

*It is now my pleasant task to deliver the CLANT President's Report for the 2013-2015 biennium. Our criminal justice system has progressed from a state of stagnation and uncertainty to one of consolidated growth. Back in 2013, our imprisonment rates were merely five times the national average. Now they're eight times, and rising. Following the mass riots and breakout last year from the newly opened but already fully subscribed John Elferink Correctional Centre, we rejoiced when the government decided to cut its losses and hand over operation of its three prisons – soon to be four with the construction well underway of the Gove Gaol on the site of a former alumina refinery – to Corrections Corporation of America. As a 5 billion dollar company with a 500 million dollar annual gross profit, CXW, as it's listed on Wall Street, proved to be an excellent investment opportunity, and on behalf of your Committee I am delighted to report that CLANT is now the proud owner of \$250,000 worth of CXW shares, giving our members a tangible stake in what is not just a growth industry, but an ever-reliable income stream for our hard-working members. In closing, let me assure members that the outlook for 2015 to 2017 is, for us criminal lawyers, gravy, gravy all the way.*

Anyway, dingoes, that's a sneak preview, the first draft of the President's Report for this occasion two years hence. In the meantime, I suppose I'd better get on with it and deliver my Report on the last two years. The thumbnail version is this: CLANT is going like the blazes, and the criminal justice system is going to buggery.

First, the system. I'll start with the bad news. It's pretty bad. Over the last year or so, we have seen:

- Mandatory sentencing for violent offending (serious repeat offenders minimum 12 months actual prison; serious first offenders minimum three months)
- New offence of assault causing death ('one punch homicide')
- New offence of assault on worker (in effect, an additional circumstance of aggravation to assault, resulting in exposure to more severe penalties)
- *Serious Sex Offenders Act*: preventative 'civil' detention/supervision regime (similar to existing Qld, NSW, Vic and WA schemes)
- *Alcohol Mandatory Treatment Act* (scheme includes 'civil' detention in residential rehabilitation facility for 3 months, for non-offending alcohol misusers)
- Abolition of 'SMART Court' (therapeutic drug and alcohol court)
- Victims levies increased by about 400% (from \$40 to \$150 for most offences)

But wait, there's more. In the pipeline are the following measures, which seem very likely to make our bad system that much worse:

- Methamphetamine to be reclassified as Schedule One prohibited drug (in effect, penalties will increase for use etc of this drug)
- Alcohol Protection Orders (police to have power to ban people from drinking; breach will be an offence)
- Summary hearing and committals reform which seem likely to further erode the procedural rights of defendants

There are, however, also some good news stories or if not necessarily good news stories then at least they're doing *something* stories or in some cases let's reserve judgment and see how they pan out stories:

- Commencement of the *Evidence (National Uniform Legislation) Act*
- A recommitment to harmonisation of the currently bifurcated criminal responsibility provisions
- Youth 'Boot camps' being trialled
- New half billion dollar 1000 bed prison to be opened in July 2014, including a secure forensic mental health facility
- Reform of *Bail Act*: possible abolition of presumption in favour of bail
- *Emmerson v The Director of Public Prosecutions & Ors*: 'drug trafficker' declaration provisions held (by majority) to be invalid. Headed for the High.
- Sentenced to a Job: scheme to enhance opportunities for prisoners to undertake paid employment before release
- Total tobacco ban in all NT prisons
- The prospect of improved operational measures in watchhouses following the *Briscoe* Inquest
- Publication of the Supreme Court's Interpreter Protocols
- The setting of targets for reduction of Indigenous incarceration within the Closing the Gap framework

As outgoing President John Lawrence pointed out in his report to you two years ago, the crisis of Aboriginal over-incarceration is outrageous, and we are going backwards. Back then, we were all talking about justice reinvestment, and prevention and early intervention, about the utter futility of pouring all our resources into the back end of the criminal justice disassembly line. Because that's what our industry does: it pulls people and families and communities to pieces, and then puts the pieces in boxes, and stores them in warehouses, and then, when they're moved out of the warehouse, we scratch our collective heads and wonder why on earth these pieces don't work properly any more. John Lawrence addressed you about this two years ago, and I'm addressing you about it today. Except now, things are that much worse.

Enough about the system. What about us? Well, actually, CLANT is doing pretty well. Very well: we have continued to be a strong, consistent and dare I say credible voice in the never-ending law and order debate. Government listens to us, and some of our proposals have found favour. Most have not. Importantly, on a personal level, away from the media glare, we enjoy a constructive and collaborative relationship with executive staff of the Department of Justice, with our Attorney-General, with members of the judiciary, and with senior members of the Northern Territory Bar. We have worked very closely, and very well, with the Law Society, attending to the nitty-gritty of submissions on numerous matters of legal policy and law reform.

