

2000 SCORELINE: NT LEGAL SYSTEM NIL: TEREDO 1v

"Christmas is coming, the geese are getting fat, please put a penny in the old man's hat".

The legal year 2000 draws to an end.

It has been a year full of controversy. A year when our legal system has been put under the spotlight to the largely incredulous gaze of the national and at times international community. Last week's outrageous attack by the Territory's Chief Minister and Attorney-General upon Mr McGregor SM at least proves that the Government is consistent, if nothing else. Consistent in its stupidity and political opportunism.

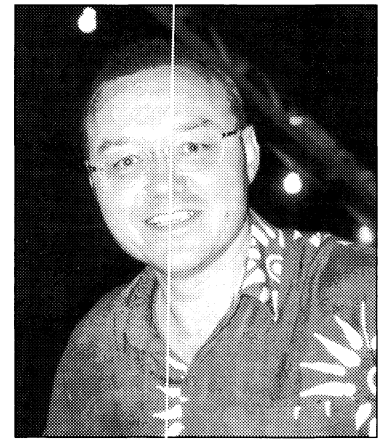
Mr McGregor SM, in a fairly innocuous interchange during a sentencing plea, compared the mandatory sentencing laws to a shipworm. Hardly earthshattering stuff. Critique? Certainly, but hardly revolutionary. Ironically it was in the context of passing what was, in any man's language, a fairly stiff sentence. The law was applied albeit accompanied by a mild, rather intelligent critique of the same: whoopy duck!

Pounce the politician. Political capital and votes to be gained. The Chief Minister steps down the pitch and hammers the defenceless magistrate to show just how "in touch" and "tough" this Government

is. Never mind the fact that this tawdry attack was being made by the NT's Attorney-General who has a responsibility and duty to defend the legal system and the judiciary. The "New Order" tells us that we have rolled over on that traditional function: apparently that just doesn't apply any more. Authority for the lie down? Oh, none, just weak acceptance that this is the "New Order". Apparently recent experience and sustained breaches by politicians have beaten us into some kind of realistic interpretation of the new landscape. What crap! The Attorney-General still has that role and responsibility and Denis Burke went totally against it in his bid for glory last week. That's why he should resign as Attorney-General. Let's just look at what he said in relation to Mr McGregor's moderate criticism:

"If a magistrate doesn't have confidence in the system in the Northern Territory they've got a clear opportunity and I would think a responsibility to resign because there are many more who would take their place and are willing to take their place who believe in the judiciary and the way it operates and would fill a worthwhile role."

Funnily enough in February this year the same Attorney-General told the public



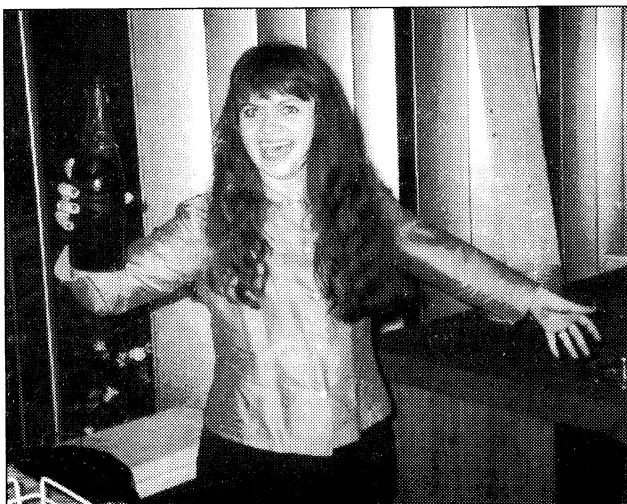
Johnny Lawrence, CLANT President

that as far as he was concerned "the (NT) justice system per se was totally corrupt". He then managed to outdo Minister Mike Reed's hilarious explanation for buying "Highway Hunks" by explaining the word 'corrupt' as some type of computer, dare I say it, 'shipworm'. Pull the other one!

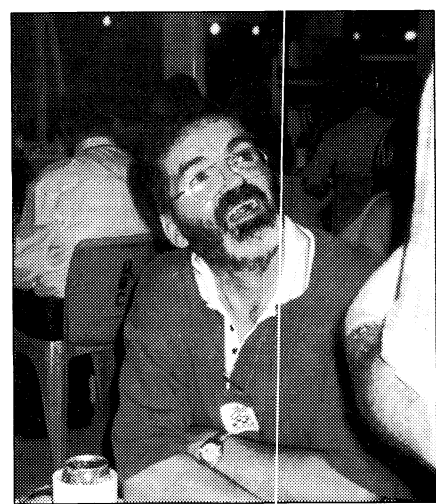
In between all of that we had the same Attorney-General displaying his wares in regards to mandatory sentencing after the juvenile death in custody brought the issue to national prominence. We were treated to the full gamut of the response to any criticism by this Government with "so what!" "back off" "Southern dogooders, get out!" etc etc.

