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## HUMAN RIGHTS IN SOUTH-WEST AFRICA

The widespread general strike which occurred in Namibia (South-West Africa) last December and January is one of the most remarkable events in the story of the fight against racial repression by the South African Government.

The strike began on 13 December 1971 with some 6,000 Ovambos in the Katutura compound outside Windhoek, a compound which was described by an editorial in the Windhoek Advertiser as "little less than a filthy ghetto". The strike quickly spread and by mid-January some 13,000 workers were on strike and 7 or 8 mines had been brought to a stand-still. This protest occurred spontaneously as all trade union activities are banned.

The strike was directed against the contract system, which we have previously described as "akin to slavery". Under this system all African workers from the "reserves" were recruited by a corporation called SWANLA (South-West African Native Labour Association) who then assigned them to a "master" with whom they had no contractual relationship. The contract was for one or two years and it was a criminal offence for the worker to leave his employment during the recruitment period. At the end of the period he was returned to his reserve and could not renew his contract. In this way he was deprived of the opportunity of acquiring skills. The workers had to live herded together in compounds and had to leave their wives and families behind in the reserves. They could not leave their compounds or work places without a pass from their "master". Wages were extremely low and only a tithe of those paid to white workers.

The strikers' demands were for a legal agreement with their employer, freedom of choice as to their employment, the right to take their families with them, fair wages without racial

discrimination, abolition of the pass system, and employment offices in all tribal towns and regions.

The immediate result of the strike was the abolition of SWANLA and the introduction of a revised contract system at the end of January. Employment offices are to be provided by the Ovambo and Kavango legislative councils. The new contract will be between the worker and his employer. The worker may terminate the contract by notice. Other improvements include some small wage increases, the likelihood of shorter contract periods, the possibility of successive employments with the same employer and the right to unpaid home leave at the workers' expense during the period of service.

Many of these improvements will have little effect in practice. The worst evils remain, the low wages, the compounds, the separation of families, the pass laws and other restrictions on movement. The revised recruiting procedure will cost the employer less, as clothing and blankets no longer have to be provided. The initial travel costs to the employment may now be deducted from the worker's wages, and the employer is only responsible for the return journey at the end of the contract. Owing to the low wages few workers will be able to afford to take the permitted holidays or to give notice terminating the employment. As in South Africa, a permit to seek work in a town is not issued unless there is a shortage of labour and "redundant" Africans may be "endorsed out" of the area and returned to the reserves. Without freedom of movement there is no freedom of choice. Associations of employers to fix uniform wage rates and working conditions, and the prohibition of trade union activities, ensure that there will be no free labour market or negotiated wage rates.

The long-term result of the strike remains to be seen. It has focused world attention on the repression by the illegal regime in Namibia as nothing else has done. It must have given the Africans a new sense of confidence in their struggle for liberation, and for this reason it is to be expected that the South African regime will intensify its efforts to prevent any recurrences of collective action by the Africans.

As a result of the strike, many Ovambos were arrested. The South African Government have admitted to 247 arrests and in their last statement said that 83 were still in detention. Their identity is unknown. No charges have been made against them and no information is available about their fate.

Twelve Ovambos and one coloured man were charged with:

- (1) intimidating other workers to strike;
- (2) inciting other workers to strike by threats of violence;
- (3) breaking their own labour contract by striking.

The trial at Windhoek started on 25 January 1972. In view of its exceptional importance, the ICJ took the unprecedented step of sending successively three international observers to the

trial. This was made possible with the generous help of the Lawyers' Committee in Washington and the International Confederation of Free Trade Unions. The first observer was Alexander Lyon, M.P., who attended the opening of the trial and who was instrumental in persuading the accused to accept legal representation. The trial was adjourned to 14 February to allow the defence lawyer to prepare his defence. Judge Booth, a black American Judge, attended the resumed hearings in February. He made a deep impression on all who met him. The third observer was Edward Lyons, M.P., who attended the closing stages of the trial, when judgment was reserved.

The value of sending International Observers is perhaps reflected in the acquittal of four of the prisoners and the relatively light suspended sentences and fines on the eight who were found guilty of inciting other workers to strike.

