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IN THIS ISSUE:

TWO DISTINGUISHED MEMBERS OF THE BAR

On 28th September the legal profession paid high tribute to Mr Justice Smith upon his retirement as a Judge of the Supreme Court The profession has lost from the Bench a good friend, the Supreme Court has lost an outstanding Judge and the community has lost a strong and sympathetic protector An article in this issue refers to some of the great achievements of his career

The Bar learnt with pleasure that Mr Justice Smith is to be appointed the first Commissioner of the Law Reform Commission The community will benefit greatly from the application of his deep knowledge of the law, his energy and his realistic progressive approach to the reform of the law The Bar notes with satisfaction that one of the first tasks of the Law Reform Commission will be to consider ways of overcoming delays in the courts The Bar Council forwarded to the Victorian Government and the Judges its resolution of 31st May 1973:— That the Bar Council join with the Law Institute Council in welcoming the policy of the Victorian Government to establish a Law Reform Commission and in recommending to the Government and to the Judges that the Law Reform Commission or the Victoria Law Foundation initiate an early and comprehensive inquiry into the practicability of new procedures reducing the cost and delays of litigation without reducing the present high standards of the Courts

The Bar is particularly pleased that the place of Mr Justice Smith on the Bench has been taken by its distinguished former Chairman, Mr Justice Harris He was Chairman of the Bar during a period of change without precedent in its history Under his chairmanship the Bar introduced the Young Barristers' Committee, increased representation of young barristers on the Bar Council, extensively appointed volunteers to Bar Committees, relaxed the rules which precluded barristers from speaking in public, altered the rules to enable barristers to participate fully in legal aid services and took a lead in the initiation of substantial law reforms Just before the end of his term of office the Bar Council adopted a recommendation to which he was a party, which recommended the introduction of a comprehensive new system of Bar administration During this time the Victorian Bar News was developed to keep barristers informed of the actions and policies of the Bar Knowledge of the affairs of the Bar and the opportunity of taking part in Bar decisions extended more widely amongst members of the Bar over this period than ever before One of his main achievements as Chairman was the cementing of the excellent relations which now exist between the Bar and the Law Institute

The Bar has cause for pride in the achievements of Mr Justice Smith and Mr Justice Harris

The Editors.

NEW SYSTEM OF BAR ADMINISTRATION

On 19th September 1973 the Bar Council adopted and decided to implement the recommendations of a committee which had made a thorough study of the administration of the Bar Council. The Committee, Young, Q.C. (Chairman), Harris, Q.C., McGarvie, Q.C. Hansen and Heerey recommended fundamental improvements in administration On 4th October the Bar Council adopted a comprehensive system to implement the recommendations

Secretariat

A secretariat consisting of the Chairman, Vice Chairman, Secretary, Assistant Secretary, Registrar and Administrative Officer attends to all new business as it arises New matters are referred directly to the appropriate committee or officer for report or action The secretariat is responsible for ensuring that the decisions of the Bar Council and the Administrative Committees are carried out

Bar Staff

The Registrar, Mr Edwards, will be freed of duties in connection with barristers' tenancies and other duties for Barristers'

Chambers Ltd. This will enable him to devote sufficient time to the administration of the affairs of the Bar. It will reduce the undue load of administration which has been borne by members of the Bar Council. The Registrar, the Administrative Officer, Miss Brennan, and the Secretary Typist will concentrate on the administrative work of the Bar. A Clerical Assistant may soon be engaged.

It has been decided to engage an Accommodation Officer to deal with barristers' tenancies and the affairs of Barristers' Chambers Ltd. The Caretaker, Mr. Brown, will continue to look after the care and running of the buildings.

New Administrative Committees

Four administrative committees consisting of members of the Bar Council now operate immediately below the Bar Council. These are the executive Committee, the Ethics Committee, the Law Reform Committee (which covers also Legal Aid and Legal Education) and the General Committee. They are entitled at their discretion either to act on behalf of the Bar Council or to recommend action to the Bar Council. Standing and special committees and Bar appointees to outside bodies will each report to one of the administrative committees. The Chairman and Vice-Chairman of the Bar Council will be members of the three administrative committees other than the Ethics Committee.

Representing the Bar at Social Functions

In the past the Chairman, in addition to an enormous work load of administration, has been the invited Bar representative at an ever expanding number of dinners and social functions given by organisations outside the Bar. To ease the burden on the Chairman, the Vice-Chairman or another member of the Bar Council arranged by him will usually represent the Bar at outside social functions.

Experimental Period

The new system of administration has been introduced for a trial period to May 1974. Under the scheme most of the countless administrative decisions which need to be made in the ordinary life of the Bar are made by the four administrative committees and the board of directors of Barristers' Chambers Ltd. usually on the recommendation of a standing or special committee. The Bar Council has sufficient time to consider and debate fully the important questions of basic Bar policy which abound in these changing times. Usually it has the advantage of a recommendation on the question from one of the administrative committees, the directors of the company or the Young Barristers' Committee. By having most of the routine administration done by the Bar staff its burden is in effect borne by the Bar as a whole through their subscriptions instead of being placed on the shoulders of the members of the Bar Council holding the various offices. Under the new system the Chairman, Vice-Chairman, Treasurer, Secretary and other officers should be able to devote most of their time to the important duties of their offices and less time to acting as unpaid clerical assistants.

Volunteers

In response to the invitation for volunteers more than fifty counsel offered to serve on Bar committees or as representatives of the Bar on outside bodies. In making appointments to standing committees the Bar Council has in most cases appointed volunteers from the Bar with one member of the Bar Council to keep contact between the Bar Council and the committee. The names of volunteers not yet appointed to a committee have been listed for appointment to one of the many special committees which are appointed during the year to consider particular questions as they arise.

JOINT STATEMENT ON THE MARKING OF BRIEFS AND THE PAYMENT OF COUNSELS' FEES

On the recommendation of the Joint Standing Committee on Fees and Costs the Victorian Bar Council and the Council of the Law Institute of Victoria have each adopted and now make the following joint statement to operate from 1st January, 1974:—

Briefs to Appear on Trial in the Supreme Court in Personal Injury cases and Matrimonial Causes and in County Court and Workers' Compensation Board Cases

1 In the absence of agreement upon a

different fee before or upon acceptance of a brief to appear on trial, the fee payable to counsel in personal injuries cases or matrimonial causes in the Supreme Court is the standard minimum fee for the time being recommended by the Bar Council for the brief.

2. In the absence of agreement upon a different fee before or upon acceptance of a brief to appear on trial, the fee payable to counsel in County Court and Workers' Compensation Board cases is the scale fee for the brief appropriate to the amount claimed in the action.

3. Counsel may agree upon a fee for a brief to appear on trial in the County Court or the Workers' Compensation Board which is less than the scale fee for the brief appropriate to the amount claimed so long as the agreed fee bears reasonable relationship to the amount which might reasonably be expected to be recovered in the action.

Briefs to Appear on Trial in the Supreme Court in cases other than Personal Injury Cases or Matrimonial Causes

4. In the absence of agreement upon a different fee before or upon acceptance of a brief to appear on trial in the Supreme Court in a case other than a personal injury case or a matrimonial cause the fee payable to counsel is the fee which counsel or his clerk marks on the brief so long as that fee is reasonable for that counsel and is in accordance with the practice of the Bar.

