



Edition: January 2004

*** Financial Services Reform**

*** Incarceration rates**

*** Parole Board Reform**

*** Tort Law Reform: still on
the agenda**

A busy year ahead for the LSNT

Is it just me, or does it seem like the years are simply flying by? I must say I felt that 2003 was much shorter than previous years. Like most, I find it usually takes me a couple of months to get used to writing 2004 however for some reason this year is different, indeed I was writing 2004 at the end of 2003. We are now over a month into the New Year and most of us are back on deck and working as if there had been no Christmas and New Year. Nonetheless I take this opportunity to wish you all a prosperous New Year.

This year promises to be another busy year for the Law Society. First on the agenda was the Opening of the Legal Year and ceremonial sittings to welcome our new Chief Justice, Brian Martin.

The celebrations went very well in both Darwin and Alice Springs - more on Alice later - we were pleased with the attendance at lunch in Darwin and with the exception of the food which I have to agree was "a bit ordinary" the lunch was fun and I hear reports that some (I won't mention any names...you know who you are...) partied until late. I departed or I should say snuck out (I felt stealth was the better part of valour if I was to avoid a huge night) at about 5ish. In any event, the attendees seemed to overcome any food issues and have a good time.

Barbara and I travelled to Alice on the Tuesday lunchtime flight. It turned out that Martin CJ, Angel J and Director Wild were on the same flight. Not that this really rated a mention, but I think Barbara's comment that "if the plane crashes there will be a lot of important positions that need replacing" was not really called for.

The celebrations in Alice followed largely the format in Darwin, although we did have additional drinks at the Desert Park to allow the local profession to meet and greet the Chief Justice. The Desert Park is spectacular and I encourage anyone visiting Alice check it out. If you are wondering, no I do not have any affiliations with the owners/operators, it's just that sometimes I think we forget how beautiful the Territory really is.

It was my first trip to Alice as President, and Barbara and I took the opportunity to meet and chat to as many of the local profession as possible. In my case it was often a matter of putting a face to a name. Thanks, you made us feel very welcome.

As I said above the ceremonial sittings were much the same, albeit with less judges on the bench. At the ceremonial sittings, the speeches from David Bamber and Russell Goldflam were truly excellent.

For lunch we adjourned to the *Purple Shades of Mary* for lunch - I love that name. The lunch was a pretty relaxed affair and the food was delicious. I have to say that in the drinking and carousing department the Alice mob might be fewer in number but their partying is impressive. I was somewhat glad that we had a plane to catch.

Tony Whitelum has done a terrific job as the Alice Springs representative on the Council, with his enthusiasm and Nardine's support; and we were really pleased to see an increase in attendance by the local profession. I would like to thank you all for a great time.

On to other matters, in February the Law Society Secretariat will be extremely busy organising a move to our new premises. We are moving to the first floor of the Paspalis Centrepoint building in the Smith Street Mall. The terms of the lease are five years with an option of five more. I understand painting and new carpeting is well under way and we hope to be relocated by early March



Merran Short, President

2004. This will of course mean that the Secretariat will have a lot on their plate and your patience would be appreciated.

Steve Southwood QC and I travelled to Brisbane in January to attend a meeting of the Law Council of Australia's working party on tort law reform. The working party has reported back to the Law Council, including recommendations on what steps could be taken to address these issues. The Law Council will consider the issue further at the March meeting in Canberra.

Barbara Bradshaw and I have also met with the Attorney-General. Regular meetings between the President and the Attorney-General were introduced during Ian Morris' presidency and it is a tradition that I am keen to uphold. In my view these meetings are of benefit to the profession because it gives us an opportunity to discuss relevant or concerning issues. These meetings also give us an opportunity to be heard on various issues, although rest assured we do not consider the meetings to be in lieu of submissions on legislative changes, instead they are an additional line of communication. Throughout the year the Law Society will approach some of you, as appropriate, to comment on various pieces of proposed legislation. I would be most grateful for your contributions.

continued page 5

LSNT get a FSR reprieve for Christmas

2004 is looming as another busy year for the Law Society.

