

## **A System of Law**

By Schon G Condon RFD

In our part of the business environment we are to some degree far more governed in our day to day activities by the Law than the remainder of the business community at large. That is certainly not to say that there are not laws and regulations that bind business, as we all know there are so many of them, but it is our functionality close to the Court system, many of us are in fact officers of the Court, that make the systems operation far more relevant.

So it is from this light that with some recently well published decisions, most of which are not exactly business related, that my imagination was triggered when in one of the TV crime shows a statement was made reacting to an apparent absurdity of process that “...it [the legal system] *was clearly not a system of justice, but actually nothing more than a system of law...*” The statement really made me stop and think; it was not merely a glib bashing of the legal system but a true undertone of passionate questioning of reality.

With this triggering in my mind, I then went in search of something else that had recently tickled my thought processes along the same lines and I found it in a Grisham novel I had read titled “*The Racketeer*”. The paragraph from it reads as follows:-

*“The trial was a spectacle, a farce, a ridiculous way to search for the truth. But as I learned, the truth was not important. Perhaps in another era, a trial was an exercise in the presentation of facts, the search for truth, and the finding of justice. Now a trial is a contest in which one side will win and the other side will lose. Each side expects the other to bend the rules or cheat, so neither side plays fair. The truth is lost in the melee.”*

I remember when I first read that paragraph and apart from the obvious message that it contains, the reference to ‘plays’ also struck me as you will often hear people refer to the process of their profession as a “game” and thus one should not get hung up on the process as the result is nothing more than a result within the limitation of the rules, nothing else is worth getting worked up about.

I am confident as this is read that there will be a number of lawyers who will challenge my whole thought process, but they must accept that what is noted above are valid observations, possibly not of every instance, but certainly of some. It is no different to the fact that I face the same questions about how the insolvency industry operates. Once it was meant to be an efficient and expedient manner in which the assets were realised and distributed fairly to creditors, whereas today realisations of millions can be incinerated in costs, charges, investigations, legal issues and everything else with possibly (commonly) very little going back to creditors.

Regardless of your views, there have been significant advances in technology and knowledge over the centuries since the foundations of our legal and insolvency systems. For those unaware our Bankruptcy Laws are founded in the “Great Reform Bill of Rome” which was passed by the Senate in 377BC. If you haven’t worked it out that’s almost twenty four centuries ago. Interestingly it was they who determined that three years would be the period of such control and it has remained the same since, but I digress.

Given those advances then surely it is time to find a more effective and efficient way, one that certainly is not a game of law, nor simply an ignorant rule of law, but something that is truly a rule of justice, a rule of equity (equality) and a rule of fairness.

What are you wishing for from Santa?

A Merry Christmas and a happy and Safe New Year to all, from the team at the Condon Associates Group.