



STOP PRESS

A monthly newsletter from the NSW Bar Association

ISSN No: 1329 - 9727

"Servants of all yet of none"

No. 56 November 1998

President's Column

Senior Counsel

My congratulations to the successful applicants for silk. I have to say it is the most difficult part of being President, a duty I would cheerfully avoid if I could. The selection will never attract universal acclaim, and there will always be disappointed applicants who feel genuinely aggrieved.

During the past few months I have received several constructive suggestions from members about how the protocol for appointment of Senior Counsel might be improved. At my request Trevor Morling QC, well known to members, has kindly undertaken to review the system to see if we can do better. He will consult as he sees fit, and members should feel free to write to him with suggestions. Please write to Mr Morling care of the Executive Director who will pass the letters on.

Acting Judges

The debate continues. In a letter from Mr Laurie Glanfield, Director General of the Attorney General's Department, he said:

Through the use of Acting Judges, the Government is working in partnership with the judiciary to provide a flexible resource to attack delays in specific areas according to a strategic approach without the need to permanently increase its judicial resources.

I think that is bureaucratese for:

To strategically save money the Government has appointed part time Acting Judges who will be flexible in the sense that they can continue to run legal practices whilst holding commissions as judges.

It is one way to save money.



Ian Barker QC, President.

Sentencing

In the brouhaha surrounding the 'Guidelines' judgment, the Attorney General issued a speedy press release to the effect that the Government was contemplating legislation to enable the Attorney to ask the Court of Criminal Appeal to set guidelines without reference to a particular case. The Opposition condemned the legislation as having the potential to erode judicial independence. We agree.

The Opposition then announced a proposal for mandatory prison sentences of one day for each \$100 stolen or unlawfully obtained. Such a law would be protective of the rich. Stealing from the poor, whilst less productive, would be a great deal safer. Bag snatcher's would need to assess the risk in light of the bag's probable contents. To steal a \$500,000 Bentley would attract imprisonment for 13.7 years, a term not uncommonly served for murder, while a \$30,000 Holden would be safer at 300 days. Alan Bond would need to stay alive for 55,000 years.

Clearly, we are in the grip of the usual lunatic election law and order frenzy. There will be more. It costs roughly \$75 million to build a gaol and about \$25 million a year to run one. It is starting to

appear that there may be so many people tried, and so much money spent on keeping them in gaol, that the Acting Judge system will be a permanent and ever burgeoning institution. There will be no money for permanent appointments.

The Downing Centre

The amazing closed stairway remains closed. A sign tells the reader it is closed pending a "compliance check". It is a very thorough check; the stairway has been closed for some three years. In fact, the stairway was closed in an excess of bureaucratic timidity because someone fell, and sued the State. I am glad whoever made the decision is not running the State's transport system.

Criminal Law Committee and Legal Aid Committee

Game S.C., Norrish QC and Odgers have done a great deal of work in preparing responses to proposals to alter the criminal law and in trying to find a way out of the legal aid debacle. The Bar owes them a debt of gratitude.

Motor Accident Amendment Bill

My thanks to Burbidge QC and the Common Law Committee for their work in relation to the *Motor Accident Amendment Bill 1998*.

Morrison S.C. was able to convince the Attorney General's Policy Adviser and the Motor Accident Authority's Acting General Manager to agree to put before the Government most of the amendments we sought. The unresolved contentious issue is the proposal to legislate for a regulation to fix a scale of costs for legal practitioners, regardless of lawyer-client agreements. We are working on it.

This will be the last *Stop Press* before the election for the next Bar Council. My thanks to McColl S.C., Walker S.C.,

Continued next page

President's Column

Continued from page 1

Katzmann S.C., Adams QC (now Justice Adams) and Harrison S.C. for their unstinting work on the Executive. My thanks also to the rest of the Council for their valuable contributions to the Association's affairs.

I acknowledge with thanks the hard work of all the Bar Association's committees. These include the four Professional Conduct Committees chaired by Burbidge QC, Bellanto QC, McColl S.C. and Harrison S.C.; the Education Committee chaired by Justice Lindgren; the Library & Technology Committee chaired by Donohoe QC; the Professional Standards Committee chaired by McDougall QC; the ADR & Arbitration

Committee chaired by Mary Walker; the Bar History Committee chaired by Lindsay S.C.; the EEO Committee chaired by Bennett S.C.; the Family Law Committee chaired by Rose QC; the Advocacy Committee chaired by Taylor S.C. and the Asian Relations Committee chaired by Bennett QC and then West QC.

I would also like to thank the convenors and secretaries of the Association's Sections namely Administrative Law; Common Law; Corporations, Securities & Insolvency Law; Criminal Law and Intellectual Property.

Finally, I pay tribute to the enormous contribution of Philip Selth and his loyal staff to the orderly administration of Association affairs.

Papers to Note

Supreme Court - Practice Note No 103. Arraignment of Accused Persons and Management of Criminal Trials, 15 October, 1998.

Legal Representation Office - Barristers and Solicitors are being sought to represent witnesses before ICAC and Police Integrity Commission hearings on an assignment basis. Send your curriculum vitae to The Director of the Legal Representation Office, Level 6, ADC House, 99 Elizabeth Street, Sydney NSW 2000, fax: 9231 0814 or DX 299 Sydney. Closing date: 27 November. For more information telephone Chrissa Loukas on 9231 0811.

Commonwealth Director of Public Prosecutions - Statement on Prosecution Disclosure. Sections A through E, 20 October 1998.

New South Wales Law Reform Commission - Issues Paper 15: Review of the Community Services (Complaints, Appeals and Monitoring Act 1993) (NSW)

Model Criminal Code Officers Committee - Non-Fatal Offences Against the Person Report, 6 October 1998.

