The New Zealand
LAW JOURNAL

3 MAY 1966 No. 8

SUMMARY OF RECENT LAW

INDUSTRIAL CONCILIATION AND ARBITRATION—PRACTICE

Proceedings necessary to obtain interpretation of award—Desirability of suing in Magistrate's Court and not Supreme Court. Master and servant—Piece-worker employed under award—Less than four hours work available—Worker entitled to payment at hourly rate for difference between actual hours of work and minimum period of four hours—Whether smoko period to be reckoned as time actually worked. Where proceedings are being commenced which call for the interpretation of an award it is preferable that they should be brought in the Magistrate's Court (with right of appeal to the Court of Arbitration) rather than in the Supreme Court. A pieceworker employed under the New Zealand (except Westland) Freezing Works Industrial Agreement is to be treated as engaged in work during the compulsory smoko period provided for in the agreement, which periods are included in his ordinary daily hours. Where, therefore, a piece-worker is engaged in work for less than four hours in any one day and thus becomes entitled to be paid at a prescribed hourly rate for the difference between the actual period of work and four hours, any smoko period falling within the period of actual work is to be reckoned as time worked and is thus not to be paid for at the hourly rate. *Sneddon* v. *Thomas Borthwick and Sons (Australasia) Ltd.* (Supreme Court. Wellington. 1965. 2 December; 14 December. McGregor J.)

INTOXICATING LIQUORS—OFFENCES

Entering on hotel premises for purpose of consuming liquor—Guests of lodger waiting at hotel while he changes clothes—Lodger purchasing a drink for them which they consumed—Whether bona fide *guests of lodger—Whether guilty of offence—Sale of Liquor Act 1962, s. 250.* Section 250 (3) of the Sale of Liquor Act 1962, has expressly excluded from consideration the purposes of entering on licensed premises in the case of *bona fide* guests of a lodger on those premises in deciding whether or not an offence has been committed when such lodger purchases drinks for such guests which they consume. The cases which decided to the contrary under the Licensing Act 1908 and earlier legislation are now therefore obsolete. *Police* v. *Chappell and Others* (1965. 9 August; 10 September, before Mr K. H. J. Headifen at Christchurch).

Refusal to serve Maori woman with liquor—Conduct of Maori women generally in past unsatisfactory—No complaint against conduct of woman so refused service—Whether such refusal by reason only of woman's race—Sale of Liquor Act 1962, s. 190 (1) (c). Where a Maori woman is refused service of liquor by the licensee or manager of an hotel on the ground that the conduct of Maori women generally has in the past been unsatisfactory but there has never been ground for complaint against the conduct of the woman in question such refusal must be taken to be by reason only of the woman's race and is an offence against s. 190 (1) (c) of the Sale of Liquor Act 1962. *Police* v. *Bonner: Police* v. *Robinson* (1965. 5 July, before Mr H. J. Evans S.M., at Christchurch).

LAW PRACTITIONERS—SOLICITOR

General lien for costs—Whether applicable to moneys held for client—Whether prevailing against Official Assignee or liquidator of insolvent company—Whether solicitor entitled to set off claim for costs against claim by assignee or liquidator to funds in his hands—Bankruptcy Act 1908, s. 104—Law Practitioners Act 1955, ss. 71 (4). Where a solicitor who has been acting for a company which subsequently has gone into liquidation is holding moneys on behalf of that company and also has an unquantified claim for costs against that company there is nothing to stop s. 104 of the Bankruptcy Act 1908 from operating to allow the solicitor to set off the amount of his costs, quantified after liquidation, against the liquidator's demand for the moneys in his hands. Such right of set off is preserved by s. 71 (4) of the Law Practitioners Act 1955. (*Official Assignee of Reeves and Williams* v. *Dorrington* [1918] N.Z.L.R. 702, overruled on this point.) *So held,* by the Court of Appeal (North P., Turner and McCarthy JJ.) reversing the judgment of Wilson J. [1964] N.Z.L.R. 1032. *Further held* (per Turner J. agreeing with the judgment of Wilson J. on this point) that a solicitor has no general lien on funds which come into his hands for his bill of costs in respect of transactions unconnected with the preservation or recovery of such funds. (*Mills* v. *Rogers* (1899) 18 N.Z.L.R. 291; 2 G.L.R. 94; *In re Hardy* (1901) 19 N.Z.L.R. 845; 3 G.L.R. 193 and *Official Assignee of Reeves and Williams* v. *Dorrington* (*supra*) affirmed on this

point.) *Shand* v. *M. J. Atkinson Ltd. (In Liquidation)* (Court of Appeal. Wellington. 1965. 6 September; 17 December. North P. Turner J. McCarthy J.).

