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LAW REFORM COMMITTEE

Inquiry into vexatious litigants

Melbourne — 6 August 2008

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Mr M. Yorston, consultant, Wisewoulds Lawyers,

Ms M. Marcus, associate, Maddocks, and

Ms I. Chrisafis, lawyer, litigation lawyers section, Law Institute of Victoria.

The CHAIR — The committee welcomes Irene Chrisafis, Mimi Marcus and Mark Yorston for coming along on behalf of the Law Institute of Victoria. Thank you very much for your submission. I have just a few preliminaries before we start. I am sure you are aware that these proceedings are covered by parliamentary privilege, in that legal action cannot be taken against you for anything that you say here, but any comments you make outside the confines of this hearing are not protected.

Hansard is recording the proceedings and the discussion and that will be sent to you later. I know you have been to these hearings before and you know how they operate. We have got just under 45 minutes, and we will leave it to you to speak to your submission and to the terms of reference; then we will ask you some questions and have some discussion.

Ms CHRISAFIS — Thank you. On behalf of the Law Institute of Victoria I would like to thank you for giving us this opportunity to appear here today. I was planning on introducing the submission and highlighting some of the points that we have made in it. The submission follows an earlier submission from the Law Institute of Victoria which was dated 6 September 2007.

While the Law Institute of Victoria is not in a position to conclusively comment on the incidence of vexatious litigation in Victoria, anecdotal evidence suggests that vexatious litigants most commonly present in the Victorian Civil and Administrative Tribunal. The Law Institute of Victoria notes that the committee is consulting with various courts and tribunals to determine the effect of vexatious litigants on the justice system in Victoria and the individuals and agencies who are the victims of vexatious litigants. The Law Institute of Victoria suggests that in the case of the Magistrates Court jurisdiction, this process may benefit from the consolidation of information from the various registries to better identify vexatious litigants. The Law Institute of Victoria urges the committee to further consider the impact of mental health issues in vexatious litigation.

The Law Institute of Victoria submits that the main problem caused by vexatious litigants is the increased pressure on court and tribunal resources. Matters involving vexatious litigants by their very nature take up a significant amount of time and resources, both judicial and administrative.

The Law Institute of Victoria submits that a significant problem caused by vexatious litigants is the effect that vexatious litigation has on the non-vexatious party. The non-vexatious party can lose faith in the justice system amid the often unreasonable and persistent legal proceedings. Further, the non-vexatious party is often left with the burden of legal costs as a result of vexatious litigation. Even where a costs order is made against the vexatious litigant in favour of the other party, such a costs order would not ordinarily cover the totality of that party's legal costs. Further, a vexatious litigant may not have sufficient means to satisfy a costs order.

The Law Institute of Victoria supports expanding the category of persons who are able to apply for an order that a person be declared a vexatious litigant. The Law Institute of Victoria recommends that that category include an aggrieved person as a class of persons who may seek to have a person declared vexatious. The Law Institute of Victoria considers that by expanding the class of persons who may seek to have a person declared vexatious, the problem of forum shopping by vexatious litigants can be reduced.

The Law Institute of Victoria is also concerned about the court process of having a person declared to be a vexatious litigant. By the very nature of the application, the application for a declaration should proceed through the court process quickly and efficiently to prevent any further proceedings being issued by the litigant. Anecdotal evidence suggests that applications for a declaration that a person is a vexatious litigant can take up to two years to proceed through the court process to final hearing and declaration. The Law Institute of Victoria submits that this time frame is excessive and contrary to the policy behind vexatious litigant provisions.

The Law Institute of Victoria submits that the 'test' as to who can be declared to be a vexatious litigant should be expanded to include and consider proceedings issued in non-Victorian courts and tribunals. The Law Institute of Victoria suggests that by including consideration of vexatious proceedings issued in all Australian courts it will be easier to identify vexatious litigants and address the problem of vexatious proceedings across jurisdictions.

The Law Institute of Victoria notes that the Charter of Human Rights and Responsibilities Act 2006 came into full effect on 1 January 2008. The Law Institute of Victoria urges the committee to consider in full the extent to which courts and tribunals are affected by the charter in their dealings with alleged and declared vexatious litigants. In particular, the Law Institute of Victoria draws the committee's attention to section 4 of the charter, providing that a

court or tribunal will be a public authority and therefore bound by relevant provisions of the charter when acting in an administrative capacity.

