

Welcome to the eleventh Newsletter for 2022.

## Congratulations

Please join me in congratulating Academy Fellow the **Hon Justice Sarah Pritchard SC** who was sworn in on 15 November 2022 as a judge of the Land and Environment Court of New South Wales.

## The 2022 AAL Annual Essay Prize

As I have previously reported, the 2022 prize winners of the \$10,000 Essay Prize are **Catherine Bugler** and **Alice Muir** who both currently work as Associates to judges of the Supreme Court of Queensland.

I am grateful to **Chief Justice Bowskill** for presenting their certificates to the prizewinners and for her speech. I also thank Deputy President **Justice Tony Besanko** for chairing the presentation.



*Chief Justice Helen Bowskill, Justice Tony Besanko, Deputy President of the AAL, and the prizewinners Catherine Bugler and Alice Muir*

The essay topic for the Prize in 2022 was:

*“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.”*

In their winning essay, Ms Bugler and Ms Muir chose to focus on the bail system and what they contend are systemic inequalities which fail to accommodate cultural, gendered and socio-economic differences.

The distinguished judging panel, AAL Fellows **Emeritus Professor Kate Warner AC**, **Professor The Hon William Gummow AC QC** and **Mr Tim Game SC**, praised the essay as ‘a thoughtful and perceptive consideration of relevant doctrinal and practical issues.’

In particular, the Panel commended the authors for their detailed exploration of how to improve the system:

‘We were most impressed at the depth of thought given to practical solutions aimed at alleviating the potential adverse impact of bail determinations on disadvantaged groups.’

I thank the panel for their expert and willing participation.

The winning essay is [here](#), on the AAL’s website and will also appear in 2023 in the *Australian Law Journal*.

The media release may be found [here](#).

Further publicity is to be found here:

[Queensland judges associates win essay prize with bail reform argument – Proctor \(qlsproctor.com.au\)](#)

and here:

[AAL reveals essay prize winners - Lawyers Weekly](#)

## Donations to the AAL’s Public Fund

It is very pleasing to note the steady number of donations to the AAL’s charitable purposes via the Public Fund, which has DGR status. The AAL is most grateful to all donors.

Donations may be made via the website:

<https://academyoflaw.org.au/Donations>

## AAL Annual Report for 2022

The AAL’s third annual report is being prepared.

If you wish to have a particular subject addressed in the Report please contact the Secretariat or me.

Once published the Report will be available on the website.

## Forthcoming events

### Planning for 2023

The Fellows who are members of the State and Territory based event organising committees will meet on 13 December to map out events proposed for 2023. If you wish to propose a topic for an event please contact the Secretariat or me before then.

### 8 – 10 September 2023

#### Joint event with the *Australian Law Journal* and the Australasian Institute of Judicial Administration: *Enduring courts in changing times*

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. **Emeritus Professor David Barker AM** 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. **Andrew W Smith** of the New South Wales Bar has also accepted my invitation to assist with the planning.

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.

The Chief Justice of Tasmania, **the Hon Alan Blow AO**, and the Chief Justice of New South Wales, **the Hon AS Bell**, have approved the project. The Chief Justice of Australia, the **Hon Susan Kiefel AC** has also agreed to attend and address this event. A

number of other distinguished speakers, judges and former judges, academics and practitioners have been invited and are willing to be involved.

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.

Prospective speakers, including from overseas, have now been contacted and they have all responded with enthusiasm. The organising committee has met to map out the shape of the conference and will meet again before the Christmas vacation.

## Recent events

### Wednesday 2 November 2022: 5:00 PM - 7:00 PM

Michael Coper Roundtable: Where There's a Will There's a Lawyer: The Dobell Case and Subsequent Litigation about the Archibald Prize

Venue: High Court of Australia

The speaker was **Graeme Neate AM FAAL**, President of the ACT Civil and Administrative Tribunal since 2017.



