

Commission news

Current inquiries

The ALRC's inquiries into federal sentencing laws and the uniform Evidence Acts were drawing to a close at the time of print.

The ALRC, together with the New South Wales and Victorian law reform commissions, released a joint Discussion Paper *Review of the Uniform Evidence Acts* (DP 69) in July 2005. The release generated substantial nationwide radio and print media interest. From July to October 2005, consultations on the proposals and questions set out in DP 69 were held across Australia. In total, 130 written submissions to the inquiry were received, and the ALRC conducted consultations with 116 individuals and organisations.

A final report on the review of the *Evidence Act 1995—Uniform Evidence Laws* (ALRC 102, 2005)—was delivered simultaneously to the Commonwealth, New South Wales and Victorian Attorneys-General on 5 December 2005. The report will be made public once it has been tabled in the Australian and Victorian Parliaments and released by the New South Wales Attorney General in early 2006.

The ALRC legal team involved in the sentencing inquiry continued its community consultations after publishing a major discussion paper in November 2005—*Sentencing of Federal Offenders* (DP 70). DP 70 contains 140 proposals for reform and includes analysis of data on federal prisoners provided by the Attorney-General's Department. A final report is due in April 2006.

Both inquiries are discussed further in articles elsewhere in this journal.

New inquiries

The ALRC anticipates it will begin work on

two new inquiries in early 2006. No formal announcements had been made at the time of print.

If you wish to be notified of new ALRC inquiries via email or fax, please contact the ALRC and we will add you to our general notification list.

30th Anniversary celebrations

The ALRC's 30th Anniversary year ended with the launch of the book, *The Promise of Law Reform*, by the founding Chairman of the ALRC, the Hon Justice Michael Kirby, at an end-of-year celebration on 1 December 2005.

The Promise of Law Reform is a volume of specially commissioned essays from leading legal, political and academic figures around the world.

Edited by ALRC Commissioner Mr Brian Opeskin and ALRC President Professor David Weisbrot, and published by The Federation Press, the book is the most comprehensive examination of law reform issues, controversies, institutions and processes ever produced in the common law world.

The book can be purchased through the publisher, The Federation Press. See the advertisement in this issue of *Reform* for further details.

CALRAs

The inaugural conference of the Commonwealth Association of Law Reform Agencies (CALRAs) was held in London on 11 September 2005 and attended by the ALRC President Professor David Weisbrot and Executive Director Alan Kirkland.

The conference included sessions on: priorities for law reform; communicating law reform; the

challenges facing smaller law reform bodies; training for law reform officers; and the future program and priorities of CALRAs. ALRC President Weisbrot—who is the Vice-President of CALRAs—chaired the final session and provided the closing remarks.

Two new members were elected to the CALRAs Executive Committee: Madame Justice Jean Permann and CMT SC, Chair of the Law Reform Commission of Trinidad and Tobago; and Mr Kathurima M'Inoti, Chair of the Kenya Law Reform Commission. They replaced Justice Bruce Robertson, formerly of the New Zealand Law Commission, and Utomi Nujoma, formerly of the Law Reform and Development Commission of Namibia, both of whom vacated their position on the Executive Committee after taking up appointments outside the law reform arena.

ALRAC 2006

The program is shaping up well for the Australasian Law Reform Agencies Conference (ALRAC), to be hosted by the ALRC in the Sydney beachside suburb of Manly in April 2006.

ALRAC 2006 will bring together representatives of law reform agencies from across the world for a program of dynamic speakers, engaging workshops and important networking opportunities.

The conference opens with a welcome reception on the evening of Monday 10 April. The following two days will be divided into two distinct programs:

- Day One: *The Business of Law Reform* will have sessions on community consultation; empirical research; and federalism, regionalism and law reform.
- Day Two: *Peering Over the Horizon* will draw in leading experts from fields such as science and medicine; economics; IT & communications; demography; and human rights to predict the future challenges for law reformers.

A full program and registration information is available elsewhere in this journal and our web site will be updated as new information becomes available.

ALRAESA

In September 2005, ALRC Commissioner Associate Professor Les McCrimmon attended the Association of Law Reform Agencies of Eastern and Southern Africa (ALRAESA) conference hosted by the Uganda Law Reform Commission in Entebbe, Uganda. During the conference, he delivered a paper on 'Alternative Dispute Resolution in the Criminal Justice System: an Australian View'.

