



STOP PRESS

A monthly newsletter from the NSW Bar Association

ISSN No: 1329 - 9727

“Servants of all yet of none”

No. 68 November 1999

President's Column

QUO VADIS

The Independent recently reported that the English Law Society was calling for the abolition of the Bar and wanted one legal profession ‘embracing lawyers of all types, not just solicitors, but legal executives, conveyancers and barristers... no more solicitors or barristers – just lawyers.’¹

This is not a policy of the NSW Law Society (at least not one I have heard of) for the reason I suppose that solicitors are entitled to be advocates in all NSW courts, but they frequently find it convenient or desirable to refer cases to specialist advocates. If, therefore, we want the Bar to survive, we must give solicitors and clients the expert and courteous service they deserve. Competition is a mantra for politicians and bureaucrats, in particular those with the ACCC. In providing services as advocates, solicitors and barristers are free to compete with each other, but it is in the public's interest for the Bar to be predominantly a referral profession.

But no matter what the Bar says or does it will be attacked by competition zealots, and journalists whose search for the ridiculous will always transcend their ability to comment fairly. So introspection and reflection by barristers on our organisation and work practices should be a continuing process. Hence our new constitution, which I hope will be accepted by the Annual General Meeting on November 19.

And why do we wear wigs? I once tried to canvass the views of members about wigs. The result was inconclusive; three quarters of members did not respond, thereby suggesting that the Bar generally is less than fervently in favour of wearing wigs, at least not to the point where they would march in the streets on the issue. Personally, (and I emphasise personally) I think wearing wigs as the uniform of an Australian profession is as sensible as having an English hereditary monarch as our Head of State. That is to say, I declare myself an abolitionist.

The arguments of the real wig devotees remind me of the passionate devotion of the



Ian Barker QC, President.

French Army in World War I to red trousers, notwithstanding that it made their wearers conspicuous through rifle sights. The Germans changed from Prussian blue to field grey, the British from red to khaki after the Boer War, but the French saw red trousers as a badge of honour.

‘To banish all that is colourful, all that gives the soldier his vivid aspect’ wrote the *Echo de Paris* ‘is to go contrary to both French taste and military function.’ At a parliamentary hearing a former War Minister, M. Etienne spoke for France. ‘Eliminate the red trousers’ he cried, ‘Never! *Le pantalon rouge, c’est la France.*’ (Barbara W. Tuchman, *The Guns of August*, London, 1962)

Perhaps what I am saying is the product of several weeks in Darwin in the Federal Court at the beginning of the monsoons, but I appreciate not having to wear a wig even if labouring under a cosmetic disadvantage.

The appointment of Senior Counsel is a subject deserving of continuing careful thought. The annual selection of silks is probably the most difficult task of all confronting the President, Senior Vice President and the 3 other silks who constitute the selection committee. It is impossible to be entirely comfortable with the result and it is inevitable that at least some of the unsuccessful applicants will feel aggrieved and hold the view that some of those selected are less deserving.

Trevor Morling QC made a detailed examination of the protocol and found it substantially good, and observed there was a lack of serious complaint from barristers about it. Some suggestions from members would make the system entirely unworkable, thereby bringing into question whether we need Senior Counsel at all. I have no doubt we do, and the appointment should remain a function of the Bar. But the protocol should remain under constant scrutiny to see how it may be made as fair as it possibly can be. A process seen to be unfair has the potential for self destruction.

According to *The Independent*, the President of the English Law Society attacked the method of appointment of judges and QCs, saying ‘What we have at the moment is effectively a self-selecting, self-cloning, self-perpetuating cabal of middle class, white male barristers.’

I do not believe the argument runs in NSW. There are 250 female and 1722 male members holding current NSW practising certificates. The senior Vice President of the Bar Association is a woman, and on the 21 member Council there are 6 women (7 before Justice Bergin's appointment). Certainly, there is an imbalance which will be cured in time. The applicants for silk were 111 men and 5 women. Two women and 21 men were appointed. Of the total silks 6 are women and 242 men. This year two women silks were appointed to the Supreme Court bench: Bell S.C. and Bergin S.C. These are not statistics to boast about, but looked at objectively (with some inside knowledge) I do not believe they show a discrimination against women. But the position of women at the Bar of NSW should remain a live issue, important to the Bar's survival.

In this regard, perhaps I will be forgiven for quoting from my address for the Bar Association at the swearing in of Virginia Bell J on 25 March 1999.

continued page 4

Bar Council Business for September 1999

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 16 September and 30 September. The minutes below are extracted from those meetings.

NSW Attorney General

The President welcomed The Hon. Attorney General of New South Wales to the meeting. The Attorney General spoke on a number of issues:

Coroners Act 1980

Civil Juries

Civil Procedure Quality Team
Committal Process

Workers Compensation reform

Criminal pre-trial disclosure

Legal Aid

Court fees

President's Report

Legal Aid meeting 23 September 1999

The President noted that 38 members had attended the meeting held in the Bar Association common room. The purpose of the meeting was to enable members of the Bar Council and the Legal Aid Committee to gain a better understanding of concerns members of the Association have in relation to Legal Aid.

There was a general despondency about inadequate funding, and the abysmal level of fees paid to barristers. The President will again discuss the problems with the NSW Attorney General. He will also speak with the Chief Justice and the Chief Judge of the District Court.

Neuroscience Institute of Schizophrenia & Allied Disorders

The President advised that members of the Bar Association had donated \$38,000 to NISAD during 1998/9. NISAD had held a function in the Bar Association Common Room on 15 September to thank donors and the Bar Association for their financial and other assistance to the Institute.

East Timor refugees - taking of statements

The President advised that the Australian Section of the International Commission

of Jurists was seeking assistance from legal practitioners to take evidence from East Timor refugees that could be used before a possible War Crimes Tribunal. He had asked the Executive Director to assist the ICJ in working with members of the Association who might be able to undertake this work.

Executive Director's Report

Legal Assistance - proposed new arrangements

The Executive Director advised that the Director General, NSW Attorney General's Department; CEO Law Society of NSW; Managing Director, Legal Aid Commission; and he had met on 26 August 1999 to discuss ways of enhancing the provision of information to people seeking legal assistance, and the better co-ordination of the provision of legal assistance by various organisations and government agencies.

Federal Court pro bono scheme

The Executive Director advised that the Federal Court pro bono arrangements appeared to be working well; he was aware of no adverse comments about the scheme.

Find a Barrister

The Executive Director advised that contact and practice information about all members will shortly be available on the Association's home page (www.nswbar.asn.au).

Items for Consideration

Federal Court Users' Group

McCull S.C. advised that, as requested by the Bar Council on 19 August 1999, she had advised Branson J that the Bar Association would be happy to participate in a Federal Court Users' Group, should one be established.

ALRC: adversarial system inquiry: Discussion Paper 62.

Bar Council noted that Walker S.C. is a member of the Working Group overseeing the preparation of the Law Council's response to DP 62. It was resolved that Walker S.C. respond orally to the Law Council's request for input on Ch. 5, 'Lawyers and practice standards'.

Letter from the Copyright Agency Ltd to the Executive Director dated

6 September 1999 concerning payment of \$18,725.16 in distribution moneys.

The Executive Director advised that all but a few dollars of this payment was for copying of the Barristers' Rules.

Bar Council discussed the possibility of donating the 'windfall gain' of \$18,725.16 to a charity providing relief for East Timorese refugees. Grieve QC was asked to determine whether such a gift is permitted by the Memorandum and Articles of Association

It was further resolved that the \$18,725.16 received from the Copyright Agency Limited be 'tagged' for possible use in respect of the provision of legal assistance to the re-establishment of the rule of law in East Timor and the proposed War Crimes Tribunal.

