

moving. The A.L.R.C. Report *Alcohol, Drugs & Driving* has been twice discussed with Members of the Assembly. This represents a new departure. Members of the Assembly and of the Commission sit together at the early stage of a project to discuss the issues. Then, when the report is delivered, Members of the Commission are invited to explain and elaborate it in the Assembly Chamber. The relations between L.R.C.s and legislators has often been one of "arms length" in the past. Sir Robert Menzies once explained this tension. Law reform commissioners, he said "fetter the choice of Parliament, because [they] have a coercive influence upon government and upon the elected representatives of the people (1971) 4 *Fed.L.R.* 209. The Law Commission led the way by preparing notes and otherwise participating, in a proper way, in the Parliamentary processing of reports. The new procedure being attempted in the Capital Territory takes this a step further. It has been tried with the encouragement of successive Attorneys-General and Ministers for the Capital Territory. It may bear lessons for other Parliaments throughout Australia.

All of the A.L.R.C. references affect the A.C.T. It is in the Territories that the Commonwealth has plenary constitutional power. It is likely that the A.L.R.C. will seek to pick up the slack referred to in the newspaper. It is undoubtedly true that a lack of reform "contributes to a general ignorance and fear of the law among the public and it must in the end lessen respect for the law".

Law Reform in N.S.W. : Bold moves

Law Reform in N.S.W. has received a boost with the announcement on 7 September that the new Government will create a Criminal Law Review Division in the Attorney-General's Department. Its job will be to continuously overhaul the State's criminal laws. N.S.W. Premier, Mr. N.K. Wran, Q.C., announced that the new body will deal initially with the laws on rape, corporate crime and victimless crimes and with changes to the bail system. Head of the Department will be Mr. Roger Court.

(see *Personalia*). The object of the Division, in the words of the Premier, will be "to keep our criminal law in step with community thinking".



The Government also set up a special committee to review the State's system of bail. Mr. K.F. Anderson S.M. and Miss Susan Armstrong, a Lecturer in Law at the University of New South Wales, were appointed to the committee. With commendable speed, the committee has already delivered its Report to the Attorney-General recommending a significant overhaul of N.S.W. bail law and procedures. Many of the A.L.R.C. proposals on police bail, as set out in the A.L.R.C. report *Criminal Investigation* have been commended by the N.S.W. Committee. The Government is now studying the Report.

The N.S.W.L.R.C. has received a challenging and far-reaching Reference to enquire into the laws, practices and conduct of the N.S.W. legal profession. Speaking at the Law Society Conference on 3 July 1976, State Attorney-General, Mr.F. Walker put it this way:

"It will not be just an academic study. The Law Reform Commission has already agreed that such is the nature of the Reference that there ought to be hearings. There ought to be submissions by interested bodies in a public arena about all matters. Although the Law Reform Commission does not allow outsiders to take part in its deliberations in the normal sense, I am sure that sub-committees can be formed to deal particularly with the Terms of Reference and to put information before the Commission". (1976) *Law Soc. Jo. (N.S.W.)* 195.

The Terms of Reference are extremely wide and justify Mr. Walker's prognosis that "changing the legal profession is going to be a very painful process". These are some only of the matters committed to the N.S.W.L.R.C.

- * The division of the legal profession into barristers and solicitors
- * Partnerships and incorporation of legal practices
- * The liability of legal practitioners for professional negligence and compulsory insurance
- * Continuing legal education
- * The statutory interest on trust accounts
- * Complaints against practitioners
- * Rights of audience
- * The "two Counsel" rule for Q.C.s
- * Monopolies or restrictive trade practices
- * Conveyancing by non-lawyers

This enquiry follows the establishment of a Royal Commission in Britain. Times are changing. The British Monopolies and Mergers Commission recently ruled that the Two Counsel rule constituted a monopoly and was disadvantageous to the public interest. It also found against the legal profession's ban on advertising. It held this to restrict information and reduce competitiveness and efficiency. These and other issues will now be studied by the N.S.W.L.R.C. -

It has been announced that Mr. Justice Meares, Chairman of that Commission since 1972, will be returning to judicial duties in November. A tribute to his Honour's career in the N.S.W.L.R.C. is contained in *Personalia*.

Privacy : The N.S.W. Committee

Whilst the A.L.R.C. continues its enquiry into Privacy, now expanded by the Reference on Defamation, valuable work is being done in N.S.W. by the Privacy Committee established in May 1975. This Committee followed the Report by Professor Morison who concluded that a legislative "right of privacy" would be an inadequate means of protecting privacy. He said it would mean spasmodic and uneven protection afforded by legal remedies and the need for individuals to institute costly and lengthy proceedings. The A.L.R.C. is carefully studying the work of the Privacy Committee in the course of its inquiry. The Committee's first Annual Report sets out in detail the work of the Committee and analyses the complaints that have been brought to its attention and the research being conducted.

The Committee has no power to direct that a justified complaint should be rectified. It can, however, make reports and recommendations. The Committee has found that, in many cases, intervention and explanation procure remedial action. By July 1976 the Committee had received over 700 complaints. All but a handful had been resolved to the satisfaction of the complainant.