



Judicial Conference of Australia

EXECUTIVE COMMITTEE

MINUTES OF MEETING: 2015/1

Held by teleconference on **Thursday 5th February 2015**
commencing at 5.00 pm Eastern Summer Time

Participating

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

Apologies

Judge Michael Baumann, AM
Chief Magistrate Elizabeth Bolton
Judge Allan Fenbury
Chief Magistrate Graeme Henson

In attendance

Christopher Roper, AM (Secretary)
Justice Tony Pagone – for item 9.

Congratulations to Judge Brian Withers

The President, on behalf of the Executive Committee, congratulated Judge Brian Withers on his appointment as a Member of the Order of Australia in the Australia Day Honours List.

1 Minutes of the previous meeting

The minutes of the previous meeting held on 27th November 2014 had been circulated.

Resolved:

That the minutes of the meeting held on 27th November 2014 be approved.

2 President's report and business

2.1 Superannuation surcharge

The President reported that there had been no developments.

2.2 Anomaly in regard to taxation of redundancy payments

The President reported that there had been no developments.

2.3 Australian Association of Magistrates

The President noted that the AIJA was willing to provide assistance to the Australian Association of Magistrates, and so there was nothing further to consider.

2.4 Judiciary in Timor-leste

The President reported that he had written to the President and Prime Minister of Timor-Leste and the President of its Court of Appeal but had received no response from any of them. Justice Kelly said she would check with Judge Santos, the Timor-Leste judge presently visiting the Northern Territory, to see if the letter had been received by the President of the Court of Appeal.

The President also reported in regard to several other matters, which are dealt with at their items below.

3 Financial matters

A financial report for the period 1st September to 31st December 2014 had been circulated, and was noted. The Secretary reported on the current balances in the accounts at the bank.

Resolved:

That the Treasurer's report be received.

4 Membership matters

A membership report as at 19th January 2015 had been circulated, and was noted.

5 Secretariat matters

There was nothing to report from the Secretariat.

6 Colloquiums

The President noted that a final financial report for the 2014 Colloquium was yet to be received. The Secretary said that he was awaiting some figures from AM Meetings Plus before finalising the report.

In regard to the 2015 Colloquium there was some discussion of possible topics, namely –

- A suggestion from Justice Sheahan that a topic be judicial bullying or unfair leadership. This might be linked to judicial stress. Another term for this topic might be “inter-court conflict”. Justice Beech-Jones cautioned that this topic would need to be dealt with very carefully.
- A follow-on from the session at the 2014 Colloquium on the media, courts and politicians.
- A paper by Justice Geoffrey Nettle.
- A session on social media and the courts.

Justice Beech-Jones asked that members of the Executive Committee send him any ideas they may have for a topic or a speaker, and he would refer them to the Planning Committee.

There was some discussion of a possible after-dinner speaker and suggestions made were the Chief Justice of South Australia, the Hon John Doyle, the Hon Catherine Branson and the Hon Amanda Vanstone.

7 Guidelines on the Use of Social Media by Judicial Officers and Courts Committee

The Secretary reported that he had that day received from Professor George Williams a copy of his submission for funding for his project, inviting any input from the JCA. He said he had not yet had a chance to look at it, but would do so.

The Secretary was asked to circulate the submission to members of the Social Media Committee.

8 Judicial Selection and Appointments Process Paper

There was brief discussion of the uncertainty of the position in Victoria following the change of government at the recent State election. Justice Ginnane was asked to enquire of Chief Justice Warren if she knew of anything that could usefully be included in the paper.

The President said that the paper would incorporate some changes to reflect this situation in Victoria as well as the final version of the AIJA’s proposed selection criteria, and would then be submitted to the Governing Council.

9 International Association of Judges

The President reiterated his proposal that Justice Tony Pagone, who was now a Vice President of the International Association of Judges (IAJ), be co-opted to the Governing Council and thereby act as a ‘point person’ between the JCA and the

IAJ, and be able to report to the Governing Council on IAJ matters on a regular basis.

The Executive Committee agreed that it be recommended to the Governing Council that Justice Tony Pagone be co-opted to it.

Justice Tony Pagone then joined the meeting for the remainder of this item.

The President invited Justice Pagone to outline the current situation.

Justice Pagone reported that the process, whereby the JCA would become, in effect, the member of the IAJ in substitution for the current matters, was a little difficult because a country can only have one member of the IAJ, being an association or a group representative of the judiciary (which is the current situation for Australia). He noted that all of the judges who are in this group are also members of the JCA, and so the process would essentially be one of rebadging this group.

He said that the IAJ had recently gone through a structural change which required all IAJ members to complete a form which demonstrated that they were independent, etc, and so the change in regard to Australia could fit into this wider structural process within the IAJ.

Justice Pagone said that there were four membership groups in the IAJ and a country could choose which it wished to adopt. The difference essentially relates to how many persons a member can send to the Annual Meetings. He said Australia is presently in Group 2, which entitles it to send five persons to the Annual Meeting (the highest category being Group 1 which entitles 6 persons to attend). The annual membership fee for Group 2 is about \$1800 and for Group 1 is about \$2500.

Justice Pagone said that the current year's membership fee now needed to be paid, and that he had about \$4000 in hand which could be used for this purpose. He outlined how he ordinarily sought funding to cover the annual membership fee – being a contribution of \$100 from the individual judges.

Justice Pagone reported that the next Annual Meeting would be in Barcelona from 4th to 8th October 2015, and that the group of judges who had been attending meetings (Justices Atkinson, Beazley, Byrne, Jennifer Davies and Pagone) were on track to attend that meeting. He briefly described what occurs at annual meetings, which is not, as is common, the presentation of papers but rather business sessions at which discussion occurs on current work being undertaken by the IAJ.

Justice Pagone suggested that the actions now to be undertaken were –

- 1 Complete the form for renewal of membership, which he would do in conjunction with the Secretary.
- 2 Pay the 2015 membership dues – and it was agreed that this be on the basis of how many members (five or six) wished to attend the Annual Meeting.

It was agreed that this current membership fee would be paid out of the funds presently held by Justice Pagone with the understanding that the JCA would pay the fee in future years.

It was agreed that the judges who are at present delegates to the annual meetings would, being all JCA members, continue pro-tem to be the JCA's delegates until they chose to cease to do so. It was noted that this enabled the transition to occur in an orderly way.

Justice Pagone enquired whether the JCA wished to send anyone else to the Barcelona conference. It was agreed that the JCA would not do so unless a member wished to pay for him/herself.

10 Report from Justice Kelly on visit to the Supreme Court of the Northern Territory by a delegation from Timor-Leste

Justice Kelly reported that a delegation from the President of the Court of Appeal of Timor-Leste, led by Judge Santos, was visiting Darwin for the Opening of the Legal Year. She said it was an occasion to try to find out what practical things could be done to assist the judiciary in Timor-Leste. She said that, as a result of the departure of the foreign judges, the judiciary there was very young and inexperienced and more susceptible to being pressured by the Executive. The President indicated that the JCA would assist in any way that was feasible if asked to do so.

The Secretary suggested that the report from the Judicial System Monitoring Programme be uploaded to the JCA's website.

11 Dinner for Justice Philip McMurdo

It was noted that the dinner to honour Justice Philip McMurdo would be held on Friday 27th March, on the evening before the March 2015 Governing Council meeting in Melbourne.

12 Next meeting

It was noted that the next meeting would be held on Thursday 30th April 2015 at 5.00pm Eastern Standard Time.