

committees, the task will be one of collation of material coming in from constituent bodies when their opinions are asked for on questions of Law Reform. There is a considerable amount of work carried out from year to year in the field of Law Reform and it involves far more time than honorary officers can give to it. It will be the task of the sub-committees to ensure that replies come in from the constituent bodies and are collated for use.

(5) *Sub-Committee on Publicity and Editorial Matters*

This committee will be located in Melbourne where the secretariat is to be established. Its task will be to ensure that through the various professional journals and in other ways detailed information is provided for the legal profession about the activities and work of the Law Council. The executive has decided that it is essential for the rank and file members of the profession

to be provided with much more information about the Law Council's activities. This sub-committee will attend to this task.

Over the next twelve months these various sub-committees will operate and an assessment will be made of the whole experiment. It is intended to seek to have eminent members of the profession participating in the work of the sub-committees in the various capital cities. Their membership will not be confined to members of the Law Council itself. In this way it is hoped many more lawyers throughout Australia will become actively engaged in the Law Council's work and this in itself will help to spread throughout the profession greater knowledge of that work.

If the honorary system, despite all of these proposals, cannot be made to work with proper efficiency then the profession will probably have to face up to the problem of organising a permanent secretariat.

Accommodation—Shortage of Chambers

Despite the building of a new set of Chambers equal in size to the original Wentworth Chambers there is still a very great shortage of space for existing members of the Bar and for a number, not yet in practice, who wish to begin. This situation is a cause of concern to the Bar Council and to Counsel's Chambers Ltd. In the new building there will be eight floors devoted to barristers' chambers and this is the maximum amount of space which could be provided for the Bar, having regard to the economics of the building and other factors which had to be taken into account. There are about seventy-five persons, in practice or wishing to begin, who cannot be accommodated in the new building. Assuming a net gain in membership of and aspirants to active practice at the Bar of only (say) five per year the position will be considerably worse in five years' time if nothing is done.

The Council has accordingly asked its Accommodation Committee to investigate the situation. On Monday, 19th November, 1962, the Committee called a meeting of all of those concerned in order to ascertain what real demand existed for Chambers, how many of those attending were prepared to subscribe capital and in what quantities and on what terms, what rents those attending would be prepared to contemplate and so on. Land values have risen significantly in this part of the city and it does not seem to be likely that in the future it will be possible to organise accommodation for barristers' chambers as cheaply as has been done up to date. Before any further co-operative planning can be undertaken it is therefore necessary to ascertain just how many persons are willing and able to engage in any practical scheme which may be evolved.

The meeting of those interested was invited to form a committee from amongst their own members to meet the Council's Accommodation Committee and to nominate two persons to join the Committee whilst it is dealing with matters relating to the provision of further space for the Bar. This was regarded as essential because active initiative participation and planning by

persons actually needing chambers is a necessary condition for effective action. Both the Council and Counsel's Chambers Ltd. are anxious to help but cannot, in a paternalistic way, solve all problems connected with the shortage of Chambers in the absence of active work by those needing chambers. A committee of those interested has been formed and is considering the problem.

The building of Wentworth Chambers and the new extensions to it has radically changed the position at the Bar. Most practitioners and aspiring practitioners want to be "at the centre of things" that is to say in Wentworth Chambers, but it is simply impossible to accommodate in those Chambers all who want to practice. The Bar as a whole has an interest in seeking a further communal solution to the chambers question, first because the health of the Bar as a profession is dependent upon reasonably free recruitment to it and the prevention of an artificial monopoly from emerging and secondly because it is desirable that all members of the Bar should practise in one area of the city and not be scattered by economic circumstances into various parts of the city. The institutions of the Bar will therefore be most anxious to help find a solution bearing these matters in mind. However it would be most unfortunate if the view spread that self-help is now unnecessary or impossible and it is for this reason that the Council has assembled those who are directly affected by the lack of space in order to see whether they are willing themselves to accept a real share of the responsibility for the working out of a co-operative and practicable solution.

It would be most undesirable if the impression grew that it is the sole task of the profession and of its governing bodies to solve these questions and that aspirants to the Bar are entitled to have things made easy for them without effort or risk on their part.

