

CASE NOTES

Continued from page 20

defer to the rulings of trial judges about issues of relevance.

The majority found it unnecessary to determine whether the controversial evidence fell foul of the "opinion rule" (s 76), the operation of which is subject to various exceptions. Justice Kirby, however, observed:

"Given all that is now known about the dangers of mistakes inherent in the process of identification (and recognition), it is unsurprising that identification evidence of the kind offered by the two police officers has normally been classified as opinion rather than factual evidence".

The High Court's decision in *Smith* casts doubt upon the correctness of the decision of the Northern Territory Court of Criminal Appeal in *Cook*.

LAW SOCIETY WEBSITE

Have you made the time to visit the Law Society's website yet?

Right now we have details about practising certificate renewals and copies of the forms required on line.

Our Links section is constantly being updated and provides a quick reference to local firms, courts and interstate Law Societies.

Comments and feedback about the site are welcomed.

www.lawsocnt.asn.au

"DARCY" DUGAN: 40 YEARS AS A MAGISTRATE

Former Victorian Chief Magistrate John "Darcy" Dugan entertained guests at the Kormilda College Speakers Forum in Darwin on Thursday 23 August. *Balance* took the opportunity to speak with Mr Dugan about his trip to the Territory and life as a magistrate.

Mr Dugan retired from the Victorian Magistrates Court in September 1990 after 40 years in the court, the last five as Chief Magistrate. He was known as "Darcy" after the notorious NSW criminal and jail breaker who was in the headlines in the early days of his career.

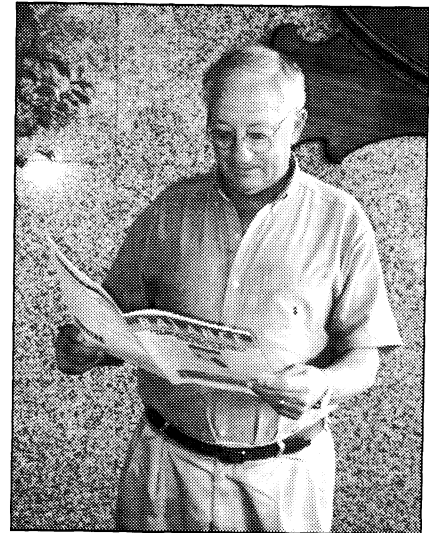
Mr Dugan's visit to Darwin this year was organised by Kormilda College. As well as speaking at the College's Speakers Forum, Mr Dugan meet with students to discuss his experiences as a magistrate.

"I went out to the school and spoke to the year 11 and 12 legal studies classes for an hour or so. It was quite good. The kids seemed to be interested," he said.

"I have been up to Darwin before. I used to come up reasonably regularly when I was on the bench to attend the magistrates conferences they had. The last year I was on the bench in 1990 I went to the Australian magistrates conference in Alice Springs. The person who ran that was Sally Thomas, then Chief Magistrate. I have known Sally over the journey for quite a while," Mr Dugan told *Balance*.

"I also came up here three years ago on a holiday and I was absolutely amazed at the transformation of the place compared to ten years ago — vibrant, lots of young kids from all over the world, it's absolutely marvellous.

"Once I came up here at sat in as a magistrate. I came up for a case where one of the magistrates was charged with, of all things, exposing himself. That got a bit of press at the time. I didn't know until I got here what I was coming up for and was quite shocked when I found out!"



John "Darcy" Dugan reading *Balance* during his recent visit to Darwin

Asked to reflect on the changes in the magistracy over his working life, Mr Dugan told *Balance* the biggest changes were in the jurisdiction and administration of the courts, as well as in advances in technology.

"From my time the jurisdiction of magistrates courts have increased enormously. I imagine it is exactly the same in Darwin. The more you can give down to the magistrates court the more you can avoid sending people to superior courts where things take longer and are more expensive.

"The qualifications of magistrates have increased enormously. In 1984 the recruitment of magistrates in Victoria moved out of the public service into the open market and people were recruited from all over — from the Bar, from solicitors, from corporate lawyers — the whole box and dice. In 1985 we got the first women on the bench in Victoria. It was quite healthy and welcome to have women on the bench and the lady who succeeded me was the first female Chief Magistrate in Victoria," said Mr Dugan.

"I have seen the administration of the courts change enormously. IT has been introduced in the courts. The way information is available and readily

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Council Attendance 2000 - 2001

Council Member	2000			2001							
	Sept	Oct	Nov	Jan	Feb	Mar	April	May	June	July	Aug
President Jon Tippett	✓	✓	✓	✓	✓		✓	✓	✓		
Immediate Past President Steve Southwood QC	✓						✓	✓	✓		
Vice President Ian Morris	✓		✓	✓	✓	✓	✓	✓		✓	✓
Secretary Merran Short	✓	✓		✓	✓	✓		✓	✓		✓
Treasurer Eileen Terrill	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
Alice Springs Rep. Katrina Budrikis			✓			✓	✓		✓		
Alice Springs Alternate Rep Domenic Conidi	✓		✓		✓			✓			
Richard Coates	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Bob Gosford				✓	✓	✓	✓	✓		✓	✓
Tim Jacobs	✓	✓	✓	✓	✓	✓		✓			✓
Duncan Maclean	✓	✓	✓			✓	✓	✓			✓
Duncan McConnel	✓		✓		✓	✓	✓	✓			✓
Elizabeth Morris	✓	✓		✓	✓		✓			✓	✓

This chart of Council attendance during 2000-2001 is printed in *Balance* following a resolution at the July 2001 meeting of the Council of the Law Society Northern Territory to show the attendance record of your representatives.

"DARCY" DUGAN: 40 YEARS AS A MAGISTRATE

Continued from page 21

achievable is a big help to magistrates.

"The administration of the courts has improved. The people who are running the courts are far more advanced in the administrative field these days than they were many years ago. What has been very good is that there has been an understanding from the bureaucrats and public servants about their role so there is a division between the courts and the bureaucracy and the independence of the courts has not been impinged. The courts have got to understand that they have got to rely on public servants to

provide buildings, pay the salaries etc. People have got to understand that once you step into the courtroom it is a whole different ball game.

"Chief Magistrates are in a whole different position from other magistrates in that they are the conduit between the magistracy and government. Chief Justices are the same. Sometimes their role has to be fairly carefully understood. At one time you will be talking to the minister and other politicians about new acts of parliament and so on and then you've

got to cut yourself off and go back to the bench and concentrate on that job. If you are not able to differentiate between those two roles it's a disaster," he said.

"We've got a former Territorian as Chief Magistrate in Victoria now which is interesting. He left the Territory in a bit of controversy and took over in Victoria in a bit more controversy I suspect. By all accounts he is doing a very, very good job. He's a nice man and what he has in his favour is that first of all he was a magistrate," said Mr Dugan.