

PRESIDENT'S REPORT

The Council of the Law Society has had another outstanding year. The practising year 1999/2000 has seen participation in the activities of the Society at their highest recorded levels. The Council has achieved an extraordinary amount both in determining the future direction of the legal profession in the Northern Territory and in establishing a national profile for the profession. The latter has resulted in significant recognition from our national body, the Law Council of Australia, and has established the Northern Territory profession as a leader within the Australian legal community.

In relation to domestic issues the Law Society has had to face some difficult decisions that were considered in some quarters to be controversial. However, consistent with its commitment to promote and maintain a strong and independent legal profession, the Council has continued to deal with such decisions vigorously.

The Council of the Society set itself an energetic agenda in the past legal year. It has determined that a number of systemic and structural problems that have hitherto beset the ability of the profession to administer itself efficiently need to be addressed. What has commenced will take some time and much consultation to complete. Issues such as the complaints procedure is one of the most important structural problems the Council has isolated for radical review. The system change of the introduction of the Travelling Practising Certificate is now almost complete with implementation to be finalised within the next month.

The last twelve months have seen the Law Society continue to develop as an activist organisation that is intent upon improving the image of lawyers in the community and becoming a service provider to the Northern Territory legal profession.

There is no doubt that the national profile of the Northern Territory profession has also been considerably enhanced over the last year. That has

been the result of a combination of factors which include: a close working relationship with the Law Council of Australia; the pivotal role undertaken by the Law Society in the national debate on mandatory sentencing; the approach taken by the Northern Territory profession to the introduction of the National Practising Certificate scheme; and the preparedness of the Society to participate in national issues involving human rights and the structure and accountability of the legal profession.

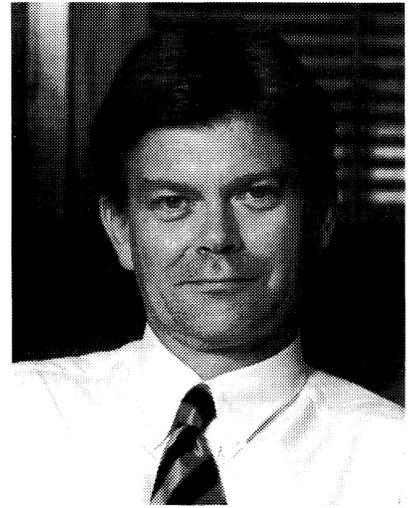
The importance of such a national profile is that it gives the legal community of the Northern Territory a voice heard in national legal affairs that belies the number of practitioners in our profession by comparison to other more populous jurisdictions. It has also retained the status of the profession amongst practitioners and the community in other parts of the country in an environment where aspects of our legal system have given rise to universal criticism from a large number of legal bodies and highly regarded individuals.

During the past year one of the major efforts of the Society has been to defend the legal profession against criticism resulting from the politicisation of sentencing regimes and put the view firmly and persuasively that the matter of sentencing must be left in the hands of the judiciary.

The national profile has also given the Northern Territory profession a real prospect of having an NT practitioner elected for the first time to the Executive of the Law Council of Australia.

On the domestic front, the Law Society has considered a range of legislative, structural and financial matters which have direct implications for the Territory profession, including amendments to the Legal Practitioners Act, administration of the Fidelity Fund, professional indemnity insurance and the legal practitioners complaints process.

The amendments to the Legal Practitioners Act that bring the



Jon Tippett, President

Northern Territory profession within the National Travelling Practising Certificate scheme were passed on 15 June. A number of additional amendments remain outstanding and are the subject of discussion by members of the Legal Structure Committee and the Government. The Professional Conduct Rules have not yet been promulgated as regulations. The Society expects and intends those rules to incorporate the NTBA Rules once that Association has adopted them. As it is presently understood by the Council, the Bar Association simply intends to adopt the Australian Bar Association model conduct rules. The society looks forward to the approved Conduct Rules of each organisation finding their way into regulation so that the national scheme is functioning smoothly.

In the past year the Society has taken a number of steps towards taking over the administration of the Fidelity Fund. Those steps have included, seeking expert financial advice from a consultant as to the appropriate operation and investment criteria of the fund, an estimate of the likely administrative costs and the ability of the Society to recover those costs from the fund, and discussions with the committee that presently administers the fund regarding investments and returns. In the following year the Council anticipates to bring those matters to fruition and to take over the administration of the fund.

