



STOP PRESS

A monthly newsletter from the NSW Bar Association

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“Servants of all yet of none”

No. 67 October 1999

President's Column

There is to be a forum organised by Jeremy Gormly in the Bar Association common room on 28 October at 5.30pm, about the 6 November referendum. The three speakers are Ellicott QC, Jackson QC and Walker S.C., with McColl S.C. in the chair. The forum is designed not to push a view, but to discuss the issues in an informed way.

Debate about Australia's constitutional destiny as a republic started long ago. In the last century, as now, the monarchy was not regarded with undiluted respect (except at an official level). On 21 April 1897 at the Australasian Federal Convention in Adelaide it was moved 'That an Address from this Convention to Her Most Gracious Majesty Queen Victoria, congratulating her on the completion of the sixtieth year of her reign, be prepared for presentation to Her Majesty'.

However, ten years earlier, John Norton offered a contribution in *Truth* saying, amongst other things:

In these degenerate days of political apostasy and slavish sycophancy, it is the chief pastime of the 'very nicest of the nastily nice and nicely nasty' people to glory in the fact that they and their countrymen were ruled 60 years ago by a silly, snivelling girl of 16, and today by a semi-senile old woman of over 70.

We should however say 'God Save the Queen', he said,

if only to keep her rascal of a turf-swindling, card-sharpping, wife-debauching, boozing, rowdy of a son, Albert Edward, Prince of Wales, off the throne.¹

These were some of Norton's politer observations about the monarchy. He was charged with sedition, but the Crown eventually gave up. A year later, writing in *The Republican*, Henry Lawson said:

When the school children of Australia



Ian Barker QC, President.

are told more truths about their own country, and fewer lies about the virtue of Royalty, the day will be near when we can place our own national flag in one of the proudest places amongst the ensigns of the world.²

The 1897 debates were long and sometimes tedious. A long time was devoted to the High Court and the appointment, payment and removal of judges. The lawyers were not loved as they now are:

Mr Carruthers (NSW): I do not wish to be compelled to tell my constituents that we are binding the Federal Parliament to a lavish expenditure on what the people do not well tolerate. The people do not care about a large expenditure on law and lawyers.

Sir John Downer (SA): ... This is a court by analogy similar to the American court, which is to take care that the Constitution is protected. It is no paltry question of lawyers and lawyers' fees.

Mr Wise (NSW): The lawyers are giving up more money than anyone else in coming to this convention.

Sir William Zeal (Vic): They are taking up more time, too.³

The Deity had an easier run into the Howard draft preamble than into the

preamble to the Constitution Act of 1900. The words 'Humbly relying on the blessing of Almighty God' were not in the draft Bill approved by the Adelaide Convention. Mr Glynn (SA) made an impassioned plea for the insertion of 'invoking Divine Providence', saying, amongst other things:

The foundations of our national edifice are being laid in times of peace; the invisible hand of Providence is in the tracing of our plans. Should we not, at the very inception of our great work, give some outward recognition of the Divine guidance that we feel?⁴

Mr Barton thought not, saying (amongst other things):

It is surely not according to the religious convictions of anyone that we should attribute feelings to others as to which we are in perfect ignorance? How can it then be either logically, or truly, or fairly said that the electors of Australia have invoked the Divine guidance? We put these words into the mouth of the Imperial Parliament - we, the Convention, who have had no instructions upon this point, except that there have been certain petitions presented, are inviting the Imperial Parliament to declare that persons 12,000 miles away had invoked the Divine guidance. Can we honestly and truthfully assure the Imperial Parliament of that?⁵

But the churches won. A typical petition came from 1500 members of the Women's Christian Temperance Union of NSW praying that there be an acknowledgment of God in the Federal Constitution⁶. The preamble was amended in Sydney, as Quick and Garran observe:

at the suggestion of most of the Colonial Legislative Chambers, and in response to numerous and largely signed petitions received from the people of every colony represented in the Federal Conventions. ... Finally the

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Bar Council Business for August

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

Members should note that due to the volume of business, Bar Council met on 19 August and 26 August. The minutes below are extracted from those meetings.

President's Report

Heads of chambers meeting: Issues discussed during the meeting of 10 August 1999 included:

- concern that the interpretation of the *Jury Act 1977* by some judges had the effect of removing the right of peremptory challenge in relation to civil juries. [Members should note that this matter was remedied by legislation effective 1 September 1999. It provides for challenges to one half of the number of jurors.];
- renewal of practising certificates;
- professional indemnity insurance [the Executive Director is preparing a report on the subject for Bar Council];
- GST and barristers' fees;
- New Readers' procedures.

Federal Court: The Bar Association to offer to assist with the establishment of a Federal Court Users' Group.

Proposed changes to the NSW

Barristers' Rules: The Executive Director to arrange for an 'exposure draft' of new and amended Barristers' Rules prepared by Walker S.C. and J Gleeson to be circulated to members and other appropriate parties for comment. Walker S.C. to prepare a further revision for Bar Council taking into account the comments received.