NEGLIGENCE

Professional Negligence. (1966) 1 L.J. 345.

NEGLIGENCE—DUTY OF CARE

Question of existence of duty of care one for Judge and not to be left to jury—Explosives negligently stored on premises—To whom duty of care owed to keep them secure—Whether limited to persons entering on premises—Whether extending to persons not so entering but into whose hands explosives may come—Novus actus interveniens—*Explosives negligently stored on premises—Found to be foreseeable that they will be taken by young persons and distributed to others who have never entered premises—Whether such distribution a* novus actus interveniens *or a foreseeable consequence of original act of negligence.* In an action for damages based on allegations of negligence on the part of the defendant the question whether the defendant owes a duty of care to the plaintiff is one of law for the Judge to decide and should not be left to the jury notwithstanding that the question must be decided on the facts of the particular case. A person storing dangerous explosives on his premises owes a duty of care to keep them secure to all persons foreseeably likely to be injured as a result of a breach of that duty. The duty is not necessarily limited to persons entering on those premises but may, depending on the facts, extend to other persons who have never entered on the premises but amongst whom the explosives may be distributed, albeit at second or third hand. Where it is reasonably foreseeable that such explosives may, because of the defendant's failure in his duty of care, come into the hands of young persons and that such young persons may pass them on to other children who are injured thereby, the acts of the persons first mentioned in passing on the explosives are foreseeable consequences of the defendant's original act of negligence and are not acts of conscious volition on the part of those young persons such as will give rise to a plea of *novus actus interveniens. So held,* by the Court of Appeal (North P., Turner and McCarthy JJ.) affirming the judgment of Tompkins J. (*infra*) except on the point first mentioned. *McCarthy* v. *Wellington City* (Supreme Court. Wellington. 1965. 23, 24 March; 14 May. Tompkins J.) (Court of Appeal. Wellington. 1965. 8, 9, 10 November; 17 December. North P. Turner J. McCarthy J.).

PRACTICE AND PROCEDURE—JUDGMENT BY DEFAULT

Setting aside—"Liquidated demand in money"—Meaning—Action claiming balance alleged to be due under building contract—Amount made up of contract price less deductions and plus extras—Such deductions and extras not measured or valued—Whether a liquidated demand in money—Whether judgment to be set aside—Whether irregularity curable or excusable—Code of Civil Procedure RR. 226, 236, 599. The signing of judgment in an action summarily in default of the filing of a statement of defence within the prescribed time is, if the relief claimed is not the payment of a liquidated demand in money, irregular, and the judgment can be set aside *ex debito justitiae* on the application of the defendant. Such irregularity cannot be cured by invoking R. 599 of the Code of Civil Procedure. (*Anlaby* v. *Praetorious* (1888) 20 Q.B.D. 764 and *Smurthwaite* v. *Hannay* [1894] A.C. 494 discussed.) A claim for a balance alleged to be due under a building contract after making adjustments for extras and deductions which have not been measured and valued in accordance with the terms of the contract is not a liquidated demand in money and consequently a judgment by default entered by the plaintiff should be set aside under R. 236 without the imposition of terms except as to costs. Observations generally as to what is a liquidated demand in money. *Paterson* v. *Wellington Free Kindergarten Association Inc.* (Supreme Court. Wellington. 1965. 25, 26, 29 November; 10 December. Barrowclough C.J.).