All Briefs to Appear on Trial

5. Subject to any statutory provision to the contrary, where there is agreement on the fee for a brief to appear on trial the fee to be paid to counsel by the solicitor is that fee notwithstanding that it may be higher or lower than the standard minimum fee for the time being recommended by the Bar Council for the brief in the Supreme Court or than the scale fee in the County Court or Workers' Compensation Board appropriate to the amount claimed in the action.

6. If no fee is marked by the solicitor on a brief to appear on trial counsel is entitled and under a duty to mark the fee on the brief before appearing in the proceedings.

7. The special circumstances of the litigation may be such that the marking of a fee on the brief to appear on trial may be impracticable, in which case an agreement should be made, before or upon acceptance of the brief as to the fees to be paid. It is preferable that the agreement be reduced to writing and a copy kept by each party to it. In such cases, in the absence of agreement upon the fees to be paid, the fees payable are the fees charged by counsel so long as those fees are reasonable for that counsel and in accordance with the practice of the Bar.

8. It is always proper for a solicitor before the brief is delivered to mark a fee on a brief to appear on trial. This gives counsel the opportunity of declining to accept the brief at the fee marked. If he accepts the brief the liability of the solicitor is clearly defined and the possibility of later differences regarding the fees payable to counsel is reduced to a minimum.

Payment of Counsels' Fees

9. Counsel are entitled to prompt payment of their fees and it is the duty of solicitors to avoid delay or procrastination in paying counsel's fees. In the absence of an arrangement to the contrary between the solicitor and counsel or his clerk, counsels' fees in all matters should be paid within 90 days of the rendering of the voucher for fees.

NOTE BY THE EDITORS ON THE OPERATION OF THE JOINT STATEMENT.

After extensive discussions the Joint Standing Committee on Fees and Costs (on which the Bar representatives were McGarvie, Q.C., Walsh and Sher) recommended the joint statement to the two Councils and both have adopted it. The substance of the statement proposed by the Joint Standing Committee was set out in the March issue of Victorian Bar News p.13

The joint statement partly replaces that of December 1962 (Law Institute Journal, Vol 36, p. 517). The new joint statement recognises that, while counsels' fees may be negotiated at higher or lower levels, the Bar Council has recommended as standard minimum fees, fees which it considered were reasonable and proper in normal cases. It also adopts the principle followed by the Bar of New South Wales since June 1972 which recognizes that where a scale of fees is prescribed it is proper for counsel to mark a fee which is appropriate to the amount which might reasonably be expected to be recovered in the action. This amount will often be less than the amount claimed in the action. In these questions counsel is free to make his own decision on the matter subject only to the general rule against touting.

Because cases in the Supreme Court other than personal injury cases and matrimonial causes vary greatly amongst themselves in the degree of difficulty and responsibility involved, they have been treated separately

In the Supreme Court in personal injuries cases and matrimonial causes, unless there is an agreed fee, the fee payable is the standard minimum fee prescribed for silks and juniors respectively. Counsel desiring to charge a fee which is more than the standard minimum fee should therefore ensure that the higher fee is agreed between his clerk and the solicitor before or on acceptance of the brief. As standard minimum fees are recommended only for Melbourne cases and do not apply to circuit cases the joint statement does not affect the existing practice for circuit cases

In the Supreme Court in cases other than personal injury cases or matrimonial causes, unless there is an agreed fee, the fee payable is the fee marked by counsel so long as it is reasonable for that counsel and in accordance with the practice of the Bar. If, for example, a junior counsel charged the same fee as senior counsel with whom he appeared, that fee would not be in accordance with the practice of the Bar.

In County Court and Workers' Compensation Board cases, unless there is an agreed fee, the fee payable is the scale fee for the brief appropriate to the amount claimed in the action

A solicitor desiring that the fee be one which is less than the fee appropriate to the amount claimed in the action should therefore ensure that the lower fee is agreed with counsel or his clerk before or on acceptance of the brief.

The joint statement recognises the duty of counsel as a member of the Bar to have a fee marked on his brief before he appears in the proceedings in the usual case. It also recognises that in special cases the remuneration of counsel by a brief fee and refreshers and the marking of a fee on the brief is inappropriate. In these cases, such as cases before the Commonwealth Conciliation and Arbitration Commission, it is desirable that there be a special agreement before or on acceptance of the brief as to the fees to be paid. In the absence of agreement upon fees the fee payable is the fee charged by counsel so long as it is reasonable for that counsel and in accordance with the practice of the Bar

The effect of the joint statement will be to encourage agreements upon fees, which in practice reduces to a minimum, differences regarding fees payable to counsel. It acknowledges that if a fee is agreed, that is the fee to be paid

The joint statement does not in any way alter the position which is, and remains, that it is improper conduct for counsel to agree on a contingent fee to vary according to the amount recovered or to wait until the amount recovered is known and then mark a fee based on that amount

The joint statement does not cover fees payable on briefs other than briefs to appear on trial before the Supreme Court, the County Court and the Workers' Compensation Board. The fees payable on trial briefs in other courts and fees in interlocutory proceedings and briefs to advise or draw or settle documents and the procedures for the recovery of overdue fees will be considered by the Joint Standing Committee on Fees and Costs, on which the Bar representatives are now Fullagar, Q.C., Walsh and Sher

The joint statement restates the existing position which covers all fees — that in the absence of an arrangement to the contrary counsels' fees in all matters should be paid within 90 days of the rendering of the voucher for fees.

LETTERS TO THE PRESS AND ARTICLES.

At its meeting on 18th October 1973, the Bar Council adopted the following rule:

1 Subject to the general prohibition against touting a barrister may contribute an article or write a letter for publication on a legal or non-legal subject and may, in so doing —

(a) be identified by name;
(b) include the description "barrister" or "Barrister-at-law";

provided, however, that a barrister may not, without the permission of the Ethics Committee, write for publication or cause or permit to be published, any particular of —

(i) his life, practice or earnings at the Bar; or

(ii) any matters in which he has been engaged as counsel, unless, he can do so without disclosing information imparted to him in confidence and still confidential, and without giving publicity either to his own appearance in the matter or the part which he played in it.

2 If the Bar Council is of the opinion that the publication or the repeated publication of articles or letters by a barrister constitutes advertising or touting, it may, after calling on the barrister concerned to show cause, and hearing him in relation thereto, direct that such barrister shall not publish under his own name any article or letter on a legal or non-legal subject for such period as the Council thinks fit, without the permission of the Bar Council, which shall have absolute discretion to withhold such permission or to grant it with or without such conditions as it thinks fit. The Bar Council may rescind or vary any such direction upon such terms (if any) as it thinks fit.

COURAGE IN THE NEW PROFESSION OF INDONESIA

"There is no country in the area, including my own, which meets the high standards which the objectives of Lawasia seek to achieve for the legal systems of its member countries", said Professor Hal Wootten, Q.C. at the closing ceremony of the Third Lawasia Conference in Jakarta in July. He said that it was often suggested that Lawasia as an organization should intervene to seek a change in some undesirable aspect of the legal system of a Lawasia country. "Although this may be occasionally necessary", he said "it is usually the best policy to rely on the hard work and courageous stands of the legal profession in that country to bring about the change".

Delegates attending the conference were impressed by the hard work and courageous stands being taken by the Indonesian legal profession. This is demonstrated by the way in which it stands for and provides legal assistance for the poor of that country Delegates came to realise during the conference that in a country where there is a paucity of operative democratic institutions it falls to the lawyers to speak for the people who are poor or oppressed or victimised. It is the lawyers who can encourage and assist them to rely on their legal rights and to turn to the courts for protection.