Memorandum to Bar Council from Grieve QC dated 27 September, 'Proposed charitable gift'.

It was noted that as the Constitution currently stands it is not possible for the Bar Association to make general charitable donations.

Bar Council resolved that a clause authorising the Association to make charitable gifts be included in the revised constitution.

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.

THE BAR v. SOLICITORS HOCKEY 1999

By Patrick Larkin

Each year the Bar's hockey team does battle with the Solicitors. For the last four years, the Solicitors have prevailed in a series of narrow wins. This year's contest took place on Sunday 10 October, at the Ku-Ring-Gai Synthetic Hockey Field, North Turramurra.

After 15 minutes of tight play, the Solicitors scored. The Bar equalised almost immediately through centre forward Geoff Warburton. Left wing David Robertson scored two unanswered goals to take the Bar to half time with a 3-1 lead.

In the second half, the game was intensely fought, with the Solicitors testing the Bar's defence. Fullbacks George Giagios, Angus Ridley and Bruce McManamey, and John Ireland QC in goal, held the youthful Solicitors at bay during repeated raids on the Bar's goal. The Bar's defensive play was outstanding.

Finally the Solicitors scored, to bring the score back to 3-2. The Bar responded, to take the score out to 4-2.

The Solicitors would not surrender. The game was intensely fought, with Allissa Moen (of the Newcastle Bar), Peter Callaghan S.C. (playing in his twenty fifth consecutive Bar v. Solicitors match) and David Pritchard (who had brought his seven day old daughter along to



The victorious Bar team of 1999.

watch her first match) all making fine contributions on the field. After a further passage of play, the Solicitors again reduced the deficit to a single goal.

The day, however, belonged to the Bar. Centre Half Patrick Larkin and Left Inner Ian Harvey combined with five minutes to go to put the game beyond the Solicitors' reach. The final score was 5-3. Bar had recaptured the coveted Noonan trophy. The post match celebrations

were pursued with far too much vigour.

The victorious Bar team, and some of their supporters, were (from left to right in the photograph) Jess Champman, Adam Warburton, Geoff Warburton, Allissa Moen, Patrick Larkin, Peter Callaghan S.C., Rashda Rana and daughter Rabia, John Ireland QC, George Giagios, Ian Harvey, Angus Ridley, David Pritchard and daughter Miriam, David Jordan, Bruce McManamey, David Robertson.

Downing Centre Procedures

The President of the NSW Bar Association, Ian Barker QC, recently received a letter from The Hon. Justice R.O. Blanch, Chief Judge of the NSW District Court, regarding procedures at the Downing Centre. Justice Blanch said: 'I should draw your attention to the fact that I will be the List Judge in the Downing Centre for the first six months of next year. I am conscious of the fact that some of the present procedures there are causing expense and inconvenience to practitioners and I have changed them in the following way: Sentence appeals in Sydney next year

will be listed by the Criminal Registry by telephone. When the appeal is lodged, the date given is the date for actual hearing of that appeal.

All grounds appeals will be listed in a callover before a Registrar

There will no longer be mentions to confirm pre-sentence reports are ready. Instead, practitioners will be asked to check with the Probation Service one week before the sentence is to be heard. Copies of the report will be made available to the prosecution and the defence before the hearing.

There will no longer be mentions in

court before the trial to confirm readiness for trial. Instead I will make orders that the parties certify in writing by letter, fax or email to the Registry that the matter is ready for trial in the week which is three weeks before the trial. Such notification should be accompanied by a completed Form B. In default of receiving such notification, the Registry will list the matter for mention one week before the trial.

I hope by these means to minimise the number of appearances before the Court and the consequent inconvenience and cost.'

Ethical Advice to Members

Section 38G of the *Legal Profession Act* 1987 provides:

- '(1) Practice as a barrister is subject to the barristers rules.
- (2) Practice as a barrister is not subject to any other rules, practice guidelines or rulings of the Bar Association or Bar Council.'

As members are aware, the Bar Council operates a system, formerly referred to as 'Rulings or Authoritative Guidance', on queries and difficulties concerning ethics and particular applications of the NSW Barristers' Rules.

The present system for providing 'rulings' to members has been reviewed by the Executive, in the light of a number of requests in the nature of requests for legal advice, rather than for

ethical advice. The Executive were of the view that members should be referred to relevant legislation and Barristers' Rules when a problem arises, in order that the member can make up his or her own mind on a matter, rather than the Bar Association or senior members of the Professional Conduct Committees providing a 'ruling'. Of course, discussion and advice continues to be available from them, to assist in reaching a conclusion.

In addition, a number of matters have involved situations in which a conflict of interest or potential breach of confidentiality has been alleged. In such matters, it is often not possible for the Association to give any authoritative guidance because the facts are contested and cannot be established with any

degree of certainty. In such cases, members should however always err on the side of caution. When there is any practical potential for breach of Barristers' Rule 107, consideration should always start with the view that the brief should be returned.

Members requiring ethical guidance should continue to contact senior members of Professional Conduct Committees or, in cases where the matter can await a written reply, address their concern in writing to the Professional Affairs Director.

Members should, of course, make themselves familiar with the Barristers' Rules, which are published on the Association's website:
www.nswbar.asn.au

Neuroscience Institute of Schizophrenia & Allied Disorders says 'thank you.'

By Dr Stan Catts

On 15 September the Neuroscience Institute of Schizophrenia & Allied Disorders (NISAD) held a function in the Common Room to express thanks for the Bar Association's support.

NISAD Chairman Dr Stan Catts reported that members had donated \$37,000 over the year, and emphasised how valuable such support has been to researchers whose fundraising efforts are handicapped by the stigma associated with this widely misunderstood brain disease.

Dr Catts awarded NISAD 'In Recognition' plaques to donors Barker QC, Durack S.C., Hall QC, Katzmann S.C., McColl S.C., Rothman S.C., Webb QC and White S.C. Special thanks went to Executive Director Philip Selth and NISAD Director Don McDonald who helped to initiate the Institute's term as 1998-99 annual charity appeal.

Harrison S.C. joins NISAD Board

Dr Catts also announced that Harrison S.C. had joined NISAD's Board to help forward the next phase of the Institute's development as the schizophrenia research centre of NSW.

Donating Bar Association members will be kept abreast of future NISAD activities via the Institute's newsletter *HeadLines*.



Dr Catts expresses appreciation to new NISAD Board member Harrison S.C. and Barker QC for Bar Association support.

President's Column

Continued from page 1

'Your elevation was inevitable. A regrettable consequence is, of course, that senior women barristers remain an even scarcer commodity; not as scarce, I must say, as in 1902 when Ada Evans graduated in law and spent the next 16 years attempting to gain access to a profession for which it was said she had every qualification but masculinity. Her pioneering efforts led to the passing of the *Women's Legal Status Act (NSW) 1918* which provided that a person was not by reason of sex - these days politely called gender - deemed to be under any disability to be appointed a Supreme Court or District Court Judge, Magistrate or Justice of the Peace.

I understand that the first woman to actually practise at the Bar of New South Wales was Sybil Morrison and in 1924 the *Sydney Sunday News* reported that 'the advent of lady barristers will probably make their male colleagues more careful in the matter of adjusting their dress and wigs. It was noticeable that Mrs Morrison's little white bib fitted her exquisitely and her dark hair, arranged softly at the sides, set off her wig to perfection'²

Things have, I think, improved.

¹ Robert Vertaik, "Barristers attack 'Mickey Mouse' plans for a united profession," *Independent*, 30 October 1999.

