



STOP PRESS

A monthly newsletter from the NSW Bar Association

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“Servants of all yet of none”

No. 62 June 1999

President's Column

Evan Whitton, in one of his febrile tirades against our legal system, called the rule of law a meaningless mantra much intoned by judges and lawyers which should be retired from the language. He did not suggest what might emerge to replace it. Better minds, of which there are many, see the rule of law as our main chance of surviving as a tolerably civilised community. Dicey said the rule of law embodied three notions: rule under regular law as opposed to the arbitrary wishes of people; the equal accountability of all, including government officials, before the law; and the protection by the common law of the rights and freedoms of the citizen.

What we take for granted is much under threat in other common law countries. Which brings me to the 12th Commonwealth Law Conference. Organised by the Bar Council of Malaysia and the Commonwealth Lawyers Association. The conference will be held in Kuala Lumpur from 13 to 16 September 1999. Malaysia has a government increasingly authoritarian and intolerant of public opinion and the rights of individuals. If Malaysian judges are independent of executive government they do not always act like it. So, the rule of law in Malaysia is under threat.

The conference is important, because its underlying theme is how best the rule of law in common law countries might be preserved. If you can attend the conference, please do so, because the Malaysian Bar deserves our help.

Supporters of the rule of law in Malaysia are exemplars of the independence of the bar. Take Raja Azziz Addruse, for example. He was Anwar Ibrahim's senior counsel, and one of the most distinguished lawyers of his era. He was threatened with imprisonment for contempt of court for refusing to make closing submissions in the Anwar case until a motion to



Ian Barker QC, President.

disqualify the presiding judge for bias had been heard. Another barrister on Anwar's legal team has been convicted of contempt of court for putting a submission and sentenced to three months' imprisonment (now on appeal).

Lawyers have been convicted of contempt for commenting on the prevailing concern about the independence, or otherwise, of the Malaysian judiciary. In one case, Tommy Thomas, a leading commercial lawyer and then Bar Council Secretary, was found to be in contempt and sentenced to three months imprisonment after he criticised a defamation settlement arising from such a publication.

It seems that any criticism of the judicial system or judges in Malaysia, especially by well informed sources such as lawyers, will be penalised by imprisonment or result in large defamation damages (verdicts as high as A\$4 million have been recorded).

Recently the Attorney-General of Malaysia threatened to prosecute for criminal defamation and seditious any member of the Bar Council who criticised his office for selective prosecution. The fundamental importance to a civilised society of the

rule of law and the independence of the judiciary and the bar is the real theme of the conference, and Australian barristers should, in my opinion, give a show of support to the courageous men and women of the Malaysian Bar.

For conference details, see below.

Senior Counsel

Frank Stevens, in his relentless quest for faults in our system, has circulated a commentary with such *bon mots* as “The system of appointment of so called *senior counsel* in this State has been a rort for years”.

I would not take the trouble to respond to anything in the circular, but for this. Stevens asserts that at a meeting with the ACCC, Walker S.C. and I said: *The absence of disappointed applicants does not affect competition as they are not competent enough to compete effectively with S.C.s.* Stevens was quoting from inaccurate ACCC minutes of the meeting. We said no such thing. We said nothing like it.

The Commonwealth Law Conference

The Commonwealth Law Conference, hosted by the Bar Council of Malaysia, is being held from 13-16 September at the Sunway Lagoon Resort Hotel, Petaling Jaya.

A copy of the conference brochure is available from Reception.

For further information contact Catherine Eu, secretary of the conference organising committee on ph: 0011 60 3 2911 698; fax: 0011 60 3 291 2439 or email: cateu@bar.po.my or visit the Malaysian Bar's web site at www.jaring.my/bar-mal.

Bar Council Business for April

Any member interested in a particular matter should contact either the relevant member of Council or the Executive Director for further information.

New Business

Proposals for pro bono schemes: The Executive Director advised a meeting of the Law Foundation pro bono working party on 7 April 1999 that the Bar Association opposed a proposal for a centralised pro bono scheme as it was not in the best interest of clients.

Close Encounters: Wheelahan QC to meet with the new lease holder, Brendan Lynch of Blocus Pty Ltd, and an interior designer to discuss options for the refurbishment of the dining and common rooms. A report on any recommended change to the existing arrangements will be submitted to the Bar Council for its consideration.

Professional Indemnity Insurance (PII): The Senior Vice President, McColl S.C., advised that because of recent changes to the *Legal Profession Act 1987*, the PII policy approved by the Attorney General required revision. McColl S.C., Garling S.C., Meagher S.C., Michael Ball of Allen, Allen & Hemsley and the Professional Affairs Director had prepared proposed changes to the AON, Resource Underwriting and Suncorp-Metway policies. The Executive Director was seeking to arrange with the Attorney General expeditious approval of the revised policies sought by the Bar Association.