At the opening ceremony of the conference the President of Indonesia, President Suharto, said "Indonesia being a country based on law and not on mere power — as categorically stated in our constitution — I therefore welcome with pleasure the fact that Indonesia has been selected as a meeting ground to discuss various law problems" In a speech to the People's Consultative Assembly on 12th March 1973, the President said "The task of the legal institution is to defend (on free of charge basis) poor and helpless people in the extraordinary military court and in

the District Court. In this sense the importance of the lawyers task in a judicial process has been realised".

It is to the credit of Indonesia that the President expresses support for the law and for legal aid. Delegates at the conference became aware of some differences between stated policy and practice. It was seen that the Indonesian legal profession in the provision of legal aid faces unique impediments and discouragement

When Lawasia decided that legal aid was to be one of the subjects at the conference, Mr. A. Buyung Nasution, a prominent young member of the Bar, a leader in the development of legal aid in Jakarta, and the Director of the Institute of Legal Aid run by the Indonesian Bar Association in Jakarta was asked to prepare a paper. He was also appointed to chair the sessions on legal aid at the conference. As he is also Indonesia's representative director on the International Legal Aid Association his choice was natural. The paper was prepared and the conference drew near. Then various people in Jakarta became aware that it was the will of a powerful figure in the Indonesian administration that Buyung Nasution should neither present his paper, nor chair the conference sessions on legal aid The will of this man is not lightly to be disregarded in Jakarta. So the invitation to chair the sessions and present the paper was withdrawn and other arrangements were made. The other paper writer on legal aid in Indonesia, a professor, whose paper dealt mainly with legal aid provided to the poor under supervision by law students of his faculty, was appointed chairman of the sessions. Nasution was not prepared to have his paper read at the session by someone else. unless he would be free without restriction to comment upon it As this assurance was not forthcoming he withdrew his paper and did not speak at the sessions.

Another member of the Bar, the Secretary of the Legal Aid Institute of the Indonesian Bar Association, was requested to prepare a paper. Understandably in the circumstances, whilst stating that legal aid was provided by this Institute he gave no details of its operation or magnitude. The Chairman was in a difficult position. Aware of the circumstances in which he had been substituted as chairman, the discussion of the Indonesian legal aid scheme in the first three conference sessions was concentrated upon the provision of legal aid by students. In Indonesian courts a litigant may be represented by another person whether a qualified lawyer or not.

A number of delegates from other countries warned of the undesirability of a legal aid situation in which the rich are represented by experienced legal practitioners while the poor are represented by unqualified students Most delegates from overseas assumed from what they read in the papers and heard in the sessions that in Indonesia the bulk of legal aid to the poor was provided by students and that the contribution of the legal profession was a marginal one only.

In the papers and the sessions, disparaging comments were made about the standards of the practising profession in Indonesia and its role in legal aid. It was said of a proposal that new law graduates should spend a period in the full time provision of legal aid, that this would mean that the poor would be assisted by the eager young lawyers instead of "tired professionals". The law students in their court appearances were said to have proved to be a match or more than a match for the practising lawyers. It was also stated that practitioners who did do legal aid work for the poor were on occasions offhand, and did not do the work well This position was described as having a first class man providing a second class service for the poor.

At the end of the third session, many overseas delegates had formed a poor impression of the Indonesian practising profession. It appeared that most of the legal aid was provided by students, that the practising profession was little interested in providing legal aid, and when they did legal aid work, they did it in a half hearted manner, falling short of proper professional standards.

On the evening after the third session there was a reception to delegates by the Indonesian Foreign Minister, Mr Adam Malik A lot of discussion took place

between overseas delegates and members of the Indonesian practising profession. Here a totally different picture emerged. It was learnt that the Jakarta Institute of the Indonesian Bar Association under the directorship of Buyung Nasution employs fifteen lawyers who are engaged in full time provision of legal aid to the poor. It also provides legal aid through the practising profession on a basis similar to that of the statutory legal aid scheme in Victoria. The Indonesian Bar Association Institute receives its resources from funds made available by the municipality of Jakarta and private sources, and from the work, time and advice provided by the legal profession in Jakarta. In a year the Jakarta institute conducts some 3,600 cases, while the particular law students' scheme which had featured so prominently in the conference discussions conducts about 200 cases

At this stage delegates were becoming aware of the removal of Buyung Nasution from Chairmanship of the sessions and the fact that he had not been permitted to present his previously prepared paper. The difficulties confronting the Indonesian profession were becoming known.

The work of the Indonesian legal profession and its legal aid institute bring it into frequent conflict with the administration Delegates learnt of a case where the administration had decided to build a V I P. village near the Great Stadium in Jakarta. People living in the area on which the village was to be located were removed by the administration without legal right and without compensation Some 200 of the villagers who had been removed from the land sought the assistance of Buyung Nasution He brought an action on their behalf in Court claiming compensation and succeeded. The action received substantial publicity and caused the administration real embarrassment. Many cases in which the Legal Aid Institute acts bring administration disfavour upon the practising profession. After industrial disputes, it often happens that a union leader is charged with being a communist The legal aid shceme often defends these charges When it is successful in defending such a charge before the courts its problems are not over. Because the man has been charged with being a communist there is often difficulty in having him reinstated in his previous employment. There have been cases where the legal aid scheme has then successfully brought an action on behalf of the man seeking his reinstatement In other situations the legal profession acts as an information network. On occasions lawyers are approached by a harrowed wife who informs them that her husband left for work in the morning, and has not been seen or heard of since. Through the network of cameraderie amongst lawyers inquiries reveal that the man has been arrested by the political police and is being held at a particular place. Although the unfortunate wife has little ground for hope that she will see her husband within the near future, it is a great comfort to her to know where he is and what has happened to him.

All these activities make the legal profession unpopular with a rigid administration which has not learnt to tolerate opposition. A man who provides a refreshing contrast is the Governor of Jakarta, Ali Sadakin. His municipality provides much of the funds which finance the Jakarta Legal Aid Institute. When asked why he supported a scheme which so often opposed his administration in court, Ali Sadakin once said "I try to do my best as Governor to be fair to the people, but I and my administration make mistakes I am glad to have these fellows in the legal aid scheme to correct mistakes that are made".

The Government by decree has prohibited the Jakarta Institute from providing legal aid outside the limits of Jakarta. Only a week or so before the conference the Indonesian Bar Association has resolved to disregard this decree. Delegates learned that in other cities legal aid was provided by the practising profession under separate legal aid schemes.

In Jogjkarta the legal profession has its own legal aid scheme and represents many poor persons who are on charges. It relies on information from journalists to know who is being arrested and who is in need of a defence. The delegates learnt that it is government policy for all legal aid outside Jakarta to be provided by law student systems.

By standing in effect, in the words of Sir Owen Dixon, "between the subject and the Crown, and between the rich and the poor, the powerful and the weak", the private profession in Indonesia has become regarded by some powerful figures in the administration as an organization to be resented and deprived of its influence amongst the prople. Hence the apparent desire to downgrade the profession and its prestige, and to give prominence to the legal aid provided by law students.

Between the third and the fourth sessions delegates became aware that members of the Indonesian legal profession were smarting with indignation about the statements which had been made about them in the legal aid sessions, and about the deliberate attempt to downgrade them in the eyes of their professional colleagues from overseas It was their strong desire that delegates from over seas should be told the real position in Indonesia before the end of the conference. A number of overseas delegates resolved to try to bring this about.

