For Your Diary

6th Public Law Weekend
2 & 3 November 2001

This will be the sixth Public Law Weekend organised by the Centre for International and Public Law and the third devoted to constitutional law. The Friday theme seminar will consider the intersections of constitutional law with other branches of law (administrative law, common law and international law). The Saturday sessions will focus on recent developments in four specific areas of Australian public law including the judicial system, contemporary federalism, elections and parliamentarians, and state constitutional law.

Speakers include Tony Cavanough QC, Michael Sexton SC, Dr Kristen Walker, Jeremy Kirk, Ian Govey, Associate Professor Gerard Carney and Janine Pritchard.

The Friday night dinner at Old Parliament House commemorates the 50th Anniversary of the Communist Party Case.

The conference brochure has been sent out to all those registered with the Centre as having an interest in public law, which includes those who have attended previous Public Law Weekends. The conference brochure is at website: http://law.anu.edu.au/CIPL

Geoffrey Sawer Lecture 2001

The fourth lecture in this series was given by The Hon Sir Gerard Brennan AC KBE on 18 July. In his lecture One Hundred Years On: Strengths and Strains in the Constitution Sir Gerard, former Chief Justice of the High Court of Australia, proposed the amendment of some provisions in the Constitution that have failed in their purpose, the deletion of obsolete provisions and additions to federal power to cope with changes in science and technology. He suggested some implications of a move to a Republic for the system of responsible government. Around 150 people attended the lecture, including Mrs Nancy Sawer and other members of the Sawer family.

The text of the lecture has just been published by the Centre and Federation Press as Law and Policy Paper 18. Please see page 2 of this newsletter for further information.

Geoffrey Sawer Lecture 2002

Judge Navanethem Pillay, President of the International Criminal Tribunal for Rwanda, will present the 2002 Geoffrey Sawer Lecture on a date yet to be advised. The lecture will review the progress of the work of the Tribunal.

Centre Events

Geoffrey Sawer Lecture 2001

The fourth lecture in this series was given by The Hon Sir Gerard Brennan AC KBE on 18 July. In his lecture One Hundred Years On: Strengths and Strains in the Constitution Sir Gerard, former Chief Justice of the High Court of Australia, proposed the amendment of some provisions in the Constitution that have failed in their purpose, the deletion of obsolete provisions and additions to federal power to cope with changes in science and technology. He suggested some implications of a move to a Republic for the system of responsible government. Around 150 people attended the lecture, including Mrs Nancy Sawer and other members of the Sawer family.

The text of the lecture has just been published by the Centre and Federation Press as Law and Policy Paper 18. Please see page 2 of this newsletter for further information.

If you no longer wish to receive this newsletter and would like your name removed from our database, please send a brief email to cipl.law@anu.edu.au
Current research projects in the Centre

Three members of CIPL, Robin Creyke, John McMillan and Dennis Pearce, have been conducting a large research project since 1995 on the impact of administrative law on government administration. The project has been funded by two grants from the Australian Research Council. The results are now being prepared for publication in 2001-2002.

The research has looked at three aspects of the impact of administrative law. The first phase of the project looked at the subsequent administrative action taken by government agencies in response to decisions that were declared by a court to be invalid. The interim results of this phase were published in an article by the three authors, ‘Success at Court: Does the Client Win?’ in J McMillan (ed), Administrative Law under the Coalition Government (AIAL, 1997).

The second phase of the project was an attitudinal survey of Commonwealth government agencies and officers, completed by 360 officers across 42 agencies. The survey questions looked at how information about administrative law developments was distributed throughout agencies, and at the attitudes of officers to external review by courts and tribunals. Interim results of the surveys have been presented at seminars in Canberra, and are to be the subject of a paper by Robin Creyke to the annual conference of the Australian Institute of Judicial Administration in Hobart in September.

The projected third phase of the project is an analysis of the relationship between courts and tribunals, focusing on appeals from the Administrative Appeals Tribunal to the Federal Court. Some pilot studies for this phase of the project have already been undertaken.

Centre publications

Law and Policy Paper Series

Published 2001

Paper 17
Administrative Review: Observations and Reflections by Bettie McNee

This paper was first presented at the Sir Richard Blackburn Lecture of the Law Society of the ACT on 15 May 2001. Ms Bettie McNee is the President of the Administrative Review Council

Paper 18
One Hundred Years On: Strengths and Strains in the Constitution by Sir Gerard Brennan former Chief Justice of Australia

Sir Gerard Brennan presented this paper at the Fourth Geoffrey Sawer Lecture held at the Australian National University on 18 July 2001.

