

Report No 24

Report

for the period
1 April 1991 to 30 June 1992

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NZLC R22 Final Report on Emergencies (1991)
NZLC R23 The United Nations Convention on Contracts for the International Sale of Goods: New Zealand's Proposed Acceptance (1992)

Preliminary Paper series

See inside back cover

NZLC R24

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Report of the

LAW COMMISSION

for the period

1 April 1991 to 30 June 1992

Presented to the House of Representatives under section 17 of the Law Commission Act 1985

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22 September 1992

Dear Minister

I have the honour to transmit to you the report of the Law Commission for the period 1 April 1991 to 30 June 1992.

This report is prepared under section 17 of the Law Commission Act 1985.

Yours sincerely

K J Keith
President

Hon Douglas Graham MP
Minister of Justice
Parliament House
WELLINGTON

Introduction

As foreshadowed in its Annual Report for 1991, the Law Commission moved to a July-June financial year as from 1 July 1992. As a transitional measure, the Minister of Justice directed, under clause 11 (2) of the First Schedule to the Law Commission Act 1985, that the Commission should report in respect of a 15-month financial year covering the period 1 April 1991 to 30 June 1992.

The application of Part V of the Public Finance Act 1989 to the Law Commission as from 1 July 1992 involves a change in the format of the Annual Report.

- Part 1 sets out the aim and overall objectives of the Law Commission.
- Part 2 gives a narrative account of the achievements of the Commission in the reporting period. (In future years this account will be accompanied by a statement of service performance.)
- Part 3 describes the projects on the Commission's programme as at 1 July 1992 and sets out the Commission's objectives in output terms and the relevant performance measures for the 1992/93 financial year.
- Part 4 deals with general matters.
- Part 5 sets out the Commission's financial statements for the reporting period.

Another new feature is Appendix B, which is a table setting out the areas of law reviewed by the Law Commission since its inception in 1986, the publications produced, and the outcomes to date. The table will be updated year by year.

PART 1

The Law Commission's Aim and Overall Objectives

THE LAW COMMISSION'S AIM

The Law Commission is an independent, publicly funded, central advisory body established by statute to undertake the systematic review, reform and development of the law of New Zealand. Its aim is to help achieve coherent and accessible laws that reflect the heritage and aspirations of New Zealand society.

THE LAW COMMISSION'S OVERALL OBJECTIVES

The Law Commission's overall objectives are:

- to carry through their various stages towards final report the projects for the reform and development of particular areas of law which have been included in the Commission's programme;
- to ensure, so far as possible, that the projects to be included in the programme are selected by reference to the following factors:
 - the existence of an identified and, if possible, a widely perceived need for the reform and development of the area of law in question,
 - the desirability of the Commission's programme as a whole covering a reasonably wide range,
 - the existence among Commissioners of expertise in the area,
 - a perception that the reform could not more appropriately be undertaken by another agency;
- to follow up all final reports by:
 - taking part in discussions with interested individuals and groups, privately and in public forums, on the meaning and effect of the Commission's recommendations,

- discussing with relevant Ministers and their Departments the nature and the timing of the steps necessary to implement the Commission's recommendations,
 - participating in appropriate ways in the preparation of legislation implementing the Commission's recommendations and in the parliamentary processes leading to its enactment;
- to undertake such advisory work in relation to the review by other government agencies of any aspect of the law of New Zealand as may be referred to the Law Commission by Ministers or select committees, and, to the extent that resources permit, by other government agencies and to initiate such advisory work where that is an important step in achieving the Commission's aim;
 - to complete all work to a high standard, within the Law Commission's budget, and in accordance with a timetable that takes account of the priorities of the Minister of Justice and the Government, especially in relation to the legislative programme, so that, overall, the quantity and quality of the Commission's outputs meet the expectations of the Minister and the Government as well as those of interested groups, and represent good value for money.

