



Commission news

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References and events

Government as a litigant conference

The Commission worked with the Australian Competition and Consumer Commission (ACCC) and the Commonwealth Ombudsman to hold a conference entitled *The management of disputes involving the Commonwealth – is litigation always the answer?* The conference was held in Canberra on April 22 this year and was well attended by government officers, legal practitioners and academics interested in the area of dispute resolution. The conference was a timely initiative, given the changes to federal government legal service delivery, which commenced operation in September this year.

The Cost of Justice

The ALRC is examining the costs of justice as part of its review of the federal civil justice system, and this was the topic of a Sydney seminar discussion during Law Week in May.

An eminent panel – chaired by the then ALRC President **Alan Rose** – created a diverse and animated discussion on different aspects of the cost of justice.

Professor Philip Williams of the University of Melbourne commented on his report on fee scales, *Report of the review of*

scales of legal professional fees in federal jurisdictions. **Susan Pattison** from the costing firm Pattison Hardman discussed the benefits of costs disclosure to clients, including how this practice can be used to focus a particularly litigious client or encourage settlement. **Senator Helen Coonan**, Liberal Senator for New South Wales, also spoke on access to justice and the need for a legal system which people are confident will deliver affordable justice. **Michael Lavarch**, special counsel for Dunhill Madden Butler and former federal Attorney-General, considered the cost to the federal government of the federal civil justice system. **Bret Walker SC**, of the NSW Bar, focused on the cost of litigation. He pointed out that prices for goods and services are not controlled in Australia for political and social reasons and price fixing should similarly not be applied to fees charged by lawyers.

POC launch

ALRC 87 *Confiscation that counts – review of the Proceeds of Crime Act* was tabled in Parliament on June 15 this year, and officially launched the next day by Attorney-General **Daryl Williams** at a function in the Commission's Sydney office.

The Attorney-General's Department is currently considering the Commission's

recommendations. The Commission hopes to receive a response to this report in the near future. For further information on this reference, see articles beginning on page 47.

A new President

The ALRC has a new President, with the appointment of **Professor David Weisbrot** to the post on June 7, for a period of three years. Professor Weisbrot is the first legal academic to hold the position.

Professor Weisbrot was the Pro-Vice Chancellor and Head of the College of Humanities and Social Sciences at the University of Sydney, and has been Dean of Law at the University of Sydney and the University of Papua New Guinea. He has also served as an acting Judge of the District Court of NSW.

Professor Weisbrot admits to taking "one of the more unusual routes" to the position, having been raised from an early age in New York and gaining an honours degree in politics and communications before studying law. He spent the early part of his legal career as a legislative counsel in the Micronesian Islands and as a legal academic in Papua New Guinea.

Professor Weisbrot arrived in Australia in 1979, after five years in the Pacific Islands. He has a particular expertise in the area of law reform, having served both as a full-time and part-time Commissioner with the New South Wales Law Reform Commission, as Commissioner of the Fiji Law Reform Commission, and a consultant to the Papua New Guinea and Australian Law Reform Commissions.

He has published extensively, especially in the areas of criminal law and procedure,

regulation of the legal profession, customary law, and international and comparative law.

Farewell, Alan Rose

Alan Rose AO ended his five-year term as President of the ALRC on May 22. Mr Rose brought a direct experience of politics and the bureaucracy to the process of law reform.

His term as President coincided with a challenging time in the life of the Commission in terms of its administration. The Commission's Parliamentary Appropriations were reduced from \$4.224 million in 1995/96 to \$2.884 million in 1998/99. As a result, staffing levels dropped from a full-time equivalent of 37.7 in 1995/96 to 22 in 1998/99, excluding members of the Commission.

During the period that Mr Rose was President, the Commission produced 61 publications, including 14 final reports – the final one being *Confiscation that counts: a review of the Proceeds of Crime Act 1987 (Cth)*, which was tabled after his departure.

