

MINUTES OF 2008 MID-YEAR ASSEMBLY

SATURDAY SESSION:

The NSWYL President welcomed everyone to the MYA.

PRESIDENT'S ADDRESS:

- Diarise 21st November as NSW Young Lawyers will be hosting the National Golden Gavel Competition. Venue TBA.
- Changes to the CLE – stay tuned
- Website – Pending information from the Law Society – but we will continue to keep our membership updated of any developments.
- Committee Chairs training – an Effective Chairing session was held in March.
- At the next Chairs meeting there will be guest speakers: Andrew Brown (In-House Counsel, Law Society of NSW) & Kenny Tickle (CFO, Law Society of NSW)
- In the president's commitment to the ABC Council – he is representing NSWYLs Young Practitioners – they are looking at commissioning documentaries on the pace of change/changes that happen to legislation etc. Do people know about change?
- Attending ACT Australian Law Council 12-15 pax in attendance, great ideas and brainstorming session.
- Currently a reviewer for the revisions to the Practitioners Guide to Civil Litigation – Civil Litigation Committee.

VICE PRESIDENT'S ADDRESS:

Three quick points for people to think about and to approach VP about over the next two days:

- Debrief – what content would you like to see included, what ideas do you have for this publication in general?
- Law Week – we need a volunteer for 2009 –
- Ideas for Sponsorship/Marketing/Feedback and Contacts you may have.

TREASURER'S ADDRESS:

- Special Projects – please think about what projects you would like to do and get back to your Chair/OBS about these so they can be planned and budgeted for/
- Practitioner's Guides – we may make them available online or on dvds/cds to cut down on printing costs – or obtain major sponsors.

SECRETARY'S ADDRESS:

- Major projects achieved – Mentoring Program which was launched last year and is continuing to be quite successful.

STUART WESTGARTH'S ADDRESS:

- Apologies, regrets that Hugh Macken was unable to attend.
- Next year's Law Society President will be Joe Catanzariti.
- Stuart is a Councillor of the Law Society – he is in charge of approx. \$150 million dollars in his capacity with Law Soc.
- He acknowledged the importance of the Young Lawyers Conference – and the forums they have organised.

- Engagement in legal policy development – which is of great importance to the Law Soc.
- Collegiality amongst the profession – ensuring that there is a coherent and efficient legal system.
- Advice for Young Lawyers: fear of error – it's important to own up to mistakes, realise that it takes patience to solve/resolve, don't be so hard on yourselves. The feeling that there are always daunting tasks ahead never leaves – takes quite awhile before you really feel part of the profession. Young Lawyers often feel disconnected/disjointed thus the work with Mentoring Program an “invaluable key” to helping YLS feel supported.
- It's essential that Young Lawyers find a balance – use Law Society Programs that are designed to assist i.e. Law Care and Lawyers Assistance.
- Statistics: 15.2% Lawyers Suffer depression compared to 6.2% of the wider community.
- Law Soc Committees are committed to developing ideas, law makers, social policy development and commentary. These Committees now have an established position on them for YL representatives – important to tap into the fresh ideas of YLS – their drive.
- Stuart Chairs the Litigation and Court Practice and Ethics Committees and the big issues at the moment are: Client Legal Privilege (Cost capping), Making Ethics a compulsory CLE topic (i.e. what content to put into this), The Fundamental Rule of Law (i.e. not always honoured by parliament), Adjudicates Disputes (conflicts – makes recommendations).
- Law Society is also looking at the harmonisation of torrens – thus creating greater efficiency – especially with regards to OHS legislation, National Electronic Conveyancing System (NECS).
- Law Society also currently examining advertising – i.e. controls and restrictions currently in place. There are greatly differing views – conflict as to what is appropriate – all seem to agree on “fair trading” principles – concepts that advertising must not be misleading, offensive, confusing etc.
- Finally Media Activities – there is enormous scope for further/greater collaboration with the Law Society & NSWYL.

GOLDEN GAVEL DVD WAS VIEWED – Tom Glasson and Eli Ball segments.

STEWART WESTGARTH INTRODUCED STEVE MARK & KERRIE HENDERSON TO GIVE A FORUM ON ETHICS:

- Culture
- We are taught rules over values – which is not always right.
- Conflicts of interest i.e. usually either personal or professional – however in the legal profession there is a huge variety of different types of conflict – and situations become much more complex.
- Trust – expect people to act according to their nature – and it's up to you to know their nature and be sensitive to this.
- Relationships
- Ethical Dilemmas – what do we use as a tool to determine the appropriate action? – our values.
- What is unethical – “If your mother would slap you for it, than it's probably unethical”
- “Ethics is a value system – who you are and if you don't know who you are, you can never be an ethical lawyer.”
- Depression in the profession is linked closely to values stress (i.e. trying not to think about it, wrestling with what to do, is it against your values system etc)
- Reiterates you must know who you are in order to maintain your well-being, mental health and integrity.
- Often some practitioners will maintain the view “if it's not against the rules they haven't done anything wrong”
- In all scenarios there are two aspects: Professional Regulation and the ethical one.
- Hypotheticals were given and directed at the attendees.

