

Future Developments

No doubt the problems that have been mentioned, together with others as yet unforeseen, will gradually be resolved as experience is gained in administering the New South Wales crime compensation scheme. Meanwhile, the government of other States, and the Commonwealth, will be interested observers of this pioneering venture.

From a recent survey, conducted by the writer, of governmental attitudes in Australia towards crime compensation schemes, it appears that all governments have been studying the latest overseas developments in this field. Proposals to compensate victims of violent crime have also been discussed by the Standing Committee of Attorneys-General but each government, with the exception of New South Wales, has yet to discover ways and means of implementing such proposals. It should be mentioned, however, that there are existing statutory provisions in a number of States which already go part of the way towards providing compensation to victims of crime. For example, in Western Australia the *Police Assistance Compensation Act*, which has been operating since June 1965, provides compensation to a person, or his dependants, who, in certain specified circumstances, sustains injury in assisting a police officer to make an arrest or to preserve the peace. The scale of compensation is the same as that provided under the Western Australia *Workers Compensation Act* to a worker suffering injury in the course of his employment. In South Australia, too, compensation may be awarded to certain victims of crime. The South Australian *Criminal Law Consolidation Act* enables a court,

among other things, to order the payment of such sum of money as is considered reasonable to compensate any person who has been active in or towards the apprehension of any person charged with felony. If any man is killed endeavouring to apprehend any person charged with any felony or misdemeanour, compensation may be ordered to be paid to the man's dependants.

Mainly economic and political factors seems to be preventing the other States from following New South Wales' lead in instituting a more comprehensive compensation scheme. The nature of these factors was succinctly stated in a recent letter written by the Premier and Attorney-General of South Australia, the Hon. D. A. Dunstan, answering the writer's enquiries concerning his State's attitude towards such schemes. Mr. Dunstan said:

"The problem in this State has been twofold. Firstly, the stringent position of this State's finance at the moment in the Social Service sphere, and secondly, were this State to implement a scheme to compensate such victims, the amount paid by the State would preclude the victim from claiming Social Service benefits upon the Commonwealth Government. Until we can get an agreement with the Commonwealth concerning Social Service benefits, I do not think we can make much progress."

Let us all hope that agreement can soon be reached between the Commonwealth and the States on this subject so that further progress can be made in this important area of social reform.

Duncan Chappell, B.A., LL.B. (Tas.), Ph.D. (Cantab.), Lecturer in Law, University of Sydney.

Notes and Comments

Australian Bar Association

P. D. Connolly Q.C., President of the Bar Association of Queensland since August 1967 took office as President of the Australian Bar Association in 1967 following the elevation of Mr. Justice W. B. Campbell to the Bench of the Supreme Court of Queensland.

At the fifth Annual General Meeting of the Australian Bar Association held at Wentworth Chambers, 180 Phillip Street, Sydney on 18th May, 1968 the following office bearers of the Association were elected:—

President: B. B. Riley Q.C. (N.S.W.).

Vice-Presidents: X. Connor Q.C. (Victoria);
P. D. Connolly Q.C. (Queensland).

Hon. Secretary: T. Simos (N.S.W.).

Hon. Treasurer: J. P. Slattery (N.S.W.).

The secretariat of the Association has now moved to Sydney.

1969 Law Council Convention

Planning for the 1969 Law Council Convention to be held in Brisbane 16th-22nd July, 1969, is

already well under way. An Organising Committee under the Chairmanship of Mr. J. R. Nosworthy and comprising J. L. Kelly Q.C., (Deputy Chairman) and V. M. Mylne Q.C. and A. G. Demack, from the Bar Association and Messrs. A. B. Carter, H. E. Paterson and J. Byrne from the Law Society is hard at work.

J. L. Kelly Q.C., is also the Convener of the sub-committee dealing with papers and seminars. This sub-committee would welcome suggestions on all aspects of this subject and in particular as to topics for discussion. The sub-committee's address is Inns of Court, 107 North Quay, Brisbane.

New South Wales Bar Association

The following are the office bearers and members of the Council of the New South Wales Bar Association for the year 1968:—

President: B. B. Riley Q.C.

Vice-Presidents: P. M. Woodward Q.C.;
G. J. Samuels Q.C.

Hon. Secretary: J. Badgery-Parker.

Hon. Treasurer: J. P. Slattery.

Council Members: A. J. Bellanto Q.C., E. A. Lusher Q.C., P. R. Capelin, R. G. Henderson, G. H. Johnson, J. B. Kearney, P. A. Leslie, M. H. McLelland, B. R. Maguire, J. A. Melville, T. R. Morling, B. R. Thorley, B. J. F. Wright M.B.E., D. A. Yeldham.

