

Where the wild things were..

It was called the Gala dinner but we got it wrong. It wasn't a dinner it was a party. The band played the best rock and roll that many of us had heard in a long time. The crowd danced in the sand like Annette Funicello and Fankie Avalon. Behind the band a giant dingo stood on a rock looking into the next century and the weeks events, two years in the making, came together in celebration. People had been asked to bring their own wine from home and the miracle of the five loaves and three fishes kept the rumpus oiled until the wee hours. The hotel had decked out the pool side area in a jungle theme. Very Tarzan and Jane, and it wasn't long before the throng was twinging in the trees.

The previous Monday morning saw the conference get down to business. It was a packed house. The conference room proved to be a perfect venue. Tom Pauling QC read the Attorney General's opening address that welcomed dialogue between the profession and government. It portended an attitudinal change from years gone by. It was pleasing that the government was prepared to recognise the importance of the event but unfortunate that the Attorney was not in a position to personally participate in it. Politics in the form of by-election commitments kept him at home.

Justice Michael Kirby was the keynote speaker. He moved away from his written paper and gave us an address that few present will forget. It took the conference into the national arena bigtime. He spoke about the internationalisation of crime and the importance of international treaties. His theme was that in the next century the international covenants are coming to a court room near

you and you'd better get comfortable with the idea. He told us about the inner sanctum of the High Court and how special leave applications and judgments of the court

are arranged and dealt with. He gave us an insight into the operation of the court that practitioners in that jurisdiction had always suspected took place but which had never been confirmed by a sitting High Court Justice. At morning tea there was a buzz of excitement. Lawyers spoke of how great it felt to be a lawyer and of the breadth of vision they had been privy to. Tony Fitzgerald (mediator) remarked "Gee it made me feel like I want to be a lawyer again". High praise indeed. It was a privilege to hear from Justice Kirby who by his own account enjoyed the conference enormously.

Justice Kirby was followed by a very strong address from our own Chief Justice. He spoke of justice for the courts. He called for resources to be provided so that the Court was in a position to deal with unfair and outrageous statements regarding the judiciary. Only with such resources, he contended would the judiciary be provided with a measure of justice. His Honours comments received wide press coverage and set the tone for what was to become a very activist conference. I understand that the Attorney-General now has the provision of such resources under close consideration. David Grace QC, the Chairman of the Criminal Law Section of the Law Insti-



Jon Tippett, President of the Criminal Lawyers Association befriending the dingo, Bali 1999.

tute of Victoria, then gave a thoroughly researched paper that canvassed the shifts in emphasis of the High Court over the last ten years in the criminal jurisdiction.

Every practising criminal lawyer should take the time to read the paper as it will prove to be a very useful guide to the preparation of submissions in the Court of Criminal Appeal. In the afternoon we heard from our second keynote speaker Sir Anthony Mason. He spoke about "Current Issues in Criminal Law". In relation to mandatory sentencing, he made the statement "Draconian legislation of this kind strengthens my view that it is time that we joined the other nations of the Western world in adopting a Bill of Rights". Powerful words coming as they did from such an eminent jurist of national and international stature. It was a great honour to have Sir Anthony Mason attend the conference and a privilege to hear him speak. I understand he had a ball and considered the content of the conference fascinating and challenging.

The Western Australian Office of the Director of Public Prosecutions was represented by Stephen Pallaris who took us through the bizarre twists and turns of the expert evidence of the Mickelberg saga. The first day ended with a refreshingly frank and humorous address by Magistrate Alasdair McGregor. He took mused on the Magistracy and described his ap-

proach to the dispensation of justice in a difficult and multi-layered jurisdiction. He made some brave statements and conveyed his warm understanding of people, each of which was soundly appreciated. The people of Katherine and the surrounding communities are well served by having such a judicial officer.

The second day began with a fantastic presentation of "Tuckiar's Trial" by Rex Wild QC in collaboration with Justice Dean Mildren. The play involved twenty six players and covered events in the Darwin Supreme Court and later the High Court. Later a panel discussion developed regarding the adequacy and availability of interpreters to Aboriginal people appearing before our courts. It became clear that without an Aboriginal interpreter service defence and prosecution counsel and the courts would continue to face ever increasing difficulties in the light of recent High Court decisions in the area. The Tuckiar trial demonstrated how little advancement had been made over 65 years in a number of the important areas of the administration of justice. Incidentally, Tom Berkley received the Director's prize for a stylish and well balanced performance as Mounted Constable Victor Charles Hall. The conference, for the first time since its inception, decided that a resolution needed to be passed in relation to this important matter. The resolution was that the Northern Territory Government establish an Aboriginal interpreter service without delay.

The afternoon of the second day saw the first paper to be given to the conference on the increasingly important subject of the litigant in person. "Don't give me any

L.I.P.” was the title of the paper delivered by Justice Mildren. It was extensively researched and dealt with such hoary issues such as whether Legal Aid agencies have the right to refuse legal aid where an indigent litigant has to appear for him or herself. At each past conference Justice Mildren has delved into fresh and challenging subject matter and his paper on L.I.P.’s was another such excursion.

“Litigants in Person” was followed by three papers tackling the problem of illegal drugs in our community and the manner in which the criminal justice system is coping with what has now become a crisis situation. Great presentations were given by Stephen Odgers, Rob Melasecca and Tony Parsons. The session resulted in the conference issuing a communique that observed that while the war on drugs had failed it was imperative to win the peace and called upon governments to institute new initiatives in the area of harm minimisation to deal with the problem.