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Speeches

The Hon. JJ Spiegelman, Chief Justice of NSW delivered a speech on the importance of lawyers performing pro bono work on the occasion of the 15th Anniversary of the Public Interest Advocacy Centre and the 5th Anniversary of the Public Interest Law Clearing House, 15 October 1998, Sydney.

The State of the Court - The Hon. Alastair Nicholson AO RFD, Chief Justice of the Family Court of Australia, 20 October 1998. Third National Family Court Conference, Melbourne.

Charting a course - where to from here? - Taussig QC, chairman of the Family Law Section of the Law Council of Australia, 25 October 1998. The 8th National Family Law Conference, Hobart.

Colloquium on the Courts and the Future. The Future State of the Judicature - The Hon. Murray Gleeson AC, Chief Justice of the High Court of Australia, 8 November 1998. The Judicial Conference of Australia, Surfers Paradise.

The Future of the Courts - Do they have one? - The Hon. Justice Michael Kirby AC CMG, High Court of Australia, 8 November 1988. The Judicial Conference of Australia, Surfers Paradise.

Copies of these speeches can be obtained from the Bar Library; the High Court speeches are also available at www.hcourt.govt.au.

Law Society Council elections

On 22 October 1998 the Law Society held elections for eight of its 21 council positions Country Councillor, John North (re-elected); Suburban Councillor Suzanne Boyle (newly elected); City Councillor Philip King (re-elected); Councillors elected were: Lynee Macdonald, Shana Radnan, David Kotthoff, Michael Antrum (three-year terms) and Pamela Suttor (one-year term). President-elect Margaret Hole takes over at the helm of the Law Society effective 1 January 1999.

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Cec Featherstone
Floor Clerk
Ph: 9264 9444

Getting to know...

Heather Sare
Legal Assistance
Manager

A former articled clerk, Heather joined the Bar Association in 1994 as the Membership Manager. At that time Pro Bono was a very small part of the job exemplified by the fact that there were only 12 matters handled in 1993.

In 1995 Bar Council recognised the unmet need in the community for barristers' legal assistance on a formalised basis and Heather was appointed the first full-time Pro Bono Manager.

"The success of Bar Council's decision can be measured by the fact that some 300 matters are referred to members of the Bar each year through the Legal Assistance Scheme," said Heather.

In 1996 the NSW Law Foundation granted funding to the scheme in recognition of its success.

"I really enjoy working with so many dedicated people.. I am constantly amazed at the level of cooperation I receive from barristers whenever I request assistance."

The Bar Association also operates the Barristers' Referral Service under Heather's management.

Heather has two teenage sons, loves reading, walking on the beach and is a rugby fan.

Sue Divall
Assistant to the Legal Assistance
Manager

Sue is the first point of contact for people using the Legal Assistance Scheme. When she is not on the phone talking to applicants, barristers and solicitors she is updating the ever-growing database which tracks



From left: Heather Sare, and her assistant Sue Divall.

each matter from beginning to end. Another important component of Sue's work is administering the Barristers' Referral Service.

"The Bar Association averages around 20 calls a day and a number are from overseas. Each inquiry is passed to the Barristers' Referral Panel, made up of five Clerks, who then advise of a number of barristers who could take the brief and I take it from there," Sue said.

"Every day is a challenge because you just don't know what is going to come through the door," said Sue.

Sue joined the NSW Bar Association in July this year after a year with the Homicide Victims Support Group. Most of her career has involved dealing with the public in a variety of jobs both here and in her native England.

At the moment Sue is studying several university subjects including Corporate Investigation and counselling. In her spare time Sue loves to garden and horse ride.

Northern Hospitality

On Friday, 11 September 1998, Barker QC, McColl SC, Harrison SC, Bellanto QC, Marshall and Executive Director Philip Selth met with the members of the Far North Coast Bar at The Lord Byron Resort, Byron Bay.

The Far North Coast was represented by G. Radburn, P. O'Connor, B. Kinsella, P. McGuinness, E. Johnston, M. Tredoux, K. Holwell, A. McInnes, P. Mason, S. Loomes and K. Roser (Coffs Harbour), M. Macadam QC and N. Harrison (Crown Prosecutors) and C. Bruce (Public Defender).

The meeting was an outstanding success. Some would suggest that one of the reasons for such a success was attributable to the fact that the Bar Council members were two hours late due to airline delays at Mascot and the Far North Coast members utilised the waiting time in the appropriate way.

Barker QC addressed the gathering and the Far North Coast members spoke of many matters concerning practise on the Far North Coast and the country in general. The Executive Director has already taken action to investigate our concerns.

After discussion was complete, M. Tredoux moved a vote of thanks and thereafter there was much talk and drink to the early hours of the morning.

The food, wine and service at The Lord Byron Resort was excellent and if other members are looking for reasonable rates when on circuit in Lismore, ring Cath O'Mara at the resort and identify yourself as a member of the NSW Bar Association.

The Far North Coast members express their thanks to those Bar Council members and the Executive Director for visiting our area and would like to think it will be an annual event.

G.M. Radburn, Lismore Chambers.

Appointments

International
Former Supreme Court Judge, the Hon. David Hunt, has been appointed to the United Nations War Crimes Tribunal for Yugoslavia on a three year post effective November 1998.

NSW Government
Michael Sexton S.C., formerly chairman of State Rail and defamation counsel to the ABC, has been appointed Solicitor General of NSW effective from 16 November 1998.

SILK APPOINTMENTS

On October 29 the President, Barker QC, announced the names of 19 barristers who had been appointed Senior Counsel (S.C.).

The Bar Association extends its warmest congratulations to the new silks:

Peter Hennessy
(Jack Shand Chambers)

Called to the Bar on 15 March 1968. Hennessy's areas of practice include Common Law - General; Personal Injury Compensation, Motor Accident; Industrial; Constructions and Engineering Law; Professional Liability Law and Criminal Law. He practices throughout the state and interstate.

