

suggestions. Find the time to have a look at the digest. Drop a line to the A.L.R.C. with your ideas for improving this work. It could be a helpful research tool for legislators, judges, reformers and even busy practitioners.

RECENT PROPOSALS

The last quarter has seen a number of important proposals for law reform. In the High Court, a number of judgments have again called attention to the need for a new look at the statutes by which the jurisdiction of the Court is regulated. Moller v. Roy (1975) 49 A.L.J.R. 311 at p.316 (Barwick C.J.) p.316 (Gibbs J.) p.318 (Stephen J.) p.319 (Mason J.) and p.319 (Jacobs J.)

The first reports of the Australian Law Reform Commission were produced within the deadline set by the previous Government. They contain extensive proposals for handling complaints against police and interim recommendations for police practice in criminal procedure. The complaints procedure suggested is basically the use of the Ombudsman and, in vexed cases, reference to a judge so that justice may be "seen to be done". The interim "Criminal Investigation" report proposed the introduction of specific criteria for arrest and bail, tape recording of police confessions, the use of "prisoner's friends" for Aborigines and children under restraint, time limits on police custody of persons "assisting with inquiries" and limitations on access to criminal data. Numerous other proposals were put forward. The proposals had a good reception in the press. The Sydney Morning Herald even went so far as to suggest that the recommendations "should be used as a basis for long overdue reform in the States". The Australian called them "constructive proposals" that "should not be ignored". Legislation was before the Federal Parliament to implement the police complaints procedure, when Parliament was dissolved.

The Tasmanian L.R.C. has produced a report on alcohol and drugs and road safety with an attached Bill to update the breathalyzer legislation of that State. This subject is also under study for the Territories by the A.L.R.C. The Tasmanian Commission has reported on criminal process dealing especially with fingerprinting and search of persons in custody. Limits on circulation of fingerprints are proposed because of the near impossibility of retrieval in the event of acquittal. The right to have a medical practitioner present during a body search is also recommended.

The important N.S.W. L.R.C. report on Proceedings by and Against the Crown just missed tabling in the December sittings of the N.S.W. Parliament and will be circulated shortly.

WORK IN PROGRESS

Australian Law Reform Commission : (A.L.R.C.) :

Two reports on the police reference have now been published, "Complaints Against Police" (A.L.R.C.1) and "Criminal Investigation" (A.L.R.C.2). The third report, "Annual Report 1975" (A.L.R.C.3) was tabled in the Federal Parliament on the morning of 11 November just before the Parliament was dissolved by the Governor-General. On 10 November 1975 the then Attorney-General announced a programme for the A.L.R.C. Some of the items on the programme were suggested by the A.L.R.C. None of the items was formally referred in accordance with the Law Reform Commission Act. The programme was:

- Bail : Revision of Territories law as to Court Bail.
- Consumer Credit : Small Debtors' moratorium (Bankruptcy Act).
- Crimes at Sea : Consolidation of Commonwealth laws.
- Defamation : A national law for Australia.
- Evidence : A code of Evidence for Federal Courts in Australia.
- Insurance : Standard forms of Insurance Contracts.
- Motor Traffic Laws : Territories' laws as to the Breathalyzer.
- Organ & Tissue transplant laws.
- Royal Commissions Act : updating inquiry procedures.
- Subordinate Legislation : revision of procedures.

During the election, the Prime Minister of Australia, the Honourable J.M. Fraser M.P., announced the intention of his Government, if elected, to refer to the A.L.R.C. recommendations of appropriate laws to protect individual privacy in Australia.

Position Papers on most of the above items have been prepared within the A.L.R.C. Some of them have been distributed for comment. Work is proceeding on the possible references relating to privacy, organ and tissue transplant laws and breathalizer legislation for the Territories. It is expected that the Chairman of A.L.R.C. will see the new Attorney-General early in January 1976. A detailed memorandum has been submitted to the Attorney-General concerning the programme of the A.L.R.C.

A.C.T. Law Reform Commission (A.C.T.L.R.C.) :

One outstanding reference is occupying the A.C.T. L.R.C. It deals with the simplification of procedures for the registration of title in the A.C.T. A report is expected on this topic early in 1976.

N.S.W. Law Reform Commission (N.S.W. L.R.C.) :

Work is currently actively proceeding in the N.S.W. Commission on the following references:

- Arbitration of Civil Disputes : (R.D. Conacher).
- Enforcement of Money Judgments : (Chairman and Judge Loveday).
- District Court Jurisdiction : (ibid).
- Evidence (particularly hearsay) : (Professor Heydon).
- Frustrated Contracts : (Mr. Conacher and Mr. Allen).
- Perpetuities & Accumulations : (D. Gressier).
- Sale of Goods : (Mr. Conacher).
- Sale of Land : Instalment Contracts: (Mr. Gressier and J. Bennett).
- T.F.M. : (Mr. Gressier).

The Commissioner whose name appears above is the N.S.W. Commissioner primarily responsible.

Papua-New Guinea Law Reform Commission (P.N.G.L.R.C.) :

- Summary Offences Bill.
- Arrest Searches and Bail Bill.
- Murder : Penalty for Wilful and other murders.

