judicial arm for Australia and New Zealand continues:

- On 8 October 1983 the Auckland *Star* reported that the Auckland District Law Society Committee, debating the Privy Council, wants appeals retained but also wants a New Zealand judge to sit on all appeals from New Zealand.

- Prominent Auckland barrister, Mr Peter Salmon, has also urged the retention of the right of appeal to the Privy Council. Addressing Auckland Rotarians, Mr Salmon said that in a small country like New Zealand 'we just cannot provide the continuity of enough judges of the calibre needed, remembering that we also have to staff the Court of Appeal, the High Court and all the District Courts, as well as maintain a strong Bar.

- But in Australia, still waiting for the final legislative removal of residual appeals from State Courts to the Privy Council, the High Court has made its position plain. On 14 October 1983 in the appeal of James Finch, the court granted the Commonwealth an interim injunction to prevent Finch from seeking leave to appeal from a decision of the High Court of Australia to the Privy Council in London. The injunction was granted by Justice Mason, who directed that the proceedings be referred to a Full Court of the High Court.

The judges, 'the central actors' in our administration of justice, have come under increasing scrutiny in the year past and the year ahead promises more of the same.

anglo enemies?

A real patriot is the fellow who gets a parking ticket and rejoices that the system works.

Bill Vaughan, c 1958

anglocentrism. Delivering the Third Annual Address to the Australian Institute of Multicultural Affairs, Associate Professor Donald Horne of the University of New South Wales declared that those Australians who still defined Australia by its Britishness or anglocentricity were the 'main enemies' of cultural diversity in Australia. Professor Horne said that he believed that anglocentrism was still so ingrained in the intellectual community that it might be 'ineradicable'. Defining a future Australian society of his desires, he said that anglocentrism could be replaced by eurocentrism. Professor Horne said that, for example, he would replace the school subject 'English' with the subjects 'Expression' and 'Literature' in the school curricula. He said that he regarded teaching of these subjects as more important than the teaching of community languages. He hoped that immigrants in the future would arrive in Australia which would boast 'that in origin it is both multicultural and multiracial, an Australia in which it is proclaimed that we are all ethnics'. He suggested that the first concern of multiculturalism as a national ideal should be the fate of the Aboriginal people of Australia. The remedy was not incorporation of Aborigines into multicultural programs but recognition that they were 'a special case demanding their own program of retrospective justice'.

parochial nationalism. Professor Horne's views provoked the ALRC Chairman, Justice Kirby, to a defence of the anglo element in Australian society. Speaking in the congenial atmosphere of the Royal Commonwealth Society in Sydney, he declared that it was dangerous and wrong to 'artifically whip up' a tension between 'those who value the continuing British element in Australian life and the ideal of multiculturalism'. He suggested that it would destroy multipartisan support for the principle of multiculturalism, given that more than 70% of Australians traced their origins to the British Isles:

> At the heart of multiculturalism is the ideal of tolerance – that our society in Australia is

> sufficiently mature to permit people, in the one community, to be themselves and not to suppress their linguistic and cultural origins. I know of no non English-speaking country that accepts these principles. The English-speaking world, with institutions derived from Britain, is in the vanguard of the movement for tolerance. It does the cause of cultural diversity a dis-service to think that we advance those from other ethnic groups by denigrating, insulting or belittling the unique, indispensible and central contribution to Australian life of people from the British Isles.

Justice Kirby said that it should not be forgotten that many people came to Australia after the Second World War from Europe 'precisely because we could offer them the stability of British-type parliaments, the independence of British-type judges and respect for individual rights which is a fundamental distinguishing feature of English-speaking societies'. He pointed out that many members of the Labor Government had been educated at Oxford, including the Prime Minister, Mr Hawke and the Federal Attorney-General, Senator Evans. He said that appeals to 'narrow parochial nationalism' should learn the lesson of the 20th century where such movements had been a 'scourge'.

uguale per tuti?. Another member of the Australian Institute of Multicultural Affairs, Sir James Gobbo, a judge of the Supreme Court of Victoria, delivered an important paper, 'Law in a Multicultural Society', to the Second Biennial Meeting of the Institute on 17 October 1983. This paper was published in the Institute in December 1983. Sir James pointed out that whilst the level of crime amongst migrants is at a 'markedly lower level' than in the average of the Australian population, they were well represented in personal injury claims, presumably because of the high level of the migrant population in the heavy industry workforce. Sir James Gobbo made a number of practical suggestions for improvement of the position of migrants and of the law in a multicultural society:

- ensuring adequate instruction for workers about safety on the job, including in languages other than English;
- provision of more detailed and balanced information to medical examiners used by employers and insurers in connection with litigation;
- insistence on higher standards of translators, some of whom 'interpret' and others of whom 'totally invent' evidence to the court;
- insistence on more people of non-English origins being eligible for jury service;
- sensitivity to, and acceptance in, the courts of cultural factors such as affect the manner and content of witnesses' evidence;
- revision of substantive laws such as those governing the doctrine of provocation and the 'reasonable man';
- clarification of the law of judicial notice concerning cultural factors affecting migrants.

