

# **P**resident's Column

## Your Society Needs You!

This column will be my last as President of this Law Society and I take this opportunity to raise some points regarding the Law Society that I hope will be considered by all practitioners.

The Law Society, like any body, is only as good as its members. With that thought in mind, I offer to those practitioners who have supported the Society during my presidency, my deepest thanks along with the observation that they were, perhaps, too few. To those who feel it necessary to voice nothing but criticism of the Society, I offer the challenge to get involved and do something about changing those areas to which you have directed your criticism.

The Law Society has had and will have an important role in the building and moulding of the profession, and arguably none of more importance than that of liaising between lawyers and the other major players in the legal game, namely the government and the judiciary. There have been times when a lack of assistance from the profession in this regard has been frustrating.

Any President of the Law Society faces the accusation that the views of practitioners have not been properly put. For the record, I remind members that the views of the Law Society are those expressed by Council, and not the President's personal views. Council, I also remind you, is currently and properly made up of a cross-section of the legal community, elected by you, the members. This is democracy. As a result of this democratic process, it is not always possible to reach consensus on any given issue, let alone an issue which has already created division in the community at large. Consequently, the Law Society has chosen not to put a view on certain issues and has been criticised for this. I respectfully request of those detractors of the Society, their input into determining how the often diametrically-opposed and strongly-held views of members of the Society may be

incorporated into a meaningful statement on behalf of the Society. I further suggest that where a particular interest group holds a strong view, there is nothing to prevent them making a statement on behalf of that group.

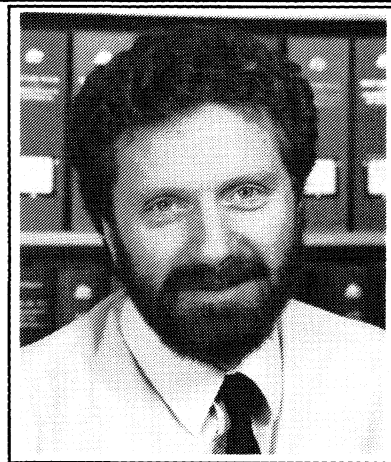
The Law Society has faced repeated criticism over its complaints handling procedure. Having seen other systems at work, I can assure practitioners that I remain to be convinced that a move to any other system would produce an improvement.

I also remind you that the Society receives approximately 150 complaints per annum. These are not dreamt up by Council but are brought to the Society's attention as a result of the behaviour of practitioners. The majority of these occur because of inappropriate and unclear communication between practitioner and client or between practitioners and I suggest that the means to remedy this lies with you, the practitioner, not with the Law Society.

It would be absurd to expect that the Society is always right in its complaints handling, but I offer the evidence that over the past six years, there have been very few successful appeals against Law Society decisions.

The Law Society constantly reviews its practices and in this process the support of the profession is a vital element. I appreciate that practitioners are bound by the very real notion that time is money, and as a result are often reluctant to commit energies to Law Society business. I suggest, however, that involvement in your professional body should be viewed as professional development with all the attendant benefits and indeed, is an obligation on each practitioner who takes his or her profession seriously.

I would not wish to ignore the opportunity that this last column gives me to share with practitioners my view that the profession must lose its reluctance to change if it is to remain viable. I point



you to the example offered by fellow professionals, in particular accountants, who have decidedly taken the client care issue to heart and are not, as are we lawyers, subject to such adverse criticism.

In the matter of professional indemnity insurance, practitioners in Northern Territory currently enjoy the lowest premiums in the country. It is up to each of you to ensure that this remains the case. The Law Society can only negotiate a favourable premium based on the record of its practitioners.

My final point to you is one that should not be a problem in the relationship between practitioners and the Society but must be made by way of reminder to those practitioners who pursue the practice of finding convenient scapegoats rather than solutions to problems. I refer to criticism of the staff of the Secretariat for situations that are not of their making.

