

The Law Council of Australia

The Law Council of Australia continues to expand its activities. Its headquarters have now been moved to Melbourne where it has, for the first time, a home of its own. The new Secretary, Mr. Ivor Greenwood, of the Victorian Bar, is in the process of establishing an office on the ground floor of Owen Dixon Chambers. From this office, the various activities of the Council will be coordinated.

The committee system, under which the work of the Council is to some extent decentralised, has begun to operate. Mr. Charles Bright of South Australia is in charge of the allocation of tasks to three law reform committees in South Australia, Queensland and Western Australia. He has also organised committees to consider the problem of the proposed restrictive practices legislation, the working of the Companies Acts and the Matrimonial Causes Act, and the proposed legislation on the Federal Courts. Law Reform is an important part of the work of the Law Council which endeavours to keep its constituent bodies active in this field. As to restrictive practices, the Australian Bar Association recognising that this matter was one for the Law Council to deal with, reported to the Council that it was drawing the attention of the Bar Associations to the need for ensuring that certain basic principles were observed in relation to any Restrictive Practices Tribunal. The Executive of the Law Council took this matter up and listed certain fundamental matters upon which it is to approach the Commonwealth Attorney-General. A detailed report on this question will be later prepared after consideration has been given by the constituent bodies to the issues involved. The Executive has also decided to ask the Commonwealth Attorney-General to set up a committee to examine the prospects of organising in Australia a scheme of legal aid and advice, similar in principle to the system operative in the United Kingdom. The suggested scheme would apply to matters arising in the Federal Courts or under Federal law. Another proposal to be placed before the Commonwealth Attorney-General is that a Federal Council of Law Reporting should be established.

The Law Council's international interests are developing. It is anxious to increase its contacts with the professions in South and South Eastern Asia, is exploring the possibility of establishing a regional Bar Association in this part of the world and is investigating the possibility of assisting lawyers from the area to obtain experience and extend their studies after they qualify by spending some time in Australia. Arising out of this, it is thought that it may be possible to produce a statement of comparative law covering the various countries in this area. Such a work would be of great value not only to the Government and the legal profession, but also to commercial and industrial interests. The Council is also interesting itself in legal education for the indigenous people in New Guinea and one of its committees will prepare submissions on this to be presented to the Commonwealth Government's Committee on Tertiary Education for New Guinea.

The Organising Committee for the 1965 British Commonwealth Conference has continued its work. The President of the Council, Mr. J. B. Piggott, C.B.E., and the Chairman of the Organising Committee, Mr. P. B.

Toose Q.C., will visit several British Commonwealth countries during June and July. They will do so whilst abroad as guests of the American Bar Association attending the World Peace through Law Conference at Athens. During this visit, plans for the Conference will be discussed with the profession in the Commonwealth countries visited. They have already had similar discussions in New Zealand during their recent visit there.

The 13th Legal Convention—Hobart

The 13th Legal Convention of the Law Council of Australia was held in Hobart between 19th and 26th January, 1963.

This Convention broke new ground in several respects. It was the first one held in Hobart; it was the first one held during the Long Vacation and it was the first one to which practitioners were invited to bring their children. Many of those who attended travelled to Hobart aboard S.S. "Strathmore" which reached Hobart on the Wednesday preceding the commencement of the Convention thus giving additional opportunity for sightseeing. The attendance at the Convention was much higher than at any previous Convention and it can be safely stated that it was extremely successful.

The burden imposed upon the practitioners of Hobart, who number only about seventy in all, not only during the hectic week of the Convention itself, but in the months of preparation before, must have been tremendous, but, at any rate from the point of view of the visitors, produced the most happy results.

The programme of papers was noted in Bar Gazette No. 5, and need not be here repeated. Copies of the papers and commentaries have been published in the Australian Law Journal for February, 1963.

Of the visitors who were expected, some were unable to attend. Nigeria was in fact represented by the Hon. Mr. Justice Coker who made a delightful speech at the Convention Dinner as well as a thoughtful contribution to the discussion on the paper on "Family Law". The General Council of the English Bar was represented by Mr. R. J. A. Temple Q.C.

During the course of the Convention, the Inaugural General Meeting of the Australian Bar Association was held as noted elsewhere in this issue.

Apart from the purely professional papers, one of the most thought-provoking speeches at the Convention was made by Mr. Silvester Smith (President of the American Bar Association), at the Convention Dinner. In the course of this speech, Mr. Smith expressed the view that Australia, by reason of its geographical position and its advanced stage of legal development, might give a lead in the establishment of a regional Bar Association for South-East Asia, with the object of encouraging the maintenance of the rule of law in that region. It appears that the Law Council is taking steps to explore the implications of the suggestion, and that there has been some informal discussion of it in New Zealand (see note on the New Zealand Law Conference).

The Commonwealth Attorney-General (the Hon. Sir Garfield Barwick) took advantage of the occasion offered by the Convention to give to the profession a somewhat more detailed account of his plans for legislation on Restrictive Practices than had hitherto been made public. It will be recalled that, in the planning stages of the Matrimonial Causes Bill, he addressed the 11th

Legal Convention at Perth upon the subject, thus giving the profession the opportunity of considering the principles upon which the proposed legislation was based and of making suggestions and criticisms for its ultimate improvement.