PRACTICE AND PROCEDURE—THIRD PARTY PROCEDURE

Costs—Defendant in action joining two third parties—Third parties exonerated but defendant held liable in damages—Whether costs to be allowed to each third party on full amount claimed by plaintiff or on amount awarded to him. Where two third parties are joined by the defendant in an action for damages and the defendant seeks full indemnity or contribution from each of them but the third parties are exonerated and damages are awarded to the plaintiff against the defendant alone each third party, provided that he is separately represented, is entitled to full scale costs from the defendant on the full amount claimed by the plaintiff and not only on the amount awarded to him. (*Hoare* v. *Frames Carrying Co. Ltd.* [1961] N.Z.L.R. 891 followed.) *Orr* v. *I. P. Shannon Ltd. and Others* (Supreme Court. Palmerston North. 1965. 28, 29, 30 July; 9 December. Tompkins J.).

TRANSPORT AND TRANSPORT LICENSING—OFFENCES

Abetting third person in careless driving—Defendant teaching another to drive a motor car—Seeking to deal with dangerous situation created by pupil—Whether guilty of abetting her in careless driving—Transport Act 1962, s. 60. An abettor is one who instigates or incites another in the commission of an offence. A person teaching another to drive a motor car and endeavouring to deal with a dangerous situation which his pupil has carelessly created should not be convicted of abetting the pupil in the offence of careless driving. (*Rubie* v. *Faulkner* [1940] 1 K.B. 571; [1940] 1 All E.R 285 distinguished.) *Theeman* v. *Police* (Supreme Court. Christchurch. 1965. 1 December 1965; 1 February 1966. Macarthur J.).

Failing to yield right of way at give-way sign—Roundabout having four entrances—Incoming traffic at each entrance governed by give-way sign—Whether roundabout comprising one intersection or four—Duties of drivers at each entrance—Traffic Regulations 1956 (Reprint) (S.R. 1963/151) Reg. 12A. The Ferry Road traffic rotary, Christchurch, comprises four intersections and not one. A driver entering by any of the four entrances is faced with a give-way sign and must yield the right of way to traffic already on the roundabout. Once having properly passed such give-way sign such driver has the benefit of the give-way signs at all the other entrances which he may pass and has the right of way over incoming traffic at those entrances even though he himself is turning to his right. *Police* v. *Woodsford: Woodsford* v. *Grooby* (1965. 8, 24 September, before Mr H. J. Evans S.M., at Lyttelton).

ADVICE WE DOUBT WAS EVER GIVEN

Old Gritpipe came in to see us the other day. He wheezed for a time about the excessive profits made by the council from its parking meters, and then concentrated his attack on our locating our offices upstairs, thus making it even more difficult for senior citizens who had spent half the morning looking for a parking space to spend the rest of the morning climbing up these innumerable stairs. We said nothing about a misspent youth which now made stair climbing just that much harder, nor did we tell him that the number of semi-retired people, who formerly dropped into our office to gossip, had been decimated by our move upstairs.

(We did keep a room downstairs for the elderly if we judged they really had need of our services, but we would have retired rather than tell old Gritpipe about it.)

Had Gritpipe, perhaps, failed to charm the meter maid and so received a summons, we wondered? No, that was not the trouble. He was in trouble then? No, of course he wasn't in trouble, he swore, he wanted us to get some one else in trouble. We started to demur that, at our age, the prospect of getting someone into trouble was delightful to consider but not so easy to achieve. Gritpipe was by now castigating teenagers but it was still not clear to us why Gritpipe required us to stir up some trouble for them. "It's my fence", he said, and we remembered he had a large and imposing fence right alongside the main road out of town. Vandals, we wondered. Yes, all these young people were vandals, and after several minutes we managed to steer him back to the fence. It turned out that his trouble was the teenage pop shows that were advertised by posters, and that every time a show came to town the posters appeared on his fence. This is not surprising, it was the best fence in the city to carry a poster, particularly as it had had no work done to it in the twenty-five years that Gritpipe had owned the property. Some of the posters were a considerable improvement on the peeling paint. One or two of the posts had by now rotted in the ground, but nevertheless it had been erected at great cost in the first place as the most attractive fence that the previous owner could design.

