



President's Column

Power but no glory

Whether or not the reforms proposed in the Workers Compensation Legislation Amendment Bill are necessary, in whole or in part, the process by which the reforms have been put forward has inevitably led to frustration and suspicion: frustration at the speed with which the reforms were introduced without prior consultation, suspicion when radical reforms were proposed without the underlying factual basis for the reforms being revealed and increased suspicion when, despite information about the factual basis being promised, it was not provided.

The reason put forward for the radical and hasty changes to the Workers Compensation system is said to be the parlous state of the current Scheme – in particular, it was alleged, due to the disproportionate amounts the legal profession extracts from the system. As I pointed out in the last *Bar Brief*, the figures released by the Minister to support the alleged blowout did not withstand scrutiny.

Mr Della Bosca based his plans to dismantle the workers compensation scheme on Government figures that claim legal costs have blown out to equal weekly benefit payments to injured workers. The Government claimed taxpayers were spending as much on lawyers as on injured workers' weekly payments. Documents released by the Government when the proposal was announced made the following claim:

- In 1999/2000 legal costs were \$422m.
- Weekly benefits paid to injured workers were \$438m.

The figures produced by the Government weeks after the initial announcement tell a different story. According to them:

- In 1999/2000 legal costs were \$317m.
- Weekly benefits for injured workers were \$643m.
- The total benefits paid to workers in 1999/2000 were \$1,808m.
- Total fund payments were \$2.68bn.

These figures showed that there has been no blowout in legal costs from 1998/99 to



Ruth McColl S.C., President.

1999/2000. Indeed, legal costs were 11.8 per cent, not 18 per cent as claimed by the Government. The Association has never been given an explanation about the discrepancy in these figures. Further the Government has never withdrawn its assertion about the proportion legal costs bear to the overall scheme. The Premier was still repeating the same line when he appeared on the *7.30 Report* on 19 June 2001.

After many requests, the Bar Association finally met with Mr Della Bosca in May. We pointed out that under the American Medical Association Guidelines (which the first version of the Bill provided would be used as the basis to determine payout levels), lump sum benefits to workers would be substantially reduced.

We also pointed out the discrepancy between the figures Mr Della Bosca relied upon to demonstrate the cost blow out in legal fees and the actual figures. He promised to provide the Bar Association with the figures he said justified the assertion of a legal fee blowout – and hence the need for radical reform. A copy of part of the Government's actuarial report was provided but the attachments to the report (without which the figures did not make sense) were not provided despite frequent requests.

At the same meeting, we also pointed out that the best way to determine whether there was a problem with the existing system, what it was and what might be done to reform it would best be achieved by a meeting of all stakeholders. Mr Della Bosca appeared to agree. The meeting never transpired.

The reality is that the Government has sought to disqualify lawyers from the debate by the convenient assertion of self-interest and gross profiteering. It could be confident the media would fall for the line because of the glibness with which the media itself frequently makes such assertions. Lawyers are dangerous for those who seek reform: they have a habit of scrutinising the facts, to try to determine whether they support the proposed changes. In this case, the Government would have been under no illusions that the legal profession would support the reform package both because the proposals had the effect of reducing benefits to injured workers as well as depriving them of a right to a hearing before a court constituted by an independent judiciary.

As under the first version of the Bill, under the latest version of the Bill (released on 15 June), the Compensation Court would be sidelined. It will be reserved for coal miners' cases and any existing claims not transferred to the new Commission. A Workers Compensation Commission consisting of a president, two deputy presidents, a registrar and arbitrators will replace it. Neither the registrar nor the arbitrators need be legally qualified.

In the second reading speech, the Minister for Police who tabled the Bill in the Legislative Assembly said it delivered an 'independent and transparent dispute resolution service.' Oh really!

How independent? Under the new Bill, the Minister may remove a member of the Commission, other than an arbitrator, for incapacity, incompetence or misbehaviour. The president may remove an arbitrator at any time. The arbitrators will make most of the decisions currently made by judges in the Compensation Court. Limited rights of review are given

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Bar Council business

March 2001

President's report

Meeting with the Commissioner of Taxation, 13 February 2001

The President advised that she, Walker S.C. and the Executive Director met with the Commissioner of Taxation and three of his officers on 13 February.

The Commissioner stated that the statutory confidentiality provisions that applied to the ATO prevented the Office from advising the Bar Association of a prosecution of a barrister, even though that prosecution was heard in open court.

The Commissioner agreed to the President's request that ATO officers present a session in each Readers' course on practice management and taxation liabilities. ATO officers will also give sessions to groups of chambers throughout the State; written material would be made available.

The Commissioner agreed to the President's request that he nominate an ATO officer with whom barristers could discuss any taxation problems to try and resolve matters without the need for legal action.

Items for consideration

Legal Profession Amendment (Notification) Regulation 2001

The President gave a detailed account of events leading up to the promulgation of the Legal Profession Amendment (Notification) Regulation 2001, including the many discussions with the Attorney General and officers from both his personal office and his Department.

A strict protocol had been established by the Executive Director to ensure that notifications are treated with the utmost confidentiality.

Bar Council endorsed strongly the President's public statements that the Bar Association deplored the conduct of any barrister who deliberately flouted and avoided his or her legal and financial obligations. Bar Council also expressed its appreciation for the work that had been done by the President, Executive Director and others to try and minimise the damage done to the Bar's reputation by the disclosures in the *Sydney Morning Herald*.

Draft practising certificate application and renewal forms – for approval pursuant to s6 of the Legal Profession Regulation 1994

Bar Council resolved that the proposed Application for Practising Certificate and Practising Certificate Renewal Forms be

approved, subject to their being amended to include:

- the provision of the barrister's Australian Business Number;
- a requirement that where the barrister states that they have been found guilty of an offence, they provide copies of relevant documents, eg notice of conviction, transcript of hearing;
- a requirement that where the barrister states that they have become a bankrupt or otherwise fall within the ambit of the Notification Regulation in respect of bankruptcy, they provide copies of the bankruptcy petition, transcript of their public examination, statement of affairs, details of arrangements made with creditors etc;
- a requirement that where a barrister notifies a matter, they provide both details of the incident and a statement as to why they consider that, despite the incident, they are a fit and proper person to hold a practising certificate as a barrister; and
- a note advising that the barrister need not advise the Association of a matter which they have previously disclosed to the Bar Council; a 'spent' conviction pursuant to s12 of the *Criminal Records Act 1991*; or a conviction to be 'disregarded' pursuant to s579 of the *Crimes Act 1900*.

Bar Association Committees, Sections & Working Parties 2001

Bar Council resolved to approve the establishment and composition of the Bar Association's committees for 2001, pursuant to s14.3.1 of the Association's Constitution.

Proposed practising certificate fees 2001/2002

Bar Council noted the proposed dates from when a late or processing fee would apply (22 June and 1 July) respectively.

Bar Council resolved to approve the proposed 2001/2001 practising certificate fees and late and processing fees, and the dates as of when a late or processing fee would apply.

Procedures for recovery of unpaid fees – protocol review

Bar Council discussed the practical and legal problems associated with the current fee recovery service provided by the Bar Association, and in particular the problems associated with the Rule 92 list.

