



Judicial Conference of Australia

EXECUTIVE COMMITTEE

MINUTES OF MEETING: 2013/2

Held by teleconference on **Thursday 18th April 2013**
commencing at 5.00 pm Eastern Standard Time

Participating

Justice Philip McMurdo (President) in the Chair
Judge Michael Baumann, AM
Justice David Beach
Chief Justice Alan Blow, OAM (Vice President)
Chief Magistrate Graeme Henson
Justice Hilary Penfold, PSM
Magistrate Marc Sargent
Judge Brian Withers (Treasurer)

Apologies

Justice Robert Beech-Jones
Chief Magistrate Elizabeth Bolton
Judge Allan Fenbury
Justice Judith Kelly
Magistrate Don Jones
Justice Steven Rares
Justice Michael Walton

In attendance

Christopher Roper, AM (Secretary)

1 Minutes of the previous meeting

The minutes of the previous meeting held on 7th February 2013 had been circulated.

Resolved:

That the minutes of the meeting held on 7th February 2013 be approved.

2 President's report and business

Family Court of Western Australia

The President reported that he had written to the Chief Judge of the Family Court of Western Australia in accordance with the decision of the Governing Council at its recent meeting in Melbourne.

New South Wales Statutory and Other Offices Remuneration Amendment (Judicial and Other Office Holders) Bill 2013

The President referred to a letter he had written to the New South Wales Treasurer, with the agreement of Chief Justice Bathurst. The President said that it was not clear what the outcome would be.

Proposed superannuation changes

The President noted that there had been references in the media as to how the changes might affect judges in different ways. He said there were two issues –

- 1 The announcement by the Treasurer and Minister for Superannuation several weeks ago stated that people deriving earnings on annuities would now pay tax if the amount were over \$100,000. He said the question arose as to whether this would apply to judicial pensions to which the response was that it should not, because judges' pensions are not paid from a superannuation fund, and they do, in any event, pay tax on that pension when it is received.

He reported that the Commonwealth Attorney General had written to the heads of the relevant courts to advise that for present and future judges there would be no impact on their pensions.

- 2 The announcement in last year's Budget that contributions to superannuation funds for those earning over \$300,000 would be taxed at 30% not 15%. The President said there was a doubt as to whether this change would, in a contrived way, apply to judges who were paid a pension. The President said that last year there had been correspondence between Attorney General Roxon and the federal heads of jurisdiction and, based on that, there was a fairly optimistic view that the Government would not proceed. He noted that there may be some who wanted to revive this idea. He said he had received a call from a *Daily Telegraph* journalist asking for his comment, to which he had responded that it depended on what the legislation said. He said the heads of the federal courts are still concerned by it. He noted that this issue is not dealt with in the letter from Attorney General Dreyfus to Chief Justice Diana Bryant, but it was likely that judges would not be caught up in the 30% tax rate. However, it was a matter of awaiting developments.

The President then went on to say that there were two further things to discuss.

First, he reported that Chris Merritt of *The Australian* had asked for the JCA's position in regard to the anomalous position of some federal and Northern Territory judges who have been caught by the surcharge; and he had given him a Key Points document prepared for that purpose.

Second, the President reported that he had only very recently been advised that the Chief Judge of the Federal Circuit Court had expressed dissatisfaction with the retirement arrangements for his court. Judge Baumann outlined the concern.

There was some discussion, in the light of the recent letter from Attorney General Dreyfus, of what the position was for State judges. The President said that he thought the inference from Dreyfus' letter was that the changes would not apply to State judges. There was also discussion of the fact that the term used was 'earnings on superannuation assets'. The President said that, until the Dreyfus letter, it was thought that there might be contrivances to make judges' pensions

taxable, but it may be unlikely that the Government would do this now it had publicly announced that judges were not going to be affected.

3 Financial matters

A financial report for the period to 31st March 2013 had been circulated, and was noted. The Treasurer reported that the current balances at bank were in total just under \$500,000, and that there was nothing else to report.

Resolved:

That the Treasurer's report be received.

4 Budget for the year 2013-2014

A draft budget had been circulated. The Treasurer stated that he had reviewed it and all of the notes were self-explanatory and he did not think the Budget needed any modification.

Resolved:

That the Budget for the year 2013-14 be adopted.

That the membership fee for the year 2013-14 be \$215 for a full member and \$50 for retired judicial officers.

5 Membership matters

A report for the period to 31st March 2013 had been circulated and was noted.

6 Secretariat matters

There were no matters to report.

7 2013 Colloquium

Chief Justice Blow reported that the planning was shaping up well. He said that the keynote address would be given by Chief Justice Bathurst, that Justice Virginia Bell had been invited to give the after-dinner address, and that the sessions would be –

- Royal Commissions – Neville Owen, QC and Bernard Teague
- Human rights – Fr Frank Brennan and Professor George Williams: Jim Spigelman had declined.
- Concurrent evidence – Justice Steven Rares and Magistrate Heilpern
- Sentencing and custody – Luke Grant and Judge Stephen Norrish
- Therapeutic jurisprudence – Professor Arie Freiberg and Deputy Chief Magistrate Popovic.

It was agreed that, as soon as possible, details of the Colloquium should be sent out to all members.

8 Judicial advice to vice regal office holders

The President reported that there was nothing further to report at this stage.

9 Media monitoring service

A memorandum had been circulated and was noted. There was general discussion as to whether it would be worthwhile to expand the monitoring service to include the non-print media.

In the course of the discussion it was suggested that it would be more helpful if the weekly distribution of media clippings might be done on a Friday. The Secretary said this could easily be implemented.

Resolved:

That the Executive Committee approves of the proposal to broaden the media monitoring service as set out in the circulated memorandum initially for a trial period of six months.

It was noted that the approved Budget would need to be amended accordingly.

10 Next meeting

It was noted that the next meeting would be held on Thursday 25th July 2013 at 5.00pm Eastern Summer Time.