OFF BALANCE BY PRESIDENT JOHN STIRK

Costs "uplifts"

Congratulations are in order for Sally Thomas whose appointment to the bench was announced by the Attorney-General late last month.

Congratulations are also in order for Sadadeen Secondary College for their win in the 1992 Ansett Inter-School Mock Trial Competition.

As an Alice Springs pracitioner, it gives me pleasure to see the shield travel south for the first time.

With all the talk of alternative means of charging clients about, practitioners may be interested in a 1991 resolution of the Council of the Law Society of South Australia in relation to costs "uplifts."

That Society's Council has been liaising with the Chief Justice and the Attorney-General for some time.

The Attorney-General is expected to issue a major paper on this subject later this month, after which the Society will put proposed rule changes to its membership.

This is different from the concept of a contingency fee *a la USA*, and Council was careful to make this point.

In fact, the minutes of the meeting read: "Resolved to reject in principle the concept of a contingency fee being able to be charged by a practitioner to a client whereby the practitioner's fee was related to the size of the award achieved by the client (that is, a "ercentage of award" contingency fee).

"Further resolved to adopt as policy subject to first consulting the Society membership that:

"It is not unprofessional conduct for a practitioner to agree at the beginning of that practitioner's relationship with his client or after the initial investigation of the matter, that the practitioner would not charge the client in the event of the client's action being unsuccessful, or alternatively would only charge disbursements, but in consideration thereof that in the event of the client's action being successful, the practitioner would charge an appropriate solicitor/client fee (either item scale, time scale, or agreed rate) and that such fee would be increased by an "upl ift" or extra amount, that amount to bear a percentage relationship to the otherwise proper solicitor/client charge.

"It was further resolved that Council in all circumstances supported the retention of the "loser pays" or cost recovery principle that presently exists in our justice system.

"It was further resolved that such fee uplifts should be subject to the overriding discretion of the Court in Section 42(7) of the Legal Practitioners Act [SA] 1981, as amended, to overturn any agreement in relation to practitioners fees considered to be unfair or unreasonable.

"It was further resolved that this matter be referred to the Executive Committee to continue to develop the concept in consultation with the Court, and with the Attorney-General's Department, and for a further report to be put before the Council in due course."

It will be interesting to watch the development of this system to determine whether such a system could be implemented in the Northern Territory.

When we know the outcome of the South Australian system we will seek the views of the profession about the possibility of a similar system in the Territory.

We are seeking the views of the profession on two issues at present: first, proposed changes to sections relating to costs in the Legal Practitioners Act, and; second, any changes practitioners recommend to the Society's standard forms of contract prior to a re-print being done.

Comments from individuals and firms are welcome on both fronts.

CLE seminars which have been organised in Darwin are not being well attended.

These seminars are the result of a questionnaire which was circulated last year.

Those topics which rated at the top of the list have resulted in the presentation of seminars.

Notices of the seminars will be circulated to firms at least two weeks in advance of the seminar and, if we fail to get enough responses by the RSVP deadline, the seminars will be cancelled.