

Some offences raise questions above the balance of public and private interests. The Commission suggests that some offences, such as being suspected of being about to commit an offence, and being suspected of having civil designs, should be abolished.

Some offences put the burden of proof on the defendant to show innocence. The Commission says that this is inconsistent with the normal principles of criminal law adopted in the Criminal Code that the prosecution must prove every element of an offence beyond reasonable doubt.

The paper also looks at powers of arrest, entry, search and seizure found in the Police Act. Many of these provisions are duplicated by provisions in the Criminal Code and could be repealed. But the arrest powers in the Police Act are wider than those in the Criminal Code, which allows arrest only for offences carrying a prison term. The Commission suggests that where offences do not involve a possible prison sentence police power to arrest should not be invoked unless it is not possible to issue a summons and certain special conditions are fulfilled.

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## personalia

### The Hon Justice Maurice O'Loughlin

The Hon Justice Maurice Francis O'Loughlin has been appointed a judge of the Federal Court of Australia with effect from 1 August 1989. He has been a judge of the Supreme Court of South Australia since 1984. Prior to his judicial appointment, he was President of the Taxation Institute of Australia from 1970 to 1972 and President of the Law Society of South Australia from 1975 to 1977. He was also Chairman of the Legal Services Commission of South Australia from 1980 to

1985. His major areas of practice were taxation, companies and commercial law. Justice O'Loughlin's appointment will fill the vacancy which will be caused by the retirement of the Hon Justice Fisher on 1 August 1989.

### National Companies Scheme

Mr Anthony Hartnell has been appointed Chairman of the Australian Securities Commission (see article on company law in this issue). Mr Hartnell, a senior Partner in the major Sydney commercial law firm of Allen Allen & Hemsley, has been appointed for a three year term from 10 July 1989. Mr Hartnell was a Senior Assistant Secretary from 1973 to 1976 in the Attorney-General's Department and Deputy Secretary, Department of Business and Consumer Affairs from 1976 to 1979. Mr Hartnell has wide experience and acknowledged ability in corporate and commercial law and business affairs and public administration. In announcing the appointment of Mr Hartnell, the Deputy Prime Minister and Attorney-General, the Hon Lionel Bowen, said 'the appointment of Mr Hartnell will enable him to begin work immediately on the establishment of the ACS, including the selection of staff and offices, so it can assume responsibility for the administration of companies and the regulation of the securities and futures industries as soon as possible'. Mr Mark Burrows has been appointed Convenor of the Advisory Committee, established by the ASC Act, to advise the Minister on the operation of the legislation and law reform issues. The government has established the Committee as a statutory body with its own secretariat and budget to ensure the business and professional community can maintain effective input and access to the Minister on policy considerations affecting the national scheme. The ASC Chairman will also serve on the Committee. Mr Burrows, Chairman of the leading corporate advisers Baring Burrows, has been Chairman of the Steering Committee which worked on the development of a new national scheme over the past two years. Other appointments to the Advisory Committee are Mr Leigh Hall,

Investments Manager for the AMP Society; Mr John McIntosh of the leading stockbroking firm McIntosh, Hamson, Hoare, Govett Ltd; Mr Wayne Lonergan, a partner of Coopers & Lybrand and Mr Tim Besley, AM, Chairman of CIG.

### **Family Court of Australia**

Mr Peter Hilton has been appointed a full-time Judicial Registrar of the Family Court of Australia. Mr Hilton is a member of the Queensland Bar. Since he was first admitted to practice in 1966, he has developed an extensive practice, particularly in family law and land law. He is based in the Brisbane Registry of the Court.

