

# BALANCE

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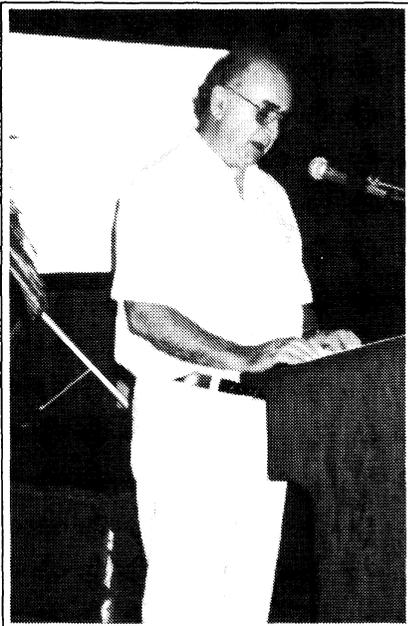
## Hard Work in Pleasant Surroundings - CLANT Conference, Bali 1997

The 6th Biennial Conference of the Criminal Lawyers Association of the Northern Territory was held in Bali in late June 1997. It was a wonderful success.

Sixty-five delegates – with, in some cases, members of families and friends – assembled at the Bali Hyatt Hotel at Sanur Beach. Of these, thirty were from the NT. The group included the Chief Justice and Justices Kearney and Mildren, Mr Warren Donald SM, the Solicitor-General, the Director of NTLAC, the Director of Public Prosecutions and representatives (using that term loosely) of the Attorney-General's Department, the public and police prosecutions offices, the legal aid organisations and the private profession. Included in the Territory numbers was Austin Ashe, former Chief Justice and Administrator, who is a great supporter of this conference.

There were a goodly number of delegates from Western Australia, Victoria, South Australia and New South Wales. They, in fact, outnumbered the Territorians.

Accordingly, not only was there an opportunity for there to be substantial interaction and exchange of views between the differing faces of the Territory profession (bench, magistracy, police, prosecution and defence all well represented), but also to have the cross-fertilisation, networking opportunities and exchange of views with practitioners from all around Australia.



Key note speaker, John Nader QC

The theme of the conference was *From parliament to prison: lawyers, who needs them?*

It would be idle to suggest that the introduction of mandatory sentencing in respect of property offences in the Territory did not have something to do with the choice of the title. Nevertheless, the conference did not concentrate on ideological or philosophic opinions. It did seek to deal with some of the practical issues arising from the mandatory sentencing legislation, although, ultimately only a small portion of the conference time was spent on these matters. The list of papers which are annexed to this report will demonstrate the breadth of topics covered.

The keynote address was delivered by John Nader QC, (another former NT judge – the total of NT judges, present and past, was therefore five), under the title of *Justice*. The thesis of his address was if

Australians are able to claim credibility as being a civilised people, then we must commit ourselves to the pursuit of justice and be willing to pay the cost to be and remain a just society. In a moving speech, he argued that the need and right to justice springs from a common humanity transcending race, ethnicity or religion. He concluded, in terms of the theme of the conference, that the community continues to need law-



The conference gets underway in its beautiful surroundings

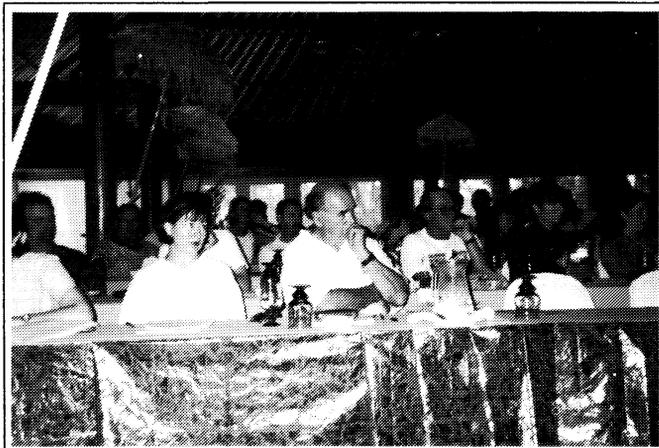
yers. They must be well-trained, skilful and well-motivated. They must be articulate enough to educate governments, and the people, of the need for justice in our society.

A further twelve papers followed, all of which were well-prepared, thought-provoking and extremely informative. They were all, in turn, the subject of lively debate in the *time-on* (question) period. This was particularly obvious during the session addressed by Alice Springs prosecutors John Birch and Michael Fox. Spirited discussion followed prosecution suggestions of possible changes to rules regarding the right to silence.