The rates for professional indemnity insurance have unfortunately had to

Continued over

rise. That did not occur without the Society engaging in prodigious efforts to avoid what became the unavoidable. Although the rise may appear be substantial, if it were not for the efforts of the Law Society and our broker things might have been much worse. A poor claims history, a small insurance pool, a substantial increase in Northern Territory government stamp duty (which has risen to 10% of the premium pool) and the imposition of the GST has led to the increase. It is of importance to note however that minimum cover has been increased to \$750,000. The rise of the base premium to \$2840 in fact returns the cost of insurance to 1994 levels when to take out insurance at the same level would have cost \$2770. In the ACT the per partner premium is \$6800 while we are currently paying \$3480. It should not be forgotten that 49% of the Northern Territory profession are sole practitioners and an increase in that premium would create severe difficulties for many practitioners in that group. The burden is shared across the whole profession.

In many ways the profession has itself to blame. A bad claims history is not the fault of the insurers.

In the coming year the Society intends to re-evaluate the present professional indemnity insurance position by looking at the possibility of introducing claim minimisation strategies, putting out tenders for a new broker and explore the possibilities of joining with other law societies in order to maximise the pool. In the end the solution to increased insurance premiums is in decreased claims arising, usually, out of improved risk management.

It has become patently clear to Council that the legal practitioners complaints process needs to be radically overhauled. To that end the Council sought discussion papers upon the subject and a special working group has been established. The Complaints Reform Committee met on Saturday 9 September for a full day to determine future strategies. The Committee includes a representative of the Bar Association and Margaret Bonesmo who has had extensive experience in South Australia setting up the complaints process for the legal profession in that state. The Territory is fortunate to have South Australian Barrister Rick Halliday offer his services

pro bono to achieve reform in the Territory. A special thanks to Rick for his generous offer.

It is also clear that too many practitioners are using the complaints process to sort out generally trivial differences between themselves. The result is usually costly to the Society and generally inconvenient given the type and quality of the complaints that have hitherto been received over the past year. If practitioners wish to revert to the complaints system to air a grievance about their fellow practitioners in future the luxury of doing so may well have to come at an initial cost to the complainant. That is one of the matters that will no doubt fall for consideration by the Complaints Reform Committee.

Another committee which has been particularly active over the past year is the Access to Justice Committee. A number of recommendations including case management techniques made by that Committee are set for implementation. Others remain the subject of continued discussion between the committee and the Chief Justice or his representatives. The Committee has kept the Bar Association informed of its progress and received its support. The Law Society is endeavouring where possible to arrive at a joint approach between the Bar Association and the Society in order to avoid unnecessary double handling and the consequent loss of time.

Substantial recent progress has been made in drafting practice directions, preparing an explanatory brochure and changing conduct rules.

The efforts of the Committee should result in a cultural change to the administration of litigation leading to front end loading and the resultant advantage of litigants being in an early position to determine the quality and likely success of the case and greater speed of the litigation through the Court to resolution.

The Society has adopted the committee's views that the changes it seeks will ultimately advantage the client and address some valid criticisms of the existing system. The commitment to access to justice is an

important adjunct to maintaining high professional standards and community faith in the legal system.

A matter that has occupied much discussion as a necessary component to the Society's ability to assist members of the public and practitioners alike is the availability of a Law Society approved client cost agreement. Such an agreement has now been drafted and approved by the Council. A separate agreement is in the process of being drafted that is suitable for Family Law and crime matters.

Cost complaints and misunderstandings about the obligations of members in performing legal work comprise too many complaints to the Law Society. It is hoped standard agreements will educate both practitioners and clients on their obligations and save practitioners time in unnecessary disputes. In addition few practitioners have the time or resources to draft such agreements. The agreement is part of a series of brochures being developed by the Society to assist legal practitioners in their work.

The activities of the Law Society have increased significantly over the past year and have been so increasing in the years before. While the activities have expanded the resources of the Secretariat have remained static. The upshot of that is that we are now asking the same number of people to do more. It should be clearly evident to the profession that they have responded by giving of themselves more. That situation cannot be expected to go on exponentially. The quality of the work of the Secretariat is constantly on display. Greater efficiency in the area of complaints as well as *Balance* and the success of the legal events and social events held by the society, Law Week, Opening of the Legal Year and many others has been heavily dependant upon the input of the Secretariat.