Bar Council resolved to continue the current service only up to the stage where Bar Council has been asked to list a solicitor or firm of solicitors, after which

the member is to be referred to a factoring firm or a firm of solicitors prepared to undertake recovery work.

It was further resolved that the Executive Director engage, by way of tender, factoring firms or firms of solicitors who are prepared to undertake fee recovery work at a 'special rate' for barristers.

It was further resolved that the current arrangements continue until the proposed new arrangements are in place. The Rule 92 list is then to be discontinued.

Appointment of community members for newly constituted PCC # 5

Bar Council resolved that Paul Walker and Paul Hayton be appointed as community members of the newly constituted professional conduct committee. An academic member is to be appointed to this committee as soon as possible.

It was further resolved that a third community member be appointed to each professional conduct committee.

Implementing the Indigenous Lawyers Strategy – A proposal to establish a Trust Fund

Bar Council noted a proposal of the Equal Opportunity Committee that the Bar Association establish a trust fund for the purposes of providing financial assistance to indigenous lawyers wanting to start or continue practice at the NSW Bar.

Bar Council resolved that a trust fund be established to support the work to be done in the next ten years to start to increase the number of indigenous lawyers at the NSW Bar.

It was further resolved that the President determine a suitable patron for the fund.

Regulation under the Workers Compensation Legislation Amendment Act 2000

Bar Council noted that a regulation under the *Workers Compensation Legislation Amendment Act 2000* had been gazetted on 23 February 2001. That regulation limited the number of medical reports that can be obtained in disputed workers compensation claims.

Education Committee discipline procedure

Bar Council noted the memorandum from the Chair of the Reading Review Panel concerning the issue of non-compliance with reading requirements. Attached to the memorandum was a discipline procedure policy recommended to Bar Council for its adoption.

Bar Council resolved that the recommended monitoring and disciplinary process be adopted.

Bar Association's panel of arbitrators

Bar Council resolved that the following be appointed to the Bar Association's panel of arbitrators and be recommended for appointment to the District Court's panel of arbitrators.

Dean Letcher QC
Garry McIlwaine
Paul Glissan

Bench and Bar Dinner 2001

Slattery QC outlined the basis on which the budget for the Dinner had been prepared.

Bar Council resolved to approve the following ticket prices for the Bench and Bar Dinner 2001:

- Under 5's - \$115
- Other members - \$145.

First Bar Planning Committee report to Bar Council

Bar Council endorsed the memorandum from the Bar Planning Committee setting out what it saw as the environmental factors and trends influencing barristers and the Bar Association. Bar Council noted that the identification of these factors and trends was a first step in the development of a strategic plan for the Association.

Bar Council noted that an all-day meeting of Bar Councillors, chairs of committees, and section convenors would be held on a Saturday in May 2001 at which a strategic plan for the Bar would be drafted.

Oral hearings for Special Leave applications

Bar Council noted the Law Council of Australia's submission to the High Court concerning Special Leave applications to the High Court; the Law Council's clear preference is that oral hearings should not be dispensed with.

Finance

Bar Council noted the financial statements for February 2001.

The Executive Director confirmed that the four Business Activity Statements required to be lodged by the Association were being lodged on time.

April 2001

President's report

Court ceremonies

The President advised that she had addressed the court on behalf of the Bar at the farewell ceremonies for Justice Einfeld and Justice Matthews and the swearing-in of Justice Palmer.

Law Council of Australia meeting in Canberra, 31 March 2001

The President advised that she and the Executive Director had attended a meeting of the Law Council on Saturday, 31 March 2001.

Provisional liquidation of HIH Insurance

The President advised that she had met with the President of the Law Society, Mr Nick Meagher, to discuss both the effect on the legal profession of the collapse of HIH Insurance, and the Government's proposed changes to the workers compensation legislation.

The President noted that on 15 March the NSW Treasurer had announced a stamp duty exemption for people who have been forced to take out replacement insurance policies following the HIH collapse. The brokers who have offered, or will be offering, replacement cover to NSW barristers had been asked how they proposed to handle the waiver of the stamp duty.

The President noted that members were owed approximately \$4 million by way of fees in respect of HIH/CIC/FAI work. The fees did not, most probably, include fees owing to plaintiff's barristers in cases where, unbeknown to the barrister, the defendant's insurer was part of the HIH group. Claims against HIH insured barristers were close to \$2.8 million.

Workers compensation legislation

The President advised of the work she and, in particular, the chair of the Common Law Committee (Katzmann S.C.) and Brian Ferrari had done to try and persuade the Government and media of the very serious problems with the proposed new workers compensation legislation.

The President noted that there had been a meeting of the Bar in the Common Room on 30 March to discuss the proposed changes to the workers compensation legislation. At that meeting a Workers Compensation Fighting Fund had been established.

Bar Council noted that an inquiry into the management of WorkCover might be useful, particularly if attention was paid to the cost of its work practices, its poor enforcement of industrial safety legislation, and its poor record in premium collection.

Legal Profession Amendment (Disciplinary Provisions) Bill 2001

The Executive Director advised that he had been working with officers of the Attorney General's office and Department and the Office of Parliamentary Counsel

on the proposed Legal Profession Amendment (Disciplinary Provisions) Bill 2001. This Bill was complementary to the Legal Profession Amendment (Notification) Regulation 2001.

Items for consideration

Lismore District Court Sittings

Bar Council noted the concern of members practising in the Lismore district at the burgeoning list in the District Court at Lismore and the suggestion that the arbitrator resident at Lismore be able to conduct additional arbitrations to reduce the size of the list.

Queensland Law Society media release dated 30 March 2001, 'School bus safety – we must act now'

Bar Council resolved that the Bar Association should support the Law Council seeking to persuade the relevant federal authorities to upgrade the safety of buses in which children travel to and from school.

District Court Rule Committee meeting

Bar Council resolved to support the proposed amendment to Part 39A to enable personal costs orders to be made against barristers as well as solicitors and to bring the District Court's Rules in this regard into line with those of the Supreme Court.

Liaison with the Law Society's Dispute Resolution Committee

It was resolved to approved the Mediation Committee's request for approval for liaison with the Law Society's Dispute Resolution Committee.

Sex Discrimination Amendment Bill (No. 1) 2000 (Cth)

Bar Council resolved that the Bar Association opposes the passage of the Sex Discrimination Amendment Bill (No.1) 2000 on the basis that it abrogates the present rights of women provided for in the *Sex Discrimination Act 1984* (Cth), by removing a prohibition against discrimination on the basis of marital status and sexuality.

District Court pro bono list

Bar Council resolved that the Association not include in the list it provides the District Court of members willing to participate in the Court's legal assistance scheme any member who is currently the

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subject of a disciplinary 'finding'. A note requiring disclosure of such matters should be included in any circular inviting nominations.

Financial reporting to Bar Council

Bar Council resolved to establish a Finance Committee to report to the Bar Council through the Executive. The Committee is to comprise the Treasurer, Harrison S.C., Rares S.C., Executive Director and Finance Manager.

Application forms for arbitrators, evaluators and mediators – declaration of good fame and character

Bar Council noted that the application

forms currently in use did not all require applicants to declare any disciplinary proceedings and the like that may have been taken against them.

Bar Council resolved that such disclosure should be required in all forms and that applicants should be advised that such disclosures would be taken into account in deciding whether applications should be approved.