[The exposure draft and the current Barristers' Rules are available from Reception and the Bar Association web site.]

Australian Law Reform Commission -

Adversarial reference: The Executive Director to assist Dr Kathryn Cronin, the ALRC Commissioner responsible for the Adversarial reference, in arranging meetings with members of the Bar Association to discuss matters raised in ALRC Discussion Paper 62.

[The ALRC Discussion Paper 62, Review of the federal civil justice system, is available in the Bar Library and from the ALRC's web site at www.alrc.gov.au/].

District Court Rules: Earlier this year Bar Association's District Court Rules Committee representative, Levy S.C.

drafted a proposed amendment to the District Court rules to enable preliminary and non party discovery of medical records. Bar Council resolved to recommend to the Court that the rules be amended to enable a limited form of pre-action discovery of non-public hospital and non-party medical records. The Chief Justice and Chief Judge to be asked to have the proposal apply to all cases where medical issues are involved in the Supreme and District Courts.

Associate membership fees: Bar Council approved university staff teaching law orientated subjects who, although on the roll of legal practitioners, do not hold a NSW barrister's practising certificate, being eligible for membership of the Bar Association as Associate Members.

Law Council – Section membership: The Executive Director advised that the ACCC had informally indicated to the Law Council of Australia (LCA) that a recent decision to require all members of Law Council Sections to belong to a constituent body breached s47(6) of the *Trade Practices Act 1974* if implemented without following the notification procedures.

The President of the LCA had asked constituent bodies if they wished to change the decision made at the Adelaide Council meeting of 6 August 1999 that there not be notification to the ACCC. In response, Bar Council resolved that the Bar Association maintain its view that notification was inappropriate.

Items for Consideration

ADR Panels – recommendations: In response to a letter from the Chair of the ADR & Arbitration Committee, Bar Council resolved that the nominations for panels should go forward, noting that nominations are presented to Council after careful consideration by a selection committee using selection criteria approved by Council.

It was further resolved that the ADR and Arbitration Committee review the current selection procedure and selection criteria and that revised procedures and criteria be considered by Bar Council. The revised procedures should allow Bar Council an opportunity to refer back to the Committee nominations about which it has queries. Provision should be made for applicants to include in their application any current or past complaints in which there has been some adverse finding, and to give their consent for the Council and

Committee to make relevant inquiries as appropriate.

The fact that an applicant was a Senior Counsel should not of itself be a factor in determining suitability for nomination.

Qualified Associate Members should be eligible for nomination. Readers should also be eligible if they met the selection criteria.

The revised selection procedures and criteria should be available for the consideration of Bar Council no later than February 2000.

Opinion of Palmer QC, 'New South Wales Bar Council – seniority and standing': Bar Council noted the Executive Director's advice that problems with the Articles identified by Palmer QC are being addressed in the drafting of a new constitution.

Council resolved to accept Palmer QC's advice as follows:

- Article 52 of the Bar Association's constitution [Articles] requires that the voting paper show all dates upon which an Outer Barrister was admitted to the Bar and requires further that, in order to avoid confusion, the dates of cessation of practice at the Bar also be shown; and
- On the true construction of the Bar Association's constitution, 'standing' of a candidate for election to the Bar Council must be reckoned for the purposes of Articles 46 and 57 as the time elapsed since his or her most recent date of admission to the Bar.

Note: The Bar Council regularly considers requests by the Attorney General of NSW, courts and other agencies for advice on proposed legislation. The Bar Council usually receives a report on these proposals from the relevant Bar Association committee. Because the advice is sought on a confidential basis, it is not noted in these summaries of the Bar Council business. However, copies of the written advice are made available to the committees, and distributed to other interested parties.

Similarly, because of the confidentiality provisions in the *Legal Profession Act 1987* (s.171P), the Bar Council's deliberations on professional conduct matters cannot be noted in these summaries.

Matters discussed by the Bar Council reported elsewhere in *Stop Press*, too, are omitted from these summaries.

President's Column

continued from page 1

words were inserted in the preamble without a division, but not without protest from several members of the Convention.⁷

As Les Murray, John Howard and Kim Beazley are all theists, so God found his or her way into the present draft without much argument. I do not know whether they considered the views of the man who became our first Prime Minister.

Hands up those who approve of the views of the 96 people of Tasmania (including women) who, on 15 April 1897, presented a petition to the Convention opposing the vote for women, saying, amongst other things:

- (1) That as Tasmanian inhabitants as a whole are represented at the Federal Convention solely by men, in this both sexes heartily concur; and that as the majority of the Tasmanian women do not desire political responsibility to be thrust upon them, we consider it unadvisable that Federated Australia should force adult suffrage upon this colony...
- (2) That as the interests of the female portion of the inhabitants of Tasmania are guarded both by men in our local

Houses of Parliament and at the Federal Convention, we are of the opinion that they are and can be equally well represented by relations and male friends at the ballot box...⁸

On reflection, it might be wise to keep your hands down.