² J.M. Bennett, *A History of the New South Wales Bar* (Sydney, The Law Book Company Ltd, 1969)

Vale

The Hon. Robert Hope, AC, CMG 1919-1999

The NSW Bar Association notes with sadness the passing of The Hon. Robert Hope, AC, CMG on 12 October 1999 aged 80.

Hope was admitted to the Bar in 1945 following military service with the 7th Division in the Middle East and New Guinea. In 1969 he was appointed to the NSW Supreme Court, and to the NSW Court of Appeal in 1972, where he remained until 1989. Other posts held during his distinguished legal career included President of the Council of Civil Liberties from 1967-1969, and Chairman of the NSW Law Reform Commission between 1990-93.

Hope will be remembered principally for his work at the head of two Royal Commissions into Australia's intelligence services, the first in 1974 and the second in 1983. His recommendations helped to establish the mechanisms for parliamentary and ministerial scrutiny of ASIO, without hindering its operations. He also presided over inquiries into the Coombe-Ivanov fiasco and the Melbourne Sheraton Hotel exercise by the Australian Secret Intelligence Service.

Hope was chancellor of Wollongong University between 1975 and 1997. Over the course of 22 years the University grew exponentially, both in terms of enrolments and its academic reputation. He had a particular interest in the education of indigenous Australians, and this was reflected in his position on the board of the Tranby Aboriginal training organisation in Glebe. A similar passion and commitment to the arts and Australian heritage saw him become chairman of the Nimrod and Old Tote theatres, as well as the NSW Heritage Council.

A funeral service was held for The Hon. Robert Hope on 22 October 1999 at St James Anglican Church, Queen's Square.

Aaron Ronald (Ron) Castan AM QC 1939-1999

Ron Castan QC died on 21 October 1999 of complications following surgery, just a week short of his 60th birthday. He is deeply mourned for his extraordinary

personal qualities and for his professional brilliance.

He is widely known as the counsel who successfully argued *Mabo [No.2]* in the High Court, thereby helping to establish that the common law of Australia did indeed recognise the traditional title of indigenous Australians. Less widely known was his involvement in numerous High Court cases between 1982 and 1985, which established the scope and operation of the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)* under which traditional Aboriginal owners in the Northern Territory were able to obtain title to their lands. He was also involved in two landmark decisions concerning the operation of the *Racial Discrimination Act 1975 (Cth)*, *Koowarta v. Bjelke Petersen* and the first *Mabo* decision.

His work for Aboriginal land rights did not cease with the judgement in *Mabo [No. 2]*. He represented the Aboriginal community in lengthy negotiations which established the form and content of the *Native Title Act 1993*. He returned to Canberra to represent the National Indigenous Working Group in the further lengthy negotiations which resulted in the *Native Title Amendment Act 1998*. The advances in the common law, and the various statutory schemes which permit claims by traditional owners, owe more to the work of Ron Castan than to any other individual.

Nor were his activities restricted to Australia. He had long supported the Tibetan people in their struggles for self-determination from the first of many meetings with the Dalai Lama in 1960. He was a source of advice and assistance to Jose Ramos Horta and was embarking on the preparations for constitutional independence for East Timor. He was a member of the Board of Governors of the Hebrew University in Jerusalem.

Despite the extraordinary range of his interests, Ron spent four years as an elected member of the Victorian Bar Council and a further four years as a member of the Ethics Committee and Disciplinary Tribunal of the Victorian Bar. He took silk in 1980 and after joining the NSW Bar Association in

March 1990, remained a member until the time of his death.

At a personal level, one could not fail to realise on short acquaintance that his philosophical commitment to equality and social justice for all was deeply entrenched in his character. As Sir Gerard Brennan noted, his death is a 'national loss' and, because the promotion of a fair and tolerant society takes place by small steps without flamboyant gestures, that is true in a way which will never be fully understood by most of us. His intellectual eminence and professional brilliance combined in truly unique ways with his humanity and compassion. We may not see his like again.

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Footballers ruck their way to the top

Readers would be aware of the Wallabies' successful campaign to lift the William Webb Ellis Trophy at the 1999 World Cup. Though slightly less accomplished on the field, the 1956 Barristers Rugby Team has a surfeit of other notable achievements. Wheelahan QC traces their careers and good fortunes.

Women's Rugby had not yet been invented so there were no women selected.

Under 30

Full Back	John Foord (QC, District Court)
Left Wing	John Holt (QC, MLC District Court)
Right Wing	Bill Job (QC, District Court)
Outside Centre	David Rofe (QC, for 24 years)
Inside Centre	John Crumpton (QC, for 12 years)
Five Eighth	Alex Shand (QC, for 25 years)
Half Back	Tom Reynolds (QC, Supreme Court)
Breakaway	Ian Curlewis (ACT)
Lock	Peter McInerney (QC, Supreme Court)
Breakaway	Adrian Cook (Family Court)
2nd Row	Clive Evatt Jnr (Nothing need be said)
2nd Row	Michael Foster (QC, Federal Court, Acting Justice of Appeal)
Front Row	B K W Cowie (CP)
Hooker	Derek Cassidy (QC for 18 years)
Front Row	David Yeldham (QC, Supreme Court)

The reserves were:

Philip Jeffrey (QC, Supreme Court)
Brian Cohen (Supreme Court)
Neil Campbell (SRA)
Peter Flower (Deceased)
Jerry Cripps (who, like Lucky Starr, has been everywhere)

OVER 30

Full Back	Doug McGregor (QC, Federal Court)
Left Wing	Victor Maxwell (QC, Supreme Court)
Right Wing	Phil Woodward (QC, Supreme Court)
Outside Centre	Des Healy (QC, District Court)
Inside Centre	Jack Lee (QC, Supreme Court)
Five Eighth	Jack Nagle (QC, Supreme Court)
Half Back	Barney Walsh (District Court)
Breakaway	P M Healy (NRMA)
Lock	Ernie Knoblanche (QC, District Court)
Breakaway	E P T Raine (Supreme Court of PNG)
2nd Row	G J Samuels (QC, Court of Appeal, Governor)
2nd Row	J A M Pritchard (Supreme Court of PNG, QC)
Front Row	Frank McAlary (QC for 29 years)
Hooker	A J Bellanto QC (Senior)
Front Row	Barry Thorley (District Court, Judicial Commission)

The Reserves were:

P G Willis and R J B St John QC (Federal Court)
One of the line umpires was David Godfrey Smith (QC, District Court).

The records do not reveal the outcomes of these matches played against the solicitors but perhaps the practice could be revived.

As Meagher JA might say (but Tacitus did not):

*Saepe repercusso pila te iuvat icta bacillo,
Seu pedibus calcatur tuis: his lusibus uit Innocuis fas est¹*

¹ Often you take pleasure in striking the ball with resounding bat or kicking it with your feet: it is proper to play these harmless sports.

**Wheelahan QC,
Jack Shand,
17 September 1999.**

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Request for Details of Counsels' Outstanding Fees

On 19 August 1999, pursuant to s114B of the *Legal Profession Act 1987* (NSW), Andrew Brown was appointed Manager of the following practices and is requesting details of counsels' outstanding fees.

- Ghaith Krayem, Solicitor (Manager Appointed) practising as Paragon Solicitors and Attorneys (formerly practising as Ghaith Krayem Solicitors)

- Anthony John Clark, Solicitor (Manager Appointed) practising as A.J. Clark and Co.

Mr Brown said while he could not guarantee fees outstanding would be paid in total, or recovery of any fee due from any source, he would do his best to assist counsel owed fees.