What about the council, we inquired. "Don't talk to me about the council, those parking meters!" Eventually, we got from him that the council considered they could only proceed against the person who, with paste pot in hand, actually stuck the poster. The council were under the impression that they had better things to do than go right through New Zealand looking for itinerant circus hands and bill posters, with a view to having them fined £1 and costs at some later date. If the "better things to do" were parking meters, old Gritpipe was prepared to take issue, but we managed to bring this particular diatribe to a halt by mentioning the Fencing Act.

"The Fencing Act?" he asked. "I was a farmer for 30 years and I never heard anything about bill sticking in the Fencing Act." We did not take up his claim to have been a farmer, but we did mention there were more things in heaven and earth and the Fencing Act, etc. "What you must do", we said, "is repair your fence." "I didn't come here to have you tell me what I should do about my fence", said old Gritpipe. We waved a hand to indicate we had not finished our sentence, "and you must make the theatrical promoter pay half the cost of the repairs". Old Gritpipe broke into what a charitable person would have described as a smile, and then his natural inclinations asserted themselves again. "I don't believe it", he said. "Its true", we told him. "Section 25 of the Fencing Act says that if you have a fence on the boundary between your land and the road, and anyone else takes advantage of any means by which the fence is of beneficial use to him and avails himself of the fence, the other person, so long as he continues to avail himself of it, has to pay you interest at 10 per cent of half the then value of the fence, and also has to bear half the cost of repairs. "Well, I'll be——." We had no doubt that he would be, but we stopped him to tell him that first he had to serve a notice upon the person making use of the fence requiring him to assist in repairing the fence. If the promoter refused or neglected to do anything about it for seven days, Gritpipe could repair the fence and recover half the cost from the promoter.

Next time one of these touring shows plasters your fence and the show looks reasonably financial, we said, you tell us straight away and we shall get the proper notice served on the promoter or the singing sensation, or whoever, and he won't do anything about it because he'll never dream it applies to him. You will only have to wait a week and then go ahead and repair your fence. Then you sue the promoter for half the cost, and Bob's your uncle.

You have to hand it to Gritpipe, he catches on fast. "Why can't I wait until there are two different shows both advertising on the fence at the same time, and get half the cost of repairs out of each of them? That would leave me with nothing to pay." "Well you can try it if you like", we said, "but don't blame us if something goes unstuck."

"Don't forget you have to get the repairs done before they pull the posters down on you." "Those so and so's, they never pull a poster down after them. Why shouldn't I serve the notices myself?" "Because," we explained, "the wording of the notice and how it is served, are critical. Would you like to have to pay for all the repairs yourself, just because you didn't want to pay us some legal costs?" For a moment there was an agony of indecision, until he remembered that, even if we charged him what our advice was really worth, the repairs to the fence would cost twenty-five times as much.

Have you seen any good shows lately?

N.L.J.P.

RECENT ADMISSIONS

The following were recently admitted to membership of the legal profession.

Barristers and Solicitors

4 Feb.	Edwards, M. D.	Auckland
8 Feb.	Gendall, J. W.	Wellington
8 Feb.	Hurley, D. E.	Wellington
11 Feb.	Foot, D. F. M.	Wellington
11 Feb.	Hodson, C. J.	Wellington
11 Feb.	McKinlay, P. J.	Wellington
11 Feb.	O'Flynn, M. M.	Wellington
11 Feb.	Shaw, R. J. M.	Wellington
16 Feb.	Hampton, L. F. N.	Christchurch
16 Feb.	Kerr, D. A.	Christchurch
16 Feb.	Rowe, D. W.	Christchurch
17 Feb.	Congreve, R. L.	Wellington
17 Feb.	Winter, S. V.	Wellington
18 Feb.	Clark, J. L.	Auckland
18 Feb.	Foy, G. M.	Auckland
18 Feb.	Hood, B. J.	Christchurch
18 Feb.	Hunt, B. A.	Christchurch
18 Feb.	MacKay, A. R.	Auckland
21 Feb.	Broadbent, J. L.	Dunedin
21 Feb.	Lawrence, R. F.	Dunedin
21 Feb.	Poole, I. J.	Dunedin
21 Feb.	White, J. M.	Dunedin

