

for consultation referred to above. The writer of this note can contrast favourably the ability to consult widely on both a formal and informal basis conferred on the Commission by the Securities Act, with the situation of a public servant, bound by the Official Secrets Act, and once the drafting of statutory provisions had commenced, by the constraints of Parliamentary privilege.

In preparing the *Proposals for Securities Regulations* recently released, the Commission consulted widely both formally and informally. A background paper on *Financial Advertising Control* was issued in September 1970 and invitations to interested parties attracted 27 submissions of which 17 were heard in person by the Commission at meetings held during November.

The prospectus proposals were developed internally, with the assistance of a chartered accountant seconded to us by a major accounting firm for a period of 3 months and of a parliamentary counsel. Informal assistance was given by a number of accountants and stockbrokers. Successive drafts were debated at meetings of the Commission. The "proposals" were issued at the end of March containing the text of the regulations proposed to be recommended and supported by an extensive essay discussing the principles and giving reasons. The Commission has invited submissions on this document by the end of May.

While it is too much to hope that complete agreement will be attained, this procedure does have the advantage of exposing, in the formative stages, proposed laws on very complex matters to the views of those who will be affected by the legislation. This can only lead to better law.

T. J. DOYLE, B.A. (CANTAB)

*Director of Research, Securities Commission*

### *LAW REFORM IN NEW ZEALAND—THE STATE OF PLAY\**

The main purpose of this article is modest — it is to provide up to date information about the machinery of law reform in New Zealand to mark the beginning of a regular feature in this review on law reform activities in New Zealand. What we understand today as law reform i.e. accelerated legislative intervention<sup>1</sup> is a relatively modern concept only dating back as far as Bentham and the Utilitarian movement.<sup>2</sup> New Zealand in that sense, though a new country, has had a long history of law

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\* The author is indebted to Mr B. J. Cameron, Deputy Secretary for Justice, for supplying the information in the Schedules and details of the current membership of committees. He is also grateful to Mr M. U. Kidd for research into the Department of Justice.

<sup>1</sup> See J. H. Farrar, *Law Reform and the Law Commission*, 1 but c.f. David B. Collins "Law Reform: A New Procedure for New Zealand" (1976) N.Z.L.J. 441.

<sup>2</sup> See J. H. Farrar "Law Reform Now—A Comparative View" (1976) 25 I.C.L.Q. 214.

reform.<sup>3</sup> The Judicature Acts were anticipated in terms of assimilation of the administration of Common Law and Equity in a single Supreme Court and simpler, more rational rules of procedure. The Stephen Criminal Code and the Torrens system of registered land were adopted and have survived the test of time. New Zealand also produced much progressive social legislation between 1875 and 1910. Thereafter in the debilitating aftermath of the First World War and world economic recession there was something of a quietus and a tendency to follow English or Australian legislative precedents for a long period. There were exceptions of course, notable amongst them being the introduction of an ombudsman, a review of the criminal code and criminal procedure and indigenous family law and social welfare reforms. The basic pattern, however, from 1910 until the nineteen sixties in many areas was cautious and essentially imitative. The pattern since the 1960's and particularly since 1973 when the United Kingdom joined the Common Market has changed. Accident Compensation in the 1970's has represented a major reform of considerable originality as well as profound social significance.<sup>4</sup> In the area of contract New Zealand has opted for piecemeal codification and, unlike the English Law Commission, it has got on with it. Minors' contracts, illegality, mistake and remedies<sup>5</sup> have all been codified with broad discretions conferred on the judiciary in a manner to which the common law has grown unaccustomed. In the area of commercial law New Zealand has given a local twist to earlier Australian restrictive practice and monopolies legislation and the Commerce Act 1975 reads in places more like a ministerial brief than an Act of Parliament.<sup>6</sup> In the Securities Act 1978<sup>7</sup> it has developed a local solution to securities regulation suited to the local capital market and combining an administrative agency with self regulation in an interesting way. The New Zealand Securities Commission is also charged with a law reform function which it is actively pursuing in an outward going style reminiscent of Mr Justice Kirby's Law Reform Commission in Australia.<sup>8</sup>

The New Zealand system differs from some other systems in the precise form of its Department of Justice and the structure of its law reform agencies. The differences are sources of both strength and weakness. Since there is a recurrent debate in the United Kingdom about the need for a

<sup>3</sup> See B. J. Cameron "Law Reform in New Zealand" (1956) N.Z.L.J. 72, 88 and 106; R. Hanan, *Law in a Changing Society*. Mr Cameron who is Deputy Secretary for Justice has long been active in law reform. The Hon. Ralph Hanan was a dynamic law reformer as Minister who worked closely with Dr J. L. Robson, then Secretary for Justice.

<sup>4</sup> See G. Palmer, *Compensation for Incapacity—A Study of Law and Social Change in New Zealand and Australia*.

<sup>5</sup> See Minors' Contracts Act 1969, Illegal Contracts Act 1970, Contractual Mistakes Act 1977 and the Contractual Remedies Act 1979.

