

Division 31: Law Reform Commission, \$820 000 -

Mr Edwards, Chairman.

Mr McGinty, Attorney General.

Ms H. Kay, Executive Officer.

Ms QUIRK: I draw the minister's attention to page 545 and dot point one under significant issues and trends. At what stage is the release of the outstanding reports? What strategies will be implemented to ensure that the reports are released in the not too distant future?

Mr McGINTY: The question is very timely because yesterday the Government held a function at the Hilton Hotel in Perth, which was attended by a range of legal luminaries, including the Chief Justice, the Director of Public Prosecutions, and a number of serving and retired judges, all of whom have made a significant contribution to law reform in Western Australia over the years by serving on the Law Reform Commission. The Law Reform Commission was established in October 1972, and was a great initiative. Over the past 30 years, it has produced a large number of reports dealing with laws that affect the fundamental structures of our justice and legal system, through to issues that affect the rights of individuals when they make important decisions at a difficult time of their lives. Although a number of reports have been implemented in part or in whole, a number of reports remain that fit into the simply too hard category, the politically too hard category, or the failing to get sufficient political priority category. The Law Reform Commission has put together a publication - it was launched yesterday - that goes back over every report that has been issued by the commission. The report has identified and prioritised areas of reform for the Government. It has identified the reports that have not been implemented and made recommendations. One of the major reports is the 1999 report of the Law Reform Commission into the civil and criminal justice system in Western Australia, which contained hundreds of recommendations. The Government is in the process of implementing a number of those recommendations, some of which have already passed through the Legislative Assembly and have joined the long waiting list of Bills that are before the Legislative Council. Other reports are the subject of an enormous amount of work that is currently taking place. Such reports highlight the major structural issues that affect the justice system, including the State Administrative Tribunal, which over the past 30 years has been recommended by two Law Reform Commission reports and numerous other reports. The first report was brought down in the 1970s when the current Chief Justice was Chairman of the Law Reform Commission. Similarly, with the new Magistrates Courts Bill, the Government is attempting to adopt all the new procedures recommended by the Law Reform Commission in its 1999 report, insofar as they relate to the inferior courts and their jurisdictions in Western Australia. I commend the report to all members. It is an excellent document that pulls together all the outstanding reports of the Law Reform Commission and recommends a list of priorities to the Government. The Government has accepted that they are priorities, and it will work through them. I hope a large number of the Law Reform Commission's outstanding recommendations will be implemented by end of the year.

Ms QUIRK: Has a study been carried out on the impact of the proposals on the court system, and whether such proposals will free up the traditional courts' time or result in further delays?

[9.20 am]

Mr McGINTY: Over the past 12 months, Michael Barker, QC has looked at the question of administrative law reform. Obviously that has involved a consideration of the two reports from the Western Australian Law Reform Commission dealing with the recommendation to establish a state administrative appeals tribunal. He then considered other reports, such as the report of the Commission on Government, the Gotjamanos report and others, which have recommended a similar body. All those requests have not been acted upon. He has prepared recommendations for government, which are due to go before Cabinet in the next month, at which stage his report will be released. Again, I commend that report to all members because it deals with a very large number of government appeal bodies. He has recommended that most of the government appeal bodies, whether it be for local government appeals or land valuation appeals, be pulled together into the one state administrative tribunal, which will be headed by a Supreme Court judge. He has further recommended that a number of initial decision-making bodies or appeal bodies that are made by courts, ranging from the Magistrates Court to the District Court to the Supreme Court, depending on the subject matter, be taken from those courts and vested in the new appeal body. He has also recommended that professional disciplinary matters for architects, hairdressers and those involved in professions such as medicine and law be pulled together into this one body. This will be a most profound reform of our justice system with wide-reaching implications.

I turn to the specifics of the question. It will free up time at each level of the judicial system. That time can be well used to address the backlog of criminal trials in the District Court and the backlog of both civil and criminal matters in the Supreme Court, so that they can be dealt with more expeditiously. Although this will be a very profound reform and a change to the way in which we do things, the benefit will be to free up judicial time, so

that it can be spent on dealing with the bread and butter issues rather than with administrative appeal matters or professional disciplinary matters.

Mr O'GORMAN: I refer to dot points four and seven on page 548. Dot point seven indicates that the commission has revised the number of hard copy publications it will produce and has transferred them onto CD-ROM. Dot point four states that the commission has made a saving of some \$9 000 by publishing its annual report on the web site so that people must download and print the report. Are there any plans to put the annual report onto CD-ROM for distribution?

Mr McGINTY: I will defer to the executive officer.

Ms KAY: We had not planned to put the annual report on CD-ROM, but it is something that we can look at, given that the costs are significantly less in comparison with the cost of hard copies. We did not produce any hard copies of the annual report this year. However, we left it on the web site and gave people the option to approach us for a hard copy if they had difficulty downloading it from the web site.

Mr McGINTY: During the time that the Law Reform Commission was undertaking its groundbreaking work on the reform of the civil and criminal justice systems, being a relative technological troglodyte, I frequently asked the Law Reform Commission to send me hard copies rather than my having to access them on the web site, but that was a number of years ago and times have changed considerably since then.

Mr DEAN: I refer to dot point one on page 548 under major initiatives for this year. I assume that because there is only one major initiative this year, it is fairly large in scale and complexity. Can the Attorney General give us some indication of the complexity of that issue? Are there other major initiatives waiting in the wings?

Ms KAY: The Aboriginal customary law reference is a very large reference. It will go for two to three years. At this stage, it is the major reference that we are looking at. It will require a lot of community contact and community visits. We have taken on an indigenous project manager. We are working through a culturally appropriate project structure, which will be quite different from normal project structures. It requires an Aboriginal reference group of about 12 people from various regions. It also requires the input of Aboriginal elders, because our indigenous project manager is a female and she cannot discuss all issues with various Aboriginal men about law in particular. It will require a lot of input. Because of the cultural aspects of that, it is fairly slow moving in the sense that we have to speak to all the right people first before we can progress it in the time frames that we are used to. However, it is progressing and it will take up a significant amount of the commission's time for the next few years.

Mr McGINTY: I will add the budgetary implications. The Law Reform Commission estimated expenditure of \$1.3 million in 2001-02. However, it is thought that the actual expenditure will be significantly less than that. That is due to a delay in commencing work on the Aboriginal customary law reference. The project manager appointed by the commission has required several months to consider the breadth of the terms of reference, to thoroughly plan the structure of the project and to draft an adequate budget. We think that the Aboriginal customary law reference will be as complex as the review of the civil and criminal justice system, which was the most complicated and comprehensive work ever undertaken by the Law Reform Commission in its 30 years of operation. It will be very resource intensive. As a result of that, the commission has carried forward a substantial portion of its budget to cover the anticipated start-up costs associated with a reference of that significance.

The appropriation was recommended.