The repressive attitude of the authorities, however, continues to be shown by the expulsion from Namibia of Bishop Winter, the Rev. S. T. Hayes and the Rev. David de Beer, who had done all they could within the law to help the Ovambos—*Comment from the International Commission of Jurists.*

## Christmas Message to the Profession

From SIR ROY JACK

*I am grateful to the Editor for his invitation to address the Profession through these columns. I take this opportunity of thanking members of the Law Reform Commission and the Law Reform Committees for their continued contribution to the programme of revising and modernising the statute law. I also thank the N.Z. Law Society and all others who have given instructive and informed criticism of the legislation drafted for Parliament this year.*

*Two landmarks in New Zealand's legal history should be reached during the 1970's. First, the Court of Appeal which has been without suitable or permanent accommodation since its inception 15 years ago, will move into premises to be erected in Molesworth Street, as part of the new Courts complex, where also the new Wellington Supreme Court and library will be permanently housed. Plans for the new building are now well advanced. For the Supreme Court they allow for four jury Courts and four banco Courts as well as Judge's Chambers and an administration centre. The foundation stone of the present Supreme Court was laid in 1879.*

*The second landmark relates to the procedure of the Courts. The year 1975 will mark the centenary of the system of civil pleading inaugurated by the Judicature Acts in England and adopted for the Superior Courts in almost every British jurisdiction. The Codes have stood well the test of time but now the reform of procedural law is again in the air. England adopted a set of revised rules in 1965. Considerable changes have been made in some of the Canadian Provinces and in some of the Australian States. In New Zealand, a subcommittee of the Rules Committee has completed, as a working paper, a draft of the preliminary part of a new Code of Civil Procedure which has been submitted to the District Law Societies and the Law Schools. The imminent abolition of judicial districts, under the Judicature Amendment Act 1972, will impart greater flexibility to the judicial system, an attribute that I feel sure will be welcomed by litigants and counsel.*

*I wish you all a very Happy Christmas and a prosperous New Year.*

SIR ROY JACK.

*Attorney-General's Office, November 1972.*

## SESSIONAL LEGISLATION

Public and General Acts passed in 1972 are as follows:

- |   |  |
|---|--|
| 43 Accident Compensation                                    | 77 Licensing Trusts Amendment                            |
| 44 Accident Insurance Companies Amendment                   | 78 Life Insurance Amendment                              |
| 45 Agricultural Pests Destruction Amendment                 | 79 Local Authorities Loans Amendment                     |
| 46 Air Services Licensing Amendment                         | 38 Local Legislation                                     |
| 47 Animal Remedies Amendment                                | 39 Machinery Amendment                                   |
| 41 Apprentices Amendment                                    | 80 Maori Education Foundation Amendment                  |
| 140 Appropriation   | 135 Maori Purposes                                       |
| 141 Appropriation (No. 2)                                   | 127 Margarine Amendment                                  |
| 48 Armed Forces Canteens Amendment                          | 37 Meat Amendment  |
| 137 Aviation Crimes   | 81 Medical and Dental Auxiliaries Amendment              |
| 49 Births and Deaths Registration Amendment                 | 82 Medical Practitioners Amendment                       |
| 9 Carter Observatory Amendment                              | 22 Mental Health Amendment                               |
| 21 Children's Health Camps                                  | 83 Mining Amendment                                      |
| 50 Civil List Amendment                                     | 10 Minister of Local Government                          |
| 31 Clean Air  | 3 Ministry of Agriculture and Fisheries Amendment        |
| 8 Coal Mines Amendment                                      | 12 Ministry of Energy Resources                          |
| 51 Construction Amendment                                   | 4 Ministry of Transport Amendment                        |
| 132 Counties Amendment                                      | 84 Motor Spirits Distribution Amendment                  |
| 52 Crown Grants Amendment                                   | 131 Municipal Corporation Amendment                      |
| 7 Customs Amendment   | 85 Municipal Insurance Amendment                         |
| 120 Customs Orders Confirmation                             | 86 Nassella Tussock Amendment                            |
| 139 Dairy Board Amendment                                   | 11 National Art Gallery, Museum, and War Memorial        |
| 53 Designs Amendment  | 27 National Housing Commission                           |
| 54 Domestic Proceedings Amendment                           | 87 National Parks Amendment                              |
| 34 Education Amendment                                      | 88 National Provident Fund Amendment                     |
| 128 Electric Power Boards Amendment                         | 35 New Zealand Council for Educational Research          |
| 55 Electricity Amendment                                    | 89 Oaths and Declarations Amendment                      |
| 142 Electoral Amendment                                     | 20 Occupational Therapy Amendment                        |
| 56 Engineers Registration Amendment                         | 90 Orchard Levy Amendment                                |
| 118 Equal Pay   | 138 Pacific Islands Polynesian Education Foundation      |
| 25 Estate and Gift Duties Amendment                         | 91 Patents Amendment                                     |
| 57 Evidence Amendment                                       | 92 Physiotherapy Amendment                               |
| 40 Factories Amendment                                      | 32 Police Amendment                                      |
| 58 Fertilisers Amendment                                    | 123 Post Office Amendment                                |
| 19 Finance  | 93 Primary Products Marketing Amendment                  |
| 119 Fire Services   | 122 Private Savings Banks Amendment                      |
| 59 Fisheries Amendment                                      | 94 Protection of Depositors Amendment                    |
| 60 Forests Amendment  | 5 Public Revenues Amendment                              |
| 61 Friendly Societies Amendment                             | 95 Public Trust Office Amendment                         |
| 62 Gaming Amendment   | 96 Public Works Amendment                                |
| 63 Government Life Insurance Amendment                      | 97 Quarries Amendment                                    |
| 64 Government Railways Amendment                            | 98 Rating Amendment                                      |
| 65 Health Amendment   | 13 Republic of Bangladesh                                |
| 66 Hire Purchase Amendment                                  | 14 Republic of Sri Lanka                                 |
| 67 Historic Places Amendment                                | 99 Reserves and Domains Amendment                        |
| 68 Hospitals Amendment                                      | 124 Reserves and Other Lands Disposal                    |
| 23 Hydatids Amendment                                       | 100 Royal New Zealand Foundation for the Blind Amendment |
| 1 Imprest Supply  | 101 Sale of Liquor Amendment                             |
| 16 Imprest Supply (No. 2)                                   | 102 Scientific and Industrial Research Amendment         |
| 69 Imprisonment for Debt Limitation Amendment               | 24 Shipping and Seamen Amendment                         |
| 136 Indecent Publications Amendment                         | 42 Shops and Offices Amendment                           |
| 70 Industrial Conciliation and Arbitration Amendment        | 133 Social Security Amendment                            |
| 71 Insolvency Amendment                                     | 26 Soil Conservation and Rivers Control Amendment        |
| 72 Insurance Companies' Deposits Amendment                  | 6 Stamp and Cheque Duties Amendment                      |
| 126 Joint Family Homes Amendment                            | 103 Standards Amendment                                  |
| 130 Judicature Amendment                                    | 104 State Advances Corporation Amendment                 |
| 73 Land Amendment   | 33 Superannuation Amendment                              |
| 2 Land and Income Tax Amendment                             | 106 Surveyors Amendment                                  |
| 17 Land and Income Tax Amendment (No. 2)                    | 105 Technicians Certification Amendment                  |
| 18 Land and Income Tax (Annual)                             | 36 Testing Laboratory Registration                       |
| 74 Land Drainage Amendment                                  | 29 Town and Country Planning Amendment                   |
| 75 Land Settlement Promotion and Land Acquisition Amendment | 107 Trade and Industry Amendment                         |
| 76 Land Transfer Amendment                                  | 108 Trade Marks Amendment                                |
|   | 109 Trades Certification Amendment                       |

(Continued on page 617)

## CHARACTER, GRAMMAR AND EDUCATION—ADMISSIONS

On 11 February, in the Supreme Court at Christchurch, Mr Justice Wilson admitted 42 men and one woman as Barristers. In the course of his address to the newly-admitted members of the profession, Mr Justice Wilson stressed the elements of character, and the necessity for grammatical and educated language, and noted that . . . "the Court is not satisfied merely with the evidence that you have successfully engaged in and proved competent in legal studies—it is much more concerned that those of you who are admitted to practise law should be of the highest character and it is only on certification of that fact your application could be entertained. . . . It is now . . . the invariable custom that [your] oaths should be taken in public in the presence of all persons concerned in the administration of the law; and, likewise, it is of great importance that those persons who undertake the obligations and have the privileges of practising law in the community should be seen by those amongst whom they practise and that those persons should know that not only are they technically competent but, as far as it is possible to ascertain, that they are of the proper high standard of character to be entrusted with those rights and duties.