On 14 July 1900 *The Bulletin* published the cartoon reproduced here in *Stop Press*. The question now is, is the child sufficiently mature to look after itself? Speaking personally, I think so.

Workers Compensation

We know the Government is planning drastic changes to the system because it is under pressure from insurers. As in the area of motor vehicle accident victims, there will be a reduction in rights and benefits fraudulently dressed up as *reforms*. Be warned.

¹Cited in C.Pearl, *Wild Men of Sydney*, Melbourne, 1965 reprint, pp.117-118.

²Cited in C.Roderick, Henry Lawson: *Autobiographical and other writings 1887 - 1922: Collected Prose*, v.2, p. 8, Sydney, 1972.

³*Official Record of the Debates of the Australasian Federal Convention, Adelaide, 1897*, p.937-938.

[The records of the Federal conventions of the

1890s are also available on the web: www.aph.gov.au/senate/pubs/records.htm]

⁴*Official Record*, p.1185.

⁵*Official Record*, p.1186-1187.

⁶*Official Record*, p.261

⁷J.Quick & R.Garran, *The Annotated Constitution of the Australian Commonwealth*, Sydney, 1901, p.287.

⁸*Official Record*, p.637



ARRIVAL OF THE NEW BABY
Nurse Barton: "He aint much to look at now. But wait till he grows."
The Bulletin, 14 July 1900.

Media Briefing

Press releases issued by the Law Council of Australia:

Family Law Amendment Bill 1999: Law Council supports binding financial agreements, but not as currently proposed, 23 September 1999.

Passing of Human Rights Bill welcomed, 23 September 1999.

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

East Timor Genocide Documentation Project

Cowdery QC has been appointed chair of the National Coordinating Committee of the East Timor Genocide Documentation Project initiated by the International Commission of Jurists (ICJ).

The project will see a body of volunteer lawyers interview witnesses about human rights violations in East Timor. Briefs will be presented to any international criminal

tribunal or other body that may be established to investigate and prosecute such offences.

While the Project will focus on the events of this year, it could include incidents dating back to 1975.

A training workshop for volunteer barristers was held in the Common Room on 7 October 1999.

Any member with a query about the Project should contact J Dupree of 2/Wentworth on ph: 9223 7171; fax: 9221 3456 or DX 400 Sydney.

The use of medical reports in Common Law cases

The following article on Rule 21 of the NSW Barristers' Rules, which first appeared in *1995 Bar News*, has been reprinted below following a number of queries from members:

'A barrister must not knowingly make a misleading statement to a court on any matter.'

The tender of a medical report in common law proceedings where counsel making the tender is aware that in a subsequent report the doctor has changed his opinion constitutes making a misleading statement to a court.

If a situation arises where counsel has tendered the report of a medical practitioner and then, subsequent to that tender, becomes aware from a later report that the medical practitioner has changed his or her views counsel should, in order to comply with rule 21, either tender the later report or, alternatively, withdraw the tender of the first report.

If, before the tender of any reports he or she is aware of a change of opinion by a medical practitioner he should tender all or none of the reports.

There is, of course, no ethical obligation on counsel to adduce evidence unfavourable to a client's case. That is not the situation here. Where a personal injuries case is to be decided on reports, the tender of a report in the circumstances outlined above constitutes an assertion by counsel making the tender that the report contains the current opinion of that doctor when he or she knows that is not the case.

1999-2000 Bar Charity

Members are reminded that the Motor Neurone Disease Association of NSW is 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 two to five years after diagnosis. The cause is unknown and there is no known cure.

The MND Association provides support to the people living with MND, as well as to their families and carers. The Association also supports the research work being carried out by the MND Research Institute of Australia.

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 each.

The target for donations from the Bar Association is therefore \$51,075.00 in the next 12 months. Members or chambers interested in sponsoring the purchase of a chair or hoist or individual members wishing to make a donation should send a cheque with the cover slip below. Using the cover slip will enable the Bar Association to keep track of the amount of donations made by members.

Short Takes

Law Council of Australia's Executive announced: The nominations for the positions of President-elect, Treasurer and the two Executive Member positions that follow will be declared at the Law Council of Australia's meeting on 9 October 1999. President-elect Anne Trimmer; Treasurer Tony Abbott and Executive Members Ron Heinrich and Bob Gotterson QC. The Council's standing orders state that 'when there is one candidate for a position that candidate will be declared elected'.

Parental Leave and waiver of Practising Certificate fee: A recent inquiry by the Equal Employment Opportunity Committee has shown some members are not aware that members who are leaving the Bar for parental reasons are not required to hold a practising certificate (PC) for the period for which they will be absent from the Bar. An application for a fee waiver due to parental reasons should be addressed to the Executive Director.

