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All editorial correspondence should be addressed to
Hubert Picarda QC, The Managing Editor
9 Old Square, (Third Floor North), Lincoln's Inn, London WC2A 3SR
Facsimile (0171) 831 3584

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From the Managing Editor

EDITORIAL

The current issue of this *Review* appears in the wake of both the Deakin Report and the publication of Volume 5 of the Decisions of the Charity Commissioners. Each of these will receive attention in a future issue.

Alternative Dispute Resolution (ADR) is gaining a secure foothold in a wide variety of settings and contexts as Dr Ramsumair Singh, Lecturer in Industrial Relations in the University of Lancaster, points out in his article "Alternative Dispute Resolution: A Gift to Charities". After outlining its usefulness for charities Dr Singh summarises the processes used in ADR before concentrating on one of the processes namely mediation "the sleeping giant of ADR" as it has been called. This is first described and evaluated, its usefulness rehearsed, and then three actual cases are cited by way of illustration.

John Claricoat and Hilary Phillips, both solicitors formerly of the Charity Commission and now partners in the specialist charity law firm of Claricoat Phillips, have provided a timely reminder of the advantages to be derived from having corporations as trustees in their article "Corporations as Trustees".

An intriguing detail in the Charities (Accounts and Reports) Regulations 1995 is highlighted in "Whistle Blowing - A New Regime " by Simon Wethered, a solicitor and partner in the firm of Dibb Lupton Alsop. What is involved is a couple of provisions which require auditors and independent examiners in certain prescribed circumstances to make disclosure in the one case to the Charity Commission and in the other to the charity trustees. This new regime can be seen as part of a wider policy decision to place on auditors (and examiners) a duty to report to third party regulators in the event their becoming aware of anything "untoward".

Jean Warburton, the editor of the eighth edition of *Tudor on Charities* and Reader in Law of the Charity Law Unit at the University of Liverpool, has recently become a part time Charity Commissioner. As she makes clear in her article "Charities, Sponsorship and Value Added Tax " her analysis of the recent cases in this area is not to be taken to reflect the views of the Charity Commission.

The Managing Editor himself has taken up his foil to provide a quick riposte to the suggestion, made by the Bursar of New College Oxford in the last issue of this *Review*, that the College Contribution Scheme at Oxford is the Colleges' scheme and not the University's scheme. The thrust or lunge of " Oxford's College Contribution Scheme " is that the scheme is not voluntary but mandatory being a scheme to further "university purposes".

The longest article is an offering from Mitchell Davies Director of Legal Studies at the Cayman Islands Law School in George Town in the Caymans. In his article "Charitable Trusts in the Cayman Islands: Goodbye to the Statute of Elizabeth " he argues that the decision of Harre CJ in *Bridge Trust Company Limited v Attorney General of the Cayman Islands* (1996) April 10 (as yet unreported) embraces a new category of Public Benefit Trusts. The case is understood to be on its way to the appellate court and may even be destined for the Privy Council, so this optimistic prognostication may be somewhat premature. And the decision may equally, perhaps, be ascribed to the category of case that turns on its own peculiar wording.

The latter assessment of the case would no doubt focus on the distinctive feature of the specified objects. According to that assessment these were in truth no other than the four heads in *Pemsel's* case with the fourth category needing to be read subject to the same implication as that which governed the three preceding heads. In other words, only organisations or institutions operating for the public good which were charitable in law would qualify. Only such organisations and institutions which fell under the fourth head within the spirit and intendment of the famous preamble could thus rank for income distributions.

Be that as it may, the decision in the *Bridge Trust* in its application of those two Latin phrases " ejusdem generis" and "noscitur a sociis " enabled the court to come to a decision which could never have been reached by such a sea green incorruptible charity lawyer as Viscount Simonds in his palmy days.

Finally, I should repeat that articles, long or short, on charity law or practice are most welcome for consideration, as are suggestions for areas of charity law or practice to be covered.

November 1996

Hubert Picarda QC
Chambers of Sir William Goodhart QC
3 New Square
Lincoln's Inn
London WC2A 3RS