

BALANCE

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Law Institute President to Speak at Opening of the Legal Year 1996

Mark Woods, President of the Law Institute of Victoria, is to be guest speaker at the Opening of the Legal Year 1996.

Mark who was first admitted to practise in 1982, has been President of the Law Institute of Victoria since April 1995.

He has been a partner of a medium sized Gippsland firm since 1982 and is an accredited specialist in both criminal law and family law and has lectured extensively on these areas of law in Australia and overseas.

His service to the legal profession is outstanding having been Chairman, Law Institute of Victoria Committee of Management 1994-95, Treasurer, Law Institute of Victoria 1993-94, Law Institute Council Member 1990-95, Chairman, Legal Aid Committee 1992-94, Country Law Associations Committee 1993-94, Member Ethics Committee, Legal Education Committee 1991-95, President, Gippsland Law Association 1990-93, Member, Criminal and Family Law Sections of the Law Council of Australia, the International Bar Association, the International Commission of Jurists and the International Academy of Matrimonial Lawyers.

Mark is no slouch when it comes to expressing his views on matters affecting the legal profession as can be seen from the following extract from his President's column of August 1995:-

"One of the strange things about deregulation and simplification is that things seem to end up more controlled and complicated. Company law, tax, local government, health, social security and family law are prime examples.

But the best example must be our own profession. Presidents of this and other associations of lawyers around the country have bemoaned the strangling of the profession by regulation for years.

We have collectively embraced the principles of competition policy, but have been manacled by the rules which govern us when we try to put those principles into practice.

When we are admitted, we all affirm or take an oath to



*Mark Woods
President of the Law Institute of Victoria*

"well and truly demean ourselves in the practice of our profession".

It is from this pledge, to the court and the community, that our regulations come.

When a member of the profession is found to do something which is widely viewed as inconsistent with that pledge, there is an immediate call to stamp it out.

Hence, we have increasingly complex rules regarding trust account administration, conflicts of interest, standards of conduct and accountability, dissemination of costs information, etc.

It seems to me that the present over-regulation of our

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Opening of the Legal Year Guest Speaker will be of interest

profession involves a fundamental contradiction between the oath or affirmation on the one hand, and competition policy on the other.

We cannot, for example, caveat the pledge we make by promising to be good traditional lawyers at all times, except when competing with accountants, merchant bankers, conveyancing companies and lay advocates.

It's like promising to fight (and beat) a terrorist backed by a foreign dictator while adhering the Marquis of Queensberry Rules.

Yet that is what is expected of us by governments, in particular, and the community in general." I have heard Mark speak at official functions and on informal occasions.

I can assure those of you who attend the opening of the 1996 legal year lunches that by the end of Mark's speech, you will be better informed on the future of the legal profession and also the role of every practitioner in ensuring that the legal profession remains master of its own destiny. Mark has a great wit and you will also be amused and entertained.

*Jim Campbell
Executive Officer*

LEADR: Mediation Workshop in Darwin

LEADR is pleased to announce the first LEADR Mediation Workshop to be conducted in Darwin.

The four day mediation workshop will be structured to provide opportunities for participants to learn about mediation from the perspective of a mediator, a party and an adviser in the process.

It will also provide refresher training to those already involved in mediation.

The Workshop will be held on the 13-16 February 1996. Contact the Law Society for an application form.

For further information please contact LEADR on (02) 233 2255.

Complaints Against Lawyers: Governments proposed new procedures

Attorney-General Steve Hatton today released Government Discussion Paper No 3 titled "Complaints Against Lawyers".

The paper is the third in a series of discussions papers following from the Chief Minister's Ministerial Statement *Our Territory - The Future*.

"This paper represents the first step in the Government's commitment to reform the legal profession to ensure access to justice and the provision of affordable legal services for Territorians," Mr Hatton said.

The paper is direct response to the initiatives taken in this area by the Council of Australian Governments which endorsed a series of principles for the reform of the legal profession with the objective of removing constraints on the development of the national market in legal services and developing other efficiency-enhancing reforms.

In September this year, Chief Minister Shane Stone endorsed these principles on behalf of the Northern Territory Government.

The discussion paper measures the Territory legal profession's existing complaints-handling procedure against "best practice" principles and identifies a number of issues.

These issues include the level of consumer representation in the process, rights of review for dissatisfied consumers of legal services and the degree of public and other scrutiny of the handling of complaints in light of the confidentiality requirements currently imposed on the investigation of complaints by the Law Society and hearings conducted by the Legal Practitioners Complaints Committee.

The principal proposals in the paper are:

- the establishment of a Legal Professional Tribunal chaired by a Supreme Court judge and consisting of a legal practitioner and a lay person to adjudicate on all significant complaints against legal practitioners;

- giving to the Ombudsman the Role of Legal Services Commissioner to oversee the handling of complaints by the Law Society and to provide an alternative complaints-handling mechanism where a consumer is not happy with the manner in which the Law Society has conducted the complaint.

- the publishing of all findings of the Tribunal and determinations by the Law Society and Legal Services Commissioner;
- the conducting of open hearings by the Legal Profession Tribunal;
- the ability of the Law Society, Legal services Commissioner and the Legal Profession Tribunal to award compensation up to \$20,000 to clients who suffer loss as a result of the misconduct and negligence of a legal practitioner;
- the creation of negligence as a ground for complaint against a practitioner (currently clients can only complain to the Law Society if the negligence is gross); and;
- the recognition of sexual harassment and discriminatory behaviour as a ground of complaint against a practitioner.

"While the Government will keep an open mind on the proposals until it has analysed the response to the paper, it believes consumers of legal services are entitled to a fair go, and that includes the provision of an adequate complaints-handling mechanism," Mr Hatton said.

The discussion paper is the first in a series of papers to be released by the Attorney-General on the reform of the legal profession.

Other papers will cover issues such as the cost of legal services and the structure of the legal profession.

All firms should by now have received a copy of the discussion paper.

The Society asks that all comments on the discussion paper to be provided to the Law Society by close of business Wednesday 14 February 1996.