

Local court's jurisdiction to be tested

The question of the ACT Magistrates Court's jurisdiction in the Iranian Embassy case may be heard in the High Court, after a notice of motion was filed by the defence counsel last week.

The Magistrates Court heard yesterday that the matter would be heard in Adelaide on September 3 by three High Court judges, who would decide if the defence had an arguable case.

Early in July, Gabriel Wendler, counsel for some of the 13 defendants, challenged the jurisdiction of the ACT Magistrates Court to hear the case. Mr Wendler said that because the case involved a treaty, the High Court had original jurisdiction, so the case could only be heard by the Federal Court, or a state court with federal jurisdiction.

The challenge meant that before Magistrate Michael Somes could rule on the matter, he had to notify the Attorney-General of the Commonwealth and the states. In a case involving a constitutional matter, they have the right to intervene.

Don Markus, representing the ACT Attorney-General, was in the court yesterday, and will intervene in the High Court sitting.

If at least one of the three High Court judges at the Adelaide sitting decides the defence has an argument, the question of jurisdiction will go before a Full Bench of the High Court on a date to be fixed.

Bawden committed

A 42-year-old Queanbeyan man has been committed for sentence for a murder he has admitted committing 19 years ago, and for which another man spent 10 years in jail.

Roger Graham Bawden appeared in the Queanbeyan Local Court yesterday and was formally committed for sentence at the Supreme Court in Wollongong on a date to be fixed.

Solicitor Gordon Naylor said Bawden wished to maintain his plea of guilty to the charge of murdering Kum Yee "Joyce" Pohl, 30, on March 9, 1973.

Bawden, an abattoir chiller hand, first appeared in court last month

Sentence to be handed down for Pohl murder

and said he wanted to plead guilty and get the matter over and done with.

His court appearance followed the official pardon of Mrs Pohl's husband, Johann Ernest Siegfried "Ziggy" Pohl, following a judicial inquiry which began after Bawden walked into Queanbeyan Police Station in September, 1990, and confessed to the murder.

Mr Pohl, now 54, was convicted

of her murder and sentenced to life imprisonment in 1973. He was released on licence in 1983, still maintaining his innocence.

In a statement tendered to the court last month, Bawden said he had killed Mrs Pohl by strangulation while breaking into her Queanbeyan flat.

He said he now wanted to "clean the slate of this matter and pay whatever penalty is determined by law."

In court yesterday, Magistrate Ross Sterland tidied up an administrative detail — the 1973 inquest, which formally adjourned when Mr Pohl was committed for trial.

Mr Sterland reopened the inquest to correct his finding.

He took evidence from Detective Sergeant Neville Smith, who said Mr Pohl had been officially pardoned and Bawden charged with the murder.

Mr Sterland then terminated the inquest, committing Bawden for sentence.

He allowed Bawden to remain on bail, on condition that he continue to report to police each day and notify any change of address.

Pensioner says 'not guilty' to war crimes

ADELAIDE: Adelaide pensioner Ivan Polyukovich, the first Australian charged with European war crimes, pleaded not guilty yesterday to all charges brought against him.

In his first appearance in South Australia's Supreme Court, the 76-year-old pensioner stood in the dock with the aid of his walking stick as five murder counts were read out.

Polyukovich, speaking through an interpreter, shook his head and pleaded not guilty to each count.

He is charged with the murder of

eight Jews in August or September, 1942, and with being knowingly concerned in the murder of up to 850 Jews from the Ukraine village of Sereniki during World War II.

After the charge of being involved in the murder of up to 850 Jews from the Sereniki ghetto was read out, Polyukovich said: "Not guilty, not guilty."

Justice Kevin Duggan remanded Polyukovich for trial, on a date still to be set. Polyukovich remains free on bail.

Earlier yesterday, in a status conference before Justice Duggan, defence counsel Michael David, QC, foreshadowed the possibility of an application to take the trial to the Ukraine at some stage during the proceedings.

Mr David said he expected to be ready to argue preliminary legal matters in November, before the trial began early in 1993.

He estimated the trial would take about two or three months and said

there would not be an application for trial by judge alone.

In June, after a lengthy committal hearing, Magistrate Kelvin Prescott committed Polyukovich for trial on only two of eight counts he was originally charged with.

