

Showdown: LIV vs LCA

The Law Institute of Victoria has given notice that it intends to withdraw from the Law Council of Australia.

The move has resulted in a series of meetings between the LIV and LCA, the culmination of which will be a meeting of all Law Council constituent bodies in Canberra later this month. In strictly financial terms, the LIV's withdrawal from the Law Council would represent an income drop of \$461,750 in capitation fees alone (1991 figures @ \$65/member. Capitation fees will rise to \$68/member in the 1992-93 financial year).

The Law Institute of Victoria came to the decision following its annual conference in March.

The then President of LIV, Gail Owen, wrote to the President of the Law Council, David Miles.

In that letter Ms Owen set out the LIV's reasons for giving notice to withdraw. They included:

- * the LCA's inability to justify the Institute's membership of it on a cost-benefit analysis;
- * the financial pressure under which the LIV finds itself;
- * a concern about the inherent difficulty of the Law Council in trying to represent the often conflicting views of law societies and bar associations; and
- * the composition of the Law Council and the question of whether the LCA would be more representative of Australian lawyers if it were constituted principally of solicitors.

Responding to that letter, the LCA President, David Miles, said he was extremely disappointed by the decision and hoped it would be rescinded.

Mr Miles said he would be extremely sorry if withdrawal from the Law Council was felt to be an inevitable part of the Institute's response to financial pressure.

"While I do not believe that a simple cost-benefit analysis is the sole basis on which such a judgment should be made, I am confident that an examination of the work performed by the Law Council in recent years will show that it is of great importance to the legal profession, both to the Law Council's constituent bodies and to individual practitioners.

"I suggest that it would be a very serious mistake to overlook the importance to the legal profession and to constituent bodies of having a strong national organisation to speak on the whole profession's behalf.

"The need for such an organisation has been emphasised repeatedly by government, and we have been told that government is not really interested in views put to it by separate bodies; it will listen to those views politely, but it looks to the national organisation for the united view," Mr Miles said. On the point of often conflicting views between the law societies and bar associations, the LIV specifically mentioned the Law Council's submission to the Cost of Justice Inquiry (in which the LCA did not oppose the two-counsel rule and did support contingency fees).

Mr Miles said the Law Council was pressed, by the LIV and others, to limit its submission to stating the ar-

guments for and against each proposal.

"I am not aware of any widely-held view among constituent bodies that there is any general problem that could be characterised as an inherent difficulty," Mr Miles said.

"To the contrary, my feeling is that there has been an admirable convergence of views between the Bars and the solicitor bodies, and that the Council has been able to speak for both with real effect.

"I cannot readily recall any examples (other than those you mention) of significant differences," he said.

Mr Miles said he would be disappointed if matters raised by the LIV were thought to be of sufficient gravity to help justify an action that would lead to the "serious diminution of the strength and effectiveness of the legal profession's national organisation."

James Syme, the Deputy Chairman of the LCA's Business Law Section, wrote to members of the Law Institute prior to the LIV's elections in April. He said his Section Executive believed that the LIV decision to withdraw from the Law Council was a "retrograde step."

He also wrote to candidates in the LIV election and pointed out that the LIV had made its intention known but had not published its reasons to its members (an article appeared in the mid-April edition of *The Law Institute News*, a monthly publication -- ballot papers had to be returned to the Institute by 22 April).

In that letter Mr Syme said his Section believed that the legal profession generally, but particularly Victorian practitioners, would be very poorly served by the Institute's withdrawal from the Law Council.

The Immediate Past President of Law Society of South Australia, Brian Withers, has called for "full and frank discussions" between the constituent bodies of any perceived problems with the Law Council to "clear the air" at the meeting in Canberra.