

ACT Event on Tuesday 15 March 2016

An audience of about 60-70 heard Chief Justice French and Professor Jerry Mashaw address the topic, *Judicial Review for Reasonableness in Australian and US Administrative Law*, in the Finkel Lecture Theatre at the Australian National University on 15 March 2016.

Professor Mashaw is Sterling Professor of Law Emeritus and Professorial Lecturer at Yale University, where he teaches subjects including administrative law and regulation, areas in which he has written many books, including prize winning works.



The differences that emerged between the scope, focus and concerns of judicial review of administrative decision making in the two countries stimulated interest and discussion.

Refreshments were served following the speakers' presentations.

The event was organised and sponsored jointly by the Academy and the ANU College of Law.

The Academy is indebted to Academy Fellow, Professor Peter Cane, for having suggested and borne the burden of organising this event.

Other State and Territory events for 2016

The current state of organisation of the events in the other State and Territories for 2016, so far as known to me, is as follows:

Tasmania

Preparations are well in hand for the Tasmanian event to be held on Wednesday 27 April 2016. The speaker will be the Hon Robert French AC, Chief Justice of Australia (and Patron of the Academy). Chief Justice French's topic will be: *Rationality and Reasonableness*.

The event will be held at the IMAS Building Ground Floor, 20 Castray Esplanade, Battery Point, Hobart. The starting time is 5.30 pm.

Attached is the flyer which gives details of the RSVP required.

The Chief Justice's lecture has been widely notified to the courts, the legal profession and the university community in Hobart and all are encouraged to attend.

The Chief Justice's lecture will be followed by refreshments.

Northern Territory

As has become customary, the event in the Northern Territory will be the annual Austin Asche Oration and will be sponsored jointly by the Academy and Charles Darwin University.

The date for the event is Tuesday 11 October 2016. As in past years, it will be held in the Nitmiluk Lounge, Parliament House, Darwin.

This year the speaker will be the Hon Marilyn Warren AC, Chief Justice of Victoria.

It is expected that the flyer for the event will be enclosed with the next Newsletter of the Academy.

Western Australia

The Organising Committee chaired by Justice Michael Barker has begun preparing for the event to be held in Perth in August/September.

New South Wales, Victoria and South Australia

A gentle reminder to the Organising Committees in these jurisdictions!

Nomination of individuals for membership of the Academy

Attached is the Membership Committee's "Nomination Guide" which has been previously distributed to Fellows.

The Committee, and I suggest Fellows generally, would recognise that it would be good to have more members from the ranks of the practising profession and from jurisdictions other than New South Wales.

The Chair of the Membership Committee and I would encourage all Fellows (not excluding those from New South Wales!) to try to identify eligible individuals for nomination for membership of the Academy.

Fellows in Tasmania have recently taken up that challenge, resulting in a marked increase in the membership in that State.

Preliminary Notice

Discussions have been taking place about the holding of a major national conference on legal education next year and the holding of a smaller "Fellows only" event following the award of the Annual Essay Prize later this year.

The former would be sponsored jointly by the Academy and the *Australian Law Journal* (preliminary discussions have been taking place with the Hon Justice Francois Kunc, the editor of the ALJ), and would provide an occasion to celebrate the tenth anniversary of the establishment of the Academy in 2007, as well as the 30th anniversary of "the Pearce Report" of 1987: Dennis Pearce, Enid Campbell and Don Harding, *Australian Law Schools: a discipline assessment for the Commonwealth Tertiary Education Commission* (AGPS, 1987).

The latter event might well be held in the State or Territory where the winner of the Prize resides and would provide an occasion for the prize winner and

others to speak on the subject of the essay.

Fellows have previously received copies of the notice of the offering of the Prize, but in any event it is **attached** again to this Newsletter.

It is convenient to note here that the editor of the ALJ has agreed to publish the inaugural (2015) prize winning essay, and intends, subject to the usual editorial review, to publish each prize winning essay in the future.

Meeting of the Board of Directors on 17 February 2016

The Board of Directors dealt with several important items at this meeting which will lead to developments to be reported upon as they occur. They included: consideration of a Strategic Plan for the Academy and the adoption of new software recording the Academy's membership and financial data.

