

Before her appointment to the Commission, Justice Evatt was the first Chief Judge of the Family Court of Australia where she established counselling and mediation as an integral part of family law. She was the first woman Deputy President of the Australian Conciliation and Arbitration Commission from 1973 to 1989 and is currently Deputy President of the Australian Industrial Relations Commission. She chaired the Royal Commission on Human Relationships from 1974 to 1977, and was a member of the United Nations Committee on the Elimination of Discrimination Against Women, chairing that Committee from 1989 to 1991. She has a continuing involvement in international human rights with her election, in 1992, to the United Nations Human Rights Committee. She will also continue her involvement with the ALRC as a part time Commissioner working on the *Equality before the law* reference.

As President of the ALRC Justice Evatt stewarded the Commission through a challenging five years as the Commission strove to respond to changing governmental demands for high quality legal policy advice to be delivered within a much shorter time frame.

The Commission embarked on a new law reform program encompassing family law, business law, access to justice, government law and community law in the ACT. At the same time the Commission undertook joint projects with specialist Commonwealth agencies such as

## JUSTICE ELIZABETH EVATT AO

*After five years at the helm of the ALRC, Justice Evatt's term concluded on 10 November. The office of President will remain vacant pending the outcome of the current Parliamentary Committee review which is due to report next March. Justice Evatt talks to Evelyn McWilliams about her term as President.*

the Companies and Securities Advisory Committee and the Family Law Council. It also undertook joint references with a number of State Law Reform Commissions to promote national uniformity of laws.

Brand new references on censorship, multiculturalism, customs, administrative penalties, choice of law, superannuation, personal property securities and collective investment schemes were all completed and reports delivered to the Attorney-General during this time. Works in progress include designs legislation, health, housing and community services legislation, compliance with the enforcement mechanisms under the Trade Practices Act, and some follow up on evidence. In addition, the Commission has been asked by the Attorney-General to examine equality before the law — a project which Justice Evatt will continue to work on until the completion of the report in the second half of 1994.

I asked her about some of the highlights of her term as President and the changes she has seen.

'One of the first highlights was the report on grouped proceedings or class actions which had been going before I

started. We put up our report in 1988 and it has been substantially implemented. That was very satisfying. There were also a couple of references — *Multiculturalism and the law* and the current reference on *Equality before the law* where we had a lot of community involvement. It's always important for us to find out what the community thinks about the law and how the law affects them.

'Not all references require that community input. Some of them are quite technical. The inquiry into collective investments and superannuation was rewarding because it was one reference in an area of current concern at the political end. (Because of changes being made in the compulsory contributions to superannuation.) We conducted that reference with the Companies and Securities Advisory Committee in the daily glare of publicity and we dealt with the Parliamentary Committee that was looking at the same issue. Government took up most of our proposals in that one as well.

'Our approach to reform has probably changed over the years. We have taken the focus away from long term detailed research. We now spend relatively more time on the policy development aspects of law reform. That is not to say



Photograph by Rhonda Thwaite

that we don't *do* that research. We do. But producing fully written up research is no longer our goal. It is rather to *use* the research to inform the end product. What you see in reports nowadays is more a summarised version of the research that's been done rather than a detailed treatment.'

The Commission's inquiry into women's equality before the law began in February 1993 and the Commission has conducted public hearings around Australia

in all the capital cities and major regional centres. As a result, over 350 people have written to us about their experiences and we have received more than 150 oral submissions. A large number of these submissions point to a disturbing trend, according to Justice Evatt.

'We are seeing a lot of submissions on violence and family law. But whether these are so much a problem in Family Law or a failure of access to the law or simply human

relationships issues it's hard to determine. But certainly, that's where the concerns are, where people are vitally affected by the law.

'There is still a lot of dissatisfaction about lack of equal pay, accreditation, discrimination, and sexual harassment. The law has been changed quite a bit. Women have, at least on the face of it, more access to remedies than they ever used to have. But sometimes you feel that, while

the remedies are there, the underlying situation hasn't changed very much.'

What does she think of the current debate about definitions of what constitutes date rape and sexual harassment?

'There is a heightened awareness by the community of these issues. Of course there will always be a debate about the boundary lines of sexual relationships as social mores change and different generations and social groups contribute to the debate. The most truthful thing you could say is that there is no single prevailing view on these things any more.

'This leads to some uncertainty for people. It is certainly difficult for the law. Because we now have to ask: where are the boundaries? Who is entitled to do what, where, when and with whom? If a man and woman both have different ideas about that sort of thing and different expectations, that's a recipe for disaster. These are the sort of things that may once have been taken for granted but that now need to be negotiated. Otherwise, they end up with the courts making pronouncements and the courts are no fitter to pronounce on these matters than anyone else.'

As President of the Commission Justice Evatt has provided a public profile for law reform

issues. As a result she has become a focus of hope for a more responsive legal system for the many people who contact her with stories of personal distress and concern. I ask her how she feels about occupying this position in many people's lives.

'Rather sad really. Generally, the people that write have got some unhappiness or misery or worry that is upsetting them. And when you read their letters you realise that the thing that's upsetting them is probably something that neither you nor anyone else can do much about.'

Many women who have risen to senior positions in the legal profession — both as practitioners and in academia — have complained about the inherent chauvinism of the profession, making it difficult for women to follow their chosen career paths. In a career in law spanning over 40 years Justice Evatt must have experienced the same.

'I suppose I experienced difficulties. But I think the path I followed was such a peculiar one that it really doesn't bear comparison with others. I don't see that I was in any way typical. I went overseas (to England) when I graduated. And I didn't come back for 18 years. So all the things that happened to me didn't happen in Australia.'

With the double jeopardy of being a woman and a colonial, wasn't it worse?

'As an Australian working in England I think I failed to fit any category that was familiar to them and that made it difficult for them to type me. The English put you in boxes and I didn't seem to fit into any box that they knew. I was sort of floating.' (laughter)

You confused them?

'Exactly. Also, I wasn't at all sure what path I wanted to follow in the law so that was another uncertainty for me. But one of the things I enjoyed most was working at the English Law Commission. I was a senior law reform officer working in family law issues such as matrimonial property, polygamy and so on. It was, in some ways, a precursor to being here.'

Given that the last five years have been in many ways an unrelenting hard slog, I ask Justice Evatt what comes next, for her.

'I don't know quite what that means. I already have a life. I'm just stopping doing this. Everything else goes on. I'm just giving up my day job.'

It's a good line to go out on.