<sup>6</sup> See generally J. B. O'Keefe *The Commerce Act 1975*.

<sup>7</sup> See J. H. Farrar [1978] 8 N.Z.U.L.R. 301.

<sup>8</sup> See Mr Justice Kirby's valuable paper, "Reforming Law Reform—New Methods of Law Reform in Australia" for the U.K. National Committee on Comparative Law Colloquium on "Methods of Law Reform" held at the University of Warwick, 11-12 September 1979. Modern law reformers owe much to the learning, industry and imagination of Mr Justice Kirby. He has assumed the intellectual leadership of Commonwealth Law Reform formerly exercised by Lord Scarman.

Ministry of Justice to take over the responsibilities of the law officers, Lord Chancellor's Department and penal side of the Home Office it may help if one states that Ministries of Justice do differ and if we first spell out the particular responsibilities of the New Zealand Department of Justice.<sup>9</sup>

*The New Zealand Department of Justice:*

The Department of Justice is currently divided into the following "programmes"

- I General Administration
  - (a) Head Office
  - (b) Law Reform Division
  - (c) Planning and Development
- II Courts
- III Patents Office
- IV Births, Deaths, Marriages, Registration, and Electoral
- V Probation Service
- VI Registration of Land
- VII Penal
- VIII Commercial Affairs
- IX Public Buildings Construction
- X Tribunals Division
- XI Psychological Services

The detailed job definition of the Law Reform Division is as follows:<sup>10</sup>

“(b) *Law Reform Division*

*Role;*

- (i) To provide the departmental services required by the Minister to implement his legislative programme.
- (ii) To participate in the work of the five law reform committees and provide them with administrative services.
- (iii) To give legal advice to the other divisions of the department.

*Objectives;*

- (i) To advise on the constitutional implications of legislative proposals.
- (ii) To initiate and carry through proposals for legislative change.
- (iii) To formulate draft legislative proposals to implement Government policy.
- (iv) To monitor the effectiveness of legislation administered in the department where appropriate, to advise the Secretary of Justice on necessary amendments.
- (v) To provide prompt, competent advice on legal aspects of departmental activities.
- (vi) To achieve an annual legislative programme formed in relation to priorities established by the Government.”

Thus it can be seen that the Department has general superintendence of law reform as well as taking on a range of matters which go beyond such

<sup>9</sup> On this question see Farrar, *Law Reform and the Law Commission* 18 et seq 123

<sup>10</sup> See *Statutory Functions and Responsibilities of New Zealand Government Departments 1977*, 132

Ministries in many other systems. Patents, registration of births, deaths and marriages, electoral lists, land registration and commercial affairs including the registrars of companies all fall within its purview. The Department's Commercial Affairs section in the past has handled Company Law reform although to a certain extent this function has been taken over by the Securities Commission which in practice works closely with Commercial Affairs. Some of the Department's functions go back to early colonial times when they were vested in the Colonial Secretary. The Department was formally established in 1873 but is not the creature of statute and no one statute prescribes its functions and responsibilities. Notwithstanding its big workload the staff employed by the Department is small. The current staffing figures are as follows:

Staff Strength	As at 31st March 1980 (Numbers)	As at 31st March 1979 (Numbers)
General administration	145	174
Courts	977	1,001
Patents Office	66	62
Births, deaths, marriages, registration and electoral	121	113
Probation service	469	467
Registration of land	335	327
Penal	1,508	1,482
Commercial affairs	200	179
Tribunals	48	—
Psychological services	25	—
	3,894	3,805
Staff ceiling	3,866	3,828
Staff ceiling 1980-81	3,841	

One of the gaps in the past has been lack of adequate research facilities although recently there has been a modest but significant increase in qualified staff allocated to this work.

As we have seen law reform falls under the programme of general administration and there is no separate budget for it. The ministry's current budget of \$98,005,000 is allocated as follows:<sup>11</sup>

Programme	1980-81 \$(000)
I General administration	4,545
II Courts	23,066
III Patents office	1,284
IV Births, deaths, marriages, registrations and electoral	1,943
V Probation service	9,799
VI Registration of land	5,016

<sup>11</sup> See Estimates of the Expenditure of the Government of New Zealand for the year ending 31 March 1981, and Notes to the Estimates.

VII Penal	37,987
VIII Commercial affairs	3,106
IX Tribunals	1,944
X Psychological services	515
XI Public Buildings Construction	8,800
	<hr/>
	98,005
	<hr/>

*The Machinery of Law Reform:*<sup>12</sup>

There is currently a part time law reform council consisting of:—the Minister as chairman; the chairmen of the standing law reform committees; the Solicitor General; the Chief Parliamentary Counsel and the Secretary for Justice. The standing committees are not satellites of the Council but are directly appointed by and answerable to the Minister. There are currently five standing law reform committees which are all part time. In addition to these the Securities Commission is now a standing company and Securities law reform agency.<sup>13</sup> The membership of the committees is as follows:—

(a) Contracts and Commercial Law Reform Committee:

C. I. Patterson — Chairman. Also full-time chairman of the Securities Commission

D. F. Dugdale

J. H. Wallace Q.C.

J. S. Henry Q.C.

W. H. Isles (parliamentary counsel)

Prof. B. Coote (Auckland University)

Prof. J. F. Burrows (Canterbury University)

J. R. Fox

B. J. Cameron (Dept. of Justice)

P. J. Carroll, Secretary

(b) Criminal Law Reform Committee

P. G. S. Penlington Q.C. — Chairman

D. A. S. Ward (former law Draftsman)

A. A. T. Ellis

R. . McLennan (N.Z. Police)

<sup>12</sup> For a useful survey of the modern system see David B. Collins op. cit. and Prof. Gordon Orr's paper for the AULSA conference "Law Reform and the Legislative Process" to be published in the Victoria University Law Review. See also B. J. Cameron in *Law Reform in the Commonwealth* published by the Commonwealth Secretariat, 28.

<sup>13</sup> The personnel of the Securities Commission is as follows: Mr C. I. Patterson (full-time Chairman), of Wellington, barrister and solicitor; Dr C. J. Fernyhough (vice chairman), of Auckland, barrister; Mr P. S. Stannard, of Wellington, accountant; Mr A. W. Mann, of Christchurch, accountant; and Mr K. E. F. Grenny, of Auckland, retired businessman. The alternative members are: L. M. Papps, of Wellington, barrister and solicitor (for C. I. Patterson); J. E. Auburn, of Paraparaumu, sharebroker (for K. E. F. Grenny); G. C. Edgar, of Auckland, chartered accountant (for P. S. Stannard); and J. A. Valentine, of Dunedin, chartered accountant (for A. W. Mann).

(Capital Letter, 1979, Vol 2 No. 16 (48), page 4 and No. 17 (49), page 4).

W. A. Moore  
 A. Satyanand  
 Mrs J. E. Lowe (Dept. of Justice)  
 Dr G. F. Orchard (Canterbury University)  
 D. A. R. Williams  
 Dr W. Young (Director of the Criminology Institute, Victoria)

(c) Property Law and Equity Reform Committee

V. R. W. Gray — Chairman  
 P. F. Robinson  
 Miss J. M. Potter  
 Mr A. J. Forbes  
 Mr R. G. F. Barker  
 Mr S. F. Drummond  
 Prof. R. J. Sutton (Otago University)  
 Registrar-General of Land — appointment pending  
 Ms J. Finnigan, Secretary

(d) Public and Administrative Law Reform Committee

Prof. J. F. Northey — Chairman (Auckland University)  
 Judge D. F. G. Sheppard  
 E. W. Thomas  
 Prof. K. J. Keith (Victoria University)  
 Prof. D. L. Mathieson (Victoria University)  
 E. A. Missen  
 R. G. Montagu (Dept. of Justice)  
 G. R. Laking  
 Parliamentary Counsel — appointment pending  
 Mrs C. J. Cosgriff, Secretary

(e) Torts and General Law Reform Committee

I. L. McKay — Chairman  
 S. C. Ennor  
 B. McClelland Q.C.  
 Prof. D. L. Mathieson (Victoria University)  
 G. E. Crowder, Secretary

Schedules 1 and 2 at the end of this article give details of reports of these committees and certain ad hoc committees, together with the resulting legislation, and matters under consideration as at 1 August 1980.

*The Current Debate —*

*The Alleged Need for a Full Time Commission.*

It may seem surprising to overseas readers that in 1980, fifteen years after the setting up of the English and Scottish Law Commissions, New Zealand is still debating whether or not to set up a full time law commission or at least a full time law commissioner. It is not that Kiwis necessarily sleep with their heads in the sand but that New Zealand has a long tradition of public service by part time committees which has made an impoverished system work surprisingly well. Nevertheless there is a movement for change. The Royal Commission on the Courts recommended the creation of a permanent law reform commission in a form

suitable for New Zealand in 1978<sup>14</sup> The current controversy is being actively carried on by Prof. Don Mathieson<sup>15</sup> of Victoria University, Wellington, supported by Prof. Douglas Whalan,<sup>16</sup> a New Zealander who is now based in Canberra. On the other side is Prof. Gordon Orr,<sup>17</sup> former Secretary for Justice and now also of Victoria University.

The main arguments for change can be summarised as follows:—

- (1) The present part time committees work too slowly and their present system of one day meetings raises practical difficulties.
- (2) The terms of reference of the committees are too wide.
- (3) There is a need for the involvement of laymen.
- (4) There is a limit to what busy practitioners can be expected to do.
- (5) The Law Reform Council has few and ill-defined functions and is unable to keep the entire law under review.
- (6) The system lacks independence from the Government of the day.

