

Welcome to the eighth Newsletter for 2021.

Congratulations

It has been announced that, with effect from 1 September 2021, **The Honourable Justice Mark Livesey** will become the President of the Court of Appeal of the Supreme Court of South Australia. The Australian Academy of Law congratulates Justice Livesey.

The Australian Academy of Law congratulates **The Honourable Justice Robert Beech-Jones** on his appointment as the new Chief Judge at Common Law and a Judge of Appeal, Supreme Court of New South Wales, announced by NSW Attorney General on 11 August 2021.

The Australian Academy of Law also congratulates **Professor Hilary Charlesworth** on her nomination by the independent Australian National Group for election as a Judge of the International Court of Justice. The Australian Government has supported the nomination by the Australian National Group. The election will take place at the United Nations headquarters in New York on 5 November to fill the vacancy resulting from the passing of **His Excellency Judge James Crawford AC, SC, FBA**.

2021 AAL Essay Prize – last days to enter

The deadline for the submission of an essay is 31 August 2021.

The essay topic for this year is:

“Outstanding fundamental issues for First Nations Peoples in Australia: what can lawyers contribute to the current debates and their resolution?”

Note: ‘Outstanding fundamental issues’ may include, but are not limited to, constitutional recognition, treaty or bijuralism.”

Each year the winning essay has been published in the *Australian Law Journal*.

The Prize is \$10,000. More detail is on the [website](#).

A scheme whereby academics may spend a day or two with a judge

The Hon Kevin Lindgren AM QC, Justice Robert Beech-Jones, Justice David Mossop, Professor Les McCrimmon, Professor Alison Gerard and Dr John Lowndes OAM are the members of this ad hoc committee.

The idea is to establish a system whereby (generally) junior academics may spend a day or two with a judge to gain, or renew, firsthand experience of how a court runs. Chief Justices are being consulted by me.

The committee’s proposal for a pilot scheme has been approved by the Board.

What is necessary now, to get the pilot scheme underway, is for *those Fellows who are trial judges of superior courts and who are willing to host an academic for a day or two to let me know by email*.

Although the scheme is necessarily on hold in light of the current COVID-19 restrictions, please let me know if you are willing to participate. There have been three volunteers so far, but all three are judges of the Supreme Court of New South Wales. A wider geographical spread would be desirable.

If the scheme is successful it will be extended beyond the Supreme Courts of the States and Territories and the Federal Court.

Forthcoming Events

Tax event – 40 years of Part IVA of the *Income Tax Assessment Act 1936* – 8 September 2021

At the suggestion of AAL Fellow **Mr Peter Walmsley**, Deputy Chief Tax Counsel of the ATO, and **The Hon Kevin Lindgren AM QC**, the AAL has organised an event to mark the fortieth anniversary of the commencement of this general anti-avoidance provision, Part IVA.

The event will be held on Wednesday 8 September 2021 at 5 PM. Because of COVID-19 restrictions, the event will now be entirely online. People who

registered to attend in person have been switched to online.

The speakers will be:

The Hon AM Gleeson AC, formerly Chief Justice of Australia

The Hon Tony Pagone QC, formerly a Judge of the Federal Court of Australia and of the Supreme Court of Victoria, author of *Tax Avoidance in Australia*, The Federation Press, 2010.

Professor Miranda Stewart, Professor of Law at the University of Melbourne Law School where she is Director of the Tax Group; Fellow at the Tax and Transfer Policy Institute at the Crawford School of Public Policy, the Australian National University.

Ms Kristen Deards SC, who has an extensive taxation practice, including appearing in complex Part IVA cases.

The topics will include:

- the circumstances in 1981 and preceding it;
- developments in Part IVA since 1981 – including the international aspects leading to some important developments in the last decade;
- reforms to some of the key elements.

Mr Walmsley and **The Hon Roger Gyles AO QC**, former Special Commonwealth Prosecutor into Bottom of the Harbour Tax Avoidance and former member of the General Anti-Avoidance Rules (GAAR) Panel, will provide commentary and an overview. **The Hon Kevin Lindgren AM QC** will chair the event. The flyer is [here](#).

Roundtable Perth: COVID-19

Wednesday 8 September, 5pm (AWST) 7pm (AEST) at Murdoch University

The effects of COVID-19 are not limited to the medical challenges, deaths, and suffering brought on by the spread of the virus. Various inequities at a national, international, and societal level have been exposed. The advent of efficacious vaccines has revealed possibly the beginning of the end but has also laid bare deep questions of access, equity, and the ethics of control over distribution. Profound questions are raised about the values to be respected when it comes to the distribution of the vaccines, and the terms for their distribution across the globe.

In this discussion, chaired by **The Hon RD Nicholson AO KCSJ**, moral and political philosopher **Dr Lachlan Umbers** will speak to these issues and related questions.

The flyer for the event can be found [here](#). Please register [here](#).

Tenth anniversary Patron's address – 21 October 2021 at 5:15 PM

Chief Justice James Allsop AO has very kindly agreed to give the Patron's Address for 2021. It will



be held in Court One, Federal Court of Australia, Melbourne at 5 PM for 5:15 PM. The topic will be “Thinking about Law: the importance of how we attend to the problem at hand and of context.”

The Hon Chief Justice Allsop AO

The flyer for the event can be found [here](#). Please register [here](#). If COVID-19 restrictions permit, refreshments will follow the event.

