

Welcome to the fourth Newsletter for 2022.

2022 AAL First Nations Scholar

You may recall that through the generosity of donors to the Academy's Public Fund, the AAL offered its second First Nations Scholarship of \$5,000 tenable by a First Nations final year law student in 2022.

I am very pleased to announce that the AAL First Nations Scholar for 2022 is **Ms Lilli Ireland**. She is a proud Melukerdee woman from Lutruwita (Tasmania), currently in her sixth and final year of undergraduate studies in Science and Law (Honours) at the Australian National University.



Ms Lilli Ireland

Ms Ireland has a strong interest in criminal law, in which she wishes to practise in the immediate future. She is also interested in environmental law which she is considering pursuing in her career in the long-term.

Please join me in congratulating her.

In addition, the Scholar may have the opportunity to be mentored for up to a year by a Fellow.

If you are interested in a role as a mentor, please let me or the Secretariat know. If enough Fellows express interest, the role of mentor could be available in NSW and Victoria to applicants beyond the winner of the scholarship in the ACT.

Further details are on the website:

[Australian Academy of Law - 2022 First Nations Scholarship](#)

The AAL Michael Coper Memorial Prize

I am pleased to report that the 2022 Australian Law Students' Association (ALSA) Conference Paper Presentation Competition and related Closing Gala and Awards Ceremony have been reinstated after COVID and is to be held on 12 July 2022 in Brisbane.

As set out on ALSA's [webpage](#)

“Paper Presentation involves researching and writing a legal essay and then presenting it to a panel of judges. Competitors compete individually, and the papers may be written on any legal topic.

The panel may ask questions as they see fit during and after the presentation to find the depth of knowledge and understanding the competitor has in the chosen field. Competitors are assessed on the essay and the presentation.”

The Prize is \$1,500, given by the AAL and named in memory of the late Emeritus Professor Michael Coper.

Justice Sarah Derrington has kindly agreed to award the Michael Coper Memorial Prize at the Closing Gala and Awards Ceremony. This is a formal black-tie event.

I am also looking for two other Fellows to judge the Grand Final of the Paper Presentation. Judging is at the Federal Court in Brisbane on 12 July 2022, beginning at 1.30 pm and concluding around 2.45 pm.

If you will be in Brisbane on 12 July and willing to take on one of the judging roles, please let [me](#) or [Professor Gino Dal Pont](#) know as soon as possible.

2022 AAL Annual Essay Prize

The Australian Academy of Law is offering its Annual Essay Prize for 2022. The amount of the Prize is \$10,000.

The Prize is open to anyone, wherever resident, who is studying or has studied legal subjects at a tertiary

level, or who is working or has worked in a law-based occupation. There is no limit by reference to the age or seniority or experience of, or position held by, a person who may submit an entry. Accordingly, judicial officers, legal practitioners, legal academics and law students are all eligible to submit an essay.

The essay topic for the Prize in 2022 is as follows:

“What are one or more reforms that could be made to remedy deficiencies in the administration by Australian courts of the criminal law as it applies to minorities or disadvantaged groups?”

Note: The essay should not focus on funding by government.”

The deadline for the submission of an essay is 31 August 2022 and this time limit is strictly observed, as the Rules Governing the Annual Essay Prize make clear. The rules for the essay prize are [here](#).

Legal studies prize for secondary students

The AAL is investigating the feasibility and logistics of a Year 11/12 Legal Studies prize, with the likely focus being on Year 12.

The idea is to award a prize to the top student in Legal Studies, however named, in each State and Territory, so 8 prizes in all.

There is a question about how best to identify the top Legal Studies student in each jurisdiction.

If you can assist, please contact [Professor Gino Dal Pont](#) or me.

Forthcoming events

11 May 2022, 5:30 PM at the ACT Supreme Court
Private and public lawyers: An ethical divide?

Please put this date in your diary.

This will be an in-person only event. The speakers will be:

Ms Elizabeth Carroll, President of the ACT Law Society, formerly Chief Legal Counsel, IP Australia, and a partner at Holding Redlich

Dr Jennifer Duxbury, Digital Industry Group, formerly in-house lawyer at bodies such as Ninemsn, Lonely Planet and Airservices Australia

Professor Vivien Holmes, ANU College of Law, teaches and researches in the fields of legal ethics, legal education and the legal profession and has worked as a litigation solicitor in private and government practice

Mr Michael Kingston, Australian Government Solicitor, formerly Chief Legal Officer of the Australian Securities and Investments Commission and a partner at Mallesons Stephen Jaques

Mr Athol Opas, commercial barrister, the ACT Bar’s representative on the Law Society’s Legal Practitioner Act and Ethics Committee, and former President of the ACT Law Society.