PART 2

Report on the Period 1 April 1991 to 30 June 1992

AN OVERVIEW

In the 15 months period, the Law Commission has presented four reports to the Minister of Justice, one on Aspects of Damages: The Rules in *Bain v Fothergill* and *Joyner v Weeks* (NZLC R19), one on Arbitration (NZLC R20), a Final Report on Emergencies (NZLC R21) and a report on the United Nations Convention on Contracts for the International Sale of Goods: New Zealand's Proposed Acceptance (NZLC R23).

It has also published eight preliminary papers: four of them on evidence law and dealing with Principles for Reform (NZLC PP13), Codification (NZLC PP14), Hearsay (NZLC PP15), and Expert Evidence and Opinion Evidence (NZLC PP18), one on the revision of The Property Law Act 1952 (NZLC PP16), one on The Award of Interest on Debts and Damages (NZLC PP17), one on Apportionment of Civil Liability (NZLC PP19) and one on Tenure and Estates in Land (NZLC PP20).

During the period the Commission received two new references from the Minister of Justice: one of them on equity in employment, and the other on aspects of the Official Information Act 1982.

The volume of the Commission's advisory work continues to grow, and the Commission continues to make a significant contribution to the work of the Legislation Advisory Committee.

STATEMENT OF SERVICE PERFORMANCE

For the period under review, the Commission's Statement of Service Performance takes the form of a narrative account of the work done. As required by Part V of the Public Finance Act 1989, the Commission's Statement of Service Performance will, in future years, be related explicitly to the Statement of Objectives as set out in the Annual Report for the preceding year.

Arbitration

The Commission concluded its work on this topic with the publication of its report, Arbitration (NZLC R20). The report sets out the draft of a new Arbitration Act, largely based on the Model Law on International Commercial Arbitration adopted by the United Nations Commission on International Trade Law (UNCITRAL). The draft Act is neither limited to commercial arbitration, nor to international arbitrations, but also applies to domestic arbitrations though with some additional provisions.

The most significant of these is a limited right of appeal in order to correct errors of law. But, to maximise the consistency between the international and domestic regimes,

parties to domestic arbitrations are free to opt out of the additional provisions, and parties to international arbitrations may opt into them. This is consistent with the philosophy of allowing parties to settle their disputes by arbitration rather than through the courts. They may choose their own tribunal, procedure and applicable law.

Efforts were made to ensure that the new Act will provide a suitable framework for the arbitration of all disputes, from the simplest to the most complicated. If arbitration is to operate effectively, it must enable disputes to be resolved more quickly, less formally, by a qualified expert, and with savings in cost to the State as well as to the parties.

Emergencies

The Commission's Final Report on Emergencies (NZLC R22) completed its study of the basis on which emergency powers should be granted in New Zealand and of gaps or defects in the existing law conferring such powers. The Commission recommended that, when emergency powers are required, they should be conferred in sectoral legislation, that is, legislation tailored to the needs of the particular type of emergency. There should be no general grant of emergency powers like that made in the Public Safety Conservation Act 1932 (repealed in 1987).

The Commission recommended principles which should govern the drafting of sectoral emergencies legislation and the enactment of two such statutes: a War Emergencies Act (a draft of which is included in the report) and, to simplify the law as well as to improve its substantive content, a new Civil Defence Act, replacing (rather than amending) the Civil Defence Act 1983. The Commission also recommended the repeal of the International Terrorism (Emergency Powers) Act 1987 when new general legislation relating to police powers is enacted. The Commission will take up the question of police powers in the context of its reference on criminal procedure.

As mentioned in its 1991 Annual Report, the Commission sees its Final Report on Emergencies as a source of guidance in the longer term about the place of emergency powers in the New Zealand legal system, and as a basis for wide public consultation before the enactment of the particular measures that the Commission has recommended.

Evidence

The Commission described in its 1991 Annual Report the background to its reference from the Minister of Justice requiring it to examine the law of evidence and make proposals for its reform with a view to codification. It also indicated its intention to put forward its provisional conclusions in a series of discussion papers, prepared after extensive research and with the benefit of considerable outside consultation. In the period under review the Commission published four discussion papers: Evidence Law: Principles for Reform (NZLC PP13), Codification (NZLC PP14), Hearsay (NZLC PP15), and Expert Evidence and Opinion Evidence (NZLC PP18). We are receiving valuable submissions.