Barristers

8 Feb.	Chapman, R.	Wellington
8 Feb.	Olphert, W.	Wellington
11 Feb.	Lamont, R. A.	Wellington
11 Feb.	MacKay, L. F.	Wellington
11 Feb.	Nash, J. R.	Wellington
14 Feb.	Kemp, J. W.	Wellington
15 Feb.	O'Brien, L. P.	Christchurch
15 Feb.	Palmer, D. M.	Christchurch
15 Feb.	Ryan, J. E.	Christchurch
16 Feb.	Hall, A. J.	Wellington
17 Feb.	Bulfin, P. E.	Christchurch
17 Feb.	Irwin, K. W.	Wellington
18 Feb.	Tipping, A. P. C.	Christchurch
21 Feb.	Carroll, N. A.	Dunedin
21 Feb.	Devereaux, A. B.	Dunedin
21 Feb.	Duell, R. V.	Dunedin
21 Feb.	Farry, S. R.	Dunedin
21 Feb.	Keddell, P. J.	Dunedin
21 Feb.	Lemon, J. N.	Dunedin
21 Feb.	Sligo, M. R.	Dunedin
21 Feb.	Willis, A. M. D.	Dunedin

Solicitors

14 Feb.	Kemp, R. T.	Wellington
16 Feb.	Cooke, E. F. R.	Wellington
16 Feb.	Elliott, R. M.	Wellington
16 Feb.	Lockwood, J. G.	Christchurch
16 Feb.	Somerville, J. A.	Wellington
16 Feb.	Wain, J. J.	Christchurch
17 Feb.	Armstrong, J. L.	Wellington
18 Feb.	Butler, J. E.	Christchurch
18 Feb.	Crosby, S. T.	Wellington
18 Feb.	Kremic, E.	Wellington
18 Feb.	Stevens, J. G.	Wellington
18 Feb.	Wade, W. A.	Wellington
21 Feb.	Amyes, R. A.	Dunedin
21 Feb.	Douglas, W. L. B.	Dunedin
21 Feb.	Inder, W. R.	Dunedin
21 Feb.	Ingerson, J. T.	Wellington
21 Feb.	Phillips, G. M.	Dunedin
21 Feb.	Shanahan, F. M. C.	Wellington
21 Feb.	Smith, M. T.	Dunedin

IN YOUR ARMCHAIR—AND MINE

By Scorpio

Violating Oblivion

In some ways the French law of libel affords the injured individual more protection than our own, in which literal truth is a justification. *Toute verite n'est pas bonne a dire.* The French law, taking account of French *politesse*, will subject the propriety of the published word to wider tests than that of simple truth. Thus in a Paris Court, Mlle. Fernande Segret, aged 73, has just obtained a judgment for 10,000 francs damages against Claude Chabrol, the film director, and Paris-Rome Films for " violating her right to oblivion " in reproducing an episode in her life forty years gone by. The film was about Henri Landru, the murderer and cheat, executed in 1922, and she was the faithful mistress who stood by him to the end. So much blood has flowed beneath the arches of the years since then, that the lady surely has a prescriptive right to oblivion in this matter. At this distance of time even those who know the name of Landru probably only have a vague idea that he was a mass murderer of women. However, the odd thing about him seems to have been that he was essentially by taste and vocation a methodical, industrious, small-time and fundamentally bourgeois confidence trickster and only a murderer by necessity and in the last resort. Another odd thing is that at his trial for the murder of ten women and the young son of one of them, the evidence against him was purely circumstantial; the verdict of guilty was purely inferential. Not a single body was found; not a single death was directly proved. The ladies had just vanished into thin air—no one knew how, when or why. The whole case bristles with improbabilities. Landru had a criminal record and, indeed, was in jail at the outbreak of the first world war in 1914 and yet the police never seem to have kept track of his activities, even to ask why he was not in uniform. Again, he was a short, dark, bald, bearded, ordinary-looking man, yet the vanishing ladies were only a tiny fraction of the women in his life. Monsieur Jean Belin, the detective who eventually unmasked him, reckoned that he had had affairs with no less than 273 women, besides maintaining a wife and family who were in ignorance of his extra-marital activities. When he was brought to trial at the Versailles Assizes in November 1921, the indictment charging him with murder, fraud and forgery, twenty-eight charges altogether, was the equivalent in length of fourteen columns of *The Times* and the mere reading of it took the clerk of the Court the whole of the first session. Maitre Godefroy, the Advocat-General, led for the prosecution. The tempestuous Maitre de Moro Giafferi, the Marshall Hall of the French Bar, led for the defence with fiery eloquence. The accused, under the judicial interrogation which is an essential part of French criminal procedure, mostly maintained a passive or flippantly evasive attitude. " You say I killed ten women and a boy ", he repeated. " Prove it ! "