*The Hon Mary Finn and Graeme Neate AM*

This was a Fellows only event. I am grateful to **Russell Miller AM** for the following:

“We had 15 at the High Court for Graeme Neate’s very stimulating session. 15 is a high turn out for the Coper Round Table events given the relatively small size of the Canberra cohort.

Graeme took us through the issues arising under Archibald’s bequest adjudicated on by the court, commencing with Roper J’s decision in the Dobell Case. He did so interspersing slides of the art works that prompted the controversies and anecdotes

drawn from his close study of the circumstances in which the controversies arose.

The speech prompted lively debate and questions, in the best traditions of the Coper Round Table, which continued over dinner at the Commonwealth attended by 12 of us.”

### 9 November 2022, Event for Fellows in London

There was a splendid AAL dinner in London at which **Professor Rachael Mulheron KC (Hon)**, Professor of Tort Law and Civil Justice, School of Law, Queen Mary University of London, spoke on class actions, comparing the history and current position in the United Kingdom and Australia.



*Meeting of AAL Fellows at Gray's Inn, London on 9 November 2022. Professor Rachael Mulheron KC (Hon) was the speaker*

I give my thanks to **Desmond Browne CBE, KC** for arranging for the dinner to take place at the Small Pension Room in Gray's Inn.

Earlier that afternoon, **Professor Mark Lunney** arranged a visit to Middle Temple where the archivist at the Middle Temple, **Barnaby Bryan**, showed us some of Middle Temple's Silver Collection, as well as **Sir Victor Windeyer's** splendid cast silver model of a kangaroo, donated by him to the Inn in 1976 to express his pride and happiness at being made an honorary Bencher.



Professor Lunney also arranged a small drinks reception between 5pm-6pm at Somerset House. Professor Lunney invited Australian undergraduate and postgraduate students at the Dickson Poon School of Law, King's College London to meet the Fellows who attended. I thank Professor Lunney for both of these excellent initiatives. I also thank Barnaby Bryan for his hospitality and for sharing with us his knowledge.

### 17 November 2022, 5.00pm to 7.00pm

#### NT Event- Eleventh Austin Asche Oration in Law and Governance

The topic was “Executive discretion in a time of COVID-19 – promoting, protecting and fulfilling human rights in the contemporary public health context.”

This oration, which is sponsored jointly by the Academy and Charles Darwin University, explored the democratic challenges of emergency decision-making and the lessons that may be learned to ensure the rule of law is respected. It considered how human rights principles can inform decision-making especially in times of crisis.

The speaker was **Emeritus Professor Ros Croucher AM**, President of the Australian Human Rights Commission.



There were 100 people in attendance, approximately 70 in person and 30 online.

A copy of the Address may be accessed [here](#).

The link to the video recording may be accessed [here](#).

### Thursday 20 October 2022: the AAL's 2022 Patron's Address

This year's Patron's Address was given by the **Hon Patrick Keane AC KC**, who retired as a Justice of the High Court of Australia on 16 October 2022. I am very grateful to him for agreeing to give this Address.

The title of his Address was "Leave those Blue-Eyed Babies Alone: Rhetorical Limitations on Parliamentary Sovereignty."

Since early in the life of the Federation, the High Court has deprecated the deployment of extreme and distorting examples of bad laws that Parliament might make as an argument for taking a narrow view of legislative power. Nevertheless, the rhetoric of the extreme example exhibits a continuing appeal. The appeal of this rhetorical strategy echoes elements of a long-standing anti-democratic tradition within the common law.

A copy of the Address may be accessed [here](#).

### 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:

**Dr James Renwick CSC FRSN SC**, Senior Counsel, Honorary Professor ANU, Deputy Judge Advocate-General (Navy)

**Professor Daniel Meagher**, Professor and Chair in Law, Deakin Law School

**The Hon Leslie Katz SC**, former Judge of the Federal Court of Australia

**Justice Nicola Pain**, Judge of the Land and Environment Court of New South Wales

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