

Some New Guinea Problems

Dining-In Night Address

The first Dining-In Night for 1962 was held in the Common Room on 9th March, the Vice-President (Kerr Q.C.) being in the chair. Mr. Justice Moore, one of the Deputy Presidents of the Commonwealth Conciliation and Arbitration Commission, Mr. Justice Collins of the Supreme Court, Mr. Justice McKeon of the Industrial Commission and Judge A. Cameron-Smith, of the District Court were among the diners. Selby Q.C., who last year spent six months in the Territory of Papua-New Guinea as an acting judge gave an interesting, as well as amusing, account of his experiences. It is unfortunate that space permits only extracts from what he said to be printed, since the whole address gave an impression of the difficulties as well as the urgency, of the problems facing the administration in its task of preparing the Territory for the future.

Here are some of the things he said:—

Education

It is hard when you get away from the Territory to realize the tremendous urgency there is in the atmosphere up there towards the carrying out of the trust obligations which Australia has taken on, namely, to prepare the local people for Self Government. It is a thing that you see in the air, you hear it, you feel it. Everybody in the administration seems to be dedicated to this job and it is extraordinary how they spend their lives, how the whole of the work they are doing is orientated towards it. The population of the Territory extends pretty well from a point not far from the stone age up to people who are practising as doctors, mechanics, and teachers. It is an enormous job to get these diversified people to the stage when they are capable of governing themselves. The obvious way is by a greatly accelerated educational programme, and that is going ahead at a great pace. They are increasing the number of schools, the number of people who go through the schools and the number of teachers. But that has inherent in it, a very serious problem, because many New Guinea natives are very keen on education and feel that once they are educated, they will be like the white man and own a car and have unlimited grog and their own house boys and so on. When they have finished school, they are told "All right, boy, now you are educated, you can go home". They don't want to go home. Village life no longer appeals to them. But they feel that they have been tricked, and that we have left out some secret ingredient in the recipe—that we are just putting a rather low confidence trick over them. They want to be white collar workers if they can't be lawyers and doctors. But there is nothing like the jobs available, nor will there ever be, for this rapidly increasing output of semi-educated people. And so you are getting an increasing body of dissatisfied, disillusioned people. They are trying to get over that, to some extent, by training the populace for a rural economy; there are schools now, where there is semi-technical education,

teaching them better harvesting methods, better farming methods, carpentry, plumbing and various other trades, but they aren't very popular.

Sorcery and Pay-back

Another problem, strangely enough, is the eradication of the belief of sorcery. It is surprising what a tremendous part sorcery plays in the lives of a great proportion of the native population. They believe in it implicitly and are frightened of it; many of them have the whole of their lives coloured by the practice or fear of sorcery. Another thing which plays a big part in their lives is what is called "pay-back". They are obsessed with the idea that, if they have been wronged, or if a member of their family has been wronged, or if a tribal taboo has been broken, then some member of the tribe that has done the wrong, has to be paid back, and they pay back smartly with axe or knife or arrow or something of a lethal nature. It is a perversion of the old biblical "an eye for an eye, a tooth for a tooth" idea because it is not necessary to kill the wrongdoer; it is quite sufficient to kill a member of his family. Some of the less adventurous spirits pay off the debt by bumping off an old man, or even a child or a baby, and honours are even—but it does bedevil their lives.

As regards sorcery, I just do not know how they are going to eradicate this belief, because the native has a peculiar and an understandable way of approaching it.

There is one area where this is at the present moment playing a very important part—it is a fairly wide area round Goroka in the Eastern Highlands—where there is a lot of the disease known as "Kuru", which the newspapers falsely refer to as "laughing sickness". Apparently, doctors have not found out what causes it, or how to cure it. There have been quite a lot of cases recently where a native has got this disease and has been brought in to the nearest patrol post. The natives say, "This man has had a spell put on him", and the white official replies "Now, don't be silly, there is no such thing as a spell. This is a sick man". They say "No, he is not sick, he has had sorcery put on him". The white man tries to convince them that there is no such thing as sorcery, so the native says "All right, you say he is sick, you have a hospital; put him in the hospital and cure him". So they put him in the hospital and the man dies. Then the native says "There you are—just what we told you—you're very clever, most of you white fellows—if he was sick, you would have cured him, but you didn't cure him. He has had a spell put on him". And they look around and bump off the local sorcerer. Sometimes there is a professional sorcerer practising—a confessed one, who has a fairly dangerous type of existence, because he is likely to be the butt for the vengeance of the families of those who die. Others are thoroughly bad types, who use their powers, or their supposed powers, for extortion. It is quite a

common thing to find that the best sorcerers have demanded pigs and wives and shells and other valuables under a threat of putting a spell on people. They pay up smartly because they are really terrified of these types. If they don't, the sorcerer says "All right, so and so is going to die", and they jolly well do die. I had a couple of cases myself, where a clan or family has been bled white of pigs and other valuables, and has finally taken on themselves the very dangerous task of bumping off the sorcerer. Then, of course, they appear before Selby A.J., (as he then was), on a charge of wilful murder.

