

## Retention of Court Records

### Terms of Reference

In 1978 the Commission was asked to consider and report on the law relating to the retention of records of Courts of Petty Sessions and Local Courts.

### Background of Reference

The Commission was asked to consider this matter because the State Intermediate Records Repository, where the records of these courts are retained, was nearing full capacity.

### Nature and Extent of Consultation

In March 1979 the Committee issued a working paper to inform the public of the issues involved in the project and to elicit comment on those issues. Comments were received from the Crown Law Department, the State Archivist and an individual. The Commission submitted its final report on the subject in June 1980.<sup>1</sup>

### Recommendations

Having considered the submissions, the Commission made the following recommendations:

- That a record of the Court of Petty Sessions and Local Courts should be retained for 15 years from the date of the commencement of the proceeding.
- That a complaint from the Court of Petty Sessions should be retained for 53 years.
- That the Foreign Executions Re-issue Book of the Local Court should be retained indefinitely.
- That a provision reflecting Part X of the *Justices Act 1902-1979* (WA) should be provided in the case of records of Local Courts.
- That the Court of Petty Sessions and the Local Courts should publicise the fact that their records may be destroyed after fifteen years.
- That an application may be made to retain court records for a further year in addition to the periods specified above.
- That any legislation relating to the destruction of records of Court of Petty Sessions or Local Courts should be subject to the state archival legislation.

A comprehensive outline of the Committee's recommendations may be found at pages 22–23 of the final report.

### Legislative or Other Action Undertaken

In 1981 and 1982 the Parliament passed the *Local Courts Amendment Act 1981* (WA), *Justices Act Amendment Act 1982* (WA) and *District Court of Western Australia Amendment Act 1982* (WA). These implemented most of the Commission's primary recommendations, however differed in the following ways:

- The *Local Court Act 1904* (WA), does not make provision for extending the time for retaining records, whereas the *Justices Act 1902* (WA) does.
- There was no express provision stating that a Foreign Exchange Re-issue Book should be retained indefinitely, although the provisions relating to the retention of court documents excluded them.
- There were no express provisions relating to archival legislation.

No reference was made to the reason for these omissions in the Western Australian *Parliamentary Debates*. However, the differences are relatively minor and in some cases reflect current standard practice.

<sup>1</sup> Law Reform Commission of Western Australia, *Retention of Court Records*, Project No 72 (1980).