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- AND probably one of the most important things that nearly every service industry overlooks, WE KEEP YOU INFORMED about what is going on at all times.

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CONSTRUCTIONS

## THE AUSTRALIAN NATIONAL UNIVERSITY Faculty of Law Graduate Public Law Program

Applications are invited for admission in 1992 to courses offered by the Faculty of Law which lead to a Graduate Diploma in Public Law, Master of Legal Studies (Public Law) or Master of Laws (Public Law). The courses are designed to provide specialist training in public law for persons with or without legal training, who have a professional interest in the agencies of government in Australia, at the federal or state level.

Admission to the Graduate Diploma course is open to graduates in law or other disciplines. Direct admission to the Master courses is open to those who hold a degree with first or upper second class honours or an equivalent qualification. Applicants who complete the Graduate Diploma course at the required level may be permitted to transfer to the relevant Master degree.

Two separate coursework programs are offered — one for those with a law degree and one for graduates of other disciplines. The emphasis is on administrative and constitutional law and other subjects with a public law focus. Master degree candidates are required to submit a research paper on a public law topic.

The program may be undertaken on a part-time or full-time basis.

For further information contact the Assistant Faculty Secretary, Faculty of Law, Rosemarie Gill (06) 249 3489.

The closing date for applications is 30 November 1991. Late applications will be considered if places are still available.

Application forms may be obtained from:

The Registrar

Australian National University

GPO Box 4

CANBERRA ACT 2601

# 'Borrowed' client's cash repaid

Counsel for a Canberra solicitor alleged to have "borrowed" more than \$11,000 from a client's trust money without informing the client, told the ACT Supreme Court yesterday that on Thursday afternoon the solicitor's wife had paid the client the full amount that had been "borrowed".

David Crossin, for the solicitor, whose name has been suppressed, told a disciplinary hearing that the solicitor's wife had also given the client an undertaking to ascertain the interest, at building society rates, that would have been earned on the money since June, 1988, and to pay that amount as well.

Mr Crossin was summing-up on behalf of the solicitor, who faces allegations of misconduct involving the misappropriation of clients' money, the unauthorised taking of costs, conflicts of interest and the \$11,000 "loan".

Mr Crossin said nobody had suffered by the solicitor's actions, that although in some cases bills had not been rendered to clients at the time costs had been taken from trust funds, none of the clients had subsequently complained that the bills were wrong, and that even the client from whom the solicitor had "borrowed" money had now been repaid.

Mr Crossin said it was "a relevant consideration" that that loan had been repaid. He said the solicitor had never intended to steal the money and had always intended to repay it.

Addressing allegations that the solicitor had appropriated for himself the tax-refund cheque of another client without her knowledge and had applied it to costs, Mr Crossin said that that client's evidence did not stand up to scrutiny.

The woman had had "no credible explanation" of how the solicitor could have acquired the cheque without her consent or knowledge, and when she had made no protest about the cheque having been taken for costs.

If there was any doubt or conflict between her version and the solicitor's version of what had happened, the solicitor's "is patently to be preferred".

Mr Crossin conceded that the solicitor had not rendered bills of cost "in all cases" before transferring those costs from the trust account to his office account, "but there has been no complaint about the bills".

The solicitor had said he had not taken any costs until the work had actually been done, and that he had recorded the transfers.

What the solicitor had done wrong was "he didn't say 'Here's the bill. Is it okay if I transfer the funds?'", Mr Crossin said.

"I accept cheerfully that the intermediate steps were wrong but... there was no harm done," he said. "No-one complained about the bill."

The solicitor's conduct had not been acceptable, "but there are excuses for most of it", Mr Crossin said. The only problem was with the money the solicitor had borrowed from one client, and even that client had not suffered as a result.

Mr Crossin said the appropriate penalty under the circumstances was to suspend the solicitor from practice for a period.

The Full Bench of the Supreme Court reserved its decision on the matter.

## Solicitor fails to answer subpoena

A Canberra solicitor alleged to have misappropriated more than \$205,000 from his practice's trust account failed to answer a subpoena to appear yesterday before the ACT Supreme Court for disciplinary proceedings under the Legal Practitioners Act.

In the second disciplinary matter heard by the Full Bench this week, Robert Stitt, QC, for the Law Society of the ACT, asked the court to have the solicitor's name removed from the roll and to have the evidence before the court kept on file in the event of the solicitor applying for readmission at some future time.

Mr Stitt tendered a letter from the solicitor saying he was no longer practising and did not intend to do so, and requesting that the hearing be adjourned for several months. That request was refused.