But a month later the federal Director of Public Prosecutions, Michael Rosen, QC, relaid charges previously dismissed by Mr Prescott. Polyukovich became the first Australian to be charged with European war crimes in January.

Judge dismisses Eastman appeal

An appeal by David Eastman against a contempt conviction by Magistrate Warren Nicholl was dismissed in the Supreme Court on Friday.

Justice John Gallop said in his judgment that the offence by David Harold Eastman, 46, of Reid, was so serious that the maximum fine imposed of \$50 was not unduly harsh, and when Eastman refused to pay, the sentence of seven days' imprisonment was "entirely appropriate".

On March 17 in the ACT Magistrates Court, Mr Nicholl had committed Eastman for trial on a charge of assault. He then continued to hear another charge of assault, during which Eastman was charged with contempt of court for wilfully interrupting and insulting him.

Eastman had refused to pay the \$50 fine and was put in a cell to start serving the seven days' default. He was not released even though he offered later to pay the fine, and remained in custody overnight.

In his appeal against the contempt charge, Eastman had said the exchanges between himself and Mr Nicholl had been "robust", but not "wilfully insulting".

Justice Gallop said that the context of the remarks had to be considered, and so included in his judgment transcript passages beginning from when Mr Nicholl had made clear his intention to commit Eastman for trial, but had not actually said the words of committal. East-

man had interrupted continually, and had not stopped when warned that a contempt charge may result.

He made references to the Director of Public Framings, and called the prosecutor an idiot.

He had said to Mr Nicholl, "You seem to regard this court as a sausage machine, and you just whack the cases out, committal hearings are just a charade, and you whack things up to the Supreme Court".

When the magistrate had made a comment about Eastman's mental state, Eastman had replied with a reference to Mr Nicholl's ethics.

Eastman was warned to keep quiet or be removed, and so was removed.

When he returned to the courtroom, Eastman had continued to interrupt, and was charged with contempt.

Justice Gallop said that Mr Nicholl had identified the charges clearly. "It could hardly be doubted that the appellant's insults were wilful, and... insulting to the Magistrate."

Justice Gallop said he would not be disposed to reviewing the penalty imposed by the magistrate except that Eastman had offered to pay the \$50 after half an hour in the cells but had had his offer rejected. This was "quite improper".

As a result, Justice Gallop varied the default of payment penalty from seven days to one, and regarded that day as having been served.

IN BRIEF

Savvas back in court

SYDNEY: Jailed former Marrickville Council alderman George Savvas was returned to court yesterday charged over an alleged conspiracy to import up to 40kg of cocaine from South America.

Savvas, sentenced in February, 1990, to 25 years' jail for his role in a heroin ring, is one of eight charged in Central Local Court over the alleged multi-million-dollar conspiracy. He was remanded until September 18.

McPherson trial

SYDNEY: Sydney man Lennie McPherson is to face trial over the bashing of a man last year.

In Central Local Court yesterday, Magistrate Paul Sloan committed McPherson and four other men for trial in September. The five are charged with maliciously inflicting grievous bodily harm on Darren Burt at his home at Haberfield.

Aid for families

SYDNEY: Several families belonging to the religious sect The Family will now receive legal aid following criticism by a magistrate who said he was appalled by delays over the issue.

Magistrate Ian Forsyth opened hearings yesterday at Cobby Children's Court on care applications for 65 children belonging to the Christian fundamentalist group.

In the Children's Court in Melbourne yesterday, a long-running court battle over custody of eight children belonging to the sect was adjourned as the children's barrister was unwell. The case is expected to resume today.

Week of free legal advice

By CRISPIN HULL

Law Week opened yesterday with praise and a warning from the ACT Attorney-General, Terry Connolly.

He said the legal profession was responding to community demands for cheaper more speedy service, however if it did not respond to community and government prodding, the Government would not rescind from action down the track.

Law Week was opened at the ACT Council of the Ageing at the Hughes Community Centre and will concentrate on the needs of the ageing.

Free advice will be available all week from 10am to 2pm on 25/7/92 or 25/7/91, or between 10am and 4pm at Woden, Belconnen and Tuggeranong shopping malls, and from 10am to 4pm tomorrow.

Articles will be run all week in *The Canberra Times* (see Page 8).

