

'common sense'. Jim Wall, acting News Editor of ABC Television in Melbourne was quoted as observing that: 'sometimes there's a fine line between doing your duty to inform the public and intrusion'. Rod Usher concluded his article: 'It is not hard to be left wondering whether television has been more limited than enhanced by an intrusion involving an eight-year-old girl.' Perhaps it is time to reintroduce to the political agenda the sensitive private facts half of the Australian Law Reform Commission's *Unfair Publication* package.

dis-organised crime

'Lost is our old simplicity of times. The world abounds with laws, and teems with crimes'.

On the Proceedings Against America, in the Pennsylvania Gazette [February 8, 1775].

Another topic which has made substantial contribution to denuding Australia's forests is organised crime and its tentacles. The issue was resurrected by the Costigan Royal Commission which will end its days on 31 October 1984. However, organised crime is now such a high profile issue that the Costigan inquiry was not allowed to go out of existence before a permanent National Crime Authority came into being. That body started work on 1 July. Opinions about the new body have varied dramatically. The political correspondent of the Sydney Morning Herald, Peter Bowers, (*Sydney Morning Herald*, 9 June 1984) quoted Justice Michael Kirby to illustrate the dilemma inherent in setting up a national crime authority: 'We stand the risk of creating either the cosmetics of an ineffective agency or a too-powerful institution, unaccountable in practice to the courts or to democratic institutions.' Perhaps there is a third alternative: a body which is cosmetic in the sense that it is unable to achieve the functions for which it has established but which also too powerful and unaccountable, and a threat to liberty. The words quoted were taken from a speech, 'National Crimes Commission: Another ASIO?', given by Justice Kirby to a meeting on the National Crimes Commission almost twelve months before. In the intervening period the National Crimes Commission Act of 1982 was repealed and replaced by the National Crime Authority

Act 1984. It seems likely that the acronyms of the original name would not have appealed to those on the Labor side of politics. In his speech Justice Kirby compared the establishment of the new authority with the birth of ASIO. Both, coincidentally, were established by Labor Governments. Both were directed against 'insidious cancers undermining our institutions and way of life': communism and organised crime respectively. Both are essentially intelligence bodies and are in very real danger of being:

- largely unaccountable to the democratic elements of our Government in part because of the secrecy of their operations, secrecy which is justified in terms of protecting sources, and not letting the enemy know how much one knows;
- prone, by the nature of their mission, to take on an evangelistic, even Messianic role; and
- able, by the sharing of selected secrets, to win over even initially sceptical or unsympathetic administrators or politicians, admitted into their secret world and to their assessments and points of view.

He pointed to the close analogies between the concept of 'subversion' against which ASIO was directed and organised crime.

However, the debate about organised crime in recent months has focussed not so much on the National Crime Authority as on the so-called Age Tapes. According to crime writer Bob Bottom, who delivered the tapes to the *Age*, they are tapes of telephone taps imposed by the New South Wales police from Five Dock Police Station in Sydney, which had a sizable facility for that purpose. If that is right, the operation would plainly have breached the laws against telephone tapping. Whether activities of that sort will be investigated by the National Crime Authority is a moot point. The functions of the Authority under its statute are to direct its activities in relation to offences or involving two or more offenders and substantial planning and organization' or offences involving 'the use

of sophisticated methods and techniques'. However, most of the media attention over the tapes affair has not been about the circumstances in which they came to be made and leaked. Rather it is about their contents. Some proponents of the tapes have justified what has happened with arguments about ends justifying means or about the need to deal with problems which have been uncovered regardless of how they came to be uncovered. But most have simply not bothered. The titillation of being a voyeur on intendedly private conversations, especially those of well known and powerful people about matters of wide interest, lends its own momentum. Most have been too fascinated by the view to question or review the journey which brought them to it. The episode shows the propensity there is for privacy invasive material which is titillating and damaging to reputations to come out, even when privacy is protected by laws. It shows the need to be especially careful before permitting such material to be collected in the first place. These issues were considered by the Australian Law Reform Commission in its Report: *Privacy* (ALRC 22) tabled earlier this year.

video nasties

Nine tenths of the appeal of pornography is due to the indecent feelings concerning sex which moralists inculcate in the young, the other tenth is physiological and will occur in one way or another whatever the state of the law may be.

Bertrand Russell, 'The Taboo on Sex Knowledge'
Marriage and Morals (1929)

strange bedfellows. Pornography makes for strange bedfellows. Recently, debate on the question of video censorship has seen feminist anti-pornographers lie down with their one-time opponents, the conservative moralists. On the other side, civil libertarians appear to be allied with pedlars of pornography.

- A public meeting in Canberra, early in August, called on Attorney General Senator Evans to design new legislation banning X-rated videos. Speakers claimed that the present law relating to the distribution of such videos was not being adequately policed in the ACT at

the point of sale. Among those formally addressing the meeting was feminist Dr. Jocelyn Scutt who maintained that pornography was central in creating and maintaining women's inferior social status. She called on the Government to include a section on pornography in the Sex Discrimination Act 1984 which would allow women to take legal action if coerced into performing for pornographic material to seek damages and for women as a group to be able to bring a complaint. Another speaker, Mr. Brian Peachey from Western Australia who was involved in the successful campaign there to have X-rated videos banned claimed his concern rested on the well being of his nine children, but noted that the reason why the W.A. Government had changed the law was 'not based on a concern for the moral welfare of people or even children. The reason they banned X-rated material was because sufficient numbers of people became concerned'.

- Mrs Mary Whitehouse, well known for her role as a moral crusader in Britain made a twelve day tour of Australia, speaking on TV shows and radio talk backs. She maintained that world trade in pornographic videos is now so great that only an international treaty is going to stem the tide. She wants the pedlars pursued across national borders in the same way as drug smugglers. Mrs Whitehouse led the first High Court prosecution against blasphemy in 50 years and was a driving force behind the stringent video censorship laws introduced in Britain earlier this year. But she believes the video revolution is creating a new dimension 'It has become an international problem, and as the laws tighten up in Britain and Europe, the pressure will become even greater on Australia', she said. Mrs Whitehouse appeared in a polite, though tense confrontation with the Chief Film Censor Janet Strickland on the ABC's program,