

Commission news



Appointments

Mr Ian Davis. Ian Davis was appointed a full time member of the ALRC for one year from 13 June 2000. Ian was a partner of the law firm Ebsworth & Ebsworth, where he had a specialist practice in transport, insurance and trade practices law. He has degrees in Arts and Law from the University of Sydney and has lectured in admiralty, marine insurance and shipping law at the University of Sydney and at the Centre for Maritime Policy at the University of Wollongong. He is a member of the NSW branch of the Maritime Law Association of Australia and New Zealand, the Federal Litigation Section of the Law Council of Australia and the Inter-Pacific Bar Association.

Ian is leading the Commission's review of the *Marine Insurance Act 1909* (Cth). He also has responsibility for overseeing the ALRC's information technology services.

Mr Brian Opeskin. Brian Opeskin commenced a three-year appointment as full time Commissioner on 31 July 2000. Prior to his appointment, he was a member of the Faculty of Law at the University of Sydney, where he had been an Associate Dean in 1998-99 and taught in the fields of constitutional law, international law, human rights and conflict of laws since 1989. Brian has acted as consultant to state and federal governments on issues of public health law and quarantine, and has undertaken a project on appellate case management for the Australian Institute

of Judicial Administration. Brian holds degrees in Commerce and Law from the University of NSW, and a Bachelor of Civil Law degree from Oxford University. He was admitted as a barrister of the Supreme Court of NSW in 1989.

Brian is leading the ALRC's review of the *Judiciary Act 1903* (Cth). He also has responsibility for the ALRC's Michael Kirby Library.

Other staff appointments. The ALRC welcomed Ms Rosemary Adams as its new Executive Director in July. Rosemary was formerly a senior administrator at the University of Sydney. Ms Kathleen Connors joined the ALRC in September as a Legal Officer, from the NSW Cabinet Office, where she was a policy officer. Ms Johana Zapata is the ALRC's new Administrative Assistant.

Protection of human genetic information

The ALRC and the Australian Health Ethics Committee (AHEC) of the National Health and Medical Research Council will be conducting a joint inquiry into the protection of human genetic information, especially the implications for protection of privacy and against improper discrimination. The reference was announced in August by the Attorney-General and the Minister for Health.

ALRC President Professor David Weisbrot will be the ALRC's lead Commissioner on this reference.

At the time of going to print, the terms of reference for the inquiry were yet to be announced. Updates will be posted on the ALRC's homepage as the inquiry progresses.

To register an interest in this inquiry, please contact the ALRC offices, or via email: genetic@alrc.gov.au.

Other references

Work continues on the ALRC's three other references – an inquiry into the Marine Insurance Act; a review of the Judiciary Act; and an inquiry into the use of civil and administrative penalties administered by federal agencies.

In August, the Attorney-General agreed to extend the reporting dates for the marine insurance reference to 30 April 2001, and the Judiciary Act reference to 30 June 2001.

Updates on these references begin on page 41.

Pro bono taskforce

As a result of the federal government's Pro Bono Conference held in Canberra in August, the Attorney-General announced a National Taskforce on Pro Bono matters. ALRC President Professor David Weisbrot was the Conference Host and Facilitator, and the ALRC will play a leading role in coordinating and contributing to the National Taskforce.

25th Anniversary

The ALRC hosted a major conference *Managing Justice ... the way ahead for civil disputes* in May this year. The conference incorporated the ALRC's 25th Anniversary Dinner, which was attended by more than 150 people, including many past Commissioners and staff members as well as Australian and international delegates attending the conference. For further information, see the reports beginning on page 58.

Internship program

The ALRC operates a student internship program, with students undertaking research tasks under the supervision of legal officers. Internships are conducted on a voluntary basis. During the 1999-2000 financial year, the ALRC hosted interns from Griffith University, Macquarie University, University of New South Wales, University of Sydney, University of Western Sydney, University of Wollongong, University of Washington (United States) and New York University (United States).

For further information on the internship program, see the ALRC's homepage or contact the ALRC's Human Resources Manager, Elena Rodriguez, at the ALRC or via email on hr@alrc.gov.au

Exchange programs

Over the past six months, the ALRC has hosted four lawyers from overseas law reform agencies. Each of these lawyers worked with the ALRC to develop an understanding of our operations (especially research methods and consultation processes) and to gain experience in the Australian legal system.

The ALRC has developed a working relationship with the Attorney-General's Chambers in Singapore, where a Law Reform Division was established in March 2000. Ms Chiu Hse Yu, a lawyer from the Law Reform Division, worked with the ALRC's marine insurance team in March and April this year. Another lawyer, Ms Woon Seow Cheng, is working with the ALRC for four weeks in October 2000 and also spending time with the office of the NSW Parliamentary Counsel.

Mrs Janet Banda and Mrs Matilda Katopola from the Law Commission of Malawi completed an attachment with the ALRC in May and June 2000. They undertook a program

that introduced them to all aspects of operation of the ALRC, with particular interest in the personnel structure, the use of Advisory Committees, and public affairs and educational activities. Janet and Matilda attended the *Managing Justice* conference and Anniversary Dinner, and met with numerous people and organisations of particular relevance to reference projects in Malawi, including the NSW Law Reform Commission, the Law Society of NSW, the Human Rights and Equal Opportunity Commission, the Australian Broadcasting Authority and the Independent Commission Against Corruption.