Sir James Gobbo proposed that the path of 'separatism' of differing legal systems should not be pursued. He pointed out that in Italy, at the back of each court behind the judge, was the simple notice in large letters 'La legge e uguale per tuti' – the law is the same for everyone. He concluded:

> The Australian Institute of Multicultural Affairs has already done much to respond to the particular problems I have referred to. Consideration should be given to particular aspects that seem to warrant further discussion and research. I refer ... to discussion of comparison between the common law system and the system of source countries of our non-British settlers. The Institute has a unique role to play in the continuing process of making Australians more sensitive to the implications of our multicultural society.

a failure? Hanging over the biennial meeting of the Institute was a question mark as to the future of the Institute. A committee of inquiry had been established by the new Australian Government following an electoral commitment. The Chairman of the inquiry was Dr Moss Cass, a former Federal

Labor Minister. On 8 December 1983 the committee handed down its report. It described the Institute as an inefficient, ineffective and costly failure. It declared that the Institute had failed to understand the social and political issues of people disadvantaged by cultural and ethnic diversity. It claimed that the Institute's record in 'encouraging harmonious community relations' was non-existent. The committee recommended that the Institute be scrapped and replaced by a new independent statutory authority 'with greater social and political visibility' and directly accountable to the government.

Responding to the report, the Opposition Spokesman on Ethnic Affairs, Mr Michael Hodgman MP, reacted angrily, calling for a debate in the Australian Parliament in 1984. The Chairman of the Institute, Mr Frank Galbally, criticised the report. Within days of the report's publication, the Institute issued a detailed 'Response'. According to a note in the Melbourne *Age* (9 December 1983) Mr Galbally called the report a 'divisive, corrosive and entirely cynical political document'. He said that the report contained many errors of fact and was likely to destroy a non-partisan approach to multiculturalism in Australia. Mr Galbally called on the Prime Minister, Mr Hawke, to throw the report 'into a rubbish bin'. He declared that 'the whole exercise has been shoddy and I have nothing but contempt for the report. It contains unfortunate political mud-slinging of the worst sort'. However, in December 1983 an interim Council of the Institute was appointed including Dr Moss Cass who will now have the responsibility of introducing the reforms set out in his committee's report.

human rights. Meanwhile, various changes to the Migration Act have been proposed by the Minister for Immigration and Ethnic Affairs, Mr Stewart West MP. They include revision of the Oath of Allegiance required of migrants. The new Oath will delete reference to the Queen and substitute a promise to obey Australia's laws. The Minister for Finance, Mr Dawkins, has also indicated removal of the reference to the status of 'British Subject' in Australian Public Service legislation.

The Human Rights Commission is continuing its inquiry into the treatment of immigrants. At a public hearing held in Melbourne on 14 November, Mr Michael Clothier, a lawyer with the Legal Aid Commission of Victoria, told the HRC that under present Australian law immigrants had fewer common law rights than 'the meanest criminals'. He said that injustices occurred because an immigrant in Australia on a temporary visa who married an Australian citizen was not granted permanent resident status until the department officials were satisfied that the marriage was 'genuine'. If such marriages broke up, a person was no longer granted an extension of his or her visa and became a prohibited immigrant liable to deportation even if there were Australian children of the marriage. He claimed that the department's 'very actions are a cause for the breakup of marriage'. The HRC Chairman, Dame Roma Mitchell, and Deputy Chairman, Mr Peter Bailey, are examining the Australian Migration Act to determine whether its provisions are consistent with human rights' obligations accepted by Australia.

Important reforms governing migration appeals are also under consideration in the Administrative Review Council in Canberra. As well, important changes affecting the right of non English-speaking persons to notification of rights and the provision of interpreters is included in the Criminal Investigation Bill which Senator Evans has promised to reintroduce into Federal Parliament early in 1984.

armageddon never was

Power corrupts, but lack of power corrupts absolutely.
Adlai Stevenson, 1960.

fanatical proponent. It is now a year since the Freedom of Information Act 1982 came into force in Federal matters in Australia. Legislation to widen the scope of the Act has