Research has been carried forward in the areas of privilege, character and credibility, and documentary evidence, but, since the publication of the discussion papers referred to above, resources have had to be concentrated on the closely associated areas of the right of silence, police questioning and confessions (see under Criminal procedure).

This has meant that it will not be possible, as originally hoped, to complete a review of core evidence law in 1992. In any event, the Commission now doubts the wisdom of treating some evidence law issues as forming a second tier. For the sake of overall consistency and coherence, it seems preferable to aim at producing an evidence code as a whole.

The Hon Mr Justice Wallace and members of the research staff have spoken about the Commission's approach to the reform of evidence law on a number of occasions. These include the District Court Judges' Conference held at Easter 1991; a seminar held by the Law Commission for Auckland practitioners in October 1991; a lecture at the Police College in November 1991 as part of the Police Executive Development Course; the 1991 Annual General Meeting of the Wellington branch of the Criminal Bar Association; and a seminar held by the Society for Computers and the Law. Bell Gully Buddle Weir, in conjunction with the Commission, is running a series of seminars for practitioners on evidence law reform, the first of which was held on 23 June 1992, to be followed by two more in July and September of 1992.

Criminal procedure

As the Commission has earlier explained, its wide-ranging reference to "examine the law, structures and practices governing the procedure in criminal cases from the time an offence is suspected to have been committed until the offender is convicted" has necessarily had to be taken up in stages.

As a follow-up to the issues paper, *The Prosecution of Offences* (NZLC PP12) published in 1990, a research paper was completed, early in the period under review, on the prosecution systems operating in England and Scotland and their possible implications for New Zealand, after a visit to those countries by the then President of the Law Commission, Sir Owen Woodhouse. More recently, another paper has been prepared for the Commission outlining the choices that now need to be made about the scope and direction of further work on the responsibility for the decision whether or not to prosecute and the basis on which that decision should be made. As well, we are maintaining contact with the Royal Commission on Criminal Justice in England. Its members and staff have provided us with valuable material, and in turn we have provided them with information about aspects of criminal procedure in New Zealand.

A substantial amount of research has also been done on the principles that should govern criminal procedure. Another research paper on the rather complex ways in which criminal offences are classified in this country, and the ramifications of that classification, is nearing completion.

The main effort, however, has gone into the preparation of a discussion paper (to be published shortly) on the right of silence, police questioning powers, and the admissibility in evidence of confessions by a defendant in criminal proceedings. The Commission is endeavouring to show the relationship between the many complex and controversial issues in this area and to put forward a series of proposals that will form a coherent whole. As the history of the relevant law clearly demonstrates, there has been a tendency to deal with these issues in isolation. The result is a number of conflicts and inconsistencies, as well as an overlay of practice that is not fully backed by the law. The

Commission has been greatly assisted by the expertise of its consultants and by the willingness of the Department of Justice and the Police to engage in consultation.

The Mason Report on the Review of the Children, Young Persons, and Their Families Act 1989 recommended that the Law Commission be consulted by the interdepartmental working party considering section 215 of that Act (dealing with the power of the Police to question children and young persons). We have accordingly met with the Commissioner for Children, and have made suggestions to the working party.

The list that follows notes some of the other advisory work associated with the criminal procedure project.

- We are currently participating in the establishment of a working party with the Police and the Department of Justice to look at extension of the minor offence notice system.
- Our views were sought on a number of occasions in the work leading up to the establishment of the Crime Prevention Action Group, which is charged with developing a strategy for crime prevention.
- We have given advice to the Officials Committee on Expenditure Control and the State Services Commission, who are examining spending in the justice system.
- The Policy and Research Division of the Department of Justice sought our comments when it was planning its study of the needs of the victims of crime. And the Law Reform Division has consulted with us on the work they are doing on body samples and DNA as well as on the Police Complaints Authority recommendations about powers to stop vehicles for the purpose of search.
- The Crown Law Office is developing some guidelines on the decision to prosecute and has consulted us on their content.

