

CRIMINAL BAR ASSOCIATION OF VICTORIA

MINUTES OF COMMITTEE MEETING DATED 28th February 2006

**IN THE CHAIRMANS ROOM, OWEN DIXON CHAMBERS
MELBOURNE**

Present: Lex Lasry QC (Chair), John Champion SC, Megan Tittensor, Stephen Shirrefs SC, Tom Danos, Benjamin Lindner, - also present Peter Morrissey (by invitation).

Apologies: Greg Lyon SC, Julian McMahon, Michelle Williams SC.

- 1. Minutes:** The minutes of the previous meeting have not yet been circulated and remain to be confirmed.
- 2. VLA Fees.** Discussion occurred in relation to the meeting of interested parties concerning VLA Indictable Fees to be held on Wednesday 8 March 2006. No responses have yet been received from invited guests. Resolved that Lex Lasry's secretary approach each of the people to whom letters were sent to see if they are attending.

Also agreed that an Agenda for the meeting should be prepared with resolutions to be put for discussion.

- 3. Greg Connellan - Law Reform Paper** Further discussion in relation to this deferred.
- 4. Juries.**

The meeting agreed that issues in relation to juries should be added to the Greg Connellan list for discussion.

The first issue concerns whether the present arrangements under which alternate jurors are dealt with are appropriate given the inevitable disappointment when one or more members of a jury are balloted off at the end of a long trial. The question arises as to whether or not alternate jurors should be empanelled as such and be aware of the fact that at the end of the trial unless illness or some other incident occurs they will be removed from the jury.

Lex Lasry also raised the question of whether or not jury examination by counsel is a desirable course. Further discussion required in relation to both.

- 5. Media Attention in Criminal Cases.** As a result of an email received from Tony Trood, raising the issue of the publication by the Age of the prior convictions of a person charged in relation to the recent multiple fatality in Mildura, it was agreed that the Criminal Bar Association should communicate with the Director of Public Prosecutions and make a formal complaint.

It was also agreed that other similar incidents where the press have reported beyond what is acceptable should be catalogued and that the issues should be raised for discussion via the Criminal Bar Association's website, within the Association generally. Also it was suggested the information be put before the Press Council and the television program Media Watch.

- 6. Summary Procedure Discussion Paper** Stephen Shirrefs reported on this item, outlining the issues concerning the limitation period for the issue of summary proceedings, the ability to amend charges outside that period and the provision for statutory alternatives. He indicated that a Bill would be presented to the Parliament in the autumn and that the matter would be further discussed when that Bill was presented.
- 7. Bail Act Review.** Stephen Shirrefs again reported in relation to the Criminal Bar Association's approach to this issue which approved of a simplified approach to bail based on an "unacceptable risk" test and abolishing exceptional circumstances and reverse onus. A survey containing some 86 questions is to be completed which he will be responsible for.
- 8. Sentence Indication Evaluation.** Lex Lasry to attend the meeting on Tuesday 28th February 2006 in relation to these matters. Discussion ensued in relation to sentence indication and the Associations' position. The consensus on the committee was that it was in favour of sentence indication but its success or failure depended on the way it was implemented and the stage of the proceedings at which a sentence indication was actually given. Further reports at the next meeting.
- 9. County Court Appeals.** There was some further discussion amongst the Committee in relation to this matter. It was necessary to establish exactly where the discussion about proposed changes is up to.
- 10. Sentencing of Federal Offences.** John Champion reported on a meeting attended by himself, Maidment SC, Michelle Hodgson and Michael Cahill in

the previous week at which these matters were discussed. The estimation is that there is a strong push for a Federal Criminal Jurisdiction in the Federal Court including jury trials.

11. **Cocktail Party / Dinner Progress.** Ben Rozenes to report back (he not being at this meeting) in relation to the cocktail party. It was agreed that an autumn or winter dinner should be held at the CBA at Matteo's some time after Easter - probably in May or early June 2006.
12. **Investigative Powers.** Correspondence received from Greg Byrne in relation to section 464 of the Crimes Act and in particular the gathering of forensic samples was referred to Peter Morrissey for comment and report.
13. **Mental Health Legal Centre.** The letter and report from the Project Worker at the mental Health Legal Centre was deferred to the next committee meeting for further discussion.
14. **Police Lawyers Liaison Meeting.** Benjamin Lindner reported that he had attended a meeting of that Committee in the previous week and an issue which arose for discussion was the question of periodic detention. Further discussion is to be held in relation to that matter at the next meeting. There had also been discussion at that meeting in relation to contest mentions and disclosure.

The meeting closed at 9.05 am.

Confirmed as correct.

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Chair