

substantially the same terms as those adopted by the Senate, together with the Parliamentary Privileges Act, will constitute a significant response to the invitation extended by s 49 of the Constitution 87 years ago.

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safeguarding visitors

A house is a machine for living in.

Le Corbusier, *Vers une architecture*

In a report tabled in Federal Parliament on 13 April 1988 the Law Reform Commission has recommended no change to the law of occupiers' liability as it applies in the Australian Capital Territory. The Commission endorsed the law that all reasonable steps should be taken by the owner/occupier to safeguard visitors from injury. What was reasonable would depend on the circumstances.

Mr Nick Seddon, the Commissioner in charge of the reference, said that during the final stages of the Commission's work on the reference the High Court had held that the principle of negligence applied to occupiers' liability cases in the ACT. The Commission agreed with this approach and did not consider it necessary to enact legislation that would merely mimic what the High Court has now achieved through judge-made law.

In reaching this conclusion the Commission had examined the old occupiers' liability rules that applied in the ACT prior to the High Court decision. Under these rules liability of the occupier of premises or land depended on whether the visitor was a trespasser, licensee, invitee, entrant as

of right (for example visitors to public parks) or a contractual entrant (for example a cinema goer). In each case the standard of care owed by the occupier of the premises to the visitor varied. The Commission considered these distinctions were archaic, difficult to apply and could lead to absurd results.

The Commission had concluded that a flexible general negligence standard which covered all occupiers, from the rural landholder to the suburban householder was the appropriate standard to apply.

One issue which provoked considerable debate during the Commission's research was whether the owner should take reasonable steps to safeguard criminal trespassers from injury. Mr Nick Seddon, pointed out that the flexible negligence standard reflects common sense in the circumstances and it would be highly unlikely for a criminal trespasser to successfully claim compensation.

The Commission did, however, recommend abolition of the common law rule that landlords merely by virtue of their status of landlords, cannot be made liable for damage or injury to visitors to the property. Immunity for landlords based simply on the fact that they are landlords cannot be justified. To the extent that this rule applies in the ACT it should be abolished.

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product liability

The injustice done to an individual is sometimes
of service to the public.

Junius (18th Century)