Property Law Act

In July 1991 the Law Commission published a discussion paper, The Property Law Act 1952 (NZLC PP16), reviewing the operation of that Act and making proposals for its replacement. The paper examined the various groups of provisions in the present Act, evaluating their operation in practice, and in some cases, particularly in relation to mortgages and leases, examining also aspects of the underlying common law. The object is to produce new legislation that updates the existing law and is expressed in

language that makes the statutory rules relating to property more accessible to the reader.

Following the receipt of a number of helpful submissions, intensive work has continued on the drafting of a new Property Law Act. Among other things it will replace the Imperial statutes relating to property, identified by the Commission in its report Imperial Legislation in Force in New Zealand (NZLC R1) and continued in force as part of the law of New Zealand by the Imperial Laws Application Act 1988.

The doctrine of tenure

As an offshoot of its work on the Property Law Act 1952, the Law Commission decided to examine the implications of abolishing those vestiges of the feudal system which continue to dominate the theory, if not the practice, of land law in New Zealand. They have never had, in this country, any practical utility. In June 1992 the Law Commission published a discussion paper, Tenure and Estates in Land (NZLC PP20), putting forward for consideration a scheme under which the holders of a fee simple title to land could become the owners of their land in law as well as in fact, instead of holding it under a grant from the Crown. The change would not affect the legislative authority of the State to make laws regulating the use of land or its power, if authorised by law, to take land for a public purpose on payment of just compensation. Submissions are now being received.

Damages

In May 1991 the Law Commission published a report, Aspects of Damages: The Rules in *Bain v Fothergill* and *Joyner v Weeks* (NZLC R19), recommending the abolition of two anomalous and much criticised rules about the damages payable in actions relating to land. The first limits the damages which an intending purchaser of land would normally recover for a breach by the vendor of a contract of sale. The second, concerned with a lessor's claim for the lessee's failure to deliver up premises in good repair, may allow the plaintiff a windfall substantially above the amount of any actual loss.

The Commission also published a discussion paper in December 1991, *The Award of Interest on Debts and Damages* (NZLC PP17), proposing the replacement of the present inconsistent and unduly rigid statute law about the award of interest on debts or damages payable under an order of a court. Taking up a proposal put forward by the Law Reform Commission of British Columbia, the Commission proposed that a successful plaintiff unlawfully kept out of money should be automatically entitled to compound interest calculated on the basis of the actual commercial rate over the period. The submissions have been generally supportive.

Apportionment of civil liability

The Commission's discussion paper, *Apportionment of Civil Liability* (NZLC PP19), published in March 1992, deals with the difficult questions that can arise where loss is attributable to the acts or omissions of more than one person. The Commission's proposals build on the existing law by retaining the rule of joint and several liability under which every wrongdoer is liable to pay the plaintiff the whole of the damages

awarded. As well, the proposals widen the rule about the reduction of damages where the plaintiff has contributed to the loss (at present applying mainly to the contributory negligence of a plaintiff in a tort action), and provide for the sharing of damages among all defendants who have contributed to the loss, regardless of the nature of the claim against each. The discussion paper draws on proposals earlier developed by the former Contracts and Commercial Law Reform Committee and includes a draft Act. Submissions are being received and considered.

Private international law

This heading (formerly international trade law) reflects the significant influence of international legal developments on the law of New Zealand. There are few areas of our law that are immune from these influences which include treaties or agreements to which New Zealand is a party; growing harmonisation of New Zealand law with that of our trading partners; and the adoption of private arrangements between members of various industries or commercial sectors.

