

1. Examples of Ministerial Council activities, extracted from *Intergovernmental News* (vol 9, no 1, April 1997)

# MINISTERIAL *Councils*

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## **AGRICULTURE AND RESOURCES**

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Commonwealth and State Ministers for agriculture and natural resource management met in Melbourne on 28 February 1997 as the Agriculture and Resource Management Council of Australia and New Zealand.

The Council discussed the papaya fruit fly eradication campaign in far North Queensland. The Federal Government undertook to contribute around \$12 million, half the expected annual costs, with the remaining funds provided by Queensland, other states and the Northern Territory. Half of the funding is to be used to develop a sterile insect technique, which is said to be more appropriate for environmentally sensitive habitats than chemical treatments.

Also on the agenda was drought policy. The ministers endorsed the broad recommendations of a review of the National Drought Policy by the Drought Policy Review Taskforce. A new drought policy based on the recommendations is likely to focus on self-reliance, incentives for drought preparedness, and better farm resource management, shifting away from government provision of drought relief assistance for farm businesses.

## **CENSORSHIP**

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Commonwealth State and Territory Ministers responsible for censorship met in Melbourne on 14 March 1997 as the Standing Committee of Censorship Ministers. The Committee endorsed a Commonwealth proposal for the establishment of community assessment panels to assist in the classification of films and videos.

It is envisaged that these panels will comprise 20 members, drawn from a 'broad cross section of the community', in an attempt to represent community standards. The panels will have an advisory role in assessing classifications made by the Classification Board, and will report both to the Board and to Censorship Ministers. Three panels will be established in the first twelve months of the scheme: the first two in New South Wales and the third in another State or Territory. The cost of funding the panels will be met from within the budget of the Office of Film and Literature Classification.

The Committee also discussed the Australian Record Industry Association's voluntary code of practice for its members, which was devised to attempt to regulate the sale of offensive audio material. Ministers have asked ARIA to report to them on the operation of the first six months of the code. The report will be considered by Ministers at their next meeting in July.

## **LEADERS' FORUM**

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Premiers and Chief Ministers met at the Leaders' Forum in Melbourne on 7 March 1997. High on the agenda were the issues of reform of financial sector taxes, Premiers' Conference financial matters, health and housing.

Premiers and Chief Ministers, with the exception of Queensland have agreed to abolish the Financial Institutions Duty (FID) and replace it with a reformed Debits Tax on a national basis if Queensland participates. Queensland does not have FID and has stated its intention to maintain the competitive advantage of Queensland's tax structure. States and Territories recognised the undesirability of financial sector taxes but said pointedly in the joint communique: 'given the current inequitable allocation of tax powers between the Commonwealth and the states, it is not possible for the States and Territories to concede the revenue which these taxes provide'.

In discussing the Premiers' Conference agenda, Premiers and Chief Ministers expressed their concern about the State fiscal contribution in 1997-98 (previously agreed to be \$640 million if required) and the anticipated cut of another 3% to specific purpose funding in 1997-98, as well as further specific cuts in health, housing and roads. (see page 4 for Premiers' Conference/Loan Council and CGC outcomes)

Premiers and Chief Ministers agreed that there is a need for fundamental structural reform of health care financing and delivery, and that health should be a major issue for discussion at the COAG meeting.

The Forum Communiqué reports that management of public housing activities by States and Territories is currently severely hampered by the uncertainty of funding beyond the end of 1997. Premiers and Chief Ministers called on the Commonwealth to fully fund Commonwealth State Housing Agreements in 1997-98 and 1998-99.

Premiers and Chief Ministers discussed changes to the process for appointing judges to the High Court (see page 11 for further discussion of this issue).

## **LEGAL AFFAIRS**

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The Standing Committee of Attorneys General met in Melbourne on 14 March 1997. The Committee's main item of discussion was legal aid, and the extent of Commonwealth funding cuts for 1997-98. The Commonwealth Attorney-General undertook to continue individual negotiations with those jurisdictions which had not reached an agreement with the Commonwealth on legal aid.

Attorneys-General agreed to a resolution moved by the Northern Territory that there should be a review of legal aid to Aboriginal and Torres Strait Islanders, which is currently funded by ATSIC.