New Members

On behalf of the Academy and its members, I am pleased to extend a warm welcome to the following lawyers who have accepted the Academy's invitation to become Fellows since the since the last Newsletter:

The Hon Chief Justice Alan Blow OAM
The Hon Justice David Porter
Mr Michael O'Farrell SC
The Hon Justice Francois Kunc
Professor Diane Nicol
The Hon Justice Richard Edmonds



Kevin Lindgren, President , kevlindgren@gmail.com

0414 914 827

Rationality and Reasonableness

Wednesday 27 April 2016 5.30–7 pm

IMAS Reception Area IMAS Bldg Ground Floor, 20 Castray Esplanade,
Battery Point, Hobart

The Honourable Robert French AC Chief Justice of the High Court of Australia



The Honourable Robert French AC was appointed Chief Justice of the High Court of Australia on 1 September 2008. At the time of his appointment he was a Judge of the Federal Court of Australia, having been appointed to that office in November 1986.

He is a graduate of the University of Western Australia in science and law. He was admitted in 1972 and practised as a barrister and solicitor in Western Australia until 1983 when he went to the Independent Bar.

He was an associate member of the Trade Practices Commission (now the Australian Competition and Consumer Commission) from 1983 to 1986 and Chancellor of the Edith Cowan University from 1991 to 1996. From 1994 to 1998 he was President of the National Native Title Tribunal. At the

time of his appointment he was an additional member of the Supreme Court of the Australian Capital Territory and a member of the Supreme Court of Fiji. He was also a Deputy President of the Australian Competition Tribunal and a part-time member of the Australian Law Reform Commission.

From 2001 to January 2005 he was President of the Australian Association of Constitutional Law. In 2010 Chief Justice French was made a Companion in the Order of Australia and a Fellow of the Academy of Social Sciences in Australia. He is Patron of the Australian Academy of Law and an Honorary Life Member of the Australasian Law Teachers Association.

The Chief Justice's address will be followed by refreshments.

RSVP essential by Friday 22 April 2016:

W academyoflaw.org.au/events?id=48

E law.secretary@utas.edu.au

This event may count as MCLE/CPD points.

About the Academy of Law

Launched on 17 July 2007 by Her Excellency, Ms Quentin Bryce AC CVO, in her then capacity as Governor of Queensland and a Foundation Fellow of the Australian Academy of Law (AAL), the AAL is the fifth learned Academy in Australia and is the culmination of a process begun with the Australian Law Reform Commission's landmark report, *Managing Justice: a review of the federal civil justice system* (ALRC 89, 2000). The Foundation Patron of the AAL was The Hon Murray Gleeson AC (former Chief Justice of Australia). There are now 266 Fellows of the Academy.

The AAL is a broadly-based and permanent body, comprising individuals of exceptional distinction from all parts of the legal community—elected from the judiciary, legal practitioners and legal academics—united in a common goal of advancement of the discipline of law and the justice system. A distinctive feature of the AAL is that its Fellows and therefore the AAL itself, provide a 'bridge' linking, indeed uniting, the judiciary, academia and the legal profession in Australia. Information about the AAL may be found on its website: www.academyoflaw.org.au.

Managing Justice traced the rapid growth, diversification and fragmentation of the Australian legal profession, and the serious challenges these present to the maintenance of a coherent professional identity and traditional collegiate approaches. Without positive action the single 'legal profession' could become a multiplicity of 'legal occupations', none of which sees itself as part of a larger whole.

The objects of the Academy, set out in the AAL Constitution, include:

- > To establish and advance funds to provide scholarships and research grants which advance legal education and the discipline of law and promote ethical conduct and professional responsibility.
- > To promote the highest standards of legal scholarship, legal research, legal education, legal practice, and the administration of justice.
- > To promote the continuous improvement of the law and of the operation of the legal system.
- > To promote the highest standards of ethical conduct and professional responsibility amongst all members of the legal community, including the use of legal skills not merely for material personal reward but also in the service of society.
- > To enhance understanding and observance of the rule of law, and community understanding of the role and function of law, lawyers, the legal profession, and the judiciary.
- > To provide a forum for cooperation, collaboration, constructive debate and the effective interchange of views amongst all branches of the legal community on all matters relating to the achievement of these objects.



Guide to the process for the nomination of individuals to be invited to become Fellows of the Australian Academy of Law

The Membership Committee of the Academy has decided to distribute this note for the assistance of Fellows who may be contemplating nominating an individual to be invited to become a Fellow of the Academy.