President's Report

Law Council meeting: The President advised that during the Council's April meeting he successfully moved that the Law Council oppose the Federal Attorney-General's proposal for the creation of a federal magistracy.

'Green Slips': The President advised that The Hon. John Della Bosca, MLC, Minister of State and Assistant Treasurer, has been directed by the Premier to bring to the Cabinet changes to the motor accidents legislation which would enable the Government to reduce the cost of Green Slip premiums by \$100. The President, Senior Vice-President and Executive Director had met with the President and the Chief Executive Officer of the Law Society to discuss a possible joint submission. The

President and the President of the Law Society will meet with the Minister to discuss the role of legal practitioners in the system and to put the case for the retention of discretion for judges when awarding damages.

Executive Director's Report

On 14 April 1999 the Junior Vice-President and Executive Director met with members of the Australian Competition and Consumer Commission (ACCC), including Chairman Professor Alan Fels, regarding the appointment of Senior Counsel.

Walker S.C. provided Professor Fels with the "Morling Report", and an opinion prepared by Heydon QC and C.P. Comans on the applicability of the *Trade Practices Act 1974* to the appointment of Senior Counsel.

Walker S.C. addressed a number of ACCC queries regarding the legal status of the Senior Counsel protocol and the NSW Barristers' Rules. Walker S.C. to handle the on-going negotiations with the ACCC.

Items for Consideration

Law Council of Australia: At a meeting of the Law Council's 1999 Planning Task Force on 20 March 1999 a number of constitutional and financial changes were proposed. Bar Council has endorsed these proposed new arrangements.

However, the Executive Director, a Task Force member, flagged the possibility of amendments when the proposals were discussed at a forthcoming Task Force meeting. The final proposals will be formally put to the Law Council in June. The Bar Council approved the President exercising his vote on any amendments as he saw fit in light of the Bar Council discussion.

Protocol for Senior Counsel: A report of a review of the way silks are appointed conducted by the Hon. T. R. Morling QC, dated 22 March 1999, and a draft revised protocol for the appointment of Senior Counsel were considered. A further revision of the protocol was to be considered at the May meeting of the Bar Council.

Proposed Bar Association Budget 1999/2000: Adopted.

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Victims' rights trampled in the rush for lower premiums

On Thursday, 3 June 1999 the NSW Government introduced the *Motor Accidents Compensation Bill 1999* into the NSW Parliament. The Bar Association has made submissions to all parliamentarians (and others), as well as the architect of the Bill, NSW Special Minister of State, The Hon. Mr John Della Bosca, to express its very serious concerns regarding the legislation.

For a potential saving to motorists of \$1.90 per week, the legislation will result in the rights of some 6 million people in NSW being severely and permanently circumscribed.

The Bar Association has made a comprehensive public response in a number of documents, including the press release reprinted below. Copies of The NSW Bar Association's *Response to the Proposed New Scheme for Compensation of Motor Accident Victims Paper by the CTP Working Party* and *Motor Accident's Compensation Bill 1999: Comments by the NSW Bar Association* were published on 19 May and 9 June respectively and are available via the web site or Reception.

Media Release - 7 June 1999 - Green Slips - Injured to pay - Benefits to fall

"The NSW Bar Association supports lower Green Slip prices but not at the expense of the victims of motor vehicle accidents," said the President of the NSW Bar Association, Ian Barker QC.

"It is unacceptable that motorists and insurers should save money while injured passengers, pedestrians, children and the families of those killed or maimed take on a greater financial burden," said Barker QC.

"If the draft legislation proposed by the government becomes a reality, NSW will no longer have a comprehensive motor accident insurance scheme. Benefits will fall and the range of injuries entitled to compensation under the scheme will be dramatically reduced," he said.

He said the assumptions on which the NSW Government had based its draft legislation were fundamentally flawed.

"For example, it has been claimed that

legal fees have contributed significantly to increases in Green Slip prices where, in reality, legal fees contributed less than \$5 to increases in the 1996/97 financial year," he said.

"About 13 per cent (\$56) of the present premium is the expense incurred in administration costs and promoting and selling policies. Inflation rate projections contained in briefing papers supporting the draft legislation are equally misleading."

Barker QC said the NSW Bar Association supported lower Green Slip prices. In response to the NSW Government's recent *CTP Working Party - Consultation Paper*, the NSW Bar Association prepared a paper outlining how the \$100 reduction could be achieved without penalising the very people Green Slips were designed to assist.

"NSW should not compete with Victoria to achieve the lowest premium prices because that means losing sight of the need for reasonable compensation," said Barker QC.

