

PRESIDENT'S REPORT

Hon Dr Peter Nygh*

The past year has been most successful for the Australian Branch. We have been able to offer our members a large number of seminars and publications throughout the year. The highlight of the year, of course, was the Helsinki Conference which was attended by a sizeable number of Australian delegates. I propose to deal with each of these matters in some detail.

STRUCTURE OF THE BRANCH

As the proposed new Constitution of the Association indicates, the Branches are the building blocks of the Association. Only they can send representatives to the Executive Council and be represented at the Full Council. They nominate members of the various international committees of the Association. It is therefore important that the Branch is active and makes its voice heard at the international level. Fortunately, we have been represented at most meetings of the Executive Council, although the "tyranny of distance" makes it hard at times. Important issues such as the new Constitution and the future direction of the Association require our attention.

Following the formation of a New Zealand Branch this year under the Presidency of the Rt Hon Sir Geoffrey Palmer, the self-executing provision of our Constitution took effect whereby the Australian Branch ceased to represent New Zealand. I want to thank Mr Piers Davies, solicitor of Auckland, who for many years was our liaison officer in New Zealand. I note with pleasure that he is a member of the Council of the New Zealand Branch. Sir Geoffrey has expressed a desire on behalf of the Branch "for warm and fraternal relations with our Australian cousins to whom we are greatly devoted", sentiments which are entirely reciprocated on our part. We congratulate the new Branch and look forward to mutual cooperation.

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I should also mention the formation earlier in 1996 of the South Pacific Branch under the Presidency of Julian Moti. As the name indicates, the Branch covers most of the island states south of the equator. In past years we had some members in Papua New Guinea, although at present they seem to have faded away. Needless to say, the appropriate and truly regional branch is the South Pacific Branch. As with the New Zealanders we wish them well and look forward to working with them in the future.

PATRON OF THE ASSOCIATION

It is my great pleasure to be able to announce that Sir Gerard Brennan AC KBE, Chief Justice of Australia, has agreed to accept the position of Patron of the Branch. We are greatly honoured that he has accepted this position. Sir Gerard has long had a great interest in international law issues, particularly in human rights, and opened the International Court of Justice Colloquium in May this year. It was our view that the position should be offered to a person with status and interest in international law, rather than the holder of a particular office and we hope that Sir Gerard will be able to act in this position for many years to come. The position of Patron had been vacant since the death of Sir Percy Spender.

SECRETARIAT

At the last Annual General Meeting, Nicola Nygh, for maternal reasons, had to resign as Secretary of the Branch and was succeeded by Christopher Ward. Chris also has had to resign due to his acceptance of a PhD scholarship at the Australian National University. We congratulate Chris on obtaining the scholarship and thank him for the work he has done during the year for the Branch. He will continue to serve on the Committee of Management and to assist the new Secretary. We are very glad that Martijn Wilder, also of Allen, Allen and Hemsley has agreed to accept the position which must be confirmed at the Annual General Meeting. I would like to express our appreciation of the support that Allen, Allen and Hemsley and Freehill, Hollingdale and Page have given us over the years.

FINANCE

A financial report will be presented separately by our Treasurer. I wish here to thank him for the work he has done for us, especially his successful

representation to the Australian Taxation Office on our behalf. At the meeting of the Full Council in Helsinki in August, it was resolved to increase the headquarters capitation fee by £5 to £25 as from 1 January 1998. This means that we will have to increase our subscriptions as from the financial year starting 1 July 1997 and the Treasurer will make a proposal concerning this to the Annual General Meeting. Student fees are not subject to capitation and will not be affected.

HELSINKI CONFERENCE

The highlight of the year was the 67th Conference of the Association held in Helsinki from 12 to 17 August 1996. As has been our custom since time immemorial, a farewell dinner was held for the delegates attending the Conference on 21 June 1996 at the Hunter's Lodge in Double Bay at which the retiring Ambassador of Finland, Mr Charles Murto, was the guest of honour. His Excellency told us about the many attractions of his country.