The Law Institute of Victoria notes that several of the rights in the charter might be relevant to alleged or declared vexatious litigants. For example, a person has a right under section 24 of the charter to have a 'charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing'.

Under section 8 of the charter, every person 'has the right to recognition as a person before the law' and 'to enjoy his or her human rights without discrimination'. The right to a fair hearing and other rights under the charter could be relevant to an alleged or declared vexatious litigant as well as to the victim of a vexatious litigant. In balancing rights it is important to note that under section 7 of the charter, 'a human right may be subject under law only to such reasonable limits as can be demonstrably justified in a free and democratic society'.

The Law Institute of Victoria considers that the Supreme Court should impose conditions upon vexatious litigants or potential vexatious litigants in order to deter and prevent vexatious litigation and ultimately better enable the courts to more efficiently and effectively perform their role.

The Law Institute of Victoria repeats its previously made submission that the registrar of each Victorian court and tribunal should develop and maintain a list of litigants with outstanding costs orders relating to proceedings which have been struck out or dismissed. This would lessen the opportunity for a litigant to bring frivolous or vexatious matters before different members of the judiciary.

Further, the Law Institute of Victoria proposes that a litigant who has initiated multiple actions in relation to the same matter should have all related matters heard by the same judicial officer on each occasion. This would save court time and resources as the judicial officer hearing the matter will already be familiar with its history and the history of related proceedings.

The Law Institute of Victoria suggests that vexatious litigants should be subject to a rule that where outstanding costs orders exist the person against whom the costs orders were made cannot initiate further related proceedings. However, it recognises that such a rule would not be effective in all circumstances, particularly where litigants initiate various unrelated proceedings, are vexatious in relation to defences, and have the financial means to meet all costs orders. Further, it is noted that the general approach of some courts to impecunious litigants is often to waive filing and photocopying fees, and this approach may detract from any such rule.

The Law Institute of Victoria repeats its previous submission that vexatious litigants with outstanding costs orders and vexatious litigants in general should be required to provide security for costs for any proceedings in which they are involved. A security for costs order could be reviewed and potentially reversed if at the directions hearing stage the judicial officer agreed that the litigant's claim had merit.

The Law Institute of Victoria submits that a requirement that a solicitor be on the record for all proceedings involving a vexatious litigant would be a useful mechanism to help filter out unmeritorious defences and claims. Vexatious litigants should either be required to obtain legal representation or be required to have a solicitor sign off on any proceedings in which the vexatious litigant is involved.

I am happy to respond to any questions. I will defer to Mr Mark Yorston, who is a member of a couple of Law Institute of Victoria committees, including the courts practice committee and the alternative dispute resolution committee, for any questions you may have regarding a practitioner's perspective on the issues or practical matters on the issues. I will defer to Ms Mimi Marcus, who is a member of the — —

Mr YORSTON — What are the names of the committees?

Ms MARCUS — I am a member of two committees; the charter of human rights committee and the human rights committee, which are separate.

Ms CHRISAFIS — Sorry, Mimi.

The CHAIR — It's all right. It happens to the best of us.

Ms CHRISAFIS — For any questions which raise issues to which the Charter of Human Rights and Responsibilities is relevant.

Mr YORSTON — I am happy to answer questions you may have regarding any of the matters that are being considered by the committee. From a practitioner's point of view where you have either vexatious litigants, or people who are on their way to being recognised as vexatious litigants, it imposes a significant burden on the practitioners. That burden is magnified once the matter gets to court and judicial officers, in whatever jurisdiction, need to deal with those people.

Anecdotally, about one month or one month and a half ago I had a referral from the law institute for a particular person. Before coming to see me that person delivered some papers for me to consider. When they arrived there were approximately 1000 pages bound up to resemble a booklet. On the front page of the booklet was this individual's name and underneath in brackets it said, 'The winner' and beneath that the name of an institution and in brackets, 'The loser'.

This person had been involuntarily committed to at least a couple of psychiatric institutions. He is a serial choose litigant and I was, I think, the second solicitor to whom he had been referred by the law institute. Hopefully, we have put some steps in place to stop any further referrals. In my view when you get that amount of material you still have an obligation to read it just to see whether there is something serious behind it. That was pretty much a weekend's work, to read it and form a view that there was no case and this person simply had some mental health issues that needed to be dealt with by people other than lawyers.

