

# Time to challenge the challengers

There is almost too much to write about at the moment.

- The shameful attack on a member of the judiciary by a Senator;
- The failure of the Federal Attorney-General to defend the High Court;
- The continuing attack on the legal profession by the insurers;
- The introduction of 'drug courts' by the NT Government;
- The national meetings in respect of public liability insurance;
- The SCAG meeting that has set the scene for the introduction of a national profession;
- The coming changes in requirements for post-degree and pre-admission education;
- The imbroglio of the Governor-General;
- One of our own ex-ministers admitting that he fudged a budget;
- The loss of trust between the Federal Government and the opposition in matters of national defence;
- Funny jobs for the Reith and Wooldridge boys; and
- The sacking of the Waugh twins from the One Day side.

I had the feeling that this year started off with a bang rather than the traditional January whimper, but I had thought that it couldn't keep up the pace.

It appears that I was badly mistaken.

I can't work out why all these things are happening now, but I do have a sense of déjà vu.

It is not hard to draw parallels with the beginning of last year in the Top End.

Then we were beset with the shadow of mandatory sentencing, an Attorney General who wouldn't stand up for the legal profession and in fact disparaged it, the attacks on lawyers were about crime and punishment, and the local government seemed to have lost the connection between power and responsibility.

I guess we missed out on floating children and paedophilia, but that may have just been good luck.

At least the cricket side was ok.

What is happening? There seems to be a loss of the regular way of doing things, the loss of conventions and protocols, a disassembling of the accepted way of things.

When I wrote my first *Balance* article, I said that things were changing for the legal profession, and that I expected that those changes would come upon us quicker than we were prepared to see them.

Speed of change in a society seems to accelerate the more the society becomes destabilised.

In a sufficiently fluid society great changes are possible and do happen without the normal lead in that we expect.

I do not say that our society is in such a state, but there are many departures from the norm, which one would expect when a society begins to lose form.

## *bit of a wobble*

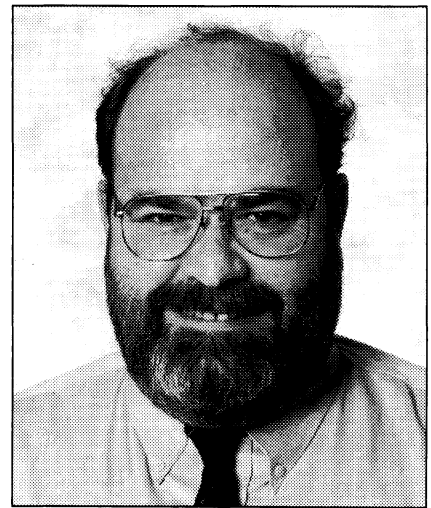
I suppose this happens from time to time, a little bit of a wobble, a few new attitudes and a slow firming of the fabric again, but I do wonder whether the continued insults to the system, and particularly the legal system, that we have seen during the past 18 months may be fertilising the growth of the changes that we've expected, and have promoted a few weeds that we haven't.

I believe we have to accept the real risk of a sustained attack on the legal system and that whilst the attack continues the accepted rules and position of lawyers will take a hammering.

The attack will concentrate firstly on the lawyers themselves.

The groundwork has been done by members of our own profession who are prepared to trade the rule of law for political gain.

Howard, Hocking, Abbott and Williams seem to fit this bill.



*Ian Morris, President*

The fact that people believe lawyers who are prepared to criticise the legal system but are not prepared to believe lawyers who defend the legal system is one of those interesting conundrums.

Unfortunately it is one that might be very dangerous to the profession.

The incremental damage to legal rights during the last 10 or so years has been largely unchallenged by the profession generally.

And when it has been challenged, it's been an unsuccessful exercise.

For too long the defence has been left to the mainly uncoordinated efforts of a few.

One look at the disparate efforts to deal with the accusations flying around in the public liability and medical insurance debates is proof enough of that.

I think that some of the problem lies with the fact that those who are in the position to do something about defending the traditional work areas of the profession are those who have least to lose if that work is lost to the profession, whereas those that have most to lose are least able to stop the rot.

It is not dissimilar from the changes that long established firms go through when those in power fail to accommodate the future of those coming behind them and the firm fractures.

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It is not enough for the profession to watch what is happening and then expect that they will have the last word.

We have seen the effect of a first strike approach of the AMA with medical insurance.

Once they accepted that they had a problem, they went out to the media and identified the cause of the problem: greedy patients being assisted by equally greedy lawyers — a dollar for a patient means a dollar for a lawyer.

Both assertions were plainly incorrect, but we mounted no defence to that.

It was something that those in power and the public wanted to believe: it sounded good.

It was not backed up by figures, and the fact that it is negligent medical practitioners that cause the injuries in the first place seems to have been entirely overlooked.

How extraordinary is that? I guess people so want to believe that they aren't going to be hurt by their doctors that they will accept anything as an alternative.

The ground rules have changed, and lawyers are one of the professions that have failed to accommodate that change.

It is not enough for us to behave like catfish, secure in our own little patch of mud.

We need to be able to take the high ground and we need to all co-operate to do so.

Preparing the local profession in the way that the current Council is doing is one way of preparing ourselves for the future.

The committees are now known to all of you, and if you can offer some assistance please let us know.

In the words of the (new) Bard:

*You'd better start swimming or you'll sink like a stone,  
For the times they are a'changing.....*

PS Just to prove the point of this message, refer to *Ferae Naturae*, page six, this edition of *Balance*. ①

*An invitation to the:*  
**Criminal Lawyer's Association  
(NT) Dinner**

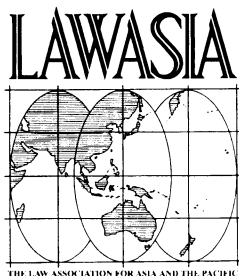
*When:* Friday 12 April, 7 for 7.30pm

*Where:* Cornucopia Museum Cafe

*Cost:* \$29.50 for a three course meal

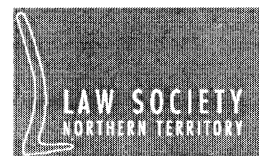
*Guest Speaker, Music,  
Criminal Law News*

RSVP with cheque before COB 5 April  
to Jenny Blokland or Jennie Radtke  
(c/- Dept of Justice)



# MEDIA AND THE LAW

13 - 15 May 2002



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