Landru was born in 1869. During his military service he was promoted sergeant. He married and raised a family and never ceased to concern himself with the welfare of his wife and children. In Court he claimed that he brought up his sons to respect and obey their father. He earned a rather precarious living in the second-hand furniture trade and in 1904 he was convicted for the first time of swindling. His fifth sentence on 24 July 1914 was one of four years' imprisonment. Early in 1915 he was rather strangely at large and travelling about in a motor car. He had discovered how to make a steady moderate income by picking up lonely women, often through newspaper advertisements, getting possession of their property, usually under promise of marriage, and then shaking them off. In his bourgeois way he kept notebooks full of minute particulars of his activities and his expenses, keeping several contacts going at the same time. He recorded " overheads "—theatre tickets, meals, the rent for various " love nests ", even the collection when he took a lady to church—ate up a great deal of his profits. He had aliases galore. Sometimes he was " in the secret service ". Once he was " the Australian consul in Paris ". In Court he avoided explaining these multiple activities, saying that he could not think of revealing the nature of his relationship with the vanished ladies without their permission. The beginning of the end came when the police started investigating the almost simultaneous disappearance of two widows at Gambais, a village

about 35 miles from Paris. Madame Collomb had told her relatives that she was going to marry a Monsieur Cuchet. Madam Buisson had said she was engaged to a Monsieur Fremyet and her sister, Mlle. Lacoste, had indeed called on her at Gambais and met him. The description of the two men tallied and the detective in charge of the case became convinced that they were the same man. Then one day, by chance, Mlle. Lacoste saw him again in a Paris street with another women and followed him to a china shop where he made an order. He was then going under the name of Lucien Guillet and the police traced him to an address where he was living as the husband of Fernande Segret. He was arrested on 14 April 1919, and among the entries in his memorandum book was a cryptic list of names which turned out to be a catalogue of missing women. A toothcomb search of his house at Gambais revealed no bodies. All that was found, among the ashes of the kitchen stove, was a collection of bone fragments, which the experts swore were human, and various metal objects, which might have been fastenings for female garments. On 30 November 1921, after a two hours' retirement, the jury found Landru guilty and he was condemned to death. He was executed on 25 February. He never admitted the murders and many people believed he was innocent of them: *The Solicitors' Journal.*

Obituary

In the climate of the commercial world, as at present constituted, it is often hard to tell whether any particular transaction is a merger or a murder, a wedding feast or a ritual meal, a " take-over bid " or a " hold-up ". Occasionally, the choice of terminology is a mere matter of euphemism. Perhaps, sometimes less nakedly than nowadays, and sometimes even more nakedly, it has always been so.

For there is nothing lives but something dies,
And there is nothing dies but something lives.

If the sacrificial victim is a gentleman, he will gracefully conform to the customs of an incurably competitive world.

God save King Henry unkinged Richard says,
And send him many years of sunshine days.

However, even when, according to current conventions, the end is from " natural causes ", spectators who are " in at the death " may be permitted to pay the tribute of a regretful sigh for a departed personality, long a pleasant feature of the horizon of their memories, even though they have been categorically assured that his soul goes marching on somewhere in the belly of the leviathan which has devoured him.