The main arguments against change are:—

- (1) The present system works well and has been productive and successful.
- (2) This is due in large measure to successive Ministers of Justice who have taken an interest in law reform.
- (3) It is also due to the character of the New Zealand Department of Justice and its personnel.
- (4) The part time system achieves the right balance of practising lawyers, academic lawyers and public servants and liaison between these groups.
- (5) It is unlikely that the full time alternatives would result in more or better legislation. There are dangers of a legislative bottleneck; difficulties of getting suitable personnel; the danger of impractical proposals; and the loss of the part time services of private legal practitioners.
- (6) We cannot afford it anyway at the moment.

The present writer's own view is that there is some truth in all these points but that Prof. Mathieson's proposal of a commissioner, deputy commissioner, five or six research officers and secretarial staff does not seem quite right. If change is to be considered the precedent of the New Zealand Securities Commission would seem more appropriate to New Zealand than most overseas commissions given the limited resources, the strong part time tradition, and the healthy, although excessive, scepticism about things academic which prevail.<sup>18</sup> Only the Chairman of the Securities Commission and the handful of members of his staff are full time appointments. The rest of the commission is part time and it calls in consultants from private practice. Like the Australian Law Reform Commission it

<sup>14</sup> Para. 996.

<sup>15</sup> See "Revised Law Reform Machinery—A Practical Proposal" [1978] N.Z.L.J. 442. See also Law Talk 110—Reforming Law Reform.

<sup>16</sup> See "Home Thoughts from Abroad on Proposals for New Law Reform Machinery" [1979] N.Z.L.J. 166.

<sup>17</sup> See Orr *op. cit.*

<sup>18</sup> For interesting comparative data about membership of commonwealth law commissions see *Law Reform in the Commonwealth*, 22 *et seq.*

conducts public hearings on its proposals. My suggestion is, therefore:— a law reform commission consisting of:

a full time chairman of at least High Court calibre, four part time commissioners chosen from private practice and the universities and a nucleus of research officers and secretarial staff.

This should then decide whether to keep in being all the existing part time committees, restructure them or assume some of their functions. However, as always the last word rests with the current Minister of Justice. The Hon. J. K. McLay, an energetic but pragmatic reformer, said last year:<sup>19</sup>

My mind is certainly not closed on the question of a full time Commission or Commissioners. I certainly believe that our system of law reform must be allowed to develop and adapt to changing circumstances and for that reason I have arranged for the matter to be one of regular discussion at future Law Reform Council meetings. However like my predecessors, both Labour and National, I remain at this stage unconvinced of the need for a fundamental change in our law reform structure.

#### SCHEDULE 1

##### *Matters Reported on by Contracts and Commercial Law Reform Committee*

1. Sea Carriage of goods	Reported August 1967	Proposals enacted: Sea Carriage of Goods Amendment Act 1968.
2. Misrepresentation and breach of contract	Reported March 1968, <i>Pub.</i>	Proposals enacted: Contractual Remedies Act 1979.
3. Carriage of goods	Reported April 1968, <i>Pub.</i>	Proposals enacted: Carriage of Goods Act, 1979.
4. Minors' contracts	Reported May 1969	Most proposals enacted: Minors' Contracts Amendment Act 1971.
5. Layby Sales	Reported August 1969. <i>Pub.</i>	Proposals enacted: Layby Sales Act 1971.
6. Validation of cheques after death	Reported September 1969, <i>Pub.</i>	Proposals enacted: Bills of Exchange Amendment Act 1971.
7. Illegal contracts	Reported October 1969, <i>Pub.</i>	Proposals enacted: Illegal Contracts Act 1970.
8. "Package" insurance policies	Reported October 1969, <i>Pub.</i>	No change in existing law recommended.
9. Consideration of Hire Purchase Bill	Reported June 1970	Hire Purchase Act 1971.
10. Textual review Door to Door Sales Act 1967	Reported November 1970	No change in existing law recommended.

<sup>19</sup> "Law Reform: A Ministerial View" [1979] N.Z.L.J. 346.



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| 11. Nominations in respect of Savings bank accounts                      | Reported July 1971, <i>Pub.</i>                                | No action taken as yet.                                       |
| 12. Promissory notes (Statute of Limitations)                            | Reported July 1972   | No change in existing law recommended.                        |
| 13. Marine Insurance: <i>Atkinson v. South British Insurance Co. Ltd</i> | Reported November 1970, <i>Pub.</i> (further report June 1972) | Proposals enacted: Marine Insurance Amendment Act 1975.       |
| 14. Hire Purchase Act (use of chattel mortgages)                         | Reported August 1973   | Some proposals enacted: Chattels Transfer Amendment Act 1974. |
| 15. Secured transactions (first report)                                  | Reported September 1973, <i>Pub.</i>                           | Some proposals enacted: Chattels Transfer Amendment Act 1974. |
| 16. Unsolicited goods and services                                       | Reported February 1974, <i>Pub.</i>                            | Proposals enacted: Unsolicited Goods and Services Act 1975.   |
| 17. Commercial causes.   | Reported March 1974, <i>Pub.</i>                               | No action as yet.   |
| 18. Insurance law (first report)   | Reported April 1975, <i>Pub.</i>                               | Proposals enacted: Insurance Law Reform Act 1977.             |
| 19. Contractual mistake  | Reported May 1976, <i>Pub.</i>                                 | Proposals enacted: Contractual Mistakes Act 1977.             |
| 20. Moneylenders Act 1908  | Reported February 1977, <i>Pub.</i>                            | Draft bill prepared.  |

