

## Life at the Bar and other activities

The first event for this year was drinks at William Forster Chambers, "Life at the Bar". It was the best attended event so far with thirty women lawyers and barristers and one male barrister, Tony Young, attending. Many thanks to Judith Kelly and the staff at William Forster Chambers for providing drinks and nibbles. Also thanks to Sally Gearin, Judith Kelly and Lyn McDade who made themselves available to answer questions on what it's like to work at the bar. Lyn Bennett won the door prize of a fifty dollar voucher to the *Cut Above* at Nightcliff. A great time was had by one and all.

I announced at this event that NTWLA Inc would pay for an airfare and seminar fee for a member to attend the Mary Gaudron Seminar to be held on Friday 5 March 2004 in Melbourne. I asked members to self-nominate by close of business Thursday 26 February 2004. I had five members throw their hat into the ring and the lucky winner is Marguerite Bowen.

The Mary Gaudron Seminar is being hosted by the Centre for Comparative Constitutional Studies at the University of Melbourne. The confirmed speakers include Victoria's Chief Justice, Marilyn Warren, Justice Susan Kenny of the Federal Court of Australia, and Nicola Roxon MP, Shadow Attorney-General.

Topics to be addressed include: concepts of judicial responsibility; constitutional theory and responsibility; constitutional guarantees and freedoms; citizenship; Indigenous issues; and industrial law. Marguerite will provide papers and, perhaps, a brief summary of the seminar at the next NTWLA event. This will be held on Friday 30 April 2004 at the Parap Bowls Club. Watch *The Practitioner* for more details

On 28 February 2004, I flew to Brisbane and attended the first face-to-face meeting of the Australian Women Lawyers (AWL) Board for this year. Naturally, the draft Model Equal Opportunity Briefing Policy of the Law Council received much discussion, among many other topics. At the end of the day, the Board identified the following agenda items as priorities for the forthcoming year: the tax deductibility of childcare; Internal Solicitor Briefing Policy; National Directory of Barristers; gender-based statistics on Barristers appearing in all

courts nationally; and the preparation and promotion of a booklet to be titled "Empowerment and Leadership", a how-to guide for women lawyers aspiring to become Barristers.

The Law Council's Equalising Career Opportunities in the Law Committee has considered the AWL's Model Equitable Briefing Policy, made amendments and circulated it for comment. The amended version includes references to in-house counsel and a requirement that, on the adoption of the policy, legal bodies will draft more detailed guidelines for the implementation of the policy. Copies of the amended version, *Model Equal Opportunity Briefing Policy*, are available from me on request.

The Law Council of Australia sent the amended policy to AWL seeking a formal response by 27 February 2004. AWL members were consulted and advised the Law Council that its members unanimously supported the Model Equal Opportunity Briefing Policy. That document will now be the subject of a status report to be forwarded to the Standing Committee of Attorneys-General in March 2004. It is anticipated that the Directors of the Law Council will consider the final statement of principals and recommendations concerning the document on 20 March 2004. The Law Council will then commence the implementation and adoption of the policy.

The Briefing Practises Sub-Committee of AWL has collected statistics on the ratio of females to males appointed as judges and magistrates throughout Australia. According to these statistics, the highest percentage of female judges sitting on a Supreme Court nationally is in Queensland at 29%. The High Court and



NTWLA President, Ms Gabrielle Martin

the Supreme Courts of the Australian Capital Territory and Tasmania have no female judges. The percentages of female judges to male judges sitting in the Federal Court are 13%, in the Family Court 31% and in the Federal Magistrates Service 27%. The percentage of female to male magistrates appointed nationally are 20% in the Northern Territory, 25% in Queensland, 30% in New South Wales, 33% in Australian Capital Territory, 30% in Victoria, 17% in Tasmania, 22% in South Australia and 22% in Western Australia.

You may recall, last year in my first column, I reported that in the 1998/1999 period nationally, only 29% of the practising profession were women holding current practising certificates. Of this group, only 7% were working proprietors and working partners of unincorporated business.<sup>1</sup>

In the Northern Territory, there are six large law firms. Three firms have no women as equity partners. Two firms have two female equity partners and the remaining firm has one female equity partner. Of the firms that have no female equity partners, one of them has a female salaried partner.

In summary, the statistics show that women are clearly under-represented in the judiciary and the magistracy, and in large law firms in the Northern Territory.

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## Life at the Bar and other activities cont...

