privacy should be allowed if one of six defences can be made out :

* Consent
* Legal Authority
* Privileged Occasion
* Fair report of Parliament or Courts
* Protecting the interests of the publisher
* Public interest (as defined)

The proposals have had a mixed reception. The *Australian* conceded that "there can be no real argument with the Commission's essential aim of preserving the within-the-home privacy of the ordinary individual". The restriction on photographs was attacked as going too far. This was also the thrust of the *Sydney Morning Herald*'s two editorials. Essentially they bore the message : leave privacy protection to us.

The Melbourne *Age* took a more reflective stance :

> "We cannot deny that the absence of any legal right to privacy has resulted in some violations of common decency. The reform of defamation law and the introduction of privacy protection in the realm of publication, should be simultaneous, perhaps in separate parts of one new, uniform Act. ... We accept the general lines of the proposed legislation ... and we hope that our legislators will act as carefully as the Commission has done in this important discussion paper".

The legislators are involving themselves in this new effort for a uniform Act. The Commissioner in charge of the reference, Mr. Murray Wilcox, has seen all State Attorneys-General in the course of visits to each State, timed to coincide with public sittings and seminars. The seminar in Brisbane on 28 May was opened by the Minister of Justice and Attorney-General, Mr. Lickiss. Other State Ministers and Parliamentarians participated in a lively debate. The Perth seminar was opened by Federal Minister Peter Durack. A large team of M.P.s took part in the Canberra debate on 25 June, including Senator James McClelland, former Labor Minister. Everywhere there is agreement about the need for a single uniform law in the age of mass communications. Striking the proper compromise between two very different approaches to defamation law will not be easy. If it can succeed, we may enter a new period of uniform laws in appropriate areas.

Defamation : Home Thoughts from Abroad

> "It is generally much more shameful to lose a good reputation than never to have acquired it".
>
> *Pliny the Younger, Letters,* 8.24

The standard text on the *Law of Torts* in Australia is by Professor John Fleming. Born in England, he was between 1955 and 1960 Robert Garran Professor of Law at the then Canberra College. Now Professor of Law at the University of California, Berkeley, he still keeps a lively interest in legal developments "down under".

During a recent visit to Australia, in discussions with the A.L.R.C. Chairman, he sparked an interest in some long-held views about defamation law reform. Copy of the A.L.R.C. proposals have been sent to him for comment.

Professor Fleming has now replied, with an article that makes reference to the poverty of ideas in defamation law reform in the past. He is a strong supporter of the general approach of the A.L.R.C. in its discussion paper *Defamation - Options for Reform.* Take for example his comments about the remedy of damages :

> "The preoccupation of our law of defamation with damages has been a crippling experience over the centuries. The damages remedy is not only singularly inept for dealing with, but actually exacerbates, the tension between protection of reputation and freedom of expression, both equally important values in a civilised and democratic community".

He then turns to the *right of reply* and *court ordered corrections and retractions*. These procedures are integral to the A.L.R.C. approach to defamation reform. Not the "pot of gold" two or three years later but prompt correction when the hurt to reputation is still fresh :

> "The right of reply has a firm footing in continental law. ... under the inspiration of a French model dating back to 1820. ... It is of course not exactly the most ideal form of undoing the wrong ... for the truth never catches up with the lie. Reply lacks the persuasive force of retraction, but it is arguably more effective in clearing the plaintiff's name than a money judgment."

Fleming points out that the exercise of the A.L.R.C. "right of reply" depends on the defendant's willingness to submit to it. He contrasts the continental pattern which allows enforcement even against the publisher's wishes :

> "This difference may betray a cultural contrast between the deeply rooted Anglo-American preference for attaining desirable objectives by rewards rather than force and the continental tradition which has come to view the right of reply as an individual right ... as a necessary protection against excesses of the media".

Summing up, Fleming commends "the widest deployment of reply and retraction to help break the traditional deadlock faced by the law of defamation between the individual's interest in his reputation and the general concern in the free flow of accurate information". But Dr. Fleming is not the only person supporting the A.L.R.C. approach. At a Seminar on the A.L.R.C. proposals at Monash University, Federal Vice-President of the Australian Journalists' Association, Miss Sally White, said that the system of reply and compulsory correction of defamatory material "could only improve the standard of journalism". Miss White pointed out :

* Corrections hit the media where it hurts most : in their fragile credibility.
* She knew of no journalists who would disagree that in return for greater freedom they should be required to take greater responsibility.

Fashioning remedies that really redress the damage complained of : that is what law reform is about.

Law Reform Conference Circuit

> "No grand idea was ever born in a conference, but a lot of foolish ideas have died there."
>
> *F. Scott-Fitzgerald, "The Crack-Up"*

The Vice Chancellor of Monash University, opening a conference on *Computers and the Law* on 24 May reminded the audience of the definition of a "conference". It was, he said, a group of people who, individually could do nothing and together could agree that nothing could be done. The conference, sponsored by the Law Council of Australia, the Australian Computer Society and the A.L.R.C. brought together lawyers, computerists and other scientists. For two days they examined the perils and opportunities of the computer age.

Monash law professor C.G. Weeramantry warned the conference that computer crime could carry the potential for great social damage. He suggested that the criminal justice system would have to be adapted to deal with the computer criminal. Nevertheless, he predicted computers would be used to allow governments to tap public opinion and to promote instant referenda on social issues.

The opening address by Federal Attorney-General Ellicott was read to the conference by Senator T.J. Tehan, Chairman of the Government Parties' committee on Law and Government. It outlined an experimental legal information retrieval system which the Federal Attorney-General's Department is setting up.