

Welcome to the fourth Newsletter for 2021.

First Nations Scholarship

The AAL this week awarded its inaugural First Nations Scholarship tenable in 2021 for a First Nations final year law student. That scholar is Ms Mikeyli Hendry, an Arrernte woman from Alice Springs, Northern Territory. Ms Hendry is in her final year of a Bachelor of Laws, having completed a Bachelor of Arts, majoring in Politics, in November 2020. This is her sixth year studying at the University of Adelaide.

I met with Ms Hendry and have conveyed the Academy's warm congratulations to her.



The President congratulating the winner of the AAL's inaugural First Nations scholarship, Ms Mikeyli Hendry

The amount of the award is \$5,000 for one year only. Nine applications were received and the Selection Panel assessed them.

Shortlisted applicants were interviewed in April 2021. Each was impressive.

Further details are on the website:

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

If you are interested in a role as a mentor of the winner of the scholarship, Ms Hendry, please let me know. Although Ms Hendry plans to return to the Northern Territory at the conclusion of her studies, she sees great advantage in having a mentor for her final year in Adelaide.

I am most grateful to the members of the panel who considered the applications and decided on the winner so efficiently and promptly. It was a wonderful effort by Professor Bee Chen Goh,

Professor Larissa Professor Larissa Behrendt AO and Mr Tony McAvoy SC.

2021 AAL Essay Prize

As I notified in the last Newsletter, 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>

Please bring this competition to the attention of anyone who may be interested in submitting an essay, or Fellows (other than Directors) 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*.

Congratulations

Please join me in congratulating Justice Kristen

Walker on her appointment to the Victorian Court of Appeal. Before her appointment Justice Walker was the Solicitor-General of Victoria.

I also congratulate the Hon Pamela Tate on her retirement from the Victorian Court of Appeal and her appointment as an Adjunct Professor of Law at Monash University effective from 1 May 2021.

Congratulations as well to Justice Anthe Philippides on her retirement from the Queensland Court of Appeal after 20 years' service as a judge.

Planning Events for 2021

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

The following events are in train or proposed. 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 especially useful to have one or more Fellows with qualifications in science for this purpose. Thus far, the subcommittee will be chaired by me, with Mr Michael Murray, Professor Melissa de Zwart and the Deputy President Kevin Lindgren as members;
- (ii) an event the Victoria organising committee is planning for September/October 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, Professor Bee Chen Goh and Professor Duncan Bentley being the members of it.
- (iii) for 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)*. 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 agreed to be on the subcommittee. One further volunteer, preferably from Tasmania, is needed.

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

The working purpose is to discuss what can we learn from the past and what should we do in the future?

Potential topics are:

- History – how we got here
- International perspectives on common law courts (Australia, New Zealand, Canada, the United States, and the United Kingdom)
- Indigenous people and the courts
- Courts as the third arm of government
- Use of technology, including AI
- Threats to the impartial administration of justice
- Administration of courts
- Appointment and tenure of judges
- What civil law courts can teach us
- Criminal justice
- Media and the courts
- Tribunals and courts
- Arbitration and other forms of ADR and courts
- Judicial training and continuing education.

I invite comments and suggestions.

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

There have now been additional positive responses to this proposal, and a small committee has been established to plan how we may implement this. The Hon Kevin Lindgren AM QC, Justice David Mossop, Justice Robert Beech-Jones, Professor Les McCrimmon, Professor Alison Gerard and Dr John Lowndes OAM have agreed to be members of the committee.

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 and other heads of jurisdiction will need to be consulted.

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](#).

First Annual Report

You will find the electronic version of the AAL's first Annual Report [here](#). The Secretariat has almost completed the distribution of the 50 printed copies.

Forthcoming Events

Roundtable in the ACT – Wednesday 5 May 2021 at 5 PM

The second Michael Coper Roundtable this year is to be held at the High Court from 5 to 6.30pm on Wednesday 5 May. The speaker is the Hon Murray Kellam QC, formerly a judge of the Victorian Court of Appeal. He was also Chief Commissioner of the Tasmanian Integrity Commission from 2010 to 2015.

Mr Kellam will look at the proposed Commonwealth Commission against the prism of the experience of existing Australian bodies and the legislation under which they are established.

This is a member only event. Due to COVID-19 restrictions, the maximum number of attendees is 20. Please register [here](#).