*Criminal Law Reform Committee*

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| 1. Forgery: <i>De La Rue v. R.</i>   | Reported April 1972                  | Proposals enacted: Crimes Amendment Act 1973.   |
| 2. Thefts of documents conferring valuable rights                                | Reported April 1972                  | Proposals enacted: Crimes Amendment Act 1973.   |
| 3. Use of stolen property to obtain benefits                                     | Reported April 1972                  | Proposals enacted: Crimes Amendment Act 1973.   |
| 4. Identification parades: whether arrested accused should be required to attend | Reported June 1972, <i>Pub.</i>      | No action recommended.  |
| 5. Suppression of name of accused or defendant until charge heard                | Reported September 1972, <i>Pub.</i> | Minority report enacted 1975: repealed 1976. Majority report partially included in 1975 legislation retained. |
| 6. Preliminary hearing of indictable offences                                    | Reported September 1972, <i>Pub.</i> | Proposals enacted: Summary Proceedings Amendment Act 1976.  |
| 7. Frustration of attempts by impossibility                                      | Reported 1973, <i>Pub.</i>           | No action as yet.   |

8. Burglary	Reported January 1973	No action as yet.
9. Section 347 Crimes Act (power to discharge)	Reported May 1974, <i>Pub.</i>	Proposals enacted: Summary Proceedings Amendment Act 1976.
10. Differential penalties depending on occupation of victim in violent offences	Reported October 1975	No change recommended.
11. The law relating to manslaughter	Reported July 1976, <i>Pub.</i>	No action as yet.
12. The law as to provocation in (a) murder (b) other offences	Reported July 1976, <i>Pub.</i>	No action as yet.
13. The law relating to suicide pacts	Reported July 1976, <i>Pub.</i>	No action as yet.
14. Juvenile witnesses in sexual cases	Reported January 1977, <i>Pub.</i>	No immediate changes recommended.
15. Aspects of the law and procedure relating to identification	Reported September 1978	No action as yet.
16. Bodily examination and samples as a means of identification	Reported June 1979, <i>Pub.</i>	No action as yet.
17. Self-defence	Reported November 1979, <i>Pub.</i>	No action as yet.
18. Decision in <i>Morgan v. DPP</i>	Reported May 1980, <i>Pub.</i>	No action as yet.

*Property Law and Equity Reform Committee*

1. Claims by grandchildren under the Family Protection Act 1955	Reported June 1967	Proposals enacted in modified form: Family Protection Amendment Act 1967.
2. Contracts of sale subject to finance	Reported August 1967	No change in existing law recommended.
3. Law relating to executors and administrators	Reported October 1967	Most proposals enacted: Administration Act 1969. Referred back were:—
		(a) The effect of murder/man-slaughter on the rights of succession. Separate report now published (see No. 25 below);
		(b) Section 52 Public Trust Office Act 1957 — no change since recommended August 1971;
		(c) Interest on arrears of annuities: no change in existing law since recommended June 1976.

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| 4. Contracting with one-self with reference to the decision of <i>Rye v. Rye</i>                      | Reported March 1968                 | Proposals enacted: Property Law Amendment Act 1968.    |
| 5. Strata titles  | Reported June 1968                  | Proposals enacted: Unit Titles Act 1972.               |
| 6. Law of landlord and tenant (waste and attornment)  | Reported October 1968               | No action taken as yet.                                |
| 7. Section 81(2) Property Law Act 1952  | Reported December 1968              | No change in existing law recommended.                 |
| 8. Section 80A Property Law Act 1952  | Reported December 1968              | Proposals enacted: Property Law Amendment Act 1975.    |
| 9. Trustee's statutory powers of investment   | Reported March 1970, <i>Pub.</i>    | Proposals included in Trustee Amendment Act 1974.      |
| 10. Restraints on alienation and anticipation   | Reported March 1971                 | Legislation proposed. No action taken as yet.          |
| 11. Sections 7, 8, 9 Statute of Frauds  | Reported March 1971                 | Legislation proposed. No action as yet.                |
| 12. Fencing Act 1908  | Reported June 1972, <i>Pub.</i>     | Proposals enacted: Fencing Act 1978.                   |
| 13. Trustee's remuneration  | Reported March 1973, <i>Pub.</i>    | Some proposals enacted in Trustees Amendment Act 1974. |
| 14. Landlocked land   | Reported April 1973                 | Proposals enacted: Property Law Amendment Act 1975.    |
| 15. Effect of divorce on testate succession   | Reported November 1973, <i>Pub.</i> | Proposals enacted: Wills Amendment Act 1977.           |
| 16. Gift by way of release of debt—the formal requirements  | Reported June 1974                  | No legislative action recommended.                     |
| 17. Statutory condition of sale (and insurance of property subject to contract for sale and purchase) | Reported August 1974                | No legislative action recommended.                     |
| 18. Orders of the Adjustment Commission   | Reported August 1974                | No action recommended.                                 |
| 19. Contracts for the sale of land  | Reported August 1974                | No action taken as yet.                                |
| 20. Law Reform (Testamentary Promises) Act 1949 and Family Protection Act 1955                        | Reported August 1974                | No action taken as yet.                                |