Approximately 20 Australians attended the Conference as delegates. Perhaps this was a far cry from the almost 70 Australians who went to Helsinki in 1966, but age and devaluation have taken their toll. The Conference was attended by more than 500 participants. Some of the new Branches such as Estonia, Slovenia, Croatia, Malta and the South Pacific were represented. It is a matter of deep regret that the Chairman of the Executive Council, Lord Slynn, fell ill during the Conference and required hospitalisation. At the time of writing, he still has not fully recovered. Our thoughts go out to him and Lady Slynn.

The academic program was extensive. Some 24 Committees reported, a record. For two of the Committees, it was the final report, namely, the Committees on Inter-Country Adoption and the Committee on Extra-territorial Jurisdiction. Australian delegates took part in most discussions, despite the sheer number of meetings. That it all ran so well is a great tribute to the outgoing Director of Studies, Professor James Crawford, and his assistants.

Of special significance was the Workshop on Future Directions of the Association. This was essentially a brain storming session in which delegates were asked for their input on a variety of issues. The structure of the international committees was one focus of debate. Many delegates were

concerned that the limitation on nominations by Branches (one plus one alternate) closed the door for younger persons who might have to wait for "dead men's shoes". Professor Crawford mentioned two solutions: a three year limit on new appointments which would allow the Chair to review effectiveness (some members are never heard from), and the possibility of appointing five extra members for special expertise regardless of Branch nomination limitations.

Cost also raised its ugly head. In some countries the capitation fee was seen as a hurdle and a two tier membership was proposed: one purely national at a low rate, and the international one for those wanting to take part in Conferences and Committees. It found little favour with first world Branches.

Another issue raised was publications. While the ILA Newsletter was welcomed (although not everybody appeared to be aware of its existence!), suggestions were made for the establishment of a learned journal under ILA auspices as well as the creation of a monograph series consisting of publications sponsored by various committees, such as *Transnational Torts Litigation* (published in 1996 by Oxford University Press for the Committee on International Civil and Commercial Litigation) and *Extra-territorial Jurisdiction in Theory and Practice* (published in 1996 by Kluwer for the Committee on Extra-territorial Jurisdiction). Another proposal was that Association material such as the Reports and Newsletter should be electronically reproduced and made available on the internet, a suggestion which the Australian Branch is actively pursuing.

The social program was excellent. There were many receptions and dinners and a most convivial boating excursion among the innumerable islands in Helsinki Harbour. On behalf of the Australian delegation I thanked Professor Bengt Broms, Chairman of the Finnish Branch and current President of the Association, for an excellent conference.

Following the Helsinki Conference there was a small Conference at the University of Lapland in Rovaniemi on the Arctic Circle. Some 20 persons attended, including 7 Australians. It was concerned with the position of the Sami (also known as Lapps) who occupy a position as regards land rights not unlike the Australian Aborigines. Social activities included a reception of the delegates by Santa Claus and a reception by the Rector of the

University in the University Sauna House. Several guests, including your President, took the opportunity of enjoying a sauna during the reception. Having regard to the traditional Finnish hospitality offered, it was greatly needed.

The 68th Conference will be held in Taipei from 23 to 30 May 1998, and the 69th Conference will be held in London from 13 to 20 August 2000. Contrary to rumour, this will not clash with the Sydney Olympics whose competitive events will be held in September.

INTERNATIONAL COURT OF JUSTICE COLLOQUIUM

The highlight of local activities was the joint function held in May in Canberra with ANZSIL to commemorate the 50th Anniversary of the International Court of Justice. This was marked by a Colloquium on Saturday 18 May 1996, held at the High Court Building thanks to the courtesy of our new Patron. The proceedings were opened by Sir Gerard with a memorable address highlighting the importance of the work of the International Court to decisions of the High Court. He also attended throughout the day.

