



Society Noticeboard



ALRC new home

The Australian Law Reform Commission (ALRC) has moved its homepage to a new site, joining AustLII, one of the Internet's largest providers of legal information.

The new web site address is:
<http://www.austlii.edu.au/au/other/alrc/>



movement at the station

Patrick Loftus and **John Dearn** wish to advise members that they have moved and will be operating from:

Ground Floor National Mutual Centre
9-11 Cavenagh Street Darwin

as from the 1st September 1998

Patrick Loftus: Ph: 8941 3070

John Dearn: Ph: 8941 7434

Fax: 8941 9978

E-mail: abcdarwin@octa4.net.au



movement at the station

Jonathon Nolan is practicing on his own. Jonathon's new address is:

2/14 Priest Circuit
GRAY NT 0830

PH: 89310176

FAX: 89310174

Supreme Court Box 36

Ray Minahan has changed address.

68 Cavenagh St
DARWIN NT 0800

PH: 89810586

FAX: 8941 1530

Alison Lowrie and **Anne Cunningham** have both joined the team at Cridlands.

Merran Short has left Morgan Buckley and has started with De Silva Hebron.



movement at the station

Heather Bedson has left Clayton Utz and is now with the Department of Education.

Fiona Allison, formerly of DPP (Alice Springs) is now with Domestic Violence Legal Help.

Kaye McGuinness has commenced practice with DDP.

Barbara Tiffin has returned to NAALAS.

Kim Kilvington has returned to CAALAS.

Ariel Couchman has left Domestic Violence Service and has joined CAALAS.

Dannielle Howard has recently been Admitted and is working for Hunt & Hunt.

HIGH COURT NOTES

Continued from page 22

lant was convicted of murder after he stabbed the victim in the neck with a pocketknife with a 7cm blade. The High Court concluded that it was open to the jury to find that the appellant, as a competent 21 year old, ought to have known that stabbing persons in the neck or upper chest might cause bleeding that could cause death. Gaudron, McHugh JJ [17]; Kirby, Callinan J [43]; Hayne J [54]. Appeal dismissed.

Defence - court martial - questions decided by vote cast in ascending order of seniority - misdirection as to voting order - whether "material irregularity" causing "substantial miscarriage of justice".

In *Hembury v Chief of the General Staff*

([1998] HCA 47, 23 July 1998) by Rule 33 the Defence Force Discipline Rules require that any question to be determined by a court martial is decided by members of the court voting orally in order of seniority commencing with the junior in rank. The appellant was convicted of offences at a court martial which was instructed to vote in order of seniority. On sentencing the court martial was instructed to vote in the correct fashion. By s23(1)(c) the *Defence Force Discipline Appeals Act* provided that the Defence Force Discipline Appeal Tribunal shall allow an appeal to it and quash the conviction where it appeared to the tribunal that there was "a material irregularity" in the proceeding "... and that a substantial miscarriage of justice has occurred". The DFD Appeal Tribunal

declined to allow the appeal to it; this conclusion was affirmed by the majority of the Full Court, Federal Court (1997) 144 ALR 601. The appellant's appeal to the High Court was allowed. It was conceded that there had been a "material irregularity". The High Court concluded that a "substantial miscarriage of justice" was made out where the appellant established the irregularity went to the root of the proceeding and that this question was not the same as whether the appellant had lost a chance of acquittal fairly open to him: McHugh J [23, 26], Gummow J, Callinan JJ [37, 40], Kirby J [65], Hayne J [84]. All members of the High Court observed that the jurisprudence developed to enable the Courts of Criminal Appeal to decline to dismiss appeals if "no substantial miscarriage of justice has actually occurred" did not apply to determine appeals under s23(1)(c) of the *DFD Appeals Act*: [17, 41, 73, 83]. Appeal allowed; matter remitted to the DFDAT.