Victorian Bar Council

The office-bearers and members of the Victorian Bar Council for the current year are as follows:

Chairman: X. Connor Q.C.

Vice-Chairman: P. A. Coldham Q.C.

Hon. Treasurer: Sir James Tait Q.C.

Hon. Secretary: S. P. Charles.

Assistant Hon. Secretary: D. Graham.

Counsel of at least 7 years' standing: Sir James Tait Q.C., L. Voumard Q.C., K. V. Anderson Q.C., W. Kaye Q.C., J. G. Gorman Q.C., P. Murphy Q.C., X. Connor Q.C., P. A. Coldham Q.C., W. O. Harris Q.C., L. S. Lazarus, P. U. Rendit.

Counsel of not more than 10 years' standing: F. P. Walsh, R. K. Todd, A. A. Smithers, S. P. Charles.

Ex officio member: The Hon. N. H. Bowen Q.C., M.P.

Congestion in Victorian Supreme Court Civil Lists

In June, 1967 the Attorney-General for the State of Victoria (The Hon. G. O. Reid) made a public statement that he was considering measures to relieve congestion in the Supreme Court civil lists which included increasing the jurisdictional limit of the County Court, the appointment of temporary commissioners in the Supreme Court and the restriction of the class of cases which might be heard by a civil jury.

The Victorian Bar Council appointed an ad hoc committee to consider these proposals and report on them. The committee produced an extensive report which was adopted in full by the Bar Council. The Bar Council does not favour any of the measures proposed by the Attorney-General. It believes that an increase in the jurisdiction of the County Court would merely transfer the problem from one jurisdiction to another, with no advantage to be gained thereby and with the possibility of some disadvantage. Temporary commissioners would of necessity have no security of tenure, a matter which would strike at the foundation of the independence of the judiciary. The abolition of juries in civil cases would probably produce an insignificant saving of time and be of little value in relieving congestion in civil lists and this would be a somewhat meagre gain for the price of depriving the public of its right to elect trial by jury in such cases.

It is the view of the Bar Council that the problem is a permanent one caused by increases in population and in the use of motor cars. It therefore suggested that the solution to the problem does not lie in drastic novel or temporary expedients but in certain procedural reforms (which are set out in the report) and in a moderate increase in the numerical strength of the Supreme Court to enable it to meet the needs of a rapidly developing community.

The Bar Council's report was printed and distributed

to members of the Victorian Parliament and the legal profession generally. The Law Institute of Victoria has also stated views which are in substantial agreement with the Bar Council's comments on the Attorney-General's proposals.

The Chairman of the Bar Council (K. V. Anderson Q.C.) appeared on the television programme "This Day Tonight" and in an interview with Patrick Tennison set out the Council's views on the problem. It was the first time that a representative of the Victorian Bar Council had appeared on television to put forward the Council's views on any subject.

Bar Association of Queensland

At the Annual General Meeting on 6th April, 1968, the following Committee was elected:

President: P. D. Connolly Q.C.

Vice-President: J. L. Kelly Q.C.

Honorary Treasurer: I. V. Gzell.

Honorary Secretary: A. K. McCracken.

Committee: F. G. Brennan Q.C., J. D. Dunn Q.C., J. M. Macrossan Q.C., I. D. F. Callinan, F. G. Connolly, N. J. Macgroarty, J. C. Philp, C. W. Pincus.

South Australia

On the 1st November, 1967 M. A. W. Birchall elected to practise as a barrister only and has joined the South Australian Bar Association and signed our roll on the 14th November, 1967. On the 1st February, 1968 his elder brother N. J. W. Birchall elected to practise as a barrister only and signed our roll on the 5th February, 1968 and has joined the South Australian Bar Association.

Michael Birchall is in residence at Bar Chambers, 34 Carrington Street, and his brother Nicholas Birchall has rooms just along the street at 56 Carrington Street which is very close to Bar Chambers.

Western Australia

In the last issue of the Bar Gazette mention was made of the acquisition of further space for chambers. Alterations have only recently been completed and the Bar in Western Australia now has individual chambers for 14 barristers together with a library and other facilities, all of which are in the one building.

Since the last issue of the Bar Gazette two more members of the profession have joined the Bar.

Paul Wichelo Nichols who was admitted to practise on the 21st March, 1967 commenced to practise at Bar Chambers solely as a barrister on the 10th August, 1967.

