

BALANCE

LAW SOCIETY NORTHERN TERRITORY

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July & August**



The 'Little Children are Sacred' report & NT National Emergency Response

Views of the NT Legal Profession & Government

Passing of Commonwealth legislation an affront to democratic processes

At the time our previous edition of *Balance* was issued, the Commonwealth Government had not long announced its plan for an “emergency response” to the problems of child sexual abuse and associated social ills affecting Northern Territory Indigenous communities.

At that time, the Law Society was welcoming of action to address those problems, but expressed concerns at the lack of detail then available in relation to the proposals. The previous edition of *Balance* carried a copy of the Society’s letter to the Prime Minister, Mr Howard, in which we called on the Government to provide further detail and to include the Society in consultations towards the development of any legislation.

It may come as little surprise that the Society has not received anything other than a pro-forma response, which we have been denied permission to publish. Further, as everyone knows, the Commonwealth proceeded during the second week of August, to introduce and pass a raft of legislation, affecting a range of existing acts, to implement what appears to be not so much a response to child abuse but a manifesto for the management of Indigenous affairs generally.

The Law Council of Australia, with input from Society members, prepared a written submission to the Senate’s Constitutional and Legal Affairs Committee, which met for a single day to consider the legislation. That submission highlighted the ongoing and, in some instances, amplified concerns, of the profession, particularly in areas such as alterations to bail and sentencing considerations, changes to the permit system and in relation to “just terms”

compensation for the acquisition of interests in land.

Clearly, the “intervention” as it has now come to be known will continue to generate legal, political and social issues for a long time. Despite the paucity of consultation, the Senate committee recommended that the legislation be passed. The task for the legal profession will now shift to analysis of the legislation and its practical implementation.

The Society remains of the view that the process by which the Commonwealth’s legislative package was developed and passed is an affront to democratic processes, particularly where such important issues are involved. This is not to suggest that action should not be taken, rather that action should be taken in a considered and consultative manner, consistent with the key recommendations of the Wild/Anderson ‘Little Children are Sacred’ report.

On other matters, I was pleased to be able to welcome a fine turnout of the profession to the new Hanuman on 10 August for our Annual Dinner. Among our guests were the Chief Minister, the Hon Clare Martin MLA, Chief Justice Brian Martin, Minister for Justice and Attorney General, the Hon Syd Stirling MLA, Supreme Court Justices Thomas, Riley and Southwood, Magistrates Cavanagh, Luppino, Carey and Oliver, former Administrator The Hon Austin Asche and former Chief Minister The Hon Shane Stone AC QC.

It was a great treat to hear from his Honour, the Administrator, Mr Ted Egan AO, who recounted tales of the Darwin legal scene during the 1950s when his Honour was first in Darwin working for the Department of Aboriginal Affairs (as it then was). Darwin’s legal scene in that era certainly sounds



*Allison Robertson,
President*

as though it was very colourful, and his Honour’s recollections really deserve to be recorded for posterity.

The Annual Dinner was also the occasion for announcing the winners of the biennial Contribution to the Community Awards. This year it was very gratifying that the award sponsor, Marsh, was prepared to accede to the request of the judging panel for additional funding to cover awards in two categories, one for a firm, and one for an individual practitioner. The panel felt it was important to recognise two of the nominees, both of whom had made outstanding contributions through their work in the community, and the awards were made to Clayton Utz in the Firm category, and to David De Silva in the individual practitioner category.

The Annual Dinner was also my final official function as President, save for handing over the reins at the Annual General meeting on 10 October. My two terms as President have been incredibly challenging, interesting, educational and at times exhausting. The issues that have faced the Law Society and the Northern Territory legal

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A busy time for the secretariat

The current edition of *Balance* includes some commentary on the 'Little Children are Sacred' report and the Commonwealth Emergency Response. At the time of writing this article, I am awaiting the passage of the Commonwealth Bills. Of some 500 pages, they were introduced in and passed by the Commonwealth Parliament House of Representatives on Tuesday 7 August 2007. One must wonder how MPs had any chance to consider what are very complex Bills with major impacts on criminal law issues. And, of course, the human rights of not only of those who may be guilty of child sex abuse, but all those living in the different remote communities who will now be subject to what can only be described as a very paternalistic regime. The Bills will be subject to a one day Senate hearing, and it is likely to be enacted by the time you read *Balance*. It remains to be seen whether these measures will achieve the results intended.

The Bills will, when implemented, have some other effects. Practitioners will have a huge task in interpreting the provisions, and it is likely an increased police presence will result in increased pressure on the justice system.

The Society will continue to examine the provisions in association with the Law Council of Australia. A press release issued by the Law Society on 9 August 2007 is on page 7 of *Balance*.

The Society will also be considering the NT Government response to the 'Little Children are Sacred' report and legislative amendments, including the Care and Protection of Children Bill.

The Council and Secretariat are looking ahead to the Annual General Meeting on 10 October 2007, and are continuing to consider the seeming never ending collection

of issues relating to the Legal Profession Act and Regulations. A review of the Constitution is currently in train, preparation of the Annual Report has begun, and we are coming to grips with the reporting requirements under the LPA. The future of the Law Society Public Purposes Trust is also under consideration.

Staffing resources are increasing to assist with the workload.

Trust Accounts remain a major focus of attention and we are looking at costs issues. New regulations are being prepared about disclosure, and discussions are commencing with the Department of Justice about them.

The new Legal Practitioners Disciplinary Tribunal, chaired by barrister Ian Morris is commencing operation.

A further issue of major importance at the national level is the more direct inclusion of lawyers under the Anti Money-Laundering and Counter-Terrorism Financing Act. The Law Council Working Party, chaired by Ross Ray QC, the President Elect, and including staff from small and large law societies (including myself), and the private legal profession, is concerned about the proposed scope of reporting requirements under the "Second Tranche" of provisions currently being developed.

I thank Council for their support during what has been a busy year, particularly Allison Robertson who had the responsibility of being President in what had probably been one of the busier periods for the Society. Members should consider standing for any vacancies that occur on Council, which is a vibrant body. Secretariat members, including past ones such as Zoe Malone, also deserve the thanks of practitioners for their effort put in.

The Law Society offers congratu-



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lations to The Honourable Justice Susan Keifel, Presenter of the 2005 Kriewaldt lectures, on her appointment to the High Court. The Society also notes that the last two presenters of the Kriewaldt lectures are now both High Court judges, which must add luster to the addresses.

President's report cont...

profession over this time have been complex, time consuming and at times controversial. If I recall correctly, I started with anti-terrorism legislation and look like concluding with a national emergency.

Nonetheless I will be a little sad to step down from my position, although I will still be participating in some Law Society committees, as well as continuing as the Society's representative on the Law Council of Australia. I would like to thank the Secretariat for all their support and hard work during my terms, and to also thank all members of Council and of the Society's committees for their input. It has been a pleasure working with you.