Robert Greenhill
(Ground Floor, Wentworth Chambers)

Called to the Bar in November 1970. Greenhill's main areas of practice are Administrative Law; Common Law - General; Construction and Engineering Law; Coronial Law; Disciplinary Hearings; Corporate Crime and Fraud; Criminal Law - General; Occupational & Environment Health & Safety Law. His area of specialty is Criminal Law. Greenhill is a member of the Bar Association's Criminal Law Committee and has been a tutor to pupils undertaking criminal reading. He was Junior Counsel assisting the McLeod-Lindsay Inquiry.

Tony Bartley
(Elizabeth Street Chambers)

Called to the NSW Bar on 15 March 1972. Bartley's main areas of practice are Common Law - General and personal injury work including dust diseases matters and other areas of toxic tort; Professional Liability Law including medical negligence; Insurance Law and Aviation Law.

Raymond McLoughlin
(2nd Floor, Wentworth Chambers)

Called to the Bar on 9 February 1973. McLoughlin's area of practice includes Common Law - Professional Liability; Corporate Crime and Fraud; Criminal Law - General; Insurance Law; Occupational & Environment Health & Safety Law; Personal Injury.

McLoughlin represents both plaintiffs and defendants and he has appeared in matters before the ICAC, Royal

Commissions, coronial enquiries and various tribunals.

Paul Roberts
(11th Floor, St James)

Called to the Bar in March 1974. Roberts' areas of specialty are Administrative Law; Criminal Law; Corporate Crime and Fraud; Common Law - General and Professional Liability Law. He has also appeared in matters before ICAC hearings, coronial inquiries and Royal Commissions.

George Inatey
(9th Floor, Selborne Chambers)

Called to the Bar on 6 June 1975. Inatey's areas of practice include Commercial Law - General; Common Law - General; Construction and Engineering Law; Insurance Law and Professional Liability. Inatey's specialty is Building & Engineering Law.

Steven Crawshaw
(HB Higgins Chambers)

Called to the Bar in July 1976. A former associate to Justice Michael Kirby and a former member of the Administrative Appeal Tribunal, Crawshaw is currently the head of HB Higgins Chambers. His main fields of practice include Industrial and Employment Law; Occupational, Health and Safety Law and Administrative Law. His area of specialty is Industrial and Employment Law and he has appeared in numerous Royal Commissions and Inquiries.

Campbell Bridge
(12th Floor, Selborne Chambers)

Called to the Bar in July 1977. Bridge's practice areas include Commercial Law - General; Common Law - General; Compensation - Motor Accidents; Insurance Law; Occupational & Environment Health & Safety Law; Personal Injury - Common Law; Personal Injury - Dust Diseases and Professional Liability Law. He was counsel assisting the Royal Commission into the building industry in 1991.

David Murr
(Frederick Jordan Chambers)

Called to the Bar on 9 February 1979. Murr's main areas of practice are Property Law with particular

emphasis on conveyancing, security and lease-related matters; Commercial Law; Equity; Banking; Wills; Probate and Family Provision and Professional Negligence.

Ian Wales
(3rd Floor, University Chambers)

Wales practiced as a solicitor for three years at what was then Stephen Jaques & Stephen before being called to the Bar in May 1979. His practice includes Commercial Law - General; Compensation - Motor Accidents; Insurance Law; Professional Liability Law; Property Conveyancing, Landlord & Tenant Law; Trusts, Equity, Wills, Probate & Family Provision Law, Common Law and Legal Profession disciplinary work.

Michael Rudge
(Nigel Bowen Chambers)

Called to the Bar on 12 March 1982. Rudge practiced as a solicitor before being called to the Bar. His areas of practice comprise Alternative Dispute Resolution; Commercial Law - General; Construction and Engineering Law; Insurance Law and Professional Liability with a specialty in Building & Engineering Law.

Matthew Walton
(6th Floor, Selborne Chambers)

Called to the Bar on 11 February 1983, Walton has a commercial law practice. His principal areas of practice are Banking, Finance & Securities Law; Commercial Law - General; Corporations and Securities Law; Insolvency, Bankruptcy & Liquidation Law; Trade Practices & Competition Law; Trusts, Equity, Wills, Probate & Family Provision Law.

Patricia Bergin
(9th Floor, Selborne Chambers)

Called to the NSW Bar on 10 February 1984. Bergin's areas of practice include Administrative Law; Commercial Law; Defamation and Media Law; Common Law with a particular interest in the areas of Professional Negligence/Discipline.

Michael Sexton
(St James Hall)

Called to the Bar in March 1984. Recently appointed NSW Solicitor

FOR 1998

General, Sexton's principal fields of practice were Defamation & Media Law; Intellectual Property Law; Professional Liability Law; Administrative Law; Commercial Law - General and Common Law - General.

Brendan Sullivan
(10th Floor, Wentworth Chambers)

Called to the Bar on 9 March 1984, having previously practised for 6 years as a solicitor. Sullivan's areas of practice include Administrative Law; Revenue Law; Trusts, Equity, Commercial Law - General, Wills, Probate & Family Provision Law. His area of specialty is Income Tax.

Rodney Smith
(7th Floor, Selborne Chambers)

Formerly a partner of what was then known as Dawson Waldron, Smith was called to the Bar in May 1985. His areas of practice include Commercial Law - General; Construction and Engineering Law; Professional Liability Law and Trade Practices & Competition Law.

Guy Reynolds
(6th Floor, Selborne Chambers)

Called to the Bar on 23 May 1986. Reynolds' main areas of practice are Administrative Law, Commercial Law - General; Constitutional Law; Corporate Crime and Fraud; Defamation & Media Law; Professional Liability Law and Trade Practices & Competition Law.