Australian Bar Association conference: Members planning to attend the ABA conference in New York from 2-5 July 2000 but who have not received a registration/information form should contact Reception and a form will be posted to you. Pre registrations close 14 April 2000 but early registration is advised to avoid disappointment as attendance is limited.

UTS Faculty of Law: The NSW Bar Association Prize for Public International Law for 1998 was awarded to Joanne Lau. Mariann Lloyd-Smith has been awarded the NSW Bar Association Prize for Dispute Resolution.

Law Foundation Justice Awards: At a ceremony on 27 September, the Law Foundation presented the Justice Essay

Award to Julia Grix, a student at the University of NSW; the Justice Medal to Elaine Evans, formerly of the Women's Legal Resource Centre; and the Justice Fellowship to Lyndsay Brooker of Legal Aid.

Regional membership of the NSW Bar Association

Parramatta	49
Lismore	22
Wollongong	25
Newcastle	49
Orange	9
Total of	154

Members should note that S. Austin is the new Newcastle Bar Council contact officer. He can be reached on ph: 02 4926 2844 or fax: 02 4926 2841.

Family Law Regulation 60 – qualifications for family and child mediators

The Commonwealth Attorney-General, the Hon Daryl Williams AM QC MP is considering the regulation of primary dispute resolution under the *Family Law Act 1975*, including an examination of the recommendations of the National Alternative Dispute Resolution Advisory Committee (NADRAC) on the existing Family Law Regulations.

While this review is going on, the 'grandfathering' provision in Regulation 60(3) has been extended to 31 August 2001. An amending Regulation commenced on 1 September 1999.

For further information contact Virginia Buring, Principal Legal Officer, Policy Development and Coordination Unit, Commonwealth Attorney-General's Department on ph: 02 6250 6436; fax: 02 6250 5924 and email: virginia.buring@ag.gov.au.

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.

Appointments

Chief Magistrate

Magistrate Patricia Staunton AM has been appointed Chief Magistrate of NSW effective 11 October 1999.

Magistrates

Michael Mahoney and Maxwell Taylor have been appointed as Magistrates and as Mining Wardens effective 18 October 1999.

Crown Prosecutors

John Bowers has been appointed Crown Prosecutor effective 7 October 1999.

Acting Crown Prosecutors

Sara Bowers and Elizabeth Wilkins have been appointed Acting Crown Prosecutors effective 7 October 1999 to 6 October 2000.

ACT Bar Association

The following office bearers were elected at the Annual General Meeting of the Australian Capital Territory Bar Association on 27 September: President, Purnell S.C.; Vice President, G Brzostowski; Treasurer, S Pilkinton; Secretary, C McKeown; and Council members N Adams, J Harris and G Parker.

Cowdery QC elected IAP President

Cowdery QC was elected President of the International Association of Prosecutors at its fourth Annual Conference and General Meeting held in Beijing, China on September 5 to 10, 1999. He succeeds the DPP for the Republic of Ireland, Mr Eamonn Barnes, as President. More information about the International Association of Prosecutors may be obtained from its Internet site at www.iap.nl.com

Staff Appointments

The Bar Association has appointed Shae Baxman Professional Affairs Assistant and Nel Archer Reception Officer, both effective 13 September 1999.

Before joining the Bar Association Shae worked for Miller Goddard Solicitors after completing a TAFE course in Office Administration and Financial Legal Skills.

Nel worked for a city law firm and is studying for her Bachelor of Arts degree at Sydney University.

Communicating with the Judge

Professional conduct committees are frequently consulted by barristers whose opponents have written to, telephoned, or otherwise communicated with a judge or judges after a case and submissions therein have been completed.

The Barristers' Rules dealing with this issue are 56, 57 and 58.

Those Rules provide as follows:

56. A barrister must not, outside an ex parte application or a hearing of which the opponent has had proper notice, communicate in the opponent's absence with the court concerning any matter of substance in connexion (sic) with current proceedings unless:

the court has first communicated with the barrister in such a way as to require the barrister to respond to the court; or the opponent has consented beforehand to the barrister dealing with the court in a specific manner notified to the opponent by the barrister.

A barrister must promptly tell the opponent what passes between the barrister and a court in a communication referred to in Rule 56.

A barrister must not raise any matter with a court in connexion with current proceedings on any occasion to which the opponent has consented under Rule 56(b), other than the matters specifically notified by the barrister to the opponent when seeking the opponent's consent.

If consent as required in Rule 56(b) is not forthcoming then the barrister, again notifying his or her opponent, must arrange for the matter to be listed at a time convenient to both of them. That arrangement should be made, preferably, through the judge's associate and not the judge.

*Wheelaham QC,
Jack Shand Chambers,
17 September 1999.*

Papers to Note

Sentencing of Drug Offenders, published by the Judicial Commission of NSW, is now available in the Bar Library. The report is the second study to be published by the Commission. The report offers an analysis of sentences imposed in the higher courts of NSW between 1 January 1992 and 31 December 1997.