"In Victoria wage earners receive limited economic compensation for 18 months before being thrown onto Social Security benefits. Access to damages for pain and suffering are extremely limited. That is not the sort of justice the people of NSW are used to or deserve."

"Some of the proposals contained in the draft legislation are commendable, for example, the promotion of early treatment and rehabilitation and the early settlement of claims. However, many aspects of the legislation are objectionable because they take away the rights of ordinary people," he said.

He said the issues of concern included:

"Assessment of compensation for pain and suffering is to be by a medical panel with no right of appeal to a court. This is unjust. The views of doctors vary and the selection of a particular panel may determine a person's rights quite arbitrarily. And what if the injured person has severe problems from more than one cause? Doctors cannot determine causation or other legal issues. There must be a proper right of review by the courts."

"The greater than 10 per cent permanent

disability threshold for pain and suffering will exclude most injured people from claiming compensation. A woman who loses both breasts is assessed at 5 per cent disability and therefore would receive nothing. A man who loses a testicle would likewise receive nothing. Burn victims receive nothing unless facial injury occurs. Loss of internal organs are not covered."

"The proposed legislation does not recognise prolonged suffering from which a reasonable recovery is made. Worse, it does not recognise any psychiatric injury in the assessment of permanent impairment. Persons with a psychotic condition may be totally disabled and unable to work but will not be compensated for pain and suffering unless their physical injuries meet the more than 10 per cent permanent disability threshold. This is manifestly unjust."

"It is unfair that all workers lose the first week of wages after injury. Further, those earning over \$1200 per week will have their claim for loss of earnings capped at \$1200 per week. Those who employ others will be unable to pay them. Those with mortgages may be unable to pay them. It is not clear how this provision will affect the dependents of those killed. The cost saving in this provision is negligible. The potential for injustice is great. All economic loss should be properly compensated."

"The restriction on the recovery of costs is acceptable in most small claims but totally unreasonable in larger claims. Most injured people rely on their solicitors to fund medical, engineering and other expert witness expenses to prepare major claims. If the solicitor is not allowed to recover these items, then this private legal aid will come to an end. Almost all such cases are handled by barristers and solicitors on a no-win, no-fee basis. The new scheme would wreck this system. The result would be that major claims would never be properly prepared, leaving victims to go up against big insurers with extensive resources and well-prepared cases. This is unjust."

"Substantial cases should not be restricted by a one sided scale which will unfairly disadvantage the injured. The

(Continued from page 3)

provision that costs can only be recovered in a court action if an injured person receives at least 20% more than on assessment is unjust.”

“In quadriplegic cases, why should injured victims be forced to sell themselves short and be left with inadequate provision for future treatment and care? Merely exceeding the assessment figure should be enough. There is no equivalent penalty for insurers that fail to offer a fair figure.”

“It is to be hoped that further consultation with the legal profession will result in a more just and acceptable Bill. The present proposal will see more than 6 million people of NSW penalised to produce a saving of less than \$2 a week for the State’s vehicle owners.”

“The real winners from the Government’s scheme will be insurance companies, not the ordinary people who voted the Government into office,” said Barker QC.

Professional Indemnity Insurance

The professional indemnity insurance policy approved by the Attorney General and necessary in order to hold a practicing certificate in 1999-2000 has been amended.

The Attorney General has approved policies prepared by:

AON Professional Services Pty Ltd. For information contact Debbie Rogers on ph: 9253 7110; Greg Frazer on ph: 9253 7695 or James Sinclair on ph: 9253 7598.

Resources Underwriting Pacific Pty Ltd. For information contact Samantha Shean at Health Group Australasia Pty Ltd on ph: 9512 3461.

Suncorp-Metway Insurance Limited. For information contact Gavin Gibson on ph: (07) 3362 1222. This policy is only available to Queensland barristers who practice in NSW.

Minimum coverage remains at \$1,000. Members who insure through brokers not listed above should ensure their policies contain the approved 1999 wording. Copies of the policies offered by AON Professional Services and Resources Underwriting Pacific are available from Reception.

Tax Exemption of interest on judgments for damages in personal injury cases

On 24 March 1999 the Assistant Treasurer, Senator The Hon. Rod Kemp announced that the Government will amend the relevant income tax laws to exempt from income tax post judgment interest received on awards for damages in personal injury compensation cases. For example, interest received under Section 95 of the *Supreme Court Act 1970* (NSW) and Section 85 of the *District Court Act 1973* (NSW).

It is expected that the amending bills will be introduced into Parliament in the Spring session which begins on 9 August 1999, if not introduced in the present session.

The Assistant Treasurer said:

The Government takes the view that persons who have suffered personal injuries, and who face a delay in receiving court awarded damages for those injuries, should not bear the burden of income tax on interest received to compensate for any delay until the matter is finally determined in the courts or is otherwise settled.