Fee recovery – HIH collapse

Bar Council noted an example of outstanding fees owed to a member by a firm of solicitors. They included a number of matters for HIH.

Bar Council resolved that it was a matter for each individual barrister to decide if they wish to pursue solicitors who owe fees in respect of HIH matters.

Bar Council noted that some of the fees owed in respect of HIH have been outstanding for almost three years.

Note: Because of the confidentiality provisions in the *Legal Profession Act 1987* (s171P), the Bar Council's deliberations on professional conduct matters cannot be noted in these summaries. Matters discussed by the Bar Council reported elsewhere in *Bar Brief*, too, are omitted from these summaries.

Changes to the Senior Counsel Protocol

At its March meeting, Bar Council approved a proposal by the Equal Opportunity Committee that the protocol for the appointment of senior counsel be amended to add a 'measurable leadership test'.

The amendment will provide an incentive for all junior counsel aspiring to become silk to take a more personal responsibility for the well being of the community of barristers and to recognise that some individual barristers face

greater obstacles to success than others.

Bar Council noted the Committee's recommendation that the proposed amendment should take effect during the appointment of senior counsel for 2002 'to allow all applicants for silk sufficient time to measure up to its requirements'.

Bar Council resolved to amend clause 5 of the Senior Counsel Protocol by adding as paragraph (h) (with the existing paragraph 5(h) being renumbered 5(i)) the following criteria:

Senior Counsel will have demonstrated leadership in:

- (i) developing the community and diversity of the Bar; or
- (ii) making a significant contribution to Australian society as a barrister.

The new criteria will come into effect on 1 January 2002. An updated version of the Senior Counsel Protocol may be obtained from the Bar Association web site at www.nswbar.asn.au.

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BarCare

BarCare is designed to guide barristers through emotional and stress related problems including family or marital problems, drug or alcohol dependency and practice pressures. Regional members should contact the city counsellors listed below for a referral.

BarCare offers members the opportunity to discuss with a specialist professional counsellor any personal problem that is interfering with their work or your family life.

The Bar Association will cover costs associated with the initial consultation, assessment and referral by the BarCare counsellor. BarCare is available to all members of the Bar Association and their immediate family. Confidentiality is guaranteed.

How BarCare Works

BarCare is a professional counselling service run by qualified professionals as a service to members of the NSW Bar Association. The selected counsellors have a variety of specialist expertise to cover different needs of members and their families. Brief profiles about BarCare counsellors are outlined below.

Barristers and their families seeking assistance should initially contact a BarCare counsellor and make an appointment for a consultation. The consultation will take place at the counsellor's professional rooms or by telephone.

During the initial consultation the counsellor will seek to identify the nature and extent of the problem. With the client's permission, the counsellor may formally consult with a medical practitioner or other health professional of the members choice to assess the treatment options available - both therapeutic and medical - prior to discussing a treatment program.

The treatment program may involve

further counselling sessions with the BarCare counsellor, and or a referral to a specialist in a particular discipline, or to a specific support program for appropriate treatment.

The BarCare counsellors will have access to a wide network of professionals from different disciplines for referral purposes or to discuss aspects of treatment. These will include both general and specialist medical practitioners, social workers, psychologists, stress management consultants, dependency counsellors, as well as qualified people in other professional services.

Participation in any part of the BarCare service is voluntary.

Confidentiality

Even though the Bar Association has established and promoted BarCare to members, the Association's only involvement is to administer operational costs and to ensure that members have access to an education program that will assist them to understand the nature and scope of the BarCare service.

Who Pays?

BarCare is offered as a service to members and the Association will cover costs associated with the initial consultation, assessment and (if applicable) referral by the BarCare counsellor. Cost of treatments thereafter, for example consultations with specialists, participation in specific programs etc, will be the responsibility of the individual barrister. Many of the costs, however, may be recovered through private or government health insurance schemes.

BarCare Counsellors

David Goldman BSc Hons, MA Hons (Clin), MAPS, AFAIM. David is a clinical and forensic psychologist. He has

experience in many areas, including trauma and bereavement counselling, critical incident stress, preventative education, treatment for high risk individuals, pain, anxiety and depression management. He has personal knowledge of the legal profession and its associated pressures.

Helen Churven BSW, BA. Helen is a social worker in private practice in Balmain. She has extensive experience with professionals from many fields dealing with depression, alcoholism, marriage breakdown and teenage related problems in families.

Doctors Alan Skapinker and Nici Leonard. Both are general practitioners practising in George St. They have acquired considerable experience in counselling, with a wide network of professionals to whom they refer patients on a needs basis. These include psychologists, psychiatrists and drug and alcohol advisers.

Contact details

Inquiries about BarCare may be addressed to the Education Manager on (02) 92291722 or barcare@nswbar.asn.au

David Goldman, Suite 17 Edgecliff Mews
201 New South Head Road, Edgecliff, ph:
(02) 9328 1352

Helen Churven, 25 Louisa Road,
Birchgrove, ph: (02) 9818 3300

Dr Alan Skapinker, ph: (02) 9247 1162 &
Dr Nici Leonard, ph: (02) 9247 1162
Medical Centre, Level 1 AAP Centre Cnr
George & Jamieson Streets, Sydney
Callers who would prefer to consult with
a female doctor should ask specifically
for Dr Leonard.

BarCare is a service to members and their families.

Wanted: mentors for the Duty Barrister Scheme

The Duty Barrister Scheme has been operating since 1994. Each day, three barristers are rostered at the Downing Centre to assist indigent litigants. Many of the volunteers for the scheme are readers or those under five years at the Bar.

Some matters that the duty barristers handle are complex. Initially, when the scheme was launched there was a list of mentors for the duty barristers. Many silks volunteered to assist the duty barristers by way of being available by

phone if a problem arose, or some advice was needed.

A list of the telephone numbers of the mentors is placed on the wall of the Duty Barrister Room and the mentors may be called to advise and help the duty barristers with any problems.

Kate Traill is updating the list of mentors and has called for volunteers, both senior juniors and silks, who are willing to act as mentors for the scheme, to contact her on ph: (02) 9223 2728.

Debts outstanding

Members are reminded that credit will not be extended on any facilities (including Bar and library) to those who have debts outstanding for more than 30 days. Members are advised that the Bar Council has directed that 'where a debt in excess of \$100 remained unpaid after four months of it being incurred, and satisfactory repayment arrangements had not been agreed, legal process be instituted to recover the debt.'

Katzmann S.C.

Treasurer

District Court calendar 2001-2002

By The Hon. Justice RO Blanch / Chief Judge of the NSW District Court.

A new calendar for the District Court has been published setting out the sittings for the financial year from 1 July 2001 to 30 June 2002. The purpose in publishing the financial calendar is to enable a more accurate assessment of the funding available to the Court to sit in the various circuits. Problems have arisen in the past where funds have unexpectedly become available and it has then been difficult to arrange sittings in an orderly fashion. From now on the District Court calendar will be published on a financial year basis. Of course, the sittings in the new calendar for the second half of 2001 are the same as the sittings provided for in the calendar which was published for the year 2001.