I will chair the event.

The flyer is here:

[Flyer AAL Event Private and public lawyers An ethical divide 11 May Final.pdf \(academyoflaw.org.au\)](#)

Please register here:

[Australian Academy of Law - Private and public lawyers: An Ethical divide?](#)

I thank **Robert Orr QC** and the members of the ACT Event Organising Committee for their work in putting on this event.

Tuesday 24 May 2022, online and at the Supreme Court of South Australia, Adelaide
Review of Non-Statutory Government Action

This free public event will consider the extent to which the exercise of non-statutory government powers are reviewable, and on what basis. The speakers will trace the changes in approach over recent times in Australia and with reference to the position in some overseas jurisdictions.

I will be one of the speakers. The other will be **Mike Wait SC**, Solicitor-General for South Australia.

Refreshments will be served after the discussion.

The flyer is here:

[\[AAL Event Flyer\) Review of Non-Statutory Government Action.pdf \(academyoflaw.org.au\)](#)

Please register here:

[Australian Academy of Law - Review of Non-Statutory Government Action](#)

Wednesday, 25 May 2022, Perth, 1.00 pm – 2.00 pm AWST (3.00 pm – 4.00 pm AEST)

Emerging Scholars Event 2022: Technology, Regulation and Politics

Format: Online (MS Teams) and in person

The Australian Academy of Law is pleased to host this free public event, chaired by **Professor Erika Techera**, UWA Law School.

The speakers will be:

Dr Michael Wilson, who will present on: ‘The problem of going dark and the politics of end-to-end encryption’

Helen Stamp (PhD candidate, UWA), who will present on ‘Reckless tolerance: The importance of corporate criminal accountability for harm caused by autonomous digital systems.’

James Carpenter (PhD candidate, Curtin University), who will present on ‘What Happens when Autonomously-Driven Vehicles Cause Injuries? The Implementation of Regulatory Frameworks to Address the Issue of Liability and Compensation.’

Please put this date in your diary. Registration details will be available soon.

Monday 20 June 2022, Hobart at 5 pm
Pathway to Truth-Telling and Treaty

In 2021 **the Hon Kate Warner AC**, former Governor of Tasmania, and **Professor Tim McCormack**, the Dean of the Law School, were commissioned by the Tasmanian State Government to research and prepare a report, ultimately titled ‘Pathway to Truth-Telling and Treaty’, released in late November of that year.

It is available here:

[Pathway to Truth-Telling and Treaty 251121.pdf](https://dpac.tas.gov.au/Pathway%20to%20Truth-Telling%20and%20Treaty%20251121.pdf)
(dpac.tas.gov.au)

Kate Warner and **Tim McCormack** have kindly agreed to be the main speakers at this event.

We are looking for a commentator.

This is planned as a blended event, available for attendance in person as well as streamed via Zoom (or equivalent platform).

The Law Society of Tasmania has kindly agreed to the use of its facilities to host the event.

The event will run for about 90 minutes (including questions) – followed by refreshments.

Please put this date in your diary. Registration details will be available soon.

12 July 2022 in Brisbane, at the Federal Court, beginning at 1.30 pm

The AAL Michael Coper Memorial Prize

Please see above, the second item in this Newsletter.

July 2022: The appointment of State, Territory and Federal judges (not including justices of the High Court of Australia)

Much has been written on this topic, both by judges and academics, but it is of continuing importance, and the discussion needs to be kept up-to-date.

I propose a two-part event of 90 minutes each.

Part I would address the question: *What is the work of judges, and what do the judges of the court in question do? What are the necessary qualities of a prospective appointee?* The appointment of Chief Justices is probably a separate question.

Criteria for the appointment of judges have been put forward in the past, for example by the Australasian Institute of Judicial Administration. See:

<https://aija.org.au/wp-content/uploads/2017/10/Suggested-Criteria-for-Judicial-Appointments-AIJA-2015.pdf>

Part II would address the question: *What are the systems for finding such people, and how could those systems be improved? What are the best parts of those systems?*

The dates have not yet been fixed but would be a week or 10 days apart in July. If you are able to contribute and are willing to be a speaker, please let me or the Secretariat know as soon as possible. I am aiming for two panels made up of judges or former judges; those who are or have been responsible for the appointment of judges; and academics who have studied this topic.

If this event proves successful in stimulating discussion, it may be appropriate later to consider the separate but related topic of appointments to tribunals.