Mr. David Jones, a member of the Council of the Law Institute of Victoria, had presented two excellent papers on legal aid at the conference At the fourth session on 18th July, he was entitled to speak shortly on his paper about the financing of legal aid schemes. When it came his turn to speak he devoted the whole of his time to an outline of the legal aid being provided by the Indonesian legal profession This was the first occasion on which many delegates had heard that there was any worthwhile legal aid being provided by the profession.

A number of overseas delegates decided to ask questions designed to obtain more detail about the legal aid work being done by the Indonesian legal profession and about the standards of that profession.

An Australian delegate obtained the call and went to the microphone to ask a question about the financing of legal aid provided by the practising profession. He commenced by stating that he wished to make an apology to the conference hosts, the Indonesian legal profession. He expressed his respectful agreement with the wise words of the President quoted above as to the desirability of legal aid. He acknowledged that there had been reference in the papers to the fact that legal aid was provided free of charge to people who were poor and helpless by the Indonesian legal profession. He recalled the disparaging remarks which had been made about the Indonesian legal profession and said that he had gained the impression that the practising profession of Indonesia did little by way of legal aid and that what it did was done badly Having real all the papers, and been present at all the sessions, his impression was that most legal aid was provided by students, he said. He had been surprised by the reference to "tired professionals"; he had been surprised to learn that students were a match for practising lawyers; and he had been surprised to learn that in legal aid matters first class professionals, on occasions, gave second class work, apparently not caring about the rights of the poor person given legal aid. He expressed regret that so little had been heard of the extensive legal aid work of the Indonesian profession at the earlier sessions. He added that he had formed a poor impression of the standards of the Indonesian host legal profession, and of their interest in securing legal justice to the poor. He humbly apologised for the poor impression which he had formed of the Indonesian practising profession. He added that from his long experience of his own legal profession, and offices held in it, he should have known better. He mentioned the discussions with Indonesian practitioners which had taken place since the last session. He stated that delegates had now found that the Indonesian legal profession had the high standards and the

high devotion to the interests of the poor which one expects of an independent legal profession. He said that he was proud to be associated with a legal profession of the quality of the Indonesian legal profession He than asked his questions: What legal aid is provided in Indonesia by the practising profession; how is it provided; and how it is financed? He said that he did not direct the question to the chairman who had said earlier that his main experience lay with the provision of legal aid by students He asked that the questions be answered by Mr Tasrif, the President of the Indonesian Bar Association if he were present, or by another practising member of the Indonesian legal profession

This question evoked a strong and prolonged attack on the questioner by the chairman, This was finally brought to an end by another delegate taking the point of order that the chairman was abusing his position as chairman in making a personal attack on a delegate. The chairman ceased his attack but the questions remained unanswered The chairman called for further questions, and these were dealt with,

During the questions from the Australian delegate, an Indonesian practitioner had gone to another conference room, and brought Mr. Tasrif to the legal aid session. The chairman gave him an opportunity of addressing the session He dealt with the questions by the Australian delegate in the manner which one would expect from the leader of an independent profession. In the course of his address he explained the close co operation which exists in Indonesia between the advocates and programmes engaging law students in legal aid, but emphasised that in his view the role of the students was supplementary only and that the final responsibility for the conduct of the affairs of legal aid clients lay with members of the legal profession.

The fifth session on legal aid was to settle the terms of the report to conference. A number of overseas delegates moved amendments to the draft report to ensure that the primary role of the legal profession in providing legal aid for the poor both in Indonesia and elsewhere received due emphasis. At this session the chairman apologized for his outburst at the fourth session. The Australian questioner later privately expressed regret to the chairman if he had caused him offence.

In later discussions delegates discovered that the Indonesian legal profession was greatly encouraged by the support which it had received from overseas delegates in the closing sessions on legal aid. One Indonesian lawyer said that the profession was accustomed to being attacked and it was a new and pleasant experience to find it being supported by overseas practitioners.

The strength and resilience of the Indonesina legal profession in maintaining its independence in the face of active opposition from the administration is all the more creditable in view of its recent development as a sizeable independent profession In his address, Professor Wootten mentioned that when he had gone to Jakarta some six years ago with a view to inviting Indonesian membership of Lawasia he had searched in Jakarta for a long time before he was able to find a private practitioner. The legal aid session was told that in Indonesia private practitioners traditionally have a lower status than lawyers in government employment Most law graduates seek government employment with its attendant prestige and official car and other advantages. The private profession although still small, has grown rapidly and displays an admirable independence and social conscience.

The treatment of Buyung Nasution attracted comment from Indonesian Newspapers. The columnist "Billy" in the Jakarta Times on the 17th July said "Buyung Nasution is not allowed to present his paper in the Lawasia Conference, it was reported. I thought the freedom of expression was not to be obstructed;" The following editorial appeared in the same issue of the paper:

BUYUNG AND LAWASIA

A story appeared in the daily "Berita Buana" last Saturday to the effect that Adnan Buyung Nasution, one of the nation's notable lawyers, was not allowed to present his paper to the Lawasia conference being held there. But the story did not say explicitly and Buyung Nasution himself refused explanation by whom he was forbidden to present his paper. Some sources, however, said that the ban was imposed by certain authorities in the country.

There is no way of checking the truth of this report, because everybody seems to have adopted a "no comment" attitude, but one thing is certain: Buyung Nasution will not present his paper in the Lawasia Conference. If it is true that, as alleged, he is under pressure from authorities, it is regrettable because it implies that the freedom of expression is no longer granted to citizens of this country while such freedom is guaranteed by the constitution Moreover, it is done at an international conference of lawyers whose participants know well how to judge the application of laws of practice This fact, like it or not, will have an adverse effect on the image of the nation as far as upholding the law is concerned.

If the alleged pressure is true, it might have been imposed without the knowledge of the President and, as such, it is a deviation from the coruse mapped out by the President It is no other than President Soeharto personally who said in the opening session of Lawasia yesterday that this country is "obliged to uphold the foundation of the rule of law" The freedom of expression belongs to the very foundation of the rule of law.The deviation from the right course will certainly lead to a wrong destination This is inexcusable and unjustifiable"

On the following day the Indonesian language newspaper Indonesia Raya, carried an editorial which is translated as follows:

"The case of Buyung at Lawasia
Images of Indonesia

The young lawyer Adnan Buyung Nasution was reported to have been prohibited from participating as speaker at the Lawasia forum which is now holding its Conference and Seminar in Jakarta. This prohibition did not originate from the sponsors of the meeting consisting partly of lawyers from outside Indonesia, but it came in fact from the Indonesian authorities themselves On the contrary, the sponsors have for a long time prior wanted Buyung to speak and present his ideas about how the rule of law is to be upheld, particularly in the Asian and Pacific countries.

We have for a year been hearing that Buyung was preparing his paper for this Conference on the request of many of the lawyers What is obvious, is that one of his ideas to fill the main topics of the Seminar has been accepted and is at present under discussion, namely the problem of legal aid to society

But such irony, that while the idea was brought before the forum, the impetus of the idea himself was prohibited from speaking, let alone reading out his whole working paper prepared over the last year.

This is also the irony of the Lawasia Conference, which President Suharto in his opening speech last Monday, hoped would be able to render "valuable material for the development of the Indonesian national law".

The case of Buyung has certainly created a two faced image of Indonesia in the field of law development One face shows a determination to uphold the rule of law as far reaching as possible, as stated in President Suharto's statement

The other side gives a rather gloomy picture as can be observed from the Buyung case

We are unhappy that the prohibition against Buyung speaking was rumored to have been issued by the executive authorities. Certainly this kind of meddling is not the kind of attitude that will leave a good impression on an international conference on law such as Lawasia".

