

Supreme Court Notes

by Anita Del Medico

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law in Australia...", other than as stipulated in the subrule. Whether such an exemption is granted depends on the circumstances of each case. Here, A had served as Judge's Associate for such time as to be given credit of 5½ months; she had served in the Territory approximately 8.3 months of the one year's Articles of Clerkship required by r11(1)(a). She had then served 3.7 months as a de facto articulated clerk to a practitioner in Queensland. This practitioner held an unrestricted NT practising certificate. It had been contemplated at that time that his firm would amalgamate with the firm of her Territory master solicitor, but this did not occur. The assignment of Articles to the Queensland master solicitor had not been approved by the Board, on the grounds that it considered that the Rules required that the full year of Articles under r11(1)(a) be served in the N.T. Due to delay on A's part in complying with the approval provision (r27(2)), A was not aware until very late that her assignment would not be approved. As a result, she lacked 3.7 months' service as an articulated clerk - hence this application to be exempted to that extent from the requirement of r11(1)(a).

HELD, per Kearney J, Martin CJ concurring, that A be granted exemption pursuant to r11(3) of the *Legal Practitioners Rules* and be admitted to practise as a legal practitioner in this jurisdiction:

(1) This application may more properly have been made under r25(2) to reduce the period of Articles by 3.7 months.

(2) [The Court considered the construction of Part 3 of the *Legal Practitioners Rules*, which deals with the admission of persons to practise law in the Territory.] In setting out the requirements for local applicants' qualifications and practical experience, Rules 9-11 do not refer to any particular State or Territory; the reference is to "Australia". There is no explicit statement in the Rules that Articles of Clerkship entered into under r11(1)(a) must be served wholly within the Territory.

(3) When the Board is considering whether or not to approve an assignment of Articles under r27, the only matters about which it must be satisfied are identical with those specified in (a), (b) and (c) of r22(3). These are provisions applicable to an initial entry into Articles of Clerkship - that A have the required academic qualifications and be of good fame and character, and the master solicitor be quali-

fied under r22(1)(a).

As to whether a "master solicitor" is required, by virtue of r22(1)(a), to practise solely in the jurisdiction of the Territory, it was held that it was not necessary that he/she do so. The fact that his name is on the roll means that disciplinary power may be exercised over him. The reference to "legal practitioner" in r22(1)(a) is clearly a reference to "legal practitioner" as defined by s6 of the *Legal Practitioners Act* (see s20(1) *Interpretation Act*). The master Solicitor must be qualified under r22(1)(a) and actually "carry on practice in the Territory".

The Board's interpretation of r22(1)(a) and conclusion that applicants for admission must serve Articles wholly within the Territory, is inconsistent with Rules 11(1)(b) and (c). These contemplate an applicant acquiring the necessary pre-admission practical legal skills outside the Territory in one of the institutions providing simulated practical training, considered by the Court to provide training appropriate for admission in this jurisdiction. In this context, the Board's interpretation of r11(1)(a) appears to involve an unnecessary restriction on the gaining of practical legal experience. It would be desirable for the Consultative Committee to put this important aspect of Admissions requirements beyond doubt for all jurisdictions.

(4) In the result, it was not necessary, in order to resolve this application, to decide whether or not the Board was correct in its view about where Articles should be served. There was no evidence that the Queensland master solicitor actually practised in the Territory - as is required under r22(1)(a). However, on the facts of this case, A had demonstrated that with the exception of full compliance with the one year requirement in r11(1)(a), she was well qualified for admission in all respects and meets the requirements of the rules. The primary consideration that the public be protected, was satisfied. The exemption pursuant to r11(3) and 25(2) could therefore in the courts discretion be granted.

Re Mallett (1989) 95 FLR 63 at 68, applied.

Application seeking exemption pursuant to the Legal Practitioners Rules for admission to practise in the Territory.

J E Reeves, instructed by Breen Creswick De Silva, for the applicant.

N J Henwood, for the Law Society.

Northern Territory of Australia
Office of Courts Administration

INVITATION TO COMMENT

The Office of Courts Administration is developing its inaugural corporate plan. As part of the process it is keen to receive input from the community and the legal profession as to their perceptions of Courts Administration. It is likely that the plan could include the development of a Courts Charter.

You are invited to forward written submissions to the Chief Executive Officer, Office of Courts Administration, GPO Box 3547, DARWIN NT, by 4 November 1994. Telephone inquiries may be directed to Mary Robertson, Project Officer, on 89 5412. Your contribution is valued.

Obituary

Edward (Ted) Rowe

Edward (Ted) Rowe died on 17 October 1994 aged 74. Mr Rowe who was born at Sydney in New South Wales on 5 August 1920 was admitted as an attorney, solicitor and proctor of the Supreme Court of New South Wales on 26 August 1960.

He practised as Edward Rowe & Co in Sydney from 1960 until 1969.

"Ted" as he was known to all in the legal profession was appointed first Executive Officer of the Law Society of the Northern Territory in 1979 and held the position until he retired in 1991.

The Law Society owes a great debt to Ted for his hard work and dedication in managing the affairs of the Society during its formative years. He will be missed by all that knew him. Ted is survived by his wife The Hon Justice Sally Thomas and his children Penny, Phillip, Edward, Chris and Nick.