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| 21. Investment in new debenture issues by trustees  | Reported November 1974              | No legislative action recommended.                         |
| 22. Section 120 Property Law Act 1952   | Reported May 1976                   | No action as yet.  |
| 23. Right of support by adjoining land  | Reported August 1976                | No change recommended.                                     |
| 24. Financial limits on a trustee power   | Reported September 1976             | Proposals enacted: Trustee Amendment Act 1977.             |
| 25. Administration Act 1969: the effect of murder or manslaughter on rights of succession | Reported October 1976, <i>Pub.</i>  | No action as yet.  |
| 26. The decision in <i>Frazer v. Walker</i>   | Reported June 1977, <i>Pub.</i>     | No action as yet (review of Land Transfer Act proceeding). |
| 27. Mortgagee's power of sale through the Registrar                                       | Reported June 1977                  | Legislation proposed. No action as yet.                    |
| 28. Decision in <i>Re Richards</i>  | Reported December 1978, <i>Pub.</i> | No action as yet.  |
| 29. Charitable Trusts   | Reported February 1979              | No action as yet.  |

*Public and Administrative Law Reform Committee*

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|---|--------------------------------------|---|
| 1. Appeals from administrative tribunals  | Reported January 1968, <i>Pub.</i>   | Administrative Division of Supreme Court established—Judicature Amendment Act 1968. |
| 2. Mining Bill 1969   | Reported April 1970, <i>Pub.</i>     | Most proposals enacted: Mining Act 1971.  |
| 3.a Judicial control of administrative acts: procedure for proposed new remedy of judicial review | Reported April 1972, <i>Pub.</i>     | Proposals enacted: Judicature Amendment Act 1972.                                   |
| b Proposed amendments to the Judicature Amendment Act 1972  | Reported September 1975, <i>Pub.</i> | Proposals enacted: Judicature Amendment Act 1977.                                   |
| 4. Award of Costs where Crown privilege claimed, or where Crown intervenes                        | Reported April 1972, <i>Pub.</i>     | Proposals enacted: Judicature Amendment Act 1972.                                   |
| 5. Regulation making powers and procedures of the Executive                                       | Reported April 1974, <i>Pub.</i>     | No legislative action recommended.  |
| 6. Code of procedure for administrative tribunals   | Reported September 1975, <i>Pub.</i> | No legislative action recommended.  |

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| 7. The publication of decisions of administrative tribunals           | Reported September 1975, <i>Pub.</i> | Proposals followed. N.Z. Administrative Reports now published monthly.   |
| 8. Compulsory acquisition of land                                     | Reported September 1975, <i>Pub.</i> | Commission of Inquiry recommended. Proposals followed in part—Committee to examine Public Works Act 1928 set up and reported 1978. |
| 9. Suspension of school pupils  | Reported September 1975, <i>Pub.</i> | Some proposals enacted: Education Amendment Act 1976.  |
| 10. Marine Farming  | Reported January 1977                | No action taken as yet.  |
| 11. Discipline within the legal profession                            | Reported May 1977, <i>Pub.</i>       | No action taken as yet.  |
| 12. Standing for application for review                               | Reported February 1978, <i>Pub.</i>  | No action as yet.  |
| 13. Codification of the grounds for judicial review of administration | Reported September 1978              | Included in 12th Report.   |

*The following tribunals have been considered and reported on.*

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| (a) Land Valuation Court   | Reported January 1968, <i>Pub.</i>       | Proposals enacted: Land Valuation Proceedings Amendment Act 1968.              |
| (b) Town and Country Planning Appeal Board   | Reported January 1968, <i>Pub.</i>       | Proposals enacted in part: Town and Country Planning Amendment Act 1971.       |
| (c) District Transport Licensing Authorities; Transport Licensing Appeal Authorities; Transport Charges Appeal Authority | Reported January 1968, <i>Pub.</i>       | No action taken as yet. Further report on Transport Licensing Appeal Act 1973. |
| (d) Trade Practices and Prices Commission; Trade Practices Appeal Authority; Prices Tribunal                             | Reported January 1969, <i>Pub.</i>       | Proposals enacted: Trade Practices Amendment Act 1971.                         |
| (e) Motor Spirits Licensing Authority; Motor Spirits Licensing Appeal Authority  | Reported January 1969, <i>Pub.</i>       | No action taken as yet.  |
| (f) Air Services Licensing Authority; Air Services Licensing Appeal Authority  | Reported January 1969, <i>Pub.</i>       | No action as yet.  |
| (g) Licensing Control Commission Licensing Committees  | (Informal report to Minister of Justice) | Proposals enacted: Sale of Liquor Amendment Act 1968.                          |

