

Welcome to the fifth Newsletter for 2021.

First Nations Scholarship

The details of this inaugural award are on the [website](#).

The second phase of the project was to find a Fellow as mentor for the winner and Fellows as mentors for the other shortlisted applicants. This has been achieved. There is also a mentor for each of the other applicants. I am most grateful to those who have volunteered. It should be a rewarding experience, on both sides.

2021 AAL Essay Prize

Please bring this competition to the attention of anyone who may be interested in submitting an essay. 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*.

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, the AAL has broadened eligibility to submit an essay by reverting to the original entry rules.

The Prize is \$10,000. The deadline for the submission of an essay is 31 August 2021. 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 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 committee has met to plan how we may implement this scheme.

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 and other heads of jurisdiction will need to be consulted.

A proposal for a pilot scheme will go before the Board shortly.

Forthcoming Events

Dinner in Hobart, Tasmania, Thursday 10 June 2021 at 7 PM

If you will be in Hobart on 10 June 2021 and wish to attend, please notify the Secretariat as soon as possible: AALSecretariat@academyoflaw.org.au

Partners are invited.

The format will be an after-dinner speech by the new Dean of the Faculty of Law of the University of



Professor Michael Stuckey

Tasmania, Professor Michael Stuckey. He has an interest in legal history.

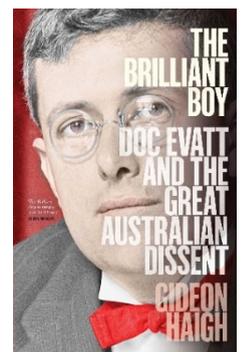
The venue is Me Wah Restaurant, 16 Magnet Court, Sandy Bay, Hobart, for 7 PM.

Queensland event – 14 July 2021 at 5:30 PM

The title for this event is “Mrs Chester’s lost child: inconsolable psychological injury and Evatt J’s finest judgment.”

Mr Gideon Haigh and Associate Professor Kylie Burns will be the speakers.

Mr Haigh’s latest book, *The Brilliant Boy: Doc Evatt and the Great Australian Dissent* is to be published on 7 July 2021 by Simon & Schuster Australia.



Professor Burns is a torts scholar. She is widely recognised as a torts and personal injury researcher, teacher and speaker. She is a co-author of the leading text *Torts: Cases and Commentary*. Her focus will be on how the law approaches psychological trauma.

The venue will be the Banco Court, Supreme Court of Queensland, Queen Elizabeth II Courts of Law building, 415 George St, Brisbane, with a Zoom live-stream.

The event follows the very successful August 2020 Queensland occasion, “Celebrating Samuel Griffith”. Justice Peter Applegarth will again be the chair. I thank him and the staff of the Supreme Court Library Queensland for their work in organising this event.

Please put it in your diary, 14 July 2021 at 5:30 PM. Refreshments will be served after the event.

AAL 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, Law Courts Building, Queens Square, Sydney and the Conference room on Level 20 (for refreshments). I thank Chief Justice Allsop for making the venue available.

I am grateful to John Sheahan QC for agreeing to chair it. The speakers will be Justin Gleeson SC, Rebecca Gilsenan, Principal, Maurice Blackburn Lawyers, Susanna Taylor, Investment Manager of Litigation Capital Management (LCM), and Jason Betts, Partner, Herbert Smith Freehills.

Class actions have been the subject of recent attention by Parliaments, the executive, law reform commissions and the courts, including two recent High Court decisions. Much of this attention has focused on how class actions are funded, and the consequences of funding being available. Significant differences of view may be emerging as to how the public interest is best advanced when it comes to regulating class actions themselves, and the means by which the capital necessary to conduct them is made available. This seminar will take a deeper look at these issues.

Please put it in your diary, 15 July 2021 at 5 PM. Refreshments will be served after the event. The flyer is [here](#).

Roundtable in Sydney, NSW – 4 August 2021

On Wednesday 4 August 2021, a Roundtable on insolvency will be held in Sydney. This session is proposed to be jointly hosted by the Australian Academy of Law and the Ross Parsons Centre of the University of Sydney. The format will be that all Fellows are invited, and there will be a few specific invitations to non-Fellows to attend.

The working title is: "*The roles of the state and the private profession in the insolvency system: do we have the right balance?*"

Mr Michael Murray and Professor Jason Harris will present a paper. The presenters are the joint authors of *Keay's Insolvency: Personal and Corporate Law and Practice* (11th ed pending).

