

## DCLS CELEBRATES A DECADE OF SERVICE

Members of the Territory legal profession, long term supporters and past and present volunteers came together to celebrate Darwin Community Legal Service's (DCLS) tenth anniversary at the Northern Territory Supreme Court on Friday 10 August. Executive Officer of National Legal Aid and one of the founding members of DCLS, Ms Jenny Hardy, returned to the Territory for the birthday celebrations. She spoke to *Balance* about how the Service came about.



*Jenny Hardy, bottom left, with other members of the DCLS team at the official launch of the Service, March 1992*

"There were a number of us at the time (1990) interested in setting up a community legal centre," said Ms Hardy. "We held a public meeting at Northern Territory University when it was located at Myilly Point and about 50 people came along. There was furious agreement that a community legal centre was needed. Ten of us established a working group and beavered away on the project for about 12 months. We had very casual meetings at the Green Room in the Hotel Darwin — which was a very pleasant experience!

"We lobbied politicians from both the Commonwealth and the Territory. The Territory Government was very supportive. Daryl Manzie was the Attorney General at the time and he thought a community legal centre was a fabulous idea. In fact

the Territory Government gave us the basement of the old Supreme Court to use free of rent. It was pretty ugly — but it worked fine," she said.

Mr Bob Collins, then Senator for the Northern Territory, was instrumental in securing federal funding for the centre after approaches from the DCLS working party.

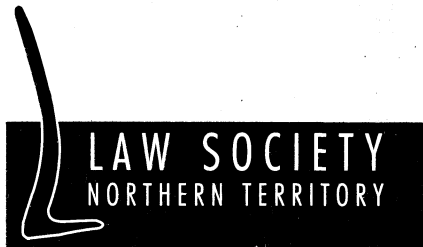
"It was pretty funny going in to see Bob Collins," said Ms Hardy. "I was giving him the spiel about what community legal centres do and he was incredibly sceptical. He sat there letting me

speak with a cynical look on his face. When I got to the point about how the advice sessions would be run by volunteer lawyers he interrupted and asked me: "are you seriously telling me that the NT legal profession will volunteer their time to keep it going?" I told him we had 40 lawyers on a list, including two QC's, who had agreed to offer their services. From then on Bob Collins became a great supporter and went in to bat for us."

The Northern Territory was the last jurisdiction in Australia to have a community legal centre. The experience and example set by other centres around the country assisted the Darwin working group promote their case for the establishment of a Darwin facility.

*Continued page 12*

**Newly sworn in Attorney-General Mr Peter Toyne speaks about current issues for the legal profession in the Northern Territory..... p4**



# BALANCE

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## AUGUST 2001

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### changed your work address?

*Practitioners are reminded that pursuant to section 33A of the Legal Practitioners' Act, they are obliged to notify the Law Society of any change of address.*

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## TYING A KNOT IN THE BLUEY

Elmore Leonard's new novel "Pagan Babies" lies on the desk in front of me without a page turned. A phenomenon akin to the "divine wind" or Kamakazi that swept Kublai Khan's troops into the sea has just torn through the northern suburbs of Darwin. Mandatory sentencing is dead. Freedom of Information legislation is not a long way off. The Public Order and Anti-social Behaviour Act looks like it is about to eat it's last meal. I feel like I have been discharged from a psychiatric hospital after a long illness. Is it true or is somebody coming to get me and take me back?

The intrusion of democracy into the Northern Territory's settled state of affairs has sent quite a few people into a bit of a spin. They had hoped democracy would return but it had been away so long most of them just didn't recognise it in the crowd. It came as a bit of a shock for some to renew the acquaintance. Since then most of those people have been wandering around exhibiting a state of mind that was once found at parties in the late sixties. Some legal practitioners undertook to be drunk for a week if there was a change of government. With an eye to the Rules of Professional Conduct and from where I stand, most of them seem to have remained true to their oath.

The business end to all of this is for the Law Society to establish a dialogue with the new government as soon as possible. That pleasant duty will be for a new President of this organisation to discharge. The Annual General Meeting will be held on 5 September and this is my last column as President. It has been a hell of a ride over the last two years capped by the events of election night 2001. Those events will continue to reverberate within the legal community like the swell that struck the North Shore during Big Wednesday — a day which resides in the mythology of every Australian kid who has ridden a surf board.

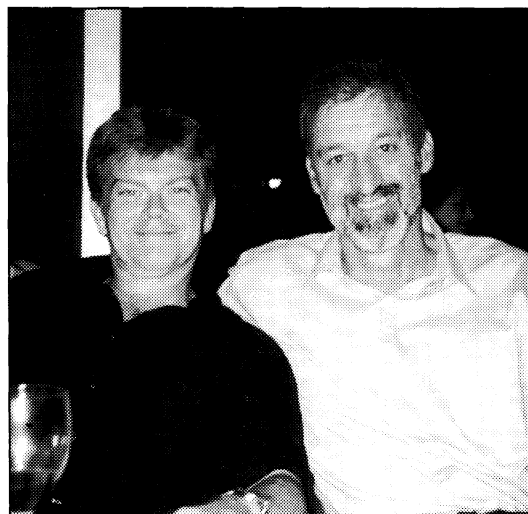
My time is done. I could not have chosen better circumstances in which to arrange for my own departure had I sat down and

dreamed them up. I believe the Society is well placed to assist the new government with a program of much needed reform that is exciting and of enormous future benefit to the Northern Territory community. The new Attorney-General is Dr Peter Toyne. On behalf of the Law Society Northern Territory I extend to him our congratulations.

On recent mornings down at the Roma Bar the drone of conversation to be heard over the sound of bacon spitting on the griddle has taken on an exuberant tone. That steamy haunt of erstwhile revolutionaries which has always greatly irritated the member for Katherine is quickly becoming a coffee spot for, ironically, government advisers. The talk has turned from what should be done to how it should be done. It appears at this stage at least that the legislative agenda which is proposed by the government is one that the Law Society would like to see introduced at the earliest possible time.