Each of the Supreme Court judges presented a paper. Each was well-received. That delivered by Justice Mildren rather playfully demonstrated the difficulties which might confront the criminal lawyer in the next century. The conference was fortunate to receive strong contributions from Michael Abbott QC (SA) on *Ridgeway's* case and Len Roberts-Smith QC (WA) on *DNA Profiling*. Professor Widnyana from the University of Udayana delivered a very interesting paper on the *Role of (Indonesian) Traditional Institutions in Conflict Resolution*. The conference also heard from Jenny Blokland, Dean of Law at the NTU. What a list!

Following the success of the performance of the 1678 trial on 1995, this

black beard and looking every bit like the original. Tom Pauling QC played Kelly's incompetent counsel, instructed by Kevin Borick of South Australia. John Nader prosecuted, with the help of Elizabeth Morris, and supporting roles were played by a number of others. In fact sixteen delegates participated with every state represented. Austin Asche (who else?) presided as Sir Redmond Barry and duly pronounced the death penalty.



An attentive audience

The issue highlighted by the play, drawn from the theme question *lawyers – who needs them?*, was whether an accused's right to counsel means that this is a right to *competent* counsel.

The performance was voted a success. Already, thought is being given to the 1999 choice, the early suggestion being *Tuckiar's* case.

Let the reader think that it was all work, it should be said that there was

ample opportunity to meet and talk! Over breakfast, over lunch, at dinner and into the night the delegates did both. Friendships were made or renewed and professional information exchanged. It is a conference not to be missed by any serious practitioner of the criminal law in the Northern Territory. It is, in your reporter's humble opinion, far more useful to Territory practitioners than the bigger, grander conferences. The topics generally are more in keeping with Territory interests, but in addition we obtain access to a wider range of professional views. Of course, the opportunity for prosecutors to meet with defenders in less formal circumstances, and both of these groups with the bench and magistracy, is invaluable.

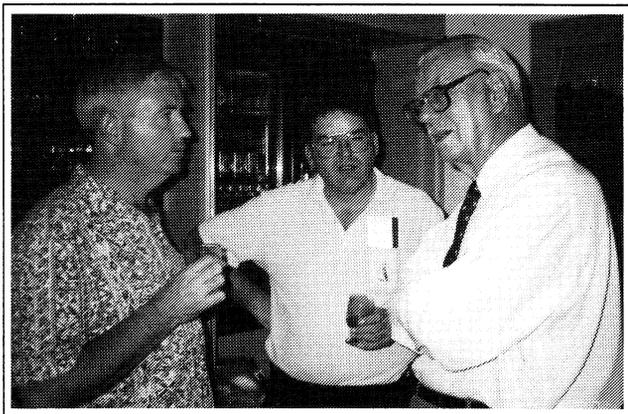
The Committee of the Criminal Lawyers' Association (and its Bali sub-committee) is to be congratulated on arranging such an excellent conference. Sympathy must be extended to President Jon Tippett who was unable to enjoy the fruits of his leadership of the organisational team, being unable to attend the conference because of his long-running drug trial. In his absence, Vice-President Elizabeth Morris was a more than adequate alternative leader. The organisers were well-served by the conference consultant, Lyn Wild, to whom thanks have been extended elsewhere.

To sum up the conference, as one delegate was heard to say, "it was hard work in pleasant surroundings". Those who were there were determined to be there next time. Those who were not, should be.