SUNDAY SESSION:

Forum: What Comes after Sorry?

Wendy Jarrett introduced the Forum

- Born in Kiama
- Still a lot of work to be done.
- She's not sure if the 'sorry' day made things better or worse for Aboriginal people.
- She's very happy to have new Young Lawyers interested and here today.
- Believes that we don't need a history lesson – we just need to have compassion, and listen to the people.
- She is proud to be part of the oldest culture in the world
- She does cross-cultural training for organisations.

Larissa:

- Acknowledged and thanked Aboriginal Land Council Geoff?
- Sorry Speech – no doubt was a very important day for most Indigenous people – though Kevin Rudd had a very low baseline with his predecessor John Howard.
- 17year difference in age for non-Aboriginal and Aboriginals life expectancy (Cost the government \$3.1 Billion to find this out).
- Socio-economic background
- Why does so much funding go into Aboriginal Research etc and we can't make a difference – genuinely interested.
- Prevalence Child Sex Offences

Mal Brough

- Money for Complainants – Money spent on defending Non-Indigenous land claims –
- Money allocated i.e. 25% went to Aboriginal Community and the rest went to administration costs.
- There is an enormous underspend on Aboriginal issues – split between State and Federal Governments – thus there is a blame shift.
- Popular Ideologies –
 - i.e. mutual obligations/shared responsibility
 - NT Intervention (thought that only real Aboriginal problems are those of the people in the North)
 - There is reluctance to put funding into community based orgs.
- Land reform
 - Changes to expectations that Aboriginal Community members should come into the city for services.
 - Shuffle very scarce resources.
- Policies are not just offensive re: assimilation but what is most frustrating is that they are policies that have been implemented before and failed.
- Aborigines need to be involved/consulted in the spending, implementation, and ownership of the solutions within the community.
- There is no evidence to suggest that welfare, quarantining etc in NT won't increase school attendance. What does work? Breakfast and lunch programs, curriculum that involves Aboriginal kids/engages them.
- Marry the programs with culture and interest.
- Despite all of the money spent not making much of a dint.

- Rudd wants to move away from ideology to policy implemented programs – however his actions don't seem to reflect what he said. The emphasis is still on remote communities – which is only 25% of the Aboriginal community, largest Aboriginal populations are based in NSW/QLD, with the largest populations in Mt Drewitt with 13,000.
- These symbolic gestures need to be incorporated into Australian Law
- Relationships need to be repaired between the government and Aboriginal people – no national body – and no work on what they promised i.e. process of consultation etc.

Louise:

- Respects to the tradition owners of the land.
- Thurs 21st 2007 – John Howard gave a speech about the erosion of Human Rights – while 2 days earlier a police officer was acquitted of any charges in the death of Cameron Dumungee. (Over a decade ago Cameron was arrested for minor/trivial offence – was beaten to death in custody - how can a young man's life be taken away so brutally – and it mean nothing). This provided her with a moment of complete clarity – “the law is a hopelessly inept and useless tool for dealing with socio-economic disadvantaged communities...a blunt instrument” – failed policy and laws of the earliest century i.e. forces that gave rise to protectionish.
- In 1896 legislation – Aboriginal people were denied the rights to land, tradition, culture etc. Forced labour – exercised intrusive controls, inhumane police protectors were put in charge to enforce legislation – “the state's oppressive control.”
- There is “no such thing as fair and impartial review.”
- Our lives have improved over the last few decades – Aboriginal people have empowered themselves through self-determination and better access to education.
- “Little Children are Sacred” Act – emphasised the importance of community consultation – all welfare payments are subject to quarantine – irrespective of one's parenting skills. They have no rights to review administrative decisions – subject to excessive surveillance, personal privacy affected, no provision for merits review.

3rd Speaker:

- It's not all doom and gloom
- Still along way from where we need to be.
- Lack of rights protection
- Pplice when they have an Indigenous person MUST ask for Aboriginal Legal Service and notify the accused that the call has been made on their behalf.
- LEPR – the need to protect people from vulnerable backgrounds.
- Case (Seranie what was the name**) where a defendant had a “shit advocate” and this resulted in serious ramifications – antagonised the magistrate lost sight of what professionalism means.
- There is a need to remember the Human Element in the Law and that everyday we are dealing with someone – human aspect – you're working within Human Rights Framework – system of complicity with defects.

Q & A session was conducted