

APPENDIX 8

Judges' participation in legal reform activities and international committees and conferences in 2002-03

The Chief Justice met the Chief Judge of Malaya, the Rt Hon Tan Sri Dato' Ahmad Fairuz bin Dato' Sheik Abdul Halim and the Hon Dato' James Foong Cheng Yuen, High Court Judge, Kuala Lumpur, and their Project Team in Sydney on 14 August 2002 to discuss the architecture of courthouses.

In August 2002, the Chief Justice gave a talk about the Federal Court, and a virtual tour of the Court's Melbourne courthouse, to members of the Federal Bar Association in Jacksonville, Florida, US. The talk and virtual tour were conducted by video-link from the Chief Justice's chambers in Melbourne to a federal courthouse in Jacksonville. The talk was followed by discussion and a question and answer session with the Chief Justice.

The Chief Justice opened the 29th Annual Conference of the Maritime Law Association of Australia and New Zealand on 3 October 2002. The Hon Sir David Steel, the Admiralty Judge of England and Wales, was the guest of honour at the Conference and he also visited the Federal Court during his time in Melbourne.

Later in October the Chief Justice gave the keynote address, *Collegiality and the Administration of Courts*, at the National Judicial Orientation Program in Sydney. On the following day, the Chief Justice attended the AIJA Technology for Justice Conference 2002, where he gave a presentation: *Remote Courts; taking courtrooms to the bush*, outlining the Federal Court's innovations in remote court technology in native title cases.

In November, the Chief Justice attended, as a guest on the bench, a ceremonial sitting of the High Court of New Zealand in Auckland at which an oar mace of admiralty was presented in memory of the late Justice Bradley Giles, a distinguished admiralty judge of the High Court of New Zealand. At the invitation of the Chief Justice of New Zealand, the Chief Justice gave an address from the bench.

The Chief Justice was closely involved in the organisation of the 5th Worldwide Common Law Judiciary Conference which was held at the Federal Court in Sydney between 7 and 11 April 2003. The Conference was hosted jointly by the High Court of Australia, the Federal Court of Australia and the Supreme Court of New South Wales. Senior members of the judiciary from 10 common law countries attended the Conference. They included the Lord Chief Justice of England and Wales, the Chief Justice of New Zealand, the Chief Justice of Ireland, the Lord Justice Clerk of Scotland, the Chief Justice of the Federal Court of Canada and the Chief Justice of Nova Scotia. The Conference was also attended by the Chief Justice of Australia and the Chief Justices of many of the States or their representatives.

The Chief Justice attended sessions of the 13th Commonwealth Law Conference held in Melbourne between 15 and 17 April 2003. He was a panellist for the session *The Commonwealth – Women and the Law*, and was the rapporteur for the session *Old and New Commonwealth Final Appellate Courts and their Perspectives on the Common Law*. As part of the Conference's ancillary program, the Chief Justice hosted a tour of the Federal

Court's Melbourne courthouse and gave a presentation about the architecture of the building jointly with the building's principal design architect, Mr Paul Katsieris of Hassells.

The Chief Justice attended the 15th Pacific Judicial Conference held in Madang, Papua New Guinea, between 23 and 27 June 2003, and was the commentator for the session, *The Importance of Transparency in Judicial Decision-making, Administration and Conduct*. The Federal Court has been closely associated with the Pacific Judicial Conference for many years, and hosted the 12th Conference in Sydney in April 1997, jointly with the High Court of Australia.

On 4 June 2003, the Chief Justice had a meeting with Professor Dr Yusril Ihza Mahendra, the Indonesian Minister of Justice and Human Rights.

During the year, the Chief Justice and other members of the Court supported the Sovereignty series of lectures, conducted by the Law School of the University of Melbourne. The lecturers visited the Court and met with the judges and the Chief Justice was the commentator for the lecture given on 19 March 2003 by the Rt Hon Dame Sian Elias, Chief Justice of New Zealand, on the topic of Parliamentary Sovereignty.

