

# Reviews and changes afoot everywhere

The Law Council of Australia has just held a "retreat" to consider its role in the short to medium term future. All constituent bodies and Law Council sections were represented.

Despite some initial scepticism, it seems that the outcome was both positive and well received.

Members might well be of the view that the Law Council does little of significance or, more particularly, of relevance to our practices.

Whilst that might be correct to a large extent, the Law Council does perform a very important role in lobbying government at both federal and state level on issues important to the profession.

It may be of some comfort to know that this lack of knowledge of what the Law Council does is a complaint common to practitioners in most states, and improved communication between the Law Council and the constituent bodies was just one of the priorities to come out of the meeting.

Northern Territory practitioners should also be able to look forward to improved services from the Law Council and greater involvement in the development of national issues and strategies.

As I indicated in an earlier column, the Law Society's continued membership of the Law Council will be discussed at the Annual General Meeting given the recent increase in our capitation fees.

I would urge members to look beyond hip-pocket considerations in forming a view on that issue.

I recently met with representatives of the Department of Law to discuss, in general terms, issues to be addressed in a review of the *Legal Practitioners Act*.

It is envisaged that a draft will be produced incorporating concerns raised by the Society, as well as issues the Government is keen to promote, and that there will be substantial discussion after that draft is produced.

If anyone has any suggestions about issues which should be addressed in the draft, they should provide them to the Executive Officer for passing on to the Department of Law.

On a related issue, I recently had the opportunity of reading the discussion paper in relation to the NSW *Legal*

*Profession Reform Bill*. It contains a number of matters to which we should pay regard, either because they are good ideas or because it is likely that the government will seek to adopt them.

The primary reform is a proposal for single admission of barristers and solicitors with differentiation to continue by means of separate practising certificates. A number of issues remain unanswered, such as the right of solicitors in NSW to robe when they appear before the Courts, etc.

There are two worrying developments. The first is the establishment of a Legal Services Commissioner, a type of Ombudsman for the legal profession. This is in addition to the Bar Association, Law Society, Legal Profession Advisory Council and the Legal Services Tribunal and seems more like an explosion of bureaucracy than anything else.

The second proposal is in relation to fees where it is proposed that all scales be abolished and that costs as between solicitor and client and party and party be subject to agreements between the solicitor and the client. On a party/party basis, this will mean that costs of a client are assessed based on the agreement, and that is the amount to be recovered from the other side.

The proposal is not without problems. For example, it seems to ignore the fact that this may have an upward impact on fees rather than necessarily downward. Further, it is proposed to allow "conditional fees" of up to 25 per cent over and above the agreed fee in the event of success in an action. Given that the agreed fee could be anything within reason, 25 per cent seems insufficient to encourage lawyers to punt actions.