Mr Brown may be contacted on ph: (02) 9926 0321; fax: 9231 5809 or email asb@lawsocnsw.asn.au

Short Takes

The Legal Profession Amendment Regulation 1999 was gazetted and commenced on 22 October 1999. It prohibits unlawful discrimination (including unlawful sexual harassment) by legal practitioners in connection with the practice of law, and identifies such conduct as possible grounds for disciplinary action under the *Legal Profession Act 1987*.

Federal Court Practice Note 15: requires all those coming before it to provide information on the correct pronunciation of names, preferred modes of address or an oath in non-standard form.

Bar Association Constitution

On 21 October 1999 Bar Council resolved to recommend a new NSW Bar Association Constitution to the Annual General Meeting for approval. Members can view the document at Reception and the Association's website: www.nswbar.asn.au

Indexation of Amounts under s79, 79A and 80 of the *Motor Accidents Act 1988* (NSW). On 28 September 1999

the Special Minister of State and Assistant Treasurer made an order increasing the s79 and 79A amounts, effective 1 October 1999. A Schedule of Damages may be obtained from the Bar Library.

Superannuation 2000: A National Conference for Lawyers, Launceston 2-4 March 2000. The Law Council of Australia, in conjunction with the Leo Cussen Institute, is conducting the annual National Superannuation Conference for Lawyers. Members wishing to attend should contact Dianne Rooney on ph: (03) 9602 3111 or by email on dirooney@leocussen.vic.edu.au

NSW Bar Association Annual Report and Bar News

Members should have received their copies of *1999 Annual Report* and *Bar News* together with an insert entitled *Two Recent Decisions Against Counsel*. If this is not the case, you may obtain any or all of these items by contacting the Bar Association's Reception and we will dispatch a copy to you immediately.

Speeches

The Changing Paradigm: Chief Justice Murray Gleeson delivered a speech before the Women Lawyers Association of NSW on 26 October 1999. In his speech he discussed ethical and regulatory dilemmas for law firms wishing to corporatise and become multi-disciplinary organisations. The speech may be obtained from the High Court's Internet site: www.hcourt.gov.au

Court Management of Cases Involving Child Abuse Allegations: A keynote address by The Hon. Justice Alastair

Nicholson AO RFD, Chief Justice, Family Court of Australia. Delivered at the 7th Australasian Conference on Child Abuse and Neglect, 19 October 1999, Perth. The speech may be obtained from the Family Court's Internet site at www.familycourt.gov.au under 'Papers.'

Shaping Family Law for the Future: Speech by the Commonwealth Attorney General before the National Press Club, 27 October 1999. A copy may be obtained from the Bar Library.

At the Lectern

Negotiating Settlements

The CLE seminar on Negotiating Settlements on 18 September proved very popular.

McDougall QC spoke to a paper developed for Bar Council on many of the principles pertinent to negotiating settlements. Garling S.C. chaired the seminar. There has been a high demand for the seminar paper, which is available at the Bar Association's reception desk. It is hoped to repeat the event early in the new year.

Breakfast seminar

Report of the Truth and Reconciliation Commission

A breakfast seminar took place on Wednesday 27 October, with His Excellency Dr Bhadra Ranchod, South Africa's High Commissioner, speaking on the *Report of the Truth and Reconciliation Commission*. Dr Ranchod discussed the Commission's work as a means of resolving the conflict in South African society, and contrasted it to the 'Nuremberg method.' The Chief Judge of the NSW District Court, the Hon. Justice R.O. Blanch, and Ruth McColl S.C. were on hand to introduce and thank His Excellency. A video of the morning's seminar has been placed in the Bar Association Library, and is available for borrowing.

CLE Topics for 2000

Suggested topics for the Continuing Legal Education events of 2000 are now being considered by the CLE Advisory Committee. Any suggestions or comments would be welcome. Please contact Stacey Hatch, Assistant Education Manager on ph: 9229 1712 or shatch@nswbar.asn.au

Media Briefing

Press Releases from the Law Council of Australia.

Heed Chief Justice's Warning on Legal Aid Funding Ramifications, Urges Law Council, 11 October 1999.

Law Council Rejects Attorney's Comments on Sufficient Legal Aid Funding, 12 October 1999.

Government Must Strike Right Balance Between Privacy and Press Freedom, 21 October 1999.

Uniform Laws Essential, Says New Australian Property Law Group Chair, 4 November 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.

Appointments of Senior Counsel for 1999

On 27 October 1999 the President of the NSW Bar Association, Ian Barker QC, announced the names of 23 barristers who have been appointed Senior Counsel (S.C.)

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

William Kearns

Jack Shand Chambers

Called to the Bar on 8 September 1972. Kearns holds a Bachelor of Laws (Honours) from ANU and a Master of Laws from the University of Sydney. He specialises in the law of insurance, professional negligence, personal injury.

James McIntyre

Elizabeth Street Chambers

Called to the NSW Bar on 3 February 1975. McIntyre has a Bachelor of Laws from the University of Sydney. His main areas of practice are in common law personal injury work, insurance and professional negligence. In 1984 and 1985 McIntyre appeared as Counsel for the Commonwealth in the Royal Commission into Nuclear Testing. Since 1970 he has sat as a Judge Advocate at Defence Force Courts Martial and has been a Defence Force Magistrate since 1983.

Anthony Hewitt

Jack Shand Chambers

Called to the Bar on 1 August 1975. Hewitt has a Bachelor of Laws from the University of Sydney. His main areas of practice involve liability insurance and related damages litigation. He has written on aspects of Torts Law for the *ALJ* and *Australian Bar Review*.

Desmond Kennedy

Jack Shand Chambers

Called to the Bar on 7 November 1975. Kennedy's main areas of practice include defamation, professional negligence and personal injury cases. He holds a Bachelor of Arts from Newcastle University and a Master of Laws from the University of Sydney.

Kingsford Dodd

Sir James Martin Chambers

Called to the Bar on 16 July 1976 after practising as a solicitor for nine years. Dodd practices mainly in the areas of professional negligence, public and occupiers' liability, employer liability and motor accident cases.

Selwyn Gibb

2nd Floor Wentworth Chambers

Called to the Bar on 11 February 1977. Gibb has a Bachelor of Arts and Master of Laws from the University of Sydney. His special areas of practice include administrative law, bankruptcy, corporations law, revenue law, trade practices and equity. Gibb has conducted workshops in the Faculty of Law Legal Workshop at ANU and has given CLE lectures at the College of Law and seminars in tax litigation at the University of Sydney.

Maxwell Kimber

State Chambers

Called to the Bar on 22 July 1977. He holds a Bachelor of Laws and Bachelor of Commerce from UNSW. In 1977-78 he undertook a Masters degree in Law from the University of Virginia as a Fullbright Scholar. In 1983 he was appointed Junior Counsel to His Hon. Justice Evatt in the Royal Commission into the Effects of Chemical Agents on Australian Personnel in Vietnam. Kimber's main areas of practice include administrative, employment and industrial law.

Anthony Martin

9th Floor Selborne Chambers

Called to the Bar on 22 July 1977. Martin has a Bachelor of Laws from the University of Sydney. His main areas of practice include Banking, Corporations Law, Equity and Trade Practices cases.

John Kiely

Crown Prosecutors' Chambers

Called to the Bar on 25 November 1977. Kiely has been engaged as a Crown Prosecutor since November 1990.

Paul Blacket

8th Floor Wentworth Chambers

Called to the Bar on 10 February 1978. Blacket's main areas of practice include workers' compensation, employment law, professional negligence, insurance and personal injury. He holds a Bachelor of Arts (Hons) and a Bachelor of Laws from the University of Sydney. He is on the NRMA Panel of Arbitrators and the *Pro Bono* Panel of the NSW Council of Civil Liberties.