Soon to be published:

Paper 19
Group Identity and American Constitutionalism by Professor Kathleen M Sullivan, Dean and Richard E Lang Professor of Law and Stanley Morrison Professor of Law, Stanford Law School, USA.

Professor Sullivan gave this paper at the Third Geoffrey Sawer Lecture held at the Australian National University on 9 August 2000.

Occasional Papers

The National Road Transport Commission: An Experiment in Cooperative Federalism by Kirsty McIntyre and Barry Moore. This paper was presented to the Public Law Discussion Group at the Faculty of Law, ANU on 5 July 2001. (Available on web: <http://law.anu.edu.au/CIPL/Publications/>).
Discussion groups
Public Law and Public Administration
Discussion Group
evening seminars

The PLDG seminars are convened as a small discussion group
by Pam O'Neil. Papers are usually published later on the
CIPL website.

Two more seminars have taken place following the theme of
Federalism to reflect 100 years of Federation of Australia.

The fourth seminar for 2001 was held on 17 July. Barry Moore
and Kirsty McIntyre of the National Road Transport Commission
spoke on The NRTC: An Experiment in Cooperative
Federalism.

Kirsty McIntyre, Barry Moore and John McMillan

The fifth seminar was held on 22 August. Sydney barrister and
former Registrar of the National Native Title Tribunal, Patricia
Lane, spoke on The Cost of Walking away from the Table:
Native Title and the States.

Both these presentations will shortly be published as Centre
Occasional Papers and are available from the Centre or on the
web at http://law.anu.edu.au/CIPL/index.htm (click on
publications).

The next seminar will be held on 13 September. Mark Cunliffe,
of the Australian Electoral Commission will speak on Electoral
laws.

International Law Discussion Group
evening seminars

Please contact the Centre if you would like to be placed on the
ILDG mailing list to receive invitations.

A seminar was held on 31 July on Self Determination and
Autonomy for Bougainville, presented by Tony Regan,
Department of Political and Social Change, Research School of
Pacific and Asian Studies, ANU. Tony Regan is a constitutional
adviser to the Bougainville parties in the Bougainville peace
process and has been involved in the 21 rounds of talks on the
political future of Bougainville held between Bougainville
representatives and the Papua New Guinea government since
June 1999.

Visitors to the Centre

Hilary Charlesworth, Pene Mathew and Ann Kent met with
Ms Zainah Anwar, Executive Director of Sisters in Islam and a
member of the Malaysian Human Rights Commission on
12 July.

The Centre was honoured to have the Faculty's inaugural
Distinguished Visiting Fellow Sir Anthony Mason in our midst
from 20-24 August. During his visit to the Faculty Sir Anthony
gave several lectures to students and a public lecture The Rule
of Law in China and the Special Administrative Region of Hong
Kong. The text of this lecture will be published by the Centre in
due course.
News of Centre members

Hilary Charlesworth is on leave from CIPL as Manley Hudson Visiting Professor of Law at Harvard Law School. She is teaching two courses: Democracy and International Law; and Sex, Gender and Human Rights.

Dennis Pearce has been appointed to head the Independent Review of Government Guidelines for Breaching Unemployment Beneficiaries. He will be joined in the review by former Centre Director Julian Disney who is currently director of the Social Justice Project at the University of NSW.

Amelia Simpson is on leave undertaking graduate studies at Columbia Law School in New York.

Distant former CIPL members Deborah Cass, Robert McCorquodale and Gerry Simpson have sent in their news.

Robin Hood was arguably one of the first human rights activists in England. His base was Nottingham and it is at the University of Nottingham that Robert McCorquodale, a former CIPL member, has been Professor of International Law and Human Rights since September 2000. While not having yet met the Sheriff, Robert has had to deal with rogues and oppressors (when purchasing property, particularly in the light of the negligible value of the Aussie dollar). Fortunately, there have been helpful townspeople (the School of Law is excellent and wealthy, and there are at least 10 people researching in international law/human rights), supportive villagers (about 150 LLM students all studying aspects of international law) and a beautiful location. Robert’s happy little tribe (Kate, Rory, Ella and Flora) have settled in now with good schools and activities for all (and a black labrador puppy) but do miss Australia, ANU and CIPL.

Gerry Simpson, Deborah Cass, Hannah and Rosa Simpson will be in Australia for a month in April next year (Gerry will be teaching at Melbourne University during their stay).