Tuesday 2 August 2022

ACT Michael Coper Roundtable (Fellows only)

Hear **Professor Peta Spender** speak on “Class actions in Australia: Controversy and Critique”.

Please put this date in your diary. Registration details will be available soon.

Monday 22 August 2022 at 5 PM in Sydney Judicial and integrity

Hear **Judge Jose Matos**, the President of the International Association of Judges, speak on the topic of judicial integrity.

Justice Jacqueline Gleeson of the High Court of Australia has also kindly agreed to participate.

Please put this date in your diary. Registration details will be available soon.

Thursday 25 August 2022 Intermediate criminal courts of appeal

Event to be based in the Supreme Court of South Australia, Courtroom 1 at 4.30 pm (Adelaide time) (ACST), 5.00 pm (AEST)

You may recall the very successful public event the AAL held in November last year, where the heads of the courts of appeal (civil) spoke about common issues and exchanged views:

[Issues Arising from the Operation of Intermediate Courts of Appeal \(Civil\) - Banco Court, 3/11/21 - YouTube](#)

With the support of the Chief Justices of the Supreme Courts, I am planning a similar event for intermediate criminal courts of appeal. Please look out for further details.

Possible topics to be discussed include:

- The volume of cases: how may the volume of cases best be managed?
- Case management of large appeals
- Priorities in the hearing of cases.
- The management of bail applications.
- Interlocutory applications, including in appeals. eg new/fresh evidence.
- Leave applications, what are the requirements or criteria and how are such applications best managed? Are hearings always required or necessary?

- The giving of reasons.
- Whether there is a place for ex-tempore judgments?
- Written submissions, including page limits.
- Oral submissions, including time limits.
- Practices for the listing of appeals.
- Consistency within and between courts. What is the effect of s 68 of the *Judiciary Act*.
- Whether criminal appeal courts should sit outside capital cities?
- Issues specific to lower volume jurisdictions.
- Time estimates.
- Litigants in person, including referrals for pro bono assistance.
- Legal aid.

Please let me know if you have further topics you wish to have considered for inclusion.

22 September 2022 – NT Event Austin Asche Oration in Law and Governance

This public event will be held at the Hilton Hotel, Mitchell St, Darwin. The speaker will be **Emeritus Professor Ros Croucher AM**, President of the Australian Human Rights Commission.

Please put this date in your diary.

8-12 November 2022, possible event for Fellows in London

If you are a UK resident Overseas Fellow, or a Fellow who may be in London between 8-12 November (pandemic permitting), please let me or the Secretariat know if you would be interested in attending an evening event and the date or dates on which you are available. The format would be a dinner with a paper on a legal topic of current interest and importance.

If expressions of interest reach about 20 participants (partners welcome), then the planning will go ahead.

8 – 10 September 2023 Joint event with the *Australian Law Journal* and the Australasian Institute of Judicial Administration

To mark some important national legal bicentenaries, a 2½ day joint event with the Australian Law Journal (ALJ) and the Australasian Institute of Judicial Administration (AIJA) is planned for Friday 8 –

Sunday 10 September 2023. Examples of those legal bicentenaries are, for New South Wales, the Third Charter of Justice promulgated on 13 October 1823 establishing the Supreme Court and, for Tasmania, the first sitting of the Supreme Court of Van Diemen's Land on 10 May 1824. I thank **Justice François Kunc** for this initiative. **Professor David Barker** and **Justice Geoff Lindsay** are on the subcommittee, as is AAL Fellow **Justice Steven Rares**, as a member of the Council and immediate past President of the AIJA. I am pleased to say that **Chief Justice Alan Blow AO** and **Justice Stephen Estcourt AM** of the Supreme Court of Tasmania have also joined the small committee.

The working title is “*Enduring courts in changing times*”.

The idea is to have one part of the event physically in Tasmania and another part in New South Wales, but with a commingling of speakers and topics.

This promises to be a major event, similar to the “*Future of Australian Legal Education*” conference held by the AAL and the ALJ in 2017.

The Chief Justices of relevant jurisdictions have responded favourably.

Recent events

31 March 2022 4.15 pm (Perth) 6.15 pm (Brisbane)

Australian Federalism in the Time of COVID

Has COVID-19 revived Australian federalism? What does federalism look like after the pandemic?

Professor Nicholas Aroney (University of Queensland) spoke about decision-making in a public health crisis, and **Professor Alan Fenna** (Curtin University) reflected on whether we are seeing a revival of federalism in Australia.

The chair was **Professor Sarah Murray**, University of Western Australia Law School, Law Reform Commission of Western Australia.

The Australian Academy of Law hosted this event with the Australian Association of Constitutional Law (WA Chapter).