Where there are self-represented litigants, once a matter gets to court the courts in order to ensure proper access to justice are always at great pains to make sure that those people's rights are protected. For those people who fall under the category of vexatious or persistent litigants they will simply take advantage of the court's attitude in that regard, and they will appeal every single step. Again, anecdotally, a couple of months ago we had a matter where a woman had been at VCAT on a building and construction matter. She had had partial success based largely on proportionate liability issues.

She appealed to the Supreme Court where she was unrepresented. The Supreme Court formed a view that she was entitled to succeed on her appeal on grounds other than those which she had specifically raised. She was looking for a full rehearing of the matter. The judge, quite properly in my view, remitted the matter back to VCAT for consideration in accordance with law. Her request for advice was on how she could appeal against the Supreme Court decision where she had actually won. She wanted to go to the Court of Appeal again to try and have a full hearing of the matter. Each of those examples is recent. If you talk to any practitioner who has been practising for a while you can come up with any number of examples.

Where judicial resources are extremely limited, and perhaps I can restrict my comments to the Supreme Court — although I am sure they apply to most other courts — most judicial officers, I think, would customarily work 60-plus hours a week every week, which is a huge burden given the seriousness of the matters they are having to deal with. Where that time is being taken up by matters which we can loosely describe as unmeritorious, I suspect that creates a deal of frustration in those judicial officers. They know they have to get through a significant amount of work. They know there are any number of cases they have to hear these days where cases are more heavily managed.

If every application that is made by a vexatious litigant, or a person who has the potential to be declared as vexatious, it takes twice as long as it should were the matter dealt with properly, it simply means they are not able to get through the work that they should be getting through, which is a difficulty. That will do for me for the moment.

The CHAIR — Mimi?

Ms MARCUS — I think I will speak for just a moment or two because I think you are familiar with the charter. Clearly any new amendment or new bill that may enter into force needs to go through the requirements of an analysis of many of the charter rights and be is engaged, and then if it is engaged to what extent it is engaged, reaching a conclusion as to whether it is either violated or the restriction on the right is lawful for some reason or another. Section 7(2) of the charter sets out the test by which decision-makers would go through that analysis.

In other jurisdictions that test is known as the proportionality test. You can see some measure of that test being applied in the *Bhamjee v. Forsdick* case which I know you are familiar with; you were referred to it earlier on by the speaker before myself. It uses very different language. It picks up different language to the test that is enunciated in section 7(2) of our charter, but the essentiality of the test is the same, and that is a balance; identifying

first of all what rights are engaged, and in this case the rights that are engaged without a doubt are section 24 of the charter — a right to a fair hearing — and section 8, I think, which is the right to access and equality before the law.

Those rights are no doubt engaged, so immediately an assessment of the way in which they are limited is required. To undertake that assessment according to the test you need to look at the legitimate aim that the amendments will seek and balance that up. Some of the criteria that one would apply to that assessment are whether those rights that are affected, one's civil right to access to justice, will be removed or so reduced as to not exist at all.

That is a question of degree. At one end of the equation if you are going to remove the right completely irrevocably there is no doubt in my mind that that would be a violation of the person's rights. The interference or restriction on that person's right might be unlawful. At the same time at the other end of the spectrum the right is not absolute, and it can be lawfully restricted. An opinion as to where in the middle we reach is the fundamental question.

The submissions that have been put forward to you by the law institute I think fundamentally do not reach a conclusion. Part of that is because it will be very hard to reach a conclusion, generally speaking, without having a consideration of the facts in each case, and the facts in each case will turn on those.

There might be issues of mental illness and other issues of vulnerability, impoverishment and difficulty of understanding that. They are the sort of factors that, firstly, the decision-maker is required to take into consideration under the charter, and secondly, the court itself will have to consider in any determination of the matter. I am before you in a sense giving you an answer which you do not really want to hear, which is that it has to be on a case-by-case scenario, but to the extent that you can make in-principle statements or generalisations, I think it is fair to say that so long as rights are not irrevocably removed and so long as there are ways in which the right to access can be reinvoked, that would be proportionate to the legitimate aim that you are seeking. That is an introduction. I am happy to take questions on that, thank you.

The CHAIR — Good.