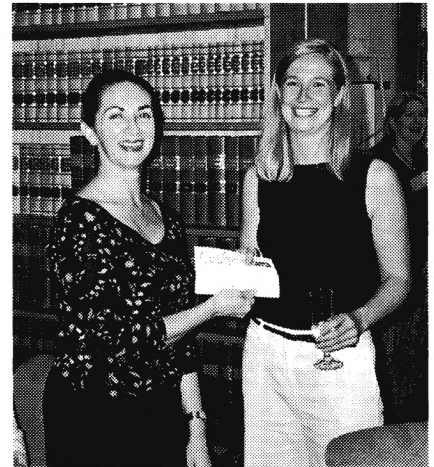
I recently circulated to NTWLA Inc members, an article by the President of the Victorian Law Society titled, "From the President: Practise What We Preach".<sup>2</sup> President Dale quoted Federal Court Justice Cathy Branson on her view about the practise of law:

"There is no genuine equal opportunity in allowing women to enter traditionally male institutions – but only on the basis that the values of such establishments, and the way they are run, are to remain unchanged. The freedom to be an honorary man, or alternatively, an outsider, is freedom few women aspire to."

The numbers of women completing degrees in law is increasing and should be applauded. However, it is not enough that women complete degrees in law nor is it enough that women join law firms to create equity for women in choosing law as a profession. The remedy to achieving equal representation in the judiciary and the magistracy, and in large law firms is

complex. Courageously reviewing the values held by "traditionally male institutions" will hopefully lead to adopting values which will foster careers for women in law to positions of significance. However, not only do women lawyers need to assist 'traditionally male institutions' to be re-invented but they also need to remove their own barriers to achieving senior positions in the law.

This shift will not only benefit women lawyers, it will also provide men in the legal profession with yet, little recognised benefits such as greater flexibility at work and family-friendly work practises. It is logically inconsistent to advocate for human rights and the upholding of anti-discrimination laws while permitting its female members to languish. As President Dale said in the conclusion of her article (referred to above): "A profession dedicated to the promotion of rights and equality should practise what it preaches".



Gabrielle Martin presenting the *Life at the Bar door prize*.

### Endnotes

- <sup>1</sup> After ADA – a new President for women in Law "29/10/02". Paper of the Law Society of the NSW adopted by the Law Society Council 19 September 2002.
- <sup>2</sup> This can be found at website <http://www.liv.asn.au/journal/current/>

## The recognition of Aboriginal Customary Law in the criminal justice system cont...

**1.5 Government should assist Aboriginal communities to develop law and justice plans:** This general recommendation is that each Aboriginal community should be assisted to develop its own plan to incorporate traditional law into the community in anyway that the community thinks appropriate. The inquiry's general view is that each Aboriginal community will define its own problems and solutions. Models may deal with alternative dispute resolution, family law issues, civil law, criminal law, or with relationships between Aboriginal communities and government officers/private contractors while in Aboriginal communities, and so on. This Committee does not wish to limit the matters appropriate for inclusion. Government must adequately resource this process, and may find it useful to fund pilot programs.

Where these recommendations presently sit is unknown to this

writer.<sup>11</sup> However, it should not be thought that members of the Bench, in all Territory courts, are not very sensitive to these issues. For example, there are presently exercises being undertaken in courts in Arnhem Land presided over by Magistrates Blokland and Loadman where local input is obtained before sentencing. In recent years, the Supreme Court has sat in bush courts to demonstrate the significance of local issues and contributions to its deliberations.

There is a long and well-accepted history in the Northern Territory of sensitivity to customs and the applicability of them within the general law when it is appropriate. No doubt this will continue.

### Endnotes

- <sup>1</sup> 142 NTR 1.
- <sup>2</sup> A separate suggestion that he had a positive defence was not pursued, as he had pleaded guilty at an early stage to the offence of carnal knowledge.

- <sup>3</sup> *Jamilmira v Hales* [2004] HCATrans 18 (13 February 2004)
- <sup>4</sup> Not, at the time of writing, having commenced (1 March 2004)
- <sup>5</sup> The terms customary and traditional are used interchangeably in this paper.
- <sup>6</sup> See, for example, *Walker v NSW* (1995) 69 ALJR 111.
- <sup>7</sup> Although this particular application was actually heard in Melbourne
- <sup>8</sup> [2004] NTSCS, 13
- <sup>9</sup> *R v Minor* (1992) 2 NTLR 183 at 195-196.
- <sup>10</sup> *Barnes* (1997) 96 A Crim R 593).
- <sup>11</sup> They were released on 6 November 2003 on the Department of Justice website (<http://www.nt.gov.au/justice>)