

SA Law

A specialist legal service in Adelaide. PAUL LEADBETER reports.

Environmental Law Community Advisory Service (SA) Incorporated (ELCAS) is a non-profit community legal centre which was established three years ago to serve a need in the community for legal assistance with environmental problems and queries. The service is jointly sponsored by the National Environmental Law Association (SA) Division and the Australian Centre for Environmental Law (The University of Adelaide). It is a member of the South Australian Council of Community Legal Services and is located in the Bowden/Brompton Community Centre which is situated at Brompton in the inner western suburbs of Adelaide.

ELCAS provides members of the community with free preliminary legal advice on environmental law problems or enquiries. Issues dealt with may involve questions of air, noise, land or water pollution, heritage, land use planning or public health. The advisers, who are voluntary, are qualified lawyers with particular skills in environmental law. They are assisted by senior law students and experts in areas such as health and land use planning.

ELCAS is managed by a Committee which has appointed from its membership, an advisory service co-ordinator to ensure the effective running of the service.

At present ELCAS operates a weekly advisory service on Thursday evenings. People interested in using the service make an appointment and attend the centre for the purposes of obtaining preliminary legal advice free of charge. The preliminary advice is designed to establish whether this is an environmental law problem and, if so, what steps need to be taken to proceed further.

In exceptional circumstances, the ELCAS Management Committee may refer a client with a matter of particular public interest to a law firm for detailed advice. ELCAS is supported by a panel of Adelaide law firms which have agreed to provide this service on either a free or fee reduced basis. Fee arrangements are discussed between the client and the law firm. A number of barristers from the independent bar in South Australia have also offered their services on the same basis.

The objectives of ELCAS include the assistance of disadvantaged people and classes of people for whose needs the services of lawyers in private practice are inadequate to gain access to legal services on environmental law matters, to increase awareness within the community concerning legal remedies in relation to environmental problems and to promote forms of alternative environmental dispute resolution. A further objective is the promotion of the establishment within South Australia of an Environmental Defenders Office modelled on that in New South Wales.

Funding is a perennial problem for ELCAS. At present the service relies on voluntary contributions and as such will always remain a part-time service until there is sufficient funding to employ a lawyer on a permanent basis. ELCAS was given a major boost at the beginning of the 1994-95 financial year when it received advice from Mr David Wotton, the South Australian Minister for Environment and Natural Resources that he would provide funding of \$10,000 a year

for three years to enable the service to better establish itself. There have been a number of changes to environmental legislation within South Australia in the past couple of years and it is clear from requests received by ELCAS and the Minister's grant that there is a strong need for a service such as this in the South Australian community.

The establishment of an EDO in South Australia is being actively pursued at the present time with strong support and guidance from the New South Wales EDO. In fact support is being sought from the Federal Government for funding to enable the creation of Environmental Defender Offices in every State and Territory. The proposal for national funding of EDOs is being prepared as part of the process dealing with the access to justice submission. The argument will be put that public interest environmental law and litigation and access to justice in relation to the same is just as important as social justice issues, and that, in any event, those issues often overlap.

Anyone wishing to contact ELCAS should write to the Secretary, Environmental Law Community Advisory Service Incorporated, GPO Box 1767, Adelaide SA 5001, or contact the Chairperson Paul Leadbeter on (08) 210 1227.

Paul Leadbeter is an Adelaide Lawyer.

INTELLECTUAL DISABILITY

Police interrogation

Protecting rights or facilitating confessions? KIRSTEN DEANE examines the role of independent third persons.

A 15-year-old boy who admitted stabbing a 40-year-old woman in her Melbourne home had his confession ruled inadmissible after the judge questioned the behaviour of the independent third person involved in the case.

Supreme Court Justice Hampel ruled that the boy's confession was not voluntary, and that he had probably been induced to answer questions by the independent third person (ITP) called to assist him. The ITP told the boy, then only 14 years old and with a borderline IQ, that he should tell the truth because 'if he didn't tell the truth to me, he couldn't tell the truth to anybody and that I couldn't go in to bat for him if he hadn't told the truth'.

Justice Hampel acknowledged that the ITP had acted in good faith and with the best of intentions. However, he said, while the boy realised he retained the right to remain silent, he probably concluded more help would be available to him if he co-operated. The boy later pleaded guilty.

Justice Hampel's comments come only one month after another judge criticised the actions of an ITP during the questioning of a man with an intellectual disability charged with the indecent assault of two young girls in a Melbourne