

# BALANCE

LAW SOCIETY NORTHERN TERRITORY

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2009 - The Year Ahead



# Why Oh L Why (OLY)?

Each year, in early February, controversy strikes at the heart of the legal profession. The church ignores the sanctity of its separation from the State – entrenched in our system of law since the Magna Carta - and plonks itself down in Court 1. Politicians, Priests and Judges all congregate and mingle, even talk to each other (!) as they mill around the building before submitting themselves before God.

A God.

Somebody's God.

There are a lot of issues bound up in that single event, and it raises different concerns for different people in the profession. For some, it has descended to an irrelevance, and lately this has been reflected in the poor turnout, especially from the private profession.

I have to admit that before I was a required participant, I had never been to an Opening of the Legal Year (OLY) ceremony. This year was my second attendance, at both Darwin and Alice Springs.

So, is it really worthwhile and something that should be continued, and if so, is the format appropriate? I thought perhaps I could put my two bobs worth in, and see what response is received from the profession. Feel free to contact me by email ([pa2ceo@lawsocnt.asn.au](mailto:pa2ceo@lawsocnt.asn.au)) if you want to express your views.

## Should the service be held in the Court?

Yes, I think it should. By having the service in the Court, any controversy about the denomination conducting it is reduced. While we have taken care to rotate the denomination of the church which conducts the service, we have found that the Court offers a neutral venue and makes a strong symbolic connection between the

service and its subject.

I don't think choosing a court as the venue oversteps the mark of separation of church and state. The ceremony is, after all, largely a symbolic one that acknowledges and upholds the legal system as the cornerstone of a just society. There is no suggestion that the Church seeks to influence the Court in its supervision of the legal system, nor is there any practical opportunity for it to do so through this ceremony.

I don't think that having a religious service in the Court creates a perception that the legal system is influenced by the church in an unacceptable way.

## Should the service always be Christian?

I have not always thought so, and last year I was interested in pursuing the idea of a Buddhist ceremony. But, I think the thing that convinced me that the service should remain a Christian one, is history. The Opening of the Legal Year draws on tradition. It reminds us of the origins of the legal system in our Australian system of government. That happens to be a Christian based system of government received from English origins. Although our constitution



*Duncan McConnell,  
Law Society President*

upholds freedom of religion, it is an incontrovertible truth that our system of law is derived from the Judaeo – Christian model.

The service has always been open to participation from clergy of other religions. In previous years, this has seen the presence of people from the Buddhist faith, Islam, Ba'hai and others attending at our service at the Society's invitation. I would like that to continue and be strengthened in the future.

## Is the service meaningful?

I am not a church going person. For me, it's generally weddings

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*Our Lady of the Sacred Heart Catholic Church led the 2009 Alice Springs Ecumenical Service - Opening of the Legal Year*

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# Why Oh (L) Why?..cont.

and funerals. But when I have attended, I have always been struck by the value of the occasion, of having the opportunity for reflection, upon listening to the words of wisdom provided in the service. It doesn't matter to me where the words come from. There is no doubt, in my view, that whether you believe in God

or not, the Bible contains much good advice. Just ask Bob Dylan.

The services I have attended at the Opening of the Legal Year have provided an opportunity to reflect on the role of the legal profession as part of the broader community. They draw upon stories from the Bible to illustrate the importance of values like honesty, integrity,

professionalism, fighting against injustice and upholding the law.

The words of the services have prompted me to consider my own objectives, priorities and direction, and to focus on the year ahead.

I think, once in a while, it doesn't hurt to think about the bigger picture. The Opening of the Legal Year is a good Once in a While.

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## FOR THE RECORD

### Court facilities of concern into the future

Whilst the practitioners in the Northern Territory are, numerically speaking, few, they practice in a wide area. The NT profession works in what are probably some of the most remote Bush Courts in Australia, as well as the imposing NT Supreme Court.

How the Territory Court facilities are to operate in the future is one of the current issues of most concern to the Law Society, and many of its members. It is also a matter of major concern to the Judiciary, Attorney-General and NT Department of Justice.

This concern about Court facilities is panning out in a worsening economic climate brought about by the Global Financial Crisis. Whilst Government revenues are shrinking, they are at the same time managing stimulus packages aimed at 'kick starting' or at least maintaining economic activity. This is in a climate of high arrest rates.

When I first went to Alice Springs in the early 1980s as a tourist, the "new" Alice Springs Law Courts were pointed out to me as "state of the art," and in those early days it even included a Births, Deaths and Marriages office and a "Marriage Room," though I am not sure how many of the good citizens of Alice were married there.

If you go to the Alice Law Courts

today, the impression is of hard working judges, magistrates, lawyers, police court staff, defendants, witnesses and clients coping with sometimes complex matters, in an atmosphere of inadequate premises, and some would even say, organised confusion. There is not enough space, limited privacy and the court rooms are often not big enough even for the number of defendants in cases being presented.

After the recent Opening of the Legal Year service at the Courts, Angel J pointed out the some of the practical deficiencies of Court One.

Law Society President, Duncan McConnel, and I have discussed the issue with both the Department of Justice and the Attorney-General, and they are aware of the issues and looking at ways of extending the Court (possibly a more practical option than building a new Court building). They are aware of the importance of consulting the local profession in any plans. They are also aware of the stimulus that work on the Courts would give to the Alice business community (and also of practical problems that would need to be managed if work was to be carried out whilst the courts were in session).

Darwin has had a variety of Courts, and when I arrived in Darwin there was the old Supreme Court Building (which also dealt with



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Family Court and Federal Court matters) which had been the scene of some notable parties (including one on the night before Cyclone Tracy) and which was to feature in the Chamberlain trial (with the façade even included in the Meryl Streep movie adaptation). There was also the old Magistrates Court in Mitchell Street, replaced by Nichols Place in 1986.

Nichols Place could now benefit from some renovation (and possibly relocation of the Registrar-General's offices) - though noting the courtyard was where Robert (Bradshaw) and I were married, a major case of getting married at work as we were both working in the precinct at the time.