The Courts and the Media, published by the UTS Law Faculty is now available in the Bar Library. The book, the first volume of the UTS Law Review to be published, draws on the papers presented by senior members of the judiciary, the Commonwealth Attorney-General, journalists, scholars and practitioners from the field of media law at a conference organised by the University's Law School in November last year.

The Auditor-General has presented to the NSW Parliament a Performance Audit Report on the state's court system. Entitled *Management of Court Waiting Times*, it found that despite positive steps taken to improve waiting times, a comprehensive framework for performance reviews, objectives and planning is lacking. Key recommendations include a committee system for the management of the courts, regular monitoring and reviews against standards for delivery of court services.

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

The NSW Bar Association has prepared a revised edition of the pamphlet *What is a Barrister?* to be distributed to members of the public.

Chambers for Sale

13th Floor Selborne Wentworth Chambers has a room and a half for sale.

The Chambers are situated on the Macquarie Street side of the building. The floor consists of three Senior Counsel and 29 Juniors.

The areas of practice are commercial, equity, administration and common law.

All enquiries should be directed to the clerk, **Ruth Ross on ph: 9232 7750.**

IN-HOUSE COUNSEL SENIOR ADVOCACY POSITION PERTH

Our client is a leading Perth firm which has one of the largest litigation practices in Australia. The firm provides a wide spectrum of legal advice to local, interstate and international clients drawn from the energy and resources, insurance and construction industries and also acts for the State Government on a variety of commercial matters.

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For a confidential discussion, please contact Fiona Spender on (02) 9256 6670 or write to her at Taylor Root, Level 26, One O'Connell Street, Sydney NSW 2000 (fionaspender@taylor-root.com.au)

Taylor Root are handling this assignment exclusively and any direct or third party applications will be forwarded to them.

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Bench & Bar 1999



The Hon JJ Spigelman, Chief Justice of NSW.

The 1999 Bench & Bar Dinner was held on Friday, 17 September 1999 at the ANA Hotel, Sydney.

The speakers were Tom Bathurst QC and Nicole Abadee followed by Guest of Honour The Hon JJ Spigelman, Chief Justice of NSW.

Copies of the video of speeches are available in the Bar Library. Members can view and order photographs from the dinner at Reception.

In his speech the Chief Justice referred to the speech *Are the professions worth keeping*, delivered by The Hon Justice A M Gleeson AC, Chief Justice of Australia, at the Greek-Australian International Legal & Medical Conference on 31 May 1999. A copy is available from the Bar Library and the High Court web site at www.highcourt.gov.au/speeches/cj/areprofe.htm



Bathurst QC.



Barker QC and His Excellency Dr Bhadra Ranchod, South African High Commissioner to Australia.



Nicole Abadee.



The Hon Justice Mahla Pearlman AM and The Hon Justice Keith Mason.



Judge Helen Murrell S.C. and Louise Byrne.

At the Lectern

The Monday night CLE seminar for September featured the topic: *Issues in Public, Corporate and Industrial Elections*. Speakers included The Hon Justice Michael Moore, The Hon T F Hughes AO QC, Haylen QC, McCarthy QC, Rothman S.C., A Howen, R Harper, D Godwin and M Gracie. Sue Hooke, an associate from Minter Ellison also contributed, as did Claire Tait, a solicitor of Phillips Fox. P King chaired the seminar.

Subjects discussed included industrial elections, local government elections, State and Federal general elections and recent developments in the conduct of company meetings.

The 2/99 Bar Practice Course was run over August and September. It included a lecture and tour of the Coroner's Court organised by the Institute of Forensic Medicine. On Wednesday, 29 September Robyn Fraser, the head of Speech Voice Drama Communication, presented the seminar *Voice and Presentation in Court*. The seminar focused on how to use the voice as a tool in conveying arguments confidently and persuasively in court.

On October 27 South Africa's High Commissioner to Australia Dr Bhadra Ranchod will speak about the work of the Truth and Reconciliation Commission at a breakfast in the Dining Room. Members wishing to attend should contact Stacey Hatch, Assistant Education Manager, on ph: 9229 1722; fax: 9221 1149 or email: shatch@nswbar.asn.au. to make a booking.

Roll out for on-line members' directory

As reported on page 14 of the September edition of *Stop Press*, the Bar Association has developed two new on-line directories - the *Barristers Directory* and *Find a clerk*.

The *Barristers Directory* will replace both the hard copy and electronic versions of the *NSW Barristers Directory* published by Butterworths.



The Association on-line directory of members will be developed in three stages. The first stage, *Find a Barrister*, draws on the contact information supplied or confirmed by members earlier this year during the practicing certificates renewal period. Members' email addresses and web sites can be hot linked on request.

