

## tasmanian law reform commission

I tell you this, a prophet is never welcomed in his home town.

Luke: 4, 24

*proposed abolition.* A bill introduced into the Tasmanian Parliament on 8 December 1987 by the Attorney-General, Mr John Bennett, seeks to abolish the present Law Reform Commission of Tasmania and replace it with a single Commissioner.

In a letter published in the *Hobart Mercury*, the retiring President of the ALRC, the Hon Xavier Connor, AO, QC, together with the Chairman of the New South Wales Law Reform Commission, Ms Helen Gamble and the Chairperson of the Victorian Law Reform Commission, Mr David St L Kelly, recorded their admiration for the contribution which the Tasmanian Commission had made to law reform. The letter, which also paid particular tribute to the 'vision and vigour' of the retiring chairman, Mr Piggott, pointed out the splendid record of the Tasmanian Commission in recent times. It said:

The quality and timeliness of its reports on Tasmanian law have been particularly remarkable in the light of the fact that so much of its work has been done on a virtually honorary basis. The Tasmanian Commission has also made a vital contribution towards achieving much greater co-operation between the law reform commissions in Australia with a view to improving the efficiency and effectiveness of law reform activity.

Since its inception in 1974 the Tasmanian Law Reform Commission has prepared 52 reports varying from major reports on workers compensation, rape and sexual offences and motor accident

insurance to minor and more esoteric reports. An article by former Law Reform Commissioner, Don Chalmers, on page one of the *Hobart Mercury* on 15 December 1987 pointed out that:

These reports had been carried out at negligible cost to the public. The Chairman, Mr Bruce Piggott, who gained a reputation both nationally and internationally for the Commission, received an honorarium as did the three Commissioners. Only one member, the Research Director, Mr Wayne Briscoe was a full time employee. The Tasmanian Commission was run on a shoestring compared with mainland Law Reform Commissions.

Don Chalmer's article points out that governments are questioning whether the cost of law reform commissions can be justified as Commissions of enquiry and judges are now perceived by many as alternative law reformers. Chalmers says:

In Australia, judges acknowledge more publicly their undoubted role as reformers of legal rules; government departments are more flexible and reform minded; and law reform commissions are no longer the only bodies responsible for changing the law. Governments now establish committees or commissions of enquiry into specific issues. For all of these reasons governments have questioned whether the cost of law reform commissions can be justified when there may be alternatives.

After demonstrating what value Tasmanians got from the Tasmanian Law Reform Commission because of its relatively low budget and citing the large number of its reports the article says:

First, the public ought to expect that abolition of the commission is not a back door method of silencing the

Tasmanian Law Reform Commission. . . Secondly the public ought to expect that the government will allocate sufficient funds to the proposed Law Reform Commissioner to allow him or her to function effectively. . . Thirdly, the public ought to expect assurances in the Bill that the Law Reform Commissioner can be more flexible and act with greater speed in the preparation and presentation of reports than the outgoing law reform commission. Finally the public ought to expect that the proposed Law Reform Commissioner will be more effective than a Law Reform Commission in marshalling the small pool of talent available in Tasmania for law reform.

Finally, the article points out that the Law Reform Commission of Tasmania recently produced two reports which have been perceived as controversial. They are the reports on workers compensation and motor accident insurance.

An article in the Hobart *Mercury* on 9 December 1987 reported that Supreme Court Judge Mr Justice Henry Cosgrove will be appointed the new Tasmanian Law Reform Commissioner.

The *Mercury*, however questions this proposed appointment:

The head of the law council of Tasmania, Mr Bruce Crawford, has questioned how a judge can be appointed to replace the Commission and still sit on the Supreme Court bench.

He has opposed the appointment of a judge, saying it could mean some area of the law would remain unexamined while conservative reports were completed on other issues. . .

Rather than enter a controversial area, a judge appointed as the Law Reform Commissioner may decide not to investigate that area or hand down a conservative report, Mr Crawford said. . .

The only change the Law Council wanted was the appointment of a vice-chairman of the Commission to replace the research director on the five-man board.

The *Mercury* article quotes the President of the Labor Lawyers, Mr Pierre Slicer as saying:

We have seen the spiteful removal from the Commission of the community representatives for political purposes, thus depriving the Commission of a balanced view of Tasmanian needs and expectations. . .

The new structure will have little credibility, will reflect the subjective views and values of one person.

For further information see the paragraphs on the Tasmanian Law Reform Commission's former chairman, Mr Bruce Piggott CBE and the Tasmanian Commission in *Personalia*.

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### customs reference

'It was as true', said Mr Barkis. . . as taxes is, And nothing's truer than them!

Charles Dickens, *David Copperfield*.

*new reference.* A Task Force set up to investigate some allegations made about the Australian Customs Service described amendments to the legislation as 'piecemeal' and 'ad hoc' and 'not conducive to certainty of application and interpretation'. The Task Force found that exploitation of the weaknesses of the legislation threatened revenue and recommended that the legislation be referred to the Law Reform Commission for review. On