There is a reduction in the criminal sittings allocated in the circuits from 210 weeks in the first half of 2001 to 161 weeks in the first half of 2002. This reflects the fact that the number of criminal trials in the country has reduced from 1000 at the beginning of the year 2000 to 550 at the end of April, 2001. It is anticipated that number will be even further reduced by the additional sittings which have been provided in the period from July to December, 2001. The number of weeks of sittings provided is, however, an increase on the 147 weeks sat in the period from January to June, 2000.

The overall reduction in the number of trials in the country has led to a decision not to sit to hear criminal trials at Cootamundra in the January to June 2002 period. The weeks which otherwise would have been arranged to sit at Cootamundra I have organised to provide a Short Matters circuit which will travel from Cowra to Young to Cootamundra to Gundagai to Yass. This will enable all sentences and appeals to be dealt with at those locations and I will make an assessment as to whether or not such an approach is a viable one for the future.

The Court has the capacity to sit a number of other weeks which I have kept in reserve in order to sit at venues where

there is a demonstrated demand. In the criminal jurisdiction of this Court, our experience is that it is necessary to have at least six trials available to be heard over a two week period. Where that demand can be shown at any of the prescribed places for sitting throughout the State, special sittings will be arranged. It should be remembered, however, that the Court is moving quickly to a point of achieving its time standard of having 90 per cent of its criminal trials heard within four months of committal. This standard should be applied in country areas as well as in the cities. Please be advised that Practice Note 55 will continue to be applied by the Court in conducting its criminal business. It has proved effective in disposing of trials in country areas and where practitioners have not complied with it, there has been a considerable waste of court time and public resources.

In the civil business of the Court there are 80 weeks of sittings provided for in the circuits compared to 51 in the same period in the year 2001. This big increase in the sittings of the Court is justified by the increased demand, particularly in the large provincial centres. In Gosford, Newcastle and Wollongong the sittings will increase from 29 weeks in the first half of 2001 to 52 in the first half of 2002.

The Court will continue to provide arbitration sittings in the major centres and it will continue to implement the 12 months time standard for disposal of civil cases. Again, it will be possible to list more sittings if the demand is demonstrated. The experience of the Court in its civil jurisdiction is that it is necessary to have at least 20 civil cases ready for a one week sitting. No civil sittings have been arranged at Moree in the first half of 2002 because of the collapse of civil sittings there in the past and the absence of sufficient cases to justify sittings. However, at any proclaimed centre where there are 20 civil cases prepared to be heard, special sittings will be arranged.

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Appointments

Federal Court

James Allsop S.C. has been appointed as a Judge of the Federal Court, effective 7 May 2001.

Family Court of Australia

Janine Stevenson has been appointed as a Judge of the Family Court of Australia, effective Monday 21 May 2001.

District Court of New South Wales

Penelope Hock has been appointed as a Judge of the District Court, effective 7 May 2001.

Judith Gibson has been appointed as a Judge of the District Court, effective 21 May 2001.

Acting judges of the NSW Supreme Court

The following persons have been appointed as acting judges of the NSW Supreme Court:

The Hon. Acting Justice Badgery-Parker, effective 1 July 2001 to 30 June 2002

The Hon. K J Carruthers, effective 10 May 2001 to 9 May 2002

The Hon. J D Davies QC, effective 31 May 2001 to 30 May 2002 (Acting Judge of Appeal)

The Hon. MR Einfeld AO QC, effective 3 May 2001 to 2 May 2002

The Hon. M L Foster QC, effective 31 May 2001 to 30 May 2002 (Acting Judge of Appeal)

The Hon. G E Fitzgerald AC QC, effective 4 June 2001 to 29 June 2001 (Acting Judge of Appeal)

The Hon. Acting Justice Ireland, effective 14 June 2001 to 13 June 2002.

Land & Environment Court of New South Wales

P J McEwen S.C. has been appointed as an Acting Judge of the Land and Environment Court, effective 12 June 2001 to 31 August 2001.

Commonwealth Administrative Appeals Tribunal

On 1 June 2001 the Commonwealth Attorney-General announced 15 new appointments and 38 reappointments to the Commonwealth AAT. In New South Wales, the appointments are as follows:

Robin Handley	Full-time Deputy President
Narelle Bell	Full-time Member
Simon Webb	Full-time Member
Michael Griffin	Part-time Member
Alan Limbury	Part-time Member
Tania Sourdin	Part-time Member
Naida Isenberg	Part-time Member

The reappointments are:

Rodney Purvis	Part-time Deputy President
Julian Block	Part-time Deputy President
Michael Sassella	Full-time Senior Member
Suellen Bullock	Full-time Senior Member
Geri Ettinger	Part-time Senior Member

Catherine Prime	Part-time Member
Julie Shead	Part-time Member
Anthony Horton	Part-time Member
Dr John Campbell	Part-time Member
Dr Patrick Lynch	Part-time Member
Prof. Graham Johnston	Part-time Member
Dr Maxwell Thorpe	Part-time Member

A full list of appointments and re-appointments, together with brief resumes, are attached to the Attorney-General's media release on 1 June 2001, which may be obtained from the web site at <http://www.law.gov.au/ministers/attorney-general/news.html>

New South Wales Administrative Decisions Tribunal

The Hon. Elisabeth Kirkby, Cleonie Quayle, Pauline Curraey and Janice Hedison have been appointed as part-time non-judicial members of the Administrative Decisions Tribunal, Legal Services Division.

Michael Barnes and Johanna Phiels have been re-appointed as part-time non-presidential judicial members of the Administrative Decisions Tribunal, effective 4 June 2001 to 30 April 2004.

Leshia Bubniuk, Ray Gietzelt AO, Elayne Hayes and Deborah Klika have been reappointed as part-time non-judicial members of the Tribunal, effective 4 June 2001 to 30 April 2004.

Carl Bennett and Robert Griew have been appointed as part-time non-judicial members of the Tribunal, effective 4 June 2001 to 30 April 2004.

In brief

eCourt directions online

The March edition of *Bar Brief* reported on the Federal Court's 'eCourt directions online' and electronic filing initiatives. Members who have participated in eCourt are invited to provide feedback on the trial. Comments and suggestions should be forwarded to Michael McHugh via e-mail: mmchugh@fl.asn.au. The responses will then be forwarded to Justice Tamberlin.

International Commission of Jurists

Nicholas Cowdery QC has been appointed as the Bar Association representative to the International Commission of Jurists.

Fair Trading Tribunal

Simon Kerr has been appointed as the Bar Association representative on the Home Building Division Consultation Group of the Fair Trading Tribunal.

Arbitration Committee

Dean Letcher QC, Garry McIlwaine & Paul Glissan have been appointed to the Bar Association's panel of arbitrators and have been recommended for appointment to the District Court's panel of arbitrators.

Access to the NSW courts for people with hearing impairments

By Laurie Glanfield AM

Director General

NSW Attorney General's Department

The April 2001 edition of *Bar Brief* featured an article by Peter McGuinness in relation to issues of access to court facilities for people with hearing impairments ('Hearing loops in courtrooms').

The NSW Attorney General's Department is committed to ensuring that all its clients can access its services fairly and easily. To demonstrate this commitment, the Department launched its second Disability Strategic Plan 2000 - 2002 (DSP) in May 2000, pursuant to section 9 of the *Disabilities Services Act 1993* (NSW) and section 61 of the *Disability Discrimination Act 1992* (Cth). The DSP is improving the way the Department delivers services to people with a variety of disabilities.

