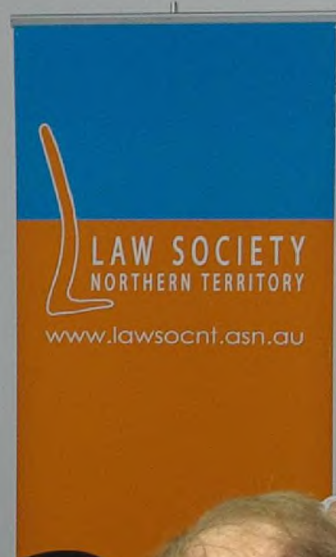


BALANCE

LAW SOCIETY NORTHERN TERRITORY

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Annual General Meeting



The Law Society

A Many Splendid Thing

Matthew Storey,
Law Society President



Many years ago, before moving to the Territory, before my admission, I worked as an Industrial Officer in various trade unions in Melbourne. Not surprisingly after my training and admission in the Territory I developed an interest in the Law Society. In the years I have served on the Council of the Law Society the multifaceted nature of the organisation continues to intrigue me.

At one level of course the Law Society is similar to the trade unions that I used to work for. Of course it is not involved in direct negotiations about wages and conditions of members in the same way as a union. There is no Industrial Relations Commission equivalent for most lawyers. That said, the involvement of the Society in the Court's determination of schedules of costs bears some similarity. However, this matter aside, in a way similar to a union the Society has a profound concern with the welfare of its members.

The incoming Council has determined to continue and enhance the efforts of the previous Council in making this area one of the main

foci of the Society in the coming year. To this end the Council has (re) established the Member Services Committee with Treasurer Jason Schoolmeester as its Chair. This Committee will work to ensure that individual members derive more concrete benefit from their membership of the Society. Matters immediately under consideration by the Committee include participation in national discount schemes, access to discounted insurance packages and an expanded and targeted social program. As a basis to planning for these programs the Committee has asked the Society's Secretariat to develop a statistical picture of the nature of our members: how many are "young" (i.e. since admission) lawyers; how long do lawyers stay in practise in the Territory, what is the age spread of practitioners? The picture, once developed will assist the Society in developing programs to ensure that Territory lawyers get tangible *personal* benefits from their membership of the Society.

At another level though the Law Society operates much more as an old style "guild", or in today's language, an industry association.

The most obvious recent example of this facet of the Society lies in the National Legal Profession Reform (NLPR) Project initiated by the Commonwealth Government. While details still remain sketchy, it appears that NLPR will involve greater centralisation of a range of functions currently undertaken by various state and territory regulatory bodies. The expressed objective of NLPR is to reduce levels of regulation and to create a seamless national legal services market; said to be in the best interests of both consumers and firms. Proponents of NLPR point to the gross dollar value of the legal services industry and the need to enhance its export potential. Areas identified for potential reform include discipline, trust accounts, continuing professional development, professional indemnity insurance (PII) arrangements and admission requirements. There is much merit in considering reform in many of these areas. A disciplinary infringement should be treated in the same way across all jurisdictions. Similarly, a firm practising across jurisdictions should not have to be subject to a multitude of differing trust account arrangements, and, in these days of travelling practising certificates, admission requirements *should* be uniform in both theory and practice.

This said, it must also be accepted that the vast majority of legal work (and legal revenue turnover) is state or territory based. Most practitioners in Australia do not engage in multi-jurisdictional

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or international commercial transactions. They, and their clients, work in a single jurisdiction and predominantly subject to the laws of that jurisdiction. Australia is still a federal polity. NLPR must accommodate this reality. The reality is probably all the more stark in the small remote jurisdiction that is the Territory.

The current discussion paper on disciplinary reform suggests that disciplinary matters in the Territory may be handled, on a Fly In Fly Out basis, by a delegated regulator from another jurisdiction. How such a proposal can be said to enhance the service delivered to clients of legal services (or practitioners) in the Territory is not explained. Similarly, the likely result of Territory practitioners being forced into a national PII pool would be an increase in PII costs ultimately leading to a reduction in the number of practitioners in the Territory and increased costs to clients.

The role of the Law Society in the NLPR discussion is to ensure that the impact of proposals as they affect the Territory (and other smaller

jurisdictions) is clearly articulated. The Law Society (and the other state and territory based societies) must act as a balance to other participants in the NLPR discussion such as the Large Law Firms, the Commonwealth Government (particularly the Department of Foreign Affairs and Trade) and the Law Council of Australia who come to the discussion focused on the need for centralisation rather than on the benefits of jurisdictional adaptability. The ability of the Society to articulate these matters is hugely enhanced by the efforts of the immediate past President, Duncan McConnel, who serves as the Society's representative on the Law Council of Australia, and CEO Barbara Bradshaw who serves as the Territory's sole (and formidable) representative on the NLPR Consultative Group established to advise the NLPR Task Force set up by COAG to manage the NLPR project.

The third level of the Society's operations is perhaps its most significant. This is its role as a professional body assisting Government through expert

input into the legislative agenda. The bulk of this function goes unremarked, aside from those directly involved in the particular matter. A cooperative working relationship with government is essential in the discharge of this function. However, a crucial aspect of the Society as a legal professional body lies in defending the rule of law in our community and that notion's central pillar of an independent judiciary and legal profession. This aspect of the Society's role is often its most public; and one that was impressed upon me in my first week as President with the passage of the Serious Crime Control Bill (the "Bikie Law") through the Legislative Assembly. I don't ride a bike and I would not consider myself a "bleeding heart" - half of the time I've spent working in Indigenous affairs has been for the Northern Territory Government and my main contact with asylum seeker law has been operational law briefings for patrol boat crews as a Naval Reserve Legal Officer. Yet the passage the Bikie Law, with the support of both sides of politics, highlights the crucial role of the Society in acting as a critical voice


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in our community. The Bikie Law of course potentially applies to any group or individual – not just outlaw bike gangs. It allows for police “ban orders” on individuals and groups that are unreviewable. It attempts to limit or even oust judicial review and allows for *ex parte* orders to be made on “secret” evidence. When measures such as these are contemplated the legislature needs to show that they are warranted. Yet, as is often the case in such matters, the political expediency of

the moment can lead legislators to accede to such measures without demanding concrete evidence or justification. In such circumstances the role of the Society is clear and unambiguous. It must act as the voice in our community that forces such matters to be considered and debated. It must show that fundamental principles can not be abrogated without some political “cost”. If the Society did not perform this function; often times there would be no one who would. The fact

that Government can listen to this criticism, consider its suggested approach and, where it considers appropriate, make amendments to its legislative proposal (as happened with some aspects of the Bikie Law) is indication of a functioning democratic process.

In closing I would like to express my sincere thanks to Duncan McConnel and Barbara Bradshaw for their support and guidance in my time as Society Vice-President and (in anticipation) for this support and guidance as President. Similarly I would like to thank the outgoing Council for the time and efforts in supporting the Society and to congratulate the incoming Council on their election. Finally, my thanks to the Society's members for their support for my election and to the many expressions of congratulations I have received since. As this short piece hopefully illustrates I am confident that my time as President will be as diverse and interesting as the Society itself is. 

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