and in other media interviews, Mr. Justice Kirby has stressed the importance of finding an indigenous Australian solution to privacy protection. Already papers have been prepared within the A.L.R.C., following speeches by the Chairman, on "Privacy and Civil Liberties", "Privacy and Psychology", "Privacy and Government Administration", "Privacy and Mental Health" and "Privacy and Aboriginals". The A.L.R.C. staff are presently preparing a study paper which will set out the problems raised by the reference and the solutions suggested overseas, notably in the United States, Canada, Great Britain and Scandinavia. Australian Embassies overseas have already sent a great deal of primary material. All of this tends to show how Australia is "several years behind other countries" in protecting the privacy of its citizens.

A.L.R.C. Commissioners and staff have arranged meetings with Government officers in all Commonwealth Departments. At the request of the Government, special attention is to be given to Medibank and future Censuses. The Universities and private business organisations are also proving anxious to lend their support. Joint study groups have been formed comprising representatives of the A.L.R.C. and outside organisations to gather up-to-date information on the wide range of activities that will be covered by the reference. The A.L.R.C. Chairman has frequently stressed the urgency of the task. He has indicated that the Commission should seek to promote continuing public debate by issuing study papers and working papers. It should seek to report within the life of the 30th Parliament.

The addition of new Members to the Commission will add new drive and direction to the project. The Attorney-General has also authorised the appointment of additional research staff and the Commission is receiving considerable assistance from Commonwealth and State officers. The appointment of Sir Zelman Cowen, as a part-time Member of the Commission, is an especially happy one. In 1969 Sir Zelman delivered the Boyer Lectures on "The Private Man". In December 1975 he delivered the Tagore Lectures in Calcutta, India. He gave the lectures the title "The Right to Swing My Arm" taken from Holmes' aphorism : "My right to swing my arm ends at the point at which your nose begins". Lecture IV concluded scrutiny of the United States' protection of privacy with the view that "... after a long period of development there is no ready-made intellectually satisfying and workable concept of privacy law which can be taken from America and transplanted to other common law jurisdictions". Announcing Sir Zelman's appointment, the Attorney-General, Mr. Ellicott, concluded : "I am sure the contribution he will make to the Commission's study of the Privacy reference will enhance the stature of its final report".

Mr. Ellicott on Law Reform

The speech in which he announced appointments to the A.L.R.C. also gave the Commonwealth Attorney-General, Mr. Ellicott, an opportunity to put forward his approach to law reform in Australia. It was the second such opportunity in recent days, the first being his speech at the opening of the Third Law Reform Conference. Law reformers can take encouragement from what the new Attorney-General had to say.

Opening the Conference on 8 May, Mr. Ellicott laid emphasis upon the vitality of the Commonwealth of Nations and of the "transplanted common law" which he saw vividly demonstrated in the large collection of Commonwealth representatives present. Four of the five great federations of the British Commonwealth were attending the Conference and while recognising several important differences in our legal systems, the Attorney-General asserted that the "common features predominate and there is much to be gained by us all in the sharing of ideas. It will promote economy of effort and the maximisation of the talents available to law reform". Although there were no representatives present from the United Kingdom, Mr. Ellicott saw the participants as the "guardians of the English law and of its renewal". He pointed out that "the dynamic of the common law in its

formative stages embodies the true spirit of law reform - law and lawyers responding to new situations demanding just solutions".

The Attorney-General referred to the particular difficulties of law reform in a federation. He welcomed the discussion aimed at discovering the most appropriate and constitutionally acceptable way of promoting uniformity of laws in suitable areas in the Australian federation. "Uniformity for uniformity's sake is of course not an acceptable principle. There is room for diversity in a federation. However, there are many areas where we should be constantly searching for legal solutions which will apply uniformly across the federation". After referring to the Uniformity Conferences in Canada and the United States, Mr. Ellicott expressed an "earnest hope" that "by co-operation between the Standing Committee of Attorneys-General and the various law reform agencies in Australia, the cause of uniform law reform in appropriate areas in Australia will be advanced". He stressed the importance he attached to the A.L.R.C. clearing house functions and to federal servicing of State law reform bodies, where requested.

Mr. Ellicott then turned to the suggestion by Mason J. of the High Court of Australia that certain limited delegation of legislative authority to law commissions should be permitted to make sure that Parliaments do not fall down on the task of updating areas of private law (49 A.L.J. 573). He doubted that such a proposal would be accepted "at an early date in Australia" because many of the subjects of law reform have deep "political and practical implications". He instanced the reference to the A.L.R.C. on Privacy. However, he was prepared to envisage some areas "essentially non-political" where the proposal by Mason J. might gain acceptance. Statute Law Revision was suggested.

The corollary of this view was recognised by Mr. Ellicott. If Parliaments were not prepared to delegate authority, they must ensure that law reform reports are studied and dealt with. It was for this reason that the A.L.R.C. reports tendered to the 29th Parliament had now been referred by him to the Government Parties' Committee on Law and Government. "A law reform commission which is mere window dressing to make a government appear progressive can have no justification whatsoever. It is an unnecessary drain on the public purse and eventually will embarrass the government seeking to gain from its existence".