Richard White
(7th Floor, Wentworth Chambers)

Called to the Bar on 4 July 1986, having previously been a partner in what was then known as Stephen Jaques Stone James. White's principal areas of practice are Banking, Finance & Securities Law; Commercial Law - General; Corporations and Securities Law; Professional Liability; Stamp Duty; Property Law; Trusts and Equity.

Paul Brereton
(3rd Floor, Wentworth Chambers)

Brereton practiced as a solicitor at Duncan Barron & Company for five years before being called to the Bar in December 1987. His practice areas are Commercial Law - General; Corporate

Crime and Fraud; Corporations & Securities Law; Family Law & Defacto Provision; Insolvency, Bankruptcy & Liquidation Law; Insurance Law; Intellectual Property Law; Professional Liability Law; Property Conveyancing, Trusts, Equity, Wills, Probate & Family Provision Law. He specialises in Disciplinary Tribunals.

Editor's note: At the time of going to press, the ceremony at which the new Senior Counsel are presented with their scrolls of appointment, had not yet taken place. Accordingly, the photograph of the new silks will appear in the December issue of Stop Press.

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At The Lecturn

The Continuing Legal Education (CLE) program, run by the Bar Association, has come to an end for 1998. The latter part of the program consisted of three very successful seminars. The first presented by newly appointed Supreme Court Justice Robert Austin, highlighted the changes contained in the Company Law Review Act. This was followed in October by the special CLE presentation in which Justice David Ipp of the Supreme Court of Western Australia addressed the Bar on the subject of Barrister's Duties to The Court. Chaired by Chief Justice Spigelman, the presentation attracted an audience of over 200 members and was followed by a panel discussion in which Barker QC, Bellanto QC and McColl S.C. provided comment on the views of Justice Ipp.

A transcript of the presentation of Justice Ipp is being prepared and will be available to members in the near future.

In November Justice Lance Wright, President of the NSW Industrial Relations Commission commented on the changing nature of the Industrial Law jurisdiction. He was supported by Kite S.C. and Michael Walton who delivered papers on Unfair Contracts and Unfair Dismissal.

Next year the Bar Association is expanding its CLE program to offer three to four seminars each month targeted to the specific needs of barristers at different stages of their careers, areas of practice and geographical location. Both coming events and those papers already delivered will be listed in this column each month.

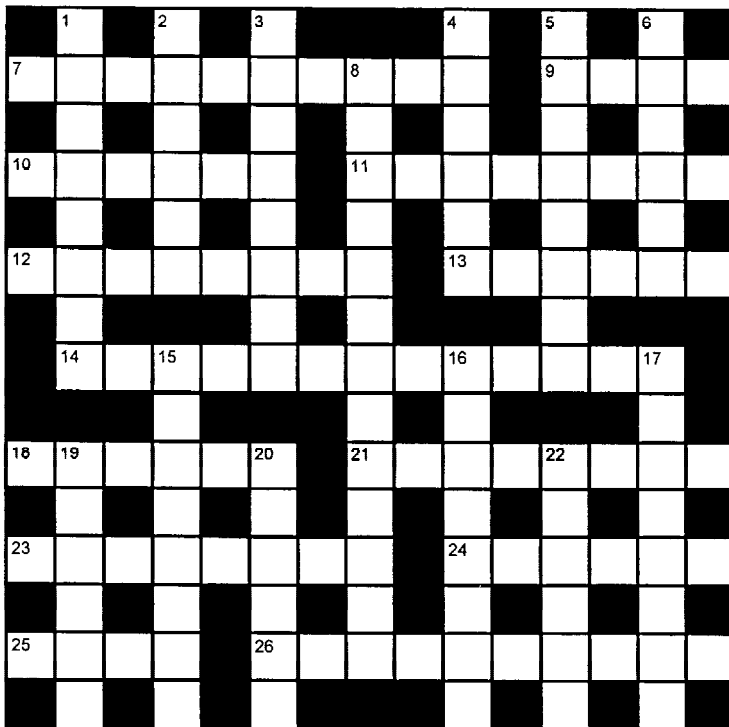
All papers delivered as part of the CLE program are available from the Bar Library. For more information about the program please contact Roger Owens, Assistant Education Manager on ph: 9229 1722, fax: 9221 1149 or email: rowens@nswbar.asn.au.

Bar Examinations - Markers Needed

The Bar examinations in Practice and Procedure, Evidence and Ethics, will be held on Tuesday 24 November, Wednesday 25 November and Friday 27 November. Members who have a particular interest in any of these areas, or who have had experience in marking university scripts in these subjects, are invited to volunteer as exam markers for any one of these exams. Markers are given marking guidelines for their assistance. They are also asked to undertake to conform with the tight marking schedule. Regular markers will be asked for their assistance in the usual way, but if others would like to be involved, and will have about three hours to spare between 30 November and 7 December, please contact Roger Owens, Assistant Education Manager, tel: 9229 1722, fax: 9221 1149 or email: rowens@nswbar.asn.au

CROSSWORD

by Rapunzel



The solution to this crossword will be published in the December edition of Stop Press.

