

of a well-known interior decorator, Mrs. Ninette Boothroyd, A.S.T.C. One of the problems of the Association area was the fact that the ceiling was a very low one, having regard to the extensive floor area involved in the dining-room and lounge and the tentative plan of decoration which has been on exhibition in the common room for some time, is designed to give an impression of greater height than in fact exists.

To this end, it has been determined to avoid the use of panelling, which being dark and monochrome, tends to produce a lowering effect and to use patterned wallpaper on the northern and southern walls of the dining-room and lounge.

In the dining-room it is hoped to provide meals of a somewhat higher standard than has been the case in the past, and it is proposed that it be furnished with table-cloths. With the improved kitchen, the result should be a much improved service in more pleasant surroundings.

The cost to the Council, despite generosity on the part of Counsel's Chambers Limited with regard to a number of the alterations, will be in the order of £7,000 to £9,000, precise estimates not having so far been worked out. The Council has, over the years built up some funds towards the costs, but had not originally anticipated that the rebuilding of Selborne would be achieved as early as 1962-1963. However, it has about £2,000 now available towards the equipping of the new common room. It is thought that it will be possible to borrow say, £3,000 to £3,500 on a long term basis, which will leave £3,000 to £3,500 to be raised from members of the Bar. Thought has been devoted to means of raising such a fund, and no final decision has been made. In the meantime, some existing floor-groups have made most generous donations to the Association for the furnishing fund; and if their example is followed there may be no need for any organised scheme of money raising.

Tertiary Education

Early this year the Federal Government set up a committee to look into tertiary education in Australia and to report to the Universities Commission upon the subject. This committee as originally set up contained no representative of the legal profession but, following representations by the Law Council of Australia, Professor A. P. Derham of the University of Melbourne Law School was appointed as one of its members. The Law Council advised member bodies that they should make their own representations to the committee as conditions varied very considerably from State to State and it was felt that representations from the various States would be more useful to the committee than a mere summary of the views of the different State bodies.

In these circumstances the Council prepared a submission which was forwarded to the committee as the views of the Bar Council.

Summary of Report

This submission was concerned primarily with legal education as a preparation for practice at the Bar although it expressed the view that most students seek to prepare themselves for both branches of the profession, delaying the ultimate choice for as long as possible.

The submission indicated that the Council took the view that any consideration of the educational needs of the Bar must begin with the recognition that from its ranks the Bench is staffed. It stated that members of the Bench need a broad sympathy with modern culture, as well as technical mastery of the law, and that education for the Bar is also education for the Bench.

By far the greater number of those practising at the Bar in New South Wales have qualified by taking the degree course at a University, usually, of course, the University of Sydney. The alternative method of qualifying by sitting for the examinations of the Barristers Admission Board is used comparatively infrequently by those actually proceeding to practice at the Bar, al-

though it is used by public servants and others who wish to become admitted as barristers as an additional qualification in their work, without having any intention of practising. The Council is strongly of the view that legal studies should be pursued, by those wishing to practice at the Bar, in a Law School, and that, in the modern world, it is not a sound method of legal education for students to be left to their own devices in their study of the law and to present themselves for examination as a result of private study.

The retention of entry to practice at the Bar through the examinations of the Barristers Admission Board is frequently justified on the ground that it enables persons without means to become barristers. However, times have changed a great deal and provision of scholarships to students is now liberal by comparison with earlier days, and, since most professions have long since resorted to full time study over a significant number of years as the proper method of professional education, the Bar Council believes that the appropriate long term approach to legal education for practice at the Bar should be along the same lines and that the long term planning for legal education for the Bar should proceed upon an assumption that true tertiary education should be available for all those wishing to prepare themselves to practice at the Bar.

It appears to be impossible, in Australian conditions, for financial and other reasons, for the profession to provide education at a tertiary level for those wishing to enter its ranks, and the only satisfactory method for the education for candidates for admission to the Bar is through the Law Schools of the Universities. There is a difference in the approach of the Bar and the solicitors to the need for fulltime courses. At the University of Sydney Law School there are, at the present time, two courses available, namely, a four-year course the last two years of which are part-time, and a five-year course during which part-time studies are engaged in. The former course allows three years of articles which can

overlap the last two years at the Law School while the latter course allows five years of articles to be served during the whole of the time of attendance at lectures. Of these two types, of course, the Council is unhesitatingly of the view that the four-year course, with two years of full-time study is far preferable for those wishing to practice at the Bar.

