

filled them with horror. But New Zealand Minister of Justice Jim McLay said that the offender had committed no offence in New Zealand and so the NZ criminal justice system had no reason to take interest in him.

- In Victoria, the efforts by the Attorney-General, Mr Jim Kennan, to abolish the offence of consorting struck a snag in the Legislative Council, where the Opposition Liberal and National Parties combined to defeat the measure. However, on the motion of a Liberal frontbencher, a new definition of consorting was included in a Bill to amend the Vagrancy Act. Under the amendment people will no longer be charged with consorting with 'reputed thieves or known prostitutes'. The offence would be to consort with persons, other than relatives, who had been convicted of an indictable offence which related to dishonesty. To be guilty, a person would have to know that the other person had been so convicted. Mr Kennan said that this amendment was still unacceptable because it meant people could be found guilty by association. It also reversed the burden of proof requiring people charged with consorting to prove their innocence. The development of expungement legislation will have clear implications for consorting laws which exist in some form in every State of Australia. Indeed, in Western Australia and Queensland, there are specific Police Consorting Squads. John Schauble, writing in the *Sydney Morning Herald* (24 March 1984, 20) declared that the law of consorting 'implies that a person such as a criminal released from prison, is permanently barred from associating with past acquaintances or indeed with any person including relatives, without exposing himself to prosecution for consorting. The law has been particularly criticised for its application against people from disadvantaged backgrounds with limited social outlets'.

Interestingly, the offence of consorting was introduced in Victoria in 1931, allegedly because of the fear that unemployed people would gather for the purpose of plotting criminal activities. Mr Kennan described the offence as 'Dickensian'. He pointed out that in 1982 police made more than 3 000 charges, although only one conviction followed. This has led critics of the offence to suggest that it is misused for police harassment or for holding purposes. According to Mr Schauble, it is a case where 'having friends is a crime'.

## reformers' introspection

Critics are like eunuchs in a harem: they know how it's done, they've seen it done every day, but they're unable to do it themselves.

Brendan Behan, c 1948

**n z meeting.** Coinciding with the New Zealand Law Society Conference in Rotorua in late April 1984 was a Law Reform Forum to discuss the benefits and advantages of a permanent law reform body in New Zealand. The meeting was chaired by Justice Henry of the NZ High Court. It was addressed by NZ Justice Minister JK McLay and Deputy Opposition Leader and erstwhile law reformer, Dr Geoffrey Palmer. Among the overseas participants taking part were Lord Scarman (past Chairman of the English Law Commission), Senator Gareth Evans (Australian Attorney-General and ex-ALRC Commissioner) and Mr Russell Scott (also ex-ALRC and now Deputy Chairman, NSWLRC).

Although the meeting was not an open session of the conference, some word of the deliberations has filtered through to *Reform*. Mr McLay restated his scepticism about a permanent LRC for New Zealand. Such a body was recommended in the report of the Royal Commission on the Courts. It has also been urged by the NZ Law Society in a paper considered by the NZ Law Reform Council. Mr McLay listed action on the numerous reports of the NZ part-time law reform committees. Of the 105 reports delivered since 1967 the following statistics

were given (in summary):

● no change recommended	18
● full action, part action or legislation expected	64
● declined	3
● deferred	6

Mr McLay is known to be concerned about the expense of academic and practical assistance which is presently available on a part-time basis to the NZ committees. On the other hand, points made by the overseas participants included:

- There is a need for regular institutional review of the whole body of law on a continuing basis.
- LRCs should work harmoniously with reforming government departments and can supplement them and special commissions or committees.
- LRCs are specially useful for big reform projects such as privacy and insurance which somebody has to tackle if they are not to be totally neglected.
- Permanent LRCs can step up the quality of research and empirical work.
- Part-time commissionerships can provide appropriate means of involving practitioners.
- A permanent commission can raise community and parliamentary interest in law reform.

Dr Palmer (NZ Labour Party) said that he was in favour of the creation of a permanent law reform commission for New Zealand. This was a view that he had held for some time. It was now part of the policy of the NZ Labour Party. He believed that such a Commission should be responsible for comprehensive tasks of law reform to raise the standards of reports and the scope of projects that could be tackled by part-time committees. He said that a modest law re-

form commission was appropriate and would supplement the Law Reform Division of the NZ Justice Department which comprised some 17 members.