The key paper on "Some Practical Problems of International Adjudication" was prepared by Judge Weeramantry who unfortunately could not attend. Others who spoke were Sir Geoffrey Palmer, former Judge *Ad Hoc* of the Court, Sir Kenneth Keith, recently appointed to the New Zealand Court of Appeal succeeding Lord Cooke, Dr Gavan Griffith QC, Solicitor-General of Australia, Henry Burmester, Professor Don Greig and Professor Hilary Charlesworth. The main theme was how the Court should adjust itself to the demands of the next 50 years in composition and working practices. The Colloquium and the dinner that preceded it were well attended. About 120 persons were present and the Branch made a modest financial profit out of the event. The arrangements on the part of the Branch were made by Vice-President Margaret Brewster who was always there when others, including the President, went overseas! Many thanks to her! Gavan Griffith's contribution in defining the theme and organising some of the speakers must also be acknowledged.

I want to express my appreciation to ANZSIL and the Centre for International and Public Law for their joint cooperation in this event, and

especially to Professor Hilary Charlesworth who was the principal organiser. We were very sorry to learn that she met with a serious accident shortly after the Colloquium and learn with pleasure that she is recovering. It is important for the Branch that we continue to cooperate with ANZSIL and we hope that we can participate in their 1997 meeting. It was fitting that the ANZSIL meeting was opened by the new Australian Attorney-General, Mr Daryl Williams, who is a member of both our organisations. I also noted with pleasure the attendance of Professor Mary Hiscock, President of the International Law Section of the Law Council of Australia, another body whose cooperation we welcome.

JESSUP MOOT

The Jessup Moot was held in Canberra on 23 and 24 February 1996, and as in past years, the Branch assisted. I helped judge one of the semi-finals and presented the Harold Snelling Prizes to the members of the winning team, University of Sydney, and the runners-up, University of Western Australia, as well as the best memorialist from Melbourne University. It is a matter of great national pride that the University of Sydney team went on to win the international competition.

It has been the practice of the Branch to pay each year the sum of \$500 in prizes out of the Harold Snelling Fund. Unfortunately, the income is not sufficient and the capital is now reduced to \$7000. The Branch is considering renewing the appeal in order to bring the fund up to \$10,000 where the income would be sufficient to cover the prizes. The generosity of members would be greatly welcomed. It is our intention to maintain the existing level in any event. It is a pity we cannot increase it.

COMMITTEES

Through our Co-Directors of Studies, Professors David Flint AM and Martin Tsamenyi, we have been able to organise a number of functions throughout the year. Our thanks go to them and especially through David Flint to the University of Technology, Sydney, for the opportunity to "tap" into some of their guests. A similar cooperation has been established with the University of Sydney Law School which has also generously allowed us to use the Staff Common Room for twilight seminars.

The most active of our Committees has been the Human Rights Committee with Dr Keith Suter as Convener and Tara Gutman as Secretary. Its first function was on 5 June 1996 with a Twilight Seminar on "Mabo, Indigenous People and the World" which was very well attended. The Human Rights Committee held a further Twilight Seminar on 25 July at which Professor Theodore Meron of New York was the guest speaker on the topic of the UN War Crimes Tribunal. It was attended by over 40 persons. The Committee will hold a further function on 31 October 1996 to take advantage of the presence here of Professor Christine Chinkin, Professor of International Law at the London School of Economics. She will speak on the "The Feminist Perspective in International Law". The Branch congratulates her on being appointed to the Chair last held by Her Excellency Dame Rosalyn Higgins, now a Judge of the International Court of Justice and occupied in the past by Professor David Johnson, a valued life member of the Branch.

The Committee on the Law of the Sea has not yet started holding functions despite the interest shown by members. This has been largely due to the fact that its Convener, Professor Tsamenyi, has been on study leave and been engaged with many other duties. Dr Don Rothwell has agreed to act as Co-Convener and with his help an inaugural meeting will be held in early 1997.