Further it must be appreciated that the valuable communal investment which the profession (or rather the bulk of the profession) now has in Wentworth Chambers cannot be imperilled by further ventures which are not

economically sound. It follows, for this and other reasons, that any scheme for further space for chambers, must be economically practicable and must thus be based upon payment of commercial rents or provision of adequate capital to finance a co-operative plan. Those who are shareholders in Wentworth Chambers still enjoy relatively cheap rentals (though these may be affected to some extent in the future by rising land values) because of wise investment policy and planning in earlier years but members of the Bar not shareholders in those Chambers and persons coming to the Bar in the future, like persons joining all other professions, must face the financial problem involved in providing chambers.

It is certainly in the interest of the Bar to seek ways and means of mitigating the impact of this financial problem on young men especially because of the desirability of ensuring the continuance of democratic recruitment to the Bar and everything will be done to help in this way. However it was always difficult to get started at the Bar. Once income was the trouble, now it tends to be chambers and the need for some capital. It would be unfortunate if the Bar, which has to a great extent solved its problems individually in the past, is unable to find a sensible mixture of co-operative effort and individual initiative in the future. Some think that the vigorous and successful development of communal institutions in recent years is sapping individual effort and initiative and producing a situation in which all look to the Bar Council or Counsel's Chambers to solve all problems. These institutions are built on individual initiative and can only thrive if self help is still a major factor in life at the Bar.

It may be added to what appears above, that the committee of those who will not be housed in the enlarged Wentworth Chambers has already entered into negotiations for the taking of two floors in a city building and if these are successful, the immediate problem of housing may be solved.

CONTRIBUTORY NEGLIGENCE AND THE ADMIRALTY RULE—AN ADDENDUM

The last Gazette (No. 4) contained a summary of a report on this subject matter which raised a number of matters which would need consideration before the precise form of amending legislation could be determined. The sub-committee has, since the last report, considered a number of these matters and has reached conclusions on them, and for the sake of completeness it is considered that these conclusions should be noted. In what follows the question posed in each case by the committee has been noted with the recommended answer to the question noted immediately past it.

- (1) Do problems arise from the last opportunity doctrine and should some attempt be made in the legislation to abolish it?

Recommendation: That in any amending legislation no specific reference be made to the doctrine on the last opportunity and that the Victorian rather than the Western Australian approach be adopted.

- (2) What provision should be made in respect of compensation to relatives' claims?

Recommendation: That as a matter of policy no recommendation be made other than indicating the view that it is in keeping with legal principle and principles of fairness and present social trends that the amendment having the effect of abolishing the defence of contributory negligence of the deceased should not as in other States make provision to apply the scaling down principle to these cases.

- (3) In cases of statutory causes of action should damages be reduced because of the fault of the plaintiff?

Recommendation: That, because liability in these cases as a matter of Government policy was made absolute and the reform does not directly raise or require alteration of this principle, this be pointed out with an indication that the Council considers the reform can be made without affecting the present liability, and the Council make no recommendation for any alteration of such absolute liability.

- (4) Whether in dealing with matters of jurisdiction and limitation of liability and the like, regard should be had to the gross amount of damage suffered, or the scaled down nett sum?

This question had in particular reference to the limitation of liability in the District Court and in Small Debts Courts.

Recommendation: The matters referred to should be limited by the nett amount recovered and amendments to achieve this with certainty should be adopted.

- (5) Whether in dealing with matters of costs such as rules to entitlement to costs or scales of costs the gross or the nett sum should be applied.

Recommendation: That except so far as in special cases some provision is made to the contrary, entitlement to and scale of costs be according to the gross damages sustained.

- (6) Whether any problems special to New South Wales arise because of our pleadings and whether it is desirable to frame special rules regarding pleadings, particulars, taking of the jury's verdict, etc.?

Recommendation: That the reform (and any necessary rules) be so drafted that

- (a) Separate findings are made by the Judge and jury in respect of
- (i) Whether the finding is for the plaintiff or the defendant on the plaintiff's allegation against the defendant
 - (ii) If for the plaintiff on (i) the total amount of the plaintiff's damage caused by the fault of the defendant
 - (iii) For the plaintiff or the defendant on the defendant's allegation of contributory negligence