To keep things in perspective it should be remembered that the President has stated a policy of support for the rule of law, and for legal aid. It is also encouraging that the independent legal profession, whatever difficulties are put in its way, has maintained its independence and its spirit, and has built and continued to service a very extensive scheme of legal aid in Jakarta. The fact of the continued existence of an independent profession is important. In every country in recent decades where individual liberties have diminished to vanishing point, the beginning of the end of civil liberties has been the destruction of the strength and independence of the legal profession. This is often started with insidious campaigns to reduce the standing and prestige of the profession in the public eye, to cast doubts on its motives and to sap its confidence. The Indonesian legal profession retains its strength and independence and appreciated that its actions received the support of overseas delegates at the Conference.

The final legal aid session adopted a suggestion made by David Jones and resolved that Lawasia appoint a legal aid standing committee representing all member countries of Lawasia to continue to study and exchange information on legal aid for the benefit of all member countries. The failure of the move to keep from overseas delegates information upon legal aid work done by the practising profession encouraged local lawyers.

The setting up of the standing committee should ensure that overseas lawyers are kept constantly in touch with the Indonesian situation on legal aid.

The conference revealed that one of the great benefits of Lawasia is that its organization ensures that the position and activities of each member legal profession are opened to the scrutiny of each other member profession. The Indonesian Government will be well aware that its prestige with its neighbours depends to a substantial degree on its being entitled to be regarded as a country which respects the rule of law. The other Lawasia professions owe a duty to the Indonesian profession to ensure that they maintain a vigilent watch upon the position of the Indonesian legal profession, and its growth and independence. By playing a responsible part in the formation of public opinion in the countries in the Lawasia area, the Australian legal profession may play its part in giving due support to its courageous colleagues in the growing and independent legal profession of Indonesia.

MR. JUSTICE SMITH

In the course of its long history the Supreme Court of Victoria has been graced by many judges of distinction, but very few indeed attained the standard of excellence which was the mark of Mr. Justice Smith who reached the age of compulsory retirement on September 27th last.

Admitted to the bar in the year 1926 His Honour rapidly won recognition as an outstanding junior, principally in the fields of equity, commercial law, and constitutional law. At a comparatively early stage in his career it was universally acknowledged by his contemporaries that he was destined for high judicial office.

As counsel he displayed qualities which, in later years, contributed so much to his outstanding success on the bench — a wide knowledge of case law, a firm grasp of principle, quickness of perception, a capacity for penetrating analysis of any situation, clarity of thought, and the ability to present an argument and to state a proposition clearly, lucidly, and with an economy of words.

Whilst possessing in a marked degree the rare and gracious quality of humility, Tom Smith was not of a disposition to be overawed by a generally accepted view which he believed to be erroneous. This was strikingly illustrated by a case in which he appeared as counsel some few years prior to his elevation to the bench in February 1950. He was briefed to appear in an

originating summons which raised several questions, one of which concerned the distribution of income under an ill-drawn will. At some considerable time prior to the date of the hearing two eminent counsel, in opinions given independently, had expressed the very firm view that the income was distributable in a certain manner; and this opinion had been acted upon by the trustees for some years. In these circumstances all other counsel in the case expected that Smith would concede that the income had been correctly dealt with, even though it was in the interests of his client to contend to the contrary. But to the dismay of counsel for the trustees, Smith announced that he proposed to argue that the trustees had acted upon an erroneous basis. He propounded a telling and forceful argument which was accepted without hesitation by Lowe J. The subsequent history of the case was of some interest — an appeal to the Full Court was dismissed (one of the three Judges dissenting). Upon a further appeal to the High Court the matter was heard before four Judges — the result, two each way. The decision of Lowe J. thus stood. Perhaps this case may serve as a timely warning to any lawyer who is prepared to express dogmatic opinion upon any question of construction, no matter how clear it might appear to be at first sight.

His Honour's outstanding contribution to the development of the law is enshrined in the Law Reports. But there is another and equally important aspect of his service to the State. He displayed on the bench calmness, dignity, and a judicial bearing rarely equalled and certainly never excelled within the memory of any living member of the bar. He was imbued with a strong and abiding sense of justice and a deep compassion for the less fortunate members of society upon whom it was his duty to pass judgment.

Perhaps His Honour may regard as the greatest reward of his distinguished service the high regard and the deep respect felt for him by his friends, his acquaintances, and the legal profession in general. The sense of loss felt upon his retirement has been greatly mollified by the announcement that he will continue to serve the State in a new sphere for which he is eminently qualified — that of law reform.

Louis Voumard.

THE BUILDING CASES LIST

On the 2nd October last year the facilities offered to litigants by the Supreme Court of Victoria were enlarged by the creation of a Building Cases List. This innovation was introduced on the suggestion of the Chief Justice, Sir Henry Winneke. Now that a year has passed it may be useful to consider how successfully the List has operated.

The general scheme of O.76 is that in appropriate cases, a writ is marked with the stipulated endorsement and is entered by the Prothonotary in the Building Cases List. The Rules provide for the transfer of a building case from the ordinary list into the Building Cases List but this has been limited by the decision of Menhennitt J. in C.W. Norris & Co. Pty. Ltd. v World Services [1973]VR753 to the effect that a transfer can be effected only in respect of actions commenced after 2nd October, 1972.

Once a case is entered in the list the Plaintiff soon after Appearance issues a Summons for Directions returnable before the Judge assigned to the list. Thereafter the parties attend from time to time as the summons is called on and directions generally are given,as under O.30.

Perhaps the most surprising feature of the first year of this procedure is the few cases in which it has been invoked — 18 actions only have been commenced or transferred to the List — (as at 31st August 1973). Of these cases:—

4 cases have been settled
1 case has been set down in the Causes List
13 cases are still in the course of preparation

This number is surprising because it is already apparent that the procedure offers a very speedy means of disposing of cases which are notoriously slow in preparation. The following information speaks for itself:

The first case in the list was issued on 2nd November 1972. Of the four cases issued prior to Christmas 1972, two were settled in March and others are still in the list.

Of the three cases issued in February two were set down for the hearing of a preliminary issue in June and were then settled. The other was set down for hearing in the Long Causes List in June and awaits its turn in that List. It is the most recently issued case in that List.

One case was issued in March, one in April, two in May, two in June and four subsequently. These ten cases are still pending.

Notwithstanding the enthusiasm of litigants in Building Cases, preparation is usually slow and painful largely because of the detailed information of a technical nature that must be gathered and perhaps because of the mass of paper they generate. The experience of the last year has amply demonstrated that the active supervision of a Judge who sets a timetable and expects it to be followed, furnishes an effective incentive to all concerned in drawing and settling documents.

Furthermore in many cases the powerful influence of the Court door as a settlement incentive was to be seen. In April Menhennitt J. directed that a preliminary issue be tried in four of the cases — whether the parties had compromised their dispute, whether the arbitration clause was effective and what were the terms of the building agreement. Two of these cases were settled at this stage. In the others very serious settlement negotiations took place. It is probably fair to say that these two cases would not now be settled had they been dealt with under the normal civil procedure.

At this relatively early stage the new procedure is effective inasmuch as it moves the cases ahead quickly and it involves the parties themselves more closely in the preparatory steps of their case with the resultant prospect of compromise. The effectiveness of the procedure must, however, largely depend upon the enthusiasm and energy of the practitioners who employ the procedure and the Judge in whose hands virtually all the initiative lies. If he is able to prod the parties along with sensitivity and tact, the rejoicing of the commercial litigants will drown the complaints of the overburdened lawyers.

