
Law reform in Queensland

by Barry Hunt

Dean Wells, Queensland Attorney-General, has given law reform in Queensland a new lease of life.

Law reform is gaining momentum in Queensland thanks to an Attorney General interested in using the law as an agent of change and progress. Attorney-General, Dean Wells, has given a new lease of life to the Queensland Law Reform Commission by increasing their resources and giving them new projects. The resource increase has meant the QLRC is now able to undertake more thorough public consultation — through the distribution of discussion papers to stimulate public debate, through public forums and community meetings. They are conducting research, not just about the law, but about how it is operating.

The Commission commenced last financial year with three staff, only one of whom was a lawyer. They had a small library (annual budget \$30 000) but no librarian. Their information technology resources were scanty: one outdated computer and one extremely slow printer. No dictaphones were available for staff. The Attorney-General arranged the loan of dictaphones, computers and a laser jet printer and by the end of 1990/91 had approved an allocation of an additional \$50 000 for the installation of a computer and word pro-

cessing network. The QLRC reports that Dean Wells continues to be accessible and interested in their progress.

The QLRC commences the new financial year with 3 legal staff and three administrative staff. However two of the lawyers are on short term contracts and it is still uncertain whether funds will be available to extend their contracts.

Whilst the QLRC is an independent statutory body, its personnel and financial administration are conducted, for the most part, by the Attorney-General's Department. QLRC staff are employed by, and accountable to, the department. Managing the Commission under such conditions is clearly difficult. The QLRC does not even have control over who works for it!

Role of the QLRC

The QLRC was established under the Law Reform Commission Act, 1968 (Qld). It is responsible for reforming Queensland laws. It examines laws referred to it by the Attorney-General and may initiate references.

Current work of the QLRC

The Commission was requested by a previous Attorney-General to examine and amend the Real Prop-

erty Acts 1861 and 1877 and to consolidate the law in this area. The final report contains a draft consolidation of Queensland Real Property legislation. It was tabled in Parliament on 9 April 1991.

Evidence

On 18 January 1991 Attorney-General Wells referred the Evidence (Religious Confessions) Amendment Bill 1989 (NSW) to the QLRC. The QLRC reported on the arguments for and against protecting statements made to a range of religiously ordained officials from disclosure in legal proceedings and set out reasons why it is opposed to the protection given by the New South Wales legislation.

Review of bail legislation

On 24 May 1990, the Attorney-General requested the Commission to review existing bail legislation. As part of its review, the QLRC released a plain english discussion paper. The paper proposes that defendants who had been charged or convicted of a violent offence, and who the court believes are likely to commit other violent offences if released before trial, should be refused bail. For defendants who do not fall within this

category, the QLRC paper raises a number of proposals aimed at ensuring that people are not unnecessarily detained before trial. The Commission has also undertaken a State-wide survey of remandees in custody who were held in Queensland correctional centres on 13 June 1991. They are still receiving written submissions from the public about the discussion paper and report that, surprisingly, some key government departments involved in bail administration have yet to respond.

Intellectual or mental disabilities

In September 1990, the QLRC was asked to examine legislation affecting people with disabilities. The first issue examined concerns the power to make a range of life and financial decisions. In what circumstances and manner should the power of people with an intellectual or mental disability to make these decisions be given to somebody else? The Commission commenced its examination at a public forum by asking people presently affected by laws in this area to outline their concerns and offer their ideas for change. The comments raised in those workshops will be the central feature of the Commission's discussion paper. Work will commence on a second discussion paper in August 1991. This paper will canvass a range of models available for reform of law in this area.

Shared property

In September 1990, the Commission received a request by

the Attorney-General to 'examine the law concerning property rights and other matters in relation to couples living in de facto relationships'. Because couples other than those in a de facto relationship also have legitimate claims over property — friends who acquire property together, siblings who share property and adult sons and daughters who make sacrifices to look after parents for an extended period — the QLRC suggested the reference be amended. The Attorney-General agreed to the alteration. The new review will encompass property disputes concerning competing claims between two or more persons who have lived together in a domestic relationship. The Commission is consulting with private practitioners, social workers, community legal centres and other community centres to obtain information about the nature and extent of the problems which are occurring in practice because of the inadequacies of the law in this area. Draft legislation is being prepared and a discussion paper will to be released later this year.

Personal property securities

On 18 March 1991 the Attorney-General requested that the QLRC consider accepting an additional reference to review the law governing personal property securities. The federal, Victorian and New South Wales Attorneys-General have referred this project to their respective Commissions. The ALRC has the primary responsibility of research and organis-

ation. Currently, the law relating to personal property securities varies substantially from one jurisdiction to another. The aim is to obtain uniformity in legislation throughout Australia.

Statute law revision

The QLRC was asked in September 1990 to review statute law in Queensland. This is consistent with its statutory duty to recommend the repeal of any obsolete and unnecessary enactments. A working paper on this topic was given to the Attorney-General in April 1991 which recommends the repeal of 175 Acts.

Traditional hunting, fishing and food gathering rights of Aborigines and Torres Strait Islanders

The QLRC's program includes a request to examine traditional hunting, fishing and food gathering rights of Aborigines and Torres Strait Islanders, including the exercise of those rights in national parks.

A revealing comparison

The QLRC is clearly under-resourced. It is interesting to compare the resources of State law reform commissions. The QLRC has 3 staff; the NSWLRC has 13; the VLRC has 25 and the WALRC has 8. Their respective 1990—91 budgets were: QLRC — \$362 000; NSWLRC — \$1 080 000; VLRC — \$1 967 400; WALRC — \$970 000 (South Australia and Tasmania do not have law reform commissions). □