South Australian Liberal Lawyers' Group in Adelaide on 4 July, Attorney-General Durack listed as achievements in the Government's programme of administrative law reform the giving of 'substance' to the rights of the individual citizen and the provision of remedies in such matters as:

- review of administrative decisions
- improved methods of Parliamentary scrutiny of the Executive Government
- greater access to information in the hands of government
- the establishment of new machinery to deal with human rights
- an attach on excessive regulation and a commitment to deregulation where that is feasible

Progress continues to be made in this area of law reform in Australia. A study of overseas developments will doubtless reveal further room for improvement.

Papua New Guinea reforms

> When complaints are freely heard, deeply considered and speedily reformed, this is the utmost bound of civil liberty attained that wise men look for.
>
> John Milton, *Areopagitica*, 1644

Law reform continues in an innovative way in Papua New Guinea. The first Chairman of the Papua New Guinea Commission, Mr. Bernard Narokobi, has recently been appointed an Acting Judge of the National Court. The Constitution of Papua New Guinea provides for short-term acting appointments to fill vacancies temporarily, or to act in the place of a judge absent on duty, or to meet other exigencies in the business of the court. Other Commissioners have been appointed to diplomatic posts. But the Commission remains a vital and busy unit. The present Chairman of the Commission, Mr. William Kaputin, reports that the Commission has recently finalised its recommendations on three subjects:

- *Customary compensation.* Excesses which were discerned in this traditional institution have created nationwide concern because of their extensive impact on law and order, society and the economy. A new law has been proposed by the PNGLRC with the aim of facilitating the use of compensatory justice, through payment of wealth, including money, pigs and other traditional forms of wealth. The proposed law attempts to regulate the practice of compensation in accordance with tradition and custom.
- *Young persons in conflict with law.* The LRC report proposes major changes to the present Child Welfare Act as it deals with young offenders. A Youth Court Services Bill is suggested with emphasis on rehabilitation, care and education of young persons in lieu of unadorned punishment. The Department of Home Affairs is also working on this topic.
- *Committal by brief.* The PNGLRC report on this subject recommends the introduction of committal by 'hand up briefs'. Full preliminary hearings in magistrates courts have been found to hinder and delay the proper trial of defendants. It is recommended that these procedures should be limited to the very serious crimes such as murder and manslaughter and those for which the death penalty is prescribed. In most other cases, the committal papers would simply be tendered and made available to the accused. The Commission envisages that after a few years oral preliminary hearings will be totally abolished. Instead the public prosecutor, relying on police information, would present an indictment against an accused. Proceedings would commence in the National Court as soon as practicable thereafter.

In addition to these recent reports, action has lately been taken on the PNGLRC Report on Indictable Offences Triable Summarily. This report, presented to the Minister for Justice in October 1978, is now to be presented to the PNG National Parliament. In the report, the Commission recommends that 79 indicta-

ble offences, now triable only upon indictment in the National Court, should be triable summarily in the district court by senior magistrates. Cases include those without great complication e.g. stealing, breaking and entering, indecent dealings and assaults on women and girls. It is proposed that magistrates should be limited to imposing a maximum term of 4 years' imprisonment. The National Court is to retain a concurrent jurisdiction.

Mr. William Kaputin was one of the busiest participants at the recent Commonwealth Law Conference in Lagos. He took a particular interest there in sessions dealing with legal aid and legal education.

Victorian reforms

Calmness reigns as legal reform rolls on.
D. Withington, *The Age*, 27 June 1980

Under the above caption, the Melbourne *Age* newspaper recorded the reappointment of the Victorian Law Reform Commissioner, Sir John Minogue QC for another year. The extension of Sir John's commission was announced on 25 June 1980 by the Victorian Attorney-General, Mr. Haddon Storey. Mr. Storey said that he was very pleased that Sir John had agreed to accept reappointment. Mr. Withington claimed that Sir John 'runs a relatively modest operation':

> Although Victoria has a full-time Commissioner, law reform here is a compromise between the old and the new style.

One report, based on a working paper, *'Duress, Coercion and Necessity'* is due for release shortly. This report will incorporate comments and submissions which have been received from interested parties since the working paper was released. Sir John is then expected to tackle the criminal defence of Provocation. In the course of working on this subject he is reported to have turned to examine Diminished Responsibility as a defence and he may report on this issue at the same time as on Provocation.

Diminished responsibility in Australian law hit the headlines with the decision of the High Court of Australia on 20 June 1980 in *O'Connor* v. *The Queen*. By a 4:3 majority, the Full High Court dismissed an appeal by the Attorney-General for Victoria against a decision of the Court of Criminal Appeal of that State. Put shortly, the case rejected the qualifications inserted into the law as to the availability of (self-induced) intoxication, as a defence to criminal charges generally. The House of Lords in *Director of Public Prosecutions* v. *Majewski* [1977] AC 443 had unanimously held that a defence of intoxication was limited to crimes of specific intent. This view is, broadly, followed in the United States and Canada. The majority of the High Court has now 'returned to first principle'. Social problems which follow from the decision were, according to the Chief Justice, a matter for the legislature and not for the judges:

> Though blameworthy for becoming intoxicated, I can see no reason for presuming his acts to be voluntary and relevantly intentional. For what is blameworthy there should be an appropriate criminal offence. But it is not for Judges to create an offence appropriate in the circumstances. ... It must be for the Parliament.

The Chief Justice specifically agreed with the comments of Mr. Justice Starke in the Victorian Court of Criminal Appeal who had said:

> I do not share the fear held by many in England that if intoxication is accepted as a defence as far as general intent is concerned, the floodgates will open and hordes of guilty men will descend on the community.

But Mr. Justice Gibbs was concerned about the social implications of the majority's retreat from *Majewski:*

> The law would afford quite inadequate protection for the individual and would rightly be held in contempt, if persons completely under the influence of drink or drugs could commit crimes with impunity.

Following the decision, there has been something of a storm. Scholarly writers are beginning to express appreciation for the determination of the High Court to uphold the principle that criminal intent is, normally, an essential ingredient of a criminal offence under