I have enjoyed the opportunity of representing Northern Territory lawyers. In particular I have been grateful to the legal community for its good will and support in circumstances where the government of the day was ill at ease with the position of the Society on issues of importance as well as the manner in which they were publically advocated. I hope the Society continues to make it's views well known. Whether lawyers like it or not the profession will, from time to time, be called upon to adopt a viewpoint that might offend, or does offend, some powerful entity or other. That is the responsibility of our profession. Lawyers cannot claim to be independent without being prepared to suffer the bleak stare of ostracism. Comfort and conviction are not always close mates.

I want to thank the Secretariat for the magnificent support that I have received over the last couple of years. It is not unusual for a President to get into strife from time to time and I have managed to get myself into the odd spot of trouble



Jon Tippett, Law Society President with Peter Toyne, Attorney-General

from which I had to be rescued like a possum from a floating branch in a flood. I want to also thank members of the two Councils with whom I have had the good fortune to serve. They have been peopled by strong men and women anxious to see the legal community fulfill it's obligations to the administration of justice and to the community while at the same time having an ability to prosper in the business of legal practice.

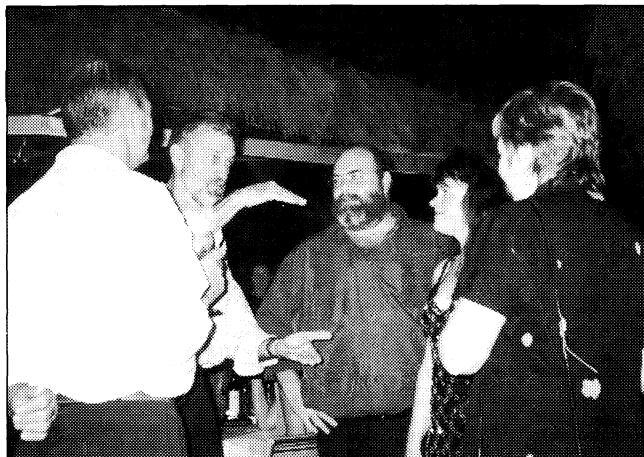
The Law Society will always come in for its fair share of criticism. If it is active politically or socially then it is either not doing enough or doing too much. I would rather it be guilty of the latter.

In Book VI of the Republic the conversation turns to what happens after the system of law giving has been determined. Socrates says "Now we have finished with this after all our difficulties we still have some more things left to discuss: what method, what learnings, and what doings, will produce these, our saviours of the constitution, and keep them among us - and the age when each group shall take up each". And so it is with the Society. The election of the new government is the end of some damaging and divisive issues, in particular that of mandatory sentencing. It also creates an opportunity to do things better by using our knowledge to advance the process of change in preference to the prejudice of making a judgment before you have looked at the facts. Let us take that opportunity.

It has been an honour. Thank you. Now it is time to pack up my gear, tie a knot in the bluey and say cheerio.

# ATTORNEY-GENERAL DR PETER TOYNE

Dr Peter Toyne was sworn in as Attorney-General for the Northern Territory on Monday 27 August 2001. Prior to his swearing in ceremony at Government House Mr Toyne spoke to 105.7 ABC Radio Darwin's Morning Show presenter Fred McCue about current issues facing the Territory's legal profession. This is an edited transcript of that interview:



*Dr Peter Toyne, second left, joined members of the legal profession at the Law Society Annual Dinner on 25 August*

**Fred McCue:** Lets go to the issue of mandatory sentencing. We've already seen indications that there are certain members of the magistracy who don't want to impose the law as it stands at the moment. What's your word to them?

**Attorney-General:** My word is that there is due process through the parliamentary system. Under separation of powers we have to follow that process while leaving the legal system to follow their own processes and use their professional judgement in the courts. We will certainly promise that it is a high priority for us to get the [mandatory sentencing] repeal bill into parliament and through. We will do that as quickly as it can be done and with care because we don't want to put in legislation that has undue effect. We want to check that we've actually got the legislation tight and that it is going to have the effect on sentencing that we expect. The other thing that we have to do is to make sure that the parallel changes that were flagged by Labor during the election — to make sure that property crimes are still viewed in a serious way by the courts — can be put in place.

**Fred McCue:** Does it mean that you want to see the magistrates applying the law as it stands at the moment? You don't want to see them walking away from the prospect of handing out mandatory sentences?

**Attorney-General:** We're merely pointing out that the law is the law until such time as the repeal bill is passed through parliament and amends the Act. The courts have the duty to uphold the law. If the courts feel that there is

sufficient time to delay decisions that they feel are going to be unjust until such time as we can repeal mandatory sentencing then they have the mechanisms to do that and that is their business.

**Fred McCue:** In other words you are saying that you are going to leave this up to the magistrates themselves?

**Attorney-General:** It's a good start because what we have been saying all the way through is that there has been undue political interference with our legal system. What we are saying is that we are not going to play that game, we are going to leave the legal system to deal with its affairs under the laws of the day. Now the laws of the day include mandatory sentencing at the moment and will include mandatory sentencing until due process has passed through. On the parliamentary side we have to get draft legislation drawn up to repeal mandatory sentencing. We have to get that through a cabinet process and then back into the parliament and then through the normal process for dealing with a bill in parliament. That won't happen tomorrow.

**Fred McCue:** When will it happen?

**Attorney-General:** Certainly before the end of the year and certainly within a matter of months but I can't be any more specific than that because there is a lot of detail to work through.