Mr Connolly's praise and warning is likely to be tested soon. The ACT Government has said it will put forward a proposal on the lawyers' monopoly on conveyancing.

According to Law Society figures, the ACT has 444 solicitors with practising certificates.

Test finds more blood on suspect's shirt

BRISBANE: A forensic retest of a murder trial exhibit, 14 months after it was allegedly worn by an accused man, had found further bloodstains, Queensland Supreme Court heard yesterday.

Blood had been found on the left-chest area the shirt, allegedly worn by accused man Bevan Errol Meninga at the time a teenage Sunshine Coast girl was killed.

Meninga, 20, also of the Sunshine Coast, has pleaded not guilty to murdering Cheree Richardson, 19, in May last year after they left a Sunshine Coast nightclub.

She was found semi-naked in nearby parkland at Alexandra Headland and had been beaten on the face with a tree branch and sexually assaulted with a stick.

State Health Laboratory senior

forensic scientist Graham Harmon testified yesterday to finding blood on the chest area of the long-sleeved shirt.

The shirt and other clothes Meninga allegedly wore on the night Miss Richardson died are exhibits at the trial.

After Mr Harmon's evidence the trial was adjourned early and is due to restart today.

The trial had resumed yesterday after being temporarily stopped on Thursday when defence lawyer Milton Griffin asked for the retesting. The court has heard the blood is the same grouping as Miss Richardson's, as is other blood found on the clothing.

Mr Harmon testified yesterday that the grouping was shared by 8 per cent of the general population.

DRINK-DRIVING

Six people were dealt with in the ACT Magistrates Court yesterday for drink-driving offences.

Before Magistrate Michael Somes: Ladislav Marounek, 66, of Tate Street, O'Connor, pleaded guilty to an offence on February 23, 1992, in McCauley Street, Braddon. Breatalyzer 0.160, given a three-month suspended jail sentence, on a \$2000, three-year good-behaviour bond. Licence cancelled and disqualified from holding a licence.

Before Chief Magistrate Rex Cahill: Michael Shupe Whybrow, 20, of Macleay Crescent, Stirling, pleaded guilty to an offence on April 18, 1992, in Parkes Way, Braddon. Breatalyzer 0.100, fined \$300, licence suspended for three months.

Margaret Egan, 20, of Sheehan Street, Pearce, pleaded guilty to an offence on April 18, 1992, in

Verona Circle, Braddon. Breatalyzer 0.07, fined \$300, licence suspended for three months.

Trudy Elizabeth McCutcheon, 24, of Dobie Place, Macgregor, pleaded guilty to an offence on April 4, 1992, in Flory Drive, Braddon. Breatalyzer 0.120, fined \$250, licence suspended for three months.

Ainsley Fern Robertson, 20, of Willsmore Street, Chifley, pleaded guilty to an offence on April 4, 1992, in Allene Court, Braddon. Breatalyzer 0.220, fined \$600, licence suspended for five months.

Leigh Daniel Hain, 20, of Fawcett Place, Latham, pleaded guilty to an offence on March 21, 1992, in Kingsford Smith Drive, Braddon. Breatalyzer 0.08, fined \$300, licence suspended for three months.

LAW LIST

FAMILY COURT
Before Registrar Davis, in Court 3, at 10am: Hurley, At 11am: White, At noon: Reynolds.

A.C.T. SUPREME COURT
Before Chief Justice Miles in Court 1, ACT Law Courts, at 9.30am: Sentences: R v Wilkes (pari-passu). At 10am: Trial: R v GA (pari-passu).

Before Justice Gallop, in Court 2, at 10am: Trial: R v Cumberland (pari-passu).

Before Justice Higgins, in Court 6, at 10am: Judgment: Mitchell v Taylor. Hearing: Houlahan & another v Australian and New Zealand Banking Group Limited (pari-passu). Civilian v Commonwealth of Australia. Papathanasiou v O'Neill & Brown Plumbing (ACT) Pty Limited.

NOTICE TO JURORS
Jurors serving in the trials of R v GA & R v Cumberland are required today at 9.50am.

ADMINISTRATIVE APPEALS TRIBUNAL

Publication of Decision, Registry, Delivery of Decision: At 10am: Hamilton and Dept of Social Security. At 10.15am: Barzacco and Dept of Social Security. At 2pm: McKnight and Australian Archives.