NEW CONSTITUTION FOR YOUNG BARRISTERS' COMMITTEE

On 13th September 1973 the Bar Council adopted the amendments to the constitution of the Young Barristers' Committee which that committee proposed. The Bar Council decided:

That nominations for election to the Young Barristers' Committee be called for immediately after the declaration of the result of the Bar Council elections.

That as from the next election, the Young Barristers' Committee be composed as follows:

(1) A member of the Bar Council being a silk to act as Chairman.

(2) One member of the Bar Council under six years' standing appointed by the Bar Council.

(3) Nine members under six years' standing elected by Counsel of under six years' standing at the time of the annual election;

and that the Constitution of the Committee be amended to provide that no person who has served for two successive years on the Committee shall be eligible to serve as an elected member in the next year.

1973-74 COMMITTEE

Members of the Young Barristers' Committee for 1973-74 are:

Appointed Members

K. J. Jenkinson Q.C. (Chairman), R. M. Read.

Elected Members

F.G.A. Beaumont, G.R. Anderson, J.T. Hassett, D.J. Walls, P.R.A. Gray, M. Rozenes, D.J. Habesberger, P.C. Dane.

SIR EUGENE GORMAN Q.C.

Returning from World War I this gifted man quickly established himself as the most sought after junior at the Common Law Bar

At a time when fees paid to Counsel in licensing and gaming matters did not truly reflect the value of the professional skills involved the never cautious Gorman declared that he would not appear in the Police Court for less than 10 and 2. As the demand for his services increased so did the whirl-wind pace of his professional activities

His day usually commenced with a foray into the City Court at 10.00 a.m. where a charge was dismissed or a plea arranged, an appearance in the Practice Court and then the conduct of a trial. The agonies of instructing solicitors are another story.

Before taking Silk in 1929 he became the most eloquent voice at the Victorian Bar. A sparkling and brilliant advocate who endeared himself to Bench and Bar alike. Now well armed with hard working and able juniors he darted from one Court to another in a way that would neither be accepted nor contemplated today. But the demands of his forensic skills were not permitted to interfere with his abiding passion for the Turf. He raced horses and was never afraid to support them generously. Notinfrequently he found it impossible to get away from Court. Messages were relayed to him and instructions supplied by him even during a cross examination. For many years he was a distinguished member of the V.R.C. committee. But the qualities of his mind and his broad interests made it impossible for him not to be interested in Public Affairs He made one unsuccessful attempt as a candidate for the Parliament of Victoria in 1931.

He pledged himself to give up the law at fifty, he kept his word and with the out break of World War II once again made himself available to his Country, this time as a Commissioner of Red Cross in the Middle East, After the war he became Consul for Greece and later Chairman of the Dried Fruits Board for which services he was later knighted. He returned to his Chambers in 1945 and once again became the busiest of barristers; although he did not practice Every day there were a string of callers waiting to see him in the same Chambers that he practised in before 1939 and where he led so many of the Bar from the overcrowded Selborne Chambers in the early thirties.

There in the large room with his extensive law library and photographs of his winning horses he gave most generously of his talents to as varied a collection of human beings that can be imagined. It was as though God had given him a general retainer for fixing things and getting people out of trouble. His liveliness of wit, acuteness of mind and the brilliance of his talk remained with him and charmed his friends to the end

Gorman was above all a generous, warm hearted man and among the mourners in the crowded Church there would scarcely have been anyone whom he had not helped or bestowed a favour.

John W. Galbally.

MOUTHPIECE

"Just because an idea is old fashioned, you blokes reckon its gotta be good".

"What do you mean", I asked my medical friend

"Just because we've got a P.R. man now, means that you'll have one in about fifty years", he replied.

"Go on".

"We get together and fix our fees, we sue for our debts we've done that for years. You fellows seem to think it's new because you've just thought of it. Now that we're phasing out of being honoraries, you chaps have started it. Free legal services and that sort of thing. Next you'll be wanting to sit as honorary magistrates and say its for the good of the community! ".

* * * * * * * * * *

I was somewhat confounded by the vehemence of his attack and sought consolation in the tea rooms, and libraries where Barristers are wont to pass their leisure hours. My mind was sorely vexed by the poser that if it were an advantage to a Judge once to have appeared as a Barrister, would it not be of advantage

to a Barrister once to have appeared as a Judge. And as Barristers were the main ones who appear for people in Courts, why don't they volunteer to fill an honorary position as a magistrate?

* * * * * * * * * * *

"If some of the Judges had acted as honorary magistrates earlier in their careers, you can bet that they wouldn't have got any further", volunteered one waist-coated worthy.

"But apart from that, does the idea have any merit?". I was now beguiled by the suggestion but fairly taken aback by the variety and speed of their replies, and unusual harmony of their attitudes".

"If a Barrister of, say, ten years standing were an hon. mag." said one, "his very presence would reduce the workload of magistrates".

"And save the state a pretty penny" said another.

"It would strengthen that bench" said a third who had seemed to be impressed with the proposition

"His very experience and training would be invaluable if we still adhere to the view that it is worth having trained judges Isn't advocacy the best background for a Judge? "

In the meantime I was thinking that at a time when the profession is subjected to outside criticism as being self centred and greedy, such false impressions would be corrected by this demonstration of public service.

"It would put an end to the theatricals that some Barristers affect if they realised how little a Tribunal is impressed by their antics," I heard:

"All in all an excellent idea," said the waist coat, "But what if no one volunteered? "

Byrne and Ross DD.

THE ANNUAL MEETING

The Annual General Meeting on 25th September 1973 indicated that the basic changes made to overcome dissatisfactions expressed by young members of the Bar at the Annual Meeting in 1971 were regarded as satisfactory.

At the meeting the Chairman (Harris Q.C.) paid tribute to the enormous amount of time, administration and thought which Sir James Tait Q.C., as Chairman of Directors of Barristers' Chambers Ltd. and Treasurer of the Bar Council, contributes to the affairs of the Bar.

McGarvie Q.C. on behalf of the Bar and Bar Council congratulated and thanked Harris Q.C. for what he had done during his very successful term as Chairman of the Bar. He said that it was the opinion of the Bar Council that history would regard Harris as one of the greatest Chairman of the Bar.

The most eloquent tribute to Harris' Chairmanship was the fact that members at the General Meeting had much to say in praise of the work and the annual report of the Bar Council and little to say in criticism.

There was an enlightening discussion about those who cast the financial burdens of the Bar on their fellow members by failing to pay their subscriptions when due. The organization of the Bar does provide machinery for defaulters. Those failing to pay subscriptions may be charged with a disciplinary offence and fined, suspended or expelled. Those failing to make their promised capital contribution to the company may have their shares or debebtures forfeited and lose their entitlement to tenancy. Those failing to pay their rent may have their tenancies terminated. It was the clear sentiment of the General Meeting that, except in cases of financial hardship, the majority of the Bar who invariably satisfy their obligations, expect strong action to be taken to prevent defaulters from continuing their free ride at the expense of their colleagues.

MR. JUSTICE WOOTTEN

One of the most creditable actions of the Australian legal profession was its initiative in the establishment of Lawasia, the Law Association for Asia and the Western Pacific. Two of those primarily responsible for the establishment and sound operation of Lawasia are Mr. Justice Kerr, the Chief Justice of New South Wales, and Mr. Justice Wootten,

recently appointed a Judge of the Supreme Court of New South Wales.