Justice Beaumont is a member of the steering committee of the Pacific Judicial Education Program, representing Australia and New Zealand, based at the University of the South Pacific Suva, Fiji. Justice Beaumont is also a member of the American Law Institute Advisory Committee on its Transnational Civil Procedural Law Project. Justice Beaumont also gave two papers at the South Pacific Judiciary Conference on *Written and Oral Procedures – the Common Law Experience* and *Co-operation between Judiciaries in Transnational Civil and Commercial Matters*. Justice Beaumont was involved in the organisation of the Philippine Judicial Exchange Programme in October 2002.

Justice Wilcox attended the 13th Commonwealth Law Conference held in Melbourne between 15 and 17 April 2003. His Honour was the rapporteur for the session on Industrial Law and was part of the panel for the session on Multiple Litigants.

Justice Ryan delivered a paper on *The Application in Australia of ILO Conventions*, to the Europe Asia Legal Conference in Como, Italy. His Honour also attended the 29th Annual Conference of the Maritime Law Association of Australia and New Zealand in Melbourne and presented a paper entitled *Time and Cost Implications of the Arrest of Vessels*.

Justice French continued to serve as President of the Australian Association of Constitutional Law and as a member of the Western Australian Genetics Council. His Honour presented the following papers and lectures: *Referral of State Powers*, AACL members in Brisbane on 28 August 2002; *Western Australia v Ward – Devils and Angels in the Detail*, Native Title Conference, Geraldton on 3 September 2002; Lecture to Students and Staff Seminar on Privative Clauses – Flinders University 6-8 November 2002; *Ethics at the Beginning and Ending of Life*, Supreme and Federal Court Judges Conference, Adelaide on 21 January 2003; *The Federal Court and the State Courts on Constitutional Law, The 2002 Term*, High Court Centenary Conference, Gilbert & Tobin Centre for Public Law, Sydney on 21 February 2003; *Referral of State Powers*, Lecture to Juris Doctor Students, Melbourne University on 14 May 2003; *Federal Court Jurisdiction*, Lecture to Secondary School Students, Federal Court, Perth on 19 May 2003; *The Equitable Geist in the Machinery of Administrative Justice*, paper to New South Wales Chapter of Australian Institute of Administrative Law, Sydney on 22

May 2003. Justice French attended the 13th Commonwealth Law Conference held in Melbourne between 15 and 17 April 2003. His Honour was the rapporteur for the session *Sparks Across The Gap - Recognition of Indigenous Customary Title & Laws*.

Justice French also acted as Judge on two occasions for members of the Western Australian Jessop International Law Moot Team. He co-edited a book, French, Lindell and Saunders, *Reflections on the Australian Constitution*, published by Federation Press and organised a seminar on the Western Australian State Constitution held in Perth on 22 March 2003.

Justice Hill is the Challis Lecturer in Taxation (part-time) at the Faculty of Law, University of Sydney (LLM degree) and Patron of the Tax Law Teachers Association. His Honour presented the following papers and lectures: *Challenging a Tax Assessment – an Australian Perspective*, ATAX Symposium on Tax Reform in China in Beijing, September 2002; *GST – An Income Tax to be interpreted by reference to Income Tax principles or just another consumption tax*, at the Tax Institute of Australia – 5th Australian GST Symposium, Gold Coast, Queensland, October 2002; *Reminiscence – Law and Teaching* University of Sydney (Dinner held by the Faculty of Law in honour of Justice Hill's 35th year of teaching and the award of Honorary Doctorate of Laws) 26 November 2002; *The Interface between Tax Law and Accounting Concepts and Practice as seen by the Courts*. Australasian Tax Teachers' Association conference, University of Wollongong January 2003 (article to be published late 2003); *Part IVA and the Tax Advisor* – 17th National Convention of Taxation Institute of Australia Adelaide March 2003; *Some Thoughts on the Principles Applicable to the Interpretation of GST*, 15th Annual GST and Indirect Tax Weekend. Noosa, Queensland, April 2003; *Role of the Courts in Interpreting Double Tax Agreements and Case Management – International Tax Cases* presented at the Judicial Training Workshop in Thailand, June 2003, for ATAX and as part of the AusAID program - Thailand Australia Capacity Building Facility. His Honour also attended the Competition Law Conference held in Sydney in May 2003.