Across

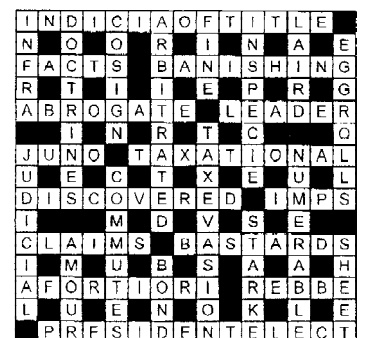
7. Barrister's calling a Supreme Court judge (10).
9. Twice as minded to prefer? (4)
10. To contrive a real gift (6)
11. Tests formerly Almsners faltering (8)

12. The inner out of the essential (8)
13. Takes to the precise dollar, that's what the taxman does! (6)
14. A plea to drop unsworn testament? (4, 9)
18. Little box for sight or heard or big box for hearing unseen? (6)
21. The law reports a diary? (4-4)
23. loci idem? Dog latin for the idea of home! (8)
24. How lies the head that wears a crown? (6)
25. Known as sole when she was solo, she became covert when publicly united (4)
26. Getting in on spec metal legend? Worth looking into! (10)

Down

1. Misruled (verged on ruled!) (8)
2. It runs when given, once it changes (6)
3. Nill a box fish in lock (8)
4. Beneficiary drops kind of nail to become kind of messenger (6)
5. To give up a British leader, I acted controversially (8)
6. The French canvas remains covered (6)
8. There raises sweat at lathery zebra's crossing (13)
15. Councillor out, then out down, yet still believed (8)
16. Time before certain, endless oblations (8)
17. Re-employed harbours in making grand (8)
19. He owns, so he maintains (6)
20. Ad lib is denoted by excuses (6)
22. Cries from stable (6)

Solution to October's Crossword



Media Briefing

Letters to the Editor

Beware the police State, written by the President. The Daily Telegraph, 8 October, 1998 in response to the newspaper's attack on Justice Hulme's granting of bail in the Johnathon Smallbone case.

Press releases issued by the NSW Bar Association:

On the Attorney General's legislation allowing the government of the day to directly ask the Court of Appeal to review criminal sentencing. This was a joint press release put out by the NSW Bar Association and the Law Society of NSW:

Lawyers predict danger in political interference in criminal sentencing - 9 November 1998.

On the Motor Accidents Amendment Bill 1998:

Efforts to ensure early offers for victims welcomed - 13 October 1998.

Greenslips: Car Owners Denied Choice - 4 November 1998.

On the Justices Legislation Amendment (Appeals) Bill 1998:

Justice not a political game - 28 October 1998.

On the new Senior Counsel appointments:

New Silks Appointed, 29 October 1998.

In relation to whether District Court Judge Phillip Bell should stand aside:

Public confidence must be maintained - 5 November 1998.

Copies available from Reception or the Bar Association's web site.

The following are some of the press releases recently issued by the Law Council of Australia:

Law Council must continue National Profession Reform Push: President - 15 October.

(Federal) Attorney-General Re-appointment Welcomed - 18 October.

Law Council Supports Judge's Legal Aid Comments, Asks Attorney for Further Details on Federal Magistracy - 21 October.

Law Council urges Malaysia: Ensure Fair Trail for Anwar Ibrahim - 21 October.

Copies available from Reception or the Law Council website at www.lawcouncil.asn.au

One of our members spotted the following:

Cardile v LED Builders in the High Court of Australia, 8 October, 1998

Kirby J: Mr Hughes I am just a simple lawyer. I find these things very hard to follow. Would it be possible after the case stands for judgement, for some note to be sent in with step-by-step answers, or seeks to answer the points that Justice McHugh has raised because I would like to study it and think about it, and I find it very hard to do that on the run. I did an economics degree but unfortunately there was not an accounting component, so I just do not understand it. It will take time.

Awards

Patrick Griffin was awarded the Public Interest Law Clearing House Barrister's Award during the Law Society of NSW's recent 1998 Pro Bono Awards. Griffin won the award in recognition of his work assisting a client with a disability making a discrimination claim in relation to superannuation and insurance benefits.

Legal Profession Act 1987

<http://www.fl.asn.au/sites/nsw/bar/ncpolicy.htm>

Response by the NSW Bar Association to the NSW Attorney General's Department's issues paper on National Competition Policy, Review of the *Legal Profession Act 1987* (September 1998).

Copies also available from Reception.

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This column keeps members informed about functions organised for their enjoyment. Queries and RSVPs should be directed to Sharron Smyth on Tel: (02) 9229 1739, Fax: (02) 9221 1149 or Email: ssmyth@nswbar.asn.au

15 Bobber

Tickets for 15 Bobbers cost \$12 or \$20 at the door. All 15 Bobbers are held in the Common Room and start at 5pm.

- 20 November - The Hon. Justice L D S Waddy.
Speaker: Menzies QC

The Hon. Justice M Adams.
Speaker: Barker QC

The Hon. Justice D Kirby.
Speaker: Poulos QC

Tutors and Readers Dinner

- 4 December - the Bar Association
Dining Room 6.30pm for 7pm

Thud and Blunder at The Law Society



From left Bar members Robert Colquhoun, Australian Chess Federation President and Paul Glissan, Bench and Bar Team Captain.

The 6th Annual Bench & Bar versus Solicitors Chess Match was played across 17 boards at the Law Society Lounge and Dining Room on 16 October 1998.

The Bench and Bar has won the first five annual contests. However this year, the inaugural contest for the Terrey Shaw Memorial Shield, the Match resulted in a tie, 8^{1/2}-8^{1/2}.

The Shield will remain a memorial for Terrey Shaw - Barrister, International Chess Master, Chess Olympian, chess writer and teacher - who sadly passed away on 5 December 1997 aged 51.

The Annual Match was Shaw's brainchild and he organised the first three events in 1993, 1994 and 1995, before succumbing to ill health.

The 6th Annual Match was organised by the aptly named Adrian Chek of the Solicitors who managed to draw on board 1 against the Bar's Tim Reilly, one of Australia's top players.

Shaw's widow, Mrs Corinne Shaw, honoured players by attending the Match and presenting the Shield to the

Captains of both teams at the prize-giving ceremony.

Also present was former Australian Chess Champion and friend of Shaw's, His Honour Mr Justice Purdy of the Family Court of Australia, a Bench and Bar team member since 1993.

Bottles of Moët were awarded to the two players who won in the most spectacular fashion, the Bar's Ben Ingram and the Solicitors' Brendan Scott.

If there had been a prize for enthusiasm then it would have been awarded to Alexander Aich, of the Solicitors' team, who travelled from Kempsey to play.