Mr Wootten Q.C was appointed Secretary-General of Lawasia in 1967. He continued in that position until July 1973 when he resigned and was replaced by Mr David Geddes. As was recently said by Mr Geddes, "The significance of Professor Wootten's contribution to the development of Lawasia and, through this development, to the strengthening of the rule of law in the region has been incalculable".

His Honour moved from a leading silk's practice to be the foundation Professor of the Law School of the University of New South Wales. While a professor he continued to conduct some practice at the Bar. He had returned to full time practice at the Bar shortly before his appointment.

TEXT BOOKS FOR FIJI MAGISTRATES

There is a desperate shortage of text books for use by magistrates in Fiji. The Chief Justice of Fiji, Sir John Nimmo, a member of this Bar, would be glad to receive any superseded editions or other text books not wanted by members of the Bar. Text books left with the assistant secretary, Phipps, Room 24, Tait Chambers, will be sent to Fiji.

COUNSEL ON COUNCILS

The Bar includes amongst its members His Worship the Mayor of South Melbourne, Cr Nathan and His Worship the Mayor of Sunshine, Cr Wheelahan.

Other Councillors are Cr. Campton (St Kilda), Cr. Bland (Gisborne), Cr Heerey (Hawthorn) and Cr G N. Brown (Hawthorn).

AMNESTY INTERNATIONAL

Bar representatives L Ostrowski and T H Smith attended the conference of Amnesty International on 14th October, 1973.

BAR COUNCIL DECISIONS ON LEGAL AID

On 21st August 1973 the Bar Council made decisions upon legal aid which are along the lines favoured by the Joint Standing Committee investigating legal aid.

(i) **Constitution of the Legal Aid Committee**
That the Victorian Bar Council join with the Council of the Law Institute of Victoria in recommending to the Legal Aid Committee that the constitution and administration of that Committee be altered as follows:—

(a) there be established in Melbourne a governing committee consisting of 2 barristers and 2 solicitors to determine matters of policy and finance;

(b) the governing committee be empowered to appoint working committees as required to handle the day to day processing of legal aid applications as presently conducted by the Legal Aid Committee;

(c) the central office of the Legal Aid Committee confine itself as much as possible to administration and that otherwise applications be dealt with on a regional basis through legal advice and referral bureaux;

(ii) **Legal Aid in Criminal Matters**
That the Victorian Bar Council considers that, as a matter of principle, legal aid in criminal matters as presently provided by the Public Solicitor's Office should be taken over by the Legal Aid Committee but that representations therefor should not be made to the Attorney-General for Victoria until such time as it is considered that the Legal Aid Committee is in a position to be able to properly handle such work.

(iii) **Legal Advice and Referral Bureaux**

(a) That the Victorian Bar Council considers it is desirable that a co-ordinated system of legal advice and referral bureaux be created to serve all areas of the State and that such a system be subject to the control of the legal professional bodies.

(b) That the Victorian Bar Council supports in principle the creation of a Legal Advice and Referral Bureau as proposed by the Council of the Law Institute of Victoria and offers the assistance of the Bar in working out the basis on which it is to operate and expresses the view that ultimate control of such bureau should be exercised jointly by the Law Institute of Victoria and the Victorian Bar.

(4) **Legal Aid in Criminal Matters in Magistrates Courts'**

That the Victorian Bar Council favours an extension of Legal Aid for Criminal Matters in Magistrates' Courts

THE PRICES JUSTIFICATION TRIBUNAL

The first public inquiry into whether a proposed price increase by a company was justified commenced in August. Companies or groups of companies with an annual turnover of $20 million or more are required to notify a proposed price increase. The Minister or the Prices Justification Tribunal may decide that a public inquiry is to be held.

In its initial inquiries the Tribunal, with Mr. Justice Williams as Chairman, commenced to evolve procedures designed to enable inquiries to proceed with the necessary speed, thoroughness and fairness. The notifying company lodges with the Tribunal a public submission setting out the evidence and grounds on which it seeks to justify the proposed price. It also lodges copies of its annual reports for the last few years. Usually a confidential supplementary submission is lodged. This deals mainly with estimates as to the future, which, particularly in the case of a public company, it would be unfair or undesirable to reveal in public.

There is delivered to the notifying company on behalf of the Tribunal a series of "Queries" prepared by a member of the Tribunal's staff and settled by counsel assisting the Tribunal. These queries seek clarification of the submission and further relevant facts.

At the inquiry, persons or organizations who satisfy the Tribunal that they have an interest in the inquiry are made parties to the inquiry. Parties to inquiries have included the A.C.T.U., the Victorian Chamber of Manufacturers, the Australian Wool and Meat Producers' Federation, the Pulp and Paperworkers Federation of Australia and the Printing and Allied Trades Employers' Federation of Australia. The notifying company opens its case. Then it calls an officer or officers to give sworn evidence verifying its submission. The rules of evidence do not apply. These witnesses also deal with the various queries which have been delivered. Having had time to obtain the necessary information they are able to give considered answers. Sometimes these are given extempore but more often they are given from notes or prepared answers. Written answers may be tendered and verified. The witnesses are cross-examined shortly by the other parties and by counsel assisting the Tribunal. Then they are re-examined by counsel for the notifying company. Sometimes other witnesses such as economists are called.

The confidential submission and the answers to the queries on the confidential material are dealt with in a similar way in a closed hearing at which the only persons present are the Tribunal and its officials, the officers of the notifying company and its lawyers and counsel and solicitors assisting the Tribunal.

The queries perform other function. They raise issues which are likely to be relied on in their address by counsel assisting the Tribunal. In this way the notifying company is given notice of the issues to be raised and has an opportunity of placing before the Tribunal any evidence on the issue on which it desires to rely.

After completion of the evidence for the notifying company, the other parties and counsel assisting the Tribunal have the opportunity of calling witnesses or rendering evidence.

Then addresses are heard from the parties other than the notifying company and from counsel assisting the Tribunal. A final address from counsel for the notifying company ends the public inquiry.

Procedures are flexible and informal and those given above merely illustrate typical procedures followed in the early inquiries.

Common indicators relied on by notifying companies are that the increased price is justified to cover increased operating and capital servicing costs; that the increase is necessary in order to justify new investment by the company in plant and fixed assets; that price rises in comparable industry have been higher than those proposed; and that the return to the company on its share-

holders' funds and fixed assets is inadequate

Useful reference books which deal with the principles applied in similar circumstances in the United Kingdom are Allan Fels, The British Prices and Incomes Board (Cambridge University Press, 1972) and Aubrey Jones, The New Inflation (Penguin Books, 1973).

This is a significant new area of practice. It illustrates the marked emergence of economic issues as part of the practice of the Bar. This applies also in national wage cases, restrictive practices cases, Tariffs Board or Industries Assistance Commission inquiries and television licence inquiries. Barristers will emerge who are as familiar with the anatomies of large companies and the national economy as others are with the anatomy of the accident victim. It also illustrates an extension beyond micro litigation between private individuals, into macro litigation involving issues of public welfare. The areas of town planning and environmental protection provide further examples of this.

VICTORIAN TAKEOVER IN NEW SOUTH WALES

Members of the Victorian Bar now occupy the two senior positions in the Bar of New South Wales. The Victorian Bar congratulates its members Thomas Hughes Q.C., and Douglas McGregor Q.C. upon their election as Chairman and Vice-Chairman respectively of the Bar of New South Wales.