Queensland Law Reform Commission (Q.L.R.C.) :

The new Act based on the Q.L.R.C. report on the law of property came into force in Queensland on 1 December 1975. The Commission is conducting an ongoing review of the new legislation. A major report on the reform of the law of Evidence was finished recently by Dr. Morris and is in the hands of the Minister. Other work in hand includes:

- Administration of Assets (briefed out to Mr. W.A. Lee, Senior Lecturer in Law, Qld. Uni.). Working paper 18 December 1975; shortly for distribution.
- Law of Matrimonial Property (referred 1975).
- Hawkers' & Pedlars' Legislation : A Consideration of recent victorian developments (referred 1975).
- Illegitimacy : A working paper is due on this topic early in 1976. It contains a consideration of the N.Z. developments (Dr. J. Morris).
- Supreme Court Rules : A working paper on this project, which has been briefed out to Mr. G. Williams and J. Forbes, is expected in mid 1976).
- Criminal Law Anomalies : Dr. Morris prepared an interim report which was submitted to the Minister. See Act No. 27 of 1975. Some aspects only of the reference have been dealt with.
- Inferior Courts : A reference to consider the amalgamation of the Justices' and the Magistrates' Courts Acts was briefed to outside counsel who report direct to the Minister.

Queensland Law Reform Commission (Q.L.R.C.) : (continued)

Infants' Contracts etc. : An interim report has been submitted to the Minister.

South Australian Criminal Law & Penal Methods Reform Committee (S.A.C.L.R.C.) :

Report No. 3 on Court Procedures and Rules of Evidence was published in August 1975. The Committee is now working on the reform of the substantive criminal law of South Australia. Work is proceeding on this reference.

South Australian Law Reform Committee : (S.A.L.R.C.) :

The Committee's report on aspects of Landlord & Tenant Law was ready at the end of 1975, awaiting signature of all members of the Committee. Other work in hand includes :

Locus Standi : Class Actions : A working paper is due in about February 1976.

Infants' Contracts : Working paper is due early in 1976 (King J.).

Frustration and Illegality of Contract : A working paper is due in about April 1976.

Variation of Trusts : A working paper is due in about February 1976 (Jacobs J.)

Tasmanian Law Reform Commission (Tas. L.R.C.) :

At the end of 1975 the Commission received a reference on Rape (particularly harassment of complainants). Other work in hand includes:

Powers of Arrest, Search and Bail. This project is now going ahead following publication of A.L.R.C.2 "Criminal Investigation".

Discrimination on the Grounds of Sex in Legislation : A committee is working on this.

Family Law and the Legal Rights of De Facto wives. A committee is looking at this. Recommendation re De Facto Wives will be forwarded to the A.G. in February 1976.

Friendly Societies. The implications of Medibank etc. on present legislation are being considered. Comparative State legislation is being collected.

Conveyancing and Law of Property Act : This is a long-run project in its early stages.

Civil Procedure Act and Rules : A joint L.R.C. and Rules Committee project, chaired by Mr. J.B. Piggott. The Committee is at the moment examining a draft Court of Requests Bill : small claims procedure is under scrutiny.

Deceased Driver Negligence. The committee is considering recommending provisions such as the Queensland Motor Vehicles Insurance Act Amendment Act 1968, s.4A(1).

Evidence : Corroboration. The committee is examining the possibility of suggesting a reference to follow up the L.R.C. Canada study paper (1975).

Competence and Compellability of Spouses.

Insurance Law : Legislation to deal with unfair insurance contracts.

Discussion was underway with A.L.R.C. in the light of the previous Federal Government's intention to refer aspects of Insurance Law to A.L.R.C.

Victorian Chief Justice's Law Reform Committee (V.C.J.C.) :

In 1975 the Committee commenced a new project on aspects of the law relating to appointment of liquidators of companies. Other projects which are continuing include :

Escape from Lawful Custody.

Defamation : Consideration of the Defamation Act 1952 (Eng.)

Law relating to the sealing of documents etc.

Appointment of Commissioners of the Supreme Court and Fees payable to Commissioners.

Occupier's Liability : this matter has been referred to a sub-committee.

Evidence : Proof of records, the Subpoena of Medical Records.

Victorian Chief Justice's Law Reform Committee (V.C.J.C.) : (continued)

Unincorporated Associations : A Committee is examining this. See 47 A.L.J. 305 at 316.

Workers' Compensation : Alternative Remedies at Common Law : A Committee is to report.

Victorian Law Reform Commissioner (V.L.R.C.) :

The Commissioner's Working Paper on evidence in rape proceedings should be published early in 1976. A report is due in February 1976 on Delays in Supreme Court Actions, following the Working Paper on this topic of 1975.

Victorian Statute Law Revision Committee (V.S.L.R.C.) :

The following are the current topics before the Parliamentary Committee :

Constitution Act (ongoing review of the Victorian Constitution).

Imperial Law : A further Report on Imperial Acts application has just been distributed.

Protection of Animals Act (vivisection, horse racing etc.).

Infancy : Enquiry into whether the legal age of majority should be 18 or 21.

Confiscation of motor vehicle in the case of some criminal offences. The Committee is looking into a suggestion about this.

Review of Vagrancy laws. The Committee has had referred to it a Private Member's Bill on this.

Western Australian Law Reform Commission (W.A.L.R.C.) :

A report has been recently submitted to the Minister on -

Review of local government election procedures

Criminal procedures : alternatives to cautions.

Reports are about to be published following working papers distributed in 1975, on the following topics:

Administration Bonds.

Suitors' Fund Act Review.

The Commission expects to issue Working Papers early in 1976 in the following References:

Payment of Gaming bets by cheque.

Local Courts Act.

Privilege of Journalists.

Strata Title Act Review.

Unclaimed Money : Rights and Procedures.

Work is also in hand on the following References:

Computer Evidence (non-priority).

Custody of Children (Awaiting the working of the Family Law Act).

Official Attestation of documents (non-priority).

Procedures in default of payment of fines (non-priority).

Jailing of first offenders (dormant).

Competence & Compellability of Spouses' evidence (Report due 1976).

Dividing Fences (Report recently given to the Minister).

Unrepresented Defendants and Court Procedures (dormant).

All of the above details concerning the current work of Australian agencies are in accordance with latest information received by A.L.R.C. as at December 1975.