The Department has focused on four priorities over the past three years:

- access to courtroom procedures;
- physical access;
- training of staff and the judiciary; and
- flexible service delivery (making its front-line mainstream services accessible).

Integral to the DSP has been the formation of the Disability Advisory Council, with the responsibility to advise on the DSP and assist with its evaluation. Established in April 1998, the Council, which I chair, meets quarterly. It includes representatives of various disability organisations and a majority of the members are people with disabilities.

Over the past three years the Council has regularly advised on the Department's services to people with hearing impairments. Various issues have been raised in relation to assistive hearing devices for people with hearing impairments; their various types, our procedures for procurement and access issues for potential jurors.

Currently, the Department has a total of seven portable infra-red systems ('hearing loops') for distribution upon request throughout the State for people with hearing impairments. If a person needs to use an infra-red system in a courtroom, the relevant courthouse would prefer two weeks notice to organise the installation of the system for the specific court date.

The Attorney General's Department is in the process of re-evaluating its service provision to people with hearing impairments, due to an increase in demand. This evaluation includes consulting further with the Disability Advisory Council, the providers of the Commonwealth hearing loops and the National Acoustic Laboratories. The Department is considering the viability of some permanent hearing loops and the purchase of additional portable infra-red systems.

In consultation with my Department, flyers were prepared by Self Help for Hard of Hearing (SHHH) for their membership on how to obtain an infra-red assistive hearing device. If a barrister

or their client has a hearing impairment, they are invited to contact SHHH on ph: (02) 9144 7586 for a copy of the flyer or secure information from the Department's website: www.lawlink.nsw.gov.au.

It is critical to notify the court whenever you or a client with a disability might benefit from assistance while attending court (such as wheelchair access and parking information, a sign language interpreter, the infra-red system or extra breaks due to concentration difficulties or personal needs). You or your client are encouraged to contact the registrar of the relevant court, in advance of the court appearance, to request the assistance which will result in a more equitable service.

If you would like any further information in relation to the Department's Disability Strategic Plan or our assistive hearing services, please contact Ms. Julia Haraksin, Coordinator, Disability Strategic Plan, on (02) 9228 8460 Ph or (02) 9228 7733 TTY (Telecommunication device for the Deaf and people with speech impairments).

As a part of our commitment to the community we are creating a more accessible environment for all of our clients, including people with disabilities.

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CONFERENCE**

**PARIS
7-10 July**

Renewal of practising certificates

All practising certificates expire on 30 June 2001. It is an offence under s25 of the *Legal Profession Act 1987* to practice as, or claim to be, a barrister without a current practising certificate.

Renewal forms for 2001 – 2002 have been posted to all current holders of a practising certificate. Applications received after 22 June 2001 incur a *statutory late fee of 10 per cent*.

A processing fee of 12 per cent is incurred against renewal forms received after 30 June 2001 where it might reasonably be thought the barrister should have renewed before 1 July 2001.

Renewals will be accepted while confirmation of professional indemnity insurance is still pending. It will assist processing if a note is made on the applications stating who is the proposed insurer. The schedule showing proof of insurance can be forwarded later.

The Association has received indicative rates for professional indemnity insurance for the period 1 July 2001-30 June 2002 from Willis Australia Limited, AON Professional Services and Heath Lambert Professional Indemnity Pty Limited. Members can obtain copies of the relevant policy wordings and rates from the brokers, the Bar Association's web site at www.nswbar.asn.au and from Reception.

New members of the Bar Association

The persons listed below have been accepted as members of the NSW Bar Association.

Local practising practitioner

Ian Archibald	8 Selborne
Belinda Baker	Solicitor General's Chambers
Allan Blank	2 Wentworth
Steven Bliim	Ada Evans
Mark Cleary	8 Selborne
Megan Cusack	Lismore
Jacqueline Fredman	4 Wentworth
Miiko Kumar	Forbes
Michael Pickin	Samuel Griffith
John Pritchard	H B Higgins
Craig Smith	Samuel Griffith
Katrina Williams	11 Wentworth
Gary Wilson	State
Michael Wright	Elizabeth Street

Legal practitioner other than local practising practitioner

Jonathan Hyde	Edmund Barton (South Australia)
Jeanette Richards	Owen Dixon Chambers (Melbourne)

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C O N F U S E D B Y T H E
E v i d e n c e A c t ?

Don't be caught without the publication
EVIDENCE ACT CASES 2000

EVIDENCE ACT CASES 2000, published by the DPP (NSW), is an essential reference and research tool for navigating the often complex provisions of the Evidence Act 1995 (NSW). This 214 page publication contains comprehensive summaries of almost all Evidence Act cases heard in 2000 in the Court of Criminal Appeal and the High Court, together with a selection of Court of Appeal, Supreme Court and District Court cases.

Evidence Act Cases 2000 contains a —

- Table of Contents based on the structure of the Evidence Act
- Table of Cases
- Detailed subject index
- Comprehensive index according to sections of the Act, plus entries on evidentiary provisions of the Crimes Act 1900 and Criminal Procedure Act 1986
- Reported citations where applicable

The cost is \$75 including GST and postage.

Copies can be obtained by mailing a cheque or money order made payable to the Office of the Director of Public Prosecutions (NSW), to —

Kate Ellson
Office of the DPP (NSW)
DX 11525 Sydney Downtown or
Locked Bag A8, Sydney South NSW 1232

Enquiries can be made by email to kellson@odpp.nsw.gov.au or by contacting Kate Ellson on —

telephone (02) 9285 8703
facsimile (02) 9283 2924

Office of the Director of Public Prosecutions (NSW)
265 Castlereagh Street Sydney NSW

to a president and the deputy president. In other words none of the members of the Commission have the independence of the judges of the Compensation Court.

How transparent? If a member of the Commission is satisfied that sufficient information has been supplied in connection with proceedings, he or she can make a decision without any conference or formal hearing taking place. Proceedings need not be recorded. Subject to any general directions made by the president, a member may hold a separate conference in private with any of the parties and/or experts. There is no obligation to disclose to any of the other parties or experts what transpired at such a separate private conference. The Commission may make an assessment or determination having regard to the information currently available, even if one or more of the parties to the assessment does not cooperate or ceases to cooperate.

In other words, the parties to a workers compensation dispute may find that their rights are determined without a hearing being held and without them being aware of the matters relied upon by the Commission to make a decision – let alone being given an opportunity to respond to it.

Proceedings before the Commission are to be conducted with as little formality and technicality as proper consideration of the matter permits. The theory that compensation disputes were better resolved by an informal procedure before commissioners has been tried twice before: between 1910 and 1926 and again for a short time between 1985 and 1988. On the latter occasion the Labor Government which introduced the new system lost office at the next election.

Undoubtedly, one of the fundamental reasons there was widespread dissatisfaction with those earlier systems is that they deprived all parties of the fundamental right of access to a court whose members are entitled to judicial independence and who are required to conduct hearings in open court with evidence given under oath, a full transcript and a complete opportunity for the case to be tested.

No reason has been given by the Government for its proposal to sideline the experienced judges of the Compensation Court. With the introduction of the Commission some 18 judges of the Compensation Court are to be left without any functions to perform in relation to workers compensation. Whether or not they are deployed in other courts, it is difficult to see the economic

rationale of wasting such an immense pool of experience.

