

The Tasmanian Government has before it the Tas.L.R.C. *Report and Recommendations For Reducing Harassment and Embarrassment of Complainants in Rape Cases*. Tasmanian Attorney-General, Mr. Miller, announced on 31 July that the Government proposed to introduce legislation in the current session which will restrict questioning about the complainant's previous sexual history, restrict the publication of names and addresses and limit the number of people allowed in court when women give evidence. It will also provide that a husband may be charged with the rape of his wife where the parties have been legally separated. A number of other reforms to implement the L.R.C. proposals were also foreshadowed. Every State in Australia is therefore doing something about rape law reform. Many of the proposals are along the same lines. The same issues crop up in all of the reports. The value of co-operation between law reform agencies is illustrated by the identity of references on this subject.

Random tests : The silver bullet?

"Oh God! That men should put an enemy in their mouths
to steal away their brains"
Othello, II, 3

The A.L.R.C.'s latest Report *Alcohol, Drugs and Driving* (A.L.R.C.4) opens with this Shakespearean lament, which takes on a new anguish in the age of the motor car. The Commission was specifically asked whether "random tests" should be introduced in the Australian Capital Territory. The Commission answered this question in the negative. The Reference was received on 22 January and the Commission's 200-page Report was in the hands of the Attorney-General, Mr. Ellicott, as required by 30 June 1976. It attaches draft legislation and amasses a great deal of Australian and overseas material on the unhappy mixture of petrol and alcohol.

The Commission suggests the simplification of the law and the lowering of the preconditions for police tests. Only two tests are proposed:

- * Involvement in an accident as driver of a motor vehicle; or
- * Reasonable cause to suspect that a person has alcohol or a drug in his body.

On simplification, the A.L.R.C. no doubt had in mind the following report in the London Daily Mail:

"An A.A. spokesman said 'We agree the breath test laws need simplification. They have cost motorists a great deal of money in finding the various loopholes. We think the government should find some way of compensating them'."

The Commission based its rejection of random tests principally on the evidence of road traffic experts that it would have no long term effect on the road toll. The delicate relationship between citizen and police would be disturbed for no sure gain. Dr. Michael Henderson, N.S.W. Director of Traffic Safety, told the Commission "Random tests ..[are] not a silver bullet". (A.L.R.C.4 p.109).

The Commission Chairman, Mr. Justice Kirby, explained the Commission's stand:

"It is traditional in British societies, before police intervention into the ordinary conduct of citizens is tolerated, that some reasonable cause to warrant a suspicion on the part of the police officer is generally required. This tradition, which is at the heart of our liberty, ought not lightly to be sacrificed. It ought not to be sacrificed at all, in this context, without the clearest

evidence that the results, in a diminished road toll, warrant the departure from time-honoured legal requirements. Far from supporting such a conclusion, the preponderance of expert opinion before the Commission is to the effect that no long-term diminution in the road toll could be anticipated. We should not sacrifice precious rights without assurance of the most substantial social gains".

A different stand has been taken in the State of Victoria which, let it be said, pioneered the worldwide move to compulsory seat belt legislation. A form of random breath test legislation was introduced in that State in July 1976 as an experiment. It provides for a special uniformed police "flying squad" in distinctively marked vehicles. They will have the power to stop any driver and order a breath test even if the driver has given no sign that he is driving under the influence. A month after this law came into operation, Assistant Commissioner for Traffic Newell said that 888 drivers had been tested and 15 were subsequently charged with a breathalyzer offence. The Victorian Premier, Mr. Hamer, has announced that Victoria will continue with its experiment.

The A.L.R.C. report, proposes a number of reforms:

- * Police powers to test should be extended from public roads to places near hotels and clubs
- * The latest American breath testing equipment should be introduced. The "printout" produced by this certificate should be given to the accused
- * Stiff new penalties are proposed, rising from \$1,000 to \$4,000
- * Provision is made for taking body samples necessary for detection of drugs
- * Thought should be given to banning or limiting advertisements for alcohol
- * Doctors should warn of the dangers of mixing drugs such as Valium with alcohol
- * Referral centres are proposed for the treatment of drivers with a drinking or drug problem.

The Commission's report makes a number of other proposals. See *Reform Proposals*, this issue.

Capital Territory : A case of "snail pace" reform?

A recent editorial in the *Canberra Times* criticised the "snail-pace reform" in the A.C.T. The low priority given by successive Federal Governments was blamed for concentration on national rather than local laws.

The editorial praised the valuable work of the A.C.T. Law Reform Commission. It pointed out that its Chairman now has to spend part of his time hearing cases in court. The occasion was taken to call for new attention to law reform. (23 July 1976).

Since that date, the A.C.T.L.R.C. has delivered its Report on its last outstanding Reference. The government has decided to transfer its operations to the Australian Law Reform Commission. The A.C.T.L.R.C. office closed on 30 September 1976. In its short time it produced a number of reports on civil procedure, landlord and tenant law, management of the property and affairs of mentally infirm persons, statute law revision, commercial arbitration, guardianship of infants and land law. The last Report is titled *The Law Relating to Conveyancing*. It will be published and distributed soon. Despite the editorial, things are