Mr YORSTON — I will perhaps make one other point. Whilst I do not want to comment in any detail on other submissions that have been made to you, I did overhear the previous witness talking about the power of the Supreme Court to make rules in relation to these matters. I represent the law institute on the Supreme Court rules committee, and whilst the view that I proffer is my personal view as a member of that committee and not the view of the committee as a whole, I think that this is a matter that is appropriate for legislation.

I do not believe the courts should be left with the entire responsibility of determining how these matters are to be dealt with. Certainly the court can set up rules as to how applications are to be made for removal from the list and for various other aspects, and indeed if something akin to the English model were adopted to make rules to facilitate the administration of that, I think that would be the proper role for the Supreme Court rules committee. I also think — and again it is a personal view — that given the importance of the decisions that are being made in these sorts of matters, it is appropriate that they should be done by a justice of the Supreme Court rather than the by inferior courts or other tribunals. Again, they are personal views, but I proffer them.

The CHAIR — By way of starting can we just come back to the two examples that you mentioned, Mark. In your submission you indicate that the law institute does not have data on frequency or any set of details, but nonetheless you spoke very strongly about experiences that lawyers have weekly. Could you give us a quick picture of who we are talking about? You touched on it, but could you just expand on that a little bit so we are clear on where you are coming from? And the second part I want to ask is: in those two cases — particularly in the first instance that you mentioned, where it was a referral to you and there were a thousand pages and you worked through all that on the weekend — what happened next? That is the other part. Basically, who are we talking about and then how is it processed after a case like that would reach a lawyer?

Mr YORSTON — Okay. Dealing with the 1000-page fellow, he had originally come from another country, and I am not sure what his experience was over there. It may be that this was a longstanding dispute against institutions of the same type — banks — and it may simply have migrated over here with him. I gave him the advice that I did not think he had a cause of action and that we could not assist him further. I did not give him a bill, because it would have been a waste of time.

He will go to other lawyers. He will try to get another referral through the law institute referral system, which is meant to only provide people with 30 minutes of free advice. Most practitioners who are on the referral scheme

would generally just make that first interview free, whatever that might take. You would get on average, I suppose, three or four of these a year. Occasionally you will get referrals from other practitioners where they are uncertain about whether there is a cause of action, and if it is a referral to me, I may have experience in those sorts of cases and so they will refer them on.

In terms of what sort of people they are, coming back to your question specifically, I do not think you can categorise them beyond saying that they are fixated in their view of the correctness of their position. I know one of the questions that you directed recently to the institute was about the benefits of ADR for these people.

In my view ADR is particularly unsuccessful with these people. If I am conducting a mediation, I am relying on the fact that I am going to be able to get the parties to each recognise a degree of merit in the views of the other party and the issues, and I will try and narrow them down and try and find a position where the parties are prepared to agree for a range of reasons on a resolution that is going to be a compromise. Where you have got one party who, for whatever reason, refuses to compromise at all, effectively unless you can then convince the other party to capitulate completely, you will not settle the matter.

On the fringe of the family law area I acted for a school that felt it was being harassed by a particular individual who was a member of a group of fathers who felt that their rights had been infringed through the family law processes. That particular individual, given any opportunity to speak, will never stop, and he will speak on his topic regardless of whether it is germane to the issue or not.

He actually changed his name to try to achieve a degree more respect, I guess, or for whatever reason, but changing your name to 'President' is not necessarily something that all of us would seek to do. In that particular instance the only way we were ultimately able to stop him was simply to refuse to engage with him at all. He would happily write a letter a day, he would talk forever on the phone and he would ring every 10 minutes if you did not take a call. That was one of the more memorable ones from last year, but that was not a referral from the institute. We were defending our client in a ridiculous situation where, I might say, the school had done absolutely nothing wrong and had behaved absolutely appropriately. I am not sure whether I have answered that question.

The CHAIR — That's okay.

Mr CLARK — I have a question probably for Mimi about the charter. Could you spell out a bit more about how charter questions would be engaged at various points in relation to possible restrictions we might adopt on vexatious litigants? Obviously it would be scrutinised at the parliamentary level in terms of the Scrutiny of Acts and Regulations Committee, but assuming the legislation were then passed, at what points would a potential challenge under the charter arise and how would they be addressed?

Ms MARCUS — The charter is a pervasive piece of legislation; it is not your regular piece, and to that extent it is fair to say that it will be invoked not just in the traditional sense, through a court system, which I will explain to you in a minute, but at every other stage of the process, beginning at first instance, a normal grievance between an individual and an authority that is a public authority.