You are now members of an ancient, honourable and learned profession. The antiquity of the profession of law is well known. It is one of the oldest professions in existence. As barristers you trace your descent directly from the advocates of ancient Greece and Rome. It is an honourable profession; that is why the high standard of character is demanded of you . . . Being a learned person, being a member of the learned profession of law, does not mean that you are pedantic or precious; it means that wide reading in many subjects has given you a mastery of your mother tongue which, written or spoken, represents the exercise of your skill, enables you to avoid jargon and clichés and to express yourself concisely, precisely and persuasively by the apt choice of words and the attractive expression of your ideas.

There is a tendency to regard the profession of law as becoming necessarily socially equated on the part of practitioners with their clients. That is good; but when that tendency reaches the realm of learning, that is bad. No one respects a practitioner, a member of the profession to whom one comes for advice and the exercise of his skill, if, by his manner or conduct of him-

self and the manner in which he expresses his opinions, he is no better than the person who seeks it. It is a mistake to join too closely in the common language, the language of the street, the bus and public conveyances. Clients expect lawyers to be more learned than they are and they are entitled to have that expectation demonstrated. I do not mean by that that, as I said before, there should be any tendency to pedantic or precious utterances—that is far from it. The learned man is one who is able to express, what in textbooks is expressed in long words and obscure phrases, in words of ready acceptance and understanding by his client and to do so without descending to the level of expression which some of the public now affect. The aim, therefore, of the practitioner of law in the use of his language is to express simply grammatically and correctly what the client wants to be told—and, likewise, the Court . . . Now, finally, it is a *profession* which you have joined. It is not a trade, although you must be good tradesmen. It is not an industry, although you must be industrious. The hallmark of the professional is first, that the job he does is more important than the reward; secondly, that he is able to combine the detachment necessary for good judgment with humane sympathy for his client; and thirdly, that he fights *for* his client's *cause*, not *against* his professional adversary *personally*. The last is the key to the brotherhood of the profession which survives, unaffected, the most bitterly-fought case and is something the layman finds difficult to understand."

### RECENT ADMISSIONS

The following have been admitted to membership of the legal profession:

#### Barristers and Solicitors

Abbott, M. R.	Dunedin	2 Feb.
Andrews, C. J.	Christchurch	11 Feb.
Asbury, D. J.	Wellington	18 Feb.
Bajaj, K. K.	Wellington	18 Feb.
Barker, P.	Wellington	18 Feb.
Barnett, A. D.	Wellington	18 Feb.
Billington, J. R.	Wellington	18 Feb.
Birks, P. T. A.	Wellington	18 Feb.
Biss, S. C.	Christchurch	29 June
Bowler, P. C.	Wellington	18 Feb.
Brace, R. A.	Wellington	18 Feb.
Bradshaw, D. J.	Wellington	18 Feb.
Broadmore, D. R.	Wellington	18 Feb.
Brownie, M. F.	Christchurch	11 Feb.
Bryson, M. M.	Wellington	18 Feb.
Buddle, R. J. D.	Wellington	18 Feb.
Bull, L. B.	Wellington	18 Feb.

