

reform

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New Federal Law Commissioners

"There is nothing more difficult to take in hand, more perilous to conduct or more uncertain in its success, than to take the lead in the introduction of a new order of things."

Machiavelli, *The Prince*, ch. 6.

The Federal Attorney-General, Senator Durack, Q.C., has announced the appointment of two new full-time Members of the Australian Law Reform Commission. They are Mr. Bruce Debelle of Adelaide and Professor Duncan Chappell of Melbourne. They replace Mr. M. R. Wilcox, Q.C. and Mr. Russell Scott, both of whom have returned to private practice. Mr. Wilcox remains a part-time Member of the Commission and continues in charge of the projects on Defamation and Lands Acquisition. The Attorney-General has approved the appointment of Mr. Scott as a consultant to the Commission in a number of projects.

Mr. Debelle took up his duties on 7 August 1978 and has been appointed to take charge

of the A.L.R.C. References on Class Actions and Standing and Aboriginal Customary Laws. He is a member of a number of Divisions of the Commission, including those on Insurance Contracts, Debt Recovery and Lands Acquisition. His appointment is until 31 December 1978. Born in Adelaide, Mr. Debelle graduated from the University of Adelaide in 1960 with an Honours Degree in Law. He served as Associate to Sir Victor Windeyer of the High Court of Australia in 1961 and commenced practice in Adelaide in 1962. In 1965 he became a partner in a large legal firm. Apart from a busy professional practice, he served as an examiner and part-time tutor in constitutional law in the University of Adelaide. He was a member of the Faculty of Law from 1969 to 1975. Mr. Debelle also served as a member of the Council of the Law Society of South Australia and acted on its poor persons legal assistance committee, law reform committee, and planning and administrative law committee.

Professor Duncan Chappell was born in Tasmania and was appointed to the Commis-

sion from his post as Visiting Fellow, Department of Legal Studies, La Trobe University, Melbourne. He has been appointed a full-time Member of the A.L.R.C. from 11 September 1978 for one year. Dr. Chappell holds an Arts and Honours Law degree from the University of Tasmania and a Ph.D. from Cambridge. He has held a large number of teaching positions in Universities on both sides of the United States. In 1973 he was appointed Director of the Law and Justice Study Center of the Battelle Institute, Seattle, Washington. He is the author of numerous publications in the field of criminology. During his term with the A.L.R.C. he will be in charge of the new Reference on Sentencing (see below).

The two new Members bring the A.L.R.C. up to full strength. The appointment of Commissioners with a background in the law of different jurisdiction is welcomed by the Commission. Western Australia is the only State which has not had a Member of the A.L.R.C. Senator Durack, a Western Australian himself, may yet see this omission remedied. The new Federal Commissioners are expected to travel widely throughout the country in the process of consultation on law reform proposals. During November, national seminars and sittings are lined up in all State and Territory capitals in connection with the References on Debt Recovery and Insurance Contracts.

Under Vice-Regal Notice

"Government can easily exist without law, but law cannot exist without Government."

Bertrand Russell, *Unpopular Essays*, 1950.

Law Reform in Australia received favourable mention from the Governor-General, Sir Zelman Cowen, when he opened the Seventeenth Conference of the International Bar Association on 11 September 1978. Speaking to a capacity audience in the Concert Hall of the Sydney Opera House, he pointed to the need, when the times pose a challenge to the standing of the law, to develop an "appropriate response". He said that this would include consideration of the needs which the law should satisfy and "a willing-

ness to come to grips with law reform". He told the I.B.A. Conference, which included judges and other lawyers from all parts of the world, that there was a growing acceptance of the need for law reform, in substance and in machinery. This acceptance was being reflected in the better organisation of law reform in Australia and elsewhere.

Sir Zelman described the law reform bodies established at a federal and state level in Australia and contrasted them with the poor organisation and modest support and resources of the part-time committees that went before. He then touched on a more controversial theme:

"I remember from an earlier involvement of my own with one such Australian body, that proposals for law reform were put on one side on the ground that they involved "social policy". That is not the contemporary viewpoint."

Speaking of the A.L.R.C., of which he was a part-time Member until his appointment as Governor-General, he said this:

"The Commission . . . has only been in existence for a very few years, but it has been very active and productive in a wide variety of fields under the direction of a talented and very able Chairman, Mr. Justice Michael Kirby, who matches great intellectual capacity with a flare for publicising the issues in law reform, and in doing so, I believe, has attracted public interest to a degree unparalleled in my experience. The Commission . . . has undertaken the task of law reform in widely diverse areas of the law. It has drawn upon a vast range of community resources: with limited funding it has sought the views and assistance of experts with appropriate and related experience."

The Governor-General referred to the program before the Law Reform Commission and the techniques of expert and public involvement that have been used:

"The use of television programs to debate the issues is also a significant illustration of the way in which the Commission seeks to present issues to the public as part of the process of reporting on matters of law reform referred to it. . . . Within the Commission itself, among its own members, predominantly lawyers, there is vigorous discussion of the social and other issues underlying law reform. . . . The result is a report which is full, comprehensive and well argued; which exposes the views of majority and dissenters, and the reasons for those views. It provides for those ultimately responsible for the translation of reports into law, resource materials of high quality and comprehensiveness. The range of the references is daunting."

But, cautioned the Governor-General, there is much to be done and