Members and clerks are asked to check their entry on the web site. Change of details requests should be made of the Membership Officer on ph: 9229 1740; fax: 9229 1149 or email: membership@nswbar.asn.au.



During stage two the *Barristers Directory* will be expanded to include practice areas, again using information directly supplied by members. Stage three will see the addition of seniority lists and various search options. Stages two and three are expected to be in place this month.

The Association's information technology (IT) plans were outlined at a meeting held in the Common Room on 28 September 1999. The plans include offering the domain name 'nswbar' to all members for an 'at cost' price. Members will receive further details of the offer this month.

Other proposed IT service is include a 'members only' home page accessed via a password. The home page will feature lists of social events, circulars and other material.

Any member with ideas about what IT services would be of use to members is invited to write to the Administrative Support Manager either to The NSW Bar Association, DX 1204 Sydney or email: lcolley@nswbar.asn.au.

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2/99 Bar Practice Course

The Bar Council and the Education Committee extend their grateful thanks to all of the judges, magistrates and members of the Bar, listed below, who generously donated their time to assist with lectures and practical advocacy instruction in the 2/99 Bar Practice Course.

Director

Greg Laughton

Invited Guest Speakers

The Hon JJ Spigelman, Chief Justice of NSW

The Hon J Shaw QC MLC,

NSW Attorney General

The Hon Chief Justice

Black AC

The Hon Sir Laurence Street

AC KCMG

Ruth McColl S.C., Acting

President

Philip Selth, Executive

Director

Greg Kirk, Principal Solicitor,

Public Interest Advocacy

Centre

Mock Court Judges

Campbell QC

Callaghan S.C.

Davies S.C.

I Cullen

P Beale

Mock Trial Judges

The Hon Justice B M James

The Hon Mr Justice Walton,

The Hon Justice P M Kavanagh

His Honour Judge B E

Mahoney QC

His Honour Judge K P

Shadbolt

His Honour Judge D L Patten

His Honour Judge A F

Puckeridge QC

His Honour Judge J S Williams

Parker QC

Glissan QC

Greenwood S.C.

Common Law Applications

Master McLoughlin

Registrar Howe

Registrar Irwin

Equity Applications

The Hon Justice D H Hodgson,

Chief Judge – Equity Division

The Hon Justice P Bergin

The Hon Justice Hamilton

The Hon Justice G F K Santow

OAM

The Hon Justice T Simos

Master R H Macready

Federal Court Mini hearings

The Hon Justice J C S

Burchett

The Hon Justice M R Einfeld

The Hon Justice R V Gyles

The Hon Justice P Hely

The Hon Justice D G Hill

The Hon Justice L Katz

The Hon Justice J R F Lehane

The Hon Justice R Sackville

The Hon Justice A P Whitlam

Snr Registrar Dawson

Registrar Quinn

Registrar Segal

Registrar Tesoriero

Webb QC

Officer QC

Collins QC

Supreme Court Mini Hearings

Hall QC

Murray QC

Hislop QC

Branson QC

Robb QC

Slattery QC

Gzell QC

Joseph S.C.

Graves S.C.

Murr S.C.

Wales S.C.

Fagan S.C.

Magistrates

Allan Moore

Andrew George

Carolyn Barkell

Jackie Milledge

Janet Wahlquist

Malcolm Beveridge

Patricia Staunton AM

Paul Cloran

Jennifer Giles

Advocacy Instructors

Cassidy QC

Cummins QC

Capelin QC

Stratton QC

Ramage QC

Macfarlan QC

Littlemore QC

Roberts S.C.

Nock S.C.

Nicholson S.C.

Kelly S.C.

Murr S.C.

McEwen S.C.

Davison S.C.

Walmsley S.C.

Walton S.C.

L Lamprati

D Staehli

R Letherbarrow

C Craigie

P Griffin

R Ellis

C Lyons

P Blackburn-Hart

R Seton

P Miller

P Winch

R Darke

T Alexis

P Mahony

C Leggat

G Turner

M Duncan

P Zahra

T Morahan

A Kostopoulos

L Flannery

M Cunneen

J Oakley

L Aitken

Lecturers

The Hon. Justice R Chisholm

The Hon. Justice K E Lindgren

The Hon. Justice D H Lloyd

The Hon. Justice M Adams

Graham QC

Finnane QC

Cowdery QC

Poulos QC

Menzies QC

Einfeld QC

Stevens QC

Maxwell QC

Coles QC

Deakin QC

Hastings QC

Barry QC

Cotman S.C.

Harrison S.C.

Taylor S.C.

Lindsay S.C.