The question of what happens to the common law side of workplace injuries is to be determined by the outcome of an inquiry to be conducted by Justice Terry Sheahan of the Land and Environment Court. When the inquiry was announced, Mr. Della Bosca said its purpose was to examine more efficient means of processing claims, reducing unnecessary costs, maintaining access to common law for seriously injured workers and ways of reducing unnecessary common law actions. The terms of reference for the inquiry which were finally announced a month after the inquiry was originally proposed, reflect the Minister's announcement as well as requiring Justice Sheahan to determine:

- How to reduce the incentive for pursuing Common Law claims under the *Workers Compensation Act 1987* & the *Workplace Injury Management and Workers Compensation Act 1998*.

The inquiry is required to report by 17 August 2001.

The fact that a separate inquiry into common law claims had to be established some three months after the introduction of the original Bill in March highlights the problems which flowed from the original haste and lack of consultation. It will be essential to the legitimacy of the inquiry that it be, and be seen to be, transparent and independent. That requires, at least, that its hearings proceed in public. The possibility of recommendations which may have the effect of substantially eliminating injured workers' entitlement to seek common law damages being developed without public hearings being conducted would be of concern to those who already feel the process under which the reforms have been pushed through has been too secretive.

The fact is that since the Bill was originally introduced in the Legislative Council in March, the Government's reforms have been criticised – mostly by those they were said to be intended to assist – the workers. The original Bill has been abandoned in the Council and a new Bill introduced in the Assembly. Substantial State revenues have been lost due to strike action – and now we have had the unedifying spectacle of Labor parliamentarians having to force a path through their main constituents to discharge their parliamentary duties.

It is indeed a travesty of democracy when parliamentarians cannot enter Parliament because of crowds blocking their path. It is equally a travesty of democracy when substantial and far-reaching changes are

forced on the community in great haste, without proper consultation and without the full facts being exposed for scrutiny.

Whatever be the outcome, the introduction of the Workers Compensation Legislation Amendment Bill has indeed been a sorry saga.

BarCare

By now all chambers should have received the pamphlet setting up the establishment of BarCare. As it makes clear, BarCare is a professional counselling service run by qualified professionals as a service to members of the NSW Bar Association. The Bar Association will cover the costs associated with the initial consultation with the BarCare Counsellor.

The Bar Association decided to implement BarCare because of an increasing number of cases coming to its attention where barristers were suffering from severe emotional and stress related problems. There is a simple questionnaire on the BarCare booklet which will provide a preliminary checklist which will give guidance to members as to whether they should consult one of the counsellors.

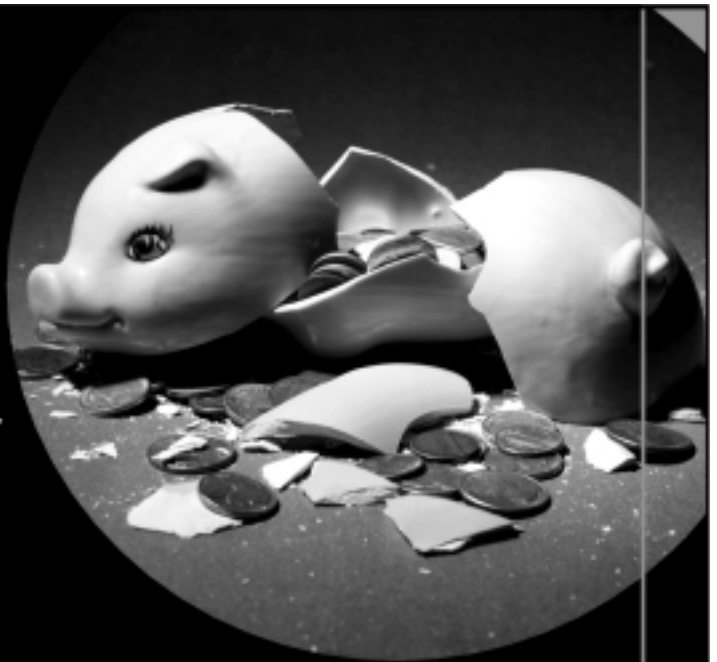
By coincidence Justice Stone of the Federal Court, speaking at a meeting of the NSW Women Lawyers' Association warned of the consequences of lawyers and judges not being realistic about workloads. As she said, there is a time when a lawyer needs to stand back and say no 'to avoid the risk of not being able to discharge their duty to their client' as well as the risk of burnout. BarCare is there to help if the risk has not been avoided. Hopefully the counselling provided will ensure a more balanced approach to practice.

I encourage all members to make themselves familiar with the availability of BarCare and to keep it in mind as a resource which can be accessed at times whether for themselves or for a colleague they can see is in a distressed condition.

Bar Charity

The Bar charities for 2001 – 2002 are the NSW Breast Cancer Institute at Westmead Hospital and the Prostrate Cancer Research Project at the Oncology Research Centre at the University of New South Wales. A circular has been distributed providing more details about each charity and an article appears in this edition of *Bar Brief*. I encourage all members to give generously to one or both of these worthy charities.

HEALTHY, WEALTHY & WISE



Butterworths presents the definitive guides to Personal Injury Litigation in New South Wales and Queensland.

Butterworths *Personal Injury Litigation New South Wales* and *Personal Injury Litigation Queensland* are the first points of reference in the majority of personal injury actions in the common law jurisdiction of both states.

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Bar charity 2001 – 2002

By Ruth McColl S.C.

The New South Wales Breast Cancer Institute at Westmead Hospital and the University of New South Wales Prostate Cancer Research Project at the Prince of Wales Hospital have been jointly selected as the New South Wales Bar Association Charity for 2001-2002.

The NSW Breast Cancer Institute promotes the development and application of best practice in screening, treatment, research, information, diagnosis and education for women who are at risk or have a diagnosis of breast cancer. More than 9,950 women are diagnosed with the disease each year, making it the most common cancer diagnosed in women. At its Westmead Breast Centre, the Institute has developed a protocol for multi-disciplinary, coordinated breast cancer care that will serve as a model for other programmes and centres in NSW. More information may be gained from the Institute's web site at www.bci.org.au.

Prostate cancer is the second highest cause of cancer death in men from Western society and claims the lives of 3,000 Australian men each year. Accurate diagnosis of prostate cancer is currently very difficult. The UNSW Prostate Cancer Research Project aims to develop new and complementary methods for early diagnosis of prostate cancer and to investigate mechanisms underlying how prostate cancer progresses. Given the impact of this disease on the quality of men's lives, the Prostate Cancer Research Project is dedicated to performing directed, high class research to understand what causes prostate cancer and to develop more effective methods for early detection and treatment.

I encourage all members to donate generously to one or both of these worthy charities.

Do not send cheques to the Bar Association. Please send them to the addresses on the attached cover slips. This will identify you as a member of the New South Wales Bar Association and will enable us to calculate the sum of funds raised by this initiative.

Please find attached a donation to:

- New South Wales Breast Cancer Institute**
PO Box 143
Westmead NSW 2145
- Prostate Cancer Research Fund**
C/o Office of the Dean
UNSW Medicine
SYDNEY NSW 2052

I am a member of the New South Wales Bar Association.