Burke, J. E.	Christchurch	11 Feb.	Thomas, G. J.	Wellington	18 Feb.
Cassin, P.	Wellington	18 Feb.	Thompson, G. P. F.	Christchurch	31 Jan.
Chiu, M.	Wellington	18 Feb.	Tocher, R. G.	Wellington	18 Feb.
Churchill, G. K.	Wellington	18 Feb.	Tristram, R. H.	Wellington	18 Feb.
Clark, M. W. S.	Dunedin	2 Feb.	Turkington, G. L.	Wellington	18 Feb.
Connell, J. E.	Wellington	18 Feb.	Urquhart, A. M.	Wellington	18 Feb.
Coury, P. A.	Wellington	18 Feb.	Veale, I. R.	Wellington	18 Feb.
Crerar, D. O.	Christchurch	11 Feb.	Vula, E.	Wellington	18 Feb.
Dacre, A. R. D.	Christchurch	11 Feb.	Walker, D. H. J.	Christchurch	11 Feb.
Davidson, N. R. W.	Christchurch	11 Feb.	Walker, J. A.	Dunedin	2 Feb.
Dodson, B. R.	Christchurch	11 Feb.	Walshaw, C. J.	Christchurch	11 Feb.
Dyhrberg, P. N.	Christchurch	11 Feb.	Ward, E. J.	Wellington	18 Feb.
Edwards, K.	Wellington	18 Feb.	Whiteside, P. F.	Christchurch	11 Feb.
Fay, H. M. G.	Wellington	18 Feb.	Whyte, W. K.	Dunedin	2 Feb.
French, M. J.	Christchurch	11 Feb.	Wilkin, R. J.	Christchurch	11 Feb.
Gartrell, E. W.	Christchurch	11 Feb.	Williams, G. S.	Nelson	14 Feb.
Gebbie, D. G.	Christchurch	11 Feb.	Wills, D. H. P.	Christchurch	11 Feb.
Gomas, M. W.	Christchurch	11 Feb.	Wilson, W. F.	Wellington	18 Feb.
Goodwin, J. M.	Christchurch	11 Feb.	Young, B. R.	Wellington	18 Feb.
Graham, S. P.	Wellington	18 Feb.			
Gundersen, B. N.	Wellington	18 Feb.	BARRISTERS		
Hall, P. H. B.	Christchurch	11 Feb.	Marshall, C. M.	Christchurch	11 Feb.
Harris, R. P.	Dunedin	2 Feb.	Moultrie, W. D.	Christchurch	11 Feb.
Harrison, P. C. W.	Wellington	18 Feb.	Russell, M. E.	Christchurch	11 Feb.
Heaysman, K. A.	Christchurch	11 Feb.	Savill, S. J.	Christchurch	11 Feb.
Henwood, C.	Wellington	18 Feb.			
Hewat, N. C. H.	Christchurch	11 Feb.			
Higgins, L. D.	Dunedin	2 Feb.			
Hindmarsh, W. M.	Christchurch	11 Feb.	STATUTES ENACTED—continued from page 615		
Horne, N. W.	Dunedin	2 Feb.	129 Transport Amendment		
Horsley, J. D.	Wanganui	17 Mar.	28 Trustee Companies Amendment		
Ingle, R. M.	Wellington	18 Feb.	121 Trustee Savings Banks Amendment		
Jensen, D. G.	Christchurch	11 Feb.	15 Unit Titles		
Johns, B. S.	Christchurch	1 Feb.	110 Unit Trusts Amendment		
Johnstone, N. A.	Christchurch	11 Feb.	30 University of Albany		
Kellaway, P. R.	Wellington	18 Feb.	111 Valuation of Land Amendment		
Kennedy, P. J.	Christchurch	11 Feb.	112 Vegetables Levy Amendment		
Kerr, A. G.	Dunedin	2 Feb.	113 Vocational Training Council Amendment		
McBride, T. J.	Wellington	18 Feb.	134 War Pensions Amendment		
McDonnell, G. C.	Christchurch	11 Feb.	114 Water and Soil Conservation Amendment		
McKechnie, M. S.	Dunedin	2 Feb.	115 Weights and Measures Amendment		
McMenamin, P. B.	Christchurch	11 Feb.	116 Wildlife Amendment		
McRae, J. A.	Christchurch	11 Feb.	117 Wool Marketing Corporation		
Martin, R. N.	Wellington	18 Feb.	125 Workers' Compensation Amendment		
Marshall, W. R.	Wellington	18 Feb.			
Meo, J. C.	Wellington	18 Feb.			
Morgan, W. F.	Christchurch	11 Feb.			
Morrison, J. M.	Wellington	18 Feb.			
Morton, J. S.	Wellington	18 Feb.			
Murfitt, R. J.	Christchurch	11 Feb.			
Nair, R.	Christchurch	14 Dec.			
Nelson, B. J. M.	Christchurch	11 Feb.			
O'Brien, D. C.	Dunedin	12 May			
O'Regan, P. W.	Wellington	18 Feb.			
Panhuy, R. W. V.	Wellington	18 Feb.			
Perry, S. A. Me.	Wellington	18 Feb.			
Polson, J. D.	Dunedin	2 Feb.			
Richards, N. J. E.	Wellington	18 Feb.			
Rickit, C. M.	Wellington	18 Feb.			
Robertson, A. W.	Christchurch	11 Feb.			
Rooke, J. F. S.	Wellington	18 Feb.			
Schuster, S. M.	Wellington	18 Feb.			
Shanahan, P. D.	Wellington	18 Feb.			
Shea, A. M.	Christchurch	11 Feb.			
Sheard, D. M.	Christchurch	11 Feb.			
Sissons, T.	Christchurch	11 Feb.			
Smith, M. P.	Wellington	18 Feb.			
Somerville, R. J.	Dunedin	2 Feb.			
Sutherland, J. G.	Christchurch	11 Feb.			
Tait, E. J.	Dunedin	2 Feb.			
Taylor, N. V.	Christchurch	11 Feb.			
Te Heuheu, G. M.	Wellington	18 Feb.			