As a Christmas present, the Law Society received interim relief from relevant provisions under the Financial Services Reform Act (FSRA) for the Professional Indemnity Insurance Scheme, Law Society Public Purposes Trust, Legal Practitioners Fidelity Fund Committee (LPFFC) and Legal Practitioners Trust Committee (LPTC) until 1 July 2005.

This relief is dependant on an appropriate notice being posted on our website warning that the relevant activities were not regulated under the *Corporations Act* or the *Insurance Act* as appropriate. I would refer those interested to the ASIC website, to Class Orders CO 03/1094 and 3/1095 and Information Release IR 43-03. Copies are also available from myself at the LSNT.

ASIC may grant permanent relief depending on the findings of the Commonwealth Review into Discretionary Risk funds and Foreign Insurers.

The best aspect of this temporary exemption is it gives us time to sort out a solution or look for permanent exemptions. A complication is that the new national model laws for the legal profession are scheduled to be implemented in the Territory before 1 July 2005. It is possible that the LSNT may need to apply for an Australian Financial Services License in respect of some activities before this date. I will keep you posted on developments.

Those who receive *The Practitioner* (the Law Society's weekly email newsletter) will note that the Commonwealth has promulgated regulations exempting a number of other lawyer activities from the operation of FSR. These regulations could be subject to disallowance and may not cover all the activities of a particular practitioner. The Law Council has put out a guide for lawyers on FSR issues - copies are available from the LSNT office or on the website, www.lawsocnt.asn.au.

On 20 January 2004, ASIC published a warning that unlicensed parties

carrying out financial services after 11 March 2004 will have to cease these activities or risk major penalties. It appears that ASIC is still considering over 500 license applications, including some from major institutions, and has indicated it may be difficult to process all applications for licenses or relief before 11 March 2004.

Thus far, we are pleased to have secured some breathing space for the Law Society, LPFFC and LPTC and some leeway for the profession.

It appears the hefty requirements of FSR have already driven a number of small players in the financial advice are out of the market - it makes you wonder if this was the point of the exercise. Lawyers are, apparently, also warning financial advisors that statements of advice, required under FSR, could need to be 90 pages in length to meet requirements under the *Corporations Regulations*. These would apparently be required each time shares were purchased on the advice of the financial advisor. It will be interesting to see how it all develops.

On a more cheerful note, the Territory's legal profession recently gathered for the Opening of the Legal Year ceremonies and the ceremonial sittings to welcome Chief Justice Brian Martin.

As noted in the President's report, the Secretariat is moving at the end of February 2004 to premises in Paspalis Centrepoint. The forbearance of members is sought during the time of the move. It will be a very hectic time. Four members of the Secretariat are also moving house or undertaking renovations during this time.



Barbara Bradshaw, Chief Executive Officer, LSNT

Finally a very busy Government legislative campaign is expected in 2004 with a lot of legislation being enacted and commencing. It is likely that the *Legal Practitioners Amendment (Costs and Advertising) Act* and the *Legal Practitioners (Incorporated Legal Practices and Multi Disciplinary Partnerships) Act* will both commence in about May 2004.

There will be more details in the next edition of *Balance*. ①

President's column cont...

Certainly time does fly. It is now ten years since I was admitted in the Northern Territory and I can not honestly say it has all been fun. I can however claim that it has been rewarding. A good proportion of those rewards have come from my work with Australian Women Lawyers, NT Women Lawyers and the Law Society. I think any contribution outside your regular job improves life. Looking around the Territory's legal profession, there are plenty of examples of people who contribute - whether it be to the Law Society, Darwin Community Legal Service, footy tribunals or other community groups. These activities are extremely valuable; both in terms of personal satisfaction and as a contribution to the community. ①