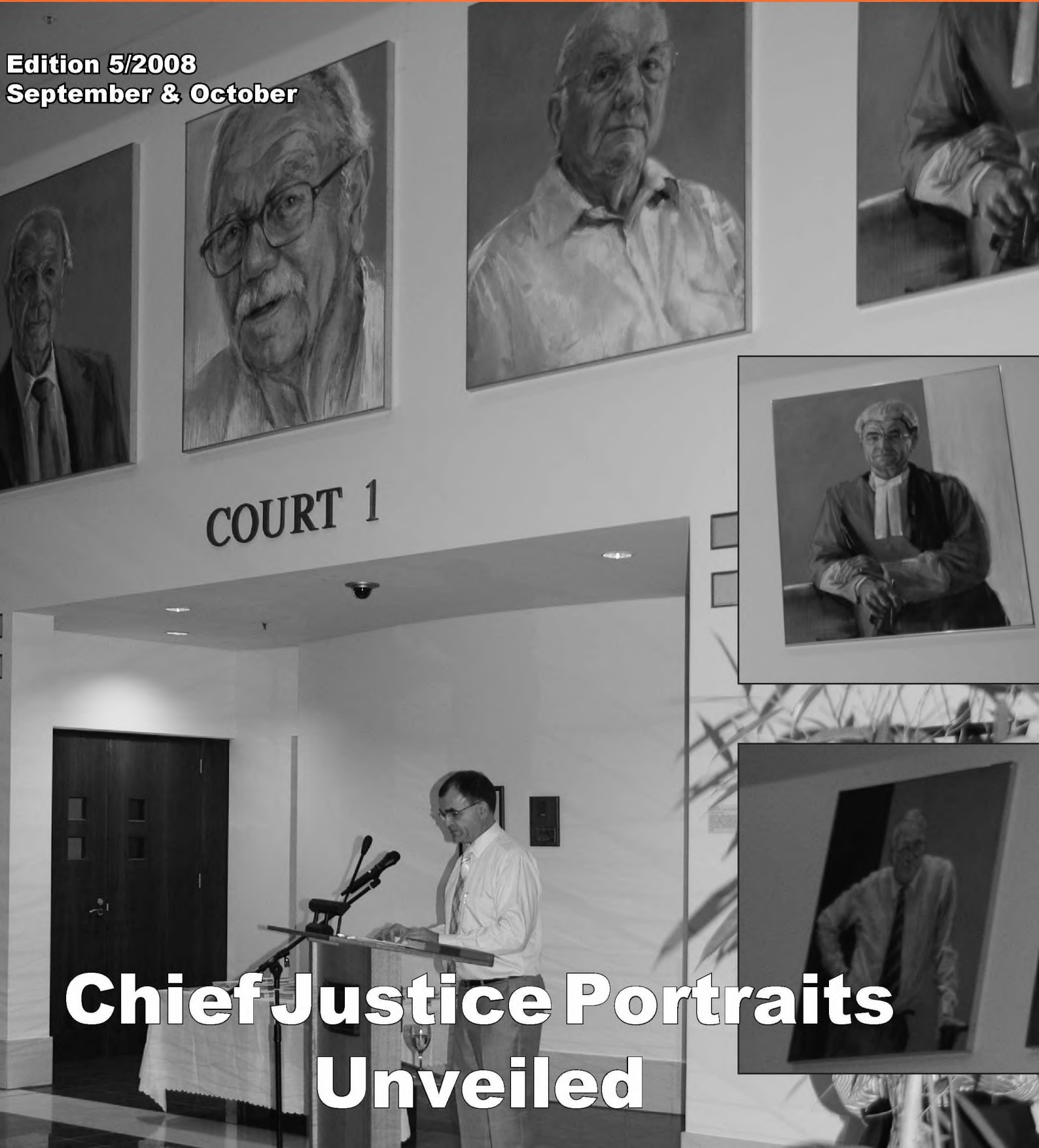


BALANCE

LAW SOCIETY NORTHERN TERRITORY

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COURT 1

**Chief Justice Portraits
Unveiled**

It's good to be back

With not-quite-the-same excitement of the equivalent process in the US, I was recently re-elected (or rather, re-appointed, due to the lack of any competition) to the position of President of the Law Society, for 2008-09. I thought of some catchy phrases to secure my chances of victory like: "Change to the LPA we can believe in" or "Hope for government that won't play the crime card every election" But in the end, I settled for a quiet campaign of not being noticed at all.

It worked. I romped it in.

