

# 2001: THE YEAR "THE WORLD CHANGED"

I thought I might try and review the year that's been from the criminal lawyers perspective. The trouble is I have very little memory of the first half of 2001. Funny that. Does anyone else have the same difficulty? Part of the reason is my chronically deteriorating memory but with any luck part of it might be due to the high dramas of recent events which include our local election and the federal election. Anyway, this ain't no review, just some potted memories and observations.

One thing I do remember from earlier in the year was the scandalous stories concerning members of the Sydney Bar who used the shelter of bankruptcy as a means of avoiding massive income tax debts. To me that was clearly a criminal law issue. The story got national coverage and deservedly so. Some of the culprits were, in fact, "serial tax defaulters" who had been bankrupted two or three times. Also revealed was the fact that a quarter of the NSW Bar owed a total tax debt of \$50M, being an average of \$100,000 each. The media described them as "tax delinquents". These delinquents would work and earn money; pay no income tax thus owing the ATO (us); they had no assets to give to the ATO having shifted them elsewhere. They would then become bankrupt and continue working and earning. One example was a criminal barrister who owed \$835,000 in unpaid taxes. He was convicted of failing to file any returns in 17 years and, what's more, admitted in his trial to never having paid any tax during *all* his years at the Bar. Sin City indeed. I must say reading those stories I thought "delinquent" was somewhat benign. Their actions were all covered by our s209 of the Criminal Code. Isn't it a laugh how all Law Societies and their respective organs are always trying to sell what a good job we do but here we have the real deal, barristers in action. One wonders how many tugs of war in the mall the profession can do to redress that kind of image.

My next memory of 2001 was our Association's 8<sup>th</sup> Biannual Conference at Bali. Again my memory's not that flash. There we had a goal, of sorts, of putting our whole criminal justice system to the test. Was it producing the goods? To remind you, the theme was "The Criminal Justice System: Serving the Community or Giving the Community a Serve?" The verdict was negative. Maybe we should concentrate less on the hard sell and work out what's wrong and then fix it.

2001 continued with the next development being probably the unthought-of changing of our government. Much to many's surprise, particularly the Opposition Labor Party, on 18 August the people of the Northern Territory got rid of the CLP and voted in Labor. Mandatory sentencing bit the dust and an apparent fresh approach to criminal legal issues arose. That seems to auger well for the future but, of course, only time will tell. Our Association will observe, monitor and contribute accordingly as this develops. Thus the NT provides my sole positive and optimistic memory and observation from 2001.

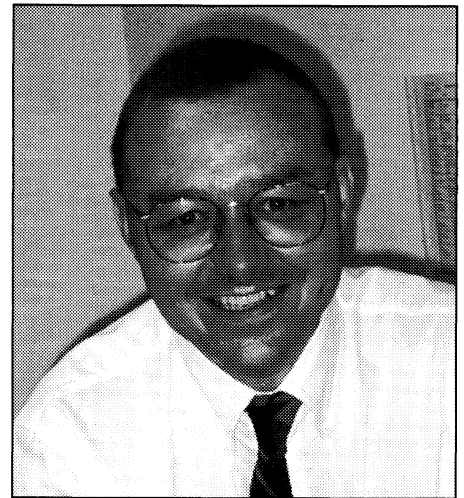
## The main event

No sooner had the hangover worn off after the exit of the likes of Burke and Reed than we watched aghast at those airline jets doing their number on the Twin Towers and the world generally. I can remember that. My recall of 2001 now becomes clearer and somewhat macro rather than micro.

They described it as the day the world changed and they may well be right.

What I do believe is that its repercussions has relevance to criminal lawyers.

Over the past 20 years or so, for a variety of reasons, western society has fallen prone to a creeping increase in a psychological malaise which seems to be based on uncertainty, anxiety, angst and basic fear. It's manifested individually and collectively in our,



*John B Lawrence, President of the Criminal Lawyers Association of the NT*

and other western, societies. That condition has had an important bearing on how our societies have developed and, more specifically, how our laws have developed. That malaise was compounded and elevated to a new level after September 11.

Prior to September 11 our politicians have preyed on this malaise largely to ill effect.