John Cromie Martin who was admitted to practise on the 21st December, 1951 and was formerly a senior partner in a firm of Perth lawyers commenced to practise at Bar Chambers solely as a barrister on the 7th December, 1967.

There are now thirteen members of the profession in Western Australia practising solely as barristers. Since the inception of the independent Bar in this State in 1961 there has been each year a steady continuous increase in membership and it now seems clear that the independent Bar has established itself as a permanent part of the profession in this State.

First Indigenous Papuan Barrister

A dinner was held in the Common Room of the Inns of Court, Brisbane, to celebrate the calling to the Bar of Mr. Joseph Aoa.

It was attended by the Chief Justice of Queensland, Sir William Mack, the President of the Law Council of Australia, Mr. Howard Zelling Q.C., Mr. Justice Frost of the Supreme Court of Papua and New Guinea and by many other distinguished guests. Mr. Aoa, who has since taken up an appointment in the service of the Crown in Port Moresby, received a presentation of books on behalf of the Law Council and the Law Book Company Limited.

Mr. Aoa thanked the Law Council of Australia for the assistance they had given him and for the interest they had shown in his legal education as well as that of his fellow countrymen at the Law School. He also thanked Mr. Zelling personally for honouring him by coming to Brisbane for the Dinner.

He continued "To the President of the Bar Association and the Committee I extend my deep and very sincere thanks for all the assistance they gave me, particularly with the arrangement of tutorials and other incidental advices. These were of great assistance and when the going was very hard, they were very enlightening.

"I would like to express my deep indebtedness to the Queensland Bar Association, and to the Law Book Company for making me a gift of the Australian Law Journal. I am sure they will be of invaluable assistance to me and a source of academic stimulation. I shall see to it that they are well used and used properly by myself and others in this honourable profession of ours."

Mr. Aoa expressed his thanks also to the various solicitors he had had occasion to meet, and to the Department of Education and the University Law School.

He continued: "I should like to express my hope that every assistance will be given by the legal profession of Australia to that of Papua and New Guinea while in its infancy. I know that assistance will be very much appreciated. We have a very fine Bench in New Guinea and hope this will continue. I am particularly pleased and honoured that Mr. Justice Frost is able to attend.

"Fortune has favoured me with the dubious honour of being the first indigenous Papuan to be admitted to the Bar of any Court, but being first is of no consequence if I am not of any benefit to my country. It shall be my life's ambition to make myself as useful as possible in the community and country from which I came and God willing I will succeed. In doing this, I shall be putting into effect what I have learnt and experiences I have gained in this very hospitable country of yours.

"There may be times when Papua and New Guinea will deviate from the laws of this country, but I do not think that you should be alarmed by this as the laws of this country should be modified to suit New Guinea. It is my further hope, however, that while there may be changes in the laws, the basic

principles of the Common Law will persist and survive any such change."

Apologies were received from Sir Alan Mann, the Commonwealth Attorney-General, Nigel Bowen Q.C., the Minister for the Territories, Mr. C. E. Barnes, Bernard Riley Q.C., Vice-President of the New South Wales Bar Council, Mr. Justice J. R. Kerr, President of the Law Association for Asia and the Western Pacific, Kevin Anderson Q.C., Chairman of the Victorian Bar Council (who was represented at the dinner by D. M. Campbell Q.C.), the Queensland Minister for Justice Dr. P. R. Delamothe, O.B.E., R. Burt Q.C. on behalf of the West Australian Bar, J. H. Wootten Q.C., Chairman of the Law Council's Sub-Committee on New Guinea, Peter Hastings on behalf of the Council of New Guinea Affairs and A. F. Mason Q.C., the Commonwealth Solicitor-General.

Australian Academy of Forensic Sciences

Some years ago a group of men, eminent in the Law, and in branches of Medicine and Science, which are from time to time involved in both the civil and criminal aspects of the administration of the law, under the leadership of Professor Radzinowicz, constituted themselves into a body known as the British Academy of Forensic Sciences, to which, under its constitution, new members are admitted from time to time at the invitation of the Academy by reason of their professional standing or special knowledge, their integrity and their contribution or potential contribution to the advancement, application and practice of the forensic sciences.

The following extract is taken from the editorial published in Vol. 1, No. 1, of the Academy's journal "Medicine, Science and the Law":

"By contrast with progress in other scientific fields the forensic sciences in this country have suffered from apathy and ignorance which has sometimes resulted in retrogression. Determined to reverse this process a number of those whose work lies in the courts and who are concerned with assisting the course of justice, not merely in the criminal courts but also in civil actions, came together to form the British Academy of Forensic Sciences with Dr. Leon Radzinowicz, Professor of Criminology at Cambridge University, as the first President.