This work has been undertaken by the CLANT Committee, whose monthly meetings, over the last two years I am pleased to boast, have not once been postponed for want of a quorum. I thank you all for your guidance, wisdom, humour, patience and hard work:

- Vice-Presidents Libby Armitage (until March 2013, when she was elevated the Bench) and Chrissy McConnel
- Retiring Secretary/Public Officer Beth Wild

- Treasurer Nicola MacCarron

The following alphabetically arranged outgoing Committee members:

- Tom Berkley
- Amie Hancock
- John Lawrence SC (ex officio)
- Simon Lee
- Will McNeil
- Dara Read
- James Tierney
- Robert Welfare
- Alan Woodcock

And the following former members who resigned during their term, mainly because they left the jurisdiction.

- Chantelle Bala
- Ruth Barson
- Helena Blundell
- Damien Jones
- Neil Kumar
- Sandy Lau

I don't want to beat our drum too much, but we have done a lot more than just slurp from the gravy train. Here's a summary of some of our more notable accomplishments:

- The fourteenth biennial conference last month was of course a highlight, with, for the first time, delegates from every Australian jurisdiction, numbering over 200. We raked in over \$75,000 profit, which means that although we have donated very substantial sums over the last two years to various worthwhile projects, CLANT remains in sound financial shape. We face an unwelcome challenge for the 15<sup>th</sup> conference: the Bali Hyatt informed us this week that they are closing in November this year for 2 years to renovate. This time it really looks like we'll have to either relocate, or reschedule. Once again, the success of the conference was in large part due to the indefatigable efforts of our organisers, Lyn Wild and Dee Berkley. Thank you!
- In March 2012, the second Tony Fitzgerald Memorial Lecture, delivered by Patrick Dodson, was very attended and broadcast nationally on RN's Big

Ideas, and published online by New Matilda. The third Lecture will be next March, and will be delivered by our patron, Justice Virginia Bell.

- We have delivered a valuable CPD program, with the highlight being the intensive weekend on the then incoming *Uniform Evidence Act*. A special thanks to Libby Armitage for doing the bulk of the heavy lifting for that event. We have two CPDs coming up, a free session delivered by Felicity Gerry on questioning vulnerable witnesses, at WFC on 5 September at 5.30 pm; and another on 25 November to be delivered by SA Supreme Court Justice Tom Gray on Aboriginal sentencing conferencing.
- CLANT has provided financial support to a broad range of cases, causes and conferences, including:
  - The Titus Ani case, to save the life of a Nigerian national in the Kerabokan death tower, in which CLANT founding President Colin McDonald QC, among many others, has been acting pro bono.
  - The 2012 Language and the Law Conference in Darwin, convened under the leadership of CLANT Life Member Dean Mildren QC
  - The 2013 National Indigenous Legal Conference in Alice Springs
  - The Making Justice Work campaign
  - The NAAJA history project
  - The NT Council for Human Rights Education
  - The upcoming Browns Mart production of *Forced Legacy*
  - The Darwin Asylum Seeker Support and Advocacy Network
- We celebrated our 25<sup>th</sup> birthday with a gorgeous dinner on the lawns at Pee Wees, at which we launched the CLANT website, which not only publishes frequent notices, news items and tidbits of interest to members, but is also now a permanent archive for the hundreds of papers delivered at our Bali conferences all the way back to 1987. Thanks to Supreme Court librarian Frieda Evans, and a giant thank you to Legal Aid Commission librarian Helen Edney (and CLANT member!) for their work on this project.
- And, as I mentioned before, CLANT has played a very active role both in the public arena and by way of detailed submissions to government, as is evident from the material posted under the 'Publications' tab on our website, which records our contributions on a wide range of policy and law reform issues, including not just familiar themes such as mandatory sentencing, Indigenous over-incarceration, and the preventative detention of sex offenders; but also more technical topics including the reform of the principles of criminal responsibility, the *Bail Act*, criminal procedure, trial directions in sexual offence cases, the *Juries Act*, and a host of other matters.

It was a great privilege for me to have been drafted as your President two years ago, and although CLANT has taken up rather a lot of my time ever since, it has been immensely rewarding for me to have had the opportunity to represent our beleaguered, and in some quarters it must be said, despised, profession, and I hope to continue in that role, with your continuing support, for the next two years.

We don't have staff. We don't get funding. We are beholden to no-one. This means we don't have to submit performance indicators, make strategic plans or devise mission statements. Accordingly, looking forward to the next reporting period I am delighted to be unable to tell you what our three priority targets, or even our five pillars of justice are. I can however confidently predict this. Things will get worse before they get better. There will be no shortage of matters to pique our interest and prick our conscience, and, alas, CLANT will be busier than ever over the next two years.

Russell Goldflam