The extensive and effective public consultation process, the main pillar in the operation of the Commission established by the first Commission Chairman, the Hon Justice Michael Kirby, continued to be a priority during Mr Rose's term in office. Such consultation is essential to ensure that the law evolves in a manner that is in tune with society.

Mr Rose presided over an active public affairs strategy in support of the law reform program, and had frequent contact with the print and broadcast media, providing background information and interviews.

During his term as President, Mr Rose put considerable energy into *Reform*, which began as a 16-page bulletin in 1976. In 1997, he oversaw the redesign of *Reform*.

The Commission members and staff extend their thanks to Alan Rose for his term as President, wishing him well for the future.

Deputy President retires

The Commission has also farewelled its Deputy President **David Edwards PSM**. Mr Edwards, who became a member of the Commission on December 13, 1995, retired on September 15.

Prior to his appointment to the Commission, Mr Edwards was First Assistant Secretary, Business Law Division in the Attorney-General's Department. He has extensive legal policy expertise, working at senior government levels in constitutional and administrative law, business law and international trade law. He served as Counsellor (Legal) at the Australian Embassy in Washington DC from 1982 – 85, and played a major role in the establishment of the national companies and securities scheme and reform of the Corporations Law.

The Commission expresses its gratitude to Mr Edwards for his service as Deputy President, and wishes him all the best in his retirement.

Inquiry into the statutory functions and powers of the ALRC

Arising from recommendations contained in the 73rd Report of the Senate Committee of Privileges, in December 1998 the Senate Legal and Constitutional Legislation Committee received a reference to inquire into the statutory powers and functions of the Australian Law Reform Commission.

The main focus of the inquiry has been on the Commission's powers to make submissions to parliamentary committees and other law reform bodies. The Commission has a practice of providing submissions where the subject matter under review is one in which the Commission has developed particular expertise in the course of conducting its references, and the Commission's knowledge would be of assistance to the committee or reform body.

The Commission made a written submission to the Committee on August 5 this year. Public hearings relating to the inquiry were held in Sydney on August 18. The Commission appeared before the Committee to elaborate on the information and proposals put forward in its submission. The Attorney-General's Department, the Hon Elizabeth Evatt (former President of the ALRC), and the Hon Lionel Bowen also appeared before the Committee.

At the time of publication, the Committee had not yet reported its findings to parliament in relation to this inquiry.

Implementation update

In 1996 the Commission released its report ALRC 82 *Complaints against the Australian Federal Police and the National Crime Authority*. The recommendations contained in this report are still under consideration by the government. Options for a complaints system within the National Crime Authority, including those recommended in ALRC 82, were to be considered by Cabinet in September. The result of Cabinet deliberations will influence further consideration of the Australian Federal Police complaints system.

The Electronic Transactions Bill was introduced into the federal parliament in June this year. The Bill is intended to facilitate use of electronic transactions in business and the community, and in dealings with government. The Bill is a result of the recommendations of the Electronic Commerce Expert Group, which were

consistent with the approach taken in ALRC 80 *Legal Risk in International Transactions*.

In June 1999 the Commonwealth Ombudsman released a self-initiated report on the operation of the *Freedom of Information Act 1982* (Cth). The Ombudsman identified a number of problems and made recommendations similar to those raised in ALRC 77 *Review of the Freedom of Information Act 1982*. In a number of instances, the Ombudsman referred to ALRC 77 recommendations and called for their implementation.

The Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999 (Cth) was passed in August 1999. The offences in the Act, which are directed at slavery, sexual servitude and deceptive recruiting, are based on model provisions developed by the Model Criminal Code Officers' Committee, which were in turn based upon recommendations contained in ALRC 48 *Criminal admiralty jurisdiction and prize*.

Editorial Advisory Committee

Reform acknowledges the contribution of its Editorial Advisory Committee members to this edition. The Committee members are:

Dr Kathryn Cronin, Australian Law Reform Commission

The Hon Justice Mary Finn, Family Court of Australia

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