Please send a receipt to:

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Media Briefing

Media releases, articles and letters to the Editor issued by the New South Wales Bar Association

'Letter to the Editor', *Daily Telegraph*, 23 June 2001, p.24

Workers' compensation: Workers will be the real losers, 22 June 2001

Injured workers and employers abandoned by NSW Government, 19 June 2001

NSW Bar Association calls for release of workers compensation amendments, 14 June 2001

Workers compensation: The real story, 29 May 2001

Bar Association not consulted on workers comp deal, 21 May 2001

Bar Association calls for Federal and State Governments to help victims of HIH collapse, 4 May 2001

Workers compensation changes: Della Bosca's reasons go up in smoke, 2 May 2001

'HIH risk submission was on the money at the time', Letter to the Editor, *Australian Financial Review*, 27 April 2001, p.79

'Workers compensation', Letter to the Editor, *Sydney Morning Herald*, 20 April 2001, p.17

Visit the Bar Association web site at www.nswbar.asn.au to obtain the full text of media releases and letters to the Editor.

Recent interviews given by the President of the New South Wales Bar Association

Interview with Alan Jones, re: workers compensation, 2BL, 25 June 2001

Interview with Sally Loane, re: Pat O'Shane, 2BL, 18 June 2001

Interview with Sally Loane, re: Cummins QC, 2BL, 7 June 2001

Interview with Alan Jones, re: workers compensation, 2UE, 3 May 2001

Interview with Alan Jones, re workers compensation, 2UE, 30 April 2001

Interview with Georgie Gardner, re: workers compensation, 'Sunrise', Channel 7, 20 April 2001

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Speeches

'Law, politics and the media', by Ruth McColl S.C., was delivered at the Sydney Institute on 12 June 2001. An edited version will appear in the next edition of *Bar News*.

'Separation of powers - a comparison of the Australian and UK experiences', by The Hon. Darryl Williams AM QC MP, 12 June 2001. In this speech, delivered at a meeting of the Anglo-Australasian Lawyers Society in Parliament House, Sydney, the Commonwealth Attorney-General told his audience that the separation of powers doctrine shapes government in Australia in a way that it does not in the UK. He points to the position of the Lord Chancellor in the UK, which could not exist under Australia's written constitution and more distinct separation of powers. A copy of the speech may be obtained from the Attorney-General's web site at www.law.gov.au/ministers/attorney-general. A copy is held in the Bar Library.

'Getting justice wrong', *2001 Sir Frank Kitto Lecture*, by Nicholas Cowdery QC, 31 May 2001. In this speech, the NSW Director of Public Prosecutions outlines the central theme of his recent book - the risk to justice posed by the influence of some sections of the media on policy making and legislating by politicians. The full text of the speech may be obtained from the DPP web site at www.odpp.nsw.gov.au

'The importance of the International Criminal Court', by the Commonwealth Attorney-General, The Hon. Darryl Williams AM QC MP, 21 April 2001. This speech, delivered at a seminar series organised by the WA Division of the Australian Red Cross, outlines the process for the establishment of an International Criminal Court and the reasons why Australia should support it. A copy of the speech may be obtained from the Attorney-General's web site at www.law.gov.au/ministers/attorney-general. A copy is held in the Bar Library.

'Should judges speak out?', by The Hon. Justice Keith Mason, 9 April 2001. This speech, delivered at the Judicial Conference of Australia Colloquium 2001, is an amended version of a speech published in the Spring 2000 edition of *Bar News*. A copy of the speech may be obtained from the High Court web site at www.hcourt.gov.au/speeches. A copy of the speech is held in the Bar Library.

'A changing judiciary', by The Hon. Justice A M Gleeson AC, 7 April 2001. This speech, delivered at the Judicial Conference of Australia Colloquium 2001, examines various aspects of the relationship between the Bench and the Bar, including acting judges and the increasing tendency to return to private practice following retirement. The role which judicial pensions and salaries plays in this trend is also discussed. A copy of the speech may be obtained from the High Court web site at www.hcourt.gov.au/speeches. A copy of the speech is held in the Bar Library.

CHAMBERS FOR SALE

A large (25sq.m) room is available for immediate sale on Sydney Chambers. The chambers are located at 130 Elizabeth Street, on the corner of Liverpool Street and directly opposite the Downing Centre. The room has extensive fittings and enjoys panoramic views of Hyde Park and the harbour. The floor is comprised of mainly senior juniors and juniors who practice in common law, workers compensation and crime. Clerk and outgoings are in the range of \$2,400/month.

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Conferences

Family Courts of Australia 25th Anniversary Conference, Hotel Inter-Continental, Sydney, 26-29 July 2001.

This conference will examine the role of Family Court services during the next 10 years, the development of mediation and new systems of delivery of Family Court services. A draft programme will be available shortly.

American Bar Association: 2001 Annual Meeting, Chicago, 2 - 8 August 2001.

The 2001 Annual Meeting will include more than 2,500 CLE programmes, seminars and special events, including the ABA Expo, featuring exhibits from more than 150 providers of legal products and services. A conference information and registration brochure is held at the Bar Association Reception. Alternatively, it is possible to register online at www.abanet.org.

The International Society for the Reform of Criminal Law: Politics, Crime and Criminal Justice, Canberra, 26-30 August 2001.

The theme of the conference is to examine the inter-relationship of politics and criminal justice systems at local, national and international levels. Topics to be discussed include corruption, judicial independence, law reform commissions and restoration of criminal justice systems following the collapse of civil authority. For more information about the ISRCL and the conference, visit their web site at www.isrcl.org or contact the secretariat in Vancouver, Canada on ph: ++ 1 604 643 1252 or e-mail: secretariat@isrcl.org. A conference registration brochure is held at Bar Association Reception.

International Association of Lawyers / Union Internationale des Avocats, 45th Congress, Turin, 29 August - 2 September 2001.

Topics to be discussed include 'The legal profession: the challenge of the third Millennium', 'Globalisation of the economy' and 'Children and criminal law'. For more information contact the UIA on ph: ++33 1 22 88 55 66, fax: ++33 1 44 88 55 77, e-mail: uiacentre@wanadoo.fr or visit the their web site at www.uianet.org. A conference programme and registration brochure is held at the Bar Association Reception.

6th Annual Conference and General Meeting of the International Association of Prosecutors, Sheraton on the Park, Sydney, 2-7 September 2001.

The principal theme of the conference is 'The role of the prosecutor in the new millennium' and the programme will include discussion on: 'The UN

Convention against Transnational Organised Crime', 'The establishment of the International Criminal Court' and 'The plight of prosecutors in developing nations'. A copy of the preliminary programme and registration brochure may be obtained from the IAP 2001 Conference Managers on ph: (02) 9262 3135, email: iap2001@tourhosts.com.au or by visiting their web site at www.tourhosts.com.au/iap2001. A copy of the preliminary programme is held at Bar Association Reception.

DNA evidence prosecuting under the microscope, Stamford Grand Adelaide, Glenelg Beach, South Australia, 9-11 September 2001.

