

Editor's note



In this issue *Bar News* looks at the question of judicial pensions. Professor Brian Opeskin of Macquarie University examines the cost of the federal judicial pension scheme and asks whether the scheme in its current form can be maintained or whether, as the title to his piece suggests, it is now time for reform.

It's a complex issue and Professor Opeskin raises some interesting questions. *Bar News* has prepared a short response to some of those questions, which appears at the conclusion of Professor Opeskin's piece. Further contributions from readers on this topic would be welcome.

At the heart of the debate is the need, whatever the cost, to ensure that the public's confidence in the administration of justice is maintained by ensuring that the most meritorious barristers and solicitors continue to accept appointment to judicial office, and that judicial independence is preserved.

Attorney General Greg Smith SC discusses the contribution of Irish-

Australian lawyers to the Australian legal system, particularly in the nineteenth century. Among others the attorney general looks at the contribution made by one of his distinguished predecessors, Sir John Plunkett.

Fiona Roughley and Sandy Dawson have contributed the first part of a two part article looking at important recent developments in the area of non-publication, suppression and non-party access to documents. In this first part they discuss new legislation regulating suppression and non-publication orders. The second part, to be published in a future issue, will deal with non-party access to information used in proceedings.

David McClure examines the new military court proposed by *Military Court of Australia Bill 2012*. If the Bill is passed this new military court will exercise original and appellate jurisdiction over Australian Defence Force personnel charged with service offences. David McClure questions whether the system contemplated by the Bill – which would involve the disengagement of military officers from this layer of the military justice system – is an improvement on the existing one, and whether it may be susceptible to Constitutional challenge.

In the Practice section Garth Blake SC and Philippe Doyle Gray grapple with the contentious question of whether counsel can settle independent expert reports. After an exhaustive review of the authorities and the leading texts, they conclude that counsel may, and even should, take part in settling expert evidence, at least to some extent: identifying and directing

the expert witness to the real issues, for example, or suggesting that the report does not adequately illuminate the reasoning leading to the expert's opinion.

Bar News is delighted to publish the O'Dea Oration delivered by the Hon T E F Hughes AO QC on the occasion of the conferral of his honorary doctorate of laws by the University of Notre Dame Australia. In this address Hughes QC deploys his vast experience to consider the art of advocacy, which, as he remarks, Sir Owen Dixon described as the soul of the law. Hughes QC says that his remarks are directed at young people about to embark on a career at the bar or in active practice, but they can also be appreciated by anyone interested in learning more about this most elusive art.

As the journal of the NSW Bar Association we thank the outgoing president of the association, Bernard Coles QC, for all his fine work since May 2011, and welcome the new president, Phil Boulten SC, whose inaugural column appears on the following page.

Lastly, *Bar News* takes this opportunity to wish all its readers a very happy and relaxing summer break and all the best for the New Year.

Jeremy Stoljar SC
Editor