Deborah is teaching International Economic Law, European Union Law and Public Law at the London School of Economics. She is editing a collection of essays on China’s accession to the World Trade Organization, and continuing work on the constitutionalisation of international trade law. Gerry is teaching international law at the LSE. Deborah and Gerry recently bought a house in Muswell Hill in north London.

Breaking News

The Oxford Companion to the High Court of Australia

Edited by Tony Blackshield, Michael Coper and George Williams.

The massive High Court project initiated by ANU Law Dean Professor Michael Coper in 1994 is nearing completion with the imminent publication of The Oxford Companion to the High Court of Australia. This pioneering work is a comprehensive analysis and critique of the role and record of the High Court as an institution of Australian government. In 435 entries, by 225 authors, the book tells the story of the High Court from A to Z, covering not only the Court’s contribution to the development of Australian law and biographies of all of the Justices but also topics as diverse as appointments that might have been, the Dixon diaries, the Court as a political institution, notable counsel, personal relations between the Justices, how procedures can affect outcomes, and the Court and sex.

Although there are many authors outside the ANU (including most of the current and former Justices), the project has been very much an ANU venture, with the editors, research assistants and the project all located in the ANU Law Faculty and the supporting grants, totalling over $275,000, won by the Faculty. The ANU contributors include many CIPL members. Those ANU contributors (including authors connected with ANU at the relevant time) include Peter Bailey, Peter Bayne, Larissa Behrendt, Juliet Behrens, Tony Blackshield, Stephen Bottomley, Simon Bronitt, Alex Bruce, Fiona Burns, Peter Cane, Hilary Charlesworth, Michael Coper, Robin Creyke, Jim Davis,

The book is expected to be launched in December 2001 and generally available early in 2002.

---

Staff and members' conference papers, addresses, media

Recent media contributions by CIPL members are available at the CIPL website <http://law.anu.edu.au/CIPL>

Andrew Byrnes


Hilary Charlesworth


Participation (with Christine Chinkin) in the International Law panel at the Art and Human Rights Workshop, Humanities Research Centre, ANU, 23 July.

Participation in the ‘Women, Gender and Feminism’ panel in the 25 Years of Women’s Studies at the ANU conference, 3 August, ANU.

Jennifer Clarke

‘Stolen Generations’ Litigation, Moving Forward: Achieving Reparations for the Stolen Generations’. Paper given at a workshop at the UNSW on 15 August 2001. The workshop was organised by HREOC, PIAC and ATSIC.

Robin Creyke


Attended Canadian Council on Tribunals Second International Conference on Administrative Justice in Quebec from 17 June - 20 June, partly as representative of the Administrative Review Council. In the latter capacity, with Justice Deirdre O’Connor, President of the Administrative Appeals Tribunal, represented Australia at meetings with Lord Leggatt, whose report on UK Tribunals has just been published. Also met with Nancy Goodman, Deputy Chair, Canadian Immigration Appeal Division and Paul Aterman, Assistant Deputy Chair for discussions about migration matters.

Host for presentations by Sir Anthony Mason AC KBE CBE, Mr Tom Sherman, Ms Sue Tongue and Mr Peter Sutherland, during Tribunals and Government intensive, Graduate Program, 24 August, 2001.


Robin Creyke and John McMillan


Conference Directors for the National Administrative Law Forum, conducted by the Australian Institute of Administrative Law in Canberra on 5-6 July 2001. The 2001 Forum was the eleventh national forum and the seventh in Canberra. It was
attended by 230 participants. Under the theme ‘Administrative Law – The Essentials’ the Conference took up the challenge of identifying the essential principles underpinning each major area of administrative law: judicial review, tribunals, Ombudsman, freedom of information, and administrative law in a federal system. The conference was opened by the Dr Peter Patmore, the Attorney-General for Tasmania. The papers from the conference will be published later this year, in hard copy, and on the Institute’s website <http://law.anu.law.edu.au/aial>.


Jean-Pierre Fonteyne


Ann Kent


Pene Mathew


John McMillan


John attended the 2nd International Conference on Administrative Justice, staged by the Council of Canadian Administrative Tribunals, in Quebec, Canada, 17-20 June 2001.

Address on natural justice to the Integrity Investigations Program conducted by the Australian Federal Police and the Commonwealth Ombudsman, Canberra, 17 July 2001.

Address on administrative law trends to Federal Court Judges’ Conference, Melbourne, 30 August 2001.


John has been co-organiser of the National Lecture Series on administrative law being organised by the Australian Institute of Administrative Law. The lectures are to be delivered by Sir Anthony Mason, in Perth on 19 September, Canberra on 3 October, and Sydney on 21 November 2001.

