

# political NEWS

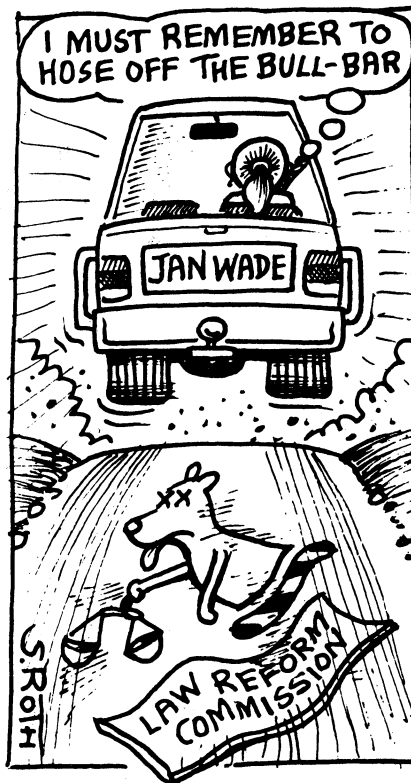
## LAW REFORM: UNCOMMISSIONING THE COMMISSION

Not long after the start of the 'Labor decade' in Victoria, the Labor Government established the Victorian Law Reform Commission (VLRC). From that time on the VLRC has participated in numerous debates on particular law reform issues and contributed to the broader law reform process. Supporters of the VLRC argue that it has been quite successful in enhancing democratic law reform by bringing together people from disparate organisations and perspectives — people who might not normally have access to the law reform process as they are outside the traditional legal actors (lawyers, judiciary and government agencies). By using a consultative process involving these people who had an interest and experience in the matters being considered, the VLRC elevated law reform beyond regarding legislative change as the only relevant outcome. The process itself was seen as vital to effective democratic law reform, involving negotiated outcomes designed to produce real changes in the practices of the actors. The newly elected Coalition Government certainly does not take this view of the VLRC. Instead, it is seen as a cosy club of 'gifted amateurs' appointed as consultants to do work implicitly for the Government 'as a loyal branch of the Attorney-General's office' (Mrs Wade A-G). It is portrayed as a waste of taxpayers' money, lacking independence and failing to be an effective mechanism for law reform.

The Attorney-General has outlined a new three-pronged process of law reform for Victoria, involving a Law Reform and Scrutiny of Act parliamentary committee; a greater role for the Law Foundation than it has enjoyed in the past (the Law Foundation distributed funds to the VLRC from the interest earned from the Solicitors Guarantee Fund); and finally, temporary Law Reform Commissioners appointed for particular issues.

The Government has used its clear majority in both Houses of Parliament and acted very quickly to exorcise the VLRC. Let's hope that this example of 'law reform' is not the harbinger of a new model for future law reform under the Coalition.

... *Age*, 19 October ... 'the commission pursues a doctrinaire political agenda unmoved by any evidence actually placed before it ... Reform is usually instigated by those engaged in the daily practice of the law, who are well placed to identify any inadequacies or failures to keep abreast of community thinking.' (Mr H. Wright, QC)



... *Age*, 15 October ... 'What is there "political" or "doctrinaire" in the commission's recommendations for: the removal of barristers' immunity from liability in negligence [and] ... barristers' immunity from the operation of the *Trade Practices Act*; the independent review ... of barristers' investigations of complaints against fellow barristers?' (Mr D. Kelly)

... *Age*, 3 November ... 'This is a venal, vindictive act to destroy an organisation which has broad community support, has been prepared to challenge the legal profession, and pursued an objective assessment of major legal issues.' (Mr Cole, Shadow Attorney-General)

... *Age*, 3 November ... 'The VLRC is "another of Labor's grandiose experiments ... It has performed poorly, while wasting millions of taxpayers' money ... [staffed by] gifted amateurs ... Law reform will [now] be undertaken by lead-

ers in their fields, not by gifted amateurs.' (Mrs Wade, Attorney-General)

... *Age*, 3 November ... 'If the Government's decision is born out of financial rationalisation I would have no qualms about it. But if there's any suggestion that the Commission has not been effective in the past, I would disagree.' (Dr Hughes, President of the Law Institute of Victoria)

... *Age*, 5 November ... 'The Law Reform Commission has done more for women than any Liberal Government in Australian history.' (Beatrice Faust).

... *Age*, 6 November ... 'The decision ... to abolish the [VLRC] is misconceived in principle, undesirable in practice, and, as reported, based on incorrect facts. It should be reversed.' (Mr B. Keon-Cohen, barrister)

... *Age*, 6 November ... 'State Cabinet's abolition of the [VLRC] is a bad decision made for the wrong reasons.' (*Age* Editorial)

... *Sunday Age*, 8 November ... 'If you took a poll of the business community on the performance of law reform commissions, the Victorian one would come out on top.' (Clive Speed, Ass. Director, Business Council of Australia)

... *Sunday Age*, 8 November ... 'The Law Reform Commission has been at direct odds with the mainstream at the Bar. And the mainstream reaction is to be very, very pleased.' (an unidentified QC)

... *Sunday Age*, 8 November ... 'Not all Coalition decisions can be justified as being rushed through for the good of the State. The move to scrap the [VLRC] was a case of petty vindictiveness overcoming commonsense. The Commission had become a respected force for change ... winning the support of many business and conservative groups.' (Mark Forbes, State political reporter)

... *Sydney Morning Herald*, 17 November ... 'The recommendation by the [VLRC] that the *Trade Practices Act* apply to the legal profession ... leads to the suspicion that the real reason for the Kennett Government's abolition of the [VLRC] was not its alleged extravagance or inefficiency but the danger to the legal profession of the ideas emanating from it.' (*SMH* Editorial)

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