Because the Full Court decision in *Whitaker v Federal Commissioner of Taxation* [1998] ATC 4285 was the first

reported case to deal directly with the question of interest on personal injury compensation awards, these changes will apply to the 1992/93 year of income, the year of income reviewed by the court, and later years of income.

In summary, the amendments will apply to the year ended 30 June 1993 and later years of income. The sections to be amended are Section 23 of the *Income Tax Assessment Act 1936* and Division 11 - Lists of Classes of Exempt Income in the *Income Tax Assessment Act 1997*.

The amendment should be particularly relevant to plaintiffs who have been successful in resisting an appeal against a judgment obtained at first instance.

It also follows that consideration will need to be given to the correct treatment of that part of the legal costs which have been claimed as a deduction against the post judgment interest income. See *Whitaker's Case* supra per Black CJ at 4288 and Burchett J at 4304-5.

B. R. Pape,
9/Wentworth,
20 May 1999.

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At The Lectern

The Continuing Legal Education program conducted a number of successful events in recent weeks. Most notable was the forum on 20 May 1999 on the Commonwealth Attorney-General's discussion paper *Property and Family Law - Options For Change* addressed by The Hon. Justice Alastair Nicholson AO RFD, Chief Justice of the Family Court.

The Hon. Justice Peter Rose of the Family Court chaired the panel discussion.

Other panel members were the Shadow Attorney-General, Mr Robert McClelland MP; Mr Stephen Bourke, Assistant Secretary, Family Law and Legal Assistance, Federal Attorney-General's Department; and Professor Regina Graycar of the NSW Law Reform Commission.

The forum drew together members of the Bar and solicitors currently working in the Family Law jurisdiction as well as community workers and staff from Community Justice Centres.

The Regional Conference in Byron Bay

had to be postponed until 31 July to 1 August 1999. Regional conferences are designed to provide opportunities for members in regional areas to participate in CLE activities that are targeted to their needs and interests. However, an encouraging number of Sydney members expressed interest in attending the Byron Bay conference.

Other scheduled events included the 7 June 1999 presentation by The Hon. Justice K.R. Handley on *Res Judicata* and 9 June 1999 Breakfast Seminar where Jackson QC commented on significant High Court decisions. Both events were well attended.

The next Breakfast Seminar will be addressed by the South African High Commissioner, Dr Bhadra Ranchod. Dr Ranchod will address members of the Bar Association and the Australian Institute of Judicial Administration on the report of the Truth and Reconciliation Commission. The seminar will be held on Wednesday, 27 October 1999 from 7am in the Bar Association Dining Room.

Walkabout

The President attended the Ceremonial Sitting in the Banco Court on 17 May 1999 to mark the 175th Anniversary of the Supreme Court. The same evening, the President attended a formal dinner to mark the occasion at Cockle Bay Wharf.

The Senior Vice-President attended the official opening of National Law Week on 17 May 1999. The opening was marked by a breakfast in the Supreme Court Building addressed by Judge H.G. Murrell S.C., Senior Drug Court Judge of the Drug Court of NSW.

On 20 May 1999 the President hosted drinks for the guest speakers who took part in the Family Law Forum held earlier in the evening in the Common Room. The Hon. Justice Alastair Nicholson AO RFD, Chief Justice of the Family Court of Australia, was the main speaker at the forum. Due to his schedule Justice Nicholson could not stay after the conclusion of the forum. Panel members who did meet with the President and Bar Council were Stephen Bourke of the Attorney-General's Department, the Shadow Federal Attorney-General, Robert McClelland MP and Professor Regina Graycar of NSW Law Reform Commission.

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Coming Up

15 Bobber

25 June 1999 - **The Hon. Mr Justice Michael Walton**

Speaker: The Hon Jeff Shaw QC MLC

The Hon. Justice Paddy Bergin

Speaker: Barker QC

16 July 1999 - **The Hon. Justice Leslie Katz**

Speaker: Jackson QC

The Hon. Justice Virginia Bell

Speaker: Mark Lynch

13 August 1999 - **His Hon Judge Gregory Hosking S.C.**

Speaker: Cowdery QC

The Hon Justice Roger Gyles

Speaker: Whealy QC

Bench & Bar Dinner

17 September - Bench & Bar Dinner, 7:00pm for 7:30pm, ANA Hotel.

Enquiries regarding 15 Bobbers or the Bench & Bar dinner should be directed to Sharron Smyth ph: 9229 1739 or email ssmyth@nswbar.asn.au.

New Zealand Bar Association

The New Zealand Bar Association's weekend Winter Conference will be held in Queenstown, 31 July - 1 August 1999.