Before H. G. Julian, DSC, Member, in Conference Room 1, 3rd Floor, AMP Building, Hobart Place, Canberra. Conference: At 9.30am: Spaul and Department of Social Security. At 9.30am: Spaul and Department of Social Security. At 10am: Hadjiloti and Com-

care Australia. At 10.45am: Schuyt and Department of Social Security. At 11.30am: Crotty and Department of Defence. At 12.15pm: Carbone and Commerce Australia.

A.C.T. ADMINISTRATIVE APPEALS TRIBUNAL

Before Senior Member Beddoe, in Hearing Room 1, 4th Floor, AMP Building, Hobart Place, Canberra. Hearing: At 10.15am: Civic Tavern Pty Ltd and Commissioner for ACT Revenue. In Hearing Room 2, 4th Floor, Directions Hearing: At 9am: Glenora Pty Limited and Minister for the Environment, Land & Planning. At 9.30am: Lindley and Registrar of Weapons.

Final address for Dowling

The Bishop of Canberra and Goulburn, the Right Reverend Owen Dowling, will deliver his last presidential address to the Anglican Synod in Bega on Friday.

Bishop Dowling is to retire in January, 1993.

He will preside over the first half of the three-day gathering and preach at the Synod Eucharist.

The survival of the family, the role of women, and the Church's attitude to young people will be among the points of discussion.

Moves to lift job prospects

The ACT Government has sponsored a series of small business seminars to boost job prospects for women in the Tuggeranong Valley.

The first of eight seminars was launched yesterday by the Speaker, Roberta McRae, "demonstrating the Follett Government's belief 'in women as successful entrepreneurs'".

The series was designed by Tuggeranong Link in conjunction with the Women's Adviser.

'Unwilling pawns' in remand: inmates

By PETER CLACK, City Reporter

Detainees at the Belconnen Remand Centre have become unwilling pawns in an industrial dispute between custodial officers and the ACT Government.

The 21 detainees have complained of being locked in their cells since Friday afternoon and being denied most of their normal privileges.

One detainee said delays in getting meals has meant every meal has been "stone cold" by the time they were received in the cells.

He said they had become pawns and scapegoats for the dispute. Food was being delivered in taxis and it was cold when it arrived.

Police were being asked to return detainees from court and detainees were only being let out of their cells for two hours a day.

"Things are looking grim," the man said. "We are getting no messages and no visitors. I can't see why we should be the scapegoats."

A series of bans have virtually brought the centre to a halt as officers await a resolution of the dispute.

The Public Sector Union has accused the Government of failing to comply with a ruling by the Industri-

al Relations Commission, which had directed a wage reclassification be implemented within a week of its decision.

But that was on July 1 and the union's branch secretary, Winsome Hall, said she was appalled at the management's failure to respond to the IRC's ruling.

However, a spokesman for the Attorney-General, Terry Connolly, said the IRC directive had been a result of a work-value agreement that would also introduce a new 12-month rostering system.

The new rosters would be a trade-off, allowing the Government to reconcile the increases.

They average about 9 per cent but favour lower-graded officers. Ms Hall said Canberra's custodial officers were the lowest-paid in Australia.

The 40 custodial officers have brought in work bans to try to force the Government to act quickly.

A meeting yesterday afternoon failed to resolve the dispute and union delegates were asked to review a proposed new roster system.

A spokesman for the centre said detainees were allowed legal and welfare visitors.

New cancer treatment for Hollows

BRISBANE: Professor Fred Hollows faces a new hurdle today when he undergoes pioneering radiotherapy treatment, the latest step in a four-year cancer battle.

The treatment to remove a tumour in his right lung comes a little more than a week after he had laser treatment to remove another cancerous growth.

Close friend Mike Lynskey said this surgery brought Professor Hollows close to death in his fight against renal cell carcinoma.

"Lasering the tumour inside the lung proved more difficult than expected and he nearly choked to death," he said.

Today's treatment, at Brisbane's Wesley Hospital, will be the first

time the high-dosage Brachy "hot wire" radiotherapy procedure had been used in Australia.

Doctors will insert a wire through a tracheotomy in the throat to reach the 3cm tumour lodged in the right lung.

Professor Hollows was the 1990 Australian of the Year.

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