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This approach to the cross-examination also applies to the formulation of the conclusions reached by the expert. It may be that different conclusions can be reached from the same facts and thought processes. Ultimately it will be a matter for the tribunal of fact as to what opinion is accepted. The tribunal is not bound to accept expert evidence and it may accept or reject the whole or part of that evidence in the same way as evidence of other witnesses.

It is useful to remember that expert witnesses are a special class of witness. Generally speaking they are independent of the parties and they do not have a vested interest in the outcome of the proceedings. If they are independent in their thinking they may be of use to you in obtaining evidence which assists your case. There may be a number of matters that you would put to the witness in order to obtain concessions that may assist your case. Obviously if you seek to use the witness in this way you will do so at an early time in the cross-examination and before you make any challenge to the expertise of the witness or the opinion of the witness. You would undertake such a task by approaching the expert "as an ally who wishes, with you, to seek the truth".<sup>1</sup>

It will be a rare circumstance in which you would ever aggressively attack an expert witness. Given that such witnesses are supposedly independent and expert there will be little opportunity to suggest that the witness is untruthful or misleading or guilty of other similar shortcomings. If made, an attack of that kind is likely to lead to feelings of sympathy for the witness. It is far better to adopt a methodical and measured approach to the cross-examination in most cases. Such an approach will be directed to demonstrating that the witness was not fully informed by those who engaged him, or was provided with misleading information, or adopted a flawed approach or did not consider or adequately consider alternatives.

<sup>1</sup> Evidence and Advocacy, W A N Wells p188

## OBITUARY

# VALE MICHAEL SPARGO

Michael passed away unexpectedly on 25 May 2000. He was 39 years old.

During his relatively short and distinguished legal career (graduated when 29 years old) Michael established a reputation for fairness, honesty, modesty, and clarity of thought. He was also a fine communicator.



Michael Spargo, far left, joined university staff at the Law Careers Expo during Law Week 2000.

It goes without saying that a man possessed of all these attributes was a good lawyer, but to his eternal credit Michael had a life outside the law. His priorities were such that nothing – not even the law – stood between him and his time with his family. He was a very capable mediator. And most importantly he was a beautiful singer –

the clarity and quality of Michael Spargo's baritone High Priest in "Jesus Christ Superstar" (Darwin Entertainment Center 1999) was truly inspiring.

Michael will be fondly remembered and our thoughts are with his wife Chris and two children Josh and Jessica.

Tony Fitzgerald

## DARWIN: AIAL DRY SEASON SEMINAR SERIES

The NT Chapter of the Australian Institute of Administrative Law (AIAL) will be hosting speakers on a range of topics as part of their Dry Season Seminar Series sponsored by Clayton Utz.

Mr Bill Blick, Inspector General of Intelligence and Security started the series with a presentation titled: *The role and functions of the Inspector General* held in Darwin on 22 June 2000.

Mr Blick discussed the right of review of a refugee claimant after an adverse security assessment and the legality and propriety of information exchange between ASIO and other government departments.

Justice Von Doussa of the Federal Court of Australia will present the second seminar titled: *Natural justice in federal administrative law: some recent developments* to be held at the Darwin Entertainment Centre on Friday 7 July from 4.00 to 6.00pm.

Justice Von Doussa will examine the role of legitimate expectation (a possible extension of the scope of procedural fairness beyond the standard formulation), the content of procedural rights in investigative and disciplinary procedures and *Wednesbury* unreasonableness.

Practitioners wishing to attend the seminar should RSVP by Friday 30 June to Marian Trobbiana on 8999 1978.

The final seminar in the trilogy will be presented by Stipendiary Magistrate Mr John Lowndes. Titled: *The appropriateness of using magistrates for tribunal hearing*, he will discuss the new Mental Health Tribunal which he heads.

Mr Lowndes will speak in the Jury Muster Room, Supreme Court, Darwin on Thursday 20 July 2000 from 5.00 to 6.30pm. RSVP by Monday 10 July to Marian Trobbiana on 8999 1978.