Like the Commission's report on Arbitration (NZLC R20) (see above), the report on The United Nations Convention on Contracts for the International Sale of Goods: New Zealand's Proposed Acceptance (NZLC R23), published in June 1992, discusses an instrument for the unification of private law prepared by the United Nations Commission on International Trade Law (UNCITRAL). The Commission's report was prepared in consultation with officials of the Department of Justice and others and considers whether New Zealand should accept the Convention and give effect to it as part of the law of New Zealand. The Commission agrees with the broadly held view that this step is desirable, especially when the changes in New Zealand's trading relationships are taken into account. The Convention, which is already potentially applicable to sales contracts between traders in New Zealand and those in countries which have accepted the Convention, contains relatively clear and simple rules which will govern the main aspects of the contract (unless the parties agree otherwise), instead of leaving them to be regulated by possibly quite unfamiliar foreign law.

During the last 15 months the Commission has also undertaken research into the Hague Convention on the Law Applicable to Trusts and on their Recognition (1985) and the Hague Convention on the Conflict of Laws Relating to the Form of Testamentary Dispositions (1961). The Commission also continued to consult with the Law Reform Commission of Australia in that Commission's project leading to the publication of ALRC Report No 58 (Choice of Law).

The Commission was again represented at the 1991 International Trade Law Conference of the Attorney-General's Department in Canberra – a valuable opportunity to maintain useful contacts with experts in this field. The Commission also wrote to a large number of New Zealand lawyers and others likely to be interested, encouraging them to keep abreast of international developments by attending the UNCITRAL Congress that was held in New York in May, if opportunity offered. At least three New Zealand lawyers did so, and the Commission will invite them to share with us and others the benefit of the experience gained.

Legislation

Work during the year was directed towards the publication of a report recommending changes in the layout and style of the printed copies of Acts to make them easier to read, and also towards developing the first three parts of a drafting manual which will set a drafting style for New Zealand (see Part 3).

The Commission has also given advice in a range of areas on the approach to the drafting and other aspects of proposed legislation. This advice includes:

- assistance to the Valabh Committee in preparing the discussion paper, Key Reforms to the Scheme of Tax Legislation, (October 1991);
- comment on drafts of the new air transport rules being developed by the Ministry of Transport;
- comment, at the request of the Minister of Labour, on a number of drafts of the Accident Rehabilitation and Compensation Insurance Bill before its introduction;
- comment on several drafts of the Accident Rehabilitation and Compensation Insurance (Medical Misadventure) Regulations 1992;
- consideration of various aspects of the recent courts reforms, including discussions with the Chief Justice on the preparation of the District Courts Amendment Act (No 4) 1992;
- discussions with the Ministry of Transport about the Ship Registration Bill, in particular its timing and relationship with the recommended general review of the Shipping and Seamen Act 1952;
- a submission to the Fisheries Task Force on its review of fisheries legislation which dealt with the Commission's approach to the drafting of particular types of provision, and drew also on the discussion of policy development in Legislative Change: Guidelines on Process and Content (Legislation Advisory Committee, revised edition, December 1991), and on the Commission's work on interpretation legislation and the structure of the courts.

Contracts

As foreshadowed, the Commission was not able to do further work taking account of the responses received to its discussion paper "Unfair" Contracts (NZLC PP11) during the reporting period. It hopes to take that question up again in the 1992/93 financial year (see Part 3).

The Commission was able largely to complete the editing of the papers presented at a seminar convened by the Commission in March 1991 on the operation in practice of the contract statutes enacted in the last 10 years or so. These statutes codify or vary the common law rules on such matters as the contracts of minors, illegal contracts, contractual remedies, privity of contract and contractual mistakes. We express our gratitude to the authors for their help with the further work involved. But the heavy workload of Commissioners (see Part 4) prevented the Commission from preparing a covering report. The completion of this work is now a high priority (see Part 3).

Crown

The Commission's Annual Report for 1991 noted that it would be unable to give a high priority to its project on the legal status of the Crown, despite the fact that the identification of the rights and duties of the Crown, as the manifestation of the State, is central to the various reforms of the public sector that have been undertaken in recent years and are still in progress.