One matter that immediately springs to mind is the current fashion of claiming not to have received information from the Society on CLEs, meetings and the like. I remark here that technology allows us to record that information is received by the addressee and if bulletins are not reaching you, then it may be that your own office practices need review.

As you are all aware, the job that the Secretariat does is ultimately dependent firstly on the direction and secondly on the support it receives from the profession. Uninformed and ill-considered criticism of Secretariat staff goes nowhere towards righting perceived wrongs. I remind you that the staff of the Secre-

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**Court Notes**

Sir

I hesitate to criticize a *Court Note* (or indeed any legal proposition) but I suggest the note of *Trenerry -v- Bradley* in your July '97 issue is misleading. It says the Full Court held:

"In respect of the minimum period of imprisonment specified in s78A of the Act, a Court is precluded from suspending in whole or in part that period of compulsory imprisonment."

Indeed the Full Court held that a Court was so precluded "whatever the length of sentence ordered under s78A". This means, not merely whether the sentence is a mandatory term of 14 days, 90 days or 12 months, but whenever a sentence is passed for a "property offence" in the schedule.

Martin CJ at page 10 said:

"It follows that the 'order required to be made under section 78A' appearing in s78B(1) means any order that the offender serve a term of imprisonment regardless of the term."

It may be that the questions were unnecessarily wide and ought to have been confined to the 14 days minimum scenario applicable to young Bradley, but the Full Court (by majority) did go so far.

Alasdair McGregor, SM  
KATHERINE

**President's  
Column**

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tariat exists to assist you, welcomes your constructive criticism of their efforts but rejects your unearned and ill-founded hostility.

I don't believe that I have met a more hard-working and dedicated group of people and I would like to place it on record that it is their intention to provide you with the same if not better service than that available to practitioners in larger jurisdictions like NSW, Victoria and Queensland. You will, however, appreciate that there are limitations to what can be achieved with the time and resources available to the four (yes, only four!) members of staff at the Secretariat. I applaud their efforts.

In closing, I repeat my thanks to those practitioners who have worked for the good of the profession in the Law Society of the Northern Territory during my presidency and offer my support and best wishes to my successor and his or her Council in what I trust will be an instructive and beneficial experience.

**Alicia Johnson Memorial Trust**

Most legal practitioners in Darwin and elsewhere in the Northern Territory will remember our excellent colleague, Alicia Johnson. Alicia worked for the Australian Legal Aid office, the Northern Territory Legal Aid Commission and was active working on law reform in areas such as domestic violence and juvenile justice. She also tutored part-time at the Northern Territory University and at the time of her death was a member of the full-time academic staff at the NTU Law Faculty.

After Alicia's death, her family and friends set up the Alicia Johnson Memorial Trust. The Trust supported a number of community projects which were related to the interests Alicia had.

For some time, the Trustees have

considered placing the Trust under the auspices of a larger body so that the Trust might have tax deductible status in relation to donations. It was felt that this, in turn, would enhance its future viability.

The Trustees have now transferred the administration of the Trust to the Northern Territory University Foundation. Grants from the trust will be available on a biennial basis for post-graduate students in the Faculty of Law who are engaged in research in areas which meet the original objectives of the Trust. The Trust aims to encourage and support work which increases the knowledge and improves outcomes in the following areas:

1. ***Social Justice - Human Rights***
2. ***Juvenile Justice***

3. ***Environmental Law***
4. ***Law and the Legal System in a social context.***

Grants will be awarded by the Research Degrees and Scholarship Committee of the Northern Territory University on the recommendation of the Faculty of Law.

A number of legal practitioners have previously been donors to the Trust. For those practitioners who would like to make donations to the Trust, those donations are now tax deductible and may be made to: NTU Foundation (Alicia Johnson Memorial Trust) and mailed to NTU Foundation, Northern Territory University, DARWIN NT 0909. (Tax exemption is available under Section 78 of the *Income Tax Assessment Act*.)