measures recommended. For government departments and agencies generally, a more relaxed approach is taken, focusing on monitoring and reporting on progress and identifying and promulgating good practice. The task of introducing plain English will obviously be much harder at the individual department level. Individual departments and agencies, it is suggested, should 'establish bureaucratic structures within the agency including steering committees and publication units to formulate comprehensive programs of action, oversee progress and co-ordinate the implementation of the policies'.

rape reform

vlrc dp. Plain English has not been the only matter to engage the VLRC's attention. Its second discussion paper, 'Rape and Allied Offences: Substantive Aspects' was published in August 1986 as part of its Reference to review the law relating to sexual offences in Victoria. The Commission's work has been divided into two parts. The first dealing with the substantive evidentiary and procedural aspects of non-consensual sexual offences (rape and allied offences) and the second dealing with other kinds of sexual offences, basically sexual exploitation and abuse of various kinds. DP2 deals only with the substantive aspects of the first class of offences. It is proposed that a further discussion paper dealing with evidentiary and procedural aspects will be published later in the year.

the golden thread retained. The VLRC lists a number of important reform considerations. Chief among these is retaining, in relation to the law of rape and allied offences, the basic tenets of criminal jurisprudence namely the presumption of innocence and the requirement that the Crown prove all the elements of its case beyond reasonable doubt. Other considerations include the law's protection of the sexual integrity and personal autonomy of everyone in the community, the limitations on the criminal law as a crime control mechanism and the symbolic and educative function of the criminal law especially in this area where 'the law can influence community attitudes about relationships, particularly between women and men'.

suggestions. The paper puts forward a number of suggestions for discussion. Concluding that there should continue to be a separate category of sexual offences, and that these should not simply be assimilated into the general law of assault, the discussion paper suggests that the tradition in the law of rape of treating sexual penetration as a special and discrete phenomenon should be continued. In the VLRC's provisional view, the present list of provisions in the Victorian Crimes Act indicating aggravating circumstances should be repealed. Instead, violence should be dealt with as a sentencing matter and by separate charges. Contrary to some changes to the law in for example Michigan, the VLRC recommends the continuation of lack of consent as an element of the offence to be proved by the prosecution. However, the discussion paper suggests that the concept of consent should not be restricted to circumstances of actual or threatened physical force.

> The issue of consent is one to be determined by a jury by examining the workings of the mind and the expression of the will of the particular complainant in the circumstances of the particular case.

However the Commission suggests a general statutory provision enshrining much of the traditional common law approach to the notion of consent in the circumstances which will tend to negative it. The recent Western Australian legislation is suggested as a model

> 'consent' means a consent freely and voluntarily given and, without in any way affecting or limiting the meaning otherwise attributable to those words, a consent is not freely and voluntarily given if it is obtained by force, threat, intimidation, deception or fraudulent means.

The mental element or mens rea requirement, the discussion paper suggests, should

not be changed from the present Victorian law which largely follows that expounded by the House of Lords in *DPP v Morgan.* Finally, the VLRC joins a number of other jurisdictions in recommending that the word rape be not used for sexual offences.

pornography

The trouble with nude dancing is that not everything stops when the music does.
Sir Robert Helpmann

meese commission. After studies and public hearings which took a year to complete, the United States Attorney-General's Commission on Pornography, better known as the Meese Commission, has reported to Congress. Until recently anti-pornography laws have been loosely defined in the United States because of First Amendment protection of freedom of speech and of the press. Only about 100 people have been indicted on federal obscenity charges over the past 8 years.

lockhart commission. In 1970 the Federal Commission on Obscenity and Pornography (the Lockhart Commission) prepared a report for Congress. The two reports and the two commissions may fairly be described as antithetical. The 1970 Commission had a budget of $2million, a staff of 22 and two years to complete its mission. That mission, as defined by Congress, was to analyse the obscenity laws, to study the effects on the public of the traffic in obscenity and pornography, and, if necessary, to recommend ways 'to regulate effectively the flow of such traffic'. The 1970 Commission sponsored a wide range of original research by scholars from the United States and overseas. Its Chairman, William B Lockhart, appointed by President Johnson, was the Dean of the University of Minnesota Law School.

a comparison. The Meese Commission, by contrast, had a budget of only $400 000, taking inflation into account approximately 1/12th of its 1970 predecessor. It had a research staff of 12 and its brief was to study the impact of pornography and to recommend 'more effective ways in which the spread of pornography could be contained'. No original research was sponsored and its list of consultants was dominated by police and anti-pornography activists. Its Chairman, Henry Hudson, was a Virginia County Prosecutor who had conducted vigorous campaigns to end sales of pornographic material in his area. He once told the *Washington Post,* 'I live to put people in gaol'. He has since been nominated as a United States Attorney. Of the 1986 Commission's 11 members, six have been said to have well-established public records of supporting government action against pornography.

findings. The 1970 Presidential Commission found no demonstrable ill-effects of explicit erotica upon criminal behaviour and had concentrated its concern upon material exhibiting violence and involving minors. This approach was supported by the 1979 Williams Committee Report in England and the recent Fraser Report in Canada. However, this central aspect of the previous Commission's findings was rejected by the 1986 Meese Report as 'starkly obsolete'.

> We have reached the conclusion, unaminously and confidently, that the available evidence strongly supports the hypothesis that substantial exposure to sexually violent materials as described here bears a causal relationship to anti-social acts of sexual violence, and, for some subgroups, possibly to unlawful acts of sexual violence.

However, the Meese Commission cast its net wide, defining pornography very broadly and saying that exposure to most pornography 'bears some relationship to the level of sexual violence, sexual coercion or unwanted sexual aggression'. It forged an alliance between feminists and members of many religious communities who claim that pornography is degrading to women and likely to disinhibit males from unacceptable behaviour. The Commission stringently attacked 'under-enforcement' of anti-pornography laws: