

FERAE NATURAE

AN OLD FASHIONED ATTORNEY?

One of my last major jobs as a journalist in the NT was to travel to a desert community to do a story on customary Aboriginal Law. As is the nature of such reportage, popular in the media, it was about traditional punishment.

I was to find out two things.

First, in the context of punishment, the passion behind the advocates of customary law struck me as a societal commitment to the law at least as strong, if not stronger, than that within the broader Australian polity.

Second, that customary law went far beyond tabloid notions of “payback” and the like.

I spent time with women in the Top Camp — a sorry camp for someone who had died. I was introduced to the intricacies of kinship systems, and what seemed to me an enormously complicated system of mutual rights, obligations and responsibilities that characterise a legal and social system that stretches in time far beyond Magna Carta and the bases of our common law system.

Later, my sense and understanding of the nature of customary law was extended from the visit by one of the Warlpiri women I had met, and her performance of a name giving ceremony for my daughter. An expression of extraordinary inclusion from a woman who has memories of members of her family lost in the Conniston massacre. And, only a few days ago, of Walmatjarri women attending the Aboriginal art awards, clearly delighted in meeting that same little child, when told what her skin name was.

All of which brings me to the new Attorney-General, who I first met — as a journalist — in southern Warlpiri country. Elsewhere in this issue of *Balance* he gives his views on issues such as customary law. They are views that are based on many years living and working as a teacher at Yuendumu. I like to think that the knowledge he gained

over those years will bring understandings greater than any previous Attorney in Australian history has been able to bring to the vexed issue of customary law. He is self deprecatory about it: asked if he speaks much Warlpiri, he wryly says: “enough to get it to trouble”. Starting with an awareness of limitations is surely the best way to begin.

One of those beginnings was his statement to the Law Society at its annual dinner in Darwin. He has adopted what must be seen as an old fashioned approach to the role of Attorney. He made a strong commitment to upholding the traditional role of a first law officer: to defend and be an advocate for the independence of the judiciary, and to the integrity of an independent legal profession.

Old fashioned? Perhaps. But for an Attorney-General, it is in contradiction a refreshing approach. In so many other



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jurisdictions, including in the past our own, it is a commitment to a tradition that has been ignored, if not abandoned outright.

Arguably, such a commitment by a first law officer, as a fundamental defence of the rule of law, is in fact also a commitment to customary law — the customary law that traces itself back to the times of Magna Carta and beyond. It may well be that the lessons learned by a Yuendumu school teacher will bring much to the perception and understanding of both systems of law.



The Law Society Northern Territory Annual General Meeting was held on Wednesday 5 September 2001 at the Darwin Central Hotel. The photo above captures the collection of ballot papers from Society members which were counted by Darwin barrister Pat McIntyre and solicitor Paul Ewens. The AGM elected Council members for 2001-2002. Sarah Hawke from Cridlands, Sue Oliver from the Attorney-Generals Department and Jim Moore from Noonans replaced outgoing Councillors Robert Gosford and Richard Coates. Jon Tippett has become Immediate Past President of the Society. The Northern Territory Bar Association will soon announce a representative to take up a position on Council. Contact details for Council members are available from the Law Society website: www.lawsocnt.asn.au