duced by the Council to form a foundation for discussion at the conference. The discussion paper included consideration of the following:

- gateway issues, such as notification of review rights, application procedures, fees and urgent cases;
- the collection of information;
- methods of dispute resolution;
- the role of representation; and
- procedures at hearings.

The paper proved to be the source of some lively debate in the morning workshops. In the afternoon the conference considered natural justice, tribunal processes and membership issues.

In addition to the considerable value gained through interaction among conference participants, the conference discussions will be used by the Council as part of its Tribunals Project. The Council continues to work towards a report on tribunal procedures.

Immigration Review Tribunal

Roser v Immigration Review Tribunal (3 September 1991) was the first decided case of an appeal from the Tribunal to the Federal Court. The case concerned the interpretation of section 121 of the *Migration Act 1958*. That section provides, inter alia, that where, during a review, it appears to the Tribunal that the applicant 'might have grounds for making another application' for an entry permit of the same or of a different class, the Tribunal shall notify the applicant accordingly and adjourn the review in order to give the applicant an opportunity to lodge such an application.

In this case Mr Roser had lodged an application which had been initially unsuccessful and which was also rejected by the Tribunal. However, the Tribunal informed Mr Roser of the substance of reg 131A, which offers the opportunity for a permit to certain persons for whom, among other criteria, there are compassionate grounds for the grant of a permit because the effect of a refusal would be extreme hardship or irreparable prejudice to an Australian citizen or permanent resident. Mr Roser was given a five minute adjournment to consider whether the provision might have any application to him. After the adjournment, he put forward an argument that there were compassionate grounds for him to be given the permit. The Tribunal rejected the argument and determined that Mr Roser had not shown that he 'might have grounds' for making another application. It referred to *Re Mah* (IRT - 19 September 1990) and stated:

> 'That case indicated that if the Tribunal felt on the facts before it that there was a *real* as opposed to a *fanciful* possibility that the applicant had grounds for a further application under section 121 of the Act, then the matter should be adjourned accordingly to enable the fresh application to be made. However, if an applicant clearly does not satisfy the basic criteria for an entry permit of the same or a different class, then the Tribunal is not required to consider the matter further and it exhausts its obligations under section 121.'

Mr Justice Von Doussa agreed with the distinction noted in this excerpt and decided that the Tribunal had correctly applied the test in this case. The Court also rejected the submission that the five minute adjournment was insufficient and amounted to a breach of natural justice, noting:

> '... the Tribunal appears to have gone out of its way to assist the applicant and to ensure that nothing was overlooked which could have been favourable to him.'

Mr Roser has lodged an appeal to the Full Federal Court.

Review of British social security decisions

Professor Martin Partington from the University of Bristol Faculty of Law has recently produced a report for the British Department of Social Security entitled *Secretary of State's Powers of Adjudication in Social Security Law*. The report is predominantly concerned with issues peculiar to Britain but there is included an interesting historical review of administrative appeals in the British social security system.

The paper is available from
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