

Listening to Territory businesses

Chief Minister Clare Martin wants to hear directly from Territory business owners and operators about the issues important to them in doing business in the NT.

The Chief Minister's Business Round Table meets throughout the Territory ten times a year, and participants can discuss any topic they like during the two-hour session.

"I want to hear directly from business people about the issues that are important to them," Ms Martin said.

"Business Round Table is an important way for my Government to keep in touch with business people and for business people to talk directly to Government Ministers.

"Business Round Table is a part of my Government's commitment to keeping the Territory moving ahead and I would encourage all Territory business people – whether you're from the smallest enterprise or the largest corporation - to consider attending a session this year."

If you would like to attend the Business Round Table you can register at www.businessroundtable.nt.gov.au, or Freecall 1800 193111.

Laughter at Lucinda's trial cont...

people. Court staff hosted regular tours throughout the court house, including civil and criminal court rooms, jury rooms, and the holding cells.

The Community Justice Centre held a mock mediation, which proved to be very popular. The mediation explained the process and what kinds of disputes can be taken to mediation.

Tony Buckland from the NT Young Lawyers Association held a small claims workshop explaining the small claims process, including tips on how to proceed.

The Law Society would like to thank all those who gave up their Saturday to help with the Supreme Court open day, which is always a popular feature in the Law Week program.

NOTICEBOARD

High Court Notes

Prepared for the Law Council of Australia and its Constituents by Thomas Hurley, Barrister, Vic., NSW, ACT (Editor, Victorian Administrative Reports)

Negligence - Duty of care - Economic loss - Whether engineer designing commercial premises for one owner owes duty of care to subsequent owners

In *Woolcock Street Investments P/L v. CDG P/L* ([2004] HCA 16; 1.04.2004) the appellant purchased in 1992 a commercial building built in Townsville by the respondent for the original owner in 1987. Defects in the foundations were manifest from 1994 and the appellant sued the respondent for negligence in the Supreme Court (Q). A case was stated for the opinion of the Court of Appeal (Q) as to whether agreed facts disclosed a cause of action. This Court answered the question in favour of the respondent/builder. The appeal by the appellant/owner to the High Court was dismissed by majority: Gleeson CJ, Gummow, Hayne, Heydon JJ; McHugh; Callinan JJ; contra Kirby J. The members of the joint judgment indicated *Bryan v. Maloney* (1995) 182 CLR 609 was not limited to dwelling houses, was based on the disfavored concept of "proximity" [17]-[18] and on the vulnerability of the initial building owner to the economic consequences of negligence [31]. They concluded *Bryan v. Maloney* did not require the Court to hold the respondent owed a duty of care [35]. Appeal dismissed.

Migration - Refugees - Failure of state protection

In *MIMA v. Respondents S152/2003* ([2004] HCA 18; 21.04.2004) the High Court concluded that "persecution" for the Refugees Convention defining entitlement to a protection visa under the Migration Act 1958 (Cth) requires, where persecution was said to be established by the acts of individuals or citizens, a finding that the relevant Government was in a practical sense unable or unwilling to stop such harm occurring. The High Court (Gleeson CJ, Hayne, Heydon JJ; sim McHugh J; sim Kirby J) concluded the Full Federal Court had erred in finding that there had been evidence before the RRT supporting the conclusion that the government of Ukraine was unable or unwilling to stop persecution of Jehovah's Witnesses involving the respondent. Appeal allowed.

Constitutional law - Local Government - Ability of local councils to levy rates on underground and aerial telecommunications cables - Inconsistency between Commonwealth and State law

In *Bayside City Council v. Telstra Corp.* ([2004] HCA 19; 28.04.2004) the High Court upheld the decision of the Full Court of the Federal Court which declared invalid certain legislation in Victoria and New South Wales purporting to authorize municipal authorities to impose charges or rates in respect of telecommunications cables on or over public places. By Cl 44(1) in Div 8, of Part 1 of Schedule 3 to the Telecommunications Act 1997 (Cth) any State law discriminating against a telecommunications carrier "has no effect". The majority (Gleeson CJ, Gummow, Kirby, Hayne Heydon JJ; contra Callinan J) concluded this provision was "with respect to" postal services within Constitution s51(5) [26], did not attempt to dictate the