

From the President

Independence of the judiciary has again emerged as an issue with which our legal system has to be concerned. In order for Judges to be independent, as our society expects and is entitled to expect, they must be free from political and executive pressure. In the Federal sphere the rejection of the recommendations of the Remuneration Tribunal, which was set up to take the fixing of judicial salaries out of the political arena, highlights the fragility of the position of Judges and emphasises the power of the Executive arm of government to exercise control over the system.

The recent appointment as head of the National Crime Authority of a Federal Court Judge undermines the public perception of judicial independence by conferring the title and office of Judge on a member of the executive, whose function is to investigate and prosecute. The roles of the Judge and of the policeman/prosecutor are very different and they should not be confused by dual appointments of this kind. If the object of appointing the head of the National Crime Authority as a Federal Court Judge is to ensure security of tenure after he relinquishes his position as head of the Authority, then that can be done quite simply in the statute by providing for the appointment of such person, if otherwise qualified, to membership of the Federal Court at the conclusion of his term of office as head of the National Crime Authority.

The current proposals for the abolition of the Industrial Commission of New South Wales and its replacement with a two-tier system of the kind which the Commonwealth instituted in the 1960s for constitutional reasons raises considerations similar to those which arose in relation to the Tribunal of which former Mr. Justice Staples was a member. Also the administrative arrangements proposed in the Bill would to a large extent have the Court under the supervision of an administrative body on which the Department, which is one of the principal litigants before the Court, would be a member.

At the present time the Bar is under close scrutiny. The Cost of Justice Inquiry is proceeding and hearings in Sydney took place at the end of August. The New South Wales Bar appeared before the Committee and stressed that a number of the practices which have been called into question by the Committee, for example the two Counsel Rule, limitations on where barristers may establish Chambers etc., have either never formed a part of the practices and traditions in New South Wales or have not applied for many years.

Professor Baxt of the Trade Practices Commission is proposing to conduct a parallel inquiry into the professions. This will examine the effect of current practices regulating competition in the market for professional services and whether any adverse consequences for efficiency and consumer choice are to be compensated by identifiable public benefits. The Commission has indicated that the study will take approximately two years and that the legal profession will be studied in detail during 1991. The Bar Council has been assured that "this study is not a witch-hunt or an attack on elite professions" - a curious form of protestation. The Bar Council is concerned about the constitutional basis of the inquiry into the Bar in New South Wales, since barristers are not, and may not be, incorporated.

Work on the Downing Centre at 302 Castlereagh Street is proceeding. When completed it is anticipated that there will be 90 courts in the complex. It will be necessary for the Bar to give consideration to the provision of accommodation for members in or in close proximity to the Centre. This is a matter which will occupy a considerable amount of time over the coming months. The form of the accommodation and its location, as well as the vehicle for obtaining it, will need to be discussed widely by the members of the Bar.

The new Reading program commenced at the beginning of August. The program has been completely re-vamped and now includes an initial period of three weeks during which the Readers are involved on a full-time basis and engaged in a variety of "hands-on" activities. The reaction of the Readers at the end of the first week of the programme was very positive. The participants were tired - much like any busy barrister on a Friday evening, but they were also stimulated and felt that they had learned a lot during that first week.

The Reading Committee is to be congratulated on the revised course. Whilst it is usually undesirable to single out any one member of a Committee for mention, I think it appropriate to make an exception in respect of Philip Greenwood, who has put his all into making the revised course a success. In addition, I would like to thank the members of the Judiciary (10 in number) and the members of the Bar (more than 50 in number), who have been engaged in this first phase of the new program. Without their co-operation it could not have proceeded. With their co-operation it seems assured of success.

The program is intended to assist in ensuring that the Bar will continue to serve the needs of the people of New South Wales with ability, skill, integrity and with independence in fulfillment of the precepts enshrined in our motto, "Servants of all and yet of none". □

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O'Keefe travels to South America