**Say Again?**—A "sentence of the week" award to the writer to the *Harrow Observer* for this effort: "The gardens of Harrow are indeed in a disgusting state and the situation is in fact deteriorating, not only with regard to the present situation, but also in relation to the logical prognostication of the current atrophy which, as I am sure you will agree, given the basic facts of the matter in hand, coupled with the general apathy of householders in general, can only result in a general confusion of the priorities to which everybody in Harrow would do well to pay heed before the penalty becomes a reality and we become prisoners of a concrete jungle."

**Box On**—According to the *Birmingham Post* a one-inch square of chocolate was produced in the local Birmingham Court by a policeman who alleged that a woman had assaulted him with it.

## LEGAL LITERATURE

**Distorted Torts** by GEORGE JOSEPH (Published by The Caxton Press) \$5.60.

Readers of the JOURNAL, have over the years been amused by the intriguing cases which from time to time have taxed Mr Pennyfeather, his partner Brunt and the illustrious Mr Drubble, Q.C.

The penname "Scilicet" has, as many over the years have come to realise, disguised the fact that despite the English setting of the stories, they in fact emanated from Wellington practitioner Mr George Joseph, who, despite the rigours of a busy practice, has established himself as one of the more prolific creative writers in the country.

The thirty-eight fables brought together in this volume have all appeared in the JOURNAL, but are none the worse for a second reading. They have also appeared in legal publications around the world, and the author could, if he wished, modestly claim that more overseas lawyers have read his stories than have perused some of the judgments of our Courts!

We hesitate to recommend this book for the waiting room, although it justly belongs there. Such a commendation was made for a recent book on adoption—one firm acted on it, placed the book in its waiting room, and soon found that the book had been "adopted" by a passing client!

J.D.P.

**The Universal eye—World television in the Seventies** by TIMOTHY GREEN (Bodley Head) 327 pp.

Mr Green's country-by-country tour of the television world comes to New Zealand just as many are debating the pros and cons of competitive as against complementary television.

From Ethiopia (with its tiny television station with a studio not much larger than a family living room from which nearly half the country's own programmes are produced on an annual budget of about \$200,000—less than the cost of a single episode of *Bonanza*) to the West Indies (where a television announcer may remove his shoes, hold them up to the camera and exhort "Buy fine shoes like these at Joe's Store on Bay Street"), Mr Green touches lightly but effectively on the structure, organisation and degree of State control of the television industry in forty

countries on five continents. What could have been a dry-as-dust dissertation is spiced with such delights as the channel which opened in Venezuela only to discover that its transmitter had been placed on the wrong mountain with the result that a few villages in the jungles of the interior (had they had electricity and television sets) would have received a fine picture, but with the 2,000,000 population of Caracas barely receiving a glimmer on their screens. In Costa Rica, engineers erected a transmitter on top of a volcano which beamed excellent pictures throughout the country until the volcano erupted and the transmitter was engulfed in lava!

At the time when the House of Lords in Britain was debating the Bill which eventually introduced independent television to that country, Lord Reith described the proposal thus: "Somebody introduced Christianity into England and somebody introduced smallpox, bubonic plague and the Black Death. Someone is trying now to introduce sponsored broadcasting . . . need we be ashamed of moral values, or of intellectual and ethical objectives? It is these that are here and now at stake."