**Fred McCue:** I'm just wondering what

sort of legal system you think you've actually inherited here, particularly in relation to the relationships between the people in power, the government, and the people sitting on the bench? How do you see the legal system in the Northern Territory at the moment?

**Attorney-General:** Under our system both the people sitting on the bench and politicians such as myself are in power, we are just in two different domains of power, and there has to be separation between those. I have a

particular role as Attorney-General of defending the integrity and reputation of our legal system and protecting it from undue influence from the political processes and I intend to do that to the best of my ability. We want to see, also, that the legal system respects the parliament and its processes. We want to see a balance struck where, despite everyone being very impatient to see the mandatory sentencing laws repealed, we can do that in a correct way and make sure it's done properly.

## **PETER TOYNE, Member for Stuart**

**Peter Toyne is also Minister for Central Australia, Primary Industry and Fisheries, Sport and Recreation, Corporate and Information Services and Regional Development.**

**His previous portfolios include: Parliamentary Whip; Shadow Minister for Education and Training; for Communications and Advanced Technology; for Corporate and Information Services; Shadow Minister for Primary Industries and Fisheries; for Police, Fire and Emergency Services.**

**Educated in Victoria: Doctor of Philosophy (Education), La Trobe University 2000; Master of Science (Pathology), University of Melbourne 1971; Diploma in Education University of Melbourne 1972.**

# OTHER PASSIONS...

## On the winds of a Dove

Richard Coates is the busy director of the Northern Territory's Legal Aid Commission, a position he has held for over a decade after stints as a magistrate and principal legal officer of the Aboriginal Legal Service in Alice Springs. But there is another side to Richard the lawyer and legal bureaucrat. Like Ratty in *The Wind in the Willows* he likes nothing better than messing about in boats.

Richard's sixth floor office in the National Mutual Centre offers spectacular views of the masts in Sadgroves Creek and when during working hours there's a stiff southerly breeze blowing, he's been known to gaze out the window his dictaphone thumb paralysed with longing. A large garish canvas of racing spinnakers (a work banished from home by his long-suffering wife) has pride of place on his office wall.

Richard is a weekend sailor, a mild mannered man who is transformed into a combination of Captain Queeg and Captain Bligh when he takes the helm of *The Dove*.

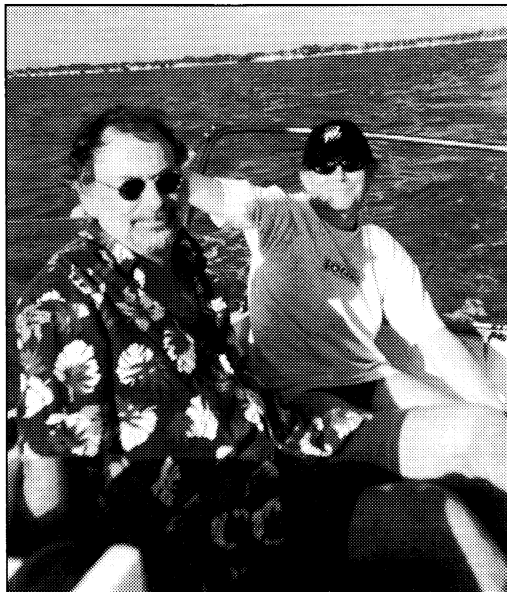
After wife and family *The Dove* is the love of Richard's life. She is a twenty-foot one masted sloop with a cabin and an outboard motor. A refuge on the waves from the cares of clients and legal life.

Richard began sailing when he was a child but his interest really took hold in 1988 when he moved to Darwin. As Richard jokes "there was not much demand for messing about in boats in Alice Springs". (Though Murray Preston, the Commodore of the Alice Springs Yacht Club may disagree with him there.)

In 1988 Richard and Ian Gray, the former Chief Magistrate, bought a boat together, an eighteen-foot red jacket and set out to teach themselves to sail her. Initially the legal sailing novices thought their new vessel was called *For Sale* but later learnt that it was in fact *Fair Sail*.

*Fair Sale* was replaced by *The Dove*, which Richard has owned since 1991. Initially he shared ownership with Ian Gray but more recently Jon Tippett, barrister and Law Society President, and Darwin solicitor Markus Spazzapan have been press ganged into service as crew.

*The Dove* has long connections with Darwin. Richard's *Dove* is a replica of the original *Dove*, the vessel in which a young American, Robin Graham, sailed around the world in the early 70s. Richard's boat was built to take part in

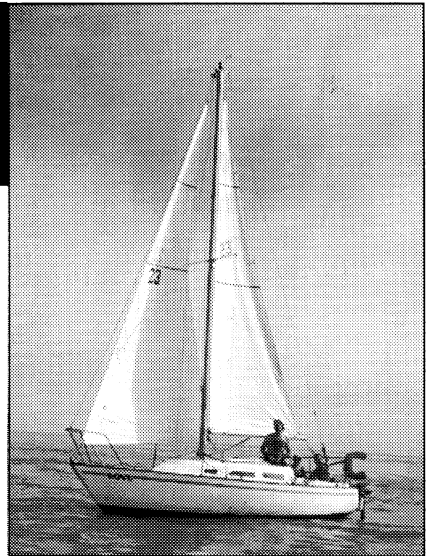


Richard Coates with Law Society President Jon Tippett

the film of the same name. Some of the film was shot in and around Darwin Harbour, and viewers with a taste for nostalgia can see a very young Timothy Bottoms, who played Robin Graham in the film, working on the construction of *The Travelodge* on the Esplanade whilst *The Dove* bobs at anchor off Stokes Hill Wharf.

After its appearance in the film, and also its display in front of the Darwin Cinema of the time, *The Dove* was the winner of the first Darwin to Dili Yacht Race in 1975. Other owners of *The Dove* include Supreme Court Master, Terry Coulehan.