In the case of a prison, as you heard earlier — that is, a prisoner going to the prison authorities and making a complaint that in some way their right was not respected — in that instance the prison authority has obligations under the charter because it will be a public authority. Even though it is a privately run organisation, it takes some public duties and performs public functions. It will be regarded as a public authority and it will have to engage, even though a decision might not have been made in charter rights at that point.

One example — but you can see immediately that the charter will come up at that point — is if a decision is made, charter will again arise because the decision might be appealed, whether that is through an internal process or to an appellate jurisdiction. Then if that decision is appealed, you have available to the individual the normal judicial review rights, which again the charter may be invoked, or you have the predicament that is set out clearly in the charter itself, in which an individual may make an application to the Supreme Court for a declaration that your right has been violated.

So there are all of those ways, through all of the chains of jurisdiction in which the charter potentially has to be taken into consideration but can also be used as a weapon, a tool, to rely on as evidence in your claims of human rights abuse. The short answer to that is that leaves a very wide ambit for it to be relied on.

Mr CLARK — Specifically in relation to vexatious litigants restrictions, if the Parliament were to adopt them, are you suggesting a prisoner or other person could assert that that restriction was in breach of the charter and then seek to have that litigated as well?

Ms MARCUS — That is a potentiality. It is certainly a potentiality that could be agitated. It would have to turn on the facts if it were successful, because some degree of assurance can be had to the court that a statement of compatibility was prepared at the time that the amendment went through and some degree of analysis had already been engaged as to how the rights were balanced — the individual's rights versus the public interest right that is sought to be achieved — but it does not preclude the issue being agitated again and again and again in each case.

Mr CLARK — So if the Parliament had concluded the restriction was reasonable, that could still be challenged at the court — —

Ms MARCUS — Yes.

Mr CLARK — And the court could still hold that the restriction was unreasonable?

Ms MARCUS — Yes.

Mr YORSTON — Could I perhaps just add one point to that: that issue has been considered quite extensively by the English and European courts in the adoption of the English model. If a court is in the process of determining that somebody is going to be declared a vexatious litigant, that would preclude subsequent applications that their human rights had been breached because they would not be allowed to bring a proceeding without permission of the relevant judicial authority. But the whole reason that they have been declared a vexatious litigant is because they have made so many applications in the past. There is always going to be a recognition that by declaring somebody a vexatious litigant or dealing with them, again, in the way the English model has done, does impose a restriction on people's rights.

So there is always going to be a tension between that and the underlying principles of ensuring that we have got free and open access to justice. But where the courts have talked about a proportionate response — that is, that the restriction is necessary to ensure that the courts can fulfil their function across their wider obligations to the community — that is the reason there has to be that restriction on these people, because the few should not be able to, I suppose, ruin it for the rest, putting it very loosely.

Mr BROOKS — I just want to come back to, I suppose, a primary point, if you like, balancing people's rights to have access to the courts for a fair hearing. It would be a fairly serious step for that to be further restricted. I note the submission that you have presented to us does not include any data on the time consumed by these people on these concerns, and I suppose I am looking for your response to: should there be further work done on collecting data on the time that these people consume in the courts? At the moment we are just relying on anecdotal evidence about the sort of stories that we are hearing.

Mr YORSTON — Obviously if you are able to rely on specific data, that is the preferable position. That data does not exist at present. Again anecdotally I understand that there are steps being taken within the courts to enable that data to be more readily available. As to when it is going to be available I have got no idea, but these things often move quite slowly, and so I suspect it will be some time. If this matter were to be delayed until that data could be collected, I suspect you would have to wait several years before you had a body of data that you could rely on to say, 'Yes, this should be done or that should be done'.

Again, on a personal view rather than necessarily the view of the institute, that is why I liked many of the aspects of the English model. I am not sure of your ongoing processes, Mr Chairman, but if it would assist, the institute can actually provide a more detailed response on our view on the English model and variations that we would see as appropriate to that.

The CHAIR — That would be welcomed. Thank you.

Mr YORSTON — Our difficulty is simply that in order to present the formal view of the institute we have to liaise with a number of different committees, and since all those committees are on a voluntary basis, they have got to fit within people's professional responsibilities, and that sometimes takes a little time. The model would

be, I think, that it would start off with the courts practice committee. It would then go to the litigation executive. It would then spread out into some of the other sections of the institute.