It is gratifying that the Attorney-General has again given the profession (as well as other interested bodies) the chance to consider the legislation before final drafting has taken place, since once drafting is complete, there is not much opportunity for influencing the general structure of a bill.

The New Zealand Law Conference

The Twelfth Triennial Conference of the New Zealand Law Society was held in Auckland between 16th and 19th April, 1963. The detailed organising of the Conference was carried out by an Auckland Organising Committee under the chairmanship of Mr. L. F. Meller.

The Conference was attended by a number of overseas guests who included the Right Honourable Baron Parker of Waddington (Lord Chief Justice of England) and Lady Parker; the Honourable L. J. Herron (Chief Justice of the Supreme Court of N.S.W.); the Honourable Sir Charles Lowe (Senior Puisne Judge of the Victorian Supreme Court); Sir Thomas Lund C.B.E. (Secretary of the Law Society of England); Mr. G. B. Powers and Mr. J. Balch, both from Kansas, U.S.A.; Mr. J. B. Piggott C.B.E. (President of the Law Council of Australia); the Honourable R. R. Downing M.L.C. (Attorney-General for N.S.W.); Maître R. Tenger (Avocat à la Cour d'Appel of Paris); and Mr. H. R. Harris (Senior Tutor in Law at Balliol College, Oxford).

In addition, there were some fourteen other visitors from Australia including the President of the Victorian Bar Association (McInerney Q.C.), Toose Q.C. of the N.S.W. Bar and Mr. K. Smithers (President of the Law Society of N.S.W.).

The Conference was attended by all members of the New Zealand Judiciary who were actually in the country at the time. It is interesting to note that there were in fact fifteen members of the Court of Appeal and the Supreme Court; four other judges and seventeen magistrates. The total attendance of practitioners was over 600, many accompanied by their wives. This is an extremely high proportion of the New Zealand profession, much higher than attends conventions in Australia.

Papers were presented on the following subjects: "The Law of Torts and the Welfare State"; "Frustration and Force Majeure—The Common Market and The Common Law"; "The New Zealand Constitution—Aspects of Change and Development"; "Public Relations for a Profession"; "Pensions for Judges' Widows"; "Medical Panels for Medical Questions"; "The Reform of the Law regarding Maintenance and Settlement of Property Rights Between Spouses in Matrimonial Disputes"; "Some Problems in the Theory and Practice of Criminal Punishment"; "Just How Indefeasible is Your Land Transfer Title"; "A criticism of the Interpretation of Statutes in the New Zealand Courts"; "Proposed Land Transfer Searching System"; "The Passing of the Risk from Vendor to Purchaser in Property Transactions"; and "The scope of the Child Care Centre Regulations, 1960".

Many social functions, particularly at private homes

and luncheons at Clubs, were arranged to enable delegates to mix freely.

In the Conference Programme, no Australian delegate was given the opportunity to speak on any official occasion although Australian delegates spoke on several of the papers. This was possibly due to the fact that in the past the Australian profession has not taken much interest in what has been happening in New Zealand, and accordingly the size and content of the Australian delegation was not really expected. The New Zealanders were obviously pleased that so many Australians had attended and that they took such an active part in both the business sessions and social functions.

The New Zealanders were particularly gratified because the Law Council of Australia presented the New Zealand Law Society with a modern sculpture intended to symbolize our common past and what was likely to be our common future. This presentation was made by the President of the Law Council (Mr. J. B. Piggott) at the closing ceremony.

It is interesting to note that although the New Zealand Profession is a fused Profession, when practitioners take Silk, they are required to practise separately as Barristers. Recently, in addition to the Silks, about nine juniors have commenced practising separately as Barristers, some in Auckland and others in Wellington.

After the conference was over Messrs. McInerney, Toose and Piggott visited Wellington and were entertained at the Headquarters of the New Zealand Law Society and also by Mr. Guy Smith, the President of the Wellington District Law Society. Council Members said that they were very anxious to have regular consultations with the Law Council of Australia, and there was some discussion as to how this could be achieved in the near future. The subject will no doubt be placed before the Law Council at the next meeting of its Executive.

In addition, the question of whether New Zealand Law Society and the Law Council of Australia should join together to make contact with all Law Societies and Bar Associations throughout South East Asia was discussed and the idea was received warmly. The Deputy Prime Minister (Mr. Marshall), himself a lawyer and former Attorney-General, expressed his support for the idea in principle and indicated that his assistance could be counted on to support such a scheme.

The Public Library of N.S.W.

The Bar Council has recently received from the Trustees of the Library a memorandum as to compliance by the Library with subpoenas for the production in Court of Library material.

The essence of the memorandum (a summary of which has been circulated to all floors) is that original library material will be produced if the requirements of justice cannot otherwise be satisfied but that certified photographic copies can be furnished at the ordinary charges made by the Library's Photographic Service. If the required material is still in print and can be obtained commercially, the Library will provide information as to where it may be obtained.

If the requirements of justice can be satisfied only by production of original material, it will be handed to a representative of the Prothonotary, who will be required to return the material to the Library at the end of each Court day whether the case for which it is required has been concluded or not.