Although *The Dove* is a small boat, her



*The Dove*

great appeal for Richard is that she sails like a big boat and is very quick through the water. In her day she was regarded as one of the premier racing yachts on Darwin Harbour. Those halcyon days are behind her now and Richard takes a more leisurely approach to his sailing. A day on the water usually involves heading out one afternoon on the weekend, trying to work out what the tides and wind are doing, and trying to take maximum advantage of both before sailing back to anchorage off the Darwin Sailing Club at dusk.

Though known as something of a gourmet in Darwin lunching circles, Richard's tastes are more modest when on board — running to a little something thrown into a roll accompanied by a couple of ales or the occasional crisp white. However, it is not unknown for *The Dove* to sail overnight to Mica Beach on the far side of Darwin Harbour and on these occasions Richard says modestly that he will "do something a bit flasher" for dinner for his sailing companions.

Richard loves to tinker and a small sailing boat is the perfect haven for an inveterate tinkerer — a keeled version of the garden shed. There are bits of rigging to be adjusted, ropes to be pulled in and let out, things that can be fiddled with, things that can go wrong. "I like being busy doing things — having a bit of a tinker with things". And his advice when things go wrong on board "panic is the best policy".

*Continued over*



## Other Passions

Continued from page 5

But the greatest joy is simply being on the water away from the cares of work and clients. "There is nothing like being on Darwin Harbour between, say, five thirty and six thirty sailing home on a ten knot breeze or so with the sun setting. I can't imagine there are better things to be doing. It is one of the great bonuses of living in Darwin. I like the fact that the boat goes with the wind and the sea. It is Hemingwayesque — *The Old Man and the Sea*." Readers should note that Richard does sport a greying nautical beard like Papa Hemingway.

Richard has no plans to emulate Robin Graham as yet and sail around the World. If he did he says he would require something a tad bigger than *The Dove*. But it remains a dream. And there is another of the appeals of sailing for Richard. He can gaze at charts of far off waterways and make plans to sail across foreign seas. He, Tippett and Spazzapan are forever making plans to go somewhere but, as he ruefully remarks, "we haven't managed to get around to Bynoe Harbour as yet". But as all good sailors know there's always next year.

And another time and place for Richard Coates?

"I'd like to have been someone like Joshua Slocomb, a master mariner at the end of the 19<sup>th</sup> Century — the last heroic age of sail — when clipper ships were still sailing around the Horn."

Joshua Slocomb, of course, was the self reliant Yankee sailor who left Boston in 1895 and over the next five years sailed alone around the world in his thirty five foot long sloop *Spray*, a vessel he largely built himself. He was fifty-one at the start of his voyage and immortalised his story in his book *Sailing Alone Around the World*.

He was also, by all accounts, a thoroughly unpleasant person. Is this something that happens to everyone when they become the master of their own boat? Richard throws a note of caution on his dreams to sail off alone into the sunset. "Maybe its dangerous spending too much time with yourself."

Tippett and Spazzapan do have their uses.


## Letter to the Editor

It was great to see the Katherine pictorial in *Balance* a few weeks ago. There are a few Darwin practitioners whose work brings them down to Katherine from time to time, but the jurisdiction here has been largely independent of Darwin so it was nice to see us remembered.

I would also like to express my appreciation to Mr Justice Riley and Mr Rex Wild QC for the recent CLEs that they held in town. His Honour shared his considerable knowledge in the area of appropriate court behaviour. As the Supreme Court rarely sits in Katherine, it was worthwhile for us all to be refreshed about matters of etiquette.

Mr Wild concentrated on one of his passionate interests, the art of advocacy. Practice in Katherine usually means many appearances with the same personalities at the tables, although the places change from time to time. It was therefore, useful to be reminded about advocacy from the client's perspective. Mr Wild's experience as an advocate was, naturally, demonstrated by his own entertaining delivery that afternoon.

Katherine is an excellent jurisdiction for junior lawyers to get experience. There are presently insufficient good private practitioners available to this



Dear Editor,  
I am astounded  
that article on  
*Balance*, which

growing community. The work here reflects a genuine Northern Territory flavour, with a high level of rural commercial business and a wide range of personal legal matters. Unfortunately, I have found that the business community is quite despondent about its ability to access legal services locally and accepts this as part of doing business in the NT. However when good advice is available, the word spreads quickly and Katherine clients are both numerous and reliable.

The recent efforts made by the Law Society to support CLEs and raise the profile of the profession in Katherine will ultimately benefit the whole community. Young practitioners should be encouraged to consider spending some time in Katherine, being a part of the Territory and giving the community a professional service. Katherine should not be regarded as a frontier any longer and with greater interaction with the Darwin profession, the days of the out-of-date bush lawyer are numbered.

Susan Gilmour  
Gilmour and Associates

## LAW SOCIETY ANNUAL GENERAL MEETING

Practitioners are advised that  
the Law Society Annual  
General Meeting will be held  
at 4.30pm on Wednesday 5  
September at the Darwin  
Central Hotel.

# LINES IN THE SAND

By Alice Springs representative Katrina Budrikis

Domenic and I have been reminded that it is the end of the year, in terms of the administration of lawyers in the Territory. Elections are coming up for the Law Society Council, as is the time for renewal of practicing certificates. We hope that readers (any out there?) have enjoyed having a column in *Balance* devoted to news of Alice Springs. We have endeavoured to provide a cross section of news, views and profiles of people and organisations that contribute to the law and community. Contributions to this column by the Alice Springs profession are always welcome.

We've enjoyed a number of gatherings of lawyers that have occurred under the auspices of the Law Society this year, in particular the Christmas dinner at the Golden Inn and the book launch for Justice Mildren's volume of Northern Territory Supreme Court decisions. Law Week has certainly taken off in Darwin, and the Law Society is still looking for people with enthusiasm and ideas to help with new events for Law Week in Alice Springs. Surely someone out there has the knowledge to develop a "Crime Tour" of Alice?

