

**David Dalrymple "promotion"**  
 ABC Television took a shine to David Dalrymple on 2 September. According to Aunty, Mr Dalrymple is now David Dalrymple QC. And we thought you had to nominate for one of those!

**Is that any way to treat a loved one?**

It was a very busy Law Society president who found himself paying dearly for his rush to get back to Darwin last month.

Morrie had just delivered two speeches at the magistrates' love-in at Lake Bennett when he had to get back to town to deliver a paper to the Registrars' Conference.

In his haste he bottomed out his dear DAISIE (his 1978 Mercedes Benz 280 SEL) and broke her sump (ouch).

Even more of an annoyance, the tow back into town.

It was a looong wait.

Needless to say, the Registrars missed his wisdom in person and had to make do with it in writing.

**Not shaken or stirred**

On the eve of the NT Bar Association dinner, guest speaker David Bennet QC revealed an unusual drinking trait. The distinguished gentleman was observed at drinks ordering a martini with gin only.

He then produced an atomizer and

proceed to spray his favorite Vermouth into his drink

A new inclusion in the southerner's packing tips? BYO spirit.

**Boys, boys**

Also from the NTBA dinner itself – a tale of a man and his jacket.

Colin Macdonald QC attended the annual nosh-up looking resplendent in a green silk mandarin collared jacket complete with flashy gold dragons.

Unfortunately the jacket disappeared after he was asked by that well-known fashion plate of the profession, the President of the Law Society, from which Peter Sellers set the jacket had been stolen.

Not now Colin!

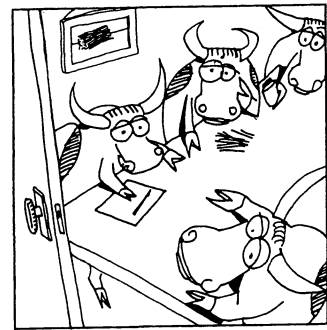
**Admissions and Mutual Recognitions**

Admitted to the Supreme Court in early September were:

Brendan Vasiliadis Loizou, Heather May Collins, Terence Michael McMahon,

*Right: What a distinguished lot they are! If you thought the answers to the Balance questions on pages 10, 11 & 12 were something, this is the new Councillors practising "ducking and weaving" during their official photo shoot. And they say lawyers don't have a sense of humour.*

**The Muster Room**



Peter John Zucchi, Jennifer Ruth Gil. Mutual Recognition admissions: Stephen Brett Harris (in Aug)

**Movers and Shakers**

Sophie Cleveland has rejoined McQueens after maternity leave.

Jenny Hardy is the "new" Business and Policy manager at the Legal Aid Commission.

Charles Yuen has left Ward Keller and commenced his own firm dealing exclusively with immigration matters.



**Scholarship program**

Four scholarships of up to \$5000 each will be awarded to Aboriginal and Torres Strait Island people aged 25 years under in the Robert Riley Scholarship Program 2003.

The aim of the program is to promote the pursuit of justice and human rights for Aboriginal and Torres Strait Islander Australians through supporting education of young Indigenous people in these fields.

The Foundation for Young Australians initiated the program in 1996 in honour of the late Robert Riley to enable the continuation of the advocacy work he pursued so courageously and passionately.

The scholarships will be awarded to those pursuing studies in the fields of law, human rights or juvenile justice.

For more info go to [www.youngaustralians.org/projects](http://www.youngaustralians.org/projects) ①

**New president for Law Council**

New Law Council of Australia president Ron Heinrich says a truly national profession should benefit practitioners and deliver a higher level of service to the community.

"The Law Council's National Profession Project demonstrates our commitment to working with governments to ensure a seamless approach to regulation," Mr Heinrich said. "I want regulation which ensures that the public have confidence that lawyers will maintain the highest ethical standards."

Mr Heinrich is also concerned about the possible impact of competition policy on the profession.

"Competition policy for lawyers gives rise to a tension. Are we running a business or working as a profession? The reality is we are doing both – but standards and ethics must not be a casualty," he said. ①

**Northern Territory of Australia v Piper**

**Supreme Court No. 122 of 2002**

**Judgment of Riley J delivered 20 August 2002**

**CIVIL LAW - CRIMES (VICTIMS ASSISTANCE) ACT**

The defendant was the offender in an earlier proceeding under the *Crimes (Victims Assistance) Act*. The Territory was in that proceeding ordered by the Local Court to pay the victim a total of \$30,770.74.

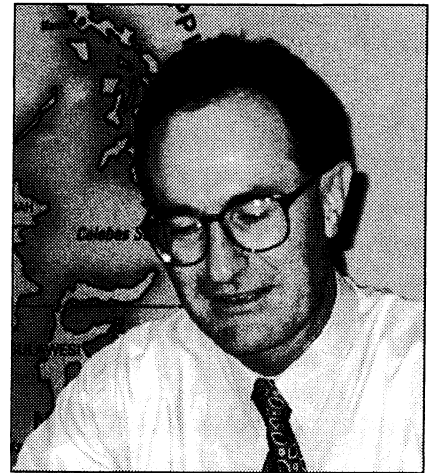
The Territory paid this sum in August 1999, and the "Victims' Assistance Fund" was duly "debited" pursuant to s25A(5) of the Act.

In October 1999 the Territory obtained judgment in the Local Court against the defendant for \$30,770.74 pursuant to s21 of the Act, to be paid into the Fund.

The instant proceeding arose out of an application under the Act which was instituted by the defendant in November 1999. The Territory was in September 2001 ordered by the Local Court to pay him the sum of \$6,000 plus \$4816 in costs, again pursuant to s20 of the Act.

