

# President's Column

## Congratulations

Welcome and congratulations to both re-elected and new members of the Council of the Law Society. The new members of Council are Merran Short, Kevin Stephens and Alastair Shields. I think members can be confident that they have elected a good Council who are well suited to the hard work in the year ahead. It is particularly good to see that more practitioners who have commercial practises are showing an interest in being on the Council of the Law Society.

## Law Council Resolution

On Saturday 19 September 1998 the Law Council of Australia resolved to provide the following assistance to the Law Society of the Northern Territory upon the introduction of legislation in the Northern Territory implementing the National Travelling Practising Certificate.

- Caption fees be reduced by 50% for the first three years following the enactment of the relevant legislation with a 25% reduction in the fourth and fifth years.
- The costs of attendance by the Executive Officer at all four meetings of the Council each year be met by the Law Council upon the introduction of the Travelling Practising Certificate regime.

The support is in addition to the assistance which the Law Council of Australia already provides to the Law Society of the Northern Territory, namely, meeting the costs of attendance by the Law Society's representative at all four meetings of the Council each year.

The resolutions represent the culmination of extensive negotiation between the Law Society and the Law Council of Australia.

Consistent with the resolution the Legal Structure Committee of the Law Society will be meeting to consider the reports which have been prepared by Sue Oliver and to formulate recommendations as to the form of the legislation which should be adopted to introduce the Travelling Practising Certificate regime and the Model Conduct Rules in the Northern Territory. These recommendations will then be circulated amongst the profession for further comment.

It is hoped that by November 1998 the Law Society will be in a position to make recommendations to Government about such legislation and the Model Conduct Rules with the aim of having the necessary legisla-

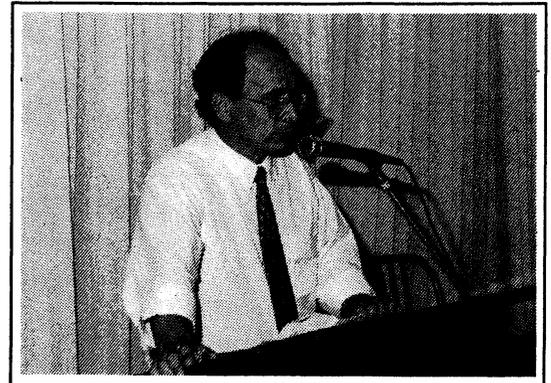
tion enacted either by the end of 1998 or early in 1999.

It is accepted more time may be needed to consider such matters as deregulating practice structures and limiting liability for lawyers.

## Advocacy in the Local Court

With the increasing jurisdiction of the Local Court and the Court of Summary Jurisdiction and with by far the majority of both civil and criminal cases being conducted in those courts it is important that the standards of advocacy of all practitioners be maintained in those jurisdictions. To do so it is important that junior practitioners and others remember the following fundamentals:

- 1 be prepared - know your case and your argument;
- 2 whether it be an interlocutory application or an application seeking final relief practitioners should have considered and should know the precise relief or remedy which is being sought (or opposed) and they should be in a position to state the relief or remedy which is claimed clearly and concisely;
- 3 the legal principles or legal basis for any relief (or for any opposition to any relief) should have been considered and should be known prior to attending court;
- 4 if the basis of any relief is a section of a statute the section of the statute should have been considered and the statute and copies of the relevant section should be taken to court so that the court can be taken to the relevant sections;
- 5 if the basis of any relief is a rule or rules of the court the relevant rules should have been considered, the rules should be taken to court and the court should be taken to the relevant rules;
- 6 the basis of the court's jurisdiction should have been considered and the practitioner should be in a position to establish jurisdiction and to articulate the basis of the courts jurisdiction;
- 7 as the court is a court of statute the powers of the court which enable the relief claimed to be granted should be known and the practitioner should be in a position to
- 8 written or typed outlines of argument should have been prepared prior to attending at court and even if they are not to be handed up this should assist in ensuring that all submissions are fully and concisely put;
- 9 if affidavit evidence is to be relied upon the necessary affidavits should have been prepared and the facts which are established by the affidavits should be clearly stated in chronological order to the court and the precise paragraphs which establish each fact should be noted;
- 10 a written chronology may be of assistance;
- 11 if oral evidence is to be led the necessary proofs of evidence should have been obtained from each witness that is to be called;
- 12 it is important to have formulated any submissions which are to be put to the court prior to attending at court;
- 13 if the application is one which goes to the court's discretion the factors necessary for the court to exercise its discretion should be carefully considered, should be established by affidavit and should be clearly and concisely put to the court.



*Steve Southwood, President*

refer the court to the relevant section of the statute which bestows the relevant powers on the court;

*Small matters can be as complex and may require as much preparation as larger matters.*