I had lunch this week with George Georgiou to ruminate over his



George Georgiou: soon to be leaving Alice Springs for Victoria

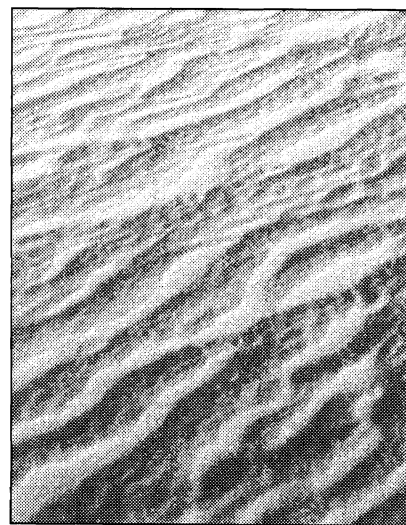
impending departure from Alice Springs to become a public defender with the Victorian Legal Aid Commission. One thing that seems to have stuck in George's mind is that he felt like he was walking into a furnace when he arrived in December 1994. Not surprising for that time of year. But perhaps what did surprise George was that it was more than just a physical furnace. He has found Alice Springs to be a place of extremes: "climactic, political, social and cultural".

## The legal system is not adequately addressing the problems faced by Aboriginal defendants

"Alice Springs has given me a different perspective on what Australia is. There is very little in the southern press regarding the plight of Aboriginal people, problems relating to their health, education and legal issues. These problems constantly confront us in Alice. Sadly little has been done to address these pressing issues. I admire the work of organisations like NPY Women's Council, Central Land Council, Congress and the Central Australian Council for Aboriginal Reconciliation, who are dedicated to addressing these issues, working against enormous odds and often with insufficient funds.

"I am also impressed with the high standard of representation given to clients by CAALAS and NTLAC. Seldom have I heard the phrase 'I want a real lawyer to represent me' from a client unhappy with legal aid representation. These organisations have done a great job in representing individuals but unfortunately we still have a long way to go in having unjust laws and practices overturned," said George.

"The legal system is not adequately addressing the problems faced by Aboriginal defendants in terms of their lack of understanding of the process, the



dispositions that fail to address the causes for the offending behaviour, and the lack of appropriate rehabilitation facilities.

"I have enjoyed living in Alice Springs enormously. If I have any regrets, they are that we have not been able to persuade the NT Government to abolish the abominable laws with respect to mandatory sentencing and mandatory life imprisonment for murder," he said.

"I'm amazed that the NT government is contemplating allowing mining in the West Macdonell National Park. One of the great things about living in Alice is being able to go to places in the West Macdonnells. It is an area of significant beauty and cultural value. I do not understand why a government would allow the risk of destroying these qualities.

"My favourite spot in Central Australia is definitely the Papunya Tula shop. I don't know how I'm going to survive without being able to stop in and look at the paintings every week or so".

George was also honest enough to admit that going to watch his footie team, Collingwood, was NOT the reason for his departure. I have to say that I will miss George. His advocacy skills and service to clients have been something to learn from — and he has also been a pleasure to have around.

*Lines in the Sand* is facilitated by Katrina Budrikis and Domenic Conidi, Alice Springs Law Society Council members.



# SHEILA McCLEMANS: AN INSPIRING LAWYER

At the time of writing this monthly report it brings to mind that I have only one month left as President for NTWLA. It certainly has been a privilege serving as your president, a task made easier by members of the committee. It is important all members consider their nominations for the next president and committee. In particular, I advise that I will not be taking on another term as president. Some other office bearers and committee members are prepared to continue and details will be distributed with the formal written confirmation of the Annual General Meeting.

The Annual General Meeting is scheduled for Thursday 27 September 2001 at 5.30pm, with the venue to be confirmed. Notices will be sent to all members with confirmation of the details. For those members who will not be able to attend forms for the appointment of a proxy will also be distributed. Due to the increased membership it is proposed that after the meeting there will be some refreshments served. The committee considered it an ideal opportunity for new members and long term members to get together. It will also be an opportunity for all members to convey their thoughts and ideas to the incoming committee.

**A Book Review — *Sheila* by Lloyd Davies (Desert Pea Press 2000)**

The book *Sheila* by Lloyd Davies has been in my possession for some months now to write a review. I have carted it with me around the countryside with good intentions to get it started. Of course, it was left to the last minute to commence but once started it was very easy and enjoyable to read.

The book is a biography of Sheila McClemons, who was admitted to practice in Western Australia in 1933 and set up Western Australia's first all-female law firm with Molly Kingston.

Sheila's other credits included: Wartime

Director of the Women's Royal Australian Naval Service; National President of the Australian Federation of University Women; Secretary of the WA Law Society; and foundation member of WA Legal Aid Commission.

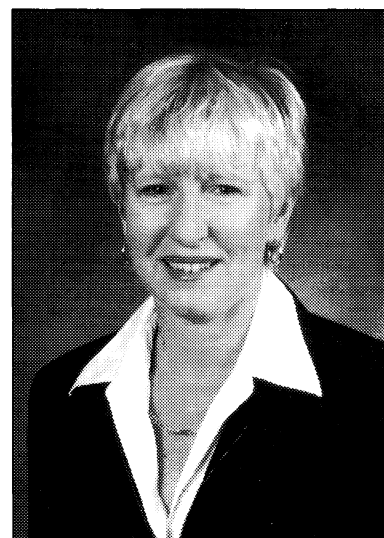
Of her achievements, Sheila believed her greatest was being involved in the foundation of the WA Legal Aid Commission. Even after going back into private practice, Sheila maintained her involvement with Legal Aid, freely giving her own time, working for the underprivileged.