Some of the sorcerers are learning fast and have taken out a very cunning insurance policy. They say, "Oh I haven't any power to put sorcery on a man but I have a tame ghost who will do it". This is a perfectly safe and sound insurance policy, because everybody knows it is no use killing the sorcerer since they can't kill his ghost. If they bump the fellow off, the ghost is going to take very swift and horrible vengeance.

That is just another of the problems which the Administration is facing in its very earnest job of bridging the gap of centuries probably of thousands of years, in a matter of a few years.

Self-Government

From the point of view of the natives themselves—I have spoken to a lot and I have spoken to people who have spoken to them, and I am quite convinced that there is no feeling amongst the natives for independence or self-government. There is very little of the old head hunting and that sort of thing going on now, but they suffer from the effects of it. Those who have been up there for years say that this head hunting habit was a sort of rigid quarantine, because, for centuries, these people knew that, if they wandered outside their tribal boundaries, they would be killed. The result was that they kept to their tribal boundaries, and so there is no typical New Guinea man—they are people who live in small completely isolated, self-contained groups and as a result, they have developed separate languages, separate cultures, separate ideas, even separate ways of clothing themselves. The man in one village is a foreigner as regards the man over the hill, he cannot speak his language; they look on one another as strangers and as foreigners. It obviously follows that, if self-government were to be imposed on them suddenly, there would be nobody who would be in a position to say "Now, we are the bosses. We are running this country". That again is one of the problems that is being tackled.

But the New Guinea people themselves, as regards the vast majority haven't the slightest interest in self-government. They are perfectly happy to be as they are. In fact, that is the way they want it, because they have never had it so good. At present, they are getting free education, and a great amount of help financially. In New Britain for instance, on Gazelle Peninsula where the Tolai, a tribe of 50,000 odd people, own most of the land, you can drive for miles through cocoa plantations which are owned by the natives. Cocoa is at present, after coconut products, the second largest export in the Territory. The Administration people help them to form co-operative societies; they help them with their

marketing; with processing plants. One that I saw had cost £25,000, which had been lent to the natives. Their products go through these and they get the proceeds. That is one of the ways they are being helped. They also get free medicine as well as free education; they are being given a wonderful string of hand-outs, and they realize it, and I think on the whole they appreciate it. They are quite happy to leave the present status quo. Some people that I spoke to on the coast had an interesting view on this. They said they wanted the Australians to go, and when I asked them what they had against the Australians, they said "Oh, we have nothing against the Australians but we would like the Americans here. They are richer". There are a few who want self-government but I am convinced they are an extraordinarily small minority. They consist, I would think, of a handful who see themselves as the Premier of New Guinea or, perhaps, better still, the Treasurer, and a few who think they can get something out of it—there are a few genuine idealists, but I am quite satisfied that they are a very small minority.

In the Legislative Council, you can see another facet of the process of preparation for self-government. It is a most dignified body and, not being on the air, they do not care about wisecracks at the expense of their political opponents. They take the job seriously, and I've heard some of the native members in really thoughtful and intelligent debates. As well as the members, there are a number of learners sent in from outlying districts as potential Council members. They sit around with ear phones and listen to translations of the speeches that way.

Court Proceedings

It might be worth mentioning some of the things I did, not only for their comical aspect, but because they illustrate some of the things I've been talking about.

I went pretty well from one end of the Territory to the other and spent very little time in Moresby. Most of the time I spent in the Highlands where the natives, though they vary a lot, are very lovable, friendly, charming and courteous people. But they seem almost without exception to be obsessed with sorcery and the idea of pay-back.

One case I had in the Southern Highlands still has me wondering about this sorcery business. It was a murder case which I tried, in which there were four accused. The story they told, and I believe it implicitly, was that, when the head man of the village was dying, he called them in and told them that a spell had been put on him by Joe Blow, a man whom he named from another village. He said he was going to die in two days' time, but that, after he had died, his spirit would bring the sorcerer to his graveside and the four were to act accordingly. He duly died in two days' time and the four men waited by the graveside for months. At the end of four months, Joe Blow obligingly arrived at the village and sat down by the grave. He had no reason to be there—it was a dangerous thing to come to another village—but he came, and, of course, the four accused had only one possible course open to them. They had to chop him up; they would have been guilty of a very grave dereliction of duty if they had not. It

is interesting to note that they then walked in to the nearest patrol post quite a distance away, where they arrived about 11 o'clock at night. The patrol officer was at the club having his nightly grog, and they rushed in there with their still blood-stained knives and said "For God's sake, put us in the clink—we have just killed a sorcerer". He obliged. That is the sort of thing that goes on.