The objects of the Academy are to encourage the study, improve the practice and advance the knowledge of the forensic sciences. Its purpose is to provide a common ground on which the members of the professions concerned can meet and, by discussion, see their own work from other aspects. The Academy therefore provides a cross fertilisation of minds, for which there was no real opportunity before, and by its special committees and in its meetings it will foster research and education in the belief that new advances can be so achieved and in order to encourage a greater awareness in all scientists of the importance of forensic science.

The Academy is alive to the importance of a proper professional standard amongst its members, and in order to maintain this standard a special Ethics Committee has been formed."

A similar Academy has now been established in this country. Its members are at present drawn from New South Wales and the A.C.T. but it is hoped to expand it throughout the Commonwealth. The constitution of the Academy closely follows that of the British Academy.

The British Academy has been active and successful during its comparatively short life. It publishes regularly in its journal papers on scientific, medical and legal topics of interest to all concerned. Subjects discussed include privileged occasions and professional secrecy, accidental coronary occlusion, insanity as a defence in divorce proceedings, unsuspected poisoning, identification by dental characteristics, river pollution, basic rules for the identification of handwriting, a reflection on nuts and bolts, and drugs and automatism to mention but a few taken more or less at random from a wide field.

The Australian Academy plans to commence operations soon with a plenary academic session and a number of topics have been suggested for discussion. It is hoped in due course to publish a journal to which contributions will be invited. Such a journal would of course also report proceedings of the Academy and papers presented to it. The main emphasis is on having the theories and practices of one profession or specialty subjected to critical scrutiny by men who are skilled in others.

Law Reform Commission of N.S.W.

The Act constituting the Commission, the Law Reform Commission Act, 1967, was assented to on the 25th of September, 1967.

Mr. R. D. Conacher was appointed Deputy Chairman of the Commission in December 1967.

The term of office of Professor Benjafield expired at the end of 1967 and he has returned to his duties at the University of Sydney, where he is now Dean of the Faculty of Law. However, the Commission are still in consultation with him on various matters relating to proposals for a new Supreme Court procedure.

Profession W. L. Morison joined the Commission for a term of one year on the 1st of January, 1968. Amongst other things, he is engaged on the Commission's reference to review the law of libel and slander.

Mr. H. M. Scott resigned from the Commission in January 1968 for personal reasons. While with the Commission he did the major part of the work embodied in its report on the application of Imperial Acts.

Mr. J. O. Stevenson, solicitor, has been appointed to the Commission for a term of three years commencing on the 4th of March, 1968.

The following statement sets out in short form the matters which have been referred to the Law Reform Commission:

1. To simplify and modernize Supreme Court procedures and to effect a fusion of law and equity.

2. To review local Statute law with a view to the re-enactment of such of it as should be modernized.
3. To consider whether a right of appeal should be granted from decisions of administrative tribunals and officers, and whether, in this regard, it may be desirable to appoint an Ombudsman.
4. To prepare an improved and modern Interpretation Act.
5. To review the law of infancy relating to contracts and dispositions of property and testamentary capacity, and incidental matters.
6. To review the law procedures in relation to claims for damages for personal injuries.
7. To review the law of libel and slander.
8. To review the law of testator's family maintenance.
9. To review the law of contract with a view to its codification.
10. To review the law of evidence in both civil and criminal cases.
11. To review the law relating to the sale of goods.
12. To review the law relating to provisions in leases enabling the tenant to renew the lease or to purchase the leased premises and incidental matters.
13. To review the law relating to the rights and liabilities of occupiers of land and incidental matters.
14. To review the law relating to limitation of actions, notice of action, and incidental matters. (First report made 27th October, 1967.)
15. To review the law relating to damage caused by or to animals and incidental matters.
16. To review the law relating to proceedings by and against the Crown and incidental matters.
17. To review the law relating to coroners and incidental matters.
18. To review the law relating to mortgages of personal property including liens on crops and wool and stock mortgages and bills of sale.
19. To review the law in relation to the enforcement of contracts in a State, the law of which is agreed to be the law applicable to the contract, where the contract is made and to be performed in another State, the law of which makes the contract unlawful.
20. To review the law concerning covenants affecting land and incidental matters.

Reports on the undermentioned subjects have been made on the dates stated:

1. Procedures relating to the granting of writs of habeas corpus. (20/9/66.)
2. Proposed amendments to the Legal Practitioners Act. (21/12/66.)
3. Limitation of Actions. (27/10/67.)
4. Application of Imperial Acts. (14/11/67.)