One manifestation or product of this condition has been the increase in stricter laws. We have experienced an increase in punitive policies as regards convicted criminals. Likewise a reduction in procedural and substantive safeguards and protections. It was, perhaps, first seen in Australia with the "Truth in Sentencing" laws in New South Wales followed by, of course, increased mandatory punishment firstly in WA and then, of course, here in the Territory. Further, we have had the development of private prisons. Such changes in the law have largely been based on politicians pandering to that malaise of fear and anxiety experienced by the general community. Of course, politicians being politicians, to "make a quick buck" they, themselves, via the willing agencies of certain sections of the media, have happily fanned the flames following which they will then produce their policies to apparently extinguish the same.

Associated with this is the fact that the community has a highly cynical and jaundiced view of the political system and the politicians therein. We live in an age of chronic political opportunism.

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Notwithstanding opportunism has always been a tool of the political animal, the levels of cynical opportunism that occur nowadays exceed way beyond what has previously occurred.

There are many examples. It has been increasing, or "deteriorating", for years. A couple of examples from the recent federal election would be the nonsense about the asylum seekers/refugee question generally and how both parties presented policies in relation to it. More specifically the tripe about them throwing their children overboard and the way politicians used that furphy for their political ends. Gutter stuff.

Another example, which I do remember from earlier in the year, was when Louise O'Donoghue said in an interview that she wasn't "stolen" but, in fact, "removed". Well, you couldn't see anything for dust as the Howards of this world got themselves up to the nearest shock jock to take cynical and vulgar advantage of that.

So when you have a community full of genuine, now increasing, apprehension and fear coupled with a justifiably cynical attitude towards the political system it can only but lead to regressive developments in the legal system and in our criminal justice system. Once more, further pressure on the legal profession to stand fast.

Well, if you think my memories and observations on 2001 are somewhat glum, I have one last one and it's again from the recent federal election. I admit it's the observation of an immigrant rather than a criminal lawyer. On the day of the election, consistent with its entire campaign, the Federal Government said this in its national advertisements. I actually cut the page out of the NT News and it remains on my fridge now. I think it's because it sums up where Australia is at in 2001/2. It has photographs of Messrs Howard and a whole bunch of other NT CLP hopefuls. It tells the community this, "we will determine who comes to this country and in what circumstances they will come".

No further questions of this witness.

# THE GOVERNMENT ANNOUNCES DEPARTMENT OF JUSTICE

Chief Minister Clare Martin announced the appointment of Mr Richard Coates as Chief Executive of the newly created Department of Justice at a press conference at parliament house on 13 November 2001.

The appointment came as the new Labor Government announced a comprehensive restructure of the Territory's public service.

Mr Coates, former Director of NT Legal Aid, will head the "super department" which incorporates eight justice-related agencies.

The Department of Justice includes the former offices of: the Solicitor General, Attorney-Generals, Courts Administration, Correctional Services, Public Prosecutions, the Anti Discrimination Commissioner and Office of Consumer Affairs.

It also includes a newly created Office of Crime Prevention incorporating a Crime Statistics Unit and NTsafe.



*Richard Coates, Chief Executive of the Justice Department*

The Chief Minister has said that the independence of statutory officers to carry out their functions will be maintained with the department structure. The independent statutory officers will report to the Chief Executive on resource, administrative support and policy development matters.

Under the new arrangements the number of government agencies has been reduced from 35 to 18, a reduction of nearly 50 percent.

### Federal Magistrates Court's jurisdiction extended

**From 1 January 2002, the Federal Magistrates Court will have jurisdiction to hear property matters up to \$700,000.**

Presently the maximum is \$300,000 unless the parties agree to the matter being dealt with in the Federal Magistrates Court even though the value of the property exceeds that figure.

The changes can be found in the Family Law Amendment Regulations 2001 (No 3) SR 2001 No 264.

From 2 October 2001, the Federal Magistrates Court has concurrent jurisdiction with the Federal Court to review visa-related decisions of the Migration Review Tribunal, the Refugee Review Tribunal and the Administrative Appeals Tribunal.

The grounds on which judicial review may be sought are limited (see new Part 8 of the Migration Act 1958).

*The Federal Magistrates Court is located at the Northern Territory Registry, Level 1 TCG Building, 80 Mitchell Street, Darwin.*