
Editor's note



The deaths of Justices Bryan Beaumont, Graham Hill and Peter Hely in the five months since the last edition of *Bar News* have rocked the profession. Each, in his own different way, was an outstanding lawyer and dedicated to the profession, the wider community, the Federal Court and the rule of law. Bryan Beaumont's extensive contributions in all of those fields were the subject of an appreciation contained in the last edition of *Bar News*. Graham Hill's contributions (apart from his almost 17 years' service on the Federal Court) were largely but by no means exclusively through his commitment to legal education. He had lectured continuously at the University of Sydney Law School for 38 years far exceeding the length of service of any other permanent or part-time member of the Law Faculty. Having been the beneficiary of a number of university scholarships after his stellar undergraduate career, he was truly one who more than repaid the opportunities which had been afforded to him both by the University of Sydney and the scholarships he was awarded. And then there was Peter Hely. Unlike Justices Beaumont and Hill, who were appointed to the Federal Court in the 1980s, Justice Hely's appointment only came in 1998. Prior to then, he was rightly described as a 'colossus' of the NSW Bar. He was also dedicated to the profession, serving for many years on Bar Council.

With the retirement of Justice McHugh from the High Court, the entire Australian legal community has lost the services of one of its finest judges. From the perspective of the NSW Bar, Justice McHugh was and is held in enormous and genuine affection. He has continued to be, in his 21 years on the Bench, an inveterate supporter of the Bar. He has remained committed to its values and institutions, and has been and, one trusts, will continue to be a popular presence around Phillip Street. In a somewhat surprising 'tradition', the High Court does not honour retiring puisne judges with a farewell ceremony in Canberra. In lieu thereof, an informal farewell occurred on 7 October 2005, the last day on which Justice McHugh sat in Sydney as a member of the full bench on special leave day. His remarks on that occasion together with those of Hughes QC on behalf of the Bar are reproduced in this issue. Interestingly, on that day, two special leave benches were convened in Sydney, an indication of the growing volume of the work of the court. This was a theme touched upon by Justice McHugh in his speech 'Working as a High Court justice' to the Newcastle Law Society and the Women Lawyers' Association of New South Wales on 17 August 2005, available at www.hcourt.gov.au/speeches/mchugh. In an age of transparency, that speech contains the clearest and most candid account of the week to week routine of the High Court, and affords an unprecedented insight into the workings of the court. Insofar as it touched

upon the court's workload, it does invite for debate the question of the optimal size of the High Court. That, together with the mode of appointment to the court, is a topic likely to attract attention with the relatively imminent retirements of Callinan J, Gleeson CJ and Kirby J. Solicitor General Sexton SC's paper on appointments provides an interesting historical and comparative focus.

In the current issue, we publish Justice Gummow's Sir Maurice Byers' lecture on 'Statutes', thus ensuring that all lectures in this distinguished series have been published in the Bar Association's official journal of record. We also publish an important opinion piece by Anna Katzmann SC on the subject of 'Restricting access to justice: changes to personal injury laws'. Colin McDonald QC continues in his tradition as our correspondent from the Top End with a feature on Indonesian courts and terrorism. Peter Skinner writes of his visits to Rwanda and the work of the war crimes tribunal. Arthur Moses has also written an informative account of the work (ever-expanding) of the Federal Magistrates Court.

Incoming Bar Association President Michael Slattery QC writes his first column. Slattery QC replaced Ian Harrison SC as president of the association in November 2005. Every member of the association should applaud Harrison's service to the Bar, comprising not only his many years on Bar Council, his 10 years as a member of the executive and his last two years as president, in particular. In what is, in effect, a two year term, few would appreciate the hours of time daily given, without recompense, to the association and the profession. Harrison's speeches, both at swearings in and other occasions, have been a highlight for their combination of humour and sincerity. But members should not overlook the fact that, speech-making apart, there is a vast array of other obligations to which the president must attend. In what is an undoubtedly a position where it is not possible to please all of the people all of the time, Harrison's efforts and dedication to the task are warmly acknowledged.

On a final note, the last edition of *Bar News* carried an opinion piece by Barker QC and Toner SC in relation to the cases of Mamdouh Habib and David Hicks, to which Attorney-General Ruddock responded. It is an objective fact that a further six months have passed and Mr Hicks still awaits a trial in the United States. Whatever the merit or substance of the charges against Mr Hicks, it defies one's deepest sense of justice that the charges are yet to be prosecuted. It is a scandal which only grows larger. The delay (including the lack of apparent activity on the part of executive government) is objectively pernicious in terms of undermining community respect for the rule of law and its institutions. When the next issue of *Bar News* is published in June 2006, it will be interesting to learn what progress (if any) has been made in the Hicks case.

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