(h) Taxation Board of Review	Reported April 1974	Proposals enacted in part: s.43 Inland Revenue Department Act 1974.
(i) Cinematograph Films Licensing Authority; Registration Appeal Authority; Cinematograph Films Censorship Board of Appeal	Reported January 1969	Proposals enacted: Cinematograph Films Amendment Act 1969.
(j) Indecent Publications Tribunal	Reported January 1969	No change in present procedure recommended.
(k) Earthquake and War Damage Commission	Reported March 1969	No change in present procedure recommended.
(l) Copyright Tribunal	Reported March 1969	No change in present procedure recommended.
(m) Military Service Postponement Committees; Conscientious Objection Committee	Reported March 1969	No change in present procedure recommended.
(n) Pharmacy Authority	Reported March 1969	Proposals enacted: Section 40, Pharmacy Act 1970.
(o) Shops and Offices Exemption Tribunal	Reported January 1970, <i>Pub.</i>	No change in present procedure recommended.
(p) Animal Remedies Board	Reported January 1970, <i>Pub.</i>	Proposals enacted: Animal Remedies Amendment Act 1969.
(q) Co-operative Dairy Companies Tribunal	Reported January 1970, <i>Pub.</i>	No change in present procedure recommended.
(r) Land Settlement Board; Land Settlement Committees	Reported January 1970, <i>Pub.</i>	No action taken as yet.
(s) Timber Preservation Authority	Reported January 1970, <i>Pub.</i>	No change in present procedure recommended.
(t) War Pensions Board	Reported January 1970, <i>Pub.</i>	No change in present procedure recommended.
(u) Harbour Ferry Service Licensing Authority	Reported March 1973, <i>Pub.</i>	No action as yet.
(v) Local Government Commission	Reported March 1973, <i>Pub.</i>	Proposals enacted: s.23 Local Government Act 1974.
(w) Local Authorities Loan Board	Reported March 1973, <i>Pub.</i>	No change in present procedure recommended.
(x) Powers of the Audit Office	Reported March 1973, <i>Pub.</i>	No change in present procedure recommended.
(y) Regional Water Board	Reported March 1973, <i>Pub.</i>	No change in present procedure recommended.

- (z) Air Accident investigations Reported April 1974, *Pub.* Proposals included in Civil Aviation (Air Accident Investigations) Regulations 1978.
- (aa) Apprenticeship Committees Reported April 1974, *Pub.* No change in present procedure recommended.
- (ab) Coal Mines Council Reported April 1974, *Pub.* No change in present procedure recommended.
- (ac) Commissioner of Patents Reported April 1974, *Pub.* No change in present procedure recommended.
- (ad) Committee of the Board of Health Reported April 1974, *Pub.* No recommendation necessary.
- (ae) Compulsory acquisition of land Reported April 1974, *Pub.* Continuing.
- (af) Educational tribunals Reported April 1974, *Pub.* No action as yet.
- (ag) Hospital Review Committee Reported April 1974, *Pub.* Proposals enacted: Hospital Amendment Act 1974.
- (ah) Noxious Weeds Reported April 1974, *Pub.* Recommendations not yet adopted.
- (ai) Poisons Reported April 1974, *Pub.* No recommendation made.
- (aj) Rates postponement Reported April 1974, *Pub.* Recommendations not yet adopted.
- (ak) Snow Loss Reserve Committee Reported April 1974, *Pub.* No recommendation necessary.
- (al) Tariff and Development Board Reported April 1974, *Pub.* No change in present procedure recommended.
- (am) Tobacco Quota Committee Reported April 1974, *Pub.* Recommendation accepted.
- (an) Milk Board Reported September 1975, *Pub.* Recommendation accepted.
- (ao) Public Service Tribunals:  
State Services Appeal Board  
Police Appeal Board  
Police Misconduct Tribunal  
Post Office Appeal Board  
Railways Appeal Board  
Reported September 1975, *Pub.* No action as yet.
- (ap) Invalid Benefit Appeal Board  
Minors Benefit Appeal Board  
Reported September 1975, *Pub.* No change recommended.
14. Commissions of Inquiry Act 1908 Reported April 1980, *Pub.* No action as yet.

