

Welcome to the second Newsletter for 2021. You will see that at various points, I seek expressions of interest or volunteers. Do not resist the urge to be involved!

First Nations Scholarship

Through the generosity of two donors to the Academy's Public Fund, the AAL offers its inaugural First Nations Scholarship tenable in 2021 for a First Nations final year law student.

A "final year law student" means a person who will complete the LLB or JD or combined Law degree at any Australian Law School, or the New South Wales Law Extension Committee Diploma in Law, by April 2022.

The amount of the award is \$5,000 for one year only.

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

The closing date for nominations to reach the AAL Secretariat is 15 March 2021 at 5 PM (AEDT).

Applications are through nominations by the respective Law Deans to the AAL Secretariat by the closing date. Each Law Dean may nominate one final year First Nations law student.

Interested applicants should contact their respective Law Deans to seek to be nominated.

Further details are on the website:

<https://www.academyoflaw.org.au/Australian-Academy-of-Law-First-Nations-Scholarship>

This scholarship is an early initiative of the Research and Expenditure Committee.

If you are interested in a role as a mentor, please let me know. It could be that if enough Fellows express interest, the role of mentor would be available to applicants beyond the winner of the scholarship.

2021 AAL Essay Prize

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.

This year, we have broadened eligibility to submit an essay by reverting to the original entry rules as follows.

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

More detail is on the website:

<https://www.academyoflaw.org.au/Essay-Prize-Rules>

I encourage all Fellows to bring this competition to the attention of anyone who may be interested in submitting an essay, or Fellows may wish to participate themselves.

Each year since the Essay Prize was established in 2015, the winning essay has been published in the *Australian Law Journal*.

Planning Events for 2021

It is time to plan events for 2021.

I encourage Fellows, particularly the members of the event organising committee in each State and Territory, to identify a subject and a speaker for one or more local events in 2021. I am available to assist.

The event organising committee members in each of the States and Territories are [here](#).

To give effect to Kevin Lindgren's proposal to make new Fellows welcome, the members of each organising committee should invite a newly elected Fellow to attend a Roundtable, so that he or she may make or renew their acquaintance with Fellows in their geographical area. If the newly elected Fellow wishes, they could lead a discussion at this "inaugural" Roundtable on a topic of their choosing.

The following events are in train or proposed. Each of them needs a small committee to get them organised. Please notify the Secretariat, Susan Jenkins, or me if you are interested in working on any of these projects.

- (i) the annual joint event with the Australian Academy of Science. It would be very useful to have one or more Fellows with qualifications in science for this purpose;
- (ii) an insurance event concerning business interruption policies and the pandemic in light of:

HDI Global Specialty SE v Wonkana No. 3 Pty Ltd [2020] NSWCA 296

Rockment Pty Ltd t/a Vanilla Lounge v AAI Limited t/a Vero Insurance [2020] FCAFC 228

<http://classic.austlii.edu.au/au/cases/cth/FCA/FC/2020/228.html>; and

The Financial Conduct Authority (Appellant) v Arch Insurance (UK) Ltd [2021] UKSC 1

<https://www.bailii.org/uk/cases/UKSC/2021/1.html>

- (iii) a two-part event the Victoria organising committee is planning. It does not yet have a finalised working title but is likely to be about First Nations Peoples' identity and Australian nationhood.
- (iv) for 2023, in light of some important national legal bicentenaries, a joint event with the *Australian Law Journal*. 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. A suggested working title is "Australia's courts – the next 100 years". I thank Justice François Kunc for this initiative.

Proposal for a scheme whereby academics could spend a day or longer with a judge

There have now been additional positive responses to this proposal, and it is necessary to establish a small committee to plan how this may be implemented.

The idea is to establish a system whereby (relatively junior) academics may spend a day or longer with a judge to gain firsthand experience of how a court runs.

Chief Justices, Chief Judges and other heads of jurisdiction would need to be consulted. It may be that there would be interest in academics visiting tribunals as well.

