

NOTES FROM LAW COUNCIL

MIGRATION WORK AND LAWYERS

The Law Council, supported by constituent bodies, has continued to oppose strongly the government's plan to require lawyers to register as migration agents if they help clients with migration applications.

The government has agreed that lawyers who only give general migration advice will not have to register, but it is insisting that lawyers who help with applications must register. This appears to be the first time lawyers have been required to register with the government before being eligible to provide legal services in a particular area of the law.

The new scheme was supposed to start on 1 July, but the Law Council has been advised that the legislation establishing the scheme will not be dealt with by Parliament until the Budget sittings.

The LCA maintains its firm opposition to registration of lawyers. When the legislation for the scheme becomes available the LCA will consider whether there are grounds for challenging the constitutional validity of the legislation.

MANY QUESTIONS ON COST OF JUSTICE

The Law Council and its constituent bodies have now been working in connection with the Senate inquiry into the cost of legal services for several years. The Senate committee's report is expected to be out by the middle of theyear.

The Law Council made a major initial submission in 1989. Later it made several more written submissions on particular issues, and proposed the introduction of a uniform mediation system in all Australian courts. Representatives of the Law Council

gave evidence at public hearings held by the committee some time ago. A few weeks ago there were more public hearings in Canberra when the LCA President David Miles and President of the Law Society of NSW, John Marsden, gave evidence.

Subsequently, David Miles received a request from the committee that he provide written answers to 42 questions, most on the major issues, which the committee had not dealt with when he gave evidence.

In the meantime, work has been proceeding on the preparation of responses to the substantial range of discussion papers issued by the committee. The detailed work on these responses has largely been done by the constituent bodies, with the Law Council bringing all the material together for presentation to the committee. There will also be a final general written submission summarising the Council's views as to the issues on which the Senate committee should concentrate in its report.

ADVOCACY WORKSHOPS

The Australian Advocacy Institute is conducting workshops around the country. Darwin's workshop will be held on July 4-5. Interested practitioners should contact Anne Craig, Australian Advocacy Institute, Law Council of Australia, GPO Box 1989 Canberra, DX5719 Canberra.

LEGAL PROFESSIONAL PRIVILEGE FIGHT

The Law Council is engaged in a debate with the accounting profession over legal professional privilege. The accountants have vowed to fight to have legal professional privilege apply to communications between them and their clients on taxation

matters.

LCA President David Miles said it is shallow and dangerous to see legal professional privilege simply as something that gives lawyers a competitive edge over accountants. He said the proper functioning of the legal system depends on legal professional privilege, and that is its sole but extremely powerful justification

and the reason why it does not apply to communications between clients and other advisors such as accountants.

TPC TURNS TO LAWYERS

The Trade Practices Commission announced at the COJI hearing in Canberra that it will next turn its sights to the legal profession in its current study of competition in the professions.

Much of the debate on legal professional privilege was stimulated by the TPC's study of the accountancy profession and the accountants' claims in the area.

The Law Council will be heavily involved in assisting the TPC with its study and in commenting on its findings.

NATIONWIDE ADMISSION

Reciprocal admission is likely to be implemented on 1 January 1993. This is part of the mutual recognition plan (see story, page 2).

The Law Council has been working for some time to devise suitable practical arrangements for a new regime, having taken the initiative early in 1991.

The LCA is now pressing for some changes in the proposals to ensure that state and territory Supreme Courts deal with appeals from decisions of local registration bodies (courts, admission boards, law societies or bars) so those bodies have the opportunity to scrutinise applications before the applicant may practise in the local jurisdiction.

The LCA has sought clarification as to how mutual recognition will operate in relation to jurisdictions with separate branches of the legal profession and those with fused professions.