Justice Hill is also the Chair of the Faculty Advisory Committee – Faculty of Law, University of Wollongong (appointed May 2003); is on the Editorial Board of *e-Journal of Tax Research* (ATAX UNSW); and is President of the Sydney International Fiscal Association 2003 Congress. His Honour has published *GST – an Income Tax to be Interpreted by Reference to Income Tax Principles or Just Another Consumption Tax* in the *Australian Tax Forum*, Vol 17 No. 3 2002.

Justice Heerey presented a paper entitled *Aesthetics, Culture and the Whole Damn Thing* to the Annual Conference of the Law and Literature Association of Australia at Melbourne University in November 1992. His Honour gave a lecture to post-graduate students at Melbourne University on *Damages under the Trade Practices Act* and to students at the University of Tasmania on *Abuse of Market Power*. A paper by his Honour entitled *The Directly Elected Irish Presidency and its Relevance for Australia* was published in the *Constitutional Law and Policy Review* in December 2002.

Justice Cooper is a member of the Board of Governors of the International Maritime Organisation World Maritime University, Sweden. His Honour is also a member of the Maritime Law Association of Australia and New Zealand.

Justice Branson attended the Australian Institute for Judicial Administration (AIJA) Annual Conference in Brisbane in July 2002; the Insolvency and Trustee Service Australia 4th

National Bankruptcy Congress in September, chaired a panel session and gave the dinner speech; the ACCC Conference – the International Marketing Supervision Network Meeting in September 2002 and presented a paper entitled *Cross-border Consumer Protection in the Age of Electronic Commerce*; and the Cranlana *Justice and Society* program in Melbourne in December 2002. Her Honour was invited by the Department of Foreign Affairs and Trade to join the Human Rights Delegation to Iran in December 2002. Justice Branson gave the professional development address to the Law Society of SA on *The Significance of ss 135 and 136 of the Evidence Act 1995 (Cth) in Civil Proceedings* in February 2003. Her Honour is a Board Member of the International Development Law Organisation and attended the Annual Board meeting in Rome in March 2003. Her Honour also attended the Competition Law Conference in May 2003 and chaired a session on *Foundation of Principled Approach to the Regulation of Markets Rationality and the Assimilation of Economics by the Law*; and in June 2003 attended the Flinders University Feminists Legal Academics Workshop and presented a paper entitled *Feminism and the Legal Profession – Academics, Practitioners and the Judiciary*.

Justice Lindgren chairs the Council of Chief Justices' Harmonised Corporations Rules Monitoring Committee and its Subpoena Rules Harmonisation Committee. His Honour delivered a paper to the Anglo-Australasian Lawyers Society in London on *Copyright and Trade Mark Law – Recent Developments in Australia, including a review of the jurisdiction and activity of the Copyright Tribunal*. Justice Lindgren also addressed members of the Administrative Appeals Tribunal in Sydney on *Concurrent Expert Testimony* and the College of Investigative Remedial Consulting Engineers of Australia on *The New Rules for Professional Witnesses – 3 years on*. His Honour also lectured on *Presenting Legal Argument* in the Bar Practice Course of the NSW Bar Association. In February 2003 Justice Lindgren conducted two, two-day judicial workshops for Indonesian Judges, one in Denpasar, Bali and the other in Pekanbaru, Sumatra, as part of the "Indonesian Judicial Training Program", a project of the Court supported by the Australian Government through AusAID.