The Law School has, for many years, as a matter of policy, encouraged students to seek a Bachelor of Arts degree as well as a Bachelor of Laws degree, and special provision is made by the by-laws of the University to assist this policy. There have recently been amendments to the particular method of achieving this and if the Law School is moved from the City to the University grounds, no doubt the policy will be pursued with even greater force than hitherto.

The Judges of the Supreme Court of New South Wales have recently made it possible for a person holding a law degree to qualify for admission as a solicitor by serving a period of two years of articles after the conferring of the degree. This would open the way for the University to provide a course of four years of full-time study at the Law School to be followed by two years of full-time articles in a solicitor's office.

The length of articles of clerkship is, of course, of direct concern to the Bar only because the Council is of opinion that it is, in general, desirable for persons wishing to practice at the Bar to have practical experience in a solicitor's office before commencing practice. It is also considered desirable that a candidate's ultimate choice between the two branches of the profession should be left to be made as late as possible.

The council, however, is of the view that five years of articles combined with part-time study is not the best method of preparation for the Bar, whatever may be the case for solicitors, and it therefore follows that anyone wishing to prepare himself for both branches of the profession should, in the opinion of the Council, attend the present Arts/Law course or the four-year course (with two full-time years) doing three years of articles, or should study law full-time for four years, followed by two years of articles thereafter. The Bar does not urge that the five-year part-time course should be abolished if the solicitors wish to retain it for their own purposes but does not recommend it as the best course for training at the Bar.

Effects of Restriction on Entry to Law School

The Council is aware that the Law School of the University of Sydney, in common with other faculties, intends to impose severe restrictions upon entry to the Law School. The Council believes that the consequences of this policy can be quite serious for the Bar, as, apart from the Australian National University, there is at present no other University available to residents of New South Wales which provides teaching in law at a University level. If, as the Council believes, it is a sound approach to legal education that it should take place in a University, then the restricted entry to the Sydney University Law School may force growing numbers of candidates for the Bar to present themselves for the examinations of the Barristers Admission Board. It therefore appears that, as the University of Sydney is

to restrict entry, the case for the establishment of a second Law School at the University of New South Wales seems to be unanswerable. It would be a most retrograde step if the opportunity to engage in legal studies at the tertiary level should be denied to large numbers of students and this would be especially so if the result were that the examinations of the Barristers Admission Board, instead of being a comparatively unusual method of preparing for actual practice at the Bar should become a regular and frequently used method.

If this were to happen it would make it necessary to provide some educational course of a tertiary standard for candidates qualifying through the Barristers Admission Board. The Bar Council is aware that the solicitors are considering the preparation and introduction of a scheme of tutorial assistance for those students doing the first two examinations of the Solicitors Admission Board.* The Bar Council holds the strong view that, in Australian conditions, no scheme of tutorial assistance for candidates for the Bar could be as effective as legal studies at a University Law School and hopes that it will never be necessary to improvise a second class system of legal education because the Universities cannot or will not receive all the students offering. If necessary the Bar Council will consider separately what help it can offer to those few who intend to practice at the Bar and who must, for special reasons, read for the examinations of the Barristers Admission Board, but is most anxious to see that their number does not rapidly increase because of inadequate facilities at the Universities.

In Melbourne, the Bar Council has learned, the University of Melbourne has restricted entry to its Law School and Monash University has been unwilling or unable to organise a faculty of law. As a result a considerable group of young students, excluded from the Melbourne University, have had to be provided with improvised courses urgently organised with the help of the Victorian Bar. Melbourne experience would indicate that this sort of crisis could occur in Sydney, perhaps next year, or, more probably, at the beginning of the following year, and the considered opinion of the Bar Council is that this should be avoided by forward planning. In particular the Council urges that if the Sydney University Law School cannot plan on a long term basis for the absorption indefinitely of all law students offering, it should be asked to receive such students at least until the University of New South Wales can organise a Law School and receive students.

The Bar appreciates the difficulties which the Sydney University Law School has at its present site but believes that it is unwise to create a crisis by restricting entry before full planning of tertiary legal education in New South Wales has been evolved.