We were able, however, to give substantial advice on two related matters: on the constitutional status of the Controller and Auditor-General, at the request of a Ministerial Committee on Information to Parliament; and on the nature of the coercive powers granted by Parliament and the accountability mechanisms that control their exercise, at the request of the Finance and Expenditure Select Committee.

Habeas corpus

Research is near completion on this ancient remedy and the Imperial statutes supporting it that are in force in New Zealand.

Equity in employment

On 7 August 1991 the Commission received a reference from the Minister of Justice asking it to prepare, by 31 January 1992, a report identifying legislation having the potential to impede women and other designated groups from playing a full role in all areas of employment or to restrict the remuneration of women and other designated groups. The Commission was asked to identify the reasons for the enactment of any such restrictive legislation.

The reference was given to the Law Commission on the recommendation of the Working Party on Equity in Employment. The Minister directed that the Law Commission's review was to be integrated with a proposed review by officials of the Department of Labour, the Department of Justice and the State Services Commission of all legislation containing anti-discrimination provisions. The review was to take place

once the Government had made a decision on the grounds of discrimination that ought to be proscribed.

On 31 January 1992, the Commission advised the Minister that, as the Government had not then settled the proscribed grounds of discrimination and the officials' review had therefore not commenced, it would confine its response to discrimination against women in employment. In this area the few expressly discriminatory legislative provisions that remained were in the course of being repealed. The Commission had not been able to find examples of legislation whose effect was indirectly to discriminate against women in employment, and the provisions in the Human Rights Commission Act 1977 permitting certain legislative restrictions on the employment of women for their own protection were themselves already under review within Parliament. Accordingly, the Commission was of the view that work on the reference should not be taken any further. The Minister later concurred in this view.

Official Information Act

The Law Commission received a reference from the Minister of Justice in March 1992 asking it to review certain provisions of the Official Information Act 1982. The reference made it clear that the basic principles underlying the Act are not in question, but, as a matter of "fine-tuning", the Commission should examine the operation in practice of the provisions of the Act relating to the following matters: the operation of the constitutional conventions, the free and frank advice of officials, the treatment of diplomatic documents, requests for information involving substantial collation and research, time limits for answering questions, charging for the cost of fulfilling requests for information, and the Order in Council procedure for overriding recommendations of the Ombudsmen that information be released.

Some of these issues arise also under the parallel provisions of the Local Government Official Information and Meetings Act 1987. The review will therefore extend to those provisions as well.

Extensive consultation is called for in completing a report. The Commission has prepared, and is about to circulate, a commentary on the terms of reference pinpointing the relevant issues.

Digest of law reform

The recording in an electronic database of all projects for the reform of the law currently being undertaken by a New Zealand public sector or other agency, as well as all suggestions made for the reform of particular areas of law, has continued, so far as resources have permitted. It was not possible to spend as much time as we would have wished in maintaining contacts with other agencies, or to publish the first of the experimental issues of the Digest of law reform in progress.

Advisory work

In addition to the advisory work relating to topics on the Commission's programme, described briefly above, the Commission has contributed to work on the following matters, most of which gave rise to significant constitutional issues.

- *Cabinet Office Manual*: Assistance was given to the Cabinet Office on the preparation of the new *Cabinet Office Manual*, particularly the preparation of the introduction on New Zealand's constitution.
- *Police/Transport Department merger*: At a number of stages in the merger process the Commission was called on for advice, often urgent, on constitutional or public law questions.
- *Civil aviation*: The Commission's advice has been sought on a number of occasions on constitutional aspects of the structures being established in this field, for example under the Civil Aviation Amendment Bill.
- *Takeovers*: The Minister of Justice and his Department sought the advice of the Commission on constitutional issues relating to the role of the proposed Takeovers Panel at various stages in the preparation of the Takeovers Bill.

Legislation Advisory Committee

The work of the Legislation Advisory Committee is closely linked with the broader work of the Law Commission on the accessibility of the law. The President of the Commission is a member of the Committee and in this way, as well as through the provision of research and other practical assistance; the Commission contributes significantly to the work of the Committee.