Mr Stitt presented reports from an accountant who had investigated the solicitor's records, showing a \$205,021.64 deficiency in the solicitor's trust account. The accountant told the court that she was investigating further claims and that

the total deficiency was expected to be greater than the \$205,000 so far established.

Mr Stitt said the general allegations against the lawyer were that he had misappropriated trust money, that he had made false or fraudulent entries in his trust account records to conceal the debt balances, that he had misled the ACT Magistrates Court by lodging a \$31,000 cheque from the trust account which could not be met, that he had owed \$80,000 to a company owned by one of his clients and had used money from other clients' trust accounts to pay debts for that client, and that he had committed numerous breaches of the Legal Practitioners Ordinance.

Chief Justice Miles said the bench needed more time to read the reports but he expected to be in a position on Monday "to make the orders you seek".

The solicitor, whose name has been suppressed, was not represented at the hearing.

## COURTS and the LAW

# Alleged war criminal can be named

ADELAIDE: A temporary suppression order preventing publication of the name of a 67-year-old Adelaide pensioner charged over murdering Jews in World War II has been lifted.

The alleged war criminal is Heinrich Wagner, a German-born man who is now an Australian citizen.

Magistrate David Gurry refused an application yesterday in the Adelaide Magistrates Court to continue the order in the "public interest".

Wagner's lawyers had argued his heart condition could prevent the trial from

running smoothly but Mr Gurry said he was not satisfied that was the case.

In a written decision, Mr Gurry ruled the temporary order be lifted in the "public interest" and the "consequential right of the news media to publish information".

Mr Gurry said he wasn't satisfied the man's heart condition would pose a risk to the possibility of the proceedings being frustrated by a decline in his health.

Wagner has been charged with being involved in the murder of 104 Jews near Izbaylovka in the Ukraine in 1942.

He faces a further charge of the murder of 19 children, aged between four months and 11 years, and a third charge of murdering a railway worker in 1943.

Wagner's committal hearing has been set down to begin on July 20 next year.

The name of a 78-year-old Ukrainian-born Adelaide pensioner also charged with war crimes continues to be suppressed pending an appeal to the full court next year.

Both Wagner and the 78-year-old man appeared in court for the first time in

early September after both were arrested and charged with war crimes.

On September 12, the Supreme Court ruled a committal hearing against the first person charged under Australia's war crimes legislation, Ivan Polyukovich, could go ahead after more than a year of delays.

Judge Kevin Duggan ruled that on medical evidence, Polyukovich, 75, was fit to face the Adelaide Magistrates Court.

His committal hearing has been set down for October 28 this year.

## Police officer loses appeal

SYDNEY: Constable Gary Minter, 27, who made "distasteful and indecent suggestions" to a policewoman, lost his appeal yesterday against a recommendation for his dismissal.

The review division of the NSW Police Tribunal upheld a finding that he was guilty of repeated indecorous conduct and of assaulting Constable Geraldine Gilfoyle.

The offences occurred during two car trips in June last year while Constable Gilfoyle was travelling with Constable Minter and three other policemen from Coffs Harbour to Grafton in northern NSW, where they were stationed.

Constable Minter appealed against rulings made by Judge Cooper in the Police Tribunal on March 5 this year.

The judge found that Constable Minter had set out to "humiliate, offend and disgust" the policewoman.

Constable Gilfoyle, married, complained to the tribunal of repeated molestation, assault, requests for sexual favours, discussion of a pornographic video, obscene jokes and swearing during the two trips.

Three of Constable Minter's Grafton colleagues also faced charges of indecorous conduct.

Judge Cooper cleared Constables John

Ede, 34, and Brian Thompson, 37, of the charges, but recommended a fine of \$500 for Constable Scott Metcalfe, 22.

A member of the review division bench, Judge Smyth, said he was satisfied Judge Cooper had carefully analysed all the evidence placed before him and had made reasoned decisions as to why he accepted or did not accept witnesses' evidence.

Judges Staunton and Wall agreed that Constable Minter's appeal should be dismissed.

The tribunal's recommendations will now go before Police Commissioner Tony Lauer for consideration.

## Millionaire's share in sauna goes to lawyer

SYDNEY: A Supreme Court judge ordered yesterday that murdered gay millionaire Ludwig Gertsch's half share in a male sauna known as King Steam should go to the dead man's solicitor.

The order was sought by the solicitor, Brian Roberts, executor and trustee of Mr Gertsch's estate.

On November 11 last year Mr Gertsch's body was found in bushland near Springwood in the Blue Mountains.

Earlier last year he reportedly had inherited assets worth more than \$2 million, including the interest in King Steam, from his lover, Roger Claude Teyssedre.