Living members of the legal profession will remember the very distinctive personality of the *Law Times* as that of a most gentlemanly periodical, firmly rooted in all that was best in the settled traditions of the legal world. Perhaps it was disinclined to take a vigorous stand on controversial points or to make trenchant comments, but that accorded well with the instinct of English good manners, which would rather let a discussion drop than press forward to an acrimonious head-on collision. Always accurate and moderate, the *Law Times* appealed to what was most honourable and most reflective in the legal profession. This was the mood of its mellow maturity as a nonagenarian and finally as a centenarian, but it was not always the case. In its youth the *Law Times* was hot-headed and even brash, the brain-child of one of those vigorous Victorian innovators who pushed the Industrial Revolution very far towards the practice of its logical conclusions. I suppose one must not call Edward Cox, the son of a Taunton manufacturer, a business man, because he was a practising member of the Bar and eventually a minor Judge, but all that one hears of him suggests that he was born a century too soon and that in our own day he would have been absolutely in his element in a world of real property speculators and industrial tycoons. When he founded the *Law Times* in 1843 he was thirty-four years old and a month short of his call to the Bar by the Middle Temple. He continued to edit it until his death thirty-six years later, when an obituary notice said of him that " he had an instinct almost amounting to genius in detecting the wants of classes with whom he was brought into contact": *The Solicitors' Journal.*

Pet Food and Baby Food

Richard Roe of the *Solicitors' Journal* is a frequent source of inspiration and information for this column and in a recent issue he further enlarged my knowledge. In a paragraph dealing with the increasing complexity of household shopping lists he describes England as a country " where five times as much is spent on pet food as on baby food". No authority is quoted, but the statement must have some factual basis. What a pity our own census is now over, and we have missed the opportunity of making a similar comparison in New Zealand. Perhaps the Government Statistician will note for consideration when drafting the next census forms.

OBITUARY

Mr S. D. E. Weir

Mr Stanley David Edmondson Weir, principal legal adviser to the Auckland Regional Authority and a leading Auckland barrister and solicitor, died recently, aged 62. Mr Weir was a senior partner in the legal firm of Buddle, Weir and Company.

Born in Auckland and educated at Auckland Grammar School and Auckland University College, Mr Weir graduated LL.M. with honours in 1924.

He was elected a councillor of the Auckland District Law Society in 1951 and served as its president in 1955 and 1956. From 1954 to 1956 he was a member of the council of the New Zealand Law Society.

Judge D. J. Dalglish

The death occurred recently of Douglas James Dalglish, Judge of the Compensation Court and chairman of the Crimes Compensation Tribunal. His Honour was aged 61.

Judge Dalglish was born at Pleasant Point on 9 June 1904 and was educated at Timaru Main School, Timaru Boys' High School, Nelson College and Victoria University College. He graduated from the latter LL.B. and was admitted as a solicitor in 1925 and as a barrister in 1926.

For 11 years his Honour was a member of the firm then known as Buddle, Anderson, Kirkcaldie and Perry, and in 1936 he became a member of the Wellington City Adjustment Commission set up under the mortgagors' relief legislation then in force, later becoming Chairman of the No. 2 Commission.

In 1938 Judge Dalglish accepted appointment as first assistant Parliamentary Law Draftsman, a position which he retained for some nine years. During this period he was responsible for the drafting of many important measures, notably the Factories Act 1946 and other legislation in the industrial field. In 1947 he was appointed a Deputy Judge of the Arbitration Court and held that position until 1952 when he was appointed Judge of the Compensation Court in succession to Judge Ongley. He was also chairman of the Waterfront Commission in 1947 and of the Waterfront Industry Authority from 1948 to 1951.

Judge Dalglish also served on many Commissions of Inquiry and Royal Commissions, in particular the Royal Commissions on Maori Land claims of 1950 and 1951. He was also president of the Price Tribunal from 1953 to 1958 and of the Copyright Commission from 1957 to 1959. He was also Trade Practices Appeal Authority and Motor Spirits Licensing Appeal Authority.

Despite his busy professional life, Judge Dalglish found time to write *Company Law in New Zealand* and he was joint author with his former partner, Mr H. E. Anderson, of *The Law Relating to Companies in New Zealand*.

His Honour's main recreation was golf, although in earlier years he took some part in amateur theatricals. He is survived by his wife and two daughters.

Tributes in Court

On 3 March there was a large gathering in the Compensation Court of practitioners to pay tribute to the late Judge. Judge K. G. Archer presided and on the Bench with him were the Judge of the Court of Arbitration, Mr Justice A. P. Blair, a former Judge of the Court of Arbitration, Sir Arthur Tyndall, and a retired Additional Judge of the Court, W. F. Stilwell Esq.