Updated AAL page on Wikipedia

Fellows may be interested to see the result of recent work on this page [here](#).

Updated pages on AAL's website

There have been improvements made by the Website and Communications Committee and by Susan Jenkins, the Secretariat, to the AAL's website.

There is now a complete list of the committees and the members of those [committees](#).

There is also a page showing the present [officeholders](#).

As I have said earlier, the members of the event organising committee in each of the States and Territories are to be found [here](#).

First Annual Report

Directors and others are in the process of producing the Academy's first Annual Report. If you have a subject you would like to see in the Report, or some material you would like to have included in it, please get in touch straight away by email.

My aim is to have the content finalised by 28 February and the Annual Report published by early April 2021. Ms Kerrie Douglass is ably assisting the Academy in relation to the content, as is Cobalt

Creative (Ms Catherine Cottrell) in relation to the design.

Forthcoming Events

Event with the Australian Law Reform Commission – Tuesday 2 March 2021, 5:30 PM

As you may be aware, the ALRC is currently inquiring into Federal Judicial Impartiality. In conjunction with the Australian Academy of Law, the ALRC will hold a panel discussion of the issues from a variety of perspectives.

The seminar will be held in the Federal Court's Court 1 in the Courts Building, Queens Square, Sydney. Depending on the COVID restrictions then in place, we will invite limited in-person attendance and/or a mix of in-person and online participation.

The Chair will be The Hon Justice Sarah Derrington of the Federal Court of Australia, President of the Australian Law Reform Commission.

The panellists will be:

The Hon Justice Michael Lee
Federal Court of Australia

His Honour Judge Matthew Myers AM
Federal Circuit Court of Australia

Professor Gabrielle Appleby
University of New South Wales

Mr Anthony McAvoy SC
Barrister

Mr Chris Merritt
Journalist and Rule of Law Institute Australia
Vice President

The flyer may be [seen here](#). Registrations for this event have reached the maximum of 300.

2021 Austin Asche Oration in Darwin – 27 March 2021

Chief Justice Susan Kiefel AC, the Academy's Patron, will give this address in Darwin on 27 March 2021 at 5 PM. It will be held in the Grand Ballroom, Hilton Darwin, 32 Mitchell Street.

This annual event is sponsored by Charles Darwin

University and by the Australian Academy of Law.

The working title of the Oration is "*Judicial Independence – From what and to what end?*"

It will be the Tenth Austin Asche Oration in Law and Governance.

The flyer is [here](#). Please put the evening of Saturday 27 March 2021 in your diary.

Ideally, the event will be live-streamed, but at the very least, it will be recorded.

Meeting of Fellows in Darwin Friday, 26 March 2021 at 4 PM

Chief Justice Grant has kindly made available a room in the Supreme Court of the Northern Territory for a meeting of Fellows, with drinks in the Common Room immediately following the meeting. At the meeting, I will bring Fellows up-to-date with the Academy's activities. The meeting is on the day immediately preceding the Austin Asche Oration: see the item immediately above.

Numbers must be finalised as soon as possible so that the particular Room may be allocated. If you will be in Darwin on that date and would like to attend but have not responded to the Secretariat's email, please do so straight away. I thank the Chief Justice for facilitating this meeting and Professor Les McCrimmon for his assistance in arranging this event.

Roundtable in Perth – 19 April 2021

The Western Australia event organising committee is planning a late afternoon Roundtable event involving short presentations by a representative of the judiciary, academia and a senior government legal officer. This is an example of a relatively informal gathering but one which will foster a collegial and intellectual interchange among Fellows in Western Australia. It is hoped that a new Fellow in Western Australia will be involved as a speaker. Please put the date in your diary if you will be in Perth on that day.