Postmortems, anecdotes, stories and some excellent red and white wine were later shared over dinner at the Bambini Trust Restaurant in Elizabeth Street, where Match Director of Play, Morris Needleman, pointed out that: "Chess is an exception to the rule that Barristers are not permitted to give Solicitors checks."

Paul Glissan, Captain of the Bench and Bar Team

Coming Up

War Crimes

The Chartered Institute of Arbitrators Australian Branch and The Australian Chapter of the Asia-Pacific Council of the London Court of International Arbitration presents an address by Sir Ninian Stephen KG, AK, GCMG, GCVO, KBE, PC, Commandeur da la Legion d'Honneur on his war crimes trials experiences at The Hague. Light refreshments will follow Sir Ninian's address. Date: 3 December 1998. Time: 5pm. Venue: the Banco Court, Level 13, Law Courts Building, Queen's Square. Cost \$40. RSVP no later than 26 November by phone 9223 0424.

Human Rights

Human Rights: Challenges and New Frontiers, a one-day symposium to mark the 50th Anniversary of the Universal Declaration of Human Rights. Speakers include Nobel Peace Laureate Professor Jose Ramos-Horta, Dr Elizabeth Evatt, Professor Hilary Charlesworth of the Centre for International and Public Law, Senator elect Aden Ridgeway, Mr Hendardi of the Indonesian Legal Aid and Human Rights Association and Liz Jackson from the ABC's Four Corners. Date: 28 November 1998. Venue: University of NSW. Cost: \$75 organisations, \$15 or \$30 individuals. Payment inquiries contact James Day on 9264 1399 or email: symposium@sydney.caa.org.au. Other inquiries contact the Australian Human Rights Centre on 9385 2227.

VALE

Horace Armitage Miller

It is with sadness that the Bar Association notes the passing of Horace Armitage Miller on 22 October 1998 aged 82. Miller retired from the Bar in 1989 after a career specialising in the compensation field, including many years at the Compensation Court in Newcastle where he was instructed by the late Judge Brian Moroney who was then a solicitor. While at the Bar, Miller was well known for his exceptional command of the English language and his brilliant advocacy which, in the words of one former colleague, "ensured his transcripts read like a song".

Has the Jury reached a verdict?

NSW Police Service solicitor and former member of the Bar, Howard Bell is researching just what influences a jury during a trial as part of a PhD thesis at the University of Sydney.

Mr Bell said the aim of his research was to learn about the aspects of court-room presentation that influence the impressions formed by jurors. He plans to use the data he collects to construct a theoretical matrix of factors influencing juries.

"If produced from appropriate information, the matrix should be of assistance to members of the legal profession - especially newer members - in planning, managing and presenting cases before juries," Mr Bell said.

As part of his research, Mr Bell has devised a questionnaire that he would like interested Barristers to fill out.

The first 10 questions seek individual comments in relation to techniques and approaches for maximising the effectiveness of communications in the presence of juries. The remaining questions seek to establish, on a sliding scale, the relative amounts of conscious use made of specific communication devices at various stages of trials.

Mr Bell estimates the questionnaire would take some 15-20 minutes to complete and said information could be provided anonymously. Questionnaires will be supplied and then collected. Mr Bell can be contacted on phone: 02 9339 5763 or email: howardbell66@hotmail.com.



On 2 October, 1998 colleagues of Janet Coombs AM gathered at The Sheraton on The Park to mark her retirement from the Bar. John Coombs QC (seen here with the guest of honour) amused the audience with tales about the early life of Ms. Coombs while Senior Vice President McColl S.C. chronicled a career that paved the way for many female barristers.

Legal Aid Fees

The Bar Association's Legal Aid Committee recently prepared a comprehensive submission to the NSW Attorney General on the fees to be paid to members by the Legal Aid Commission.

In summary, the Attorney General was told that there had been a reduction in the 1991 fees and no increase since then, creating an unworkable situation that served no-one.

"The Association's concern is not solely directed at the fair remuneration of the Associations' members," Barker QC told the Attorney General in the submission introduction.

"Our survey of members reveals that many experienced counsel who previously were prepared to undertake work on behalf of legally aided clients find it more difficult to allocate the time to make themselves available for such work in circumstances where the fees remain at current levels," he said.

"The consequent general reduction in the quality of representation of legally aided clients will cause greater expense to the Commission with the conduct of appeals to the Court of Criminal Appeal. Success in that jurisdiction (or the High Court) means further cost to the Commission of re-trials which could have been avoided."

Opening of Ada Evans Chambers

On 20 November 1998 the Hon. Justice Mary Gaudron will officially open Ada Evans Chambers at Suite 105, Level 1, 370 Pitt Street, Sydney.

The Chambers are named after Ada Evans who graduated as a Bachelor of Laws in 1909 and spent the ensuing sixteen years fighting the establishment in order to gain entry to the profession.

Following the enactment of the Womens Legal Status Act, 1918, Miss Evans was admitted but did not practise.

Ada Evans Chambers is the first Chambers in NSW to be named after a woman.

Bellant QC leads Michael Maxwell, Michael Barko, Geoffrey Halsall and Jose Crespo in Chambers.

Bellant QC invites any relatives of the late Ada Evans who wish to participate in the official opening to contact him on 9283 6230.

Reduction of Barristers and Solicitors immunity

Barrister Greg Watkins recently prepared an article for the Law Society Journal on *Yates Property Corp Pty Ltd (in Liquidation) & Anor v John Borland (as representative of Abbott Tout Russell Kennedy, Solicitors) and Others* (1998) 157 ALR 30.

The case involves a decision from which lawyers were found to be negligent in preparing a case in the Land and Environment Court.

Watkins has summarised the case and looked at its impact on the practice of Solicitors and Barristers.

A copy of the article is available from the Bar Library.

