

# Walk a mile in their shoes

James Hebron, the missing end of the firm De Silva Hebron once told me that there were two good reasons for following the old saw "Before you criticise someone, walk a mile in their shoes". The first was that if you did, you were a mile from the person you didn't like, and, as a plus, you had their shoes. To that I would add a third caveat, as my (female) partners instruct me, only criticise someone with the same taste and size in shoes.

I suppose there must also be the reverse of the proposition, and that thought is apposite at this time of year, a time of peace and goodwill to all.

Well, it will be shortly after some significant events occur. One of these is the end of the world, as we now know it. It must be as significant as that, I think, because of the increasing sense of urgency that seems to accompany this time of the year.

All of you must have had the experience of clients and others wanting matters resolved 'before Christmas'. This request seems to occur in those matters that have absolutely no hope of resolving 'before Christmas' or, indeed, before 'next Christmas'.

Nonetheless, the optimism of a cessation of whatever sort of legal warfare the client is indulging in at the moment springs eternal and happily in reverse proportion to the likelihood of it happening at all.

Accompanying this hope is the profession's subjective feeling of the decrease in time available to achieve all these miracles. Then if we were to add a garnish of Christmas parties and a seasoning of alcohol, it all adds up to a pretty interesting time.

Be of good heart, though, and know that matters in the rest of the legal world will be taking the same sort of geometric plunge as Christmas Day approaches.

At the moment there is a Government committee investigating application of the southern proposals in respect of trial management and the NSW anti-solicitor costs provisions. The trial management stuff is interesting on two levels.

The first is that they espouse the current trend in practice management and that is front-end loading of legal actions.

It actually was a very interesting and, I am told, successful method of dealing with a legal system with large amounts of common law claims; that is, England.

There they had a legal system that was slowly drowning under its own weight. Legal Aid was unable to provide the assistance it needed to do to people who it needed to support; people who had to bring common law actions to obtain what is, in effect, workers compensation payments and for whom there was no accident scheme for motor vehicle accidents.

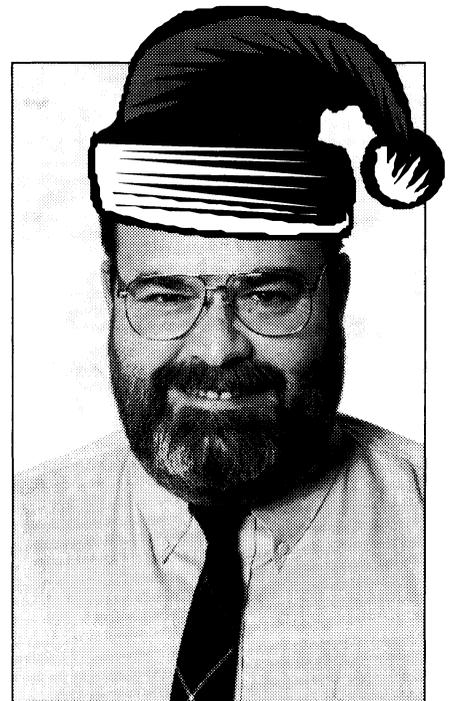
So Lord Woolfe, the new Master of the Rolls, brought about an entirely new approach.

Firstly, he got rid of legal aid, and allowed insurers to offer 'after the event' insurance.

That means paying a premium to an insurer after an accident so that the insurer would, in effect, run the legal action.

Of course, said insurer would have its own lawyers, assessors, doctors, rehabilitation specialists and hospitals. But it meant that the claimant could bring the action and not bankrupt themselves in doing so. (As an aside, isn't it funny how there hasn't been the fervent plaintiff bashing arising out of the insurance 'crisis' in the UK!).

However, that was not enough to fix the terminally ill system, and what was also needed was some pretty active surgery on the manner in which a claim should be made.



*Ian Morris, president*

To effect this, Lord Woolfe realised that a fulsome exchange of information before the action started in Court and compulsory offers with serious costs penalties would knock out quite a few of the cases and also seriously pare the steps necessary after an action was commenced if the settlement process failed.