The Commission was closely involved in the recent revision of the Committee's report, *Legislative Change: Guidelines on Process and Content*, (revised ed, December 1991). As well, the Law Commission provided assistance to the Legislation Advisory Committee in commenting on the following Bills:

Accident Rehabilitation and Compensation Insurance Bill (January 1992)

Citizens Initiated Referenda Bill (April 1992)

Crown Research Institutes Bill (May 1992)

Energy Sector Reform Bill (February 1992)

Health and Safety in Employment Bill (March 1992)

Historic Places Bill (June 1992)

Patents Amendment Bill (May 1992)
Privacy of Information Bill (September 1991)
Real Estate Agents Amendment Bill (December 1991; advice requested by the Finance and Expenditure Select Committee)
Reciprocal Enforcement of Judgments Amendment Bill (November 1991)
Takeovers Bill (May 1992; advice requested by the Justice and Law Reform Committee).

Follow-up of earlier reports

As the number of the Commission's published reports grows, the Commission is increasingly being asked to provide information about the background to and the effect of its proposals. The requests come from those likely to be involved in administering or applying the new law when enacted, or in teaching others about its implications - not to mention those anxious to emulate or otherwise take advantage of our work. Among the latter, probably the most unexpected were a letter from the Vice-Chancellor of the Court of Chancery of the State of Delaware referring to the usefulness of the Commission's work on a new Interpretation Act (NZLC R17) to the National Conference of Commissioners on Uniform State Laws which was drafting a revised Uniform Statutory Construction Act; a request by counsel in a case before the House of Lords, which raised the issue of the use of Hansard in interpreting a statute, to supply enough copies of the same report for the use of each of Their Lordships; and advice from a Committee reviewing the law of companies in Argentina that it proposed to have translated into Spanish all or parts of the Commission's reports on company law, NZLC R9 and NZLC R16.

The Commission has had a number of discussions with the Minister of Justice and his Department about the legislation needed to implement those of the Commission's reports in which the enactment of a new statute was recommended (accompanied in most cases by a draft Act). See in this connection Appendix B, setting out the extent to which effect has been given to the Commission's reports, and those which remain under consideration. In addition, the Commission, in conjunction with the Department of Justice and at the request of the Justice and Law Reform Select Committee, has provided assistance to the Committee in its consideration of the Companies Bill and associated legislation.

Personal responsibilities of Commissioners

The need to list, in Part 3, all of the Commission's projected outputs in the 1992/93 financial year has led the Commission to recognise explicitly the work carried out by individual Commissioners in a personal capacity, at the request of the Government. In addition to holding the positions of responsibility referred to in Part 3, in the 1991/92 financial year Commissioners, at the request of the Minister of Justice, attended a number of meetings and expressed views on issues arising in settling claims under the Treaty of Waitangi and in considering possible electoral reform.

PART 3

The Commission's Objectives for the Year Ending 30 June 1993

THE COMMISSION'S OUTPUTS

All of the outputs for which the Law Commission has a corporate responsibility fall into the class: policy advice. This policy advice is provided in four ways: through the Commission's work on the projects included in its programme; through follow-up work undertaken after the Commission has reported; through advice provided to Ministers, select committees and departments or other government agencies on reviews of aspects of the law undertaken by a department or other agency; and through its contribution to the work of the Legislation Advisory Committee.

In addition, the Government sometimes asks individual Commissioners to provide advice or discharge other responsibilities on a personal basis. As at 1 July 1992, the President, Sir Kenneth Keith, is a member and Vice-President of the International Fact-Finding Commission established under the First Protocol to the Geneva Conventions for the Protection of War Victims. The Hon Mr Justice Wallace is a member of the Courts Consultative Committee and the Hon Mr Justice Blanchard is a member of the Electoral Referendum Panel.

As the Commission seeks to achieve its overall objectives and make progress towards its aim mainly (though not exclusively) through its projects for the reform and development of particular areas of law, it is appropriate to give a brief account of the projects on the Commission's programme as at 1 July 1992.