On Wednesday a lucky few set off on Tom’s Terrific Tour conducted by Tom Pauling QC. The people who went on the trip, which had been booked out a couple of days beforehand, described it as fantastic. One party said that he regarded himself as privileged to have been able to go. It was an outstanding success. The Association thanks and congratulates Tom Pauling and the people of Putu’s village for providing delegates with a wonderful experience. Tom and Putu Stretton put a lot of work into it. The people who went saw some things few visitors to Bali are able to see.

Thursday began at 8.30am with a session on practical advocacy chaired by David Grace QC of the Australian Advocacy Institute. For an early start it was extremely well attended. Hangovers were put to one side as delegates honed their skills in the art of cross-examination. That was followed by an address by Geoffrey Flatman QC, Victorian DPP, on pretrial discovery and practice as described in new Victorian legislation. In response Richard Coates and Jenny Blockland dealt with “Seriously Sexy Criminal Trial Practice”. They argued that pretrial processes must be rethought and advocated the introduction of the “Best Practice Model” developed by the Directors of Public Prosecutions and the Directors of Legal Aid Commissions. The subject matter resulted in some heated discussion before the session had to be prematurely ended because of time con-

straints. If not for time, the rest of the day could have been comfortably occupied with the topics raised by those speakers. That presentation was followed by a very moving paper given by Elizabeth Morris and Tony Fitzgerald on restorative justice. A video was shown of victims and offenders meeting for the first time in the context of a young man having been shot dead during a bungled armed robbery. During parts of the program there was was not a dry eye in the house. The Chief Magistrate then gave us an insight into his feelings as a magistrate having spent 30 years in practice with the firm Ward Keller. His account was particularly personal and gratefully received.

The afternoon brought some wonderful papers on sentencing from Magistrate John Lowndes and on mandatory sentencing from Jonathon Hunyor and Russell Goldflam. Each was again extremely well researched and covered its respective area

a lot of personal spade work to get him to Bali. It was a wonderful session to finish the delivery of papers. It has also lead to a move being made by the Association to arrange for a group of Indonesian lawyers to visit Darwin later this year or early next.

The last day of the conference involved a tour of the Denpasar Court complex led by Jack Karczewski. The party was met by judges of that court in their judicial robes and taken on an inspection of the courts and the cells. Morning tea was taken and the party was addressed by the Chief Judge. One of the remarkable pieces of information that emanated from that event was that 90% of the defendants in the Denpasar courts plead not guilty. I do not think, however, that is the outcome of many cases that are heard there.

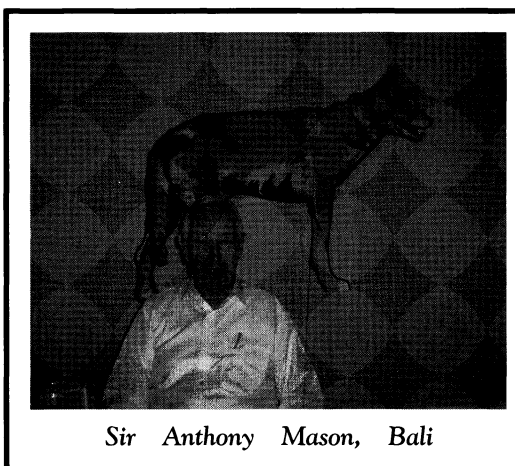
The committee members of the Criminal Lawyers Association worked like drovers dogs to make the conference an outstanding success. All hail to them. A great event developed through Territory initiative. Congratulations must also go to Lyn Wild who again left nothing to chance and was a good part of the reason why all went so well. She is indispensable as a conference organiser.

Thanks to the Law Society the conference was covered in most of the major Australian newspapers and in several radio interviews broadcast around the country. We did manage to get some press in the NT News but that paper did not appear to be as enthusiastic in its coverage as the Sydney Morning Herald. Odd that, don’t you think?

Finally, it remains to be acknowledged that the people who presented papers truly excelled in providing participants with a program full of high intellectual content and great ideas that over time we will see become part of the way criminal law is practised in the Northern Territory. Thank you all for your very hard work.

There were 106 delegates at the conference (40 more than 1997) and some 70 accompanying persons. Each session was very well attended which is remarkable as the days were long and 5.30 to 6.00pm was the usual concluding time. It was a pleasure to have the Victorians work in association with us this time round. It was a good partnership.

Well that’s it for Bali 1999. In the year 2001 we will have a lot to live up to, but live up to it we will.



Sir Anthony Mason, Bali

comprehensively. If any of you are to do sentencing work, a look at John Lowndes paper is essential. The paper on mandatory sentencing is a solid statement in the history of mandatory sentencing in the Northern Territory.

The last paper of the day was a privilege to receive. It was given by Artidjo Alkostar an Indonesian civil rights lawyer who, amongst other people, represented Francisco Miranda Branco in East Timor. Not many of us have had to put up with the privations and importunities that this man had to endure in order to represent his client. Artidjo gave his address in his sixth language, English. It was filled with gentle humour and a modesty not often found in the criminal justice system. Our gratitude for arranging his attendance at the conference goes to David Dalrymple who put in