One of the difficulties up there, is that everything has to be done through at least one interpreter, very often two. As you no doubt recall, the High Court said in Gaio's Case that a person can give evidence of a confession which was translated to him orally, provided the translator is called and swears that he interpreted truthfully. You usually get a beautifully detailed confession made to a patrol officer in a language he can't understand and so, translated by an interpreter. The interpreter is then called and gives the necessary evidence as prescribed by the High Court, but some of the bright defending counsel (and all these people, incidentally, are defended by counsel from the Public Solicitor's office) have woken up to a thing which is quite well known amongst people who have worked with the natives—that is, that, if you ask a native a question nicely and politely, he will give you the answer which he thinks you expect. That, of course, rather simplifies cross-examination. The unsuspecting prosecutor puts the interpreter in the box. He answers the three leading questions the way it is expected of him, then defending counsel gets up with a nice smile and says "And you told this man that anything he said would be taken down in writing" and the interpreter says, "Yes". "And you told him that it could be used in evidence in Court proceedings which might take place"—"Yes". "And you told him that he'd better confess or else he would be in more serious trouble", and he says "Yes". Sometimes they build it up a little bit further and say "And you told him that he would get better treated if he made a confession", and he says "Yes". "And you also told him that if he didn't confess he'd be locked up over night with the body of the man he killed", and he says "Yes". Well at that stage defence counsel can safely sit down.

I suppose that anyone who has been in the Territory for any time has a string of stories, but there is a moral to them. They show that it is not only the white man who is going through a difficult time. The native is going through the awkward transitional stage where, on the one hand, he feels bound to follow tribal tradition while, on the other hand, he knows that this is often contrary to the white man's law. It is the Judge's job to try to reconcile the two.

Selborne Chambers

On 5th March, 1962, for the first time during Term since J. H. Want established himself in the building in 1896, no barrister engaged in the practice of his profession at or from Selborne Chambers 174 Phillip Street, Sydney. For, during the fortnight which preceded that date, the legal tenants had been moving to 182 King Street with their books and their papers, their typewriters and their typists, their memories and their hopes for the future.

The preparations for the move brought to light much old dust and old wall paper, a copy of the Law Almanac for 1896 signed "G. E. Rich", and one map preserved on the end of a set of book-shelves—issued by an agent of the A.M.P. Society as an advertisement—which showed "the seat of war" and recommended the immediate taking out of life assurance with the Society in order to obtain a bonus for the year 1899.

The former denizens of 174 Phillip Street have now settled fairly well into their new—though temporary—quarters where they expect to remain for the next eighteen months. The taunts of the rest of the Bar directed to their occupation of what was formerly the Queens Club are of no great concern; but the absence of a lift in a building where three storeys are in occupation is somewhat serious, especially for the older members and in particular for elderly or ill clients. However, it is understood that steps are being taken to get the lift into commission as soon as possible.

The rooms which are now occupied are on the whole more commodious and attractive than might have been expected from an inspection of the building when it was empty. The views from many of the rooms are delightful since most of them overlook Hyde Park.

In the meantime, the rooms in 174 Phillip Street which housed such great legal personalities as Sir George Rich, Mr. Justice J. A. Browne, Sir Frederick Jordan and Sir Dudley Williams, as well as a Governor-General of the Commonwealth, two State Premiers, a number of other Judges, some of whom are still on the Bench, and (among a host of others) three generations of Shands, have been stripped and the building itself is in process of being wrecked, a process which will be completed before this appears in print. It is understood that some small part of the fabric of Selborne will be incorporated in the new building which will take its place.

The construction of the new project gives the opportunity of enlarging the accommodation occupied by the Bar Association to something like four times the size of the present accommodation. Plans for this area which are now under active consideration, will provide a separate library, an enlarged dining room and a lounge with provision for a bar. The dining room and lounge will be so arranged that, for large functions, they can be thrown together. In addition, better provision will be made for the administrative needs of the Bar Association and Counsel's Chambers Limited.

The Bar Building Project and the Accommodation Problem

The contract for the erection of the new building (which will be substantially identical with Wentworth Chambers) on the Selborne site has been let by Counsel's Chambers Ltd. to T. C. Whittle Pty. Ltd.

The building contract provides that demolition will be completed in four weeks and construction in a further sixty-five weeks. The date for completion is nominally 1st July, 1963, but, after making allowances for inclement weather and other unavoidable delays, it is anticipated that the new building will be ready for occupation in about September or October of next year.