for abolishing par value and nominal capital of shares and for reforming the system of director accountability and shareholder remedy as sufficiently important to require divergence of the laws of the two countries.

Furthermore, it regards the Australian Code (which it points out is in a state of flux) as complex and difficult legislation the adoption of which would run counter to the aim of making company law intelligible to non-lawyers. In the area of insolvency, the Report states that there are good reasons for New Zealand to follow the direction taken by the Australian Law Reform Commission in its Report on Insolvency. It is to be hoped that both the Australian federal Parliament and the New Zealand Parliament enact legislation reflecting the ALRC's recommendations on insolvency in the near future.

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new zealand reform of personal property securities

The New Zealand Law Commission has issued its Report No. 8, *A Personal Property Securities Act for New Zealand.* The Commission expressly intends its proposed legislation to provide a basis for the harmonisation

of Australian and New Zealand law. The draft Act follows the model of the North American laws relating to security over personal property. The basic structure is drawn from Title 9 of the Uniform Commercial Code of the United States but the immediate model is the Personal Property Security Bill introduced into the British Columbia Parliament in 1988. Some of its features are discussed in this article.

uniform rules. Uniform rules are proposed to cover all forms of security interests in personal property including chattel mortgages, leases, conditional sale agreements, title retention agreements (*Romalpa* clauses), fixed and floating charges, floor plan agreements and all other security interests in personal property, whether corporeal or incorporeal.

perfection. Although the exact nature of the security interest will depend on the arrangements made between the parties, in each case there is a common element providing protection of that interest in relation to the claims of third parties. The proposed law provides for 'perfection' of the security agreement either by registration or by the creditor taking possession of the property.

registration. The proposed law provides for registration of a 'financing statement' containing details of the security interest rather than of the particular instrument crediting the security interest. The financing statement will provide some information concerning the arrangement. Some parties, though not all, will have rights to obtain copies of instruments in appropriate cases. The proposed laws envisage the creation of a central, computerised registry with online access.

priorities. The proposed laws include a set of rules determining the priority of competing security interests. In most cases priority will depend on the time of registration and this priority will extend, in the case of floating charges and similar arrangements, to after-acquired property. Special provisions are made to protect purchasers of goods which may be effected by a security interest given to a third person.

hs *costs.* The Commission suggests that the proposed laws will provide much greater certainty and ease of registration. Searches may be undertaken by telephone. There should be considerable cost savings.

no distinction between individual and corporate securities. The proposed law covers all securities over personal property, whether credited by individuals, partnership or corporations. This may reduce the practice of financial institutions requiring borrowers to incorporate before finance is provided.

remedies. The Commission did not reach agreement upon whether remedies based on the North American rules should be incorporated in the legislation. It did agree that provisions giving special protection to consumers should be contained in separate consumer protection legislation.

harmonisation. In Australia, security arrangements under consumer credit contracts are governed by the credit legislation. This is currently being revised by the VLRC for the Standing Committee of Consumer Affairs Ministers. It is the subject of a recent comprehensive book, by A Duggan, S Begg and E Lanyon, *Regulated Credit: The Credit and Security Aspects* published by the Law Book Co. Many of the problems encountered in New Zealand also occur in Australia. The proposals of the NZLC may stimulate interest in reform of Australian law with a view to possible harmonisation.

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extensive review of banking law and practice in the UK

> Bankers are just like anybody else, except richer.
>
> Ogden Nash, verse title, 1938

the Jack committee. In 1987 the United Kingdom Treasury and the Bank of England established a three-person Committee to review the law and practice relating to banking services, chaired by Professor RB Jack. This Committee reported in February 1989 (Cm 622, HMSO). Its terms of reference were wide-ranging, extending to statute and common law affecting all aspects of services provided by banks. The only excluded areas were matters of company law, laws relating to 'prudential supervision' of banks, company laws and matters related to the market, such as competitive pricing and the cost of credit. The Committee was required to examine developments in banking law and practice throughout the world. It was also required to consult widely with banks and other interested organisations.

the changing role of banks and banking law. The legal rules relating to the provision of banking services are a mixture of common and statute law. The common law, which is the prime source of rules relating to the relationship of banker and customer, took most of its present form in the last century. Statutes provide the framework of rules relating to negotiable instruments, such as cheques, promisory notes and bills of exchange, but, as the Committee noted, 'the nature of banking has changed beyond recognition since the main statutes were drafted'. The law of banker and customer is based mostly on terms implied into an unwritten contract by the operation of common law principles, though the introduction of plastic payment and credit cards has led to greater reliance on express contracts to govern certain aspects of the relationship of banker and customer. Among the ways in which banking practice has changed have been the 'accelerating growth in electronic banking' such as Electronic Funds Transfer at Point of Sale ('EFTPOS') and Automatic Teller Machines ('ATM'). (See *Reform*, April 1989, p 73) The Committee also found that

> banks have inevitably become more commercial in their outlook towards customers.