Justice Tamberlin took part in various conferences, including the 75th Anniversary Congress organised by the Union Internationale des Avocats and the Commonwealth Law Conference where his Honour spoke at the information session in relation to the use of eCourt in native title matters. Justice Tamberlin was also invited by the Law School at Macquarie University to present a guest lecture to students in the Intellectual Property law course. The Law School also asked Justice Tamberlin to preside over the Senior Law Moot, which took place at the Federal Court in Sydney in May 2003. Justice Tamberlin provided a number of demonstrations of the Court's technology systems, including eCourt and voice recognition programs and also presented lectures covering various areas of the law, including Intellectual Property and the structure of the Australian Judiciary, to visiting judges from Indonesia and Vietnam.

Justice Sackville delivered the keynote address *From Access to Justice to Managing Justice – The Transformation of the Judicial Role* at the Annual Conference of the Australian Institute of Judicial Administration in July 2002. His Honour delivered a paper entitled *Courts in Transition: An Australian View* to the New Zealand Court of Appeal/High Court Judges' and Masters' Conference at Mt Ruapehu, New Zealand in March 2003. In November 2002 his Honour made a presentation on *Indigenous Peoples of Australia and the Constitution* to the New South Wales State Schools Constitutional Convention. Justice Sackville is the Deputy Chair of the Judicial Conference of Australia.

Justice Kiefel is Chair of the Advisory Board of the Key Centre for Ethics Law. Her Honour spoke to professional staff of Mallesons in Brisbane on *Ethics and the Practitioner*; and delivered a paper on *Judicial Review* at the Centenary Conference of the Bar Association of Queensland.

Justice RD Nicholson is the Chair of the International Advisory Board of the International Judicial Academy and is the President of the International Commission of Jurists, Western Australian Chapter. Justice RD Nicholson is a member of both the Board and Council of the AIJA and Chair of both the Courts and Public Committee and the Projects and Research Committees of the AIJA. His Honour is also Secretary of the LAWASIA Judicial Section. He is Deputy Convenor of the Trustees of the Francis Burt Education Centre.

In July 2002 Justice Nicholson contributed closing remarks to the Australian Institute of Administrative Law, National Forum, Fremantle, Perth. His Honour contributed papers to The Australian Law and Literature Association Annual Conference in Melbourne, November 2002 entitled *Law and language: The Case of Native Title*; and to the Fifth Worldwide Common Law Judiciary Conference, Sydney, April 2003 entitled *Australian Experience with Self-Represented Litigants*. He also acted as Rapporteur in a session on *Self-Represented Litigants* at the 13th Commonwealth Law Conference, Melbourne, April 2003. He delivered a speech to the University of Notre Dame Law School students on *Self-Represented Litigants in the Court System*, April 2003 and presided in the final of the Murdoch Law School Trial Advocacy Competition, Perth, May 2003.

Justice Marshall conducted a workshop in Dili, East Timor, for judges from the East Timor District Court in October 2002. His Honour presented an address to the Mordiallic Rotary Club on *The Judiciary in East Timor, Re-building a Nation*. With the assistance and support of the Chief Justice and the Registrar, Justice Marshall also organised the attendance of two East Timorese District Court Judges at the Judicial Conference Colloquium in Darwin in May/June 2003 and a program of visits to courts in Darwin.

Justice North presented a paper on *Courts and Immigration Detention: The Australian Experience* at the International Association of Refugee Law Judges conference in Wellington, New Zealand in October 2002. His Honour delivered the annual Sir Anthony Mason honorary lecture on *The Courts facing new challenges* at Melbourne University Law School in September 2002. In April 2003 his Honour delivered a lecture to post graduate students at Melbourne University on *On Country Hearings* and gave a lecture entitled *Practical legal issues arising in 'on-country' hearings – a case study* at the University of New England as part of the Kirby Seminar Series, May 2003. Justice North judged the public demonstration moot for the Melbourne University law school team participating in the Jessop Moot in February 2003 and judged the semi-final of the mooting competition conducted as part of the Commonwealth Law Conference held in Melbourne in April 2003. In May 2003 his Honour conducted the first school moot held in Melbourne by the Federal Court of Australia involving students of Presentation College, Windsor.

