

law making in today's busy and complicated world.

Too Much Law or Too Little?

"They are as sick that surfeit with too much
As they that starve with nothing"

Shakespeare, *The Merchant of Venice*, I, 2, 6.

The growth of lawmaking has come under the spotlight in the last quarter, following observations by the visiting U.S. Attorney-General, Mr. Bell, and Australian leaders. Graphs have appeared in the newspapers showing the growth in legislation. Australian parliaments pass about 1000 Acts a year and a great deal of subordinate legislation supplements this record.

An address by Sir Geoffrey Howe to the Society of Conservative Lawyers has now been published. Titled *Too Much Law?* it seeks to examine the economic impact of lawmaking upon society.

"To say that law has an economic effect does not mean that it always does economic damage. The opposite is often true . . . But we must not overlook the extent to which most laws involve *some* economic cost."

The cost of consumerism and of "the planning wreckers" are mentioned and a number of commandments are listed for future Conservative government. The first is that "it is now necessary to curtail the volume of law."

Victorian Attorney-General Mr. Storey defended the range of new laws necessary to deal with matters upon which the common law was silent or deficient.

"In the consumer protection area particularly, what legislation there is designed to combat practices nearly everyone would abhor."

Whilst the pressure is on to reduce the numbers of law, attention needs to be given to ensuring that lawmaking is done in a more systematic way. The large numbers of law reform reports which lie idle awaiting public service, government, and parliamentary attention, lead some to despair. In his address *Ferment in the Law*, Lord Edmund-Davies chastised the indifference of successive British Governments to reform proposals

"A large amount of work has already been done and reports already produced await the consideration of the legislature. Lord Gardiner has listed a number. . . . The mischief is of

long standing, for in 1957 Lord Kilmuir said, 'Only too often reforms which are recommended appear to be pigeonholed, while others take an inordinate time to reach the Statute book'. Faced with such a long list of unfulfilled recommendations, it is saddening (but not surprising) to find such a distinguished and devoted advocate of law reform as Professor Glanville Williams observing in a recent letter to *The Times*, 'I begin to wonder whether it is worth spending any more time on Committee work until the Home Office has begun to attend to its present stockpile.' We can ill-afford to lose the services of such outstanding pioneers in reforming many branches of the law, and particularly at a time, when, without being excessively and unhealthily on the lookout for fresh fields, much undoubtedly remains to be done."

The Economist reports that only six of the twenty members who "won" the annual ballot managed to steer their Private Members Bill onto the statute book last year in Britain. One Bill was the Civil Liability (Contribution) Bill drawn by the Law Commission (12 August 1978). In Australia, the numbers of Private Members Bills are even fewer. In England unless there is an all party agreement on their content allowing them to be dealt with in the second reading committee instead of by a full debate on the floor of the House, Law Commission proposals tend to join the long queue.

An order and methods team from Mars looking at this method of legal renewal would undoubtedly condemn it as grossly inefficient, involving the waste of the talent and expensive time that goes into the preparation of proposals for reform. The log-jam whilst proposals are considered, often at a low level in the public service, inevitably causes heart-burning among those who devote their energies to law reform. Is relief in sight? The Senate Standing Committee on Constitutional Legal Affairs is currently examining the whole question of processing law reform reports. While in our system of Cabinet Government the Executive takes the principal initiative in deciding legislation, Parliament may have a role to enliven the interest and attention of Ministers and their public servants, preoccupied with other things. The Committee is to be reconstituted with new members and the forthcoming 1978 *Annual Report* of the A.L.R.C. will revert to the theme of making law reform practical and useful in Australia.

In New Zealand, according to *Law Talk*, 3 August, Justice Minister, David Thompson,

said on 10 July that shortcomings on law reform were caused by inadequate parliamentary time rather than a lack of reports from law reform committees. The Minister publicly thanked the L.R.C.s for the voluntary efforts they were engaged in.

"This year we shall be looking forward to the implementation of ten reports of law reform committees as well as reports of three other committees either for enactment or for introduction and recess study."

Among the promised reform are amendments of credit laws and contractual remedies.

Odds and Ends

"Sir, you have but two topics, yourself and me. I am sick of both."

Dr. Samuel Johnson, c1780.

■ Our cover of this issue comes from the New Zealand cartoonist, Wm. Blomfield. It has been provided by Mr. P. G. Hillyer, Q.C., President of the N.Z. Legal Research Foundation. The cartoon resulted in celebrated contempt proceedings against the artist who was accused of scandalising Edwards J. and imputing to him "partiality bias, injustice, corruption and impropriety." The proceedings were not successful. The sorry history of the case is recorded in *Attorney-General v. Blomfield* (1914) 33 N.Z.L.R. 545. The scope of the contempt power and its relevance to the modern media is a cause of continuing concern. The English Law Society's *Gazette*, 5 April 1978, contains a leading article on contempt. It describes a green paper produced by the government *Contempt of Court — A Discussion Paper* (Cmd. 7145). The paper re-examines the proposals in the Philimore Report. The "absence of any sense of urgency in the matter" is indicated by the fact that no closing date for submission is named. The New Zealand Committee on Defamation in its recent report made a number of observations concerning the law on contempt. This is not an academic matter. The publishers of the leading Northern Territory newspaper were recently cited for a contempt which caused a criminal trial to abort.

■ On 8 September 1978, the President of the Victoria Law Foundation, Mr. Justice Young (Chief Justice of Victoria) held a re-

ception to mark the publication by the Foundation of *Victoria's Lawyers* by Margaret Hetherton. The report contains an analysis of the work and attitudes of Victorian lawyers and is the first report of the Foundation's research project on "lawyers in the community".

■ The conference circuit. The Australian law reform agencies have agreed that the next Conference of the agencies will be held in Perth, Western Australia, on 29-30 June 1979 at the Parmelia Hotel. W.A.L.R.C. Chairman, Neville Crago, has already extended invitations to law reform commissions in Commonwealth countries, particularly those bordering the Indian Ocean. Other forthcoming conferences include the Sixth Lawasia Conference at Colombo, Sri Lanka, 27-31 August 1979, the International Union of Advocates in Cannes, France, 9-14 September 1979, and the Conference of World Peace through Law in Madrid, Spain, 16-21 September 1979. The point of contact in the last two mentioned conferences is Mr. J. B. Piggett, C.B.E., a past president of the Law Council of Australia, Hobart. Telephone: (002) 34-8211.

■ In the reshuffle of the Australian Ministry announced by the Prime Minister on 25 August 1978 the Federal Attorney-General, Senator Durack, Q.C., moved into the Cabinet as its 14th member. The new Minister is Senator Fred Chaney of Perth, Western Australia. Senator Chaney is a lawyer. He has been an active member of the Senate Standing Committee on Constitutional and Legal Affairs. This Committee is currently examining proposals on processing law reform reports. Senator Chaney's views on the Bill of Rights issue are mentioned in [1978] *Reform* 48. He becomes Minister for Administrative Services and in this portfolio will have important law reform responsibilities as minister responsible for police affairs.

■ The two researchers of the A.L.R.C., whose peregrination in the Great Victoria Desert of Central Australia were recorded in the last issue of *Reform*, have now completed two further field trips. Mr. Daryl Gunter toured the Kimberley region of northwest Western Australia talking with the traditional Aboriginal communities and also administra-