The state requirements for local programme content, too, come under scrutiny and the pattern emerges of local programmes pushing out American imports. The Mexicans may not have an international reputation for efficiency, but when it comes to turning out television programmes, they can shoot three hour-long episodes in an eight-hour working day—the secret being a midget radio receiver placed in the ear of each actor which dispenses with the time-consuming business of memorising lines or learning stage directions. As action proceeds, prompters in the control room read the script and stage directions into a small radio transmitter so the actor hears his lines in his tiny earplug. His job is simply to follow orders as he repeats what he hears.

Although New Zealand merits a mention only in passing (in a list of members of the Asian Broadcasting Union), there is much relevance for the New Zealand context. It may be true that the N.Z.B.C. can start to "wag its tail without actually being patted" by the Government, but even if this be so, the N.Z.B.C. is at least free of the overt and blatant State interference which many other countries have to live with,

For those who were intrigued by "A Legislative History of Broadcasting" [1972] N.Z.L.J. 398, *The Universal Eye* is required reading.

There is, after all, a place for a solicitor presently vacant on the Board of the N.Z.B.C. . . .  
J.D.P.

## CORRESPONDENCE

### A Legislative Lesson

Sir,

It is of course just as improper for a politician to comment on decisions of the Courts as it would be for Judges to express their individual opinions on the work of Parliament or its Members.

However, enthusiasm must occasionally outrun discretion, and I hope you will allow me to say how impressed and delighted I am with the decision of the Court of Appeal in *Bognuda v. Upton & Shearer Ltd.* [1972] N.Z.L.R. 743.

The manner in which their Honours approached and constructed this landmark in our legal history is a triumph of logic and presents the socio-judicial technique at its best.

What an example for some of us who are supposed to be legislators rather than adjudicators.

*Vivat audacia.*

Yours sincerely,

A. M. FINLAY.

M.P. for Henderson.

### Re: Footnotes

Sir,

In treating the reader to a second airing of your 1967 N.Z.L.J. editorial eschewing footnotes (a) you comment that the editorial's relevance has not dimmed with age. True it was never relevant.

To begin with the editorial gets off on the wrong foot with a resounding *non sequitur* which reads something like this: (1) notes at the foot of the page are called "footnotes" (2) not all of the uses to which these notes are put are included in the dictionary definition of "footnotes" (3) therefore these extra uses are undesirable. If this is logic one could equally argue that (1) the writer of that editorial was called an "editor" (2) original contributions are not contemplated in the definition of "editor" which has been defined as "one who prepares the work of others for publication" (b) (3) therefore the editor should never have produced such an editorial because it was an original contribution. Fortunately neither argument is sound. The irony is

that four journals later the same editor produced an editorial entitled "A Rose By Any Other Name" (c).

In fact, footnotes seem to be used in legal writing only occasionally in the dictionary sense of supplementary comment by the author. Their primary use seems to be to provide references to material dealt with in the text, or to give authority for propositions of law. The reader needs these references and authorities to verify the foundation for the writer's argument and, more importantly, to put to practical use the law collated in the article for his benefit.

If the reader wants these references, how are they to be conveyed to him? They could be included (*Rhubarb v. Rhubarb* [1960] N.Z.L.R. 321) in the text (see article by Alfred E. Neuman 39 L.Q.R. 421) thereby creating (*Rhubarb v. Rhubarb* [1960] N.Z.L.R. 321) a somewhat disjointed (*ibid.* 351) effect. Alternatively there are footnotes (d). The footnote's attraction is that it does not interrupt the flow of thought—fragile enough at the best of times. Like a discreet butler, it is there when needed but does not claim equal prominence with its master, the text.

If the N.Z.L.J. lays claim to serious legal writing it presumably expects its contributors to base legal propositions on something more authoritative than spontaneous inspiration. Yet the editorial admonishes "publications produced within the universities and other educational establishments" because (in common with *Halsbury's Laws of England* and the *Law Quarterly Review*) they are "peppered with marginal notes or footnotes". On the contrary, the editorial aspires to those "contemporary publications having the same background and purpose" which (in common with the *Woman's Weekly*) rarely find it necessary to use footnotes.