This conference, hosted by the South Australian Attorney General and the S.A. Office of the Director of Public Prosecutions, will feature numerous lectures and workshops on DNA evidence and its future role in the courts. For more information, contact the Conference Secretariat on (08) 8379 8222, e-mail plevin@camtech.net.au or visit their web site at www.camtech.net.au/~plevin/dna/Home.htm.

Australian Wills & Probate Conference 2001, Vancouver, 16-19 September 2001.

This conference is organised by the Leo Cussen Institute. For more information, contact Patricia Palman on ph: (03) 9602 3111, e-mail: ppalman@leocussen.vic.edu.au or visit their web site at www.leocussen.vic.edu.au

A celebration of federation: The Australian Constitution in retrospect and prospect. The National Conference of the Australian Association of Constitutional Law, Perth, 21-23 September 2001.

Speakers include Sir Anthony Mason AC KBE, The Hon. Daryl Williams AM QC MP, Professor Geoffrey Bolton AO, David Jackson QC and Professor George Williams. Topics include 'Assumptions and expectations of 1901', 'Globalisation of rights and the constitution', 'Changing attitudes to federalism' and 'The role of government and its evolution'. A conference programme and registration brochure is held at Bar Association Reception.

The 2001 World Congress on Family Law and the Rights of Children and Youth, Bath, 19-22 September 2001.

Topics for discussion include 'The revision of The Hague Convention on the Abduction of Children', 'International access arrangements' and 'Protection of children from violence'. For more information contact Capital Conferences

Pty Ltd on ph: (02) 9252 1635, fax: (02) 9241 5282, e-mail lawrights@capcon.com.au or visit their web site at www.lawrights.asn.au. A registration brochure and programme is held at Bar Association Reception.

17th Biennial LAWASIA Conference / Triennial New Zealand Law Conference 2001, Christchurch, 4-8 October 2001.

A conference information and registration brochure is held at the Bar Association Reception. Programme information may be obtained from the NZ Law Society's web site at www.nz-lawsoc.org.nz or via e-mail: Info@conference.co.nz, in January 2001.

Environment and Planning Law Association 2001 conference, Cowra, 19-20 October 2001.

The programme for this conference will include topics of interest to both country and urban legal practitioners, including the anticipated release of the Land & Environment Court Review. For further information, visit the EPLA web site at www.epla.org.au or contact Michele Kearns on ph: (02) 9221 3527 or e-mail: kearns@stjames.net.au

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Vale

Bertram Wright QC MBE (1903-2001) passed away on 24 April 2001. A funeral service was held on Friday, 27 April 2001 at All Saint's Church, Gostwyck.

Hugh Robson QC (1914-2001) passed away on 26 April 2001. A memorial service was held on Tuesday, 1 May 2001 at St John's Anglican Church.

The Hon. Russell John Bainton QC (1930-2001) passed away on Thursday 10 May 2001. Drinks in his memory were held on 1 June 2001 at the Pier Street Bar, All Seasons Hotel, Little Pier St., Darling Harbour.

Obituaries will appear in the next edition of *Bar News*.

GOOD FOOD AND GOOD COMPANY

The **Bar Regional Conference** this year is a joint venture with the ACT Bar

Keynote speaker -

Justice R Sackville, Federal Court

Speakers -

Richard Refshauge S.C. ACT DPP

Judge Jack Goldring, District Court

David Goldman, Clinical Psychologist

Bruce Spender, Financial Planner and media commentator on economic and financial matters

Advocacy instructors -

Stevens QC, Hastings QC, Taylor S.C.,

Carolyn Davenport, Les McCrimmon et al
SeaScape Manor, Gerringong, 14 and 15 July 2001

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Vacating hearing dates in the Supreme Court

In a recent judgment the President of the NSW Court of Appeal made the following comments regarding the proper procedure for vacating a hearing date. In *Cockburn v GIO Finance*, Mason P said:

I think it vital that the profession understand that the Court list is not a fixture sheet at a suburban golf club in which players can add or remove their names according to their interests at the time. A fixture is a fixture and it will remain unless it is vacated on proper application and for good cause. It is not open to the parties to file consent orders or to seek directly or indirectly to have matters taken out of the list simply because it is inconvenient to the counsel originally retained.

The proper procedure to be followed is that in the case of a sudden emergency such as a bereavement or an illness, the barrister concerned, and I emphasise barrister concerned, should contact the associate of the presiding judge. If the presiding judge is not known, then he or she should contact my associate and put the relevant information before the Court at the soonest opportunity.

A full copy of the judgment is held in the Bar Library.

Commercial Law Association Leading Edge Seminars

Friday, July 13 — Joellen Riley

Lecturer, Law Faculty, University of Sydney
Trust Law and Commercial Contracts

Friday, August 10 — Leif Gamertsfelder
Lawyer, Deacons, Sydney

**Copyright's new guard: technological
protection measures and circumvention devices
— examining the legal and technical issues**
12.30 to 2.00pm, NSW State Library

Thursday, August 23

9.00 to 12.30pm

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Papers to note

Criminal Procedure Amendment (Pre-trial Disclosure) Act 2001, assented to 18 April.

Workers Compensation (General) Amendment (Advertising) Regulation 2001. This amending regulation places restrictions on advertisements by lawyers for workers compensation services. It was gazetted in *NSW Government Gazette* No.73, 27 April 2001, p.2052 and commences on 26 May 2001.

Supreme Court practice note No.119. The purpose of this practice note is to explain the operation of the Administrative Law List, which is provided for by Part 14D of the Supreme Court Rules. A copy may be obtained from the Supreme Court web site at www.lawlink.nsw.gov.au/sc. A copy is held in the Bar Library.

Family Court of Australia practice direction No.1 of 2001. Following a review of the pro-forma affidavit - interim residence, contact, specific issues order, a new form of affidavit must be used from 2 July 2001. A copy is held in the Bar Library.

Federal Court practice note No. 16: 'Oaths and affirmations'. On 30 April 2001 the Chief Justice of the Federal Court of Australia issued a revised version of *Practice note No. 16* which deals with the administration of affirmations and oaths in proceedings before the Federal Court. The practice note aims to ensure that witnesses are well prepared for giving evidence in the Court by being aware of the requirement to make an affirmation or take an oath before giving evidence and of the Court's procedure for administering affirmations and oaths. A copy of the practice note is available from the Federal Court's web site at www.fedcourt.gov.au. A copy is held in the Bar Library.

District Court practice note 58: 'Improvements to the early return of subpoena system in the Civil Jurisdiction'. To improve the processes surrounding the subpoena process, the Rule Committee has introduced a new return of subpoena

system through the District Court Amendment (Access to Subpoenaed Material) Rule 2000. A copy may be obtained from the District Court web site at www.lawlink.nsw.gov.au/dc. A copy is held in the Bar Library.

Guidelines and directions for arbitration in the District Court of NSW. In consultation with the Civil Business Committee, the District Court has recently developed new guidelines and directions covering arbitration in the District Court. A copy is held in the Bar Library.

Criminal Procedure Amendment (Pre-trial Disclosure) Act 2001, assented to 18 April. A copy is held in the Bar Library.

District Court Amendment (Admissions) Rule 2001, The object of this rule is to amend Part 15, rule 2 of the District Court Rules 1973. It was gazetted in the *NSW Government Gazette* No.71, 20 April 2001, p.1955. A copy is held in the Bar Library. A copy is held in the Bar Library.

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