



Judicial Conference of Australia

EXECUTIVE COMMITTEE

MINUTES OF MEETING: 2015/2

Held by teleconference on **Thursday 30th April 2015**
commencing at 5.00 pm Eastern Standard Time

Participating

Justice Steven Rares (President) in the Chair
Justice Robert Beech-Jones
Chief Justice Alan Blow, OAM
Chief Magistrate Elizabeth Bolton
Justice Timothy Ginnane
Justice Glenn Martin, AM
Magistrate Marc Sargent
Judge Brian Withers, AM

Apologies

Judge Michael Baumann, AM
Judge Allan Fenbury
Chief Magistrate Graeme Henson
Justice Judith Kelly
Justice Hilary Penfold, PSM
Justice Michael Walton

In attendance

Christopher Roper, AM (Secretary)

1 Minutes of the previous meeting

The minutes of the previous meeting held on 5th February 2015 had been circulated.

Resolved:

That the minutes of the meeting held on 5th February 2015 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 *Supreme Court of Queensland*

After discussion it was decided that the JCA would be willing, if the opportunity arose, to fund the expenses of a person to act as a mediator in this matter with a view to resolving the issues.

3 Financial matters

A financial report for the period 1st January to 31st March 2015 had been circulated, and was noted. The Treasurer reported that the current balance in the accounts at the bank totalled \$532,813.

Resolved:

That the Treasurer's report be received.

4 Budget for the 2015 – 2016 financial year

A proposed budget for the 2015 – 2016 year had been circulated, and was noted.

Resolved:

That the budget for the 2015 – 2016 year be approved.

5 Membership matters

A membership report as at 16th April 2015 had been circulated, and was noted.

A copy of the proposed letter to be sent to members with the membership renewal form had also been circulated, and was approved.

6 Secretariat matters

There was nothing to report from the Secretariat.

7 Colloquiums

2014 Colloquium

A financial report for the 2014 Colloquium, prepared by the Secretariat, had been circulated. It was noted that the profit & loss report from Edwards Marshall for the period to 31st March 2015 showed a Colloquium profit of \$22,937 whereas the report prepared by the Secretariat showed a profit of \$8,412. The Secretary said that he had very closely worked through the General Ledger and extracted all items related to the 2014 Colloquium, and was confident that his report was correct. However, he agreed there was a very large disparity between the figure he had arrived at and what was shown in the General Ledger, and that he would work with Edwards Marshall to identify the reason for the disparity and the true position, and would report to the next meeting.

2015 Colloquium

A draft of the program had been circulated. Justice Beech-Jones reported on the planning. He noted that the one remaining invitee who was yet to confirm her participation was Dame Quentin Bryce. There also was some uncertainty in regard to the South Australian Governor, as events in his diary could not be confirmed until three months prior to the event, but it was hoped this could be resolved.

The President mentioned that two Canadian judges had expressed interest in attending, and it was agreed that they could attend as paying registrants.

8 Membership of the Commonwealth Magistrates' and Judges' Association

Chief Magistrate Lowndes joined the meeting for this item.

A memorandum prepared by Chief Magistrate Lowndes had been circulated. The President invited Chief Magistrate Lowndes to speak to his memorandum.

Chief Magistrate Lowndes noted that the Commonwealth Magistrates' and Judges' Association (CMJA) had similar objectives to the JCA. He said it was an active organisation, and was a member of the Latimer House Working Group which also comprised the Commonwealth Lawyers Association and the Commonwealth Legal Education Association. He said that it usually issued media releases in conjunction with these other two organisations as they all worked to promote the Latimer House Principles and a joint media release would have more clout coming from the three organisations.

Chief Magistrate Lowndes noted that Australia has a high level of judicial independence but not all countries in the Commonwealth had that advantage, and so Australia was able to give assistance to those other countries.

Chief Magistrate Lowndes said that the annual membership fee would be based on the JCA's number of members, and that he would obtain an estimate from the CMJA's Secretary-General.

He said that the CMJA would be anxious to have the JCA as a member as it would wish to have more Australians involved given that Australia is a prime player in the Commonwealth.

Justice Ginnane asked what the JCA's input would be. Chief Magistrate Lowndes responded that it would be to promote the CMJA's values and contribute to its conferences.

Justice Beech-Jones asked if the CMJA took positions on matters of principle, such as the death penalty. Chief Magistrate Lowndes responded that he could not think of any example where it had done so on that issue, but that it did take a fairly firm stand on human rights.

