

Commission news

New Reference — Gene Patenting and Human Health

The Attorney-General has asked the ALRC to undertake a new inquiry into gene patenting. The terms of reference, announced on 17 December 2002, require examination of intellectual property rights over genetic material and genetic and related technologies, with a particular focus on human health issues. The inquiry is to be completed by the end of June 2004. [See article on page 52 providing an overview of issues relating to gene patenting].

Civil and Administrative Penalties

In December 2002, the ALRC completed its report ALRC 95 *Principled Regulation: Federal Civil and Administrative Penalties in Australia* and delivered it to the federal Attorney-General. The report was then tabled in Parliament and publicly released on 19 March 2003. The report is available free of charge from the ALRC website or can be purchased from the ALRC in hard copy or CD format. [An article outlining the major recommendations of the report appears at page 44].

Protection of Human Genetic Information

The Genetic Information reference team has received 315 submissions from the public and conducted some 213 meetings around Aus-

tralia as it has worked to complete its final report. At the time of going to press (April 2003), the report had been handed to the Attorney-General and Minister for Health and Ageing. Once tabled in Parliament, the report will become a public document and will be available from the ALRC website free of charge or for purchase from the ALRC in hard copy or CD format.

Opening of new ALRC premises

On 17 December 2002, the new ALRC offices were formally opened by the Hon Daryl Williams AM QC MP, federal Attorney-General. As previously reported, the ALRC moved to new premises in King Street, Sydney in September. The Attorney-General commented on the open, free flowing design of the new premises, and how conducive it is to the work of law reformers in modern times.

The opening was attended by some 120 former Commissioners, staff and friends of the ALRC, including many who had worked collaboratively with the ALRC on recent and current projects. The ALRC looks forward to hosting many meetings and consultations in its new offices in the years to come.

The Michael Kirby Library

The ALRC first dedicated its library to Mr Justice Michael Kirby, the first Chairman of the Commission (1975–1984), in 1994.

Having moved to new premises, the ALRC took the opportunity to re-dedicate the Michael Kirby Library by holding a function on 17 February 2003. Attended by about 100 people, the occasion was a reminder of the strong connections between Justice Kirby and the ALRC, even though it is nearly two decades since he ceased in his role as Chairman.

Justice Kirby spoke about some of the aspects of the work and operations of the Commission that make it such a unique and valuable organisation. Many of those aspects were instituted during Justice Kirby's chairmanship, and continue today. [*Justice Kirby's speech is excerpted at page 58 of this issue*].

ALRC Commissioners

The Commission would like to express sincere thanks to two of its long-standing part-time Commissioners — Justice John von Doussa (Federal Court, Adelaide) and Justice Ian Coleman (Family Court, Parramatta) — whose terms recently expired, ending their long time formal associations with the ALRC.

Justice von Doussa, who has been a part-time member since September 1992, has worked on a number of references including those relating to litigation costs, trade practices, the federal civil justice system, marine insurance, the *Judiciary Act 1903* (Cth), and most recently civil and administrative penalties and the protection of human genetic information inquiry. His term expired on 30 April 2003.

Justice Coleman, a part-time member since January 1993, also has worked on a number of references including those relating to complex family contact cases, children in the legal process, the federal civil justice system, and most recently the protection of human genetic information inquiry. His term expired on 31 December 2002.

The Commission also thanks Mr Hank Spier, who was a part-time Commissioner from September 2000 to November 2002. Mr Spier made a valuable contribution to the recently completed civil and administrative penalties reference.

ALRC staff

In December 2002, the ALRC farewelled our Administrative Assistant Johana Zapata. Stimulated by the Genetic Information reference, Johana is hoping to study forensic science. Stephanie Dawes, who has been the Production Manager of *Reform* for some years as well as the ALRC's Public Affairs Assistant, left the ALRC in March this year bound for London and an exciting new career in teaching. The ALRC wishes both Johana and Stephanie all the best.

In March 2003, the ALRC welcomed Margot Grant as our new Administrative Assistant.

The ALRC also has been joined by a new Senior Legal Officer, Miranda Biven. Miranda has First Class Honours in both Arts and Law from Sydney University, and an LLM from Harvard Law School. She has served as an Associate to Justice Clifford Einstein of the NSW Supreme Court and as a lawyer in the New York office of the major firm Kirkland and Ellis. Her experience in intellectual property and biotechnology practice in the USA will make Miranda a valuable addition to the Genetic Patents team.

Past report update

Proceeds of Crime — ALRC 87

The ALRC completed its report ALRC 87 *Confiscation That Counts: Review of the Proceeds of Crime Act 1987* in 1999. The report was broadly supported by the major parties,

and the Proceeds of Crime Bill based on the report was supported by the Senate Legal and Constitutional Legislation Committee in April 2002.

The recommendations of ALRC 87 were substantially implemented by the *Proceeds of Crime Act 2002*, which commenced operation on 1 January 2003.

Managing Justice — ALRC 89

In past issues, *Reform* has made mention of the implementation of a number of recommendations from the report ALRC 89 *Managing Justice: A Review of the Federal Civil Justice System*.

One area that was carefully considered in the report was the case management practices of the Family Court of Australia. A number of ongoing reforms in the Family Court are consistent with ALRC recommendations, in particular, the establishment of the new Casetrack information management system and the Caseflow model for pre-trial case management. The Court is also presently considering reforms in the area of expert evidence.

The Judicial Power of the Commonwealth — ALRC 92

An amendment to remove the appellate jurisdiction of the Federal Court of Australia in relation to the newly established ACT Court of Appeal was passed in the *Jurisdiction of Courts Legislation Amendment Act 2002* (Cth). The need for this amendment was identified in ALRC 92. The amendment took effect from 14 October 2002.

Other areas of this report are under consideration by the federal government.

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New inquiry for ALRC

Protecting classified and security sensitive information in Australian courts and tribunals

On 2 April 2003, the federal Attorney-General signed the terms of reference for a new ALRC inquiry into the Protection of Classified and Security Sensitive Information in the course of legal proceedings.

The ALRC will examine existing mechanisms to safeguard classified material or security sensitive material during court and tribunal proceedings or other investigations (such as those relating to FOI applications). These mechanisms include common law public interest immunity, laws which allow for closed court proceedings, and *Evidence Act* provisions which give judges discretion about whether to admit and how to handle particular kinds of evidence.

The new inquiry follows on nicely from earlier work done by the Commission on the *Evidence Act*, the administration of the federal civil justice system, privacy protection, freedom of information, archives, and civil and administrative penalties in federal jurisdiction.

A detailed Discussion Paper containing proposals for reform will be released later in the year for public comment and debate. Written submissions are welcome at any time.

The final report and recommendations are due to be provided to the Attorney-General by 29 February 2004. The terms of reference for the inquiry and related material are available from the ALRC's website: www.alrc.gov.au

To **register on the mailing list** for the inquiry, which will ensure you receive press releases and consultation papers, please see the ALRC website or send your contact details to security@alrc.gov.au