

### Change of details

As of 1 January 2005 Lyn McDade is moving from Edmund Barton Chambers to work from home.

Her new contact details are:

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### Dear Stork...

It seems that Santa isn't the only one receiving special requests this December...

Danny and Nicole Wauchope are expecting a visit from the stork next year. Danny is hoping for a boy in order to restore gender balance (or democracy) in a home currently dominated by females (Nicole and daughter). ①

### Movement in Alice Springs

Sam Salmon and Ted Sinoch (both formerly of Collier and Deane) are setting up their own practice in Alice Springs.

Ted and Sam will be staying on in Collier and Deane's current premises as C&D moves to its new offices. ①

### Newly admitted

Congratulations to Caroline Heske from the Office of the Director of Public Prosecutions who was admitted on 7 December. ①

### Admissions overload

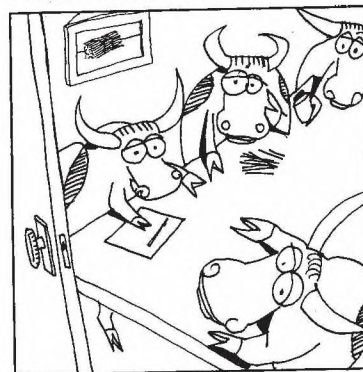
On 17 December 14 students from Charles Darwin University's Graduate Diploma in Legal Practice (GDLP) will be admitted to the Supreme Court.

Congratulations to Janine Carroll, Niny Borges, Helen Roberts, Jennifer Bagshaw, John Whittington, Vaughan Casey, Paul Rojas, Christopher McGorey, Richard Bryson, Karen Friscich, Tanya Vogt, Alana LaPorte, Peter Pohner, Kirsten Donlevy, Bethany Lohmeyer and Michaela Milner. ①

### Nuptials at Withnall Maley

Congratulations to newly weds Peter Maley and Vanessa Farmer (now going under the name Mrs

## The Muster Room



Vanessa Maley). ①

### Here at last?

The Nicols Place office space is apparently almost finished, after many months of anticipation. By all accounts William Forster Chambers are expecting to move in early in the new year. Some members have been heard to mention that all the waiting for the project to be finished has led them to develop a killer thirst for the welcome drinks. ①

## Lost in Re-examination cont...

"the fact that no reference was made by the witness could not, by itself, be fairly taken as reflecting on her credibility. It could do so only if the questions asked, or the scope of the discussion recorded in the statement made it appropriate for her to refer to those matters. That is a question upon which the jury could fairly form a judgment only with the whole of the statements available to it."<sup>14</sup>

Although most jurisdictions<sup>15</sup> have enacted legislation setting out the procedure for cross-examination as to previous written statements, the legislation has not significantly altered the basic common law rule pronounced in *Queen's Case*. Rather, the legislation was enacted to circumvent problems with procedure<sup>16</sup>.

Interestingly, the Judge in *Newall* marked the statements of his own

motion pursuant to his discretion under a provision of the Canadian Evidence Act in identical terms to Section 20 of *Evidence Act NT*. This appears never to have occurred in the Australian jurisdictions<sup>17</sup>.

The logic and rationale of the Canadian authorities are entirely consistent with the Australian position to date, and it could be expected that Australian courts would apply the same principles as a natural progression. We may need to re-think our approach to both cross-examination and re-examination to take advantage of the available strategies. ①

### ENDNOTES

<sup>1</sup> (1820) Brod & Bing 284

<sup>2</sup> *ibid* at p287

<sup>3</sup> *ibid* at p297

<sup>4</sup> (1930) 31 SR (NSW) 104

<sup>5</sup> *ibid* at p111

<sup>6</sup> [1969] VR 323

<sup>7</sup> *ibid* at p326

<sup>8</sup> (1987) 8 NSWLR 398

<sup>9</sup> *Gerow v The Queen* (1981) 22 CR (3d) 167

<sup>10</sup> *R v Newall* 5 DLR 352

<sup>11</sup> *R v Smith* (1983) 35 CR (3d) 86

<sup>12</sup> *ibid* at p94

<sup>13</sup> *op cit* 11 at 362

<sup>14</sup> *ibid*

<sup>15</sup> See Evidence Act NT sections 19 & 20

<sup>16</sup> *Queens Case* called for a long-winded requirement that the entire document be read out to the witness

<sup>17</sup> See *Cross-Examination on Documents*, M H McHugh QC (1985) 1 ABR 51 at 55.