(a) [1972] N.Z.L.J. 302.

(b) Concise Oxford Dictionary 5th ed. 388. Admittedly the Dictionary adds a further meaning "one who conducts a newspaper or periodical" which is somewhat wider but as people never read footnotes, the concession is likely to remain undiscovered.

(c) [1967] N.Z.L.J. 481.

(d) For definition see [1972] N.Z.L.J. 302.

Why not go the whole hog and present the JOURNAL in the form of a comic strip?

R. L. FISHER.

As we see it, the point being made by Mr F. R. Macken in his 1967 editorial was that some writers can develop a positive fetish for footnotes. Mr Macken cites in his editorial a contribution which had an average of eighteen foot-

notes per page of text. Recently one article appeared in the JOURNAL which literally had more words in its footnotes than were in the article itself.

Without reducing the JOURNAL to comic strip form, what we would ask is that contributors, in the manner of the British wartime traveller, ask themselves in each individual case "Is this footnote *really necessary*?" —Ed.

## MR. W. H. CARSON S.M. RETIRES

There retired from the Magisterial Bench on 9 June last Mr William Hector Carson who had been a Stipendiary Magistrate at Wellington for the last 19 years, although since 1961 he has been assigned to special duties.

Mr Carson was born in Kaitangata, Otago, on 11 June 1904, and was educated at Kaitangata School, Otago Boys' High School and Otago University, graduating LL.B. On admission as a barrister and solicitor, he engaged in legal practice in Dunedin on his own account where he remained until his enlistment in the Army in 1940. His military service took him to the Middle East and Italy and continued until his discharge in 1945. He was Intelligence Officer, 26 (N.Z.) Battalion until July 1942 and Brigade Intelligence Officer, 6 (N.Z.) Infantry Brigade to July 1944. He attained the rank of Major.

After discharge from the Army in 1945 Mr Carson resumed legal practice in Dunedin and continued there until appointment to the Bench in 1953. From 1953 until 1961 he was one of the resident Magistrates in Wellington, but in the latter years he was relieved of ordinary duties and was appointed Chairman of the then newly created Taxation Board of Review, a position which he held until his retirement. He was also Chairman of the Cinematograph Films Licensing and Registration Appeal Authority in 1969, and in that year was also appointed Chairman of the Special Town and Country Planning Appeal Board, an appointment which he relinquished on his retirement. He is also currently Chairman of the Cinematograph Films Censorship Board of Appeal his appointment dating from 1969 also. This year he was appointed a member of the Shipping Industry Tribunal and is to continue in this position also.

Mr Carson's period as Chairman of the Taxation Board of Review is marked by the relatively few successful appeals against the decisions to which he was a party. Of a total of 29 appeals

lodged against such decisions 10 were withdrawn, and of the remaining 19 only two were allowed in full and one in part, the other 16 being dismissed. This is, I suggest, a record of which any judicial officer could justifiably be proud.

Since his discharge from the Army Mr Carson has been active in the affairs of the Returned Services Association. While still in Dunedin he served as Vice-President of the Dunedin Branch and he became a District Representative on the Dominion Executive in 1969, a position still held. In 1971 he became, and still remains, a Council Member of the World Veterans' Association, representing the N.Z.R.S.A. and also the N.Z. Ex-Prisoners of War Association and the N.Z. Air Force Association. He was a delegate to the 13th General Assembly of the World Veterans' Association in Vienna in 1970 representing the N.Z.R.S.A. and he also represented that association at the Biennial Dominion Convention, Royal Canadian Legion, Regina, Saskatchewan, Canada in 1972 and attended the Council Meeting of the World Veterans' Association at Nice, France, in the same year.

Mr Carson's principal recreation since coming to Wellington has been as an active member of the Khandallah Bowling Club, and he hopes to extend his activities in this direction now that the curtailment of his official duties will allow him more time to himself.

As yet no successor has been appointed to the chairmanship of the Taxation Board of Review.

### TOAST

I ask you to be upstanding now  
And drink—in milk—this toast: "The Cow",  
An animal you can't but like  
Who never ever goes on strike.  
J.P.C. in the *Justice of the Peace and Local Government Review*.