

From the Profession

Dear Steve,

Thank you for your letter of the 12th August which I didn't receive until today because it went - like many mailouts from the Society - to the wrong address. But that's another story.

Your letter and enclosures have really fired me up. I have no objection to a modest fee increase if it is justified. What gets right up my nose is the massive hike in fees proposed and the sheer arrogance of the method of its announcement.

Lawyers tend to scream blue murder at regular intervals when Governments or anyone else planning to do something a bit radical fail to consult. But here we have a proposed massive hike in fees coupled with what amounts to defacto compulsory membership of the Society without the slightest hint of consultation with the wider membership of the Society.

I have read the enclosures with your letter. I make the following comments:

1. To say that the Society is responsible for the fall in Professional indemnity premiums is drawing a pretty long bow. Most of the credit for low premiums must rest with practitioners because of the low claim record. To justify an enormous increase in the Practising Certificate by linking it to a fall in insurance premiums is just ridiculous - one has nothing to do with the other. Next you'll be justifying it by saying that interest rates are low or phone call costs have dropped or holidays in Bali are cheap.
2. I don't have much respect for organisations who through complete lack of foresight keep fees the same for years and years then in panic, announce - like the Society has done - a massive hike. It's not as if National Practising Certificate or Competition Policy is new. I've been reading about it ad nauseam in *Balance* for the past few years. Surely the penny should have dropped years ago that fees might need to increase and a policy of orderly annual increases announced. In fairness, the present Council should

not be blamed for something that should have happened two or three years ago.

3. My initial reaction - without looking into the matter at all - is that making membership of the Law Society compulsory may well be illegal. Wouldn't the Society look like a nice old goose if it was found to be in breach of the Trade Practices Act or some other legislation.

Could I therefore suggest that Council take a deep breath, resist the temptation to panic and reconsider the matter and if it is still of the opinion that fees need to increase then firstly, abandon the massive hike and announce an orderly but modest annual increase in fees to come in over the next few years and secondly, abandon what really amounts to compulsory membership of the Society.

I have been a member of the Society since 1972 so I think you will appreciate that I am not speaking as some Johnny come lately. In fact I had the honour, at the direction of Alice Springs members, of moving the motion at the AGM in about 1978 which led to the establishment of the Secretariat (and the employment of the late Ted Rowe) and which also led to the establishment of Compulsory Professional Indemnity Insurance. As some older members will recall, prior to that, the Law Society filing cabinet followed whoever was President and the poor old President coped as best as possible. Rumour had it, in those days, that in the filing cabinet were complaints years old which had never been acknowledged let alone dealt with - but that is only rumour!

I look forward to your early reply - to the correct address - and I hope your reply will settle my blood pressure.

I'm sending a copy of the letter to Jim Campbell with a request that it be published in the next edition of *Balance*.

Yours sincerely,

Peter Howard

17 August 1998

response to letter on page 5

BOOK REVIEW

BY JAN WHITBRED

Advocacy in Practice

Third Edition Examination: Practice and Procedure.

By Glissan, J.L. & Tilmouth S.W.
Butterworths 0409 309 74 5:\$90.00
April 1998;Hardback.

This book was formerly published as Glissan's Cross-examination: Practice and Procedure (published in 1985 and 1991). The new edition is truly a new and up-to-date practical work which reflects recent advances in thinking about advocacy. The chapters on examination and cross-examination have been completely rewritten.

The new edition also contains a complete chapter on the critical need for preparation and case analysis. It provides a practical step-by-step approach which will be extremely useful for new practitioners and, no doubt, useful to those old dogs who are still capable of learning new tricks!

The book covers the following areas: Preparation and Case Analysis; Opening; Examination; Cross-examination; Re-examination, Rebuttal and Reply; Objections; Closing Address; Etiquette and Ethics; Elements. Each topic is broken down into a number of headed paragraphs and sub-paragraphs, which are set out at the beginning of each chapter. Check lists are usefully provided at the end of each chapter and a final check list covers the major elements over the course of a trial from preparation to appeal.

As a general comment, the new edition is more accessible and, unusually for a text book, very readable. Clear examples are given and the way the book is structured makes it an easy to use as a day-to-day reference book.

Like all advocacy books "Advocacy in Practice" stresses that there is no alternative to "hard grind". The authors also stress the need to establish individual systems for organising a file or brief and the suggested approaches will be of use to both counsel and practitioners preparing a brief to counsel.

All in all, a thoroughly practical and useful addition to most practitioners book-cases.