

BALANCE

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Ladies of Justice

A final word from me..... perhaps

Duncan McConnel,
Law Society President



This is my final article for Balance as President, with the AGM of the Society happening in October.

My primary objective when I took on the role of President was to lead the Society in a shift of emphasis from its own regulation and structure, to more engagement in community debate about policy, and representation of the legal profession and the community generally.

I would like to think that the Society has been pretty effective in achieving those objectives in the course of my term. We have had many occasions on which we have had to intervene to seek the government's reconsideration of laws and policies over the course of the last two years. We have had to participate in an election campaign where both major parties pursued a 'tough on crime' policy that had real prospects of creating one of the most harsh and unfair communities in Australia.

A significant factor in our success has been our ability to work with the government. We have enjoyed a good relationship with the government which has been based upon mutual respect. Both the government and we recognise that there will be times when we simply will not agree on matters. But those times are few and far between. Most of the time, we have successfully worked together to assist the government to introduce laws that do not operate with unintended consequences.

In the coming months, we will be looking to the government to support the Society as we engage in the national debate about the future structure of a national legal profession. Northern Territory lawyers and the community generally, face significant disadvantages if the wrong model is chosen. I favour a nationally consistent model for the legal profession and the idea of being an Australian Lawyer. However, I also think it is important that the regulation of lawyers occurs in such a way that lawyers in places such as Darwin, Katherine and Alice Springs are not disadvantaged.

We currently enjoy competitive rates of insurance for our lawyers through being able to pool together and go to the market through the Society. What would happen if we were forced to participate in a national indemnity pool, like LawCover in NSW? The indications are that small firms and sole practitioners would be the hardest hit, and that the increases in insurance premiums would force some lawyers out of business altogether. In a place like the Territory, that means that problems of insufficient numbers of lawyers are worsened. For the consumer, it means getting a lawyer, or an affordable lawyer, is even harder.

And what about disciplinary matters? Do we have our disciplinary matters handled by a single national

regulator, based in Sydney or Canberra? What about the notion of self-regulation, where the disciplinary tribunal is made up of lawyers appointed by the Attorney-General or by the Society from within the local profession. My view is that the Tribunal has established a good record in the short time that it has existed. It has handed down some high profile decisions which I think were fair. They demonstrate that self-regulation of our profession is effective. I would not like to see the local flavour of our disciplinary regulation disappear as part of a national scheme of regulation.

The Society also plays a valuable role in advocating for both the profession and the community at the Territory and local level. A significant factor in our capacity to do so is that we are funded by the earnings of the Fidelity Fund. If the Society loses access to the Fidelity Fund, it could well be prevented from being any sort of effective commentator on issues of importance to the profession and the community.

The Fidelity Fund earns income through investment. But it also derives a significant proportion of its funds through interest earned on trust accounts. The national model could put that income at risk, particularly where national firms are concerned. The end result could be national firms conducting

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significant business in the Territory, but with virtually no contribution to the Fidelity Fund locally. The interest on trust accounts would be earned in Sydney or Melbourne and would be contributed to their home State's fund or to a national fund. We would need to continually lobby for allocation of sufficient funds to enable the Law Society to function in the Territory. It would be very difficult for us to maintain adequate levels of funding if this model was adopted.

In the meantime, as that debate develops, the challenge will be to not become so distracted by the changes proposed at the national level, that the Society neglects its other important areas of activity. We have a good track record of maintaining benefits for our members, and of introducing new measures to suit the times. Last year, for example, we introduced LawCare, with the assistance of EAS, to provide valuable emotional and stress support for lawyers. We continue to look for opportunities to add to member services through the member services committee.

We have also had a very productive and effective year in our lobbying and advocacy issues. We have

maintained pressure on the government to ensure that it makes proper attempts to reduce the unacceptably high rate of imprisonment in the Territory. We advocated as part of a coalition with health professionals, for an amendment to the *Care and Protection of Children Act*, to overturn a provision that risked doing more damage than good if it remained. We have continued to work with government in reviewing draft legislation, such as the Vendor Disclosure legislation, to prevent bad laws from being implemented. It is vital that the Society continue to undertake this work in the future.

I will be continuing on council this coming year, and I remain the Society's nominated director on the Law Council. There will be a significant amount of work to be done as the Law Council considers its future structure as well as focusing on specific projects such as recruitment and retention of lawyers in regional Australia, and lobbying for real increases in legal aid funding.

I have been very privileged to serve as President of the Society for the last two years. It has been a fantastic experience. I could

not have done the job without the support of the Council, who gave me the freedom to bring my own personality to the position but who have provided a great deal of support and work to ensure that our Society functioned well and produced results. I particularly would like to thank the executive of Matthew Storey, Jason Schoolmeester and Peggy Cheong, but also wish to make special mention of Fiona Hussin. Fiona's work as chair of the Criminal Justice Committee has seen that committee achieve significant results in the areas of its focus, which have assisted the Society to maintain and build upon its reputation as the Territory's peak legal body advocating for fairness in the legal system.

I would also like to pay special tribute to Barbara Bradshaw, CEO of the Society. Barbara has an enormous capacity for work and her contribution has ensured that the Northern Territory is held in high regard by our colleagues interstate and nationally. All of the staff at the Law Society continue to do a terrific job, which is reflected in the quality of our product – whether it be *Balance*, the content of our CPD's, the smoothly run social functions, or the briefing notes that enable us to respond to the issues of the day quickly and accurately.

For now, however, I am very content to be relegated from Rooster to Feather Duster, and will take my place accordingly, with thanks and appreciation to all my fellow colleagues. }