Mr. Ellicott discerned a "certain quickening of the pace of law reform in this country". He applauded the decision to bring to the conference table government lawyers and accurately predicted that the interchange of ideas would be "a useful and bracing experience".

Addressing the Women Lawyers' Association of N.S.W. on 11 June, the Attorney returned to his theme that "mere window dressing" by law reform references was pointless and doomed to come unstuck. Referring matters to an L.R.C. was "not something which a government should do lightly". But even subjects with deep political and practical implications can often best be dealt with in the dispassionate atmosphere of a law reform commission. The issue of privacy, declared the Attorney-General "is one of the most significant to the maintenance of freedom in our society and the Law Reform Commission is, I am convinced, the most appropriate body to deal with it." Of course, the A.L.R.C. could not expect automatic agreement to all of the proposals it finally recommends. But once recommendations are made, it is up to the Government and the Parliament to "play their role".

Law reform can also be achieved outside L.R.C.s. Mr. Ellicott referred to the decision of the Government to proceed with the Labor Government's proposal to appoint a Federal Ombudsman for Australia. He foreshadowed the early appointment of the President of the Administrative Appeals Tribunal. The Judiciary Act (Amendment) Bill 1976 was referred to as a measure of law reform. The amendments

proposed, as well as raising the amount above which an appeal lies as a right to the High Court from $3,000 to $20,000 and limiting certain personal injury appeals, propose significant initiatives. A barrister or solicitor of a Federal Court is to have a right of audience in any State Court exercising Federal jurisdiction. Mr. Ellicott saw this as perhaps the first step towards a system which would "enable practitioners the right to appear in any State court". Perhaps it will ultimately encourage a truly national legal profession. He also entered the debate on human rights legislation. The revival of the Committee on Freedom of Information and the passage of the Racial Discrimination Act were mentioned as was the aim of removing from all Commonwealth legislation provisions discriminating against women. Mr. Ellicott raised the possibility of the creation of a Human Rights Commission to consider in general terms the invasion of basic rights in specific areas. He applauded the appointment of women to the Bench and, as a warrant of his view, announced the appointment of Justice Maxwell, amongst others, to the Family Court of Australia.

The Commonwealth Attorney-General said that he saw law reform as one means "whereby a society achieves a sense of justice". He asserted that all lawyers are involved in it. He paid tribute to the "dynamism and learning" that Mr. Justice Kirby had brought to the A.L.R.C. and the work and expertise of the part-time Members who had comprised the Commission for its first eighteen months.

The Standing Committee of Commonwealth and State Attorneys-General which met in Adelaide at the end of June 1976 is a remarkably different body to that which in July 1975 rejected the uniform law reform proposals put forward by the Australasian law reform agencies. Apart from Mr. Ellicott there are five new faces. These include the Hon. P.I. Wilkinson (N.Z.), the Hon. Peter Duncan M.H.A. (S.A.), the Hon. Haddon Storey, Q.C., LL.M. (Vic), the Hon. Ebia Olewale (P.N.G.) and the Hon. F.J. Walker, LL.M. (N.S.W.). Mr. Storey is a past Member of the V.S.L.R.C. He has written extensively on Privacy (47 A.L.J. 498). Mr. Olewale's strong views on law reform were recently expressed to the A.L.R.C. Chairman. Mr. Walker comes to office on a platform which contains eight significant proposals for law reform including the improvement of legal aid, the reform of criminal laws impinging on civil rights and liberties and the preservation of jury trials. He has already expressed his personal views concerning the reform of so-called "victimless crimes". He is also committed to protection of the right of privacy, extension of the power of the Ombudsman and numerous other legislative innovations. Who can doubt Mr. Ellicott's assertion that the pace of the orderly reform of the law in Australia is quickening?

Uniform Law Reform : the New Phase?

Australia, in a manner reminiscent of a blindfolded elephant, gropes its way towards a mechanism for uniform law reform. Perhaps we should not get too impatient. After all, the magnum opus of the Uniformity Commissioners in the United States, the Uniform Commercial Code, began its life in 1940. It was not finally formulated until 1952. It now operates (with various modifications) in all States of the Union except Louisiana:(1976) 73 Law Soc. Gazette 191. In Canada the Model Acts drawn by the Uniformity Conference continue to be adopted with various amendments (see B.C.L.R.C. 23 p.151). New efforts in legal uniformity are being tried. Joint Federal-Provincial funding of specific projects for procedural law reform are mentioned in "National", Jan. 1976 p.16. But the big difference between the North American Federations and the Australian Federation is that, whilst they have had a mechanism to promote uniform laws in appropriate areas for upwards of 60 or 70 years, we still have no appropriate, accepted mechanism in this country.

The calls for uniformity continue apace. Take these examples: The President of the Victorian Law Institute in his Message (1976) 50 Law Inst. Jo. 105, urged the need for national thinking in the legal profession. "We are members of the one