Past report update

Genes and Ingenuity—ALRC 99

The Australian Parliament's House of Representatives Standing Committee on Legal and Constitutional Affairs is currently investigating whether additional exceptions should be allowed to the new technological protection measures scheme required under Article 17.4.7 of the Australia-United States Free Trade Agreement. Technical protection measures may include encryption, password protection and read-only technology. The Committee's review implements recommendation 28–3 of *Genes and Ingenuity: Gene Patenting and Human Health* (ALRC 99, 2004), which called on the Australian Government to assess the need for an exception for researchers engaging in fair dealing for the purpose of research or study using copyright-protected databases.

Keeping Secrets—ALRC 98

The *National Security Information Amendment Legislation Act 2005* (Cth) commenced operation on 3 August 2005. The Act introduces a similar regime to that put in place by the *National Security Information (Criminal Proceedings) Act 2004* (Cth), but applies to classified and security sensitive information in civil proceedings. Enactment of this legislation extends the implementation of the ALRC's recommendations from *Keeping Secrets: The Protection of Classified and Security Sensitive Information* (ALRC 98, 2004), leaving only administrative proceedings in tribunals uncovered by the legislative regime.

The Judicial Power of the Commonwealth—ALRC 92

The *Family Law Amendment Act 2005* (Cth) commenced operation on 6 July 2005. Among a number of measures, the Act removes

the power of the full Family Court to issue a certificate authorising an appeal to be taken to the High Court, without special leave, if a case raises an important question of law or public interest (ie, s 95(b) of the *Family Law Act 1975* is repealed). This is direct implementation of recommendation 19–3 of *The Judicial Power of the Commonwealth: A Review of the Judiciary Act 1903 and Related Legislation* (ALRC 92), and allows the High Court to more efficiently regulate its own workload and priorities.

Managing Justice—ALRC 89

The ALRC recommended the establishment of a national judicial training institute in *Managing Justice: A review of the federal civil justice system* (ALRC 89, 2000). As a consequence, the National Judicial College of Australia was established in 2002, and began providing courses in 2003. In a media release dated 28 July 2005, the Acting Attorney-General, Senator the Hon Chris Ellison, announced that the Australian Government would fund the National Judicial College for three years. On 24 November 2005, the Queensland Attorney-General, the Hon Linda Lavarch MP, announced that Queensland had joined the Commonwealth and the other participating states and territories as a member of the national education body.

Seen and Heard—ALRC 84

In March 2005, the Senate Community Affairs Committee completed a report on child welfare entitled *Protecting Vulnerable Children: A National Challenge*. The ALRC report *Seen and Heard: Priority for Children in the Legal Process* (ALRC 84, 1997) is cited many times in the report. In particular, the Committee recommended that the Commonwealth take a leading role in child welfare issues, to be led by a National Commissioner for Children and Young People—a recommendation of ALRC 84 that has been repeated in a number of subsequent inquiries, but has not yet been implemented by the Australian Government.

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Essentially Yours—ALRC 96

Just prior to publication, the Australian Government released a comprehensive and very positive 'whole of Government' response to the ALRC/Australian Health Ethics Committee report, *Essentially Yours: The Protection of Human Genetic Information in Australia* (ALRC 96, 2003).

Essentially Yours—a two-volume, 1200 page report that made 144 recommendations about how Australia should deal with the ethical, legal and social implications of new genetic technologies—was the product of a two-year joint inquiry by the ALRC and the AHEC.

The report has been widely praised internationally, and now the whole of Government response, issued on 9 December 2005, strongly endorses the report's basic philosophical approach to these new and difficult issues.

The Australian Government has accepted the great bulk of the 144 detailed recommendations, including those relating to the establishment of a statutory body to provide advice to Australian governments about current and emerging issues in human genetics; the amendment of existing privacy and disability discrimination legislation; ethical guidelines for genetic testing and human genetic research; and the use of DNA in criminal investigations.

The full text of the Government response is available through the ALRC's web site.

As part of the 2005 Budget, the Australian Government had earlier announced that it would provide new funding of \$7.6 million over four years from 2005–06 to establish an independent expert advisory body on human genetics as a principal committee of the National Health and Medical Research Council (NHMRC)—direct implementation of the central recommendation in ALRC 96.

Also, the Investment and Financial Services Association Ltd (IFSA) has recently produced a Family Medical History Policy. The development of a standard on the use of family medical history (as opposed to genetic test information) for underwriting mutually rated insurance was recommended in ALRC 96 (recommendation 27–4).