P Kennedy-Smith

T Molomby

R McKeand

J Bennett

C Hodgekiss

P Maiden

S Odgers

R Bell

S Epstein

J Whittle

S Stewart

D Williams

S Torrington

A Diethelm

P Berman

K Connor

J Fernon

B Preston

K Traill

M Anstee

M Walker

P Larkin

S McMillan

M Hadley

J Needham

G Bellew

F Gleeson

M Meek

D Stack

S Kerr

S Climpson

K Ottesen

A Ridley

R Rana

J Phillips

L Byrne

S Coleman

D Inverarity

M Painter

N Floreani

P Lane

P Livingstone

D Newhouse

G Watkins

K Hawes

B Washington

P Daley

R Ross

Jury Empanelment

His Honour Judge P F Flannery QC

Bellanto QC

Bodor QC

Administration

J Castellon, Deputy Chief

Executive Officer, Supreme

Court of NSW

M Gaertner, Executive

Assistant, Supreme Court

of NSW

R Delahunty, Secretary to the

Hon Justice D G Hill

31st Australian Legal Convention, Canberra 8-10 October 1999.

Key speeches include:

The Hon Justice James Spigelman,
Seen to be done: The Demonstrative Purpose of Justice

Fabian Dixon RFD,
The State of the Profession

The Hon Justice Murray Gleeson AC,
The State of the Judicature

The Hon Daryl Williams AM QC MP,
Law and the Government

Copies of these speeches may be obtained from the Bar Library or from Patrick Daley, Public Affairs Officer of the Law Council on 02 624 73788 or email PATRICK@lawcouncil.asn.au

Legal Aid

A general meeting of the Bar Association was held on 23 September 1999 to enable Bar Council and the Legal Aid Committee to better understand the concerns of members regarding legal aid.

The meeting was chaired by the President and attended by more than 30 members, most of whom perform legal aid work, mainly in the area of criminal law.

The meeting included a briefing from the Chair of the Legal Aid Committee, Norrish QC on the work of the Committee and the changes made to Legal Aid funding since 1996. Norrish QC also outlined the representations made to the NSW Attorney General and the Legal Aid Commission regarding fees and other matters. He then invited suggestions from the floor as to how the Bar Association should proceed with its work concerning legal aid issues.

Matters identified by members included:

- the inflexibility and inconsistency of payment within and between certain types of work and related fees;
- consideration of restrictions upon acceptance of legal aid work;
- a letter writing campaign by members to all members of Parliament; and
- a survey of members to ascertain the extent of problems in family, civil and criminal.

There was general agreement that depressed fees and other restrictions meant that many senior members of the Association were not undertaking legal aid work, to the cost of the Legal Aid Commission and the clients.

The President will raise the issues discussed at the meeting with the Bar Council. Any members with suggestions for further action should contact Norrish QC, Chair of the Legal Aid Committee, on 9264 6899, or in writing to Chair, Legal Aid Committee, NSW Bar Association, DX 1204 Sydney.

Vale

**The Hon Sir Alexander Beattie Kt
1912-1999**

The NSW Bar Association notes with sadness the passing of The Hon Sir Alexander Beattie Kt on 30 September 1999 aged 87.

Called to the Bar in 1936, Sir Alexander specialised in industrial law before his appointment to the bench of the Industrial Commission of NSW in 1955. Sir Alexander served as President of the Industrial Commission from 1966 until his retirement in 1981.

During World War II, Sir Alexander served as a trooper in the 1st Light Horse Machine-gun Regiment and as an officer in the tank regiment of the Royal Australian Armoured Corps of the AIF fighting in New Guinea and Borneo.

In addition to his significant contribution to the law, Sir Alexander served as the founding chair of the Royal Botanic Gardens and Domain Trust.

He was made a knight bachelor in 1973 in recognition of his services to the State.

A funeral service was held for Six Alexander on 5 October in the St James Anglican Church at Turramurra.

The 1999 Julian Small Foundation Address

'The Right to Work, Whose Right is it?'

delivered by

Ms Gaye Phillips, Chief Executive, UNICEF Australia

Date: Tuesday, 26 October 1999

Time: 5.30pm - 7.30pm

Venue: Dixson Room,
State Library,
Macquarie Street

Entry by Donation: \$30

To register please contact: **Judy Meagher on Ph: 9210 4744**

or email: judy.meagher@minters.com.au

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New Members

Dina Yehia, Carl Shannon

James McDougall, 9/Quay Central,
Brisbane

Philip Theobald, Inns of Court, Brisbane

Nancy Mikhael, Forbes

Richard O'Keefe, 9/Wentworth

Andrew Capelin, Elizabeth Street

Erin Glover, Garfield Barwick

Antonio Gidaro, Edmund Barton

Kerry Sibley, State

Timothy Faulkner, 12/Wentworth

John Kernick, 10/Selborne

Jeremy Gruzman, 8/Garfield Barwick

Kirsten Edwards, UTS Law Faculty

Catherine Parry, 6/Wentworth

John Ryan, 9/Windeyer

Shaun McCarthy, Henry Parkes

John Chicken, Samuel Griffith

Toni Bartush-Peek, Blackstone

Gloria Wong, Empire, ACT

Thomas Howard, 3/Wentworth

Peter Singleton, G/Frederick Jordan

Louise McManus, H B Higgins

Andrew O'Sullivan, 16/Wardell

Mary-Anne Clifford, 11/Culwulla

John Eyeson-Annan, 2/377 Sussex St,
Sydney

James Johnson, 11/St James Hall

Jeunesse Chapman, Sir James Martin

Associate Members

Anthony McKinnon, Killarney Heights,
Sydney

Jason Pennell, Owen Dixon, Melbourne

High Court of Australia – Sitting dates for 2000

The Court calendar for 2000 is as follows:

