

NT Women Lawyers Association

By Robin Dyll

Administrative Decisions and Access To Information

The NTWLA was pleased to welcome Peter Boyce, the NT Ombudsman, to address the Association at a lunchtime discussion held on Tuesday 11 November 1997.

The discussion arose out of concerns raised with the Association in relation to administrative decision making in the NT and in particular the lack of access to information and reasons for decision. Peter was able to give a most informative talk on these issues as they arise in his role as Ombudsman.

His experience is that there is no consistency across government agencies in how decisions are made and what information is to be made available to an affected individual or to the public. Some agencies adopt a very legalistic approach whereas others adopt a more "lenient" approach. In some agencies the approach varies.

He feels that these inconsistencies arise partly because there is no point of reference available to the decision maker to determine what access would be reasonable in a particular case.

The only recourse is to commence litigation and use that litigation process as a vehicle for discovery of documents. This avenue is expensive and does not necessarily address the particular request.

Peter also referred to the tension between the need for access to information and privacy. He is strongly of the view that there needs to be balance in any reform.

He put forward six main reasons to allow access to information:

1. If people can access information relating to matters of public concern, they are better able to participate in the making of decisions and assess the validity of assumptions and facts on which government decisions are based. For example, the point raised by the Bar Association in relation to the premises on which mandatory sentencing is based may be questionable but without access to information, debate is stifled and limited.
2. People are often frustrated in deal-



ings with government bureaucracy because they lack an understanding of the factors relevant in an exercise of statutory discretion. For example, members of the public are sometimes denied legitimate entitlements to Social security benefits because they had not been informed about an entitlement or they had applied for the wrong one.

3. It allows public scrutiny of government of government, and curtails justifiable actions such as invasions of privacy.

4. Government itself will feel more accountable.

5. Access allows discovery of documents relating to administrative action first and then, if an error of law is revealed, legal action.

6. Where people have access to their personal files, any errors may be brought to the attention of the relevant body and corrected.

FOI in general improves the quality of decision making. The notion of a healthy democracy embraces access to information.

Question of costs administering such legislation may be an issue. Apparently, cost has been raised as an issue in Victoria; however, in the experience of Queensland, cost is not considered to be a problem.

Possible reforms include a code of conduct as has been adopted in the UK, guidelines, protocols, procedures and legislation.

The Opposition currently has a Freedom of Information bill before the Parliament.

It was agreed a subcommittee would be set up, headed by Robin Dyll. We

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Special Whites From Penfold's

In 1992 the Penfold's winemaking team was given a brief to develop the ultimate Australian white wine (the white "Grange"). Penfold's 1995 Adelaide Hills Chardonnay and 1995 Adelaide Hills Semillon was the first commercial release under their white wine development program and was launched alongside the 1992 Grange.

Penfold's chief winemaker stated that one of the most important outcomes of the program has been the clear realisation that the Adelaide Hills may well emerge as Australia's number one region for chardonnay and possibly even semillon.

Penfold's Adelaide Hills Chardonnay 1996 and Penfold's Adelaide Hills Semillon 1996

The complex, full-bodied wines are the second chardonnay and the second semillon release to be made by Penfold's from premium Adelaide Hills fruit. Although labelled as a "trial bin", the wines will now be a regular release. The picturesque Adelaide Hills region, at an altitude of more than 400 meters is rapidly emerging as one of Australia's premium viticultural areas. The cool, slow-ripening climate and low yielding soils of this region make it ideal for the production of quality white wine grapes.

1996 was an outstanding late-ripening year in the Adelaide Hills. Warm days and cool nights throughout the growing season, low yields and no rain during the harvest ensured ripe, intensely flavoured grapes.

Both wines were barrel fermented in new and one year old French oak

barriques. The chardonnay was matured for 10 months on lees and the semillon for 5 months prior to bottling.

Winemaker's Comments

Colour: Both wines are pale straw with brilliant green hues.

Palate: Chardonnay - the wine finishes soft and clean in the mouth for several minutes after swallowing. Semillon - full-flavoured, exhibits great fineness and finishes clean and citrusy.

The quality of both wines reflects the exceptional 1996 vintage in the Adelaide Hills.

Penfold's Reserve Bin 94A Chardonnay

This special wine was also created as a result of Penfold's white wine development program. From time to time Penfold's will release limited quantities of one-off white wines under the Reserve Bin label. The 1994 Penfold's Bin 94A shows all the attributes of a great wine and is the first to be released under the new Reserve Bin label.

The Bin 94A Chardonnay is a blend of material from the Adelaide Hills (52%), Eden Valley (24%), Tumbarumba NSW (21%) and Macedon Victoria (3%). Ten per cent of the Tumbarumba component is sauvignon blanc which contributes to the wine's fine, tight structure.

Penfold's chief winemaker, John Duval, states, "Not all experiments work, but there is no doubt about this one... it's one of the best chardonnays we've ever made. Only time will tell how good it is.

The three wines are available now in very limited quantities.

Copyright Law Review

The Copyright Law Review Committee is seeking information or comment regarding miscellaneous exceptions to the exclusive rights of copyright owners contained in the *Copyright Act 1968*.

In particular, the Committee is interested in obtaining information regarding the use of, or reliance placed on these provisions in practice. Example of reliance placed on specific provision would be of particular interest and the Committee is also keen to learn whether any industry or business practices have developed around these exceptions.

Practitioners wishing to comment or provide information on the above should contact the Law Society for further information.

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invite members to contact us if they wish to comment or be involved in the subcommittee. Contact Robin on tel 8941 9952.

Mandatory sentencing

NTWLA held a discussion group on mandatory sentencing on Monday 17 November. It is hoped that the Association will be in a position to give news of this discussion in the next issue.

NTWLA

The Association looks forward to a busy year in 1998. In addition to access to information and mandatory sentencing, the Association will be looking at inter alia, the Health Complaints conciliation process and the right to silence.

New members are welcome and should contact Barbara Tiffin on tel 8999 6742.

Current committee members are: Merran Short, Tracy Reeves, Barbara Tiffin, Sally Gearin, Samantha Miles, Robin Dyall, Melanie Little, Kate Halliday and Nardine Davidson, who has been co-opted from Alice Springs.