Speaking on behalf of the Government, the Solicitor-General, Mr J. C. White, expressed its deep regret at the great loss which the country had suffered through the death of his Honour who for 19 years had served with distinction as a Judge and as chairman of a wide variety of tribunals.

After detailing the various judicial and quasi-judicial appointments held by his Honour, Mr White continued:

"Merely to name the Courts and the commissions and tribunals brings home to us the very important part his Honour played in matters affecting employer and employee relations and the economy of the country as a whole. He presided always with a quiet dignity and courtesy, and all who appeared before him were impressed by his knowledge of his subject and his ability to sift the facts and get to the kernel of the matter.

"An acknowledged authority on workers' compensation law, as the Law Reports show, he was also interested in improving the compensation law. His advice, based on

experience, was welcome and but for his illness and untimely death he would have visited Canada and, on behalf of the Government, examined and reported on the rehabilitation aspect of the Canadian compensation system.

" His Honour will be remembered for a most valuable contribution in the wide, developing and often difficult field in which he worked. And those of us who knew him well will also always remember with admiration his cheerful inspiring courage during long months of failing health.

" To Mrs Dalglish and the members of his family I express the Government's respectful sympathy in their great loss."

On behalf of the New Zealand Law Society its president, Mr E. D. Blundell, extended sympathy to Mrs Dalglish and members of the family and made laudatory reference to his Honour's great work in the compensation field, which had been immense and would be lasting. His Honour's memory would live long through the written word.

The vice-president of the Wellington District Law Society, Mr D. McGrath, also spoke of the affectionate esteem with which his Honour was held by practitioners and also referred to the publications with which he had been associated.

Judge Archer said that he and his colleagues on the Bench had worked beside Judge Dalglish in industrial and allied spheres and had long recognised and admired the industry and ability which had characterised his work as a Judge, as a writer, and in other capacities.

He added: " We join with those who have already spoken in paying tribute to one whose long service and professional knowledge of the law have earned for him a lasting place in our legal annals and, particularly, as a Judge of the Compensation Court, where he presided with distinction for so many years ".

LEGAL LITERATURE

The Indecent Publications Tribunal: A Social Experiment. By Stuart Perry. 1965. Whitcombe and Tombs Limited. Pp. 169. Price 27s. 6d.

Two American psychologists, Eberhard and Phyllis Kronhausen, have drawn a fundamental distinction between " erotic realism " and pornography, based on the different approach and handling of the problem of " reality " in pornographic writings as compared to literature of the erotically realistic type. " In contrast to erotic realism, pornography," they say, " is *not* concerned with reality at all, but sets aside all considerations of reality in favour of the wish-fulfilling phantasies of its (predominantly male) authors and the anticipated reactions of a predominantly male readership ". In New Zealand we appear to be rapidly reaching a stage where a book will be allowed to circulate freely provided that it can be shown to belong to the realm of " erotic realism " (as defined by the Kronhausens) as distinct from that of mere pornography.

Mr Perry has not purported to write a legal textbook although the source material and references contained in his book will no doubt be of considerable use to practitioners. He has been concerned to supply a " narrative history " setting out the various steps which have from time to time been taken in New Zealand to deal with the vexed problem of the censorship of literature of a sexual or erotic nature. Mr Perry has avowedly treated his subject from a liberal standpoint.

After discussing the Indecent Publications Act of 1910 and the legislation which preceded it, Mr Perry describes the " panic measures " taken by the Government in amending that Act in 1954. He then goes on to deal with the *Lolita* case and the " changing climate " which led to the establishment of the Indecent Publications Tribunal (of which Mr Perry himself is a member). A substantial portion of his book is devoted to a detailed examination of the work of the Tribunal and of the decisions made by it in respect of the various publications which have come before it for consideration. A convenient feature of the book is the appendices which set out the text of the different enactments relating to indecent publications in New Zealand.

E.J.H.

Shocking!—Contact with an idea is like contact with a live wire—it is likely to knock a man silly unless he is prepared to handle it: *Sunshine Magazine.*