### **Attorney-General's Department**

Two new Deputy Secretaries have been appointed to the federal Attorney-General's Department. They are Mr Norman Reaburn and Mr Dennis Rose. Mr Reaburn joined the Department in 1983 after 19 years in academia. Since August 1987 he has been First Assistant Secretary of the Security Division and from February this year Acting Deputy Secretary. His responsibilities as Deputy Secretary will include the program covering the maintenance of law, order and security, corporate services, and functional responsibility for the Commonwealth Reporting Service. Mr Dennis Rose, a former Rhodes Scholar, was First Assistant Secretary, Advancements Division from 1980 to 1984 and Principal Advisor from 1984 to 1987. He became First Assistant Secretary, General Counsel Division in 1987. Mr Rose will be titled Chief General Counsel. He will continue to appear as a barrister on behalf of the Commonwealth in the High Court and other courts and will be responsible for advice on constitutional and other major matters. He will be responsible for the implementation of law reform proposals and for programs covering legal aid and other matters. Mr Tom Sherman, who has been a Deputy Secretary since 1984, will be titled Australian Government Solicitor. He will retain responsibility for legal services to the Commonwealth

plus functional responsibility for all international legal matters and Royal Commissions. Mr Stephen Skehill, appointed Deputy Secretary earlier this year, will have responsibility for programs covering more related services to the community and, until the end of 1989, administration of justice.

### **National Crime Authority**

Two new Members have been appointed to the National Crime Authority. They are Mr Greg Cusack, QC and Mr Julian Leckie. Both appointments are for three years. They will replace Mr Peter Clark and Mr Lionel Robberds, both of whose terms expired on 30 June. Mr Cusack is a leading member of the New South Wales Bar and has practised principally in common and criminal law. He took silk in 1988. He was appointed a Public Defender in New South Wales in 1984, appearing in District and Supreme Court trials. Mr Leckie has conducted an extensive criminal law practice since being admitted to the Victorian Bar in 1973. He was a member of the Victorian Bar Association Committee on the Criminal Bar and is an occasional tutor in the Victorian Bar Readers' course.

### **Family Law Council**

A new Chairman and two new members have been appointed to the Family Law Council. They are Mr David Tonge, Chairman and Mrs Myolene Carrick and Mr Peter Davis. The Council is an inter-disciplinary body of persons with expertise relevant to its role on advising and making recommendations to the Attorney-General on the working of family law legislation, legal aid in relation to family law and any other matters relating to family law. The Attorney-General has paid particular tribute to the retiring Chairman of the Council, Justice Peter Nygh of the Family Court for the 'very valuable work done by the Council during his chairmanship'. Justice Peter Nygh is also a part-time member of the Australian Law Reform Commission. Mr Tonge was a judge of the Family Court of Australia from 1977 to 1988 when he retired

to become a partner in Clayton Utz, solicitors, in Sydney. Since his retirement from the Family Court, Mr Tonge has been a particularly active participant in seminars and workshops considering law and practices affecting families. Mrs Myolene Carrick is the Deputy Director-General (Child Protection and Family Support), Department of Family Services, Queensland. Mr Davis is a senior Partner in a legal firm in Western Australia. From 1977 to 1983, Mr Davis was the Registrar of the Family Court of Western Australia and a Magistrate in Perth.

### **Administrative Appeals Tribunal**

Mr Brian McMahon has been appointed a full-time Deputy President of the AAT. He has been a full-time Senior Member of the Tribunal since 1984. He has had extensive legal practice experience in the commercial area. Mr John Russell Handley has been appointed a full-time senior member of the Administrative Appeals Tribunal. He has held appointments as a member of the Victorian Administrative Appeals Tribunal and the Victorian Crimes Compensation Tribunal. He has been in private practice as a solicitor since 1977. The Hon ET Perrignon has been reappointed as a part-time Senior Member. Three part-time ordinary Members have also been appointed to the AAT. They are Mr John Burns, Mr Colin Stevens and Ms Anne Brennan. Mr Stevens has been reappointed to the Tribunal after having been a part-time member since 1984. Mr Burns is a new appointment to the Tribunal. He worked in the Taxation Office for 20 years before becoming a Taxation Manager with the Ford Motor Company of Australia Limited. Ms Brennan is presently the Director (Social Work) in the Department of Social Security. She is a qualified social worker and has broad experience in social work.

### **Administrative Review Council**

Three appointments have been made to the ARC. They are Mr James Muir, Chairman of the Canberra Development Board, who has been reappointed to the ARC and Mr

Stephen Charles QC, a senior Victorian Barrister. Mr Muir has previously been Chief Manager of the Westpac Banking Corporation in Canberra and has represented the Government of New South Wales as Commissioner for North America both in New York and Los Angeles. Mr Charles has been a Queen's Counsel since 1975. He was Chairman of the Victorian Bar Council from 1983 to 1985 and President of the Australian Bar Association from 1985 to 1986. Mr Allen Rose, Secretary of the Attorney-General's Department has been appointed to the ARC with effect from 1 August 1989. Mr Rose was appointed Secretary of the Department in March 1989. Previously he was the Associate Secretary and prior to that Secretary, Department of Community Services and Health and Deputy Secretary, Department of the Prime Minister and Cabinet.