The Committee on Trade and Investment likewise has to hold its inaugural meeting and the Committee of Management will make a proposal to the Annual General Meeting to activate this Committee. The gap has to a certain extent been filled by seminars held in conjunction with the International and Commercial Law Centre of the University of Technology, Sydney. A very successful seminar was held on 12 July when Professor Tao Mao of the China University of Political Science and Law, Beijing, spoke on "Current Developments in Chinese Law", and on 8 July Professor Michael Milde, the Director of the Institute and Centre of Air and Space Law at McGill University, spoke on "Current Regulatory Issues of International Civil Aviation". A luncheon seminar on "Environmental Dispute Resolution: International and Domestic Aspects" is planned for 1 November 1996 with Professor John McCrory of Vermont University as the principal speaker.

Discussions have been held with the Judge Advocate General about the formation of a Committee on International Peacekeeping. Experience has

taught us that we need an activist and self-starting Convener to get Committees off the ground.

Similarly, there has been interest expressed in forming a Committee on Refugee Law. This was sparked by the challenging address given by Mr Gervase Coles, a consultant with the United Nations High Commissioner for Refugees in Geneva, on the topic of "Refugees and War" on 3 July 1996.

Throughout the year the Queensland Chapter has been very active. It held a seminar on "Mastering the Information Flood" in conjunction with the University of Queensland Graduates Association on 13 March 1996. It also conducted a breakfast meeting on 20 June 1996 at which Justice Michael Kirby spoke on "Human Rights and Economic Development".

It is a matter of regret that the Northern Territory Chapter has been inactive this year. We are looking for ways to establish a Melbourne Chapter. Once again an activist and self-starting person is needed.

FUTURE FUNCTIONS

Future functions will take advantage of the visit by Professor John McCrory of Vermont University and the proposed visit by Professor Marilyn Cane of Nova Southeastern University, Florida, to the University of Technology, Sydney. In February 1997 the Secretary-General of the Association, David Wyld, will visit Sydney and will speak on the recent report by Lord Woolf on the Reform of the English Legal System. The Committee of Management is also planning to hold an all day seminar on "Recent Developments in International Law" later in 1997. In addition, there will be further twilight seminars organised by the Committees and Chapters as aforesaid.

PUBLICATIONS

The publications of the Branch are an important part of its activity. We want to involve members by giving them access to news about our activities, the contents of the more important lectures and the seminars. To that end we publish the Branch Bulletin, Occasional Papers and the Martin Place Papers. Overall responsibility and coordination is exercised by our very active Co-Vice-President, Margaret Brewster, who deserves our

thanks for the efforts made. Arranging publicity and media contact is the responsibility of our other Vice-President, Philip Sutherland, who has long been active in the Branch.

Thanks to the creativity of the Editor, Lesley-Gaye Wong, the Branch Bulletin appeared in April and a second one will have reached members by the time this Report is presented. Its essential purpose is to give news to members of past and forthcoming events and we are very grateful to the Editor for the work she puts into it.

The Branch continues to support the Australian International Law Journal of which Alexis Goh, a member of the Committee of Management, is the Editor. It is available to members of the Branch at the subsidised additional subscription of \$25 and we urge our members to take up the subscription to what is now Australia's foremost learned journal in the field. Members are also entitled to the Australian Yearbook of International Law at a reduced price.

The proceedings of last year's Seminar on East Timor have been published as a Martin Place Paper which members receive as of right. Thanks are due to Professor Ivan Shearer who edited it and the printing office of the University of Sydney. Ivan Shearer is currently editing the Martin Place Paper on the proceedings of the International Court of Justice Colloquium which will have become available by the time this Report is delivered.

CONCLUSION

It has been a good year. This has only been possible through teamwork and I thank all the Executive Officers and the members of the Committee of Management who have made it possible. The institution of regular monthly meetings on the second Monday of each month and the abolition of the special meetings of Executive Officers has created a high level of cooperation. The Committee of Management has been limited to persons who have a reasonable chance of attending meetings and contributing to the work even though this means that membership is largely confined to residents of Sydney and Canberra and places in between. Drawing in other parts of Australia through local chapters is one of our major challenges. Another one is to gain and harness the enthusiasm of younger members. To

that purpose we have reduced membership fees for full-time students from \$30 to \$10.

I look forward to an equally active 1997.

September 1996