

Ferae Naturae

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Education and information for the community about the role of the judiciary and the process of sentencing are essential bulwarks in the defence of the judiciary. Sentencing is an art and a science. It is not intuitive or effortless. It has principles which can be learnt and taught and which are founded in experience and common sense. Above all it is a rational process capable of explanation and analysis. To this end it is to be welcomed that the Chief Justice has seen fit to publish all sentencing remarks as they are delivered on the Supreme Court's new website. This will go a great way to allow explanation of the sentencing process to the interested lay person.

The Law Society supports other initiatives to demystify and explain the sentencing process. To this end it is currently seeking funding with the Northern Territory Legal Aid Commission to hold a series of workshops based on the highly successful *Trial of the Century* hosted by NT Neighbourhood Watch at the Supreme Court in Darwin in 1998. *Trial of the Century II* workshops will be open to members of the community. In the

workshops participants will be presented with a number of case scenarios which are acted out by lawyers who play the roles of prosecutor, defence counsel, accused and other witnesses. Crown facts and a plea in mitigation are presented. A judge or magistrate presents a summing up and explains the general sentencing principles which are applicable to the scenario which has been presented but he or she does not deliver an actual sentence. Participants then withdraw to discussion groups where they consider what they have heard and where they are free to ask questions. Each group delivers the sentence it thinks appropriate to the crime. The judge or magistrate then delivers the sentence he or she would have delivered in the circumstances. Comparisons and discussions ensue. It is instructive to record that past experience is that the lay sentencers are usually more lenient than the professional ones.

The aim of the process of course is to demonstrate the complexity and difficulty of the sentencing process and to reveal that it is not necessarily the simple knee-jerk process it is supposed to be but rather the careful weighing and

balancing of competing influences. Like most things in life it is not as easy as it looks.

I commend the scheme to you and hope that it will be up and running towards mid year.

In the twenty first century it is becoming apparent that the only groups willing or able to defend the judiciary from destructive and ill-informed comment are lawyers. In this regard it may be that lawyers and Law Societies in particular will be accused of doing so only for ulterior motives. If this is the case so be it. In this context it is perhaps appropriate to publish some comments of Bob Ellicott QC, attorney-general in the Fraser Liberal Government which were published in the most recent edition of the *New South Wales Bar News*: *I still believe that the attorney-general's role is the most significant in government. I see it being frittered away. And as it is being frittered away, so the independence of the law and the rule of law are frittered away. That is something we can't afford.*

As always, dear readers, food for thought.

LETTER TO THE EDITOR

Balance - Lines in the Sand

I note that the regular Alice Springs contribution to *Balance* is entitled *Lines in the Sand*.

There is no need to remind practitioners in Alice Springs of the oft quoted "Berrimah Line". It seems to me that the Alice Springs article by virtue of its titular heading overtly pays homage to and reinforces the Berrimah Line Syndrome.

I would suggest that this is both inappropriate and unfortunate in these times.

Additionally the expression "to draw a line in the sand" (and hence its derivative) invokes unnecessarily aggressive confrontational imagery (witness President George's declaration to the Iranians).

Therefore I would urge the Law Society to take into account these possible

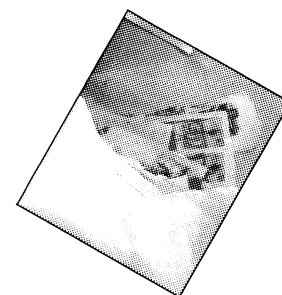
connotations and perhaps consider a more inclusive header for contributions from Alice Springs.

Peer Schroter
Povey Stirk

Thank you for your recent letter concerning the *Balance* article *Lines in the Sand* which has appeared in the last three editions.

Firstly the Society welcomes all comments regarding *Balance* and its contents. It is hoped to make *Balance* a journal in respect of which all members of the Society feel a sense of ownership and as a result will feel free to contribute articles and indeed letters to it.

With this in mind the Council of the Society was anxious to create in *Balance* a segment of the journal which would be referable solely to



Central Australian practitioners - to their needs and interests and which would also be a means of informing other practitioners of the goings on in Alice Springs and surrounds. The aim was to break down the *Berrimah Line* not reinforce it.

The title *Lines in the Sand* was devised by the Society's Alice Springs representatives Katrina Budrikis and Domenic Conidi.

Their aim was to create a title which would be evocative of the desert environment in which all you Centralian practitioners are fortunate to live. Any illusion to Mr Bush Senior was unintended.

Editor