Adrienne Stone


Staff and members' publications

Please contact CIPL members directly for further information on their publications

Hilary Charlesworth

The text of the New College Lectures given in October 2000 will be published shortly by UNSW Press under the title of Writing in Rights: Australia and Human Rights

Ann Kent

John McMillan

'The Academic Contribution to Australian Administrative Law'

Pene Mathew


---

Members’ consultations with government

Robin Creyke

Administrative Review Council meetings: Melbourne 20 April 2001, followed by a visit to the Victorian Civil and Administrative Tribunal as a guest of the President, Justice Kellam; 15 June 2001, Canberra; 3 August 2001, Canberra. Each meeting has been followed by a meeting of an ARC sub-committee on judicial review (with Stephen Gageler, SC; and Wayne Martin, President of the West Australian Law Reform Commission).

Meetings of the Independent Competition and Regulatory Commission, Canberra, to finalise, inter alia, the report on petrol prices. Meetings have been held on 29 June, 12 July, 9 August, and 3 September, 2001.

Conducted a training session in Canberra on 18 July 2001, for the newly appointed members of the Essential Services Community Council.

Conducted a half-day training session in Sydney (with Professor Mark Aronson, UNSW) on 27 July 2001, for members of the NSW Independent Pricing Competition and Regulatory Commission (IPART). The session was followed by a second half-day session for staff of IPART on 10 August 2001.

Meeting on 29 August 2001, with Department of Veterans’ Affairs to discuss development of a training package for officers of the Department.


---

ANU Law School Graduate Reports for Duty before Justice North in the Tampa Case

Ms Claire Mahon, freshly equipped with her ANU LLB and the experience of having taken part in the inaugural run of ANU's innovative Geneva International Organisations Summer Program, volunteered her services to assist in the Tampa litigation in Melbourne before Justice North. Claire is currently doing articles at Corrs Chambers Westgarth, and was able, with her firm's support, to participate in a private capacity in assisting with the case, including instructing counsel and attending the mediation session ordered by the Judge.

None of the lawyers involved in bringing the case against the Commonwealth were being paid and they were all giving freely of their time. The spirit of public service is obviously alive and well within the legal profession, and at all levels: from recent graduates to eminent barristers such as Dr Gavan Griffith QC. Enthusiasm and dedication are clearly not a thing of the past.

JP Fonteyne
2001 staff and members of the Centre

Staff
Hilary Charlesworth, Professor and Director (on leave)
Cathy Hutton, Administrator
Jenny Braid, Publications

Academic Members: Public Law
Peter Bailey, Adjunct Professor
Peter Bayne, Reader
Tony Blackshield, Adjunct Professor
Jennifer Clarke, Lecturer
Michael Coper, Professor and Dean
Robin Creyke, Reader
Judith Jones, Lecturer
John McMillan, Professor (Acting Director, CIPL)
John Seymour, Adjunct Professor
Amelia Simpson, Lecturer (on leave)
Daniel Stewart, Lecturer
Adrienne Stone, Senior Lecturer
Phillipa Weeks, Professor
Fiona Wheeler, Senior Lecturer

Academic Members: International Law
Peter Bailey, Adjunct Professor
Andrew Byrnes, Professor
J-P Fonteyne, Senior Lecturer
Penelope Mathew, Senior Lecturer
Wayne Morgan, Senior Lecturer

Visiting Fellows and Scholars
Don Greig, Emeritus Professor
Pam O’Neil
Dennis Pearce, Emeritus Professor
Tom Sherman

Australian Research Fellow
Ann Kent

PhD Candidates
Annemarie Devereux
Zoe Pearson
Helen Watchirs

Research Fellow
Fleur Just

Research Assistants
Jill Caldwell
Belinda Hollway
Esther James
Dai Lee
Alex Owens
Dorothy Pawlukowski

CIPL Members

2001 Advisory Board

Professor John Braithwaite
Law Program, Research School of Social Sciences, ANU

Professor Michael Coper
Dean, Faculty of Law, ANU (Chair)

Mr Robert Cornall
Secretary, Attorney-General's Department

Professor Hilary Charlesworth
Director, Centre for International and Public Law

Mr John Dauth
Deputy Secretary, Department of Foreign Affairs and Trade

Professor Meredith Edwards
Deputy Vice Chancellor, University of Canberra

The Hon. Justice Susan Kenny
Federal Court of Australia

The Hon. Justice Michael Kirby AC, CMG
High Court of Australia