Ross Letherbarrow

State Chambers

Called to the Bar on 14 July 1978. Letherbarrow has a Bachelor of Laws from the University of Sydney. His

practice involves mainly professional negligence, insurance and motor accident work. He is a member of Bar Council and has recently been appointed to the Motor Accidents Council of NSW.

Mark Williams

10th Floor Selborne Chambers

Called to the Bar on 21 December 1978. Williams has a Bachelor of Laws and a Bachelor of Commerce from UNSW. He specialises in Admiralty, appellate, construction, commercial law, equity, insurance and professional negligence.

Murray Aldridge

Frederick Jordan Chambers

Called to the Bar on 8 February 1980. Holds degrees of Bachelor of Economics and Bachelor of Laws from the University of Sydney.

Aldridge's main areas of practice are Banking, Bankruptcy, Corporations Law and Equity. He is a member of the Bar Association's Professional Conduct Committee, the Law Council of Australia's Insolvency and Reconstruction Committee and The Law Society Advisory Committee on Specialist Accreditation in Advocacy. He is one of the authors of *Bankruptcy Law and Practice* (Butterworths, 1999)

Timothy Hale

6th Floor Selborne

Chambers Called to the Bar on 17 December 1980. Hale has a Bachelor of Arts and a Bachelor of Laws from the University of Sydney. His main areas of practice include local government, environment and planning law, equity, defamation and professional negligence.

Caroline Needham

St James Hall

Called to the Bar on 17 December 1980. Needham's principal areas of practice include commercial law, equity, construction law and professional negligence. In addition to her private practice, Needham has had a distinguished academic career; as a student at Oxford, a lecturer at Sydney University and an Associate Professor at University of British Columbia. She is the Head of the Legal Services Division, Administrative Decisions Tribunal. She has also written numerous journal articles.

continued page 9

continued from page 8

Mark Ierace

Frederick Jordan Chambers

Called to the Bar on 10 July 1981. Ierace specialises in the practice of criminal law. He is the author of *Intellectual Disability: A Manual for Criminal Lawyers* (Sydney, Redfern Legal Centre Publishing, 1989) and co-authored the 1998 edition of *Drug Law in NSW* (Federation Press, 1998). In 1994 he was seconded to the NSW Law Reform Commission to help prepare a discussion paper on intellectual disability and the criminal justice system. Between 1989 and 1995 Ierace was a Public Defender in NSW. Between 1995 and 1998 he served as a senior in-house counsel for the Commonwealth DPP.

John Whittle

Blackstone Chambers

Called to the Bar on 30 March 1982. Whittle has a Bachelor of Arts and a Bachelor of Laws from the University of Sydney. His main areas of practice include equity, trusts, wills, real property, commercial and maritime law. He has been a tutor to numerous counsel and has lectured at Bar Readers courses.

Christopher Birch

Garfield Barwick Chambers

Called to the Bar on 9 July 1982. Birch's main areas of practice are equity, commercial, administrative, and anti-discrimination law. In 1997 he was appointed for a three year term as a member of the Council of Law Reporting for NSW. Birch lectures in Legal Philosophy at the University of Sydney's Faculty of Law and for the Law Extension Committee. In the last two years he has taught a Legal Philosophy course in Germany for Sydney

University's external postgraduate program.

Elizabeth Fullerton

Forbes Chambers

Called to the Bar on 22 December 1983. Fullerton has a Bachelor of Arts from Monash University and a Bachelor of Laws from UNSW. Her main areas of practice include criminal law, corporations law and medical negligence. She has been briefed to appear for and advise the NSW Crime Commission, the NSW Crown Solicitor, the Australian Securities Commission and the Commonwealth DPP.

Dermot Ryan

Blackstone Chambers

Called to the Bar on 31 August 1984. Ryan's main areas of practice include commercial law, equity and intellectual property. He holds the degrees of Bachelor of Arts, Bachelor of Laws (Hons) and Master of Laws from the ANU. He is a part time lecturer of law at UNSW and prior to that, taught law at the University of Canberra.

Nigel Rein

Ground Floor Wentworth Chambers

Called to the Bar on 2 November 1984. Rein has a Bachelor of Arts and a Bachelor of Laws from the University of Sydney. His main areas of practice cover insurance, professional liability, maritime and commercial law. He served for several years on the Education Committee of the Bar Association and has represented the Association on the University of Sydney's Faculty of Law. He has lectured on insurance topics to the Australian Insurance Law Association and has a number of these papers published.

Julian Sexton

10th Floor Selborne Chambers

Called to the Bar on 20 December 1984. Sexton's main areas of practice include equity, bankruptcy, common law, admiralty, trade practices, administrative law and environment and planning law. He holds a Bachelor of Arts and Bachelor of Laws from the University of Sydney.

Brian Preston

11th Floor Selborne Chambers

Called to the Bar on 6 November 1987. Preston's main areas of practice include environment and planning law, commercial, equity, building and construction and administrative law. He holds a Bachelor of Arts and a Bachelor of Laws (Hons) from Macquarie University. As a solicitor in the 1980s, Preston helped to set up the Environmental Defender's Office in Sydney. Since 1992 he has been teaching post-graduate environmental law courses at the University of Sydney and ANU. He is also a member of numerous environmental law committees and commissions.

W. Robert Griffiths QC

4-5 Gray's Inn Square

6th Floor Selborne /Wentworth

Called to the Bar of England and Wales in November 1974 and appointed Queen's Counsel in April 1993. Griffiths QC specialises in Administrative law and judicial review, commercial law, company law, professional negligence and local government and environment law. He practices at the London Bar and has accepted an invitation to to become an overseas member of Chambers at 6th Floor Selborne/Wentworth.

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Letters

A letter of Thanks to the Bar

As some may have noticed, there have been a few recent confirmed sightings of my slower moving frame through the Courts and corridors of Chambers. After five months in hospital and another five months in rehabilitation, I am now back in practice, albeit part time.

I just want to take this opportunity to thank my friends and colleagues at the Bar for all the messages, telephone calls, visits (and flowers!) particularly when I was in hospital. The messages received in the Borg St Maurice Hospital after my unexpected introduction to French surgery and visits whilst incarcerated at Royal North Shore Hospital remain highlights.

To all of you, thank you for your compassion and support throughout this year.

Chris Hoy

12th Floor Chambers

P.S. There is no truth in the rumour that I now answer to 'Two Legs Hoy.'

Letter to the Legal Assistance Manager;

Re: [Client name withheld] v [Bank name withheld]

This is to advise you that this matter has now settled on confidential terms which I understand were favourable to [name withheld by request] and which will allow her to enjoy a level of financial independence she did not previously enjoy.

The matter settled after her case was almost entirely repleaded. The amended pleadings reflected the tremendous efforts of Tress Cocks & Maddox. Their review of a substantial volume of documentary material enabled many new claims to be formulated against the bank.

I am pleased to also observe that this case is an excellent example of where both the NSW Bar Association and the NSW Law Society worked together to provide a valuable public service.

Martin J Watts

30 September 1999

Letter to the Executive Director;

This brief letter is written to best describe a man who my family and I

believe is a credit to his profession.

First of all I would like to thank the Bar Association for granting me the opportunity to prove my innocence in a court of law with a Barrister of Law that respectfully acted and approached this case with integrity, honour and kindness towards me and my mother.

He [name withheld by request] outlined every facet of the law to me, encouraged me to tell my story and always told me to tell the truth.

I am most grateful to you and your Association, starting with Heather Sare and the Board.

After the 5 years of suffering and sleepless nights I can now try to build a future that nearly was wrongfully taken away from me.