The judgment obtained by the Territory in 1999 remained wholly unsatisfied. The Territory sought equitable relief against being required to pay the defendant unless and until he made his (\$30,770.74) contribution to the Fund.

The Territory relied upon the rule in *Cherry v Boulton* (1839)



Mark Hunter

4 My & Cr 442. This rule provides that, subject to statute or prior agreement between the parties, a person who is obliged to contribute to a fund may not collect from it before he or she has made that contribution.

**HELD**

The rule in *Cherry v Boulton* applies; the defendant is entitled to receive from the Territory the sum ordered by the Local Court (\$10,816), *but only out of the money (\$30,770.74) that he already owes the Territory.*

**APPEARANCES**

Plaintiff - Alderman / Halfpennys

Defendant - Southwood QC / Ward Keller

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## **Centrelink and subpoenas**

Centrelink is responsible for the maintenance of social security records on behalf of the Department of Family and Community Services. It is often tempting for lawyers to try to examine a person's Centrelink file, especially if you are running a compensation or family law matter. But you could be wasting your time and your client's money.

Centrelink resists most of the subpoenas it receives. Section 207 of the *Social Security (Administration) Act 1991* provides:

207. An officer must not, except for the purposes of the social security law or the *Farm Household Support Act 1992*, be required:

- (a) to produce any document in his or her possession; or
- (b) to disclose any matter or thing of which he or she had notice; because of the performance or exercise of his or her duties, functions or powers under the social security law or the *Farm Household Support Act 1992*, to:
  - (c) a court; or
  - (d) a tribunal; or
  - (e) an authority; or

- (f) a person; having power to require the production of documents or the answering of questions.

The *Family Assistance (Administration) Act 1999* contains a similar provision at section 167, which provides:

167. An officer must not, except for the purposes of the family assistance law, be required:

- (a) to produce any document in his or her possession; or
- (b) to disclose any matter or thing of which he or she had notice; because of the officer's powers, or the performance of the officer's duties or functions, under the family assistance law, to:
  - (c) a court; or
  - (d) a tribunal; or
  - (e) an authority; or
  - (f) a person; having power to require the production of documents or the answering of questions.

Generally, Centrelink will only be able to give out information  
*continued next page*

# Netspots: finding the nearest access point



At no time in the past has portable computing been this convenient, reliable and affordable. But despite this, there is a very real and tangible cost to portable computing, both financial and physical.

Not everyone can afford the myriad of devices to fit all their needs and situations nor that one super device that is the Swiss army knife of the computing world. Not everyone likes to be burdened with carrying or even the responsibility for these portable devices.

Is there an alternative? What about public internet access? Public Internet Access is a location that provides access to the internet either for free or for a charge.

Take a walk on Mitchell Street, Smith Street or even Cavenagh Street and you will see people sitting down face-to-face with a computer screen probably reading email through Hotmail or any one of a number of free email providers. I am sure you have all seen them, and I am equally sure some of you probably think that they are just for backpacking tourists.

But I say they can provide a real and useful alternative to the professional on the go and at the same time not burden you down with the extras that go with portable computing.

Whether free or for a charge public internet access allows you to send and receive email and other documents and use the internet.

What is the difference between a public access point and a hotel's business center or even the business center found in airport lounges like Qantas Club? Nothing – Okay perhaps the person sitting next to you won't be wearing reef sandals if you are in a hotel business center, but the principle is the same.

Access to the internet allows you do the things you would normally do. You can access the firm's intranet, you can check you email, you can use online banking, you can undertake research.

Assuming that you can see the potential the obvious question is where are all the public internet access points? Wouldn't it be good if you could find the nearest access point to where you will be when you travel interstate?

Well you can.

The National Office for the Information Economy (NOIE) has created Netspots Directory ([www.noie.gov.au/netspots/](http://www.noie.gov.au/netspots/)). Netspots has been developed to enable people to find their nearest public internet access facility in Australia.

Netspots lists both free and charged facilities and contains specific information for each location.

Listings in the Directory contain contact details, type of facility, number of computers, hours of operation, services available with the internet and physical accessibility.

Simple to use you can search on a range of criteria including state, name, type of facility (eg internet café, library etc), suburb and postcode.

The Netspot Directory is free to use and provides public access internet providers to submit, add or amend their details on line. The Netspots site also offers another free service in the form of a directory of video conferencing facilities.

While this facility is simply an alphabetical listing, it does provide a simple way of finding video conferencing facilities.

#### Links in this article:

Netspots - [www.noie.gov.au/netspots/](http://www.noie.gov.au/netspots/)

National Office for the Information Economy (NOIE) - [www.noie.gov.au](http://www.noie.gov.au)

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## Centrelink, from previous page

if there is a location order made by the Family Court or the matter involves a prosecution for a social security or family assistance law offence.

Of course, if the subpoena is for information from a Centrelink staff member's personnel file (for example, if the staff member has a personal injury claim), Centrelink has the same obligations as any employer and would generally comply.

In most other situations, the Act requires Centrelink to resist subpoenas. This is so that customer information remains confidential. In *Piras v Thaisawat* (1993) 115 FLR 79 O'Rourke J of the Family Court set aside a subpoena addressed to the then Department of Social Security, ruling

that the secrecy provisions of the Act were a valid basis on which to object to producing documents. The Judge in that case cited with approval the reasoning in the case of *In the Marriage of Thompson* [1990] 102 FLR 19.

Practitioners are also advised that in many cases where Centrelink has been required to attend Court to resist a subpoena, Centrelink has also been successful in obtaining an order for costs. There have been instances where the costs order has been made against a solicitor personally.

Practitioners acting for the client whose information is sought will usually be able to get what is required, with the client's permission.

For more information, contact Rick McQuinlan on 07 3000 3484. ①