Of course, with everyone primed for the settlement conference, and not much to do before trial, he couldn't leave the parties hanging around, so he had to introduce a streamlined court system that allowed, in some cases, for matters to come on for trial in six weeks.

Remember that it takes that time or more to come before our courts for the first conference.

Well, it has turned out to be a very successful package for all common law claims, including medical negligence and defamation actions.

The danger should now be obvious to all of us, as we have all had recent experience in dealing with the implementation of bits of an entire package: it just doesn't work.

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*Walk a mile in their shoes, from previous page*

The plain fact of the matter is that there is just not enough common law work in the NT to justify the overlaying of a new system of claims management. I should mention here that Lord Woolfe will be a guest speaker at the Australasian Legal Conference in April in Melbourne.

The other amendments to the law of tort will be debated in the November sittings.

I hope that the detailed submissions that we put the Government have some effect, and at the least cause a delay in the implementation of the proposed system, lest it falls foul of the very criticism that I have made above, and that we have more time to ensure that whatever is brought in will be a useful piece of legislation.

There have been some other steps that we have achieved since the last *Balance*.

There was a very productive strategic planning session (no, that's not an oxymoron) held in the beginning of

November, and this is the subject of Maria's report.

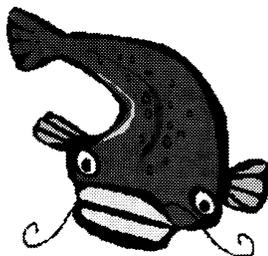
We also had an external expert come to advise us how to set the LSNT up for the next few years (with both staff and equipment), and how we can maximise the service provided to the profession.

I hope that we can make the report public shortly.

The saddest news is that Maria has indicated that she will not be renewing her contract when it expires in March.

I would like to deal with Maria's fabulous contribution to the LSNT in more detail in one of my columns in the New Year, but I mention it now, as we will be advertising the position shortly.

Lastly, from that catfish and I, a Merry Christmas and Happy New Year to everyone.



**from the editor**

## **PHEW! What a year**

Is it my imagination or is everyone incredibly, horrendously, mammothly "crazy busy"?

This is supposedly the time of year when "everything" slows down and most are getting ready to attend the normal slew of Christmas parties.

But the "slowing down" is nowhere I've looked recently. In fact there appears to be a ridiculous amount of work being done. From the legal profession to the public service, to the hospitality industry (natch), to the workers on building sites - who has time for Christmas drinks let alone shopping?

If there is "no rest for the wicked" then we've all been very, very, very naughty indeed!

Still, there are some rewards for being so busy.

Take *Balance* for example. This is the last edition for the year and it is horribly late.

We try to get it out as regularly as possible but sometimes, with our contributors tied up with work, it gets delayed.

The reward is we DO get there eventually and it's with twisted pleasure that I hear the demands - "where's *Balance*?", "why isn't *Balance* out yet?". It means you're reading it and even missing it at times.

I hope you've enjoyed reading *Balance* as much as I've enjoyed producing it for the Law Society of the Northern Territory. This was my first year on the job and it's been a pleasure to work on the magazine.

Have a wonderful Christmas and New Year and we look forward to bringing *Balance* to you in 2003.

— Lorelei Fong Lim, editor

## **From the UK Law Society about Bali**

The following letter was received in mid October this year. It was addressed to President Ian Morris.

*I would like to express to you, on behalf of the President all the solicitors of England and Wales, my deepest sympathy for the tragedy that has befallen so many people and families in your country. All of us here at The Law Society, who watched events unfold, are stunned and shocked at the senseless loss of human life.*

*My thoughts go out to you, your colleagues in the legal profession and all Australians in this hour of need and despair. I hope that all of you in Australia will find the strength to cope and overcome this terrible event.*

*With kind regards, yours sincerely  
Peter Williamson, Vice President*

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