

other like countries, a number of conclusions are summarised:

- Longer or shorter sentences: No evidence has been found that longer sentences or longer periods of incarceration produce better results than shorter sentences
- Differential institutional regimes: No research results have indicated that any of the institutional alternatives provided for young offenders (detention centres, borstal or prison) is the more effective
- Special institutional programmes: Innovative therapeutic programmes appear to be no more effective in general in reducing overall reconviction rates than traditional methods of institutional custody
- Custodial or non-custodial sentences: The research carried out on the effectiveness of fines, discharge, probation and imprisonment [show] results which support the first two methods rather than the second two, i.e. fines rather than imprisonment
- Variations in non-custodial treatment: It seems unlikely that the quality of supervision by probation officers will be shown to have much effect on reconvictions.

It is a sober report presenting no certain remedy for recidivism but a clear conclusion that longer sentences seem no more effective than short ones, different types of institutions appear to work about equally as well, and rehabilitation programmes appear overall to have no certain beneficial effects.

Meanwhile, in England, the Prime Minister has announced the setting up of a Royal Commission on criminal procedure. The terms of reference ask whether changes are needed in:

- The powers and duties of the police in respect of the investigation of criminal offences and the rights and duties of suspect and accused persons, including the means by which these are secured
- The process of and responsibility for the prosecution of criminal offences, and
- Such other features of the criminal procedure and evidence as relate to the above.

The Lord Chancellor's office is keeping the A.L.R.C. briefed on developments in this inquiry which coincides with two references to the Australian Law Reform Commission.

In the United States, the American Bar Association reports on the President's project concerning law enforcement. This will involve the study of improving co-ordination in crime and justice programmes and statistics throughout the United States. Details are available from the A.L.R.C. or from the A.B.A., 1800 M Street, N.W. Washington, D.C., U.S.A., 20036.

Lands Acquisition Reform

"If a man owns land, the land owns him. Now let him leave home, if he dare."

Emerson,
"Wealth", *The Conduct of Life*, 1860.

Euripides once declared that "men honour property above all else. It has the greatest power in human life." Now, in the opinion of some, not much has changed since this statement was uttered in 400 B.C. Private property, and particularly the ownership of land and the possession of a family home, lie at the heart of the Australian economy. Australians are amongst the highest per capita owners of dwellings in the world. The compulsory acquisition of property by the State is now resignedly accepted. But the Australian Constitution requires the payment of "just terms" to any State or person for the acquisition of property by the Commonwealth. The result is the Commonwealth's *Lands Acquisition Act* 1955. In July 1977 the A.L.R.C. was asked to review this Act and the laws and practices in relation to the compensation to owners of private land or businesses injuriously affected by Commonwealth works.

A new Discussion Paper (No. 5) titled *Lands Acquisition Law: Reform Proposals* was published in December 1977. It sets out the A.L.R.C.'s tentative recommendations for improvement in lands acquisition law and procedures.

The proposals follow a seminar in Sydney on 17 November when a large number of consultants from all parts of Australia assembled to discuss a draft paper prepared by the Commissioner in charge of the reference, Mr Murray Wilcox Q.C. The consultants included a number of departmental officers from the Commonwealth Department of Administrative Services and from various State Departments.

The Commission was especially assisted by the presence of New South Wales and Tasmanian officers who have their State laws under current revision. The need for major modernisation of laws and practices here is clearly outlined in the A.L.R.C. Discussion Paper.

The paper suggests many changes. Amongst the more important are:

- The provision of an inquiry, to a fixed time limit, to hear objections to the compulsory acquisition of private land and to make recommendations to the Minister.
- All acquired properties to be acquired within two months of the decision to proceed.
- Plain English notices of rights to be given to all dispossessed owners.
- The Commonwealth to pay 90% of valuation on proof of title.
- Provision for review of valuation by the Administrative Appeals Tribunal with recourse to the Federal Court in certain circumstances.
- Compensation to be assessed on the basis of full indemnification of financial loss and to include certain specific items. These are to include disturbance allowances for financial losses, discretionary solatium for intangible losses by home owners, reinstatement in certain circumstances, and loan assistance for home owners unable to procure new premises with compensation.
- Injurious affection to be available to all land owners whether or not their land is taken from them for a scheme but to be limited to decrease in value caused by construction factors (loss of access, air, overshadowing etc) or use factors (noise, vibration, smell, fumes etc).

The A.L.R.C. now plan a series of public seminars and public sittings in all parts of Australia. Valuers, real estate agents, lawyers, departmental officers and members of the public will be invited to comment on the A.L.R.C. tentative scheme. The public consultation will probably be arranged in March-April 1978. The time-table will be published nationally. Meanwhile, the A.L.R.C. is carefully examining comments that are being received. It is also working closely with State officers who

are reviewing equivalent State legislation. Copies of the discussion paper are available from The Law Reform Commission, Box 3708, G.P.O., Sydney, N.S.W., 2001. It will be distributed with the *Australian Law Journal* to all subscribers to the A.L.J. The discussion paper continues the A.L.R.C. effort to put tentative ideas in a short paper which busy people may be prepared to read. This procedure has already produced hundreds of useful submissions in other references. It has now become the standard A.L.R.C. procedure in major references. (See *Annual Report 1977*, 22.)

Minority Rights v. Majority Rights

"All history is a record of the power of minorities, and of minorities of one."

R. W. Emerson, c. 1880.

We live in the age of the plural society, where it is acceptable, even desirable, to be different. Law and law reform have a place in striking the balance between the rights of majorities and of minorities in our free society. The important reference given to the A.L.R.C. on *Aboriginal Customary Laws* illustrates the latest effort of the Australian majority to strike a new "deal" with its indigenous Aboriginal minority, so far as the legal system is concerned. The report of the A.L.R.C. on *Criminal Investigation* recognised four minority groups in Australia deserving of special legal protection:

- Aboriginals
- Non-English-speaking accused
- Children
- Mentally Ill and Defective accused.

The A.L.R.C. report and the *Criminal Investigation Bill* give particular, special protections for the first three categories mentioned. The provision of interpreters, of the facility of lawyers or of a "prisoner's friend", translated notices of rights and so on are all designed to redress inequalities which sometimes arise from the equal application of the one law to different groups.

The protection of minorities constantly comes before law reform commissions. The W.A.L.R.C. working paper *Review of Bail Procedures* addresses itself to special groups