About 35 people attended on the night. The speakers were excellent. The video recording of the event is here:

[AAL AACL event ‘Australian Federalism in the Time of](#)

[COVID’ 20220331 161742 Meeting Recording - YouTube](#)

7 April 2022, 5.15 pm (Brisbane) Banco Court, Supreme Court of Queensland

Making Law through Practice: Examples from Commercial Law



Sir Ross Cranston QC (speaking), Justice Peter Applegarth AM and Chief Justice Helen Bowskill

I am grateful to **the Honourable Justice Peter Applegarth** for the following:

“On Thursday 7 April 2022 the Academy hosted, in conjunction with the Australian Chapter of the Selden Society, a fascinating lecture by Professor Sir Ross Cranston QC. His recent book, *Making Commercial Law Through Practice 1830–1970*, explores how laws governing commerce, trade, manufacturing, and financial services developed.

The lecture addressed the Australian dimension, based on Sir Ross’ archival work in Australia. The lecture was supported by colourful PowerPoint slides and was an engaging account of Australian legal and economic history.

The Academy could not have hoped for a speaker who better combines experience as a scholar and as a jurist than Professor Cranston.”

The AAL was pleased to sponsor this event jointly with the Selden Society, Australian Chapter. I am also grateful for the assistance of the Queensland Supreme Court Library Legal History Committee.

It was attended by some 120 people in person and an additional 85 by Zoom.

You can view the lecture here:

<https://www.youtube.com/watch?v=DqopU1k2HYg>

or on the Supreme Court Library, Queensland webpage:

<https://legalheritage.sclqld.org.au/2022-lecture-two>

AAL monograph

This collection of the papers, commentaries and questions and answers at the AAL's very successful event on 8 September 2021 has been published. Its title is "Tax Avoidance: Marking 40 years of Part IVA of the Income Tax Assessment Act 1936".

The book is 113 pages and includes the papers and the commentary. It also includes statutory materials. The price is \$20.00 (incl GST), plus postage, to cover costs. If you wish to buy a copy or copies, please fill out the order form, which is [here](#), and send payment to the [Secretariat](#).

Second Annual Report

This report has been completed. It covers calendar year 2021. It is here:

[AAL Annual Report WEB \(academyoflaw.org.au\)](http://academyoflaw.org.au)

Projects for the Public Fund

A real success of the new Public Fund for 2021 was the expenditure of part of the charitable donations on the First Nations Scholarship project. Not only was there a substantial scholarship of \$5000 awarded to a First Nations final year law student, but also individual AAL Fellows in the various jurisdictions volunteered to mentor each of the applicants for the scholarship.

If you have a proposal for a scholarship or other educational project for the Public Fund, please let me know.

If you wish to donate to the fund, the starting point is [here](#): or please contact the [Secretariat](#) or me.

Second AAL sponsored monograph

[Emeritus Professor David Barker AM](#)'s book, the title of which is 'A Sense of Common Purpose - A History of the Australian Academy of Law', is to be published by the Federation Press and is "Coming soon . . ."

New Fellows

Please join me in extending a warm welcome to the

following distinguished lawyers who have accepted the Board's invitation to become a Fellow of the Academy:

[Professor Rachael Mulheron QC \(Hon\)](#), Professor of Tort Law and Civil Justice, Queen Mary University of London

[Ms Carol Webster SC](#), Barrister, Sydney

[Mr Perry Herzfeld SC](#), Barrister, Sydney

AAL intern

The Academy is pleased to report that we now have the benefit of an intern engaged through the Brennan Program of UTS, Ms Maria Hakim.

Maria is a medical science/law student at UTS who is assisting to the Academy through the three months of her internship. She is gathering ideas for developing the website and the communications of the Academy. If you have any suggestions for improving the AAL website or communications generally, please contact Maria via the Secretariat:

aalsecretariat@academyoflaw.org.au

The Academy is pleased both to support the Brennan Program and to gain assistance from its programs.

Change at the Secretariat

Ms Susan Jenkins, who has been the AAL's Secretariat for the last four years, has left the Federal Court and thus the AAL. Her last day was 14 April 2022. The AAL again thanks Susan for her work for the AAL and wishes her well for the future.

Dr Jennifer Farrell took over the role of the Secretariat from 19 April 2022. Dr Farrell has worked at the Federal Court for many years. She has a PhD from Macquarie University Law School, the subject of her thesis being: "Enhancing Access to Justice in Australian Courts Using Web 2.0 Applications."

Please join me in welcoming Dr Farrell to the role of AAL Secretariat.



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