Both Justice North and Justice Finkelstein served on the papers committee of the Commonwealth Law Conference held in Melbourne in April 2003 and coordinated the participation of a number of judges of the Court to act as rapporteurs.

Justice Mansfield presented a paper on *Affidavits and Witness Statements* to the Law Society of South Australia on 25 July 2002, the SA Bar Association Bar Readers Course on 16 September 2002 and the Northern Territory Law Society on 26 February 2003. Justice Mansfield attended two conferences organised by the Law Council of Australia, Business Law Section; a Corporations Workshop from 19-21 July 2002 in Queensland and a Trade Practices Workshop on 23-25 August 2002 in the Barossa Valley.

Justice Emmett is the Challis Lecturer in Roman Law at the University of Sydney. His Honour attended the Intellectual Property Society of Australia & New Zealand, Inc, 16th Annual Conference, 'Copyright Tribunal Disputes' on 8 September 2002 and the Australian Institute of Administrative Law (NSW Chapter) Conference on 22 May 2003 at which he delivered a paper entitled *Privative Clauses: A Federal Perspective*. His Honour is a member of the Co-ordination Committee for the Einstein Institute for Science, Health & the Courts (EINSHAC) 'Genetics in the Courtroom' Conference in Sydney in September 2003 and was also a member of the Advisory Committee to the Australian Law Reform Commission Joint Inquiry into the Protection of Human Genetic Information. Justice Emmett was involved in the organisation of the Philippine Judicial Exchange Program in October 2002 and continues to participate in the co-ordination of the 'Courtwatch' program in which students from the University of Sydney and the University of New South Wales are invited to observe Court proceedings for a day. Justice Emmett is Consultant Editor and Contributor to Butterworths Australian Legal Dictionary and Consultant Editor to Butterworths Trusts Law in Australia.

Justice Weinberg was a member of the Australian Law Reform Commission's Advisory Committee on the review of the Judiciary Act and is a member of the Division constituted under the *Australian Law Reform Commission Act 1996 (Cth)* for the purposes of the reference on Civil and Administrative Penalties in Australian Federal Regulation. His Honour attended the Criminal Lawyers Association of Australia and New Zealand, Eighth International Criminal Law Congress in Melbourne in October 2002 where he presented a paper entitled *Guantanamo Bay, Detention, and Trial by Military Commission*. His Honour presented a paper entitled *Case Management and Alternative Dispute Resolution in The Federal Court of Australia* at a Sino-Australian Seminar conducted under the auspices of Victoria University. His Honour also presented a paper entitled *Dispute Resolution and the Rule of Law* in Beijing, 20-22 November 2002; participated in a Twilight Seminar, held in the Federal Court in Melbourne in April 2003, in conjunction with Law School, University of Melbourne on the Implementation of the Rome Statute for an International Criminal Court in Australian Law; and conducted a course, jointly with Professor Michele Papa from the University of Florence, entitled "Current Issues in Comparative and International Criminal Law" at the Faculty of Law, Monash University campus in Prato, near Florence from 16 June to 7 July 2003. Justice Weinberg has been Chairman of the Leo Cussen Institute of Victoria since October 2000 and a Board Member of Monash University Faculty of Law since 1998.

Justice Dowsett is a member of the Council of the National Judicial College of Australia.

Justice Kenny was a participant in the Asia-Pacific Judicial Educators Forum held in Manila, Philippines in February 2003. Her Honour gave a speech *The High Court on Constitutional Law: The 2002 Term* given at the 2003 Constitutional Law Conference, Sydney NSW in February 2003. Justice Kenny was a Judge of the Deacons Senior Mooting Competition Grand Final held at Melbourne University Law School in September 2002. Her Honour's review of Kim Rubenstein's *Australian Citizenship Law in Context* (Lawbook Co, Sydney 2002) was published in the Oxford University Commonwealth Law Journal.

