OFF BALANCE

BY PRESIDENT NEVILLE HENWOOD

# Governments are major hazard to legal uniformity

**Over the past few months, much of the subject matter of this column has been concerned with reform of the legal profession.**

In particular, the concept of a "national profession" has been spoken of on several occasions.

The latest step in the reform process is the recently released Access to Justice Report of the Access to Justice Advisory Committee, better known as the Sacville Committee. More about that next month.

It is perhaps timely to ask why the legal profession finds itself in the position of having to defend itself from attacks by governments for its "structural inefficiencies". It is of course micro-economic reform and structural efficiency with which the reform process is concerned, particularly as contemplated by the Hilmer Report and the Trade Practices Commission Report.

Of course, several of the practices of the legal profession are open to question on that basis, particularly in the Eastern States, and it is encouraging that some of these practices are being looked at, reviewed, and — in many cases — changed. However, issues relating to the "national profession" arise because of the numerous separate and, often, very different jurisdictions in which Australian lawyers practice.

This has not been brought about by any particular whim of the legal profession. Rather, it is a product of the different State and Territory institutions to which the legal profession is answerable. The most significant impediment to structural efficiency in Australia is, without question, the State and Territory Governments.

Without those separate governments, there would, of course, be one national legal profession, one national court system and one national government.

**' ... it is most difficult to realise this goal while the State Governments have their own views ...'**

While the legal profession is already well advanced on plans for a single Australia-wide profession, it is most difficult to realise this goal in actuality while State Governments continue to have their own views on how the legal profession should be run. It is also difficult while practitioners remain officers of separate State Supreme Courts.

Proposals have been floated on several occasions for a single Australia-wide appellate court system to replace the various State Courts of Appeal. This is no doubt another step along the same path.

While the separate jurisdictions remain, there is good reason why State and Territory Governments should continue to retain responsibility for administration of the profession, in order to take account of regional peculiarities. In any event, the prospect of those governments surrendering their power to Canberra is remote.

However, it must be accepted — as indeed all governments are urging in the post-Hilmer Structural Efficiency Reform push — that separate rules and separate jurisdictions cannot be justified on an economic basis. If that is so, then the cause of that problem needs to be addressed, and it is to be hoped that the constitutional reform process currently under way will address the most significant impediment to uniformity — namely the position of the State and Territory Governments.

Resolution of that issue would be a major achievement for the year 2000.

## New Offences Acts in force

The Law Society has received a notification from the Northern Territory Department of Law (Policy Division) regarding the Summary Offences Amendment Acts (Nos 2 and 3) 1994.

The above Acts began on 23 May, 1994.

These amendments cover such matters as offensive conduct, loitering, indecent exposure, obscenity and disturbing the good order of a vessel in harbour or of a public house.

Copies of the Acts are available on request from the offices of The Law Society on the 1st Floor, 18 Knuckey Street, Darwin.