Inquiry into the ALRC

The Senate Legal and Constitutional Legislation Committee has indicated its intention to table its report on an inquiry into the statutory functions and powers of the ALRC later this year.

The Committee inquiry arises from recommendations contained in the 73rd Report of the Committee of Privileges *Possible Improper Interference with a Potential Witness Before the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund*, which was presented to the Senate on 30 June 1998.

One of the main focuses of the inquiry was on the ALRC's powers to make submissions to parliamentary committees and other law reform bodies.

Implementation update

Managing Justice: a review of the federal civil justice system (ALRC 89). Since being tabled in federal parliament in February this year, the ALRC's report *Managing Justice – a review of the federal civil justice system* has received much discussion in the media, and in various

committees and institutions to which the recommendations were related. Receiving strong support from the Attorney-General on the day of the launch, and subsequent support from members of the High Court, the Australian Institute of Judicial Administration, and the Law Council, was the Commission's recommendation for an Australian Judicial College. The issue has been placed on the agenda of the Standing Committee of Attorneys-General, with some of the state attorneys already indicating support for the concept.

In relation to legal education, the Council of Australian Law Deans has supported the ALRC's recommendation for an Academy of Law as a means of involving all members of the legal profession – students, practitioners, academics and judges – in promoting high standards of learning and conduct and appropriate collegiality across the profession. The Australian Universities Teaching Committee, a committee of the Department of Education, Training and Youth Affairs, has announced a review of the quality of teaching in Australian law schools – one of the first disciplines to be reviewed by this newly established committee. The ALRC recommended such a review in *Managing Justice*.

The ALRC's recommendations in relation to the Family Court of Australia received extensive media coverage at the time of tabling. One of the ALRC's recommendations was for the Attorney-General to ask the Family Law Council to report on whether the Family Court should be able to refer to social science literature when making determinations as to the 'best interests of the child'. This was done in August, with the Family Law Council expected to report on the issue in late 2000.

In September, the Family Court of Australia released the report of its Future Directions Committee. The recommendations of the ALRC in relation to the Family Court, and the

content of the Future Directions Committee report, are strikingly similar, confirming that the ALRC's sharp criticisms of that Court were legitimate and that the ALRC's recommendations for reform in this jurisdiction were well targeted.

Proceeds of crime (ALRC 87). At the launch of the report, in June last year, the Attorney-General indicated general support for the report, and indicated that the government would review the recommendations with a view to introducing new proceeds of crime legislation. The ALRC is aware that the Attorney-General's Department is continuing its work on drafting legislation covering these issues.

Australia's federal record: review of the Archives Act 1983 (ALRC 85). This report was tabled in parliament in July 1998. In April this year, the *Archives Act 1983* (Cth) was amended to formally change the name of the Australian Archives to the National Archives of Australia (NAA), as recommended in ALRC 85. Also in April 2000, the NAA launched its E-permanence strategy, which adopts a standards approach to recordkeeping similar to that proposed in ALRC 85. The NAA is also working with the Department of Communications, Information Technology and the Arts, to develop a complete response to the recommendations in ALRC 85 and suggestions for further legislative amendment.

Seen and heard: priority for children in the legal process (ALRC 84). This report, tabled in November 1997, continues to generate citation and comment in the media and in papers and reports released by a variety of organisations. An interim report by the Queensland Law Reform Commission on children's evidence, released in June 2000, makes similar recommendations to those put forward on these issues in ALRC 84. (For further information

on the QLRC report, see 'Reform Roundup', beginning on page 95.)

A Victorian project funded by the Law Foundation of Victoria has produced *Guidelines for Lawyers Acting for Children and Young People in the Children's Court*. The *Guidelines* were released in booklet form in August last year. The Law Society of NSW is working on producing broader guidelines for legal practitioners representing children in NSW. It is expected that the NSW guidelines will be released late this year. The ALRC has been consulted on these projects, which have the potential to lead to national standards consistent with recommendations contained in ALRC 84.

ALRC 84 has also been noted by the judiciary. In *X v Minister for Immigration and Multicultural Affairs* (1999) 164 ALR 583, Justice North of the Federal Court relied upon recommendations in ALRC 84 to support his conclusion that two 17-year-olds, living independently and without family in Australia, did not require a tutor to initiate proceedings in the Court on their behalf.

The coming of age: new aged care legislation for the Commonwealth (ALRC 72). When the *Aged Care Act 1997* (Cth) was passed – incorporating many of the recommendations contained in this 1995 report – the ALRC's recommendation for the establishment of an independent, external complaints mechanism was not included. In July this year, the Minister for Aged Care announced the establishment of an Office for the Commissioner of Complaints to oversee the complaints mechanism currently in existence in the Department of Health and Aged Care. This reform goes some way towards the ALRC's recommendations, but is not the same as an independent and external complaints mechanism.