Justice Kenny is a Board Member of the Centre for International and Public Law, Australian National University; a Board Member of Monash University Law Faculty; an Advisory Board Member of the Federal Law Review; on the Scholarship Committee of the Menzies Foundation; Patron of the Australia-Indonesia Legal Development Foundation Inc; and in October 2002 was the Melbourne Delegate Host for the Australian-Philippine Judicial Cooperation Program.

Justice Gyles is a member of the International Court of Arbitration for Sport and Code of Conduct Commissioner for the Australian Cricket Board. His Honour was a rapporteur for the Commonwealth Law Conference held in Melbourne in April 2003.

Justice Stone is Adjunct Professor of Law at the University of New South Wales, lecturing to undergraduate and graduate students in equity and in land transaction courses. Her Honour participated in the celebrations for the 10th Anniversary of the Flinders University Law School, Adelaide, sitting with Hill and Branson JJ as a Full Court of the Federal Court in the moot court room of the Law School. Justice Stone is a member of the Advisory Board for the Juris Doctor Degree at Melbourne University and was the guest speaker at the JD Award Ceremony on 26 June 2003. During the year Justice Stone attended conferences and seminars on various legal topics including Intellectual Property, Corporations Law, Constitutional Law and Competition Law. She attended the Annual Public Law Weekend at the Australian National University in November 2002 and lectured on Refugee Law at Sydney University in December 2002. Justice Stone is a member of the Judicial Conference of Australia, the Australian Association of Women Judges and the Australian Institute of Judicial Administration.

Justice Allsop gave a lecture entitled *The Control of the Executive by the Courts* at the Annual Public Law Weekend organised by the Centre for International and Public Law at the Australian National University. His Honour lectured at the University of Sydney post-graduate class in Company Law as an adjunct member of staff and also spoke to the Australian Marine Pilots Association. Justice Allsop gave a lecture to the New South Wales Bar Association on *Federal Jurisdiction and the Jurisdiction of the Federal Court* and presided in mock trials run by the NSW Bar Association for its Practice Course. Justice Allsop attended conferences conducted by: the Maritime Law Association of Australia and New Zealand; the Australian Association of Constitutional Law; the Law Council of Australia and Federal Court Seminar on Corporations Law at which he chaired a session. His Honour attended the Law Council of Australia workshop on Trade Practices; and the Competition Law Conference at which he chaired a session.

Justice Selway is an Adjunct Professor of Law at the University of Adelaide. He is Secretary of the Australian Association of Constitutional Law. Since his appointment his Honour has delivered a paper on *Constitutional Interpretation* to the Conference of Federal and Supreme Court Judges in January, 2003. He also delivered a paper on *Queensland's Contribution to the High Court* at the Supreme Court of Queensland in March, 2003. His Honour gave a paper on *Public Private Partnerships* to the Strategic Public Sector Leaders' Summit in Adelaide in March, 2003; a paper on *The Ethical Duties of In-House Government Lawyers* at the meeting of the Commonwealth Association of Public Sector Lawyers in Melbourne on 13 April, 2003; and a paper on *The Problems of the Insurance Industry - an Uninformed Perspective* to a meeting of the SA Division of the Insurance Lawyers Association in Adelaide on 11 June, 2003. Justice Selway gave a presentation on the jurisdiction and

practice of the Federal Court to the Legal Education Teacher's Association of South Australia in June 2003 and gave lectures on *Developments in the English Constitution* and on *Separation of Powers* to the Adelaide Law School in March and May 2003.

Justice Bennett has been the Pro-Chancellor of the Australian National University since November 1998 and is a member of the Finance Committee, the Honorary Degrees Committee, the Conditions of Appointment of the Vice-Chancellor and Deputy Vice-Chancellor Committee and the Committee for the Australian National University Endowment for Excellence Board of Directors. Her Honour is a member of Chief Executive Women (past President); an advisory committee member of the Australian Law Reform Commission; and a member of the Medico-Legal Society of New South Wales. Her Honour is also a council member of the Australian Academy of Forensic Science.