

N.S.W.S.C.L. MEETINGS 1985

Meeting notes by Pam Norman Librarian, Allen Allen & Hemsley

Inspector outlines problems in legal trust accounting

Lack of accounting knowledge, lack of time to devote to accounting functions, and the necessity of concentrating on more pressing legal matters were among the problems lawyers encountered in the running of their trust accounts, said the Chief Trust Account Inspector of the NSW Law Society, Mr. Tom Walsh, recently.

Speaking to a lunchtime meeting of the NSW Society for Computers and the Law, Mr. Walsh pointed out that 1,600 of the 2,205 legal firms in NSW are one- or two-person firms. Additional problems encountered in these smaller firms included the lack of funds to pay the wages of non fee-earners, and a subsequent lack of staff to whom accounting responsibilities could be delegated.

Problems had always occurred in manual systems, but since 1981, an ever-increasing number of trust accounts were being managed using a computer system. There were an estimated 2,300 trust accounts in NSW, and of these about 200, or 10%, were now computerised.

Computers brought further problems: lawyers often had insufficient computer knowledge to adequately negotiate their contracts with suppliers, or to ensure compliance with Law Society specifications.

What was the role of the Law Society in this area? Mr. Walsh felt that it had to assist its members when they encountered problems with trust account matters and/or computer systems; it also had a regulatory function.

Eleven Trust Account Inspectors attached to the Trust Account Department made an average of 220 inspections per year, to ensure that provisions of the Legal Practitioners' Act 1898 and the Trust Account Regulations were complied with.

The current Trust Account Regulations dated from 1972 and thus did not take computer technology into account. The Society had prepared new draft regulations which had been submitted to the Attorney-General some years ago; no action had been taken on these yet. (Copies are available from the Law Society for perusal.)

In order to ensure that computerised, "tailor-made" packages complied with the regulations, the Society decided to set down specifications. With systems becoming cheaper and therefore more widespread, it was

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it was important to do this before too many firms had unwittingly purchased systems which were too unwieldy and/or did not comply with the regulations.

Deloitte Haskins and Sells, the Law Society's auditors, were employed to develop such a specification. Requirements were that it: conform with the Act and Regulations; have sufficient internal controls; be capable of inclusion in an overall management information system; and be suitable for all sizes of firm.

The specifications had been available since 1983. Comments on them from Law Society members and interested parties were invited and welcomed.

Commentator Mr. Michael Saunders, a Sydney solicitor, applauded the concept of the new specifications, but expressed unease that at some future date the Law Society might insist that all systems - even those purchased some years before the specifications appeared - might be changed to comply.

He stressed the need for fair and effective administration, and agreed that preventing the growth of a multitude of different systems would help the inspectors to become expert. However, would this restrict the development of new and better systems by suppliers?

Mr. Saunders expressed a hope that the cost of such trust account packages would come down in future, when it would be possible for a firm to buy one knowing in advance that it complied with the Law Society's specifications.