But I jest. In fact, the Law Society has been working particularly hard, especially since the last election, to get itself heard on law and order issues affecting the community. We made some very valid criticism of both of the main political parties over their approach to crime issues in the election campaign. We have also raised our concerns over specific legislation put forward by the government since the election and, in a number of cases, our concerns have been heard and acted upon.

We remain troubled by amendments to the *Sentencing Act* and to the *Bail Act* in particular. I raised this issue on ABC radio when the Acts went through Parliament. The *Bail Act* amendments will have some difficult consequences for all who work in the criminal justice system, including prosecutors, defence lawyers and the Courts. There is likely to be an upsurge in bail applications, together with appeals to the Supreme Court. There is a very real chance that people will serve the time for offences without being convicted, and that is a very, very worrying development. We will work closely with legal aid organizations in particular to ensure that if any such cases arise they are highlighted in the media both here

and nationally.

The changes to the *Sentencing Act* were vigorously debated in the Parliament. The government has at least seen fit to limit the mandatory sentences of actual imprisonment to those cases where the victim suffers physical harm. However, I thought that the independent member for Nelson, Gerry Wood, best summed up the inadequacy of the response when he said in the debates:

"The problem I have with this is, in the debate, is that it is difficult to really believe this on its own will make a difference."

...

The government should at least be looking at, in this debate, what are its policies in relation to alternative forms of imprisonment? The other side of this, what are they doing to help people who have problems with violence?

During the briefing, I asked what programs are in gaol to help people who have been put in gaol. It is no good putting people in gaol and saying, well, that will teach you a lesson. I mean, that might just cause exactly the opposite reaction to what we want. They might say, "well stuff you mob. Next time I am here, I will make it worth your while". Also, those prisoners might mix with other violent prisoners, which is not exactly the best way for you to change someone's way of life.

It is a bit like, we would just join another gang and they just happen to be in prison, all for the same reason. At the briefing, I asked, "well, is there any sort of program to help violent offenders?" I was basically told that that does not occur unless violent offenders or prisoners are in gaol for more than six months, so I would say there is



Duncan McConnell,
Law Society President

a gap there, because, even under the CLP's amendments, there is a range of imprisonment, depending on the extent of the violence, for three months and for one month. I would have thought that it does not make any sense to throw someone in gaol for one month, this must be their first time ever in gaol.

If we do not have a program as well to see whether we can make sure they do not come back in. I am not saying these violent offenders should not go to gaol, but if you do not balance it with other programs, then I am sure that you would just see these people come back again. I am looking at what the CLP put forward and what the government put forward. I have trouble seeing it just as the way that I believe all people are trying to achieve in parliament, is that we need to reduce the number of violent offences. We need to reduce the amount of violence in our society.

The position articulated by Mr Wood is precisely the issue that the Law Society has been pushing for some time. Mandatory sentencing does not work. Sentencing for any kind of offending needs to be part of a holistic approach to reducing

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It's good to be back...cont. from page 3

crime in the community. We need some evidence that more is being done on the other side of the equation instead of just putting more people in gaol for longer.

On other fronts, the Law Society is experiencing the effects of the global financial crisis indirectly at least, in that investments which it relies upon are suffering. We have weathered the storm better than many but there is no doubt the impact will continue to be felt for some time. There is a real risk of substantial increases to insurance premiums in the coming year.

There are some indications that legal practices internationally and elsewhere in Australia have suffered a dramatic drop in work since the crisis. I have not yet heard any reports of similar patterns in the Northern Territory firms. I

have noticed some advertisements for defensive planning for the times, in terms of financial and human resources management. Whatever approach people decide to take in response to the situation, some thought and planning is likely to reduce the risk and stress of the bumpy ride that inevitably lies ahead.

We have a number of new faces on the Council. I thank those lawyers who have volunteered themselves to serve on the Council and our various committees. There is some hard work ahead and we rely heavily on the time generously given by our members to assist us to respond to important issues. Some issues coming up in the next year include:

- Important commercial law changes including unit titles

and vendor disclosure legislation.

- Wholesale changes to the family law system together with the introduction of the new child welfare laws.
- Continuous ratcheting up of criminal laws and the impact on prisoner numbers, the criminal justice system and rehabilitation.
- Review of rules of civil litigation matters.

The Law Society is primarily established for the benefit of the members, that is, the Territory legal profession. I invite anyone wishing to discuss any issues of legal practice, regulation, the performance of the Society or any other issue for that matter, to get in contact with myself or the Council.