The venue is the Federal Court Level 20 (small) conference room, Queens Square, Sydney. The room will be set up with 25 chairs around the table.

I am grateful to Chief Justice Allsop for making this room available.

Fellows are invited to register for this event [here](#).

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

At the suggestion of Fellow Mr Peter Walmsley, Deputy Chief Tax Counsel of the ATO, and Kevin Lindgren AM QC the AAL is organising 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. It will be a “live” event in Sydney but also with online access.

The speakers will be:

The Hon AM Gleeson AC QC, 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 so far identified are:

- the circumstances in 1981 and preceding it; and
- 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 will provide an overview. The Hon Kevin Lindgren AM QC will chair the event.

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

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

Patron's address – October 2021

The planning for this event is underway. This year it is to be held in Melbourne in October.

2021 AGM

The AGM will be held in Melbourne this year, immediately before the Patron's address.

The annual joint event with the Australian Academy of Science.

A subcommittee has been formed, chaired by me, with Mr Michael Murray, Professor Melissa de Zwart and the Deputy President Kevin Lindgren as the other members. The AAL subcommittee has identified potential topics. A preliminary meeting will shortly be held with representatives of the Australian Academy of Science.

Intermediate appeal courts

At the suggestion of Andrew Bell P, I am planning an event for later this year at which Fellows and, I hope, members of the public will hear from the heads of Australia's intermediate appeal courts. 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.

I will include more detail in the next Newsletter.

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 Fellow Justice Steven Rares, as President of the AIJA.

At least one further volunteer, preferably from Tasmania, is needed.

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

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

Potential topics include:

- International perspectives on common law courts (Australia, New Zealand, Canada, the United States, and the United Kingdom)
- Indigenous people and the courts
- Use of technology, including AI
- Threats to the impartial administration of justice
- The role of contempt of court in the administration of justice
- Appointment and tenure of judges
- Criminal justice
- Media and the courts
- Tribunals and courts
- Arbitration and other forms of ADR and courts
- Judicial training and continuing education.

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 Canberra, ACT – 5 May 2021

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



The Hon Murray Kellam AO
QC

The event went exceptionally well. The Hon Murray Kellam gave an excellent, in-depth, review of the positives and negatives of existing integrity commissions, followed by an assessment of the current Commonwealth proposal. A summary of Mr Kellam's paper is [here](#).

Vale

With sadness I record that the Hon Peter Heerey AM QC died, peacefully, on 1 May 2021.

Having been born and educated in Tasmania, Peter Heerey practised at the Bar in Melbourne. He was a Judge of the Federal Court of Australia from 1990 to 2009. Peter Heerey became a Fellow of the Australian Academy of Law on 1 January 2014.

On his retirement from the Court, Peter Heerey served as Chair of the Australian Electoral Commission, Chair of the Advisory Board for the Graduate Program in Intellectual Property at the University of Melbourne, and Adjunct Professor at the University of Tasmania.

A rhyme he composed and read on his retirement from the Federal Court gives a hint of his humour and his love of language:

So now I think it must be time
To have a little farewell rhyme:
For I must leave this institution
It says so in the Constitution.

Peter will be greatly missed.

New Fellows

Please join me in extending a warm welcome to the following distinguished lawyer who has accepted the Board's invitation to become a Fellow of the Academy.

The Hon Justice Karin Emerton

Judge of Appeal, Supreme Court of Victoria.

Research ideas?

If you have a subject of research which you consider the Academy should undertake or commission, please let me or the Secretariat know.

The next Board meeting

The next meeting of the Board will be on Tuesday 15 June. Please contact me or one of the other directors if you wish to raise a particular matter. The other directors are:

The Hon Kevin Lindgren AM, QC (NSW)

The Hon Justice G John Digby (Victoria)

Emeritus Professor David Barker AM (NSW)

The Hon Justice Tony Besanko (SA)

Emeritus Professor Bee Chen Goh (Qld)

Professor Gino Dal Pont (Tasmania)

Dr Nuncio D'Angelo (NSW)

Professor Melissa De Zwart (SA)

Professor Les McCrimmon (NT)

Mr Russell Miller AM (ACT)

The Hon Justice Mark Moshinsky (Victoria)

Mr Michael Murray (NSW)

The Hon Emeritus Professor Ralph Simmonds (WA)

Professor Erika Techera (WA)

A handwritten signature in blue ink, appearing to read 'A. Robertson'.

Alan Robertson

President

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