Canberra	Monday, 31 January
Canberra	Tuesday, 29 February
* Hobart	Tuesday, 21 March at 2.15 pm
Canberra	Tuesday, 4 April
Canberra	Tuesday, 9 May
Canberra	Tuesday, 23 May
Canberra	Tuesday, 12 June
* Brisbane	Monday, 19 June
Canberra	Tuesday, 1 August
* Adelaide	Monday, 7 August at 2.15 pm
Canberra	Tuesday, 29 August
Canberra	Tuesday, 3 October
* Perth	Monday, 23 October at 2.15 pm
Canberra	Tuesday, 14 November
Canberra	Tuesday, 5 December

* No sittings will be held unless there is sufficient business to warrant the attendance of the Court.

Sittings to hear applications for special leave to appeal will take place as follows:

Sydney	Friday, 11 February
Melbourne	Friday, 11 February
Sydney	Friday, 10 March
Sydney	Friday, 14 April
Sydney	Friday, 26 May
Melbourne	Friday, 26 May
Sydney	Friday, 16 June
Sydney	Friday, 4 August
Sydney	Friday, 8 September
Melbourne	Friday, 8 September
Sydney	Friday, 13 October
Sydney	Friday, 24 November
Sydney	Friday, 15 December
Melbourne	Friday, 15 December

Members should note that if there is insufficient business at a place at which applications for special leave to appeal are listed to be heard, the sittings may be moved to another capital city.

The winter vacation shall begin on Saturday, 24 June 2000. The summer vacation shall commence on Saturday, 16 December 2000.

NSW Young Lawyers seminar for barristers

NSW Young Lawyers invite all barristers to a seminar by instructing solicitors. The focus of the seminar is on marketing to and meeting the expectations of solicitors.

The seminar will be presented by Grant Bonner of Hunt & Hunt and Tim Somerville of Somerville & Co and will be chaired by Ian Harrison S.C.

Date: Tuesday 19th October 1999

Time: 5:30 - 7:30

Venue: Level 9 Law Society Building,
170 Phillip St Sydney

Cost: \$25

Contact: Annabelle Young 9926 0268
ajy@lawsocnsw.asn.au

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2000 Bar Council Election Timetable

The election timetable is as follows:

20 October 1999

Bar Council nomination forms sent to members entitled to nominate.

3 November 1999

Nominations for Bar Council close.

4 November 1999

Ballot paper sent to members eligible to vote

19 November 1999

Annual General Meeting at 1.30pm – the ballot closes at the same time.

19-24 November 1999 (approximately)

Vote counting.

24 November 1999

2000 Bar Council declared.

P A Selth

Returning Officer

28 September 1999

Bar Briefs

Legal Practitioners Admission Board: J Oakley, C Davenport and J Stuckey-Clarke have been appointed the Bar Association's 'Reserve members' on the LPAB to attend in place of Harrison S.C. and Taylor S.C. if they are unable to attend meetings.

Masters Cases in Equity Division

The President of the NSW Bar Association recently received a letter from Justice D.H. Hodgson, CJ in Eq regarding proposed provision for more Equity Division cases to be heard by masters. Justice Hodgson said:

"Firstly, it is proposed that from now on, when cases are placed in the Short Notice List, the parties will be asked whether or not they consent to a hearing by a master. If they consent, this will be noted, and the case will be available to be listed before either a judge or a master, on three days notice. If, for whatever reason, this is not attended to when the case is put into the Short Notice List, masters can still call for such matters, but giving six days notice rather than three, so that the parties can have three days to object to an order being made referring the matter to the master.

Second, at General List callovers, starting with the November callover, cases may be fixed before masters; so that parties attending at the callovers should be ready to indicate whether or not they consent to reference to a master.

In general, if parties do not consent, they should be ready to give reasons for this, such as the size and complexity of the case. Consent to a hearing by a master may enable an earlier hearing of the case."

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Unconventional Conventions

"Lawyers in Alaska" 2000

A conference for Australian Practitioners
in association with the Alaska Bar

25 June - 1st July, 2000

(immediately prior to Australian Bar Association in New York)

Venue: Juneau, Alaska
Convenor: Hon Andrew Rodgers, QC
Key note speaker: Hon Justice Michael Kirby AC CMG

For details contact Margot Cunich Toll free 1800 633 131 Fax 02 4232 4962
email: margot@cunich.com.au website at www.uncon-conv.com