Justice Rolfe said yesterday that in November, 1989, Mr Teyssedre had transferred his half share in King Steam to Mr Gertsch. Mr Teyssedre reportedly died of AIDS five months later.

Justice Rolfe said Mr Gertsch had made a will last year, about six weeks before his death, bequeathing his half share in King Steam to Vince Esposito, reportedly his "last boyfriend".

After Mr Gertsch's death, Mr Roberts had asked that Mr Esposito be registered as a 50 per cent shareholder.

Charles Alfred Coussens, as chairman of directors, had refused and had also refused to transfer the shareholding to Mr Roberts. He had named his wife as a director.

Mr Roberts then sought a court order directing registration of the share transfer.

Mr Coussens told Justice Rolfe he was "fearful" because his previous co-directors in the business had either died mysteriously or been murdered.

The judge made the share transfer order sought, but found that Mrs Coussens had been properly appointed a director of the company.

## Judge orders surrender of David records

MELBOURNE: A Supreme Court judge ordered a prison doctor yesterday to surrender medical records kept on Garry David, a man being held in custody under a unique law.

Justice Hedigan granted an application for an order to produce the files, made by the Victorian Attorney-General, Jim Kennan.

The ruling gives lawyers acting for the Attorney-General a chance to see the files before the start of a Supreme Court application on October 7 to further detain David, also known as Garry Webb.

David, 35, is being detained under the Community Protection Act on the grounds that he is deemed likely to commit violent crimes if freed, but his continued detention also needs Supreme Court approval.

Counsel for David, John O'Loughlin, had objected to the files being produced.

He said the application was premature and production of the medical records — which detail acts of self mutilation — might damage the relationship between David and the doctor, Dr Peter Hearn.

Dr Hearn, the medical supervisor at Pentridge Prison, had said he was reluctant to produce the files without the consent of David or without an order from the court.

The judge said the doctor's position was "perfectly appropriate, in respect of his communication with and his treatment of his patient, Mr David".

But, he said, the public interest had to be taken into account, too.

## Suspended sentence for ex-policeman

ADELAIDE: A policeman who admitted stealing a carton of cigarettes worth \$14 was yesterday given a four-month suspended jail sentence and put on a two-year good-behaviour bond.

Anthony Steer confessed to the offence — carried out while he was on patrol at North Adelaide four years ago — during the Operation Hygiene anti-corruption probe which began this month in South Australia.

In the Adelaide Magistrates Court yesterday, Magistrate Kym Boxall said he had taken into account that the 36-year-old former Senior Constable had volunteered the confession and had shown remorse for his crime.

Mr Boxall said the case was different from those of the former police officers, Ivan Phillips and Glen Hunt, who had

been jailed for breaking and entering offences.

He said it was also different from Thursday's tragic case of the former police inspector, Wally Woehrl, who was fined a total of \$280 for a minor stealing offence committed more than 17 years ago.

The Magistrates Court heard on Thursday how Woehrl, after confessing to the theft of \$10 worth of pot plants, had attempted suicide by injecting air into his veins and jumping into the River Murray.

But Mr Boxall said it was still "a disgrace" that Steer had stolen the cigarettes while he was supposed to be protecting the public.

Steer was on patrol with Ivan Phillips when the cigarettes were stolen.

## Man jailed on 49 counts

A man convicted of 49 theft-related charges was sentenced yesterday in the ACT Magistrates Court to 2½ years' imprisonment, with a non-parole period of 15 months.

Dennis Edward Bradley, 31, of Malhede Gardens, Wanniasa, pleaded guilty to all of the charges, which included bouncing cheques for club memberships, a haircut and a game of golf.

Magistrate Warren Nicholl said Bradley could be eligible for

release after 12 months if at that time he entered into a \$2000 three-year good-behaviour bond and accepted the supervision of Adult Corrective Services for two years.

Bradley also appeared in the ACT Supreme Court yesterday charged with a breach of recognisance.

Justice Terence Higgins said the sentence imposed on Bradley by the Magistrates Court would be Bradley's punishment.

## DRINK-DRIVING

Three people were dealt with in the ACT Magistrates Court yesterday on drink-driving charges.

Before Magistrate Michael Somers Paul Langfield, 20, of Fielder Place, Florey, pleaded guilty of an offence on June 28 in Kitchville Crescent; Breathalyzer 0.320, fined \$600, disqualified from holding a driver's licence for 12 months.

Paul Francis Everett, 43, of A'Beckett Street, Watson, pleaded guilty of an offence on May 29, in Stirling Avenue; Breathalyzer 0.240, ordered to perform 300 hours of unpaid community work, licence cancelled

and disqualified from holding a driver's licence unless and until the court otherwise orders.

