

relating to trial by jury so as to make it an effective guarantee.

At present, s 80 provides for a jury trial of Commonwealth offences tried on indictment. It does not cover State or Territory law. Furthermore, it is a matter for the Commonwealth Parliament itself to determine whether a particular offence is tried on indictment or summarily.

The Committee recommends that any offence, other than contempt of court or offences under defence force law tried by a defence force tribunal, which renders an accused liable to capital or corporal punishment or imprisonment for more than two years should be tried by jury. Parliament would still be permitted to regulate jury trials, including such matters as the size and composition of juries, majority verdicts, appeals from conviction and acquittals and waiver of jury trial by the accused.

The Committee's paper also discusses such matters as appointment and removal of judges, combination of judicial and non-judicial power, service and execution of process and recognition of the laws, public acts and records and judicial proceedings of the States.

term of parliament. The Constitutional Commission has formed the provisional view that the term of Parliament should be extended to four years (see [1986] *Reform* 201). It now appears likely that a referendum will be held to amend the Constitution to provide for four year Parliaments. The Prime Minister Mr Hawke has declared his support for the proposal and the leader of the Federal Opposition, Mr Howard, has said that he is prepared to discuss a proposal for a four year term with the Government (*Australian Financial Review*, 6 April 1987). The Business Council of Australia has also supported a four year term. Reports indicate that legislation enabling the holding of a referendum to this effect will be ready for the Budget Session

of Parliament beginning in August (*Australian Financial Review*, 7 April 1987).

domestic violence in the act

new ordinance. The ALRC's report on Domestic Violence in the Australian Capital Territory (ALRC 30) was implemented and became law on October 1 1986. The new law introduced a protection order regime similar to that which exists in Western Australia, South Australia, Tasmania and New South Wales. In addition, changes were made relating to powers of entry, arrest, police bail and compellability of spouses in criminal proceedings arising out of domestic violence.

success. The new domestic violence legislation in the Australian Capital Territory appears to be working well. Mr Nicholas Seddon, the Commissioner in charge of the Domestic Violence reference, presented a paper in Hobart on 21 March 1987 to the Tasmanian Domestic Violence Action Group. In his paper Mr Seddon pinpointed the factors which made for successful law reform in relation to domestic violence. Having investigated the first five months of operation of the new legislation, Mr Seddon concluded that the principal ingredient for success was a willingness by a diverse group of people to make the new laws work. Engendering enthusiasm for this was not something which could be brought about by legislation alone.

consultation. The process began with consultation. The Commission was diligent in seeking the views of police, magistrates and those who work with the victims of domestic violence. By contrast, in Tasmania a magistrate has said that he knew nothing about their domestic violence legislation until it was passed by Parliament. In the ACT, consultation was carried through the whole gestation period right up to the production of draft bills by the Attorney-General's Department.

publicity. Once the legislation was enacted, it was given regular publicity by the reporting of individual cases by the *Canberra Times*. The magistrates and police in the ACT were using the legislation quite vigorously and newspaper reports ensured that the word got around.

acceptance. The key people in making the legislation work were the magistrates and the police. The Magistrates' Court has been handling these cases with firmness, but at the same time with sensitivity and compassion. An atmosphere of quiet informality has been fostered in order to calm down the parties and to encourage the respondent to accept the authority of the court. Most orders are made by consent.

If an order is broken, the magistrates have not hesitated to punish quite severely. This has encouraged the police to believe that, at last, they have an effective law to work with. This tends to counter the formerly negative attitudes that some police showed in domestic violence cases.

review. The Attorney-General's Department is to review the new legislation after six months of operation. One recommendation for change will almost certainly be that the legislation be available for the protection of a wider group of people than at present. Its very success has generated pressure for the legislation to be adapted for use in domestic relationships other than married and de facto partners and their children, and in neighbour disputes. Another measure of the perceived effectiveness of the legislation is that it has virtually taken over from Family Court injunctions, applications for which have slowed to a trickle. By contrast, in the first five months of operation, there were 161 applications for protection orders under the Ordinance.

the expert and the law

The clever men at Oxford
 Know all that there is to be known.
 But they none of them know one half
 as much
 As intelligent Mr Toad.
 Kenneth Grahame, *The Wind in the Willows*

government experts. Controversy has arisen relating to the use of experts in litigation. In an article in the *Age* (11 April 1987), Ms Prue Innes examined the legal advice given to the Federal Government by two Melbourne barristers in relation to anticipated claims by employees suing for repetition strain injury (RSI).

Part of the report dealt with a British lecturer in ergonomics, Dr Dennis Thompson, whom the barristers described as 'a crusader who easily sees faults in the system of work and the equipment provided by the Tax Office for its keyboard operators'. The barristers gave advice on preventing Dr Thompson from being, or reducing his effectiveness as, a witness for the plaintiffs.

- After their discussions with Dr Thompson, the barristers explained to him that an expert witness who has discussed particular cases with one party to the litigation could be compromised if approached by the other party. They felt that Dr Thompson had not thoroughly understood this.
- Therefore, they recommended that efforts be made to retain Dr Thompson, if necessary by paying him a fee for the services rendered to date. (Dr Thompson has denied being tricked into receiving a financial retainer and has said that he was not offered a fee and did not accept