Attorneys-General endorsed in principle the establishment of an Australian Coroners Database and information network. A report on the financial requirements of the database will be presented to the next meeting of Attorneys-General in July.

## **ON-LINE GOVERNMENT COUNCIL**

Senior Ministers from the States and Territories and a representative of local government met for the Inaugural On-Line Government Council in Canberra on 7 March 1997. The Council was established by the Commonwealth Government, represented at the meeting by the Minister for Communication and the Arts, Senator Richard Alston.

It was agreed that governments would work together to develop strategies for:

- achieving 'interoperability' across governments;
- State/Territory agency participation in Commonwealth telecommunications contracts, and vice versa;
- the development of bilateral telecommunications arrangements between the Commonwealth and individual State/Territory governments.

The Council also discussed principles of cooperation on electronic service delivery, with a view to providing improved access to Commonwealth, State and local government information and services.

Further topics of discussion included the implications of the year 2000 date change, and a proposed self-regulatory framework for the on-line services industry, based on industry developed codes of practice and supervised by the Australian Broadcasting Authority.

## **PREMIERS' CONFERENCE, LOAN COUNCIL**

The 1997 Premiers' Conference was held in Canberra on 21 March. The Conference focussed mainly on financial matters, and eventually broke down due to a dispute between the Commonwealth and the states over cuts to specific purpose payments. The Commonwealth Treasurer announced cuts to SPPs of a further \$139 million, or 1.3%, on top of the 2.5% cut previously agreed to by the states.

The Conference agreed that the States and Territories will make fiscal contribution payments totalling \$627 in 1997-98. Tasmania and the ACT will defer the payment of half of their scheduled fiscal contributions until 1998-99 due to difficult economic circumstances. (See page 4 for details of the financial outcomes of the Loan Council, as well as a summary of the Commonwealth Grants Commission Report.)

The Commonwealth has been seeking to justify its 'fiscal tightening' in relation to state funding as well as other areas of Commonwealth expenditure by emphasising its aim to 'balance the budget' over the term of the current Parliament.

Members remaining at the end of the meeting discussed the issue of the Wik case and native title. This issue however, is not likely to be resolved for some time.

## **REGIONAL DEVELOPMENT**

Regional Development Ministers met in Canberra on 7 February 1997. The meeting examined a number of issues facing Australia's regions, including job creation, access to services, and investment projects in the regions.

The meeting agreed on a set of principles which will act as a guide to future Commonwealth-State/Territory regional development relationships, including:

- the need to avoid duplication;
- the need to foster closer co-ordination and co-operation;
- recognition of the State and Territory expertise in regional development;
- the need for close consultation with the States and Territories in relation to the administration and distribution of the Commonwealth Regional Telecommunications Infrastructure Fund;
- Federal Minister to go back to the Commonwealth Ministerial Working Group on Regional Affairs to develop a framework for the implementation of the above principles.

## **TOURISM**

The Australian Tourism Ministers' Council met in Canberra on 21 February 1997. Among the issues the Council discussed were the centenary of Federation, and the need to regulate inbound tour operators. The Council also discussed the importance of having a 'coordinated strategy to maximise and spread the benefits from the Olympic and Paralympic Games throughout Australia'.

The Council agreed to co-ordinate a national tourism program around the centenary of Federation celebrations in 2001. State and Territory Governments, in co-operation with local authorities, will submit to the Tourism Ministers' Council ideas for events and activities that could be associated with the centenary. The TMC will then put a submission to the Centenary of Federation Council. The TMC agreed to support a proposal by the meetings, incentives, conventions and exhibitions sector of the Industry that the year 2001 be designated as the year to 'Meet in Australia'.

The Council also discussed concerns of the tourism industry about unlicensed inbound tour operators. It said that while government regulatory action may go some way towards dealing with the problem, industry action was also needed. This could include encouraging suppliers to deal only with licensed operators, and educating industry groups and consumers about the benefits of dealing with licensed operators.

## **TRANSPORT**

Transport Ministers of the Commonwealth, State and Territory governments met in Hobart on 14 February 1997 as the Australian Transport Council, which incorporates the Ministerial Council for Road Transport.