Debbie Anne Crane, 29, of Liverpool Street, Macquarie, pleaded guilty of an offence on April 18 in Chan Street; Breathalyzer 0.141. The magistrate, without passing sentence, released her on a \$1000 two-year good-behaviour bond but cancelled her licence.

One person was dealt with in the ACT Magistrates Court on Thursday on a drink-driving charge.

Before Magistrate Michael Ward

Danny William Rawson, 38, of Wedge Crescent, Turner, pleaded guilty of an offence on March 24, in Yarra Glen; Breathalyzer 0.090-0.100, sentenced to six months' imprisonment suspended on entering a \$100 two-year good-behaviour bond and accepting the supervision of a probation officer; that he also attend the drink-driver Attendance Centre program and complete it to the satisfaction of his probation officer; licence cancelled.



## Residential Care Services For Frail Aged People

The Commonwealth Department of Health, Housing and Community Services is inviting applications from individuals and organisations wishing to provide new hostel places in the ACT in 1991/92 and expressions of interest in 1992/93 and 1993/94 for hostel places and nursing home beds.

The Commonwealth is also seeking applications to convert self contained care units to hostel type units by arranging for hostel type care to be provided.

### A. Commonwealth Funding

Commonwealth recurrent funding is available for the provision of hostel and nursing home care services. Capital funding may also be available to eligible non-profit organisations for the purchase, construction, replacement or extension of a facility. The level of capital subsidy for hostels is determined by the proportion of places to be provided for financially disadvantaged persons.

### B. Assessment of Application

In assessing applications for provision of new services, account will be taken of matters such as:

- the ability to provide a quality service;
- innovative service delivery and integration with the community;
- ability to provide the appropriate level of services for financially disadvantaged persons;
- the provision of respite care;
- measures to safeguard the rights of residents;
- the level of entry contribution and refund arrangements where applicable;
- the financial viability and cost effectiveness of the services; and
- ability to provide services for special needs groups.

### C. Priority Areas

The Inner Belconnen and Tuggeranong regions of Canberra have been designated as priority areas for future hostel development. Applications will only be accepted for these regions, however, expressions of interest may be considered for non-targeted regions.

### D. How to Apply

Individuals or organisations wishing to provide the above services should obtain applications and further information by contacting Leigh Watson on 274 5147 or Louise Butkus on 274 5128 between 9.00am and 5.00pm Monday to Friday, or by writing to The Manager, ACT Office of the Department of Health, Housing and Community Services, GPO Box 9889, CANBERRA ACT 2601.

Applications for this round of approvals should be submitted as early as possible but not later than 8 November 1991. Intending applicants should contact the Department as soon as possible to commence discussions on project development in order to ensure their proposal meets Departmental requirements. Organisations which have already made an application to the Department for the provision of services as specified in this advertisement should contact the Department to request new application forms if they wish their proposals to be considered for this selection of new services.

### HOSTEL PLACES

No. of Places	Ratio of Financially Disadvantaged Persons
1991/92	21
1992/93	32
1993/94	33

### NURSING HOME BEDS

No. of Beds
1993/94
7



## AUSTRALIAN CAPITAL TERRITORY PLANNING AUTHORITY

### GRIFFITH SECTION 78 BLOCK 30

## DRAFT VARIATION TO THE TERRITORY PLAN

### Invitation to Comment

The ACT Planning Authority is inviting comment on a Land Use Policy change in Griffith.

Pursuant to Part III Division 2 of the *Interim Planning Act 1990* the ACT Planning Authority has prepared a Draft Variation to the Territory Plan for Griffith Section 78 Block 30.

The purpose of the Draft Variation to the Territory Plan is to seek public comment on a proposed change of Land Use Policy for a narrow strip of land at the Griffith shops from Open Space to Commercial Centre Uses.

Copies of the Draft Variation are available free of charge from the office of the ACT Planning Authority, John Overall Offices, 5th Floor, 220 Northbourne Avenue, Braddon 2601. A copy of this document is also available for inspection at the Authority's office and the ACT Shopfront, ground floor, 220 Northbourne Avenue, Braddon between 9.00 am and 4.30 pm Monday to Friday (except public holidays).

This Draft Variation is to have interim effect under the provisions of section 9 of the Act for the "defined period".

This means that during this "defined period" no development can be approved unless it complies with both the existing policies and the draft Variation if it were approved.

Interested persons are invited to make written comments on the Draft Variation to:

The Chief Planner  
ACT Planning Authority  
GPO BOX 1908  
CANBERRA ACT 2601

by 25 October 1991.



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