It has been a long haul but my innocence has finally been heard.

Thank you, and God-Bless that there are still decent people in what is now a very cruel and hard world to live in.

Name Withheld

8 October 1999

The Lloyd McDermott Rugby Development Team

Sydney Chambers, thirteen floors above Elizabeth Street, is an ideal vantage-point for Lloyd McDermott to reflect upon his origins and his achievements. He has the double distinction of being the first Aboriginal Australian to play for the Wallabies and the first to become a barrister.

Born in 1939 in Eidevold, Queensland, Lloyd is a member of the Wakka Wakka tribe. Guided and motivated by his parents, he studied diligently and went on to attend the Anglican Church Grammar School in Brisbane. As a young student at Queensland University, Lloyd's prowess as a 1st Grade rugby union player gave him confidence and won him respect from the predominantly white establishment.

Since he was called to the Bar in 1972, McDermott has appeared in a number of notable cases. Perhaps none was more important or rewarding to him than the *Dungatti Nation v NSW*, the first

mainland Native Title claim to succeed.

Yet his greatest passion is reserved for his duties as patron of The Lloyd McDermott Rugby Development Team Inc. It is an organisation that aims to introduce young indigenous Australians to team sports such as rugby and netball. The goal is to build confidence and success in employment and all other areas of life through achievements on the sporting field; the same approach that Lloyd himself has so successfully applied. 'Sporting achievements can give Aboriginal people a sense of belonging and a feeling of identity,' says McDermott.

That is why the annual LMRDT training camps are accompanied by Career Expos and vocational guidance by experienced personnel. It is a point that Lloyd returns to repeatedly in his discussions: that team sports are really a means to an end. Young black men and women must be given something more than sport to

sustain themselves.

Since its inception, more than 800 young indigenous people have participated in the program of sport, vocational guidance and training. They have undertaken two international tours and 18 young people have been placed in employment.

McDermott is quick to express his heartfelt gratitude for the years of generous support by barristers, solicitors and members of the judiciary.

If readers of *Stop Press* would like to contribute to the work done by Lloyd and his team, you may do so through fundraising, sponsorships, employment placements and by making donations.

Contact the LMRDT at the following address:

Lloyd McDermott
Rugby Development Team
GPO Box 3853
SYDNEY NSW 2001
Ph: (02) 9660 8894

Supreme Court of New South Wales

Circuit Sittings for 2000

Sittings of the Court shall be held at the following places and begin at 10:00 am on the dates mentioned below:

CIVIL

Circuit	Sittings Commence	Duration
Sydney	Monday 31 January	
Central West (Venue: Dubbo)	Monday 14 August	2 weeks
Goulburn	Monday 27 March	1 week
Newcastle	Monday 27 March	2 weeks
Monday 14 August	2 weeks	
Northern Rivers (Venue: Lismore)	Monday 22 May	2 weeks
Northern Tablelands (Venue: Tamworth)	Monday 17 July	1 week
Riverina (Venue: Wagga Wagga)	Monday 22 May	2 weeks-
Wollongong	Monday 17 July	2 weeks

Criminal trials will be held in places other than Sydney as and when the need arises.

Papers to Note

Australian Law Reform Commission, *Discussion Paper 62: Review of the Federal Civil Justice System*. DP 62 is the product of a four year long inquiry into the cost, timeliness and accessibility of the Federal Court, Family Court and federal review tribunals. A copy may be obtained from the Bar Library, or from the ALRC website at <http://www.austlii.edu.au/au/other/alrc/publications/dp/62/>

Response of the Family Court of Australia to ALRC Discussion Paper 62: Review of the Federal Civil Justice System. The Family Court swiftly issued a detailed rebuttal of the ALRC's findings. A copy may be obtained from the Family Court's homepage at <http://www.familycourt.gov.au/>

The Australian Legal Services Export Development Strategy Outline by the International Legal Services Advisory Council, was formally launched by the Commonwealth Attorney General at the Australian Legal Convention in Canberra, 9 October 1999. A copy is available from the Bar Library.

Review of the Criminal and Civil Justice System: Final Report. The Law Reform Commission of Western Australia tabled the report on 27 October 1999. This wide ranging report makes 447 recommendations covering costs, appeals, the right to silence and a pilot project for 'private civil courts' for companies. A copy may be obtained from the Bar Library or by visiting the LRCWA website at www.wa.gov.au/lrc

Third Triennium Report: Record of Work conducted by the International Legal Services Advisory Council 1996 to 1999 includes a list of ILSAC publications, together with an order form. Both ILSAC reports are available from the Bar Library.

Information Technology Developments - Family Court of Australia: describes the range of IT resources available to the public, Federal Court staff and judicial officers. A copy may be obtained from the Bar Library.

Green Paper on Powers of Attorney, by the NSW Land Titles Office. Responses to the issues raised in the paper should be sent by 15 December 1999. A copy is available in the Bar Library.

Motor Accidents Authority Board of Directors and Motor Accidents Council

In October, the Hon. John Della Bosca, MLC, Special Minister of State made the following appointments.

Board of Directors, Motor Accidents Authority:

Mr Richard Grellman	Chairperson
Ms Alison Ray	Deputy Chairperson
Mr Roger Wilkins	
Ms Antoinette Le Marchant	
Ms Penny Le Couteur	
Mr David Bowen	General Manager

Motor Accidents Council:

Mr Richard Grellman	Chairperson
Ms Alison Ray	Deputy Chairperson
Mr Douglas Pearce	Insurance industry
Ms Robyn Norman	Insurance industry
Mr Ross Letherbarrow	Legal practitioner
Mr Nicholas Meagher	Legal practitioner
Dr Stephen Buckley	Health practitioner
Dr John Frith	Health practitioner
Dr Michael Henderson	Motorists' representative
Ms Felicity Purdy	Injured persons' representative
Mr Anthony Geoghegan	Consumer representative
Mr David Bowen	General Manager

District Court's new listing system in Sydney West

I would like to bring to the attention of solicitors and barristers in New South Wales the change of policy which will be implemented in the criminal jurisdiction of this Court in the year 2000.

The centralised committal project which began in Sydney in early 1998 and in Sydney West in early 1999 has had the result of reducing significantly the number of matters being committed for trial. This has contributed to a reduction in the caseload of trials in both Sydney and Sydney West. In Sydney West, for example, the number of trials on hand at the beginning of 1998 was 750 and I expect that by the end of 1999 it will be less than 400. I expect the trial caseload in Sydney to be about 500 at the end of the year. It was also approximately 750 at the beginning of 1998.

In Sydney West the smaller caseload now allows us the opportunity to implement the Court's time standards for dealing with trials. That time standard envisages that a trial will be heard 112 days from committal or other event which gives rise to a requirement for a trial.

I have requested that between now and the end of the year when trials are being listed in Sydney West, they not be listed past April. When the Court resumes sittings in Sydney West on 31 January 2000, the Court will be listing each trial on a date three months from committal. That will be done in case some trials are adjourned on the day of trial and

vacancies will be left in the Court listings to enable those cases to be listed within a month of being adjourned. In this way it is hoped the vast majority of the trials will commence within four months of committal.

Of course, there will be some cases which cannot be dealt with in such a time frame and if that is demonstrated either by the prosecution or the defence, a different listing may be obtained. There will be a strong presumption, however, that all cases should be dealt with within the time standards.

We have the capacity in Sydney West to achieve these goals. During the course of this year we have been disposing of about 50% more trials than we have been receiving. Allowing for the fact that trial matters presently pending in Sydney West are heard before the end of April, we have the capacity to list three times the number of trials we are registering each month. For these reasons I am optimistic our aims can be met.