A discounted rate is available to conference delegates wishing to stay additional nights before or after the weekend. Topics include judicial control of the Bar and the impact of technology on running a practice. For further information contact the New Zealand Bar Association's Administrator, Gené Tibbs, on ph: 0011 64 9 524 7202; fax: 0011 64 9 524 7204 or write to PO Box 28414, Remuera, Auckland.

AIJA Annual Conference

The Australian Institute of Judicial Administration's 17th Annual Conference, 6-8 August 1999, Adelaide Convention Centre. For more information contact Kathy Jarrett or Christine Crawford at the AIJA Secretariat on ph: 03 9347 6600; fax 03 9347 2980; email: k.jarrett@law.unimelb.edu.au or visit the AIJA web site at: www.aija.org.au.

The St James Ethics Centre

The Right Honourable Sir Ninian Stephen will deliver this year's Lawyer's Lecture on 24 August 1999 in the Banco Court of the Supreme Court of NSW on 31 August 1999 at 6pm. Admission is free but a donation of \$20 for SJEC members and \$30 for non-members would be appreciated.

For an invitation contact Maggie Townsend on ph: 9299 9566; fax: 9299 9477 or email: margaret@ethics.org.au.

Seminar on the Motor Accidents Legislation Compensation Bill 1999

6 July 1999, 10am-5pm, Wentworth Hotel, Phillip Street, Sydney. Speakers include The Hon. John Della Bosca, Shelley Miller QC and MAA general manager David Bowen. Contact the Australian Insurance Law Association on ph: 9975 7198; fax: 9975 2998 or email: AILANSW@bigpond.com.

Media Briefing

Press releases issued by the Law Council of Australia:

New Commonwealth DPP Appointment Welcomed, 9 June 1999.

Salvation Army Report Proves Legal Aid Cuts Are a Real Social Problem, 2 June 1999.

Belgrade Court Trial Process "Highly Unjust", 31 May 1999.

Closed Court for CARE Workers "Appalling Travesty of Justice": Law Council, 27 May 1999.

Parliamentary Inquiry into Federal Government's Refugee Determination Practices Welcomed, 13 May 1999.

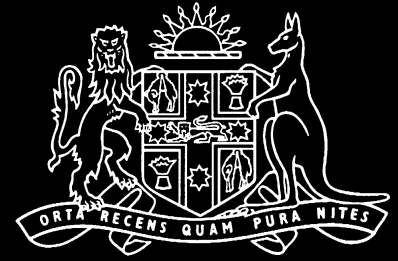
Federal Magistrates Service Funding, 13 May 1999.

Visit the Law Council of Australia's web site at www.lawcouncil.asn.au for a full list of its press releases.

Press releases issued by the NSW Bar Association:

Green Slips - Injured to Pay, Benefits to Fall, 7 June 1999.

Copies of other Bar Association response documents to the proposed new motor accidents compensation scheme are available from Reception or the web site.



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LBC Information Services

Survey to stop delays in the District Court

The District Court of NSW is preparing a survey to be circulated later this year amongst judges and defence counsel in an effort to curb delays in the management of the criminal business of the court. In a letter to the President of 17 May 1999, the Chief Judge of the District Court of NSW, The Hon. Justice R. O. Blanch, said that according to a 1998 survey almost 60 % of cases listed for trial do not proceed to trial. "You will appreciate this caused a significant problem for the listing authorities who are faced with the responsibility of

ensuring courts and judges are fully occupied," Justice Blanch advised. "In order to do that the listing authorities must over-list . . . when that happens there are inevitably weeks when cases are not reached and other weeks when the courts are not fully occupied," he wrote. The survey, to be circulated in August or September, will be designed to uncover the reason why matters listed for trial do not proceed on the day and why there are pleas of guilty before a trial is heard. A copy of the survey will be distributed to members as soon as it becomes available.

Papers to Note

The revised protocol for the appointment of Senior Counsel was approved by Bar Council at its meeting of 20 May 1999. Copies are available from Reception or from www.nswbar.asn.au/news/scprot.htm

Speeches

175th Anniversary of the Supreme Court of NSW Ceremonial Sitting. Speakers (listed in order of appearance) were: The Hon. R J Carr, Premier of NSW; The Hon. E.G. Whitlam AC QC; The Hon. J.W. Howard, Prime Minister and The Hon. J.J. Spigelman, Chief Justice of NSW.

175th Anniversary of the Supreme Court Formal Dinner, The Hon. A M Gleeson, Chief Justice of Australia.

Copies available from the Supreme Court of NSW web site at: www.agd.nsw.gov.au/sc/sc.nsf/pages/index

University of Sydney Graduation Ceremony - address given by The Hon. A M Gleeson AC, Chief Justice of Australia, 7 May 1999. Visit the High Court web site at: www.highcourt.gov.au/speeches/cj/sp7may99.htm

The Drug Problem in South West Sydney - What to Do? - delivered by Cowdery QC on 19 May 1999 at an Open Forum hosted by the Liverpool Fairfield District Law Society.