Minister McLay indicated that his mind was not 'static' on the subject of institutional law reform. But he was conscious of costs, the relative success of the NZ part-time committees and the constant complaint of citizens and even lawyers about the number of quality of statutes. The debate across the Tasman continues.

*a l r a c again.* Meantime, in Australia, as this issue of *Reform* goes to print, law reformers are preparing for the Ninth Australian Law Reform Agencies' Conference (ALRAC) meeting which convenes in Sydney on 15-16 June 1984. The ALRC and the NSWLRC are co-convenors of the conference, which is now a regular and established meeting of Australia's principal institutions of law reform. Also attending will be representatives of New Zealand law reform committees and the Papua New Guinea Law Reform Commission. Amongst items on the agenda are:

- a review of current programs in the law reform agencies;
- an analysis of differential use of sanctions and remedies in law reform;
- a session on sociology and law reform;
- scrutiny of progress towards uniform law reform in Australia;
- examination of the difficulties of actually achieving law reform in government.

The round table review of present programs, implementation of past reports and new references will be simplified at this conference by a decision made at the Eighth Conference held in Brisbane. See [1983] *Reform* 140-142. All agencies are now required to predistribute a short precis of their current work programs. This innovation will maximise the time available for informal exchanges of views and information.

The session on sanctions and remedies in law

reform will be led by Mr Jim Spigelman, a Sydney barrister and former ALRC Commissioner. During a period with the ALRC, Mr Spigelman studied the way in which various sanctions were used in law reform proposals. He attempted to indicate the differential utility of such sanctions as criminal penalties, injunctions, declarations, civil damages, publicity and so on. The program on 'A Sociologist Looks at Law Reform' will be led by Ms Bettina Cass, a past Commissioner of the NSWLRC and herself a social scientist. In recent years a number of law reform bodies including ALRC, NSWLRC and WALRC have appointed law reformers with social science as well as legal backgrounds. In the ALRC social science surveys have been conducted in conjunction with the inquiries into matrimonial property (see above p 94), sentencing and the law of contempt. See [1984] *Reform* 64.

The Law Reform Agencies' Conference will be addressed by the Federal Attorney-General, Senator Evans, himself a past Commissioner of the ALRC. It is expected that Senator Evans will discuss progress towards a national Uniform Law Reform Advisory Council as proposed by the 1983 ALRAC conference. More on this in the next issue of *Reform*.

*in the states.* A number of law reform developments in the States deserve to be noted:

- In Tasmania the government has introduced a Law Reform Commission Amendment Bill 1984. At the time this edition of *Reform* goes to press, the Bill has gone through the House of Assembly of Tasmania and awaits a Second Reading in the Legislative Council mid June 1984. The Bill contains a number of innovations but the most important is the extension of the 'sunset clause' provision in the present Act from August 1984 to August 1989. The legislation also creates the post of Research Director and provides that the present Executive Director of the TasLRC is to be deemed appointed the Research Director. In-

terestingly, the new legislation deletes the provisions that established two lay Commissionerships in the TasLRC. Instead it permits the appointment of 'advisory members' to the Commission, with the approval of the State Attorney-General, for the purpose of pursuing particular functions and duties imposed by the Act.

- In Victoria the State Attorney-General, Mr Jim Kennan, has summoned a colloquium on law reform to take place in Melbourne on 12 June 1984. The colloquium will be attended by about 40 persons involved in various aspects of law reform in Victoria. Speakers will include the ALRC Chairman (Justice Kirby) dealing with the relationships between law reform agencies and committees and the Attorney-General in the adoption of law reform reports, and Marcia Neave (a part-time member of the NSWLRC) and Tim Smith (ALRC) on lessons for Victoria from New South Wales and Federal experiments in law reform. The Victorian Law Reform Commissioner (Professor Louis Waller), the Head of the Law Department (Professor David Kelly) (also an ALRC Commissioner) and representatives of the VLCC and VCJC will take part in the colloquium. Coming immediately following the address by Mr Kennan on 5 April 1984, 'Law Reform Under a Labor Government, delivered for the Victoria College at Toorak, Melbourne, the colloquium should permit the bringing together of a great deal of attention to the institutional framework for law reform in that State. There is no doubt that Mr Kennan has inaugurated a very active period of law reform in Victoria, in this respect following with vigour the initiatives of his immediate predecessors, Mr Haddon Storey QC and Premier John Cain (himself also a former ALRC Commissioner).