

law commissioners meet

Great things are done when men and mountains meet;
This is not done by jostling in the street.

William Blake, circa 1797.

a duty of silence? The sixth Australian Law Reform Agencies Conference (ALRAC) met in Hobart on 8 and 9 July 1981. Present were all Australian law reform agencies and law reform commissioners from England, Fiji, Hong Kong, Nigeria and Papua New Guinea. The Vice President of the Federal Constitutional Court in Germany (Professor W. Zeidler) also attended and explained the procedures of law reform in Germany. The conference is now an established and regular event. Previous conferences have been held in Sydney (1973, 1975, 1977), Canberra (1976) and Perth (1979).

Mr. J.B. Piggott, Chairman of the TasLRC, was elected chairman of the Conference and the opening address was delivered by the Tasmanian Attorney-General (Mr. B.K. Miller). Mr. Miller told the participants that in his view the work of an LRC stopped the moment it had delivered its report to the government. He said that, even if reports were ignored, LRCs were not entitled to urge the acceptance of their proposals. Mr. Miller's address was followed by an address by Sir Michael Kerr, Chairman of the Law Commission for England and Wales. Sir Michael's talk on the topic 'The Political Aspects of Law Reform' dealt with the work of the Law Commission and the difficulty of ensuring that legislative proposals for reform would be implemented in the face of 'inertia on the part of government departments' and 'in the context of parliamentary procedures and parliamentary time'.

Sir Michael Kerr said that part of the duty of an LRC was to ask what was happening to its recommendations when these appeared to have been ignored. However, he agreed that it would be dangerous if such bodies were ever to venture to actually lobbying in Parliament. Sir Michael Kerr expressed the view that law reform bodies should 'keep off the fields of political and social controversy' so that their

very limited resources could be devoted to the realms of 'purer' law. He said that much attention was being given in Britain to improving the processing of law reform reports. However, the Lord Chancellor had 'flatly declined' to undertake to give a reaction to reports and draft Bills of the English Law Commission within any specified time. In this regard, the Commonwealth Attorney-General's undertaking on behalf of the Australian Government that 'when tabling a report by the Law Reform Commission the government will indicate the arrangements proposed for handling the government's consideration of the report', was seen in Britain as a distinct improvement on the position there.

The ALRAC conference then proceeded to hear reports upon the developments in participating agencies concerning their constitution, membership, work programme, methodology and problems. The elaboration of current work provided numerous opportunities for arrangements for the exchange of research data and co-ordination of research effort in law reform in Australia.

leave well alone. Debate on the report of the Senate Standing Committee on Constitutional and Legal Affairs, *Reforming the Law*, was led by the ALRC Chairman. He also led discussion on the subject of uniform law reform in Australia, instancing a number of projects of the ALRC and of the State agencies in which law reform work being done in one jurisdiction was being adapted for use in other jurisdictions in Australia and beyond. Mr. Justice Kirby also tabled the manuscript of the *Law Reform Digest*, which is to be published early in 1982 by the Australian Government Publishing Service. This Digest collects a short statement of the reports of all Australian, New Zealand and Papua New Guinea law reform agencies from 1916 to 1980. It will be a useful means to provide a rapid summary of law reform recommendations, collected under familiar legal headings as used in the *Australian Digest*. Participants approved the format of the proposed Digest. It is hoped that it will contribute to the spread of

knowledge of Australian law reform work, particularly in developing countries of the Commonwealth of Nations.

There was some discussion of the ways in which Australian LRCs could contribute to law reform in developing countries. A number of agencies indicated their willingness to accept secondment of appropriate officers from overseas law reform bodies, providing travel and funding could be arranged. Some of the overseas participants expressed the view that such secondment could provide a useful background in law reform methodology and techniques.

The closing session of the conference was devoted to an examination of evidence law reform in the ALRC and in a number of the State LRCs. The inconvenience and inefficiency of the development of significantly different evidence laws was pointed out. It was agreed that better co-operation would be established at a research level between a number of the agencies which had current projects on evidence law reform.

The conference resolved to accept a new procedure for the notification to participating agencies of new references and of initial research programmes. This new procedure will ensure that duplication of research effort is kept to a minimum, whilst leaving agencies entirely free to develop their own thinking on policy issues. It was also agreed to commend to participating agencies a recommendation to their respective Ministers that there should be improved consultation at the level of officers of the Standing Committee of Attorneys-General so that priorities in law reform projects may be better co-ordinated as between the several jurisdictions of Australia.

The next meeting of the conference will be held in Adelaide in 1982, hosted by the SALRC (Mr. Justice Zelling, Chairman). It was further agreed that the eighth Conference in 1983 will be held in Brisbane, hosted by the QLRC (Mr. Justice Andrews, Chairman). The 1983 con-

ference will coincide with the 22nd Australian Legal Convention in Brisbane.

The sixth Conference concluded with a parliamentary luncheon given by the Tasmanian Attorney-General and address by Professor H.W.R. Wade QC. Professor Wade urged that the motto of law reform agencies could, at least sometimes, be 'leave well alone'. He instanced a number of problems which, he said, had arisen out of earlier reports of the Law Commission of England and Wales. The luncheon concluded a friendly and businesslike meeting in which the good professional and personal relationships between the Australian LRCs were reinforced.

reform action

Words are also actions, and actions are a kind of words.

R.W. Emerson, *Essays, 'The Poet'*.

a sense of concern. The opening of the 21st Australian Legal Convention in Hobart on 4 July 1981 was accompanied by a splendid fanfare, a warm welcome by the Law Council President Peter Cranswick, a tour of Federal initiatives by Attorney-General Durack and a sparkling address by Lord Chief Justice Lane of England. Typical of his urbane wit was his tribute to Lord Denning:

[T]hat legendary figure whose name is synonymous with reform. We shall indeed need luck to replace him, should that ever become necessary.

Lord Lane, *'Change and Chance in England'*,
(1981) 55 *ALJ* 383, 389.

The intellectual centrepiece of the opening was the address by the Governor-General of Australia, Sir Zelman Cowen, past Dean of Law at Melbourne and one-time Commissioner of the ALRC. The speech contained a number of words of encouragement for law reformers:

I would pay a tribute to the work undertaken at national and State levels. Leaders in the field of law reform have done and are doing splendid work in generating community awareness of the need for action in many areas; never, I think, have we had a