

## Abolition of Dock Statements

The Attorney General has advised that the Crimes Legislation (Unsworn Evidence) Amendment Act 1994 was passed by Parliament on 11 May 1994. It is proposed that the Act will be proclaimed to commence on 3 June 1994.

The Act abolishes the right of an accused person to give unsworn evidence or to make an unsworn statement (commonly known as a "dock statement") in criminal proceedings.

An accused person may now choose to decline to say anything at his or her trial or to give sworn evidence.

The Act does not affect any other rights of an accused person, including:

- the onus and standard of proof ;
- the right to remain silent;
- the privilege against self-incrimination - the accused is not compellable to assist the prosecution in the proof of the offences with which he or she is charged;
- the presumption of the accused person's innocence; and
- the right to make a submission on sentencing.

The Act will apply to the trial of a person charged with an offence on or after the date of commencement of the Act. Any person who has already been charged with an offence at the time of commencement will continue to have the option of making an unsworn statement. □

## The Good, the Bad and the Bench!

One of the most interesting articles to come out of the plethora of material which comes across Bar News' desk was "The Good, the Bad and the Bench", published in the April 1994 issue of "Legal Business". It reported the results of a survey conducted by the magazine of more than 100 barristers and solicitors of the judges of the High Court of England. The survey revealed who were the most and least popular judges and analysed the number of appeals from their decisions and whether those appeals had been allowed or dismissed.

The article warned that care should be taken to guard against too simplistic an analysis of the appeal statistics, pointing out that such numbers did not account for the complexity of each case, for evidence that had appeared since the previous decision or for the fact that the senior judges and "stars of the Bench" were often given the more difficult cases.

Of all the High Court judges, two judges were most consistently praised by those surveyed: Millett J and Phillips J. A person, presumably a solicitor, described as "the head of litigation at a top 10 City firm" was quoted as saying: "Millett and Phillips are widely recognised as two of the best judges in the land. It's not just because of their outstanding intelligence, legal knowledge, or their courteous nature, but because, whatever their decision, they make both sides feel that justice has been done."

Most brownie points went to judges who were recognised for their consistency and ability to cut through irrelevant material and get straight to the point. Demerits were awarded to judges who were felt to be inconsistent and to lack direction. Those surveyed complained about judges getting bogged down in technicalities and minutiae at the expense of the overall sense of the case. The worst judges, it was said, were those who were either too authoritative and made up their minds in the first five minutes of the case or were lacking in authority and completely incapable of making a decision at all.

In the "heads I win, tails you lose" category, was the comment of a person described as "a head of chambers commercial silk". He pointed out that the old style judges, a number of whom were still around, used to be too nasty and too authoritative and that the younger generation had tried to change. "But while there has been a change in style, many of the new generation are ... too nice and not authoritative enough."

The article is worth reading if you can get a copy. □

## 3rd National General Practice Section Conference

The 3rd National General Practice Section Conference, incorporating the National Property Conference, will be held 24-26 August 1994 at the Royal Pines Resort, Gold Coast, Queensland.

For further information contact Carol Robertson, PO Box 4552, Kingston, ACT 2604. Phone/Fax (06) 239 7600. □

## 6th National Family Law Conference

The 6th National Family Law Conference will be held 17-22 October 1994 in Adelaide.

For further information contact Ms Anne Ewer, Stafford Conference Management, PO Box 232, Kensington Park SA 5068. Telephone (08) 364 3987 Fax (08) 332 8810. □

## 13th AIJA Annual Conference

The 13th Annual Conference of the Australian Institute of Judicial Administration Inc. will be held in Fremantle on Saturday 13 and Sunday 14 August 1994. The Courts Administrators Conference and the Biennial Librarians' Conference will be held in conjunction with the Annual Conference on Friday 12 August 1994.

Further information concerning the conferences can be obtained from Mrs Margaret McHutchison, Administrator, AIJA, on (03) 347 6600 (AIJA, 103-105 Berry Street, Carlton South, Vic. 3053). □