Letters

(Edited extract from a letter to the President)

I have decided to appoint a panel of magistrates to specialise in civil litigation. Three experienced magistrates have agreed to be appointed to the panel; Mr Roger Dive, Senior Civil Magistrate, Mr Michael Price and Mr Paul Cloran.

Initially, the role of the specialist panel will be to determine civil cases at the Downing Centre, a court with a substantial concentration of civil work. Additionally, a trial specialist sitting will be held at a major country centre early next year.

The new arrangements at the Downing Centre will allow the Registrar to allocate a hearing date at the Directions Hearing, cutting out any need to attend the List Office. Another immediate advantage will be the new ability of a specialist magistrate to retain management responsibility for a particular case throughout interlocutory proceedings leading up to a hearing.

The new specialist panel, operating under improved administrative arrangements, will advantage practitioners and clients alike.

David Landa
Chief Magistrate,
12 October 1998.

(Edited extract from a letter to the Executive Director)

I write regarding Barrister Mark Buscombe who accepted a matter at very late notice after a request from Heather Sare of the Bar Association's Legal Assistance Scheme. Once again the Bar Association's Scheme has provided valuable and extremely important assistance to clients unable to afford legal representation.

Mr Buscombe appeared in a severity appeal in the District Court for my client a young Aboriginal man. PIAC took this matter on as matter of public interest. The first day in Court involved being 27th in the short matters list of 37 matters and even though we were available all day it was not until 3pm that myself, my client and Mr Buscombe were aware that the matter was not to be reached that day.

We were then listed to Darlinghurst District Court only to find that the Judge was ill. The matter was sent back to the Downing Centre and it was not until 12pm that day that the matter was actually heard. Mr Buscombe

represented the client with skill and the client was put on a Community Service Order, the outcome we desired.

Despite a day and a half of waiting for the matter to go on, Mr Buscombe continued to show concern and professionalism towards the client. Even though the matter was only take half an hour Mr Buscombe spend a day and a half in Court for no fee. I wish to thank Mr Buscombe for his extreme generosity in this case and also the huge assistance the Bar Association's Legal Assistance Scheme is in urgent matters such as these.

Lurline Dillion-Smith, Solicitor
Public Interest Advocacy Centre,
9 October 1998.

(Letter to the President)

On Wednesday evening 21 October, the 193rd anniversary of the Battle of Trafalgar, the NSW Royal Australian Navy Reserve Legal Panel entertained a gathering of 60 or so for drinks in the Bar Common Room.

R.W.R. Parker QC delivered an occasional address, which was quite outstanding and warrants dissemination by the Association. On concluding his address, Parker QC made a most generous gift to the Panel of a copy of the famous Hoppner painting of Lord Nelson and I am arranging for this to be hung in the new Court room which as been set up on Garden Island in the refurbished Barracks Building (built in the 1880s to house the Royal Marines).

The evening was attended not only by Naval personnel but by lawyers from the Army and the Air Force, together with interested friends including various (non-service) members of the Bar. Attendees included Sir Laurence Street (who served in the Navy in World War II and is a former Panel leader); Captain Bill Cook LVO RAN (Ret.), a former Registrar of the Bar Association; Colonel Stephen Scarlett RFD, Senior Children's Magistrate and NSW leader of the Army Reserve lawyers; and Wing Commander Michael O'Brien of Snelgrove & O'Brien, Solicitors of Castle Hill, Leader, Sydney RAAF Legal Reserve.

Functions of this sort emphasise the extra-curricular activities and influence of members of the bar and perhaps we should publicise them a bit more.

Peter R. Callaghan S.C., Captain RANR,
Nigel Bowen Chambers,
27 October 1998.

A copy of the Trafalgar Day Address given by Parker QC is available from the Bar Library.

(Edited extract from a letter to the Executive Director)

Thank you! The two greatest words I feel in my heart that I can use to extend my greatest gratitude to the NSW Bar Association for helping me in my greatest time of depression and despair.

My problems started in June 1997, when, as a member of (my local church), I read a prepared statement, backed up by my fellow parishioners, outlining our concerns about (a church elder). This letter backfired and I was summonsed to appear in the District Court to defend myself against a Defamation of Character (action).

I knew that to defend myself would be a costly burden on myself and my family. I decided to defend myself. Legal Aid was no help as it does not fund civil matters. What little I had in our family savings account quickly dwindled down owing to issuing subpoenas and travelling costs.

Then like a miracle, as if God had intervened, I was plucked from obscurity and pointed in the direction of (solicitor) Mr Matt Gamble. With the court case only days away, Matt Gamble put me in contact with the NSW Bar Association.

After meeting with the Manager of the Legal Assistance Scheme she put me onto Judith Gibson, a barrister specialising in defamation cases.

I met Judith Gibson together with my Church priest. The understanding and compassion she had for us thrilled me to no end, I could not believe that such a high profile person, with so much on her itinerary, would take out so much of her time... Then she told me that she would take my case and defend me in court... Even though the case hadn't opened yet I felt a huge burden lift from my shoulders and that of my family. For all these services some people will tell you that this can be paid with money. But to me no amount of money could ever repay the NSW Bar Association for the tremendous help, understanding, kindness and compassion that they extended to me in my greatest time of need.

(Signature withheld)
8 November 1998.

Crim pickings

The following were downloaded from the internet. They are all true stories.

In San Antonio, Texas, a 45-year-old woman was arrested after a mechanic reported to police that 18 packages of marijuana were packed in the engine compartment of the car which she had brought to the mechanic for an oil change. According to police, the woman later said that she didn't realize that the mechanic would have to raise the hood to change the oil.

In Providence, Rhode Island, a 33-year-old man was arrested after knocking out an armoured car driver and stealing the closest four bags of money. It turned out they contained \$800 in pennies, weighed 30 pounds each, and slowed him to a stagger during his getaway so that police officers easily jumped him from behind.

