



2008 has been a tumultuous year. The impact of the global financial crisis almost certainly will continue well into 2009. No sector of the community, including the bar, will be immune. Some individuals will be affected by virtue of their personal financial arrangements; others may be affected by shifts in the nature and volume of work at times of recession. In terms of commercial practice, there has already been a shift in emphasis towards insolvency work and parties seeking to extricate themselves from commercial arrangements entered into in more propitious times. Provided it has the financial capacity to do so, there is also likely to be a burst of regulatory cases mounted by ASIC.

Institutions will also be affected. The Supreme Court has already felt the indirect impact of the global financial crisis which is said to have contributed to the state's parlous financial condition in the form of the introduction of daily hearing fees in civil cases. This shift towards 'user pays', under the pretext of a need to raise revenue, is not a development which should pass without comment, and the Bar Association must remain vigilant that what appears, at the

moment, to be a relatively modest fee is not subject to subsequent increases which contribute to and may drive a perception that access to justice is a privilege which must be paid for rather than a fundamental right in a democracy governed by the rule of law.

Amidst the gloom, the recent and truly historic election of Barack Obama as president of the United States has generated a sense of excitement and optimism. The president elect has proved himself to be a masterful orator. His powerful speeches, including his acceptance speech, greatly contributed to his overcoming criticism of lack of experience. Unsurprisingly, the power of oratory and rhetoric is a subject which has captured the interest of the New South Wales Bar and the recent series of lectures, tracing the history of rhetoric through classical antiquity to modern times, has now been collected in a book entitled *Rediscovering Rhetoric* edited by Justin Gleeson SC and Ruth Higgins. That book was launched by Chief Justice Spigelman on 14 November 2008 in the Banco Court to much acclaim. His Honour's remarks on that occasion are reproduced in this issue.

2008 also marked the retirement of one of the great masters of rhetoric produced by the New South Wales Bar, the Hon AM Gleeson AC QC. Although it is now more than 20 years since his Honour's verbal skills were on display behind the bar table, they are already the stuff of legend. His Honour's written work is of course available in the form of judgments in the *Commonwealth Law Reports* which are typically characterised by a crisp identification of the key issue or issues, effortless distillation of the arguments and clear exposition of the law. Chief Justice

Gleeson's retirement, and the swearing in of his successor, Chief Justice French, are fully covered in this issue.

As I have noted in previous issues, the bar's CPD programme has been one of the great initiatives of the last five years. Apart from ad hoc series such as the rhetoric lectures, comprehensive presentations are regularly made about all aspects of practice. One recent presentation by Justice Brereton on appearing before a duty judge forms the centrepiece of this issue's Practice Section, together with Justice Beazley's invaluable paper on Calderbank offers and some key observations by Justice Bergin in relation to appearing in the Commercial List.

More by accident than design, this issue also has a heavy historical flavour. David Ash begins his brilliant piece on Justice Richard O'Connor with the observation that 'We know too little about the third member of the first High Court'. He then proceeds, in his own inimitable style, to rectify that situation in the second of his series on High Court judges hailing from the New South Wales Bar. There is also a fascinating account of the career and heroism of Percy Storkey, the only member of the New South Wales Bar to have been awarded the Victoria Cross, as well as a moving piece by Anthony Abrahams about the Kyeema air disaster in 1938 in which his grandfather, Leonard Abrahams KC, then the leader of the New South Wales Bar, and his junior, the reputedly brilliant Alfred Gain, perished.

Finally, it would not be a summer issue of *Bar News* without noting the peregrinations of Bullfry who this issue finds himself in Shanghai, full of dumplings and Tsingtao, and musing on the notion of a career judiciary. Bullfry is a minor literary masterpiece and the scribblings of Aitken and his faithful illustrator, Poulos QC, are greatly appreciated.

It remains to thank the members of this year's *Bar News* committee for their considerable efforts, to wish all members of the bar a Happy Christmas and good reading.

Andrew Bell

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