THE VICTORIAN COUNCIL OF PROFESSIONS

Members of the Bar may obtain copies of the papers delivered at the seminar of the Victorian Council of Professions on "Tax Planning" which are available to members of constituent bodies for $2.50. The papers may be obtained from Mr. Harold C. Richards, Honorary Secretary, Victorian Council of Professions, c/o 409 King Street, Melbourne, 3003.

MAGISTRATES' COURTS

In July the following recommendation of the Joint Standing Committee on Magistrates' Courts was forwarded to the Chief Stipendiary Magistrate:

1. That Magistrates, or their Clerks, conduct a callover of all civil matters at the commencement of the day's proceedings.
2. That Mobile Traffic Prosecutions be heard exclusively in the Traffic Courts so that —
   (a) Congestion in the other Courts can be reduced;
   (b) The time of the public, police and practitioners can be rationalised;
   (c) More economical use can be made of available courts.
3. That the traffic courts be staffed by Magistrates on a rotation basis provided that any such appointment be not longer than one month at any one time.
4. That pressure be brought to bear on the appropriate authorities to ensure that proper use is made of the "hand up brief" provisions for committal proceedings under the Justices Act (as amended).
5. That consideration be given to encouraging the practice of setting aside particular days when particular types of cases can be given priority, for example, maintenance, civil debt, civil summons, police work, and that an announcement of such priorities be made in the Law Institute Journal.

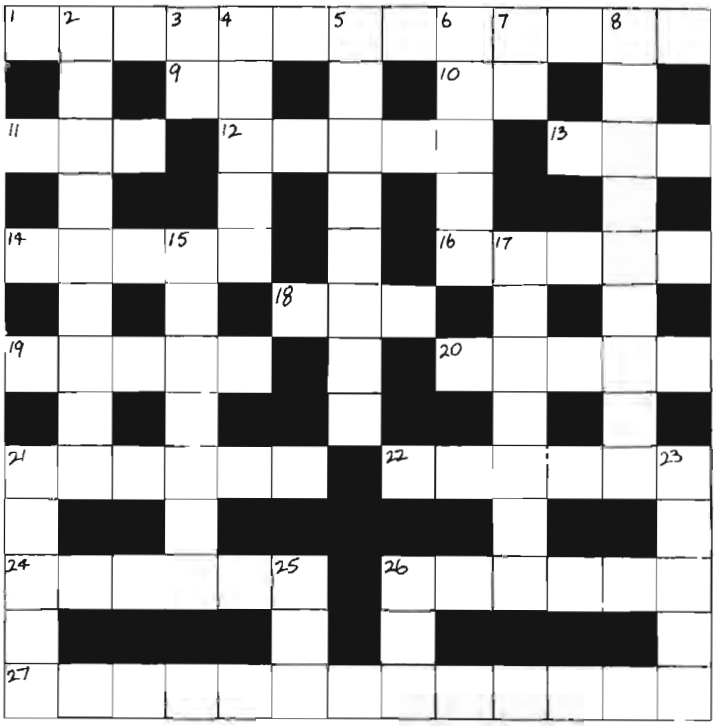
NEW COUNCIL ROOM

On 28th June 1972 the Bar Council held its first meeting in the new Council Room on the Twelfth floor of Owen Dixon Chambers. It is used for meetings of the Bar Council the administrative committees and other Bar committees. The room is well situated for the conduct of arbitration and has already been hired for an arbitration expected to last the whole of November. For members of the Bar it is a most convenient location. Inquiries about hiring the Council Room are made to the Registrar.

A.J.A. COMMITTEE ON THE LAWS OF LIBEL

The Victorian District of the Australian Journalists' Association advised that the Association has formed a committee to consider the law on defamation and contempt of court. It invited the Bar Council to appoint a member to the committee. The Bar Council agreed to do so and appointed Hulme Q.C. to the committee.

CAPTAIN'S CRYPTIC



ACROSS

1. During the course of, and incidental to, an action (13)
9. I, the objective (2)
10. Not on, for a change (2)
11. The part of the world that's a stage (3)
12. To argue as a lawyer would (5)
13. A statute, perhaps in Canberra (3)
14. Enter the law's most popular contract (5)
16. Going on land (5)
18. Exclude all the barristers (3)
19. Swallow greedily in a narrow pass (5)
20. Endure an American witness box (5)
21. Incarcerated
22. To speak first, usually in the street
24. He sells everything, even musical peanuts (6)
26. A passive person known to Equity (6)
27. Permission granted when defence shown (5,2,6)

DOWN

2. Sheriff's empty handed return in Latin (5,4)
3. A printer's measure (2)
4. The advocate's cherished right of response (5)
5. Open performance hopefully not by a lawyer (5,3)
6. Unwarranted (5)
7. In the direction of an infinitive (2)
8. Stretch the leases for a year (4,-5)
15. Entertained regally (7)
17. Observes official writings (7)
21. A kind of Kentish rent (5)
23. Attempted to examine judicially (5)
26. The aide-de-camp changed to a low fellow (3)
25. Alter art for vermin (3)
26. The aide-de-camp changed to a low fellow (3)

SOLUTION TO CAPTAIN'S CRYPTIC IN ISSUE No. 6

Across
1. Sus. per. col. 6. Avers 7. En 10. La 11 Trial 12. To 13. Pi 14. Eke 15. Year 16. Jury

Down.
1. Saplently 2. Sham 3. Even 4. Cost 5. Loquacity 8. Crier 9. Pape J.

THE NEW BAR COUNCIL

The Bar Council for 1973-74 is: R.E. McGarvie Q.C. (Chairman); R.K. Fullagar Q.C. (Vice-Chairman); Sir James Tait Q.C. (Treasurer); F.P.Walsh (Assistant Treasurer); D.P. Whelan Q.C., K.H. Marks Q.C.; K.J. Jenkinson Q.C.; H. Storey Q.C.; D.M. Dawson Q.C.; L.S. Lazarus Q.C.; F.X. Costigan Q.C.; J.L. Sher; M.J.L. Dowling; C.W. Porter; A.R. Castan; R.J. Johnston; C.S. Keon-Cohen; R.M. Read. Secretaries: H.R. Hansen (Secretary); M.B. Phipps (Assistant Secretary).

NEW MEMBERS OF THE BAR
(from 19th July 1973)

Member	Master	Clerk
C.T.H. Chessun	Ravech	Muir
T.H. Roche	Ormiston	Muir
Master T.P. Bruce		
Lillian Lieder-Mrazek	Walsh	Calnin
L. Lasry	D.M.Bennett	Hyland
J.W. Burns	Dalton	Hyland
H. Mc M. Wright	Charles	Spurr
C.A.Sweeney	Merralls	Muir
R.S.L.Wild	D. Ross	Hyland
G.M. Horgan	Hanlon	Foley
R.C.Johnson	Cullity	Foley
M.J.Casey	Sher	Spurr

NAMES REMOVED FROM THE ROLL OF COUNSEL AT THEIR REQUEST

C.J.Z. Levine, C. I. New, C.P. Bayliss.

MEETINGS OF THE BAR COUNCIL

Date	Members Present	Duration
19.7.73	7	1 hr. 15 mins.
2.8.73	13	1 hr. 55 mins.
16.8.73	14	2 hrs. 30 mins.
21.8.73	11	1 hr. 5 mins.
30.8.73	12	2 hrs. 35 mins.
6.9.73	12	1 hr. 55 mins.
13.9.73	14	2 hrs. 55 mins.
19.9.73	10	2 hrs. 40 mins.
24.9.73	13	2 hrs. 10 mins.

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