Ministers endorsed the recommendations of the Review Committee into the National Road Transport Commission (NRTC), in particular, that the NRTC should continue beyond its current sunset date of January 1998 as 'the independent catalyst for broad-ranging national road transport reform in Australia'. They agreed the Commission should be subject to review at least every six years.

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Ministers accepted a strategy for implementing the current national transport reform program, prepared by the NRTC in consultation with transport agencies. The strategy provides for implementation of the changes once approved by Ministers, without waiting for passage of Commonwealth legislation. The reforms and dates for their national implementation include:

- uniform arrangements for dangerous goods transport: 1 January 1998;
- national heavy vehicle registration scheme: 1 July 1998;
- national driver licensing scheme: 1 September 1998;
- national vehicle standards: 1 October 1997;
- national truck driving hours laws (excluding WA and NT): 1 July 1997;
- national bus driving hours laws (excluding WA and NT): 1 July 1997;
- Australian Road Rules (phase 1): September 1998.

Ministers also approved the implementation of a second Heavy Vehicle Reform Package (Ten Point Plan) which was developed by the NRTC and proposes changes in areas including fatigue management for drivers, Mass Limits Review, and reduction in truck noise.

Transport Ministers have directed a committee of senior officials to prepare a detailed package of road safety measures to be finalised in May. New measures will be developed in the areas of drink driving, driver education, speeding, seat belt use and rural road safety. One measure to be considered will be the establishment of nationally consistent penalties.

## **STATUS OF WOMEN**

The Commonwealth/State Ministers' Conference on the Status of Women was held in Hobart on 21 March 1997. The main item of discussion was domestic violence against women. The Conference agreed to refer draft national domestic violence principles to the Commonwealth-State Working Group on the Domestic Violence Summit for further refinement.

The Conference adopted a Victorian proposal to commission national research on economic security for women. The project will be funded through the Activities Trust Fund and includes amongst its aims recognition of women's increasing leverage as purchasers of financial services, and improving recognition by women of the need to prioritise their own economic security.

## **CORPORATIONS**

The Ministerial Council on Corporations met on 13 March 1997. No information has yet been made available in respect of this meeting.

## **EDUCATION**

Schools ministers met on 14 March 1997. Nothing has been released about this meeting to date. ❖

# **INTHE** *Courts*

## **FREEDOM OF POLITICAL COMMUNICATION**

### **LEVY V THE STATE OF VICTORIA & OTHERS**

### **LANGE V AUSTRALIAN BROADCASTING CORPORATION**

#### **HIGH COURT 3-7 MARCH 1997**

The issue of freedom of political communication is before the High Court again. In 1994, a majority of the Court held in *Theophanous v. Herald & Weekly Times* that an implied freedom of political communication, drawn from the provisions and structure of the Australian Constitution, could modify the common law of defamation in particular circumstances. The *Theophanous* case was brought by federal politician Andrew Theophanous against the *Sunday Herald Sun* over its publication of a letter from Bruce Ruxton. The Court found that the newspaper's action was protected from a claim of defamation because it involved comments on the actions of a politician in the public arena.

The issue is now back before the Court in two cases which will throw further light on the extent to which the Constitution protects representative government. The first is a legal action by Laurie Levy against the Victorian government over the validity of duck-shooting regulations, the effect of which is to keep protesters away from duck-hunting grounds. Levy sought to rely not only on the implied freedom of political communication in the Commonwealth Constitution found in *Theophanous*, but to have the same freedom implied in the *Constitution Act 1975* (Vic). Levy argued that the Victorian duck shooting regulations are beyond the power of the Victorian Parliament because they are contrary to this implied freedom, and that the charges against Levy made pursuant to those regulations are unlawful and of no effect.

The second case is a defamation action by former New Zealand Prime Minister David Lange against the ABC. The Lange case raises a question whether the constitutional defence extends to political discussion generally, as opposed to discussion directly related to Australian government. Lange is also an opportunity for the Court to decide whether political discussion is an occasion of unqualified privilege at common law, irrespective of the constitutional protection.