Evidence Bill 1994 and Evidence (Transitional Provisions & Consequential Amendments) Bill 1994

The Commonwealth Parliament passed the Evidence Bill 1994 and the Evidence (Transitional Provisions and Consequential Amendments) Bill 1994 on February 7, 1995.

The new Evidence Act, to start on April 18, 1995 (the Tuesday after Easter), will provide a single evidence law of general application for proceedings in federal courts and, by agreement with the Australian Capital Territory (ACT) Government, courts of the ACT.

Specifically in relation to the Northern Territory, the new Act will replace much of the existing Evidence law—both statute and common law—that now applies in proceedings in federal courts in the Territory.

The Evidence (Transitional Provisions and Consequential Amendments) Act will repeal the Evidence Act 1905 and the State and Territorial Laws and Records Recognition Act 1901 and make consequential amendments to some other Acts.

In view of the importance of the legislation, the Attorney-General is looking at the practicality of writing to individual barristers and law firms to inform them of passage of the Bill.

A publication that will include the text of the new Act, with a commentary written by officers of this department who had carriage of the Evidence Bill, should be available by March 10, 1995.

GI Bellamy
Senior Advisor (Legal Procedure)
Civil Law Division
Attorney-General's Department

Interesting Times

from page 2

profession appear to be continually shifting. We are now being pressured to accept detailed national rules of conduct and a national practising certificate scheme which could see practitioners from southern states working in the Territory without a need for further admission or payment or practising certificate fees.

Such a system would do away with the requirement of interstate practitioners to at least extend the courtesy of advising the relevant courts and Law Societies of their intention to practise in that jurisdiction.

The original proposal would have cost this Society approximately $72,000 per year in practising certificate and other fees. An offer was made to subsidise the Society to the extent of approximately $38,000. Following negotiations by the Executive Officer Jim Campbell and myself, there is now a new agreement to reimburse the Society in full.

The problem presently to be addressed is: where is the $72,000 going to come from? During these negotiations we received considerable support from Western Australia, Queensland and other smaller law societies.

I have at all times emphasised that the Northern Territory does not want to be subsidised. However, the commercial reality is that in the interests of a national profession, we may have to accept such a subsidy.

As you are aware, with the introduction of the Mutual Recognition Act (with the exception of Western Australia) a de facto national profession already exists. It is believed that Western Australia will shortly introduce a mutual recognition act and it is my view that with the introduction of such legislation in that state, a true national legal profession will exist. The only matters then requiring attention will be those already mentioned — a national code of conduct, common admission rules and education requirements, practical legal training and common Fidelity Fund and trust accounting requirements.

Fused profession? No thanks, we're British

According to the Commonwealth Law Bulletin, (Volume 20, Number 2, April 1994)the traditional distinction in the way solicitors and barristers are trained should be abolished under controversial proposals recommended by the Lord Chancellor's own advisory committee.

Lord Justice Steyn, who chairs the advisory committee on education and conduct, has set out the panel's views to both the chairman of the Bar and the Law Society president. The proposals, which cover every one of some 7000 trainee lawyers a year starting life in a solicitor's office, are causing a stir at the Bar and dividing judges as well as the four Inns of Court.

After six months or a year as a solicitor, lawyers who wished to specialise in advocacy might join a barrister's set of chambers and do pupillage there. The committee is impressed with what happens in Scotland, where all lawyers begin as solicitors. Lord Justice Steyn said the committee saw considerable merit and strong arguments for common training of barristers and solicitors.

The implications are far-reaching: many critics, including senior judges, believe the proposals are tantamount to fusing what has always been two branches of the legal profession. But the Bar has been given three years by the committee to overhaul its own training because of oversupply of applicants.

Robert Seabrook QC, Bar Chairman, said: "I favour some element of common education, but there should be full and open debate."

One effect is likely to be abolition of the Bar's monopoly on training through its one-year vocational course at the Inns of Court School of Law — criticised by the Director-General of Fair Trading as anti-competitive because so many applicants are turned away. There are 2000-plus applicants for 800 places. Instead, the Inns of Court would

Continued page 7