

## EDITORIAL

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We would like to extend to our readers belated good wishes for the year 2002 and trust that we will be able to continue to provide stimulating and interesting information about legal issues in the Construction Industry. Needless to say we would welcome comments and contributions from our readers. This issue starts on a more philosophical note with the address by Justice Stephen Charles to the annual dinner of the Victorian Building Dispute Practitioners Society. What His Honour had to say presents a fascinating description of life at the Victorian Bar from the sixties onwards. He has given us cameo portraits of members of the bar whose names are now well known to everyone who practices in this area of the law.

To more bread and butter issues. Stewart Muirhead explains the difficulty inherent in sections 82 and 87 of the *Trade Practices Act 1974* with regard to the assessment of damages in situations where a design professional has been held to be liable under section 52. It would seem that the law is not yet settled on this matter. John Pilley's article indicating that the dispute resolution clauses in NPWC3, JCCD and AS2124-1992 are arbitration clauses (in the proper sense) is more encouraging. Of considerable interest is Christopher Wong's article describing the NSW Consumer, Trader and Tenancy Tribunal. Apart from the prolix name (and in this regard it is suggested that it will soon become C Triple T) it would seem that the Government has been optimistic in bringing together such a wide range of jurisdictions. Mr Wong points all of this out with great clarity and one wonders if the Government itself had misgivings because it seems to have built into the legislation a quality control mechanism to oversee the work of the new tribunal. A tribunal equipped with the powers that have been given to the CTTT could easily expose itself

to the accusation that it was engaged in an exercise of 'Palm Tree Justice'.

Rick Best reminds us that we have entered the electronic age and offers useful advice as to how email can be managed in an office. Gerard Breen and Brett Martelli's article on insolvent trading is both timely and topical. No doubt many of our readers will be directors of companies and the advice proffered in the article, if followed, could assist them to sleep more comfortably. Normally this publication would, in the interests of variety, try to avoid two articles by the one author in the same issue but here we make the exception and publish a second short article by Christopher Wong. The second, however justifies deviating from our practice, on the basis that what the article talks about is hot news. Again the Government has found it necessary to tinker with the home insurance scheme. The author notes that the new proposals diminish the rights of consumers and this is no doubt true. Another view might be that consumers will now need to exercise more care in entering a transaction and not regard price as the sole criterion in selecting a contractor or developer to deal with. In addition to the matters mentioned there are interesting case notes on: unjust enrichment, rights of third parties under a contract, offer and acceptance, Romalpa clauses, work place injuries, anti-discrimination and the negligence of project managers.

Finally, we note the sad passing of Professor Emery Balint. His influence on the industry was gentle, profound and learned. All of his colleagues and former students will be saddened by the news.