four of the areas, and reviewed the relevant literature. He said this could be done in the Secretariat, if that were seen as

desirable. However it were done, there would be a slight delay whilst the paper was prepared.

It was agreed that a committee be formed to work with the AIJA in developing this conference, and that its members be Justices Rares and Kelly, and Christopher Roper.

2.5 *Chief Magistrate Elizabeth Bolton*

The President reported that he had written to Elizabeth Bolton on behalf of the JCA.

2.6 *Recommendation to the Governing Council that Judge Brian Withers be appointed as an Honorary Member*

Resolved (unanimously):

To recommend to the Governing Council that Brian Withers be made an Honorary Member of the JCA.

2.7 *Appointment of a new Treasurer*

Resolved:

To recommend to the Governing Council that Judge Michael Baumann be appointed as Treasurer of the JCA.

3 Financial matters

A draft profit & loss report for the year ended 30th June 2015 had been circulated, and was noted. The Secretary reported that the current balance in the accounts at the bank totalled \$676,146.

Resolved:

That the Treasurer's report be received.

A draft set of protocols and procedures in regard to the financial controls of the JCA had been circulated, and were discussed. The President introduced this item explaining why he had asked for these protocols and procedures to be prepared, including so that any weaknesses could be identified. He outlined how payments were processed which seemed to him to be satisfactory.

4 Membership matters

A membership report as at 15th August 2015 had been circulated, and was noted.

The Secretary was asked to send to all Governing Council members a list showing those members of their respective courts who were members of the JCA, and those who had not renewed from last year, so that Governing Council members could identify those who were not JCA members and encourage them to join.

The President reported that the Secretary had prepared for him a report showing the level of membership from the various levels of courts, and within those levels amongst all courts at that level. He noted that there was room for increased membership especially from the intermediate and magistrates' courts.

The matter of the membership of the JCA by Deputy Presidents of the South Australian Workers Compensation Tribunal was deferred to the next meeting.

5 Secretariat matters

A report from the Secretary had been circulated and was noted.

Colloquium administration

The Secretary referred to the memorandum circulated for this item with the agenda papers, which outlined why it would be desirable to open a Colloquium bank account.

Resolved:

That a bank account be opened with the National Australia Bank and that:

- 1 it be called "JCA Colloquium Account"
- 2 into it all Colloquium registrations be paid
- 3 from it all Colloquium expenses be paid
- 4 AM Meetings Plus be given access to view this account, make deposits into it, but not withdraw from it.

Visit to Australia by the Secretary-General of the International Association of Judges

The Secretary reported that the Secretary-General of the IAJ would be in Melbourne in March 2016, and that it would be possible for him to be invited to the March Governing Council meeting.

It was decided that the March Governing Council meeting be held in Melbourne on Saturday 5th March 2016.

It was agreed that an informal dinner be held beforehand for Governing Council members and those accompanying them to Melbourne.

Future arrangements in regard to the Secretariat

In the Secretary's absence from the meeting, the Executive Committee considered a memorandum which had been circulated and resolved as follows.

Resolved:

To approve of:

- 1 An arrangement whereby the Secretary would be based in Melbourne but the Secretariat office would continue to be at the Faculty of Law, University of Sydney.
- 2 The continuation of the provision of the JCA Scholarships at the University of Sydney, at present equivalent to \$6,000.
- 3 The Administrative Assistant being based at the Secretariat office at the University of Sydney.
- 4 The JCA having a second Secretariat office at Victoria University, subject to a report from the Secretary as to the specific details.
- 5 The provision of \$3,000 worth of scholarships for the School of Law & Justice at Victoria University

- 6 The acquisition of a laptop computer with software and possibly a printer for use by the Secretary in Melbourne.

6 Colloquium

Justice Robert Beech-Jones reported on progress. He said that there were 76 registrations plus speakers. He felt that there was a good spread of registrations, including one New Zealand judge and one from British Columbia. He briefly outlined the proposals in regard to the session on *R v Barbaro*.

7 Chief Magistrate Michael Brett

It was agreed that the President write to Chief Magistrate Brett congratulating him on his appointment as Chief Magistrate of Tasmania.

8 Next meeting

It was noted that the next meeting would be changed and would be held on Thursday 26th November 2015 at 5.00pm Eastern Summer Time.