Whilst at university Sheila was involved in various sports including hockey, tennis and swimming. She excelled in swimming and diving. It seems that her involvement in sport stemmed from the fact that there was no university common room and the playing fields and swimming pool were the common rooms of the day.

It is interesting that the book is written (dare I say) by a gentleman who was born a generation after Sheila McClemons. The author, Lloyd Davies, was a man of his time who, in his practice as a barrister, focussed on civil liberties and working for the underprivileged.

The book contains some interesting extracts from newspapers concerning the skills of female barristers which give an indication of the difficulties encountered by Sheila McClemons and other female advocates of the time, particularly in being taken seriously in the legal profession.

Like me, you no doubt do not like hearing how much easier things are today and how much we take for granted. This book has gentle reminders throughout of just how fortunate is our lot in life, whether from the days of our study or to current practice. Imagine attending the library, settling down with the appropriate text only to find that sections or sections of pages have been removed. So much for the last minute cramming or preparation for examinations. Obviously, photocopiers were yet to be introduced.



Jacqueline Presbury, NTWLA President

If work is all getting too hard, if you need some inspiration, if you are just starting out in your career, nearing the end or thinking early retirement, either male or female, I commend the book to you.

*Sheila* has been donated to the Jane Mahoney Memorial Library at the Supreme Court Library by the Law Society of the Northern Territory.

## Jane Mahoney Memorial Library

Jane Mahoney's father, Sir Curtis Keeble, has provided a generous donation to add to the library. If you have any suggestions for titles for the library please contact:

Jacqueline Presbury 8943 0423 or Frieda Evans, Supreme Court Library on 8999 6583

## Bouquets

Congratulations to Amy Williamson, Beth Wild, Marion Wilson, Inta Tumulus and Sylvia Tomazos, who were all admitted to practice on 7 August 2001.

**The NT Women  
Lawyers Association  
Annual General  
Meeting is  
scheduled for  
Thursday 27  
September 2001 at  
5.30pm.**



# A VICTORY FOR THE PINK TUTU

The NT Bar Association held its Annual Quixotic Challenge Golf Day on 9 August 2001 with twenty four players competing on a beautiful cool sunny day at Gardens Park Golf Course.



Many players found the lake, which sits between tee and green on the first hole, somewhat daunting. Hunt and Hunt's number two team, consisting of Steven Smith, Peggy Cheong, Danielle Howard and Heidi Faustmann, made a significant contribution to the lake before being allowed to pass.

Danny Masters won nearest the pin and Tom Pauling QC won the longest drive.

The Quixotic Challenge trophy was taken home by the "Lex and the Angels" team of Barbara Reeves, Jan Riley, Lyn Wild and Lex Silvester. Their fine round was augmented by some extraordinary throwing of the dice.

The trophy remains at William Forster Chambers and the good news is that the pink tutu stays on for another year. A good afternoon was had by all.

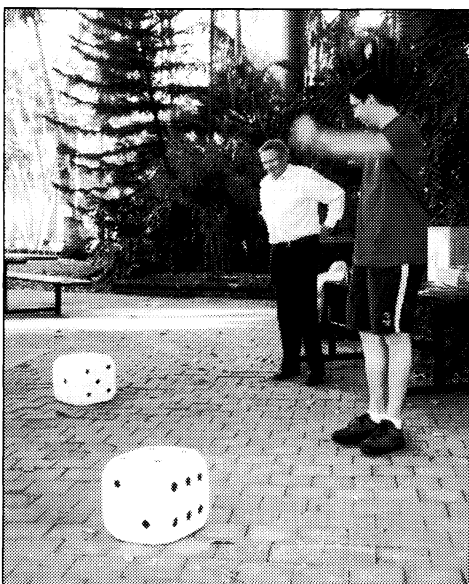
**Lex Silvester, William Forster Chambers**



*Mark Hunter, Paul Walsh, Tom Pauling QC and Garry Schneider take time to rest after the Quixotic Challenge*



*Anthony Hanrahan, Mick Davis and Geoff Clift formed a De Silva Hebron team*



*President of the Bar Association John Reeves QC watches as Reinis Dancis throws the dice*



*The winning team: Lex Silvester, Barbara Reeves, Jan Riley and Lyn Wild*

# FERAE NATURAE

One of the ironies of our federal system, which celebrates its centenary this year, is that the key provision of our constitution that unified the nation commercially — Section 92 — has not been enthusiastically embraced by those who have so often been involved in interpreting and profiting from it: the legal profession. Far from being “absolutely free”, the interstate legal trade has been bound by restrictions that would have made colonial customs officers blush.

The development of the National Legal Services Market (NLSM), to which the NT is now party along with NSW, Victoria, ACT and South Australia, is part of a slow evolution that is allowing legal practitioners enhanced capacity to operate — and indeed compete — interstate. It is a move away from the arcane jurisdictional barriers that have contributed to the suspicion that often surrounds the legal profession.

This is not to say it is not a challenging process — particularly for practitioners and regulatory bodies in smaller jurisdictions such as the Northern Territory. The Council of the Law Society will this month consider the NLSM Protocol, a document that outlines the ways in which different jurisdictions and their respective regulatory bodies can develop constructive and cooperative relationships within this changing legal landscape. Central to the Protocol is the adoption of areas of agreement between jurisdictions that can be enacted immediately, and the identification of areas in which greater cooperation and uniformity will be sought over time.

The key areas of the Protocol are:

## 1 Information exchange

To the extent that confidentiality provisions apply within each jurisdiction, there is a commitment to maximise information exchange between participants. This includes notification of interstate opening of branch offices and trust accounts in host states or territories; information about conditions, limitations, restrictions, prohibitions and court or disciplinary tribunal decisions imposed on practising certificates; and

information relating to practitioners declared bankrupt, in receivership, management or administration. The Protocol also seeks to standardise data collection.

