

Australia of the private sector would effectively have had to pay the price for the possible neglect of certain State authorities.

Corporate Affairs Commissioners could not be contacted by the news media for comments on this attack. Meantime, Mr Ian Frew, Executive Director of the Australian Insurance Association, has urged that Federal legislation should be amended to ensure the integrity of insurance company managers and directors. And in October 1983, prior to the Sydney AILA symposium, it was announced that the Office of the Insurance Commissioner and the Federal Treasury were closely considering six options for legislative amendment to the Insurance Act 1973 aimed at minimising the possibility of a repeat performance of the Bishopsgate debacle. See *Australian Financial Review* 13 October 1983, 12. A major Australian industry faces a shake-up.

legislative logorrhea

One of the important objectives of law reform is to provide a comfortable life for substantial numbers of unemployable academics and draftsmen

Sir Denys Roberts, Law Reform Forum, Hong Kong, 1983.

avoiding ambush. Since the last issue of *Reform* the Seventh Commonwealth Law Conference has met in Hong Kong (at the end of September 1983). In conjunction with the conference, a Forum on Law Reform within the Commonwealth of Nations was convened by Mr Michael Thomas QC, the Attorney-General of the Colony. The conference was attended by a number of Australian participants, including Chief Justice Sir John Young (VCJC), Justice Kirby and Mr T H Smith (ALRC), Justice Zelling (SALRC), Professor Sackville, Mr Russell Scott and Mr James Wood QC (NSWLRC) and Ms L Skene (VLRC).

The Forum was divided into four sessions:

- The first, led by Justice Kutlu Fuad (HK), discussed the machinery of law reform. Amongst questions discussed

were the independence of LRCs from government and proper pressure for the implementation of reports and procedures for consultation.

- The second session was chaired by Mr Brian Davenport QC, a member of the English Law Commission. It dealt with 'collaboration and mutual assistance'. Mr Davenport urged the idea of a bi-monthly publication summing up, under broad subject headings, the main law reform developments throughout the Commonwealth of Nations. The Commonwealth Secretariat agreed to study this proposal.
- The third session, chaired by Mr Jeremy Pope, Director of the Legal Division of the Commonwealth Secretariat, tackled the form and implementation of reports. The question of how far an LRC should surrender perceived principles in order to get proposals adopted was tackled, as was the problem of civil servants 'ambushing' proposals.
- In the final session, the ALRC Chairman examined research and consultation, detailing the initiatives that have been taken in Australia. The use of social science techniques in support of law reform was discussed.

It was agreed that there should be a further meeting of the Forum in conjunction with the next Commonwealth Law Conference.

ideal reformer. Perhaps the high point of the Forum, if not of the entire Hong Kong meeting, was an outrageous address delivered at the lunch offered by the HKLRC. The co-Chairman of the HKLRC and Hong Kong's Chief Justice, Sir Denys Roberts, examined the prerequisites of the 'ideal law reformer'. He welcomed 'fellow sufferers from legislative logorrhea', declaring that the ethos of the law reformer was 'a bizarre blend of relentless

enthusiasm, burning faith and detachment from reality'. Tongue firmly planted in judicial cheek, Sir Denys listed the characteristics of the law reformer:

- dedication, which his critics describe as pig-headedness;
- faith — declaring that on UNESCO figures about 16% of law reformers have taken their own lives having lost faith;
- insensitivity, of the kind 'which you can observe at Protestant funerals in Dublin'; and
- patience, of exactly the same kind as enables judges to resist the temptation to deliver judgment within a reasonable time.

It was a brilliant address which left the observers, including Lord Hailsham LC, Lord Scarman and the law reformers from all parts of the Commonwealth reeling with mixed amusement and shock.

cardinal importance. The future of Hong Kong after 1997 was an ominous question mark that hung over the 2 000 delegates attending the Seventh Commonwealth Law Conference. Mr Henry Litton QC of the Hong Kong Bar Association stressed the importance of the independence of the judiciary. He declared:

Of cardinal importance in Hong Kong today is the problem of ensuring the survival of such a system in the event of changes in administration.

The Commonwealth Secretary-General, Sir Shridath Ramphal, speaking at the opening ceremony by videotape, urged lawyers to face up to the challenges posed by changing times. Speaking as a lawyer himself, he said:

We too often dwell smugly in our legal cocoons, convinced of our supreme importance to society which is noticing us less and less. We need to escape that shell ... Most fundamental perhaps is our continuing failure to face up to the reality of legal systems that are generally inaccessible to the ordinary man. As mere guardians we [must not] be

left watching over concepts and systems which, however excellent in the past, have lost relevance and utility. We live in such times of change and they demand much more of lawyers than merely being passive keepers of the seals.