Establishment of the Court of Appeal, Supreme Court of South Australia

To mark the establishment of the Court of Appeal in South Australia and the commencement of its operations on 1 January 2021, the South Australia

event organising committee is planning an event based in Adelaide. I will be able to give more detail in the next Newsletter, but I understand that one of the five judges appointed to the new Court may participate, as well as a senior barrister and, perhaps, a senior academic.

Proposed events in the ACT

The ACT event organising committee has met to plan its Michael Coper Roundtables program for 2021. The committee proposes some five or six events, beginning in late March or early April. Once the speakers and the dates are confirmed, I will provide Fellows with more information. The proposed occasions are:

- Informal gathering
- The Commonwealth Integrity Commission proposal
- The Australian Government Solicitor: Its role and challenges
- Section 92 and border restrictions
- A contemporary taxation issue.

Proposed event in Hobart, Tasmania, Thursday 10 June 2021

Those of you who will be in Hobart, please put in your diary an AAL event to be held on the evening of Thursday, 10 June 2021. The format and the venue in Hobart will be advised closer to the date, but it is likely to be a Fellows' dinner with a speaker on a topic of current interest.

Recent Events

Regulatory Enforcement of Directors' Obligations

This online event was held on 22 February 2021, in association with the New South Wales Bar Association. There were approximately 165 participants.



Dr Ruth Higgins SC and John Sheahan QC

As one of the participants noted, it was a first-class event. The eagerly awaited papers are being posted progressively on the [website](#).

The Academy thanks the following people for generously giving their time and expertise.

The Chair was **Mr John Sheahan QC**, Barrister, based in Sydney.

The speakers were:

The Hon Justice Robert Bromwich
Federal Court of Australia

The Hon Justice David Jackson
Supreme Court of Queensland

Dr Ruth Higgins SC
Barrister, based in Sydney.

Professor Jennifer Hill
Bob Baxt AO Chair in Corporate & Commercial Law,
Director, Centre for Commercial Law & Regulatory
Studies Faculty of Law, Monash University

The speakers focused on, respectively:

- ☑ reducing the overlap between proceedings for criminal offences and for civil penalties;
- ☑ a proposal for reform of corporations' civil penalty provisions and penalty privilege;
- ☑ aspects of proceeding against, and defending, directors in regulatory proceedings; and
- ☑ directors' obligations – the international context.

The Hon Alan Robertson SC, the President of the Academy, introduced the event and The Hon Kevin Lindgren AM QC, the Deputy President, moved the vote of thanks.



The Hon Alan Robertson SC and The Hon Kevin Lindgren AM QC

The Academy is grateful to Mr Tim Game SC, Ms Anna Mitchelmore SC and Mr Michael Izzo SC, of the New South Wales Bar Association, for their ideas and assistance.

I encourage the event organising committee in each State and Territory to contact their local bar associations and law societies to see whether a similar cooperative event may be possible there.

New Fellows

Please join me in extending a warm welcome to the following distinguished lawyers who have accepted the Board's invitation to become Fellows of the Academy since the last Newsletter.

Professor Margaret Young

Melbourne Law School, University of Melbourne

Professor Cameron Stewart

Sydney Law School and Sydney Medical School,
University of Sydney

Request for assistance

A PhD candidate at the Queensland University of Technology seeks assistance to recruit Fellows to complete a 15-minute online survey with the title "Understanding of Statistical Evidence in Australian Courts". If you are interested in participating in this study, please follow this link to the study site: <https://survey.qut.edu.au/f/193677/1503/>

Alternatively, you can contact the researcher for details of the next step: Alanah Cronin (alanah.cronin@hdr.qut.edu.au)

Website – biographical details

Space has been made on the Academy website under each Fellow's name for you to show your biographical details if you wish. Instructions on how to access the Fellows-only part of the website and add or change biographical details were attached to earlier Newsletters. If you need help, please contact

the Secretariat.

Publication on AAL Website

I encourage all Fellows to put forward material for the 'Fellow spotlight' on the webpage.

Alan Robertson

President

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