## 2 Conduct of complaint investigations

This effectively sets out where complaints are to be investigated, according to where the complaint arises or its most suitable jurisdiction, with provision for information flows to other regulatory bodies where appropriate. Where complaints can realistically be held in more than one jurisdiction, the rights of complainants are to be taken into account. In any case, the emphasis is on mutual agreement between jurisdictions.

## 3 Principal place of practice

The protocol allows for the definition of a principal place of practice to expedite the resolution of any jurisdictional problems that might arise.

## 4 Fidelity Fund arrangements

The Protocol seeks to outline where liability for defalcation might rest between, or in some cases among, different fidelity funds. In general this will depend on which fund is being contributed to; in the case where contributions are made to more than one fund, the “site” of defalcation would determine liability; in cases where this is unclear respective liabilities would be dependent on relevant legislation and consequent negotiations.

## 5 Trust Account inspections

While responsibility for trust account inspections resides with the jurisdiction in which the account is established, the Protocol allows for mutual information exchange and cooperation among and between jurisdictions in which multiple trust accounts might be held.

The principal objective of the



*Maria Ceresa, Executive Officer*

Protocol is to reduce regulatory and administrative burdens.

Also — particularly in the area of information exchange — it has potential benefits in data collection and comparative local/national analysis. It is worth noting in this context that the surgical profession has been at the forefront of such local (practice-based) and national data analysis, leading to greatly enhanced monitoring and benchmarking of skills and procedural specialities, and potential reduction of professional liability claims against them.

A benefit to the profession, no doubt but an advantage for clients as well.

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# Professional Indemnity Insurance: Renewal Premiums

Marsh have now completed their negotiations for the practitioner Professional Indemnity Insurance arrangements for the 2001/2002 year and the Council has confirmed renewal with insurers.

In last month's *Balance* we reported that Marsh expected the Professional Indemnity Insurance premiums to increase up to 35% for the minimum sum insured of \$750,000 for the 30 September renewal. Ultimately the increase for \$750,000 has been limited to 25% and includes a reduction in the Marsh Claim Administration Fee.

As advised last month, Professional Indemnity Insurance in general is experiencing substantial premium increases, and in view of the already competitive premiums for practitioners in the NT compared with other states, minimising the increase to only 25% was a good result considering the initial indications. Whilst we did seek to get the \$1million as a minimum limit for the same premium, ultimately this was not available.

If you currently insure for limits above \$750,000, you will be pleased to know that your overall premium increase this year will be limited to between 3% to 20% depending on the limit purchased, as Marsh have negotiated generous savings on the top-up component of premium this year.

Now is also the time to consider the adequacy of your sum insured. Minimum limits for Professional Indemnity Insurance for most other industries who are much less exposed than solicitors, start at \$1 million, so whilst the \$750,000 is the agreed minimum for practitioners in NT, we suggest that a move to a higher limit is appropriate.

Cover has been placed this year 100% with Gerling Australia Insurance Company Pty Ltd, who have Standard & Poors status as a Security Circle insurer with a rating of AA- (very strong).

## Renewal Information Papers and Web-Site Access

You would have received the Renewal Information Paper and declaration forms along with the Practising Certificate Renewal by mail, and these documents are also available on the Law Society web site this year. Marsh will be adding further information to the web-site in the near future such as claim forms, advice on what to do when you have a claim, and some claims analysis. This will provide practitioners with useful background information and easy access to documents.

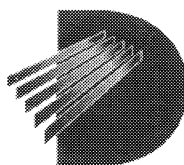
For further information, or if you have any suggestions for additional insurance related information you would like to see on the website, please contact Cheryl Richardson at Marsh on (08) 8211 7655.

## Find all the forms you need on the Law Society web site

The Law Society website contains all the forms you will need for your 2001- 2002 practising certificate renewal. Look under "Practitioner Information" to find:

- schedule of fees
- renewal timetable
- practising certificate application form
- practising certificate guidelines.

For further information contact the Law Society:  
[www.lawsocnt.asn.au](http://www.lawsocnt.asn.au)



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# DCLS CELEBRATES A

Continued from front page

"The Law Society in Darwin was initially a bit apprehensive about whether a community centre would mean competition for private lawyers," said Ms Hardy. "These concerns were addressed by our working party. It was a lot easier to establish the community centre here because of the great tradition of community legal centres in the rest of Australia. There weren't huge barriers for people to overcome: in fact people were supportive. It was really quite remarkable to have such a supportive profession as indicated by the list of 40 people willing to offer their services. That great tradition of volunteering has really continued. I understand that there are about 100 people, not just lawyers, who volunteer at DCLS now. As well as that there's the Top End Womens Legal Service which has a core of volunteers and other agencies."

The Federal Government's response to the working party's lobbying efforts was a contribution of \$100,000 in funding. The official opening of the Service was held in March 1992.

"We had in fact started voluntary advice sessions before we got the funding. We had three sessions — one at the Supreme

Court, one at Casuarina Shopping Square on Saturdays and another one in Palmerston. Once we got federal funding we really took off," said Ms Hardy. "The next biggest key to the success was Gordon Renouf."

"When Gordon started we had \$100,000 core funding. Gordon had a great skill of being able to identify and tap into buckets of funding so that three years later we had the Domestic Violence Legal Help Service going in Darwin and Alice Springs, the Top End Advocacy Service in Darwin and Katherine and the Welfare Rights Service all under the auspices of DCLS," Ms Hardy told *Balance*.

In her speech to the crowd of sixty well wishers in the Supreme Court Ms Hardy also praised current DCLS coordinator Cassandra Goldie who replaced Gordon Renouf in 1998.