Copies available from the Bar Library.

Property and Family Law - Options for Change, 20 May 1999, speeches by

the Hon. Alastair Nicholson AO RFD, Chief Justice of the Family Court; Mr Robert McClelland MP, Shadow Attorney-General; Mr Stephen Bourke, Assistant Secretary, Family Law and Legal Assistance, Federal Attorney-General's Department; and Professor Regina Graycar, NSW Law Reform Commission. The speeches of Nicholson CJ, and Professor Graycar are available on the Family Court's web site at: www.familycourt.gov.au/papers/

Industrial Relations Commission of NSW - Practice Direction No 4

Telephone Conciliation Conferences before the Commission: The purpose of this Practice Direction is to allow the parties the opportunity to seek certain conferences conducted by way of telephone where appropriate circumstances are shown to exist.

Copies are available from the Bar Library.

Staff Moves

The Bar Association congratulates Stacey Hatch on her appointment to the position of membership officer. Prior to her new appointment, Stacey was the Education Department Secretary.

Stacey replaces Marie Johns who leaves the Bar Association to join Peter Taylor S.C. as PA. The Bar Association wishes Marie well in her new position.

CLASSIFIEDS

Australians for a Constitutional Monarchy - Help Wanted

Sir Harry Gibbs, commenting upon the Constitutional Convention, said that some delegates were "less concerned to achieve excellence in the proposed constitutional model than to have a republic at any price." On the other hand, Sir Anthony Mason has described the mutual dismissability of the President and the Prime Minister involved in the proposed model as a "who will shoot first?" scenario.

If you would like to keep Australia's constitution as a safeguard against the excesses of government or if you do not like the ARM model your time, help and money is needed. There are ample opportunities between now and November to get involved to safeguard Australia's constitutional integrity. If you would like to help, please contact me on ph: 9223 1522 or DX 410 Sydney.

Jeffrey Phillips,

State Chambers,

25 May 1999.

Fax Broadcasts

To facilitate the distribution of circulars and notices published by the NSW Bar Association, the fax numbers of each chambers is programmed into a fax broadcast list. Any chambers not receiving faxes should contact:

Administrative Support
Manager, Lynne Colley

Ph: 9229 1713

Fax: 9221 1149

Email: lcolley@nswbar.asn.au

The membership officer Stacey Hatch should be advised of any new or changed contact details for individual chambers.

Stacey can be contacted on:

Ph: 9229 1740

Fax: 9221 1149

Email shatch@nswbar.asn.au

Payment Refunds

We have had a number of problems recently where members have sought a refund for payments made to attend events including 15 Bobbers, CLE events and dinners.

Reimbursing these payments is a time consuming, expensive business. Accordingly, the following policy has been devised:

15 Bobbers, Golf days, CLE breakfasts etc

Due to the need to make prior arrangements with the caterer, and the cost of processing refunds, it is not possible to refund the payment for attending these types of functions should a member be unable to attend.

Bar Briefs

The Attorney General has appointed Greenwood S.C. to the Legal Profession Advisory Council effective 24 May 1999 until 14 September 2000.

Michael Lawler (12/Selborne) has been appointed by the President to represent the Bar Association on the District Court's Technology in the Courtroom project team.

Ross Letherbarrow (State Chambers) has been appointed the Bar Association representative on the District Court Rules Committee. Hugh Marshall (State Chambers) to be the alternate member.

Peter Maiden (Windeyer Chambers) has been appointed by the Bar Council to represent the Bar Association on the NSW Council of Professions.

The Women Lawyers Association of NSW is seeking comment on the *NSW Courts' Gender Initiatives Review Discussion Paper* of 1 June 1999. Copies of the paper are available from Reception. Comments should be addressed to EEO Committee Chair, Chris Ronalds and forwarded to the NSW Bar Association by 30 June 1999.

Mea Culpa

In the May edition of *Stop Press* the names of those who assisted with the 1/99 Bar Practice Course were listed. Unfortunately, printing gremlins caused errors in some names and titles. We apologise for those concerned.

Social events with a ticket price in excess of \$25

Catering arrangements for formal social functions need to be made well in advance. Refunds will only be available to members who cancel a booking 7 full days before the function. Members unable to attend are welcome to pass their ticket to another member. In such instances the Bar Association should be informed so that the attendance list can be amended.

Ian Harrison S.C.,

Treasurer,

7 June 1999.

Appointments

District Court

His Honour Judge Cooper has been appointed Acting Chief Judge of the District Court of NSW effective 28 June 1999 to 8 October 1999.