There would be a draft submission done which would then go to the institute council, so it would take a little time to get that done. There are some things in the English model that I do not particularly like, but by and large I quite like the staged approach. Given the seriousness of the decision to declare somebody vexatious or to intrude on their rights, a staged approach I think is better.

I think it addresses some of the concerns that Mimi has expressed with regard to the charter, because you do not then have a circumstance where the penalty that is imposed on somebody in terms of the significant deprivation of their ability to go to court is for an indefinite period. The mechanism for getting yourself off the list, if you like, I think would be something that would require very close and detailed attention.

I am not certain we could proffer a view on how you would get off, but I am confident that a judicial officer, having made a decision at some stage that somebody be included on a list, would want to be presented with very persuasive evidence that they should be removed from the list. Each of the decisions of themselves are very serious.

One of the things that is done in the English model is that judges involved in a particular case, where they are presumably managing the case from commencement to the end, are able to stop people bringing further applications of an interlocutory nature. That power presumably exists now, given the inherent jurisdiction of the court to administer its own functions, but I suspect — again without wanting to speak for the court or any court — that if they were given a legislative imprimatur to make orders of that type, they would feel more comfortable.

The CHAIR — I am very conscious of the time, but I notice that a couple of members want to ask you some questions.

Mr FOLEY — Having heard what you have both presented and what you might have heard this morning, essentially the competing claims seem to be: this is the price you pay for a democratic, open, accountable system and the problem is not really that big and it is overstated by lawyers for various reasons; and a view that there is a real problem, which is very difficult to measure because of the nature of the people, and you filter them out regularly before they get there, and then they still get there to some degree anyway, and they are carefully managed.

I was wondering what the view of the institute was on some of the material contained in the Law Reform Commission's civil review process, and particularly the notion of an active master getting involved in filtering people or dealing with people in some way in their reforms, and a view as to how you see those competing tensions being practically dealt with.

The CHAIR — Can I just slip in there to factor in training as well?

Mr YORSTON — Dealing very briefly with the question of training, the institute does not proffer any training for people on how to deal with these sorts of client. More generally you just refer to lawyers having to deal with difficult clients; it is something that you learn as you go along, and it is generally the more experienced practitioners who are dealing with that.

Coming to the question of whether it is a big problem, I think it is a very significant problem because certainly practitioners are going to filter them out. We might get rid of a significant portion. I could not say what that proportion might be, but I would imagine it is quite high, simply on the basis that it is only the most persistent who are going to proceed through a number of lawyers before they then go into the courts themselves, so whatever proportion is getting through is the tip of the iceberg, but, again, it is that tip that is going to take up the most amount of judicial time.

It is the fact that you have got such a shortage of judicial time. Whether you are talking about judges or whether you are talking about master — or associate judges as they are shortly to be — it does not really matter. They are all working extremely hard. If you talk about appointing a specific master or a specific office two whom these people are going to be referred, I am not sure how that is actually going to work in practice.

If I am talking to somebody who fits the category of vexatious litigant, they are not interested in what I might say. They are interested only in their view, and their view is correct and any deviation from that is simply something

that should be dealt with to the extent that if a Master were to make a decision that they should be precluded — if that is where you were heading with that — they would ideally simply want to appeal it if they could.

Mr O'DONOHUE — You made reference to the fact that you think VCAT is the forum of choice, do you think that is because VCAT predominantly is a no-cost jurisdiction and because the originating forms are less legalistic, for want of a better word, than perhaps the courts?

Ms CHRISAFIS — I do not recall saying that VCAT is the forum of choice, but certainly — —

Mr O'DONOHUE — The most popular forum for vexatious litigants?

Ms CHRISAFIS — Yes, that is right. It is a forum in which vexatious litigants frequently appear. I think you are right, in that one of the reasons for that is because the rationale, as I understand it, is that it is intended as a low-cost jurisdiction and a jurisdiction in which it is preferred that legal representation not be availed of.

The CHAIR — We will have to conclude on that point. We are a bit over time. I thank all three of you very much for coming. Thank you for your contribution, and we look forward to the further information that you are going to send us. You will get a copy of the transcript that you can make minor changes to, and I am sure you will not mind if Susan and Kerryn pick your brains about some other things.

Mr YORSTON — That's fine.

Witnesses withdrew.