15. Liability in Damages of Administrative Authorities  
Reported May 1980, *Pub.* No action as yet.

*Torts and General Law Reform Committee*

- |   |   |  |
|---|---|--|
| 1. Hearsay Evidence                                     | Reported July 1967, <i>Pub.</i><br>Supplementary memorandum July 1970 | Included in Evidence Amendment Bill 1979.                              |
| 2. Miscellaneous domestic torts and similar actions     | Reported February 1968, <i>Pub.</i>                                   | Most proposals included in Domestic Actions Act 1975.                  |
| (a) Breach of promise                                   |   |  |
| (b) Damages for adultery, and the action for enticement |   |  |
| (c) The action for seduction                            |   |  |
| (d) The action for enticement of a child                |   |  |
| (e) The employer's action for enticement and harbouring |   |  |
| (f) Loss of services                                    | Reported April 1972   | Action abolished by Accident Compensation Act 1972.                    |
| (g) Loss of consortium                                  | Reported April 1972   | Action abolished by Accident Compensation Act 1972.                    |
| 3. Occupiers' liability to trespassers                  | Reported January 1970, <i>Pub.</i>                                    | No action now necessary.   |
| 4. The decision in <i>McCallion v. Dodd</i>             | Reported June 1972  | No action recommended.   |
| 5. The rule in <i>Hollington v. Hewthorn</i>            | Reported July 1972, <i>Pub.</i>                                       | Included in Evidence Amendment Bill 1979.                              |
| 6. The non-feasance rule in relation to public highways | Reported February 1973, <i>Pub.</i>                                   | No action taken as yet.  |
| 7. Protection of trade secrets                          | Reported December 1973, <i>Pub.</i>                                   | Civil liability: No change recommended.                                |
| 8. Products liability                                   | Reported March 1974, <i>Pub.</i>                                      | Majority recommended no change. Minority recommended strict liability. |
| 9. Medical privilege                                    | Reported November 1974  | Included in Evidence Amendment Bill 1979.                              |
| 10. Damage caused by animals                            | Reported September 1975   | No action taken as yet.  |
| 11. Professional privilege in the law of evidence       | Reported March 1977, <i>Pub.</i>                                      | Included in Evidence Amendment Bill 1979.                              |

*Ad Hoc Committees*

- |                           |               |  |
|---------------------------|---------------|--|
| 1. Admiralty Jurisdiction | Reported 1972 | Proposals enacted: Admiralty Act 1973. |
|---------------------------|---------------|--|



- |                                       |                                     |  |
|---------------------------------------|-------------------------------------|--|
| 2. Matrimonial Property               | Reported June 1972, <i>Pub.</i>     | Matrimonial Property Act passed 1976. Division of matrimonial property on death still be dealt with. |
| 3. Negotiable Instruments             | Reported August 1977                | Proposals under consideration.   |
| 4. Defamation                         | Reported December 1977, <i>Pub.</i> | Proposals under consideration.   |
| 5. Review of the Unit Titles Act 1972 | Reported March 1978, <i>Pub.</i>    | Unit Titles Amendment Act 1979.  |

*Other*

- |  |                                   |   |
|--|-----------------------------------|---|
| 1. Review of Matrimonial Law                                     | Reported August 1977, <i>Pub.</i> | Some proposals included in Family Proceedings Bill—introduced 1978.   |
| 2. Royal Commission on Contraception, Sterilisation and Abortion | Reported March 1977, <i>Pub.</i>  | Proposals enacted in modified form: Contraception, Sterilisation and Abortion Act 1977; Contraception, Sterilisation and Abortion Amendment Act 1978. |
| 3. Royal Commission on the Courts                                | Reported August 1978, <i>Pub.</i> | Some proposals enacted District Courts Act 1979, Judicature Amendment Act 1979 etc. More enactments in preparation.                                   |
| 4. Report on the Law of Adoption                                 | Reported August 1979, <i>Pub.</i> | No action as yet.   |

## SCHEDULE 2

MATTERS UNDER CONSIDERATION AND REPORTED ON BY  
LAW REFORM AND OTHER COMMITTEES AS AT 1 AUGUST 1980A. *Matters Under Consideration**Contracts and Commercial Law Reform Committee*

- |  |   |
|--|---|
| 1. Sale of Goods (Consumer Warranties) | Comments received on working paper. Awaiting preparation of draft bill.                             |
| 2. Secured transactions                | First reported presented. Matter under consideration.   |
| 3. Law of insurance                    | First report presented. Second report in preparation. Discussion paper issued and under Discussion. |
| 4. The right of set-off                | Research paper in preparation.  |
| 5. Privity of contract                 | Report in preparation.  |
| 6. Review of Arbitration Act 1908      | Under consideration.  |

- 7. Frustration Under consideration.
- 8. Contribution in Civil Cases Under consideration.

*Criminal Law Reform Committee*

- 1. Desirability of separate summary and indictable offences of assault and wilful damage No consideration as yet.
- 2. Bail Preliminary report presented. Further working paper circulated.
- 3. Discovery in criminal cases Under consideration.

*Property Law and Equity Reform Committee*

- 1. Guaranteed Search Notes Report in preparation.
- 2. Law relating to water courses and adjacent land Under consideration.
- 3. Positive covenants running with the land Working paper in preparation.
- 4. Mortgagee's sales: caveats and charging orders subsequently registered against title Discussion paper circulated.
- 5. Share premium reserve dividends Under consideration.
- 6. Trustee companies: entitlement to benefit from transactions in the normal course of business Under consideration.

*Public and Administrative Law Reform Committee*

- 1. By-law making powers and procedures of local bodies Under consideration.
- 2. Study of discretionary powers conferred by statute on public authorities Working paper on powers of entry and search prepared and replies under consideration.
- 3. Appeals by way of case stated Working paper circulated and replies under consideration.

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