Queensland Bar Association

At the Annual General Meeting of the Queensland Bar Association on 26 May 1999 the following office bearers were elected to the Bar Committee for 1999-2000:

Douglas QC (President); Glynn S.C. (Vice-President); Clifford QC; A. Daubney (Hon. Treasurer); R. Devlin; M. Drew (Country Member); Fleming QC; P. Hack; G. Houston (Country Member); Lyons QC; Martin S.C.; D. Meredith (Special Member); Mullins S.C.; D. Murphy; North S.C. (Hon. Secretary); M. Sayers (Under Three Years) and A. Wilson.

Letters

Letter to Stop Press

It is sad to note that standards of courtesy at the Bar have fallen to such a level that seated counsel at ceremonial functions are prepared to see senior counsel standing fully robed throughout the proceedings. Plainly counsel who turn up early do not wish to yield their chosen positions to late-arriving silks, having guessed wrongly at how much room ought be left. Whether that disappointment justifies another tear in the fabric of the Bar is another question.

If it is beyond the wit of those organising these functions to address this circumstance, those of us who wish neither to make a public scene nor to acquiesce in some lower standard will have no alternative but to forego this important communal activity.

Burbidge QC,

State Chambers,

20 May 1999.

Edited extract of a letter to Stop Press

Thank you for the donation of the robes and wig. Please pass on my sincere thanks to Justice Bergin and Ms Fullerton, their generosity is appreciated. Their robes will be put to good and frequent use here. Thank you for including a request for books in your newsletter [see page 10]. Your continuing support is greatly appreciated.

Ms Aruna Prasad,

Director, Legal Aid Commission of Fiji,

May 1999.

Legal Assistance Scheme

An unrepresented litigant was referred to Tony McQuillen (3/Selborne) by the NSW Bar Association's Legal Assistance Scheme over civil contempt proceedings.

McQuillen was successful in the High Court (3-2) in overturning a decision of the NSW Court of Appeal in relation to the civil contempt proceedings. The hearing in the High Court took place in August 1998 with the decision handed down in April 1999.

The applicant had been sentenced to six months imprisonment with bail refused. A bail application in the High Court was successful. The High Court found that the applicant was not guilty of contempt for breaching an order of the District Court freezing the client's assets, as the Court did not have the power to make the order.

Supreme Court 175th Anniversary

The Supreme Court of NSW celebrated its 175th Anniversary with a series of events that included a ceremonial sitting of the Court on 17 May 1999. The sitting was addressed by former Prime Minister Gough Whitlam AC QC, representing the Bar, and Prime Minister John Howard, representing the solicitors of NSW. The Chief Justice and Premier, The Hon. R. J. Carr, also addressed the sitting.

Other events included a formal dinner which was addressed by The Hon. A M Gleeson AC, Chief Justice of Australia; the re-enactment of the famous trial contesting the 1943 Archibald Prize awarded to William Dobell; and a photographic exhibition reflecting the history of the Court.



Pictured at the ceremonial sitting: Three Chief Justices of NSW - The Hon. Sir Laurence Street AC KCMG, The Hon. J.J. Spigelman, Chief Justice of NSW and The Hon. A M Gleeson AC, Chief Justice of Australia.



The Hon. E. G. Whitlam AC QC and the Chief Justice of NSW.

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Short Takes

Bar Library closure

The Library will be closed between 5 July and 16 July 1999 while the air conditioning plants are fixed. The work is necessary to comply with Occupational Health and Safety Regulations and so cannot wait until the end of the year.

The work has been scheduled to take place over a school holiday period when there are no scheduled District Court sitting days. During the closure period a "virtual library" will be established in the conference rooms of the Bar Association. Members will be able to telephone and e-mail staff using the existing contact details. Staff will be able to provide services available via computer.

To contact the Bar Library
ph: 9233 4025; fax: 9221 1149
or email: library@nswbar.asn.au. The District Court Calendar can be perused via: http://www.lawlink.nsw.gov.au/dc.nsf/pages/calendar99_1.

Golden Photos

Photographs from the 50th Anniversary Dinner honouring Porter QC, McAlary QC and Hughes AO QC are now available for inspection and purchase at the NSW Bar Association Reception.

Spastic Centre Legal Chapter

The Spastic Centre has established a Legal Chapter in recognition of the continuing support it has received from the profession. Members interested in joining should contact Carol Pincham of the Spastic Centre on ph: 9451 9022; Levy S.C. (4/Selborne) ph: 9231 4988 or J. Dupree (2/Wentworth) on ph: 9223 7171.

Donations

The Bar Association has had two requests recently for donations of legal texts. The Legal Aid Commission of Fiji is requesting legal texts, particularly in the areas of criminal law, family law and civil law. The Director said: "old textbooks are better than no books".