Following the February utterances the Supreme Court was packed to the rafters when the Chief Justice attempted to pull the Executive in to line. That same Supreme Court this month was likewise packed when a singularly constituted Court of Appeal ruled on the appeal concerning the circumstances of the appointment of the present Chief Magistrate.

CRIMINAL LAWYERS NT ANNUAL DINNER 2000



Jenni Blokland



Peter Thomas

2000 SCORELINE

So there we have it, a year full of high political controversy relating to our legal system. What does it say about the NT legal system?

Let's not be naive about this. Relations between the Executive and Judiciary are always tense here and elsewhere. That's the true nature of the relationship. That's how it works. There's always, everywhere, going to be debate and controversy regarding that relationship.

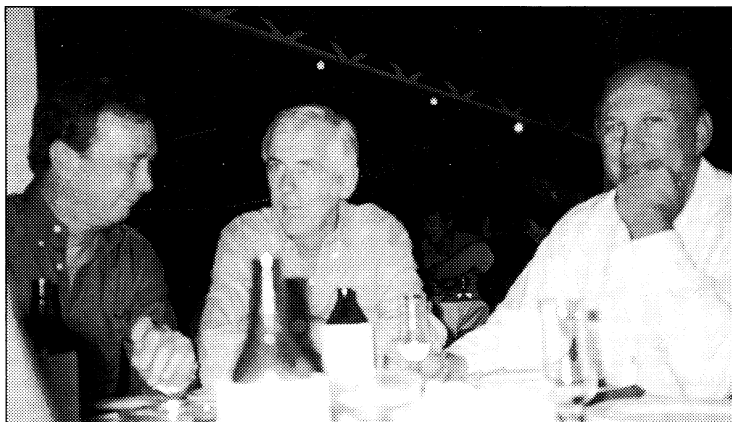
However, this year's events and last week's comments by the Chief Minister and Attorney-General graphically display what a highly politicised legal system we have in the Territory. Higher than elsewhere. In a way we have been shipwrecked. The process has been creeping and incremental. One thing leads to the next, to the next. Stone was, of course, heavily causative in this decline. During his reign our legal system flew into another stratosphere of politicisation. We have all watched this occur and develop around us. Our system has gone into orbit compared with the rest of the land.

There is no better evidence of it than the fact that our Attorney-General could make such an attack last week on his own magistracy and judiciary generally when he said, "... there are many more who would take their place and are willing to take their place who believe in the judiciary and the way it operates and would fill a worthwhile role."

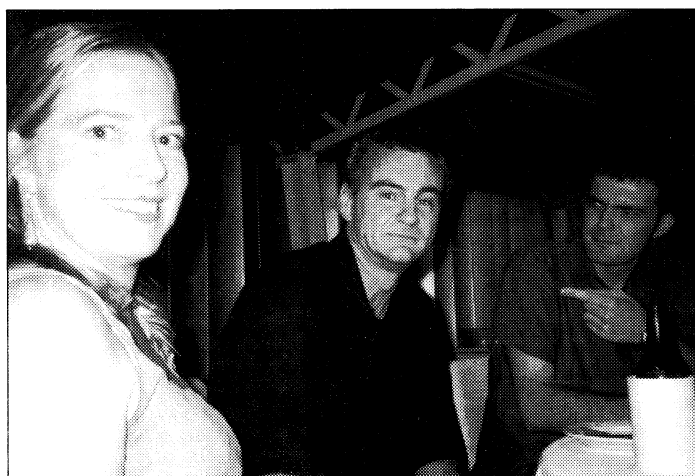
What a disgrace. An intimidatory gag on judicial officers. It is akin to the old line hurled at other dissenters, "why don't you go and live in Russia!"

This incremental wearing down of the fundamentals has to stop. Our profession is endowed with responsibilities and it should speak out. CLANT does not accept that the traditional role of the Attorney-General is now history. CLANT does not accept that the separation of powers and the independence of the judiciary do not exist in the Territory. They all still do. We need them more than ever.

This is the last Balance for 2000. Merry Christmas and Happy New Year to all and see you next year in the trenches.



Justice Bailey, Greg Cavenagh SM and Rex Wild QC



Scot Corrish, Forbes Chambers, Sydney, centre, with Kirsty McGowan and Jonathon Hunyor

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