

Bar Notes

1996 Senior Counsel

On 1 November 1996 the President of the New South Wales Bar Association, David Bennett QC, announced the appointment of the following persons as Senior Counsel, effective immediately.

1. Raymond Ronald BARTLETT
2. Nigel Anthony COTMAN
3. David Lloyd DAVIES
4. Gregory Scott HOSKING
5. Peter William NEIL
6. Leonard Ari LEVY
7. Winston Charles TERRACINI
8. Peter Michael KITE
9. Noel Charles HUTLEY
10. Alexander Whistler STREET
11. Anthony Joseph Leo BANNON
12. Bruce Roland McCLINTOCK
13. Timothy Aylward GAME

Reality Bites

“ In deciding what reasons are to be given and to be given under pain of being found guilty of an error of law, it is in my respectful opinion proper that the law have regard to reality and not to concepts. The law is not a game. It is not an academic exercise in which the Judge is required by way of a schematic statement of the dispute to itemise exclusively or to exhaustion all of the points which may be of relevance in relation to the case. A judgment is a practical working document. Judgment writing now occupies a great deal of public time and requires the expenditure of a great deal of public money. A Court must, of course, do what justice requires and time and money must be sufficiently provided to allow justice to be achieved. But if there is to be a great expenditure of judicial time and expense and so public time and expense, it is proper that the courts have regard to what in reality justice now requires.

In view of the current tendencies in the law, this is I think becoming more and more important. The time taken in judgment writing in a Court will, of course, vary with the course of the case but my own experience over a period of years is that judgment writing in the superior Courts occupies something of the order of 100 to 150 per cent of the time taken to hear a case. I do not speak for the District Court or other Courts at that level, but I suspect that the time taken, though it may perhaps be somewhat less, is not greatly less. That matter is to be taken into account in assessing what is to be required of a Court in the statement of its reasons.

It is also to be borne in mind what in fact Courts in this State are now required to do. In deciding what reasons to be given one will have regard to the place which a Court occupies in the judicial structure. One does not expect from a Court at the lower end of the structure a detailed statement of reasoning in relation to each of the many cases that has come before it during the day.

Also regard is to be had to the number of cases which a Court is now expected to deal with in the course of its daily activities. In deciding what reasons a Judge must give the law will, in my opinion, as a matter of simple common sense take into account what the Court of which he is a member is and what it is expected to do.

I emphasise again that what a Court can do and is expected to do in detailing its reasons for judgment is at all times to be subordinate to the requirements of justice. But that Court, and this Court which reviews what is to be expected of a Court, is entitled to take into account the burden which is now imposed upon Courts.” □

(Liberty Investments Pty Limited v Sakatic Pty Limited, Court of Appeal, unreported, per Priestley JA.)

Election of Members of the Bar Council for the Year 1996/1997

The results of the 1996 Bar Council elections were announced on 27 November 1996. The following were elected:

Inner Bar

Burbidge QC
Bennett QC
Murray QC
Hely QC
James QC
Bellanto QC
Poulos QC
Walker QC
McColl SC

Outer Bar

- (a) Three members of less than five years' standing:
Perram
Kerr
Babb
- (b) Members of any length of standing:
Delaney
McIlwaine
Letherbarrow
Katzmann
Maiden
Toner
Greenwood
Gormly
Needham

Bar Council Executive

The following were elected as office holders on 28 November 1996:

President:	David Bennett QC
Senior Vice-President:	Rick Burbidge QC
Junior Vice-President:	Breet Walker SC
Honorary Treasurer:	Ruth McColl SC
Honorary Secretary:	Bob Toner