It is the Board of Directors which decides whether an individual is to be invited to become a Fellow, but it does so on the recommendation of the Membership Committee.

Before recommending to the board that a person be invited to join the Academy, the Membership Committee considers the nomination in the light of the eligibility criteria that are laid down in the Academy's Constitution.

The Constitution provides in clause 6.3(a) for the category of "Fellows" who are described as: "*persons of exceptional distinction in the discipline of law who are demonstrably committed to the objects of the Academy*"

Clause 4 of the Constitution sets out the objects for which the Academy is established in the following terms:

(a) Advancement of the discipline of law

To establish a broadly-based and permanent body, comprising individuals of exceptional distinction from all parts of the legal community, including academia, the practising profession (including private and public sector lawyers), and the judiciary, to work together for the advancement of the discipline of law, in the ways set out in the succeeding objects.

(b) Scholarships and research grants

To establish and advance funds to provide scholarships and research grants which advance legal education and the discipline of law and promote ethical conduct and professional responsibility.

(c) Promotion of excellence

To promote the highest standards of legal scholarship, legal research, legal education, legal practice, and the administration of justice.

(d) Law reform

To promote the continuous improvement of the law and of the operation of the legal system.

(e) Ethical conduct and professional responsibility

To promote the highest standards of ethical conduct and professional responsibility amongst all members of the legal community, including the use of legal skills not merely for material personal reward but also in the service of society.

(f) Rule of law

To enhance understanding and observance of the rule of law, and community understanding of the role and function of law, lawyers, the legal profession, and the judiciary.

(g) Forum

To provide a forum for cooperation, collaboration, constructive debate and the effective interchange of views amongst all branches of the legal community on all matters relating to the achievement of these objects.

Any individual Fellow may be the nominator. Of course a nomination may be made by more than one Fellow but this is not required. The Committee is no

longer implementing the system of “pairs” under which pairs of Fellows were expected to nominate a small number of individuals for membership.

The nominator should not let the nominee know of the proposal that he or she be nominated since this would open up the possibility of acute embarrassment if the recommendation of the Membership Committee or the Board were not favourable.

The inability to let the nominee know of the nomination can give rise to a problem for the nominator. How does the nominator get sufficient information relevant to support the nomination if the best source of such information is out of bounds? Websites of one kind or another as well as *Who's Who* are helpful sources of biographical information and, of course, discussion with other Fellows may fill in any gaps.

There is no form of nomination and the letter of nomination might contain the nominee's CV or it might attach it.

In considering whether the nominee satisfies the eligibility criteria of the Constitution, the Membership Committee looks for evidence that the nominee has done more than just discharge the duties of his or her employment. The nature of the additional activity does not lend itself to easy definition and may vary according to whether a nominee comes from the judiciary, the practising profession or academia.

Examples of additional activities that the Committee has found significant are published books or articles, the presentation of conference papers, the giving of lectures, the holding of office in legal professional organisations, active membership of specialist legal interest groups, the conducting of inquiries and writing of reports and so on, considered against the background of the nominee's duties.

The Membership Committee considers that it can usefully say no more in this regard than to refer to clause 6.3(a) of the Constitution set out above.

AUSTRALIAN ACADEMY OF LAW

NOTICE OF

ANNUAL ESSAY PRIZE 2016

The Australian Academy of Law is pleased to announce the offering of its *Annual Essay Prize* for 2016.

The Prize was launched in 2015 and the winner of the inaugural Prize was Queenslander, Ailsa McKeon

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 amount of the Prize is \$10,000.

The essay topic for the Prize in 2016 is as follows:

What effect have the advances in technology (including in artificial intelligence) had upon the discipline of law in academia, the practising profession and the courts, and how may that effect change over the next ten years?

What steps should be taken now to harness the benefits and limit the detriments of those advances?

The deadline for the submission of an essay is 31 August 2016 and persons intending to submit an essay must notify the Academy of that intention in writing via the Academy's website to be received by 30 June 2016. Both of these time limits are strictly observed, as the Rules Governing the Annual Essay Prize make clear.

Those Rules can be accessed on the Academy's website: www.academyoflaw.org.au

Refer to the Academy's website also for further information about notification of intention to enter and about the actual submission of an entry