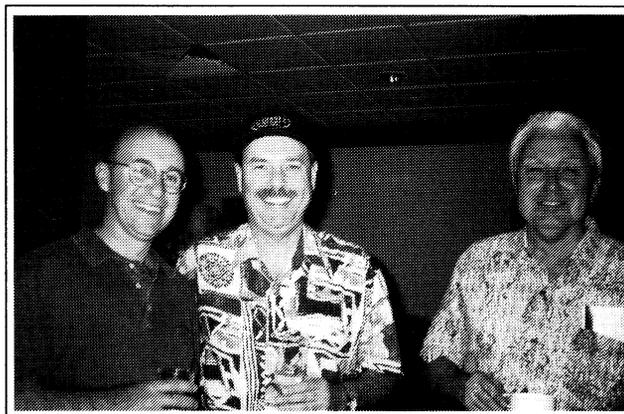


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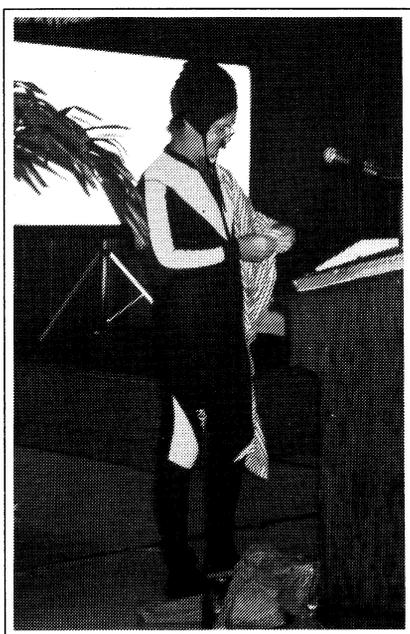
For further information contact the Law Society



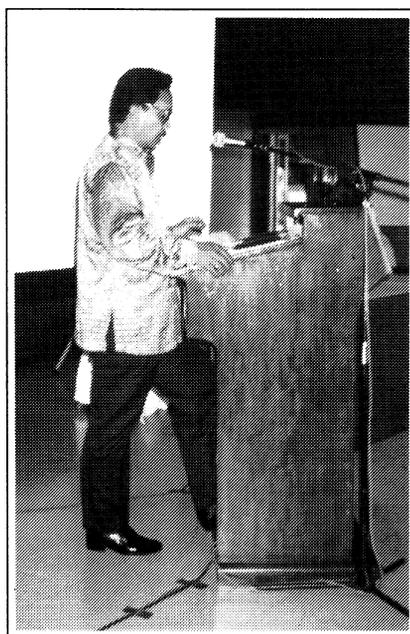
Austin Asche shares his thoughts with DPP practitioners



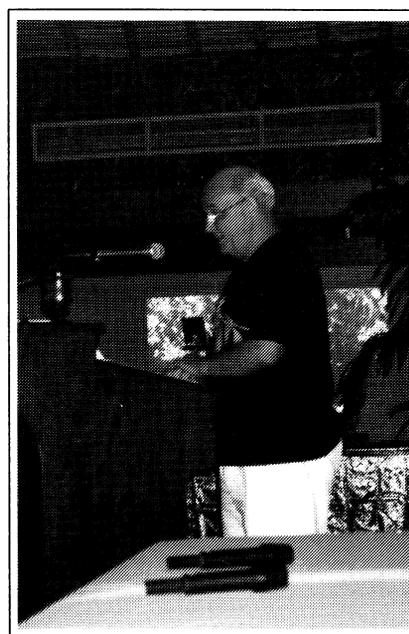
John Birch, Jack Karczewski and Justice Sir William Kearney enjoy a well-earned break



Justice Mildren intriguingly attired for the presentation of his paper



Professor Widnyana delivers his paper



Chief Justice Martin addresses the conference

## Papers Presented at the 6th Biennial CLANT Conference – BALI June 1997

- *Justice:* John Nader QC
- *Criminal Law and Lawyers in the 21st Century:* Justice Dean Mildren
- *DNA Profiling:* Len Roberts-Smith QC
- *Lawyers – A Policeman's/Lawyer's/Magistrate's Perspective:* Warren Donald SM
- *The Relevance of Prior Convictions in Sentencing:* Justice Sir William Kearney
- *Changes to the Burden of Proof, Presumptions and the Need for Deeming Provisions - can lawyers assist?:* John Birch and Michael Fox
- *The Benefit of Counsel (The Trial of Ned Kelly):* Rex Wild QC
- *Fish'n' Chips: an overview of recent developments in the law and judicial approach to prosecution of foreign nationals fishing in the Australian fishing zone:* Theresa van Gessel
- *Beyond Ridgway – Judicial Responses to Ridgway and other aspects of illegality:* Michael Abbott QC
- *The New Territory Sentencing Regime – international and national issues:* Jenny Blokland and Suzan Cox
- *Malboro Sentencing: an advertising agency's approach to legislation (it may not be good for you but it sells):* Charlie Rozencwajg
- *The Theology of Popcorn (Reconciliation, Aboriginal Customary Law and the New State Constitution:* Chief Justice Brian Martin
- *The Role of the Criminal Law Conference (a moderated open forum):* Andrew Hodge
- *The Role of the Traditional Institutions in Conflict Resolution:* Professor I Made Widnyana