

upon graduation. It would be interesting to have a similar survey in Australia.

**horse hair reform.** Finally, news reports suggest that the Victorian Bar Council has voted to abolish formal court dress — wig, bar jacket, wing collar and neckbands, favouring only the wearing of a simple black gown. The Chairman of the Bar Council and former ALRC Commissioner, Mr Brian Shaw QC lamented the ‘leak’ of the Bar Council vote. Said Mr Shaw:

If you publicise it at this moment you are likely to ensure that it is absolutely dead. It is essential that the matter be dealt with very tactfully, which will involve me going around to all sorts of people . . .

The spirit of freedom of information and open public discussion has, it seems, its limits in counsel’s chambers. The new President of the Law Society of Queensland, Mr John Wadley in a feature item in the Brisbane *Courier Mail* (5 July 1982) expressed a personal view that the courtroom wig was archaic but that a simple gown should be retained as a uniform. Mr Wadley cautioned against lightly throwing away things which have been established and tried and trusted over the years. Australian reformers of horse hair should remember what happened in Ghana when The Redeemer, President Nkrumah ordered wigs out. The judges would not ‘see’ counsel without their wigs. So wigs remain to this day in the steaming climate of West Africa. An exotic relic of Empire. Like cricket and afternoon tea.

## good ideas

It is impossible for ideas to compete in the market place if no forum for their presentation is provided or available.

Thomas Mann

**special free trade.** That great American jurist, Oliver Wendell Holmes Jr once said that the ultimate good is best reached by a free trade in ideas. But with Thomas Mann, we can ask, how will an idea (especially about law reform) triumph if it is unknown, unheard or hidden away in obscure texts? In civil law countries there is a better system for collecting at least the chief judicial proposals for law reform. Every year the highest court typically

reports to the Head of State with a collection of the proposals for law reform made during the year. Some judges of the common law world have doubts about the propriety of commenting in the slightest way about defects in the law which come to their notice in cases before them. Many more would have hesitations about addressing proposals for reform to the elected government. It was not always so. David Pannick, Fellow of All Souls College Oxford, has drawn attention to the willingness of the early judges of our tradition to play a part in helping the other branches of government to improve the law. He notes Bacon’s address to the judges in 1617 before their summer circuits when Bacon said:

You must remember, that besides your ordinary administration of justice, you do carry the two glasses or mirrors of the State; for it is your duty in these your visitations to represent to the people the graces and care of the King; and again, upon your return, to present to the King the distastes and griefs of the people . . . and this makes the Government more united in itself.

Four years ago, the ALRC received the nod from the Federal Government (following consultations in the Standing Committee of State and Federal Attorneys-General) to collect major proposals for law reform. Many of these are from judges and most of them have a specific Federal content. They are now a regular part of the ALRC annual report to Parliament, being an appendix attached to the report. Only the chief points of the suggestion — whether by judge, parliamentarian, media editorial or ordinary citizen — are digested in the collection. So far, no parliamentary system has been adopted to process the suggestions. But there they are. Collected for posterity. They remain a useful check list for aspiring politicians and political law reformers concerning the possible directions of an effective legislative law reform program. Among the many law reform suggestions collected in the ALRC Annual Report 1981 (ALRC 19) were proposals on accident compensation, adoption reform, contempt of court, computer crime, de facto relations, firearms licensing, homosexual law reform, the law and artificial insemination, subpoenas and the law of standing.

A particularly happy feature of the new system is the appointment by many of the publishing houses and law journals in Australia of specific officers

who scan the text for law reform proposals. It is remarkable how many people — judges included — believe that busy politicians and legislators have time to search out their criticisms and proposals for reform. Professor Michael Zander pointed out in his inaugural lecture at LSE that a good idea does not necessarily triumph on its own merits. Sometimes it needs a little help from its friends.

**new n.s.w. scheme.** As disclosed by Professor Ronald Sackville in his address to the Law Reform Agencies Conference in Adelaide, the N.S.W. Law Reform Commission has now embarked on its novel program to collect community and professional proposals for reform of the State's law. On 8 August 1982 the Commission announced that, with the approval of the State Attorney-General, it was not only to collect and report upon the proposals but to consider them and 'sort out those that are capable of being dealt with quickly'. If need be, a specific reference would then be sought from the Attorney-General to allow the NSWLRC to recommend the necessary changes. Professor Sackville instances three community suggestions for reform already received covering:

- a loophole discovered in laws designed to protect people taking out insurance policies;
- provision governing the service of legal documents on Sundays;
- payment of interest by people who are sued for non-payment of debts.

The community law reform program in the NSWLRC has been placed under the direction of Mr Russell Scott, Deputy Chairman of the NSWLRC and past ALRC Commissioner. Mr Scott told the *Australian* (9 August 1982) that in the new project, the NSWLRC will be seeking out community views, as distinct from the more regular sources of proposals from academics and the judiciary. 'We want', he said, 'to keep the law up-to-date by responding to all proposals for law reform made by any member of the community'.

The key to the success of the ALRC and NSWLRC programs may be the ultimate establishment of legislative machinery to ensure that the aggregate collections of suggestions do not suffer the fate

which, individually, good ideas have all too frequently suffered in the past.

## the law's delay

For four wicked centuries the world has dreamt this foolish idea of efficiency; and the end is not yet.

George Bernard Shaw, *John Bull's Other Island*

**a new institute.** An event many years in the planning came to fruition on 14 August with the inaugural seminar of the Australian Institute of Judicial Administration. Chairman of the Council of the Institute, Mr Justice Fox of the Federal Court of Australia introduced the Chief Justices of New South Wales (Sir Laurence Street) and Victoria (Sir John Young) to launch the Institute on its way. The opening speech at the meeting was given by the Chief Justice of Australia (Sir Harry Gibbs). Significant co-operation to the new Institute has been promised by the Supreme Courts of N.S.W., A.C.T., Victoria and Tasmania in the study of court delays.

Sir Laurence Street pointed to the development in New South Wales of community justice systems as alternatives to the expensive courtroom resolution of disputes. He also mentioned developments of arbitration in England and the United States. The appointment of disputes officers in government departments and the possible administrative settlement of personal injury claims could all reduce the pressures on the cost-intensive curial resolution of disputes.

Sir John Young said that by tackling the problems of the administration of justice, the new Institute would do more to increase public confidence in the courts than what he described as many of the 'showy' proposals for reform of particular laws made by law reform agencies:

It seems easier to obtain money for reform of the substantive law than for reform of or improvement in the administration of the law.

The initial Director of Research for the Institute is Dr Ross Cranston, who holds degrees in economics and law of Queensland, Harvard and Oxford Universities. Dr Cranston is to be released from his