

The reference follows the controversy which flared after Mr. Justice Wells of the Supreme Court of South Australia sentenced an Aboriginal, Sydney Williams, to return to his tribe and obey their lawful orders. In the result, Williams was speared and the outcry is recorded in (1976) 50 *A.L.J.* 386. The A.L.R.C. is now asked to look at the question on a comprehensive basis. Is it too late to grant some form of recognition to Aboriginal customary laws? Sydney Williams no doubt ascribed the red robes and horse-hair wigs which he confronted in court to our "tribal laws". In the new land rights area, is there a place for some form of self control or is it imperative that we should all be one under the unified law of Australia? Will ethnic communities in Australia demand similar special privileges? Where will it all end?

Fortunately, the Commission has already secured extremely useful contacts with experts in Canada. This is one result of the recent visit of the Vice-Chairman of the Canada L.R.C., Mr. Justice Bouck. A law reform officer, Mr. Tearle, has received permission from the New Zealand authorities to investigate Maori land courts in New Zealand. Contacts have also been made with the Village Courts Administration in Papua New Guinea, as with the Australian Institute of Criminology and the Institute of Aboriginal Affairs. The *Criminal Investigation Bill 1977* (Cwth) introduces special rights for Aborigines in the federal criminal investigation system. It may be important to see these moves in a total framework. Most lawyers will react adversely to proliferation of systems. Certainly, the problems and implications are enormous. But we are seeking a new compact with Aboriginal Australians and this may involve, to some extent, respect for their laws, or at least some of them.

Law Council's New Look

"I think we may class the lawyer in the natural history of monsters".

John Keats

The Law Council of Australia is the federal organisation of law societies and bar associations of Australia. Since the appointment of its full-time Secretary-General, Mr. Bob Nicholson, the Council has taken on a dynamic "new look". Mr. Nicholson is a practitioner from Perth, W.A. He is stationed in Melbourne and recently secured a full-time administrative officer, Mr. C.J. Roper, who did his law degree in Sydney. The Council President, David Ferguson, is keen to make sure that the Law Council is an organisation which "does much more than merely conduct conventions". The models of the A.B.A. and C.B.A. are before the Law Council.

Bob Nicholson has written a challenging paper for the 19th Australian Legal Convention in Sydney in July 1977. Titled *Law Reform and the Legal Profession* it suggests new ways in which the profession can contribute to law reform.

Meanwhile, the Council is helping the A.L.R.C. in all of its references by organising action committees to provide ideas and comment on working papers. As well, the Executive is considering :

- * Professor Peden's report on Harsh and Unconscionable Contracts.
- * The Maritime Law Association's recommendations on Admiralty Jurisdiction. The Law Council supports the view that the Commonwealth Government should move to consider the desirability of introducing comprehensive legislation to confer Admiralty jurisdiction on Australian courts.

The Law Council will shortly publish the first edition of an *Australian Legal Profession Digest*. This will be accompanied by a summary news sheet titled *Australian Lawyer*. These publications will be similar to the A.L.R.C. Digest and *Reform*. They will deal with matters directly relating to the legal profession rather than general matters of law. Anyone who has read the C.B.A. *National* will acknowledge the utility of this initiative.

The Law Council has recently established an exchange scheme by which a solicitor from a large firm in Sydney is to be exchanged with a senior officer of the Commonwealth Attorney-General's Department. Mr. Nicholson told the Australian Law Reform Agencies Conference in Canberra in May 1976 that the cross-fertilisation of people and ideas had not gone far enough in Australia. This exchange scheme may be the beginning of something big. From 4 April 1977 the Law Council will move to its new premises at 155 Queen Street,

Melbourne, where it will share facilities with the Victoria Law Foundation and the V.L.R.C. Since the 1976 Conference, the Law Council is invited to attend Australian Law Reform Agencies' Conferences. Anyone involved in law reform realises that without the participation and support of the profession, law reform proposals will often not get off the ground.

Criminal Law under the Microscope

"The *Criminal Investigation Bill* represents the most significant legislative initiative in this field to be taken in the Commonwealth of Nations at least since the last War and probably since the establishment of modern police forces. It comes to grips with a whole variety of difficult issues upon which there has been much writing, widespread dissatisfaction but little legislative action."

R.J.Ellicott, Q.C., M.P., Australian
Parliament, 24 March 1977

Criminal Investigation Bill 1977: Foreshadowed in the last issue of *Reform*, the comprehensive new code for criminal investigation by Commonwealth Police was introduced into the Federal Parliament on 24 March. The Bill is based on the A.L.R.C.'s Second Report *Criminal Investigation*. It is to lie on the Table and the Attorney-General has sought submissions, if possible by 1 May 1977. Copies of the Bill for the purpose of making submissions, are available from the Commonwealth Attorney-General's Department, Canberra, A.C.T. The Attorney-General has invited State Ministers and police forces to make submissions, if they wish to do so. He said that the legislation "could become a model for all criminal investigation in Australia".

In his Second Reading Speech Mr. Ellicott put the Bill in the context of the international and national moves for the protection of human rights. He characterised it as an attempt to translate the necessarily general language of the *International Covenant on Civil and Political Rights* into specific standards, consistent with our common law legal system. He also stressed the importance he attached to proper processing of A.L.R.C. reports. He took the occasion to condemn "window dressing" references to law reform bodies. He saw the Bill as a means of catching up with the developments of science and technology. The Bill introduces taperecording of confessional evidence, photography of identification parades and telephones for judicial superintendence over police bail decisions. The Attorney described the Bill as "a major measure of reform".

Complaints Against Police : Suppl. W.P.: The A.L.R.C. has also published its Working Paper No. 6 on *Complaints Against Police : Supplementary Report*. The decision not to proceed with the amalgamated Australia Police required reconsideration of the Commission's First Report. It was closely tied in to police organisation. The occasion has been taken in the Working Paper to review the whole report. The basic structure proposed remains:

- * The Ombudsman : As an alternative recipient and investigator in exceptional cases.
- * A special investigation branch : As the normal investigator of complaints.
- * A judicial tribunal : To investigate and inquire into serious complaints against police, short of criminal charges consigned to the courts.

The A.L.R.C. has already sat in Hobart, Perth and Darwin to receive submissions on this supplementary reference. It will shortly sit in other capitals and report urgently.

Victimless Crimes Seminar: The N.S.W. Government took an interesting initiative in organising a seminar on "Victimless Crimes" at Sydney, 24-27 February 1977. It was organised in association with the new Criminal Law Review Division of the Attorney-General's Department. Participants included Professor J. Caplan of Stanford University, U.S.A. and Professor S. Cohen of the University of Essex, England. Numerous local sociologists, lawyers and church and community groups took part. Although views polarised on many occasions, there can be no serious doubt of the need to bring the debate into the open in the Australian community. The N.S.W. Attorney-General Mr. Frank Walker explained the open forum in terms of this objective.