

## Unauthorised Disposal of Goods Interstate: Right to Repossession

### Terms of Reference

In 1972, the Committee was asked to consider and report on the law relating to unauthorised disposal of goods by a bailee or hirer under a hire purchase agreement where the disposal takes place interstate.

### Background of Reference

In the related project, *Chattel Securities and the Bills of Sale Act* ("Project No 19"),<sup>1</sup> the Committee was asked to review the law dealing with the security of title in relation to the merchandising of goods on credit, and advise whether the *Bills of Sale Act 1899* (WA) should be amended, or new legislation prepared, to meet present day conditions.

In 1972, the Standing Committee of Commonwealth and State Attorneys-General (SCAG) decided that the law on consumer credit and chattel securities should, as a matter of policy, be reviewed on a uniform basis throughout Australia. As a result the Committee's work on these projects was deferred by the then Attorney-General. When the Committee was formally reconstituted as a Commission in 1973, it took charge of these, and all outstanding projects.

In 1978, SCAG agreed that Victoria would introduce three Bills<sup>2</sup> dealing with consumer transactions for the purpose of seeking public comment. It was intended that the Bills, if suitable, would be the basis for uniform legislation. In October 1978, the Commission, with the agreement of the Attorney-General, revived its study of the two projects in order to submit comments on those aspects of the Bills dealing with chattel securities. The Bills attracted substantial public comment and criticism and when the Victorian Parliament rose for the state election in May 1979, the Bills lapsed and the intention to redraft them was announced. Accordingly, the Commission again deferred work on the projects.

The Bills were revised and re-introduced as the model consumer credit legislation into the Victorian Parliament at the end of April 1981.<sup>3</sup> At the same time, four Bills having a similar effect were introduced into the New South Wales Parliament.<sup>4</sup>

### Reference Withdrawn

In April 1983 the Minister for Consumer Affairs announced<sup>5</sup> that the model consumer credit legislation would be introduced into the Western Australian Parliament.<sup>6</sup> Since such legislation would substantially deal with matters covered by Project Nos 19 and 35, the Attorney-General withdrew both references. The Commission commented that the security aspects of non-consumer credit might require further consideration in due course.

1 Law Reform Commission of Western Australia, *Chattel Securities and the Bills of Sale Act*, Project No 19 (referred 1970, withdrawn 1983).

2 Credit Bill 1978 (Vic); Chattel Securities Bill 1978 (Vic); Goods (Sales and Leases) Bill 1978 (Vic).

3 *Credit Act 1981* (Vic); *Chattel Securities Act 1981* (Vic); *Goods (Sales and Leases) Act 1981* (Vic).

4 Consumer Credit Bill 1981 (NSW); Credit-Sale Agreements (Repeal) Bill 1981 (NSW); Hire-Purchase (Repeal) Bill 1981 (NSW); Moneylending (Repeal) Bill 1981 (NSW).

5 Arthur Tonkin, Minister for Consumer Affairs, Press Release, No M88/457, (22 April 1983).

6 Western Australia, *Parliamentary Debates*, Legislative Assembly, 21 November 1984, 4478-4492 (Mr M Trethowan): *Credit Act 1984* (WA); *Credit (Administration) Act 1984* (WA); *Commercial Tribunal Act 1984* (WA). See also the *Chattel Securities Act 1987* (WA).