I should point out that up until now the delay in hearing all criminal cases in New South Wales has been the worst in Australia and, in my experience, one of the worst in the English-speaking world. Although these time standards may seem short to the profession in New South Wales, they are not short by comparison with world standards.

I am bringing the matter to your attention at this stage because you will

readily appreciate the change will involve a whole different approach by the profession to the preparation of criminal cases. An obvious first problem is that many specialist criminal counsel are fully briefed for more than three months in advance. For that reason unavailability of counsel cannot normally be an acceptable reason for delaying a trial. We cannot conduct a criminal justice system which depends on the availability of lawyers rather than the interests of the community in the timely resolution of criminal cases.

The change to a time standard system in Sydney West will be monitored carefully. It is proposed at this stage that the same system will be introduced in Sydney by the middle of the year. The number of outstanding trials in Sydney is still reducing and I would prefer to see it reduced a little further before introducing the new listing system in Sydney where trials tend to be longer and more complex than in Sydney West and such trials are more difficult to manage in accordance with the time standards.

I believe there is a legitimate public expectation that we achieve the goals the Court has set. We can only do it with the substantial co-operation of the legal profession and I look forward to a co-operative approach to the new system.

The Hon. Justice R.O. Blanch
Chief Judge.

New Court Fees Announced

On 28 October 1999 the NSW Attorney General announced a new fee structure, which took effect on Monday 1 November 1999. Fees in all NSW Courts rose overall by 4.3% as from Monday 1 November 1999. The increase is based on the underlying 1.7% increase in the consumer price index for 1998-99 as well as the 2.62% rise in the CPI forecast for this financial year.

Separate fees for filing and other services have been introduced for corporations and individuals, in line with the practice adopted by the Federal Court. Under the new regime, filing fees have effectively doubled for corporations in all Supreme Court Lists other than Commercial, Admiralty and Construction.

A setting down fee of \$2022 for corporations and \$1011 for individuals was introduced for all Supreme Court matters. A fee for notices of motion was also introduced (\$248 for corporations and \$124 for individuals.)

Transcript fees and fees for judgments will not be affected by the increases. Fees for matters before the Industrial Relations Commission are also not affected.

Other fee changes effective Monday 1 November 1999 include:

Supreme Court

- The introduction of an arbitration fee of \$595

- Filing fees in the Admiralty and Construction Lists increased to the same level as the filing fee in the Commercial List.

- The introduction of a number of minor 'fees for services.'

District Court

- The fee for referral of a matter to an arbitrator increased from \$368 to \$480.

Land and Environment

Court Fees to be introduced for the issue of subpoenas.

District Court Sittings for 2000

The Chief Judge of the NSW District Court, The Hon. Justice R.O. Blanch recently wrote to the President of the Bar Association, Ian Barker QC, as follows:

'I have allocated the sittings of the Court for next year, and I enclose a copy of the Court's *2000 Calendar of Sittings** for your information. I also enclose a chart setting out the comparative sittings for 2000, against those for 1997, 1998 and 1999.

Overall, there has been a reduction of 4 weeks (0.3%) as compared with 1999. However, this has been calculated on the basis of 41 sitting weeks for the year, as compared to 42 sittings weeks in 1999. This is due to the fact that Easter Monday and ANZAC Day, together with the Judges Annual Conference (2 days), all fall in the same week.

I have decided to allocate a full-time Judge to the civil jurisdiction in Sydney West. As a consequence, the level of sittings are reduced by some 21 weeks. However, each centre will have access to that full-time Judge, regardless of where the Judge may be sitting. Experience has shown that it is far more efficient to have a full-time Judge presiding, than to have numerous Judges attending on a circuit basis. Also, I will consider allocating additional sittings to Sydney West, should this become necessary.

The criminal sittings at Newcastle, where delays are relatively minimal, has been decreased by 5 weeks. This has allowed me to allocate the equivalent of a full-time Judge in crime to Gosford, where sittings are increased by 3 weeks. Similarly, the criminal sittings at Wollongong have been increased by a week and a full-time Judge will be retained there.

The rebuilding program at Orange Court House is still taking place and the Court will not be able to sit there in 2000.

Although a civil sittings was conducted there in August 1999, the Judge who presided has indicated the facilities are such that further sittings should not be countenanced until the work is completed. As a consequence, the civil sittings will be conducted in 3 blocks of 3 weeks (ie. total 9 weeks) at Bathurst, with matters from either venue being able to be listed in each of the blocks. This should allow the Court sufficient flexibility to meet the needs of both venues.

As a part of my ongoing rationalisation of sittings, the Court will cease sitting at Cowra and its work will go to Bathurst, until Orange is available for sittings. This does not mean the Court will never sit again at this venue. All towns which are proclaimed places remain so, whether the Court actually sits there or not. As with any venue, should the need arise to have a sittings, or additional sittings, then the Court will endeavour to accommodate it. I look at these situations in the light of the competing needs of all communities and the finite resources available to the Court.

You will note a few other minor variations in the allocations as compared to last year. These are based on the comparative caseloads of venues. However, in rural areas, the overall sitting allocation has been increased by 26 weeks (7%).

To provide for the 2000 Olympic Games, I have moved the mid-year variable vacation period from July to September. The Court will not sit in either its criminal or civil jurisdiction outside of Sydney during this period. In Sydney, I

propose to roster 3 Judges to sit in crime, primarily to deal with custody cases and other urgent matters, although I will provide additional Judges if the need arises. In addition, normal civil sittings will be maintained in Sydney during the first two weeks of September, but only a limited capacity (about 2 to 4 Judges) will be available in the last two weeks.

Of course, it is difficult to predict with any certainty the extent of the demands which will be placed on the Court in a year hence, especially given the circumstances which will prevail at that time. My proposed arrangements may need to be revised as the Olympic Games draw nearer and a clearer picture emerges, but I would not expect any major variation to them.

Thank you for the comments made by the Bar Association's committee through Mr Letherbarrow. They were most helpful and I have changed the proposed Calendar to take account of them.'

Yours sincerely,

The Hon. Justice R O Blanch
Chief Judge

*Copy available at Reception

Copies of the District Court 2000 Calendar of Sittings 2000 are available from the Bar Library.

Supplementary Information

The NSW District Court announced on 29 October 1999 that due to a NSW Court of Criminal Appeal sitting in Wagga Wagga in March 2000, the District Court's criminal sittings scheduled for 3 weeks commencing 28 February have been brought forward to commence on 21 February.

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Solicitors withholding tax from payments to barristers

Gzell QC, Chairman of the Bar Association's GST Committee recently wrote to the President, Ian Barker QC, as follows:

'While *A New Tax System (Tax Administration) Bill 1999* passed the House of Representatives without amendment, I understand that it was on 13 October 1999 referred to the Senate Economics Legislation Committee for report by 29 November 1999.

It is hoped that the Bill will thereafter find speedy passage through the Senate. I do not want to delay this letter until that event.

If the Bill passes the Senate in its present form section 12-60 of the *Taxation Administration Act (1953)* will be replaced by the following:

- 1) An entity that carries on an enterprise must withhold an amount from a payment that it makes to an individual in the course or furtherance of the enterprise if:
 - a) The enterprise is a business of arranging for persons to perform work or services directly for clients of the entity, or the enterprise includes a business of that kind that is not merely incidental to the main activities of the enterprise; and
 - b) The payment is made under an arrangement the performance of which, in whole or in part, involves the performance of work or services by the individual directly for a client of the entity. For exceptions see section 12-1

Example 1: Staffprovider Ltd keeps a database of skilled persons who are willing for their services to be provided to third parties. Staffprovider arranges with Corporate Pty Ltd to provide to it the services of a computer programmer in return for payment. Staffprovider arranges with Jane for her to do computer programming for Corporate. Staffprovider must withhold amounts under this section from payments it makes to Jane under the arrangement with her.