Chief Magistrate Lowndes then left the meeting.

Justice Ginnane said that the JCA would need to have clearly in mind why it would want to join another international organisation, having recently joined the

IAJ. He suggested that there had to be a perceived value to the JCA's members. He asked what it would achieve and what the JCA's contribution might be.

Magistrate Sargent noted that the CMJA's first objective, "to advance the administration of the law by promoting the independence of the judiciary", was similar to the JCA's principal objective, but the CMJA's other objectives may or may not align with the JCA's.

Judge Withers noted that the JCA was just about to join another international organisation and that it might be stretching itself to join a further one at this time.

The President suggested that the JCA have a watching brief in regard to the CMJA's media releases, given that the JCA is not similar to the other two organisations, and that it investigate this matter further, and consider it again in a year's time. In that time the JCA could see if it had an affinity with the CMJA, especially after the CMJA's Conference in Wellington.

It was agreed to follow the President's suggestion and have a watching brief on this matter for one year, and to reconsider it in one year's time.

9 Honorary membership of the JCA for selected judicial officers and possible honorary membership for Justice James Crawford of the International Court of Justice

A memorandum had been circulated. After some discussion it was resolved as follows.

Resolved:

To recommend to the Governing Council that at its June 2015 meeting it approve of a special resolution to be proposed at the Annual General Meeting in October 2015 that the Rules of the JCA be amended as follows:

- 1 That Rule 4A be deleted and replaced with the following rule:

"4A. Life Members

- (1) All persons who have been or shall have been Presidents of the Conference are hereby appointed life members of the Conference.
- (2) Life members are entitled to all the rights and privileges of membership of the Conference.
- (3) Life members are exempt from liability for membership fees."

- 2 That the following rule be inserted:

"4B. Honorary Members

- (1) The Governing Council may appoint any person as an honorary member of the Conference.
- (2) Honorary members are not entitled to vote or exercise the rights and privileges of membership of the Conference.
- (3) Honorary members are exempt from liability for membership fees."

10 Possible extension of membership of the JCA to include New Zealand judges

A memorandum had been circulated.

Chief Justice Blow said that he had spoken to Chief Justice Elias and she had said that the proposal was very interesting but had not indicated support or otherwise but did consider it worthwhile to take further.

Justice Martin said that he had recently spoken to a Court of Appeal judge and a District Court judge from New Zealand and both had been very keen and said they would be willing to take the proposal to their heads of jurisdiction.

Justice Ginnane suggested that it was necessary to consider how this development would affect the JCA. He asked what would the organisation become. For example, it could result in a large number of judges from a non-federal jurisdiction becoming members, and would mean that a few New Zealand judges would be involved in Executive Committee and Governing Council meetings. He felt the situation was different for the Council of Chief Justices. He said he considered it would be better for the JCA to encourage New Zealand judges to form their own organisation.

Chief Justice Blow asked what would happen if there were a crisis in Australia and the President needed to speak out urgently, but the President were a New Zealander, or vice versa. The President later noted that this situation might be dealt with by having a Vice President speak in this situation, as had already been done when Justice Philip McMurdo, as President, was not able to speak in regard to the situation in Queensland.

The President said that the AJJA had initially had New Zealand observers. He suggested the JCA might adopt the same approach and invite one or more New Zealand judges to be observers on the Governing Council and perhaps the Executive Committee, and see how that worked. He noted that the two judiciaries had a lot in common.

Justice Ginnane asked how the observer/s would be identified. The President suggested that the New Zealand Chief Justice could nominate the person/s. Justice Ginnane noted that there was no apparent history of New Zealand judges expressing their concerns about matters which might suggest the need for an organisation like the JCA.

It was agreed that, in light of the diversity of views on this matter, the President be authorised to invite the Chief Justice of New Zealand to propose a representative of the New Zealand judiciary to sit as an observer on the Governing Council meetings, with a view to determining if the New Zealand judiciary wished to join the JCA or establish its own organisation.

11 Committee to prepare a JCA position paper on aspects of the Productivity Commission's report on Access to Justice Arrangements

The President reported that this Committee had met and had allocated responsibility for writing memoranda on some chapters of the Productivity Commission's report. The Committee's report, once completed, would be brought to the Governing Council for consideration.

12 Next meeting

It was noted that the next meeting would be held on Thursday 23rd July 2015 at 5.00pm Eastern Standard Time.