

Ministers accept that even with the change witnesses abroad could not be compelled to attend and give evidence before the commissioner.

Although Britain, under an Act of 1975, enables evidence to be prepared inside the country for use by overseas authorities, it is accepted that some countries might object to English and Welsh courts authorising even the voluntary taking of evidence in their territory.

However, they believe that the present procedure, which in Britain is one-way only, is unsatisfactory.

The Government is expected to press for more treaties and international agreements to provide for reciprocal arrangements regarding the receipt and taking of evidence.

The idea of having television screens in the courts to allow recordings of interviews to be played back is supported by ministers who believe it could be done without great difficulty or cost. They feel it would help the jury in deciding how much value or weight to attach to such evidence.

But ministers do not appear to be ready yet to embark on the radical idea floated by the Roskill committee that there could be live video satellite links enabling witnesses resident in one country to be cross-examined from the courtroom in Britain.

Roskill recommended that although such proceedings might be expensive and difficult to arrange the potential savings might outweigh the cost of bringing the witness over to give evidence in person.

wilderness v mining, roads, tourism and dams

I think that I shall never see
A billboard lovely as a tree.
Perhaps unless the billboards fall,
I'll never see a tree at all.

Ogden Nash, 'Song of the Open Road'

The issues canvassed in the *Franklin Dam* case (*The Commonwealth of Australia and Another v The State of Tasmania and Others* (1983) 57 ALJR 45) concerning the extent of the federal Government's constitutional powers to preserve parks on the World Heritage List made necessary an extensive review of the federal Government's constitutional sources of power in this area. The conclusion that the majority of the High Court reached was that most of the World Heritage Properties Conservation Act 1983 (Cth) was constitutionally valid under, for example, the external affairs power, the power to make laws with respect to 'trading or financial corporations formed within the limits of the Commonwealth', and the power to legislate with respect to 'the people of any race for whom it is necessary to make special laws'.

The *Franklin Dam* case is the high water mark of the federal Government's efforts in this area. The issues which have since arisen involving potential conflict with State governments such as caused by the unsurfaced road bulldozed through the Daintree rainforest in northern Queensland and alleged resulting detriment to the nearby coral reef caused by run-off, and the continuation of extended logging operations in Tasmania, have not evoked any prospect of intervention by the federal Government. The decision of the federal Government Minister for Primary Industry, Mr John Kerin, to allow the expansion of the Tasmanian wood chip industry into previously unlogged areas of Tasmanian wilderness appeared to represent a consensus of Forestry Commission, federal Government, Tasmanian Government and industry interests. It seems that the views of Mr Barry Cohen, the Minister for Arts, Heritage and Environment, which would have introduced significant restraints upon logging, were not supported by other groups. His statement made on 16 June 1986 that 'the government had agreed to adopt a Commonwealth rainforest conservation policy' (Commonwealth Record, 16-22 June 1986) together with a proposal for early negotiation with the States on a National Rainforest Conserva

tion Program, represents a significant dilution of the position he put forward in October 1985. This was a set of recommendations which proposed two categories for conservation purposes, in the first of which he recommended that no logging or forestry operators be permitted, and in the second, that logging should only occur in accordance with conditions specified by the Australian Heritage Commission in consultation with appropriate authorities.

A potential problem with the proposal for a negotiated solution between the Commonwealth and the States for rainforest conservation is the rapidly diminishing quantity of wilderness rainforest left in Australia to be preserved. For example, according to the Wilderness Society, the taking of such a long term view would result in the destruction of the small pockets of wilderness left in the Daintree Rainforest, all accessible parts of which would be logged by the end of 1986. Of course 'wilderness' means a natural environment unchanged by commercial or other exploitation. Whether or not the National Rainforest Conservation Program will be seeking to conserve remaining wilderness pockets of rainforest untouched is not clear from the statement made by Mr Cohen on 25 August 1986 which did not address this issue. Mr Cohen said that while details of the programs were being discussed with State agencies and organisations, key elements would include 'assistance to the States to increase the holdings of rainforest of high conservation significance in national parks and to improve and supplement the planning and management of rainforest parks and reserves'. He went on, 'I regard the development of the tourism potential of rainforest as a particularly important aspect of this program, especially in the economic sense'. The place for wilderness in all this is unclear.

constitutional commission

Kerr: I'm pulling my Vice-Regal weight, a-a-a-ah!

Queen: He ought to be opening a fete, a-a-a-ah!

Mal: He's read his Constitution.

Gough: And called for dissolution.

Queen: I dare say it is Our responsibility — No wait! I think Australia's a democracy! We should not like to interfere — our role was never very clear.
Most amusing, ah ha ha.
So confusing, ah ha ha.
Very funny, ah ha ha.
What's Khemlani?

'Il Dismissale', *The Gillies Report*

current work. The Constitutional Commission's investigation of the possibility and nature of changes to the Australian Constitution is well under way. The Commission has now produced 7 Background Papers. Each of the 5 Advisory Committees has also produced Issues Papers.

background papers. The Background Papers canvass arguments for and against reform of the Constitution in the following areas:

- the power of the Federal Parliament to legislate in respect of defamation;
- extension of the term of Parliament;
- simultaneous elections of the House of Representatives and Senate;
- nexus between the number of Senators and the number of members of the House of Representatives;
- interchange of powers between the Commonwealth and States;
- outmoded provisions of the Constitution; and
- qualification of Members of Parliament.

In all of these areas except for the nexus between the Senate and the House of Representatives, the Commission advances tentative views for reform of the Constitution.

defamation. The Commission's Background Paper points out that there are 8 different laws covering defamation in the States and Territories. In 1973 the first meeting of the Australian Constitutional Convention in