

reform

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New Law Commissioners

"Nothing is permanent but change."
Heraclitus, c500 B.C.

In the middle of the last century it was Alphonse Karr who in *Les Guêpes* wrote that 'The more things change, the more they stay the same'. The Australian Law Reform Commission is now into its third round of full-time appointments. With the departure of Professor David St.L. Kelly, to take up a Chair of Law in his old University of Adelaide (see p. 63), the foundation full-time Commissioners have departed the scene. The departure of Professor Duncan Chappell to Simon Fraser University in Vancouver, Canada (See p. 63) means that already the third intake of full-time members has begun. New ideas and approaches that come with change, may prove one of the

strengths of institutional law reform in the ALRC. Appointments for two and three years from various branches of the legal profession in Australia will ensure that, over time, some of the most talented practising lawyers and law teachers in the country will have an opportunity to contribute to Federal law reform. The appointment of the first full-time Commissioners in the WALRC noted in [1980] *Reform* 31 was also for a relatively short period (three years). The growing interest in the work of law reform bodies, their increasing utilisation by government and the greater flexibility of lawyers' careers augur well for the recruitment of top talent.

The replacements of Professors Kelly and Chappell have now been announced by the Federal Attorney-General, Senator Durack. They are Associate Professor Robert Hayes of

the Faculty of Law in the University of New South Wales and Mr T.H. Smith of the Melbourne Bar.

Robert Hayes was educated at Melbourne and Monash Universities in Victoria. In 1973 he was awarded a PhD degree by Monash University. He has taught Law at Monash, Queensland, McGill and Toronto Universities before taking up his post at the University of New South Wales Law School in 1972. In 1975 he was appointed Associate Professor of Law and at the time of his appointment to the ALRC was Director of First Year Studies. His special interests are in the law relating to handicapped persons, torts, defamation and communications. It is no surprise that Professor Hayes will be taking over the ALRC project on Privacy and it is expected that he will lead the Commission to the completion of this important task. Immediately on taking up duties with the Commission on 17 March, he began the final work to complete the ALRC discussion papers on Privacy, which will be released in the next quarter. Professor Hayes will hold his appointment for three years, during which time he has been given leave of absence by the University of New South Wales. In addition to his academic appointments, he has practised as a solicitor and later as a barrister in New South Wales. At the Bar he read with Mr David Hunt, now Mr Justice Hunt of the New South Wales Supreme Court. His previous association with the ALRC was as a Consultant in the project on defamation law reform.

Tim Smith was educated at Melbourne University and holds the degrees of B.A. and LL.B with Honours within that University. He was admitted to practise as a solicitor in 1964. In 1965 he signed the Roll of Counsel and read with Mr N.H. Stephen, now Mr Justice Stephen of the High Court. He built up a busy practice in commercial and equity matters but continued an interest in law teaching and law reform. He was a member of a large number of committees of the Victoria Bar and from 1974 to 1978 was delegate of the Bar to the VCJC. In 1975 he was appointed chairman of the committee of the Law Council of Australia on the

Underprivileged and the Law. Since 1971 he has been lecturer in the Law of Evidence in the law course conducted by the Council of Legal Education. In 1979 he was appointed as Junior Counsel to the Barristers' Disciplinary Tribunal in Victoria. Mr Smith has been appointed to head the ALRC inquiry into Federal evidence law, which has been substantially 'on ice' pending the new appointments. Already he has begun the task of preparing the ALRC research programme which will initiate a fundamental review of evidence law and practices in Federal courts in Australia.

Mr Smith's term with the ALRC is two years. He is the first member of the Victorian Bar to be appointed as a full-time Commissioner. Not only does he establish a link between the ALRC and the Victorian profession, he establishes a 'first' in that he is the son of the Honourable T.W. Smith, Q.C. (formerly Mr Justice Smith of the Supreme Court of Victoria) who was the first Victorian Law Reform Commissioner from 1973 to 1976.

Other changes in the ALRC membership are noted in *Personalia* (See p. 63). Mr J.Q. Ewens and Mr Howard Schreiber have retired as Commissioners. It is expected that the Attorney-General will shortly announce new part-time Commissioners to assist in the reference on Federal evidence law reform.

'Just Terms' Today

"When I was young I used to think that money was the most important thing in life; now that I am old, I know it is."

Oscar Wilde, c1880

The Australian Constitution requires that Commonwealth laws for the acquisition of property provide for 'just terms' (s.51(xxxi)). This provision reflects the prohibition in the Fifth Amendment to the United States Constitution forbidding private property being taken for public use 'without just compensation'. The latest report of the Australian Law Reform Commission, tabled in Federal Parliament by Attorney-General Durack, contains a detailed examination of what 'just terms'