Example 2: Ian is a solicitor who regularly briefs barristers to represent his clients. Briefing barristers is merely incidental to Ian's main activities as a solicitor, so he does not have to withhold amounts under this section from payments he makes to barristers.

- 2) An entity that carries on an enterprise must withhold an amount from a payment that it makes to an individual in the course or furtherance of the enterprise if the payment is, in whole or in part, for work or services and is of a kind prescribed by the regulations.

For exceptions, see section 12-1

There is no longer the prospect that solicitors will be required to withhold tax from payments to barristers.'

[Editor's Note: Example 2 is a direct result of a submission Gzell QC made on behalf of the Bar Association to the Treasury and Commissioner of Taxation. It is not true that he is thinking of becoming a solicitor!]

Corrections

Bar News

The Spring 1999 edition of *Bar News* featured a reproduced portrait of Sir Maurice Byers on the cover. An introduction on page 27 stated that the portrait was presented to the Bar Association by the 1997 Silks. This was incorrect. In fact the portrait was donated by a group of Sir Maurice's colleagues and friends. In alphabetical order they were:

Tom Bathurst QC
David Bloom QC
Joe Campbell QC
Michael Cashion S.C.
Stephen Climpson
Stephen Finch S.C.
Geoff Flick S.C.
Stephen Gageler
Phil Greenwood S.C.
Ian Harrison S.C.
Dyson Heydon QC
Bruce McClintock S.C.
Peter McEwen S.C.
Henric Nicholas QC
Alan Robertson S.C.
John Sackar QC
Murray Tobias QC
Geoff Underwood
Paul Webb QC
Neil Williams
David Yates S.C.

Annual Report

The NSW Bar Association's *1999 Annual Report* stated that Daniel Howard retired or resigned from Professional Conduct Committee #4 during the financial year. This is not correct. In fact, he continues to serve on the Committee.

Judge Gay Murrell S.C.

The October 1999 edition of *Stop Press* included an article on The 1999 Bench & Bar Dinner. The caption to one of the photos referred to the Senior Drug Court Judge as 'Judge Helen Murrell S.C.' This should have read 'Judge Gay Murrell S.C.' The Editors of *Stop Press* apologise for the error.

—NOTICE—

FAMILY COURT OF AUSTRALIA PARRAMATTA
REGISTRY SEMINAR

"Common Pitfalls of Advocates"

Thursday 25 November 1999

4.30 pm - 5.30pm

SPEAKERS:

Justice John Ellis

Justice Ian Coleman

Justice Stephen O'Ryan

Justice Peter Rose

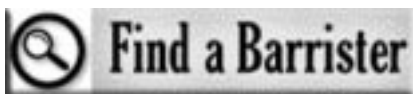
R.S.V.P.: 23 November 1999 • Registry Manager • Tel: 9893 5506

Searching practice areas on Find a Barrister

It was reported in the October edition of *Stop Press* that *Find a Barrister* was available at the Bar Association's website. Initially, users could only search for Barristers by name or chambers. We have since added a field for searching areas of practice.

The introduction to *Find a Barrister* informs users that most members of the NSW Bar Association have provided several areas of practice. Many members practice widely across jurisdictions and before a variety of courts and tribunals. Therefore the areas of practice listed in the directory may not reflect a barristers' full range of expertise but rather individual claims of particular experience, expertise and interest in a given area of the law. Members and clerks are asked to check their entry on the web site.

Membership



Updated 29 September 1999

[Important please click here](#)

Surname:

Given names:

Chambers:

Areas of Practice:

Searching

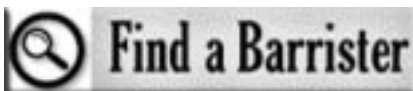
Insert the cursor in the Areas of Practice field and type in a subject heading, such as 'Maritime law.' The results will be displayed as you see below left.

Preferred Names

The Bar Association will be modifying its membership database by adding a field for preferred names. This field will then be used to generate records for *Find a Barrister* on the Bar Association's homepage. For example, if your formal name is Lee Harvey Oswald, but for obvious reasons, you wish to be known as Harvey Oswald, please contact the Membership Officer.

Work is also being done to add additional information, such as languages spoken.

Change of details requests should be made to the Membership Officer on ph: 02 9229 1740 ; fax: 02 9221 1149 or email: membership@nswbar.asn.au



Displaying records 1 through 1 of 1 records four

Surname	Given Names	Chambers	Clerk	Street	Suburb	State	Postcode	DX Number	DX Location	Telephone
Street S.C.	Alexander Whistler	Wentworth Chambers	Bob Horne	7/180 Phillip Street	SYDNEY	NSW	2000	DX 399	SYDNEY	8224 3014

Areas of Practice

Admiralty
 Advocacy - appellate
 Constitutional
 Corporations
 Equity
 Trade Practices & Competition Law
 Commercial
 Maritime Law

Appointments

Motor Accidents Authority

Ross Letherbarrow S.C. has been appointed a member of the Motor Accidents Council.

Public Defender

Paul Winch has been appointed a Public Defender commencing on 21 October 1999.

Acting Public Defender

Anthony Cook has been appointed as an Acting Public Defender commencing on 21 October 1999 and expiring on 20 October 2000.

Crown Prosecutor

Sara Louise Bowers has been appointed as a Crown Prosecutor effective 4 November 1999.

Acting Crown Prosecutors

Nicole Noman has been appointed Acting Crown Prosecutor effective 4 November 1999 to 3 November 2000.

Kenneth Magnus and Luigi Lungo have been appointed Acting Crown Prosecutors effective 19 December 1999 to 18 December 2000.

Administrative Decisions Tribunal

Pursuant to s12(2) of the Administrative Decisions Tribunal Act 1997, the NSW Attorney-General has reappointed the following persons as part-time non-presidential judicial members of the Administrative Decisions Tribunal of NSW commencing 27 October 1999 and expiring on the date shown.

Dr A.C. Bennett S.C.	31 March 2000
J.H.H. Blackman	31 May 2000
The Hon. R.J. Ellicott QC	31 March 2000
M.J. Finnane QC	31 May 2000
S. Norton	31 March 2000
L.P. Robberds QC	31 March 2000
J.N. West QC	31 March 2000
J.M. Boland	31 Dec. 2000
J.W.F. Brennan RFD	31 March 2000
J.J. Catanzariti	31 March 2000
R.J. Clisdell	31 Dec. 2000
J.S. Currie	31 March 2000
R.J. Fox	29 Feb. 2000

A.T. Martin 31 March 2000

J.M. Mattila 31 March 2000

Reappointments

Dr M.E. Costigan 31 Dec. 1999

K. Elliott 31 March 2000

Bar Association New Members

Andrew Campbell

David Galpin

William Griffiths

Gregory Holland

Andrew Harris

Anthony Hatzis

Paul McGuire

Sandra O'Campo

David Price

John Raneri

Peter Robinson

Catherine Ross

Associate Members

Abe Greenbaum

Richard Jones

Pearl Rozenberg

Jonathan Williams J

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Stop Press is produced monthly for the NSW Bar Association by:

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Studio 9

5 Parsons Street

Balmain 2041

Tel: (02) 9555 7866

Fax: (02) 9555 7861

Email: weavers@weavers.com.au

Web site: www.weavers.com.au

Advertising bookings and enquiries to John Weaver.

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174 Phillip Street

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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