The Council has worked well during the past year. The regular monthly meetings have been attended with humour and goodwill. It has been edifying to observe the commitment of busy practitioners, who are often subject to heavy responsibilities at home and in the office, to the administration of their profession.

President's Report Continued from page 3

The level of participation by the Northern Territory legal profession, from the level of single practitioners to that of the large firms, in the issues and debates facing the Society has never been greater. That is directly a function of the operation of Council.

I think it can be said without demur that the Law Society has embraced the challenge of getting the views of the profession into the wider community. It has been prepared to shed the cobwebs of elitism and look to both professional and social issues as having an equal relevance to the practice of law. The Council has demonstrated a desire to see the operation of the Society engage in a broad range of matters, some of which like the issue of mandatory sentencing are by nature controversial. I have been proud to be a member of a Council that over the last year could never be described as being a shirker.

My thanks to all members of Council for their support and dedication.

THE FUTURE

Much needs to be done. Some of the important matters that need to be addressed over the coming year include:

1. Restructure of the Council by nominating members to appointed areas of responsibility.
2. The development of new income streams to replace lost revenue as a result of the introduction of the travelling practising certificate.
3. Continued review of the Complaints process with a view to a complete overhaul.
4. The continued improvement of relations between the Society and Government.
5. Review of the Legal Practitioners Act in light of the development of the

national legal competition policy.

6. The need to overhaul aspects of the Law Society constitution.
7. The continued pursuit of more appropriate systems to ensure greater efficiency in relation to the access to justice.
8. The need to develop a long term strategy for the finding of new premises for the Society. That effort to be directed at securing a freehold interest and the use of such a premises as part of an additional income stream for the Society.

Thank you to members for their support to date. I look forward to serving you for another year as President of the Law Society and as always will find your feedback on Law Society activities valuable.

FERAE NATURAE

The Law Society's Public Purposes Trust is 12 years old, but too little is known of the vital role it plays in community understanding of the law and legal institutions.

This will change in the coming year.

The Public Purposes Trust is made up of a pool of money generated by interest on solicitor's trust funds and is administered by the Public Purposes Trust Allocations Committee. Under the Trust Deed ratified by the Law Society Public Purposes Act 1988 the Law Society is the trustee of the fund.

Its current membership is the Attorney-

General's representative Mr David Anderson and two Law Society nominees, Mr Guy Riley and Ms Elizabeth Morris. This group meets annually, and sometimes again in January, to consider applications for assistance in the production of materials or the holding of events that promote community understanding of the law. Applications for grants are advertised in Darwin and Alice Springs and come from a wide range of community and legal groups. Projects supported by the Committee must be approved by the Attorney General.

Over recent times, this has included multi-lingual documents explaining legal rights, the Law Handbook, publications directed to women and the law, the Criminal Lawyers' Association's play Tuckiar and of course our successful Law Week program.

Throughout much of this, the Public Purposes Trust has been largely invisible. However, with the adoption this month of a new logo, it is hoped the Trust begin to experience a higher profile.

The logo is of a coolamon - a carved

wooden container used to carry babies, food, water in other words the bounty of the land.

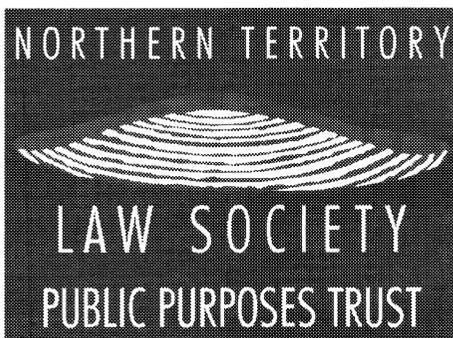
The intention is that, as each round of projects is approved there will be a formal media launch, promoting both the projects and the Public Purposes Trust.

There will also be stricter and expanded requirements for grant recipients with respect to acknowledging the contribution of the Public Purposes Trust.

This will be my last column for six months or so. While on leave, my position will be taken by long-time Territory lawyer, Stewart Brown. Stewart will bring to the job wide experience as a solicitor and barrister and, more recently, as a Family Court registrar. Treat him kindly.



Maria Ceresa, Executive Officer



The new Law Society Public Purposes Trust logo includes an image of a coolamon.