The Bar takes the view that part-time lecturing at the Law School by practitioners serves a valuable purpose, even though it is open to some criticisms but feels that, if a second Law School is to be staffed, and if it is to be organised urgently to ensure that there is no serious gap between the beginning of any proposed restriction of entry at Sydney University Law School and

*Note:—This scheme is now in operation.

the availability of courses at the University of New South Wales, then the Bar will doubtless have to help by providing part-time lecturers at least at the University of New South Wales and the Council would do its best to ensure that this help was available.

The Council in general is opposed to the teaching of law by correspondence courses although, as a temporary expedient, it may sometimes be necessary. The proper teaching of law requires teacher or tutor and student to be brought together, and this involves the provision of a modern Law School at least for persons wishing to prepare themselves for admission to the Bar. This is in accordance with practice in other professions such as medicine, dentistry and, indeed, most other professional studies. The Bar Council is not opposed to the establishment of law schools in provincial centres as part of the long term plans for Universities and, for example, would not object to adequate law schools being set up Newcastle, Wollongong, Armidale or any other centre where a University is to be established.

Post Graduate Studies

The Bar considers that the time has come for serious consideration to be given to the provision of more specialised legal education at a post-graduate level. The complexity of law is increasing rapidly and whole new topics of practical and theoretic importance have come into existence during the last two decades. The Council takes the view that the degree course should not be overloaded with more subjects and that there cannot be included in the degree curriculum all the material which is necessary for proper practice at the present time. It would desire to see provision made for post-graduate courses in subjects of a theoretic and professional importance which it is not possible to include in the law course, and also in the case of subjects which are included in the law course, but with which it is not possible to deal in depth. It would like to see consideration given to the provision of diploma courses in such subjects as estate planning, taxation, local government,

criminology, and international legal relations, to mention only a few subjects. The Council envisages such a course or such courses as regular University courses, available to practitioners so that it would necessarily be a course for part-time students but involving working at a high level over two, or possibly three, years. Such a course should be the subject of examination and written work, and should result in some of public recognition for those who have attained a satisfactory standard. It would be prepared to use its best endeavours to make a success of any course along these lines which the University might develop.

The Post-Graduate Committee of the Department of Law in the University of Sydney has given a number of courses of lectures in important legal topics in recent years. The Council is grateful to the University of Sydney for this development and considers that in the planning of tertiary legal education, this should be recognised as an important activity of the Law School. It does not, however, consider that such courses are an adequate substitute for courses on advanced and specialised topics at a diploma level, as set out above.

Approach to University of N.S.W.

Following upon this submission to the Tertiary Education Committee, the Council through the President and the Vice-President and with the co-operation of Mr. Justice Sugerman, had informal talks with the Chancellor (Mr. Justice Clancy) and the Vice-Chancellor (Professor Baxter) of the University of New South Wales with the object of exploring the possibility of the establishment of a law school at the University of New South Wales. Consequent upon these discussions, the Council wrote to the University of New South Wales formally suggesting the establishment of a second law school at the University of New South Wales in order to cater for people desiring to enter the profession but unable to obtain admission to the University of Sydney Law School. It is understood that no decision has yet been made by the Council of the University of New South Wales.

Pre-Trial

A sub-committee report on this subject was circulated in June, 1962 so that members of the Bar could consider the matters raised in it, and express their views before the Bar Council gave the matter final consideration.

It will be remembered that the sub-committee outlined what may be described as the American pre-trial system and the English "summons for directions" method, with their respective merits and disadvantages and expressed a preference, if a pre-trial scheme were to be introduced into New South Wales, for the American system.

As a result of the circulation of this report, a number of very valuable suggestions and criticisms were received by the Council and a summary of these comments follows.

Comments from the Bar

Somewhat more than half of the members of the Bar who wrote in giving their views, were not desirous that there should be any substantial change in the present system of trial. They took the view that litigants were entitled to have their cases heard in the manner in which they or their legal advisers thought fit and that any limitation upon this right was to be avoided at all costs. If any alteration to present procedures was to be adopted, this should only occur after it was proved that it would be of benefit to the litigants themselves. The convenience of Courts, jurors, and the saving of time, are considerations secondary to the right of the litigant to have his case tried fairly and fully. The Courts have been created for litigants and not vice versa.