2021 AAL Annual General Meeting

The AGM will be held at 4 PM on 21 October 2021 in Melbourne this year, immediately before the Patron's address. Please put the date in your diary. Provision will be made for Fellows to join the AGM remotely.

The annual joint event with the Australian Academy of Science – 7 October 2021

The subject will be Artificial Intelligence from the differing perspectives of scientists and lawyers.

The speakers who are Fellows of the AAL will be:

Professor Lyria Bennett Moses, director of the Allens Hub for Technology, Law and Innovation at the University of NSW and also a professor in the Faculty of Law.

Professor Bennett Moses has written extensively about the dangers of AI bias in the legal system, and why it is crucial for everyone to understand how smart machines are impacting on our society; and

Mr Edward Santow, formerly Australia's Human Rights Commissioner, on 1 September 2021 Mr Santow, will take up a new position at the University

of Technology Sydney as Industry Professor – Responsible Technology. He will lead a major UTS initiative to build Australia’s strategic capability in artificial intelligence (AI) and new technology. This will support Australian business and government to be leaders in responsible innovation by developing and using AI that is powerful, effective and fair.

The scientists will be:

Professor Svetha Venkatesh, of Deakin University, Alfred Deakin Professor, ARC Laureate Fellow, Co-Director of Applied Artificial Intelligence Institute and a leading Australian computer scientist who has made fundamental and influential contributions to the field of activity and event recognition in multimedia data; and

Professor Toby Walsh, a leading researcher in Artificial Intelligence, a Laureate Fellow and Scientia Professor of Artificial Intelligence in the School of Computer Science and Engineering at UNSW Sydney, and leader of the Algorithmic Decision Theory group at CSIRO Data61.

The event will be chaired by **The Hon Annabelle Bennett AC SC**, a Fellow of both the Australian Academy of Science and the Australian Academy of Law.

Please put 7 October 2021 in your diary. A flyer and registration details will be available soon.

Intermediate appeal courts – event on 3 November 2021 at 4:30 PM in Brisbane

Fellows and members of the public will hear from the heads of Australia’s intermediate courts of appeal. The presidents or other heads of jurisdiction will discuss with each other common issues arising from the operation of intermediate courts of appeal. It should be a unique and interesting occasion.

Please put the date and time in your diary. Registration details will be available on the website soon.

COVID-19 restrictions permitting, refreshments will be available afterwards.

An event the Victoria organising committee is planning for November 2021.

The event will focus on the legal issues associated with treaty processes and the recently-announced

Yoo-rook Justice (Truth-telling) Commission in Victoria. **Justice Mark Moshinsky** is chairing the committee with **The Hon Pamela Tate SC**, **Professor Bee Chen Goh** and **Professor Duncan Bentley** being the other members. Potential speakers have been approached.

Roundtable in Canberra – postponed from Wednesday, 18 August 2021

This Roundtable will be a presentation by **Emeritus Professor Peta Spender** on class actions and litigation funding: “Class Actions in Australia: Controversy and Critique”. The event was postponed due to COVID-19 restrictions.

The new date for this event will be available on the website soon.

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

In light of some important national legal bicentenaries, a 2 or 3 day joint event with the Australian Law Journal and the Australasian Institute of Judicial Administration (AIJA) is planned for August 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** have also agreed to be on the subcommittee, as has AAL Fellow **Justice Steven Rares**, as 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 in 2017. I invite comments and suggestions.

Recent Events

Roundtable in Perth – 28 July 2021

This event concerned recent research in criminal justice and was presented by two PhD students.

Nicola Stokes focused on intimate partner violence and the Western Australian Criminal Justice System. In a state where incidences of intimate partner violence are increasing, it is necessary to ask if the justice system motivates victims of intimate partner violence to remove themselves from further abuse or whether the system inhibits victims from moving forward.

Liam Quinn is investigating the relationships between legitimate market forces and the theft and disposal of stolen goods. He proposes that variation in prices and consumer demand for legitimate goods are causally related to theft of goods through an overarching supply and demand mechanism in which property crime offenders are driven to steal high-demand, easily disposable goods.



The chair was **Professor Erika Techera** of UWA's Faculty of Law.

Roundtable in Sydney, NSW – 4 August 2021

A Roundtable on insolvency law was held on-line in Sydney, jointly hosted by the Australian Academy of Law and the Ross Parsons Centre of the University of Sydney. **Mr Michael Murray** and **Professor Jason Harris** presented a paper titled "*The roles of the state and the private profession in the insolvency system: do we have the right balance?*" calling for a rethinking of the structure in which the insolvency regime operates.

The Hon Kevin Lindgren AM QC chaired the session. All Fellows were invited, and there were also some specific invitations to non-Fellows, with around 35 people attending. Consistent with the purpose of the Roundtable, the session generated a range of views from those participating which will assist the presenters in further developing their thinking.

Relevant papers and other materials are to be found here: <https://academyoflaw.org.au/event-4338526>



Professor Jason Harris

Mr Michael Murray

Research proposals?

If you have a subject of research which you consider the Academy should undertake or commission, please let me or the Secretariat know. There has been only one response so far, and the Research and Expenditure Committee needs some more suggestions and ideas in order to evaluate them.

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 Robyn Carroll
University of Western Australia

Ms Rowena Orr QC
Solicitor-General for Victoria

Alan Robertson
President

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