Dinner in Hobart, Tasmania, Thursday 10 June 2021

If you will be in Hobart on 10 June 2021, please put in your diary the AAL event to be held on the evening of Thursday, 10 June 2021.

Partners are invited. The format will be an after-dinner speech by the new Dean of the University of Tasmania, Professor Michael Stuckey. He has an interest in legal history.

Professor Gino Dal Pont is making a booking at a Sandy Bay restaurant.

The Secretariat will send you details of the venue

and the likely cost in the next few days. A prompt response will be necessary as the restaurant needs to finalise numbers and have notice of any dietary requirements.

Australian Academy of Law and Law Council of Australia joint event, 5 PM on Thursday, 15 July 2021

Class Actions: Capital, Regulation, and the Public Interest

The venue for this event will be the Ceremonial Court on Level 21 and the Conference room on Level 20 (for refreshments). I thank Chief Justice Allsop for making the courtroom available.

I am grateful to John Sheahan QC for agreeing to chair it. The speakers are being finalised, but the participants include Justin Gleeson SC, Rebecca Gilsenan, Susanna Taylor and Jason Betts.

Please put it in your diary, 15 July 2021 at 5 PM.

Recent Events

Roundtable in Perth – Monday 19 April 2021



The WA event with the President introducing, from right to left, Mr Joshua Thomson SC, Chief Justice Peter Quinlan and Professor Elise Bant

This Roundtable event involving three short presentations on recent legal developments. The presentations were each highly informative and clearly presented.

The Chief Justice of Western Australia, The Hon Peter Quinlan spoke about the recent decision of the High Court in *Minister for Home Affairs v Benbrika* [2021] HCA 4.

The Solicitor-General of Western Australia, Mr

Joshua Thomson SC gave a paper on *Palmer v Western Australia* [2021] HCA 5.

Professor Elise Bant, University of Western Australia, spoke about unconscionable systems of conduct and patterns of behaviour in relation to corporations, with reference to s 21 of the *Australian Consumer Law*.

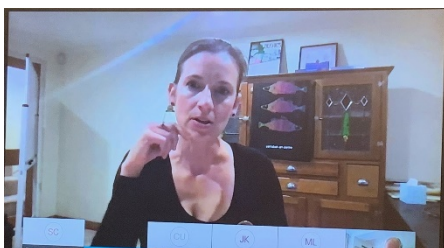
Nineteen Fellows (including the panel) attended, a very good number for a Fellows only event. The event was a relatively informal gathering and an excellent example of interchange among Fellows.

I thank the Western Australia organising committee, in particular Justice Craig Colvin, who arranged the venue and the refreshments, but who is now retiring from the committee. I also thank each speaker for their paper.

Public event in Adelaide – 28 April 2021 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, Justice Tony Besanko organised this event based in Adelaide.

Justice Mark Livesey, one of the five judges appointed to the new Court, was the first speaker. His informative paper is to be found [here](#). Livesey JA was followed by Mr Dick Whittington QC of the South Australian Bar. As a very experienced appellate advocate, he spoke about practical considerations in relation to the new Court. Professor Gabrielle Appleby of the University of



Professor Gabrielle Appleby

New South Wales also spoke, by video link, about measuring quality and efficiency, with a warning about the misleading allure of using statistics, without more.



Besanko J as chair with, on his right, Livesey JA and the President & on his left Mr Dick Whittington QC

All the papers were informative and well received, and I thank each speaker for their contribution.

The venue was the Supreme Court, 1 Gouger Street. I thank the Chief Justice for making the room available and I thank also the court staff, particularly the associate of Livesey JA, for their assistance.

There were 20 who attended in person. The event was live-streamed also and 13 others, some interstate and some overseas, made use of that facility.

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.

The Hon Justice Simon Steward
Justice of the High Court of Australia

The Hon Justice Jacqueline Gleeson
Justice of the High Court of Australia

The Hon Geoff Nettle AC
Formerly a Justice of the High Court of Australia

Mr Anthony McAvoy SC (Tony)
Barrister, Supreme Court of New South Wales

Ms Kate Jenkins
Human Rights Commission

Professor Pip Nicholson
Dean, Melbourne Law School, University of Melbourne

Publication on AAL Website

I encourage all Fellows to put forward material for the 'Fellow spotlight' on the webpage. See <https://academyoflaw.org.au/Fellow-Spotlight>

A handwritten signature in blue ink, appearing to read 'A. Robertson', with a long horizontal flourish extending to the right.

Alan Robertson

President

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