

LEGAL EDGE - 2003 SEMINAR SERIES



Updated and useful practical information in a series of seminar for legal practitioners, government lawyers in commercial practice, and in-house counsel.

Program:

SEMINAR 1

Speaker: **Professor Phillipa Weeks and
Mr Anthony Forsyth**

Topic: **“Arbitration revived? Recent
experiences in the Australian Industrial
Relations Commission”**

SEMINAR 2

Speaker: **Mr Peter Bayne**

Topic: **“Examination in chief, cross-examina-
tion and re-examination under the
regime of the Evidence Act 1995”**

SEMINAR 3

Speaker: **Ms Peta Spender**

Topic: **“Discovery after *McCabe*”**

SEMINAR 4

Speaker: **Dr Matthew Rimmer**

Topic: **“Free Mickey: the copyright term and
the public domain”**

SEMINAR 5

Speaker: **Ms Anne McNaughton**

Topic: **“Legislative Responses to the Public
Liability and Professional Indemnity
Crisis”**

Organised by:



SEMINAR 1

Date: 5 August 2003

**“Arbitration revived? Recent experiences in the
Australian Industrial Relations Commission”**

This presentation will examine the recent tendency of the AIRC to take an innovative view of its powers - despite the apparent restrictions imposed by the Federal Government's workplace relations reforms. The scope of and limitations on the Commission's powers under the Workplace Relations Act will be outlined, followed by discussion of recent decisions in which the AIRC (along with the Federal Court and the High Court) have adopted a broad approach to the Commission's role, in the following areas:

- dispute resolution generally;
- the exercise of jurisdiction under dispute settlement clauses in certified agreements;
- the implication of obligations to engage in 'good faith' bargaining;
- the series of ACTU test cases (eg. casuals, reasonable hours, TCR);
- specific areas of jurisdiction, eg. consultation over redundancies.

In summary, the presentation will seek to assess the impact of the Federal Government's reform measures on the Commission in practice: has it been fatally wounded, or is it bouncing back?

SEMINAR 2

12 August 2003

“Examination in chief, cross-examination and re-examination under the regime of the Evidence Act 1995”

This lecture will deal with some of the basic principles of the law of evidence as they affect the course of the trial; that is, with the way facts are presented to the court. I will thus review, in a very basic way (1) the law as to competence and compellability of witnesses; (2) examination in chief (leading questions, reviving memory, prior consistent statements, unfavourable witnesses, and the rule in *Jones v Dunkel*); (3) cross-examination (in particular, the rule in *Browne v Dunn*); (4) re-examination; and (5) evidence in reply and in re-opening.

SEMINAR 4

26 August 2003

“Free Mickey: the copyright term and the public domain”

In a victory for corporate control of cultural heritage, the Supreme Court of the United States rejected a constitutional challenge to the Sonny Bono Copyright Term Extension Act 1998 (US) by a majority of seven to two. It affirmed the decision of the United States Congress to extend the term of copyright protection for copyright works from the life of the author plus 50 years, to the life of the author plus 70 years, in line with the European Union. It is inevitable that the decision will have an impact on Australian policy and law-making in the copyright arena.

This paper evaluates the legal action taken by electronic publisher Eric Eldred against Sonny Bono Copyright Term Extension Act 1998 (US). It analyses the litigation in terms of policy debate in a number of discourses - history, intellectual property law, constitutional law and freedom of speech, cultural heritage, economics and competition policy, and international trade. It finds that there are no compelling policy justifications for the extension of the copyright term, and concludes that the Sonny Bono Copyright Term Extension Act 1998 (US) would be a poor model for other jurisdictions.

Registration cost: \$60 per seminar

**Forms available from <http://law.anu.edu.au/ccl>
or phone (02) 6125 4070**

(Please register 5 days prior to each seminar)

SEMINAR 3

19 August 2003

“Discovery after *McCabe*”

This presentation will examine the thorny issues in *McCabe v British American Tobacco*, highlighting the differences between the first instance and appellate decisions. It will explore questions about the waiver of privilege and consider how courts should differentiate between document management and the destruction of evidence. Where the destruction occurs prior to proceedings are procedural remedies such as contempt or jurisdiction protection orders appropriate or must substantive law be invoked eg tort? How should we balance the objectives of substantive and procedural law when invoking a particular remedy such as striking out a defence?

SEMINAR 5

2 September 2003

“Legislative Responses to the Public Liability and Professional Indemnity Crisis”

In 2002 the Commonwealth Government established a panel of eminent persons to review certain aspects of the law of negligence and to develop and evaluate ‘principled options to limit liability and quantum of awards for damages.’

The panel, chaired by his Honour, Mr Justice David Ipp, reported in two stages in August and September, 2002. Since that time, the Governments of the Commonwealth and the States and Territories have introduced legislative changes to give effect, among other things, to recommendations made in the Ipp Report. The final report of the Royal Commission into the collapse of HIH, which was headed by his Honour Mr Justice Neville Owen, has now also been released. This too is relevant to a proper understanding of the developments taking place in relation to the public liability and professional indemnity crisis. Beginning with the Ipp reports, this seminar will consider the Committee’s recommendations and the legislative responses that are being introduced around the country to address the public liability and professional indemnity crisis.

**All seminars to be held at the ANU Faculty of Law,
Fellows Road, Acton**

Time: 6pm - 7pm
