

Welcome to the tenth Newsletter for 2022.

## The AGM

The Academy's Annual General meeting was held on Thursday 20 October 2022 at 3.30 pm (Brisbane, AEST) Conference Centre, Queen Elizabeth II Courts of Law, level 12, 415 George Street, Brisbane and online.

There were 10 Fellows who attended in person, and a further 23 who participated remotely.

Deputy President **Justice Tony Besanko** was the chair.

The Directors for the year 2022-2023 are:

**The Hon Alan Robertson SC** (President)

**The Hon Justice Tony Besanko** (Deputy President)

**Emeritus Professor Bee Chen Goh** (Treasurer)

**Emeritus Professor David Barker AM** (Secretary)

**Associate Professor Philip Chung**

**Professor Gino Dal Pont**

**Dr Nuncio D'Angelo**

**Professor Melissa De Zwart**

**The Hon John Digby KC**

**The Hon Kevin Lindgren AM, KC**

**Professor Les McCrimmon**

**Mr Russell Miller AM**

**The Hon Pamela Tate KC**

**The Hon Emeritus Professor Ralph Simmonds**

**Professor Natalie Skead**

The meeting noted that **Mr Michael Murray** was not standing again for re-election as a Director and thanked him for his hard work over a number of years, particularly as chair of the Website and Communications Committee.

## The 2022 AAL Annual Essay Prize

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. There was a small

ceremony on 20 October 2022, straight after the AGM. I am grateful to **Chief Justice Bowskill** for presenting their certificates to the prizewinners and for her speech. Catherine Bugler and Alice Muir also spoke. The ceremony was attended by judges of the Court, senior academics and practitioners and by family members of the prizewinners.



*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](#).

## 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. I note with many thanks a recent donation where a Fellow most generously gave \$2500. While most donations are by Fellows, a recent substantial gift came from a practitioner who, while not a Fellow, had attended some of the Academy’s public events. The AAL is most grateful to him and to all donors.

Donations may be made via the website:

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

## Legal studies prize for secondary students

The AAL has been investigating the feasibility and logistics of a Year 11/12 Legal Studies prize, with the likely focus being on Year 12.

The idea is to award a prize to the top student in Legal Studies, however named, in each State and Territory, so eight prizes in all.

So far, we have been unable to answer a difficult question: how best to identify the top Legal Studies student in each jurisdiction.

If you can assist, please contact the Secretariat or me.

## Forthcoming 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, 31 Parkes Place, Parkes, Canberra ACT 2600

The speaker will be **Graeme Neate AM FAAL**. He has been the President of the ACT Civil and Administrative Tribunal since 2017. Before that he was a Commissioner with the Queensland Industrial Relations Commission, having been President of the National Native Title Tribunal from 1999 to 2013. In his (somewhat scarce) spare time he paints pictures – but not portraits.

The Archibald Prize for portraiture has been awarded annually for more than 100 years. The exhibition of finalists attracts public interest, controversy and occasionally court cases. In this presentation, Graeme Neate will consider litigation in the Supreme Court of New South Wales, starting with the famous Dobell case of 1944. He will discuss legal issues arising under the will which established the prize, how judges have decided whether the prize should be awarded, some of the personal implications of the litigation for parties and other participants, and some outstanding legal issues which, even if they do not provoke more court cases, might prompt lively discussion.

The flyer is [here](#) and registration details [here](#). This is a Fellows only event.

## 9 November 2022, Event for Fellows in London

There will be an 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, will speak on a legal topic of current interest and importance.



I give my thanks to **Desmond Browne CBE, KC** for his great help. He has arranged for the dinner to take place at the Small Pension Room in Gray's Inn, 8 South Square, London.

**Professor Mark Lunney** has arranged for a visit to Middle Temple at 4.00pm on 9 November with the archivist at the Middle Temple, Barnaby Bryan, who will show off 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.

Professor Lunney has also arranged for a small drinks reception between 5pm-6pm. Professor Lunney will also invite Australian undergraduate and postgraduate students at the Dickson Poon School of Law, King's College London to attend.

This event is now fully subscribed.

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

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

Grand Ballroom, Hilton Darwin  
32 Mitchell Street, Darwin  
Attend in person or online

This is the event which was postponed because of the National Day of Mourning public holiday.

The topic is "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, will explore the democratic challenges of emergency decision-making and the lessons that may be learned to ensure the rule of law is respected. It considers how human rights principles can inform decision-making especially in times of crisis.

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

Please RSVP - [cdu.edu.au/events](mailto:cdu.edu.au/events) T: 08 8946 6554.

**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.

### **Recent events**

**18 October 2022, joint symposium with the Australian Academy of Science**



**5:30 PM, at the Shine Dome, 9 Gordon Street, Acton ACT**

The title for the joint symposium was “**The Science and the Law of Prohibited Drugs**”.



*The Shine Dome*

This annual joint event was organised with the President of the Australian Academy of Science, **Professor Chennupati Jagadish AC**. The AAL is most grateful to Professor Jagadish and the officers of the AAS for their work in putting this event together.

I am very grateful to **the Hon Lucy McCallum**, Chief Justice of the Australian Capital Territory, who chaired the symposium.

The speakers at this very successful event were:

**The Honourable Acting Justice Richard Refshauge**, who is in charge of the ACT Drug and Alcohol Court,

**Scientia Professor Carla Treloar** of UNSW

**Professor Arthur Christopoulos** of Monash

and **Nicholas Cowdery AM KC** who was Director of Public Prosecutions for NSW from 1994 to 2011.

The **Hon Kevin Lindgren AM KC** gave the vote of thanks.

Refreshments were served.

There was no registration charge for Fellows of the Academies. For non-Fellows, excluding students, the charge was \$25, and for students the charge was \$10. Registration for remote attendance was free.

About 30 attended the event in person, with a further 70 online.

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

The venue was the Conference Centre, Queen Elizabeth 11 Courts of Law, Level 12, 415 George Street, Brisbane and online

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.

**Justice Tony Besanko**, Deputy President of the AAL, chaired the proceedings.

Approximately 25 attended the Address in person, with a further 48 viewing online.

A copy of the Address will be available on the AAL's website soon.



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