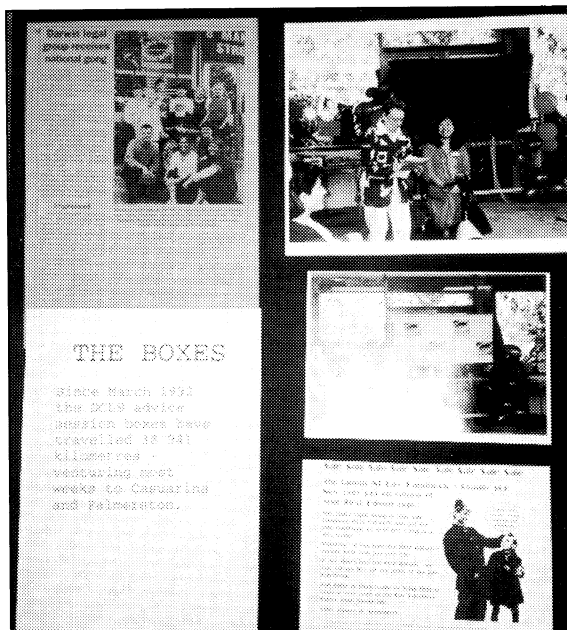
"Under Cassandra's leadership DCLS has moved further into the area of lobbying for human rights and law reform. Finding the courage and resources to take on human rights issues and the lobbying for law reform is a pretty tough call. DCLS has been really quite remarkable in its lack of fear and huge amount of courage in taking those issues on, particularly

in what has probably been quite a hostile environment like the Territory," said Ms Hardy.

Perhaps the greatest praise of all was reserved for the volunteers and supporters of DCLS from both the legal and community sectors.

"The advice sessions, the human rights campaigns, the community legal education etc would not be possible without the voluntary support of people. This has been evident from day one in Darwin and has continued through today.

"A number of people deserve special mention for their long-term commitment to volunteering at DCLS. David Alderman and David De Silva are still on the volunteer advice roster, having been on it for 10 years.

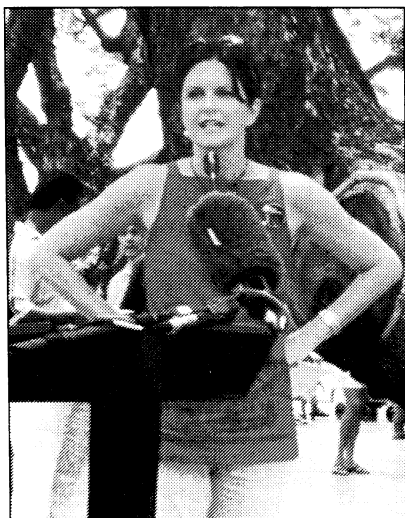


"When Gordon applied for the job of DCLS Coordinator he put Will Stubbs (a lawyer at NAALAS at the time) down as a referee so I rang up Will to get a reference. Will described Gordon as "a complete megalomaniac". We thought "perfect — that's the go!" And he was

perfect. He had a lot of credibility. He took a softly, softly approach — there wasn't a huge amount of political lobbying in those days. It was really about getting the advice and information out," said Ms Hardy.

"There was a huge demand for advice straight away and a huge demand for community legal education at the time. One of the first things we put out was the first Law Handbook (with big support from the Law Society and the NTLAC).

**It was really quite remarkable to have such a supportive profession as indicated by the list of 40 people willing to offer their services. That great tradition of volunteering has really continued**



Current DCLS Coordinator Cassandra Goldie, addressing a crowd at an anti mandatory sentencing rally in 2001

# DECADE OF SERVICE

There have also been long term volunteer commitments for participation on the management committee — Liz Morris was on the management committee for something like seven years. A number of people have moved from being staff members to being involved in the management committee, for example, Nanette Rogers, Sally Rush and Caitlin Perry.

**DCLS has been really quite remarkable in its lack of fear and huge amount of courage in taking issues on...**

“A number of law firms also deserve special mention for supporting the service through encouraging their lawyers to volunteer. These firms are Ward Keller and De Silva Hebron,” said Ms Hardy.

“I am very proud to see DCLS turn ten and to have been involved in DCLS and all that it has achieved over the past decade.”

When asked to describe some of the changes on the community legal service landscape over the past ten years Ms Hardy says the increase in the number of self-representing litigants and the changes in government policy in relation to funding and approval of community legal services are the most notable.

“Nationally in the overall picture I think the need for community legal centres has been changing as legal aid has become harder to get. The gap is widening between those who can qualify for legal aid and those who can afford private lawyers because the cost of litigation is going up all the time. Community legal centres are trying desperately to fill those gaps with very few resources. There are now more people who represent themselves so you get

a lot of people who come to centres for advice on how to run their own cases,” said Ms Hardy.

“There has been a real change in community legal centre development over the last few years. Most centres started the way we did in Darwin with a community

groundswell of support. Community legal centres are very popular with governments because they are very cheap. This current government has adopted an approach to use community legal centres to address gaps in services especially in the rural and remote areas. It has been a top down approach rather than ground up. I’m not sure how successful that approach has been because those centres have had to try to get community support and encourage people to use them. I don’t think that’s easy to do.

“There has been the tender process for funding for community legal services which means that it is no longer necessarily community organisations that are operating the service. Part of the Commonwealth Government policy is now to encourage competition between various aspects of the legal aid sector. That raises a number of issues for the legal profession and for community legal centres to contend with,” she said.

“In the NT there has been remarkable cooperation and collaboration between justice agencies and I am sure that DCLS will be able to meet all the challenges facing it in the future.”



*Sally Rush and Gordon Renouf in the DCLS Manton Street Office*



*Jenny Hardy and Will Stubbs at the launch of the first edition of The Law Handbook*



*A crowd of about sixty people attended anniversary celebrations at the Supreme Court in Darwin*