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23 MAY 2005
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Submission No. 24
Date Received 23-5-05

Mr. Peter Slipper MP
Chairman
Standing committee on Legal & Constitutional Affairs
Parliament House
CANBERRA A.C.T. 2600

9th May 2005

Dear Sir,

Re: Harmonisation of the Legal System

We only became aware of the Committee's enquiry recently and appreciate you agreeing to allow us to make a submission.

This Institute is a Division of the National Australian Institute of Conveyancers and represents approximately 200 practising Conveyancers in Victoria. We have been Victorian Government and National Competition Council (see Appendices A and B).

The Institute is currently working on a response to the Discussion Paper produced by the Allen Consulting Group at the instigation of the Department of Justice (see www.allenconsult.com.au) on The Regulation of Conveyancing in Victoria.

Background

Conveyancers have operated in Victoria since Federation but have only been able to operate in their own right for approximately 20 years. Unlike our interstate counterparts, Victorian conveyancers have no licensing or registration system and are only briefly acknowledged in the Legal Practice Act 1996 which sets some parameters (see Appendix C) but which only reinforces the solicitors' monopoly in the Conveyancing area.

This monopoly consists of restricting what work conveyancers do by limiting it to non-legal work, despite the fact that most conveyancers are well educated and experienced to carry out this component of the transaction. Our licensed counterparts in NSW work under their own Act (the Conveyancers Licensing Act 2003) which contains a definition of what legal work can be carried out by a Licensed Conveyancer (see Appendix D).

To achieve licensing in NSW a person must complete a specific course related to Conveyancing as well as pass other experience tests etc. However, in Victoria **there is no recognition by the Government of any course or test that a person could pass in order to be qualified as a Conveyancer.**

Australian Institute of Conveyancers (Victorian Division) Inc.

(Formerly Victorian Conveyancers' Association Inc.)

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Due to the inaction by the Government, the AIC (Vic. Div.) was established in 1989 and incorporated in 1991 to set standards and benchmarks for Conveyancers and we have worked tirelessly to establish a quasi-regulatory environment for our Members. Those who belong to our Institute must abide by a Code of Conduct, hold Professional Indemnity Insurance, undertake continuing Professional Development and complete an educational course in order to achieve the top status of membership, i.e. Certified Practising Conveyancer. However, it is only a voluntary scheme and there are hundreds of non-member conveyancers operating in Victoria with no such requirements. There is no dispute resolution system for Victorian Conveyancers (other than that set up by the AIC (Vic. Div.) for its Members).

This anomalous situation fosters the following :

- Maintains the solicitor's monopoly of legal work in the Conveyancing transaction
- Forces Conveyancers and their clients to pay vastly inflated fees to solicitors to carry out this so-called legal work
- Allows the Law Institute of Victoria and its Members to marginalize Conveyancers by harassing them when they are only trying to carry out a normal conveyancing transactions
- Does not allow recognition of an alternative course of education to be able to do the legal work involved with a Conveyancing transaction. The Royal Melbourne Institute of Technology and other Institutes have run dedicated legal practice courses for many years which are highly regarded and which produce people well versed in the legal area.
- Allows Lawyers to undermine Conveyancers' standing with consumers by wrongly accusing them of being inadequately qualified to carry on their profession.
- Prevents Victorian Conveyancers from crossing borders, i.e. no recognition of an equivalent occupation for the purposes of mutual recognition and ultimately harmonization.
- Prevents Victorian Conveyancers from obtaining a master policy of Professional Indemnity Insurance at a competitive rate. (The Law Institute of Victoria have had the luxury of a master policy for many years at extremely reasonable rates).

The Australian Institute of Conveyancers (Victorian Division) calls for the Committee to assist in convincing the Victorian Government to recognize that anomalies exist in Victoria and use what influence it can to convince the Government to eliminate the anti-competitive monopoly maintained by the legal profession and bring about harmonization for Victorian Conveyancers with their interstate counterparts.

Yours faithfully,



Jill Ludwell
Chief Executive Officer