A drug possession defendant on trial in Pontiac, Michigan, said he had been searched without a warrant. The prosecutor said the officer didn't need a warrant because a "bulge" in the defendant's jacket could have been a gun. Nonsense, said the defendant, who happened to be wearing the same jacket that day in court. He handed it over so the judge could see it. The judge discovered a packet of cocaine in the pocket and laughed so hard he required a five-minute recess to compose himself.

Clever drug traffickers used a propane tanker truck entering El Paso from Mexico. They rigged it so propane gas would be released from all of its valves while the truck concealed 6,240 pounds of marijuana. They were clever, but not bright. They misspelled the name of the gas company on the side of the truck.

In Oklahoma City a 47-year-old man was on trial for the armed robbery of a convenience store in a district court when he fired his lawyer. The Assistant District Attorney said the man was doing a fair job of defending himself until the store manager testified that he was the robber. The defendant jumped up in court,

accused the woman of lying and then said: "I should've blown your (expletive) head off." The defendant paused, then quickly added, "-if I'd been the one that was there." The jury took 20 minutes to convict him and recommended a 30 year sentence.

A man wanting to rob a downtown Bank of America, walked into the branch and wrote "This iza stikkup. Put all your mury in this bag." While standing in line, waiting to give his note to the teller, he began to worry that someone had seen him write the note and might call the police before he reached the teller window. So he left the Bank of America and crossed the street to Wells Fargo. After waiting a few minutes in line, he handed his note to the Wells Fargo teller. She read it and, sumising from his spelling errors that he was not the brightest light in the harbour, told him that she could not accept his stick up note because it was written on a Bank of America deposit slip and that he would either have to fill out a Wells Fargo deposit slip or go back to Bank of America. Looking somewhat defeated, the man said "Ok" and left. The Wells Fargo teller then called the police who arrested the man a few minutes later, as he was waiting in line back at Bank of America.

CHAMBERS FOR SALE

13th Floor,
Wentworth-Selborne Chambers

A large single and well-appointed room with extensive views over the Mint building in Macquarie Street and the Eastern suburbs is available for sale.

This busy combined floor consists of 3 Senior Counsel and 25 barristers, the majority of whom are senior juniors.

Counsel on the floor practice extensively in the commercial, equity, administrative, common law jurisdictions including defamation and personal injury.

The Floor is well equipped and has extensive library and research facilities.

May also consider licencee.

For further information contact
G. Rich on 9264 9444 or 0416 221116
or Ruth Ross on 9232 7750.

Classifieds

Photographs on Sale

Members who want to order photographs from the October 2 dinner for Janet Coombs AM can view proof sheets at Reception.

Annual Report

Copies of the Bar Association's Annual Report have been sent to all members and associate members. Copies are also available from Reception.

Put that out and sign here

It is important to remember when you are enjoying the Bar Association Common Room and Dining Room that smoking is strictly prohibited and that guests must be signed in by a member. (The guest book is on the table in the Common Room).

Sell it, buy it, find it

Stop Press classifieds connects you with other members whether you are trying to buy, sell or find an item or service from books, software, wigs and rooms to researching a matter or organising an outing. A nominal fee of \$45 is payable in advance at the Bar Association's reception desk. For more information phone Kate Southam on 9229 1732 or email: ksoutham@nswbar.asn.au

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Bar Association cuff links in sterling silver or 18 carat gold. Superb workmanship. Tiny detail of the Association logo, including the clearly legible motto "Servants of all, yet of none" is reproduced. Brooches and lockets are also available on request.

To view the cuff links, contact the Association's Executive Assistant on (02) 9232 4055.

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The Bar does battle with young blood Solicitors

The recent annual hockey battle for the Noonan Trophy was previewed as a contest between the Bar's experience and the Solicitor's new young blood recruits.

As the game got underway on the synthetic hockey field at North Turramurra the Solicitors shot away to an early lead but the Bar fought back strongly.

In the last fifteen minutes of the first half, the outstanding skills of goalie Katzmann S.C. successfully curbed the Solicitors' attacking game. Meanwhile, Bellanto QC and Harvey combined in attack to restrict the Solicitors lead to 3-1 by the half time whistle.

The first 15 minutes of the second half was intensely fought with the Bar stretching the Solicitors' defence during repeated raids on goal. The pressure finally paid off when the Solicitors fouled a threatening Bar attack. Scotting converted the ensuring penalty stroke reducing the deficit to 3-2.

During the final fifteen minutes, the Bar strove to score an equaliser. Ireland QC, best known for his defensive game, stunned the youthful Solicitors with a sidestepping and penetrating last minute raid at the goal.



Left to right: Josh Cooper, John Ireland QC, George Giagios with his son Dominic, Bruce McManamey, Alissa Moen, David Robertson, Peter Callaghan S.C., Angus Ridley, Ian Harvey, Andrew Scotting, Anna Katzmann S.C., David Jordan, Patrick Larkin and David Pritchard.

But the Solicitors hung on to take victory 3-2 - this is the second year in a row the two teams were separated by only one point by the final whistle.

However, the Bar has vowed to take back the coveted Noonan Trophy next year.

UTS ad

Stop Press is produced monthly for the NSW Bar Association by:
Weavers,
Studio 9, 5 Parsons St.,
Balmain 2041
Tel: 02. 9555 7866
Fax: 02. 9555 7861
Email: weavers@weavers.com.au
Advertising bookings and enquiries to John Weaver.
Contributions to:
The Editor,
Public Affairs Manager,
NSW Bar Association,
LG Floor, Selborne Chambers,
174 Phillip St., Sydney 2000
DX 1204 Sydney
Email: mediainquiries@nswbar.asn.au
Fax: 02. 9221 1149
Contributions and advertising bookings and material for Stop Press must be received by the end of the month prior to publication.

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