### **Australian Law Reform Commission**

The appointment of Professor David Hamblly as a part-time Member of the Commission expired on 30 June 1989. He was a full-time Member from 1983 to 1986 and a part-time Member since then. Professor Hamblly was the Commissioner in charge of the Matrimonial Property division which produced the report *Matrimonial Property* ALRC 39.

### **NSWLRC**

The appointment of Mr Keith Mason QC as Chairman of the NSWLRC has been renewed until January 1990. The former Chairman, Professor Helen Gamble, has been appointed a part-time member of the Commission until 30 September 1989. The Hon Mr Justice Andrew Rogers, and the Hon Mr Justice JRT Wood, have resigned as part-time member of the Commission. Mrs Adrienne Bailey, who has assumed principal responsibility for the Law of Names project, has been appointed an acting senior legal officer. Mrs Bailey is also working on the Alternative Dispute Resolution project. Mr Bailey Compton left the Commission in March 1989 to join the staff of the Legal Aid Commission. Mr Compton had been seconded to the

Commission to work on the Criminal Procedure reference. Dr Sandra Egger, who had also been seconded to assist with the Criminal Procedure reference, completed her term with the Commission in December 1988. Dr Egger is pursuing her studies at the College of Law. Mr Andrew Frazer left the Commission in May 1989 after assisting the Community Law Reform Program for some 18 months. Mr Frazer contributed significantly to a number of projects, including those relating to Dividing Fences, the Assurance Fund and the Rule in *Bain v Fothergill*. Mr Peter Hennessy, Principal Law Reform Officer of the ALRC, has been appointed acting Executive Director of the NSWLRC. Mr Hennessy acquired a great deal of experience of law reform in his time at the ALRC, where he was very substantially involved with the references on Aboriginal Customary Laws, Insolvency and, more recently, Customs.

#### Mr William Tearle

Mr William Tearle resigned as Executive Director of the NSWLRC on 7 July 1989 to head a new research Department at Mallesons Stephen Jaques. At the time of his resignation he was the senior law reform person in Australia having been one of the first appointees to the ALRC in 1975. He became a senior law reform officer in the ALRC where he worked on the references involving bankruptcy, debt recovery and privacy. He was appointed Research Director of the NSWLRC in November 1985. As well as managing the research work in the Commission, Mr Tearle was largely responsible for writing and producing the Commission's research report in its survey of public opinion on surrogate motherhood. Throughout 1989 Mr Tearle has, as Executive Director, managed the Commission's work. He will be missed and we wish him well in his new career.

#### NTLRC

Mr Ian Grey has been appointed a member of the Committee. Ms Sue Phillip, a Lecturer in Law at the Northern Territory University, has resigned from the Committee.

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## areas of law currently under review

### administrative law

#### NTLRC

- *Administrative Appeals*. DP on Appeals from Administrative Decisions: Appellate Structure is under consideration. Due for release later 1989.

#### ARC

- *Access to administrative review*. Work on the next stage of the access project, on the role of information and advisory services, has been temporarily put aside to allow the Council to examine further the issues of legal aid in administration review. It previously reported on some aspects of this issue in its Report No 30, *Access to Administrative Review*.
- *Provision of Legal and Financial Assistance in Administrative Law Matters* (Report No 30). The Council is examining its conclusions and recommendations in this report further as a result of issues raised by the National Legal Aid Advisory Committee, which is seeking submissions by 21 July 1989 on funding, providing and supplying legal aid services.
- *Community Service and Health*. Work is progressing on a DP examining review issues in the area of joint Federal/State funding program, and a draft report on review of decisions involving assessment of products is in preparation. The Council has forwarded letters of advice on both these matters to the Attorney-General.
- *Migration*. The Council wrote to the Attorney-General on 11 May 1989 providing advice on the review aspects