Amongst interesting papers delivered at the Hong Kong conference were:

- an outstanding review of the art of advocacy by Mr Tom Hughes QC, former Federal Attorney-General of Australia;
- a critique by former Australian Governor-General and past ALRC member, Sir Zelman Cowen, of the concentration of media control and of modern standards of journalism;
- a call at the opening ceremony by the Lord Chancellor, Lord Hailsham, for the contribution by Commonwealth lawyers to peace and stability and the settlement of disputes through the Rule of Law — yet a law 'never divorced from morality';
- an examination by NSWLRC Deputy Chairman, Russell Scott, and ALRC Chairman Justice Kirby of aspects of the right to live and the right to die, including legal problems of so-called test tube babies;
- a paper by the Chief Justice of Australia, Sir Harry Gibbs, on the ready availability of civil justice.

Perhaps the paper that created the biggest stir back home was offered by former President of the NSW Bar Association, Mr R P Meagher QC. In his paper, Mr Meagher strongly criticised the teaching of law in Australian universities and colleges reserving his strongest comments for the practical courses offered to graduates at Colleges of Law. He declared them to be an 'absurdity' and 'futile' and the subject as 'irremediably dull'. The best 'teachers', he declared, were not in academic institutions but in the professions:

One finds a number of universities without a single member of staff capable of teaching equity. There are, to be sure, multitudes of academic homunculi

who scribble and prattle relentlessly about such non-subjects as criminology, bail, poverty, consumerism, computers and racism. These may be dismissed from calculation : they are failed sociologists.

According to the *Australian Financial Review* (22 September 1983) teachers at Australia's biggest College of Law, in Sydney, reacted 'angrily' to this criticism. The Director of the College, Mr Chris Roper, criticised Mr Meagher's failure to approach the College before he spoke and said his views were expressed on the basis of 'out-dated information'.

philosophy? Finally, on developments in law reform, in December 1983 the Federal Attorney-General, Senator Evans, tabled in the Australian Parliament the Annual Report of the Australian Law Reform Commission for 1983 (ALRC 23). The report details the work of the Commission, new appointments and record of implementation of ALRC reports. As usual, the report annexes all current terms of reference and a list of law reform suggestions made by judges and others during the year past. Further details are also given by the ALRC on:

- the very successful ACT Consultative Committee on Criminal Law Reform which is slowly but surely tackling the comprehensive reform and updating of the criminal law of the Australian Capital Territory;
- the new program of community law reform initiated by Federal Attorney-General Evans;
- the new approach to law reform proposals promised by Senator Evans before and after the election of the Labor Government in Australia. This 'new approach' involves putting the onus on officials who argue against rapid implementation of the ALRC reports;
- progress towards uniform law reform. See [1983] *Reform* 142;
- the publication of the Law Reform Digest. See [1983] *Reform* 143, and;

- a note on the Commission's 'philosophy'.

On the last point, the ALRC Commissioners refer to Justice Dawson's address to a luncheon of Sydney University Law Graduates in April 1983. See [1983] *Reform* 102. In that address the judge referred to Professor Gower's view that there had been an 'inadequate and insufficiently coherent set of principles' developed by law reform agencies. Comments the ALRC :

The Commission has always attempted to go back to first principles and identify the purposes to be served by the law in a particular area. In its inquiry into evidence, for example, the underlying purposes to be served by the laws of evidence were first canvassed in the initial issues paper. The guiding principles have been spelt out in each of the Commission's research papers ... The Commission's attempt to articulate an overall philosophy ... must be postponed for another day. It will emerge from a study of the aggregation of the early reports of the Commission. But the Commission believes that one of the great strengths of its method of operations is that it goes back to first principles and articulates those principles for the critical attention of the Parliament and of the community.

We will hear more of this debate.

glacier moves

At long last we are getting the glacier moving.

Mr Patrick Brazil, Secretary, Attorney-General's Department,
Canberra, October 1983.

runs on board. The 'monumental task' of moving law reform along has received a few encouraging nudges in the last quarter. At the helm of the Federal Attorney-General's Department in Canberra is Mr Patrick Brazil, described by the *Canberra Times* (30 October 1983) as 'perhaps the most reform-minded Secretary of the Attorney-General's Department since the first, Sir Robert Garran'. For a note on Mr Brazil's career see [1983] *Reform* 90.

Certainly, during the last three months, there have been a number of Federal developments