The second request is from Justice J

Lyons of the Supreme Court of the Bahamas sitting at Freeport. The judge said that the law was UK based, but largely pre-1965. Hence any old texts are of significant value as a research tool. He is looking for the following materials in particular:

All England Reports

Queens Bench Reports

Appeal Cases

Chancery Division

Criminal Appeal Reports (UK)

Australian Criminal Reports

Commonwealth Law Reports

Halsburys Laws (4th edition)

English and Empire Digest

Annotated English Statutes (early edition)

The judge also has a limited budget to purchase materials.

Members with items to donate or sell can obtain contact details from the Bar Library on ph: 9229 1715; fax: 9231 1904 or email: library@nswbar.asn.au.



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THE AUSTRALIAN ADVOCACY INSTITUTE

is to conduct a

5 Day Intensive Advocacy Skills Workshop in Brisbane from 7-11 July 1999.

A National team of instructors, led by Institute Chairman, Justice George Hampel of the Victorian Supreme Court, has been assembled to offer a comprehensive and intensive workshop to help improve your skills.

Over a 5 Day period you will immerse yourself in a number of case files and prepare and present various components of the trial process in small working groups. Through the Institute's **Learning by doing method** you will develop your skills in a supportive learning environment in the following aspects of litigation: legal argument, addresses, examination and cross examination of lay and expert witnesses, handling evidence, case analysis and communication skills. In addition, lectures and demonstrations by the teaching faculty will highlight the various aspects of the trial process.

Please contact the Executive Officer, Rosanna N. Stephenson, for a registration form and information on the 1999 Advocacy Skills Workshop Program on **(03) 9642 0222** or by fax on **(03) 9642 0444**.

**The NSW Bar Association
Continuing Legal Education Program**

***Regional Conference
Byron Bay***

— NEW DATES —

***Date* Weekend of 31 July and
1 August 1999**

***Venue* Lord Byron Resort, Byron Bay**

***Cost* \$130**

*(Includes all meals except the conference dinner which is
à la carte. Airfares and accommodation not included).*

The conference program focuses on the Evidence Act and
on working with expert witnesses.

The Evidence Act

presented by

Stephen Odgers

Advocacy Workshop - Working with Expert Witnesses

Members and their partners are invited to participate in the
conference dinner on Saturday night.

To obtain an information package or further details please
contact;

Roger Owens at The NSW Bar Association

Ph. (02) 9232 4055 or Fax (02) 9221 1149

DX 1204

Email rowens@nswbar.asn.au

— VALE — The Hon. John S Ferrari

It is with sadness that the NSW Bar Association notes the passing of the Hon.
John Ferrari who died on Sunday, 23 May 1999 aged 86. Judge Ferrari was for
many years a member of the bench of the Workers Compensation Commission.

He was also one of the last remaining members of the famous 1936 University of
Sydney Law School graduates who included Sir John Kerr, The Hon Rae Else-
Mitchell, The Hon Ken Gee QC, The Hon Chris Langworth QC, The Hon John
Nagle and former NSW Attorney-General Clarrie Martin.

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1999-2000 Bar Charity

The Motor Neurone Disease Association of NSW has been chosen to be the Bar Charity for the financial year 1999/2000. Motor Neurone Disease (MND) is the name given to a group of related diseases affecting the motor neurones in the brain and spinal cord. MND travels through the body attacking the nerves responsible for muscle control. It leaves sufferers unable to walk, talk or feed themselves - yet it leaves intellect intact. Life expectancy is 2 to 5 years after diagnosis. The cause is unknown and there is no known cure. Established in 1981, the MND Association aims to provide support to the people living with MND, as well as to their families and carers. The Association also supports the MND Research Institute of Australia which is dedicated to finding what causes the disease as well as to developing treatments for those suffering from it. The MND Association offers a wide range of services to people affected by MND, including the provision of equipment at no charge. The MND Association has an urgent need for:

- 40 lightweight wheelchairs which cost \$1000 each, and
- 5 Delta electric hoists, to assist in the care of persons who are in the advanced stages of the disease and totally unable to move independently, at a cost of \$2,215.00 each.

The target for donations from the Bar Association is therefore \$51,075.00 in the next 12 months. I think it is a worthwhile and achievable goal. Members or chambers might consider sponsoring the purchase of a chair or hoist.

A cover slip for cheques appears below to assist members who may wish to contribute to this worthy cause. If you use the cover slip it will enable us to keep track of Bar Association donations.

Barker QC,

5 June 1999.



Motor Neurone Disease Association of NSW Inc
Concord Hospital
Hospital Road
Concord NSW 2139

Please find attached a donation for the MND Association.
I am a member of the NSW Bar Association.

Please send a receipt to:

Name:

Address:

.....

I would like to know more about MND — please send information with the receipt.

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