THE COMMISSION'S PROGRAMME AS AT 1 JULY 1992

Current projects

The first priority is to carry forward the Commission's current projects, in some cases to completion in 1992/93 and in others with a view to the publication of discussion papers or reports in 1993/94 or following years.

Evidence

The purpose of the project is to codify the law of evidence. In 1993 the Commission plans to publish discussion papers on documentary evidence, privilege, and character and credibility, to examine other relevant topics, and to invite and consider comments on papers published to date.

Criminal procedure

The purpose of the project is to review the whole of criminal procedure. The project is closely linked with that on the law of evidence and has necessarily to proceed in stages.

The priority is to publish a discussion paper shortly on the right of silence, police questioning and confessions, followed by a report in 1993. Subject to the availability of resources, the Commission plans also to publish a discussion paper on self-incrimination in 1993, and to complete research on any other aspects of criminal procedure essential to the progress of the evidence review, as well as to develop plans for reviewing other areas of criminal procedure.

Official Information Act

The Minister of Justice has asked the Commission to review certain provisions of the Official Information Act 1982. The Commission will present a report later in 1993.

Property Law Act

The Commission is drafting a new Property Law Act with commentary and will publish a report in the first quarter of 1993.

Contract statutes

The Commission, in conjunction with outside commentators, has reviewed the operation in practice of the various statutes enacted in the last 10 years or so to modify the common law of contract. It will publish a report shortly.

Legislation

The Commission has an ongoing reference (as well as a statutory duty) to examine and review the ways in which the law of New Zealand can be made as understandable and accessible as is practicable. In 1992 the Commission will present a report on the format of legislation, recommending changes in the typeface and layout of printed copies of Acts to make them easier to read; and in 1993 it will publish a report containing Parts 1, 2 and 3 of a drafting manual recommending New Zealand standards for the preparation and drafting of enactments. Work on Part 4 of the drafting manual, setting out standard provisions on particular matters for inclusion in enactments, will also be carried forward.

Interest on debts and damages

Having received and considered submissions on the discussion paper on this topic published in 1991 (NZLC PP17), the Commission will present a report early in 1993.

Apportionment of civil liability

Further submissions on the Commission's discussion paper (NZLC PP19) setting out proposals for the reform of this difficult area of law are awaited. The Commission will, if possible, publish a report later in 1993.

Private international law

This heading (formerly international trade law) serves as an umbrella for work on areas of the law where there are international initiatives - either multilateral, or bilateral in the case of Australia - for uniform or harmonised law. This year work will be directed to the publication of a report on choice of law (in co-operation with the Australian Law Reform Commission which has just published a report (No 58) on the same subject) and on research for the publication in 1993/94 of a discussion paper on jurisdiction and the enforcement of judgments.

Tenure and estates in land

Submissions are now coming in on the discussion paper published earlier in 1992. Subject to the general acceptability of the Law Commission's proposals, it is planned to publish a report in the 1992/93 financial year.

Legal status of the Crown

It is not possible to give a high priority to this project, but, subject to the availability of resources, work will be carried forward on the main issues. An understanding of the principles underlying the legal status and constitutional position of the Crown is central to the various reorganisations of Government-funded activities that are still in progress.

Foreign State immunity

If resources are available, the Commission will do some further research on this project. The topic is on the agenda of the Legal Committee at the 1992 session of the United Nations General Assembly.

Habeas corpus

The research paper on this topic will be completed, and will be the basis for a discussion paper or a report.

Digest of law reform

The Commission plans to publish the first trial issue of the *Digest of law reform in progress* by the end of the financial year. This will, so far as possible, contain a note of all projects for the reform or development of the law currently being undertaken by New Zealand agencies. The Commission will also maintain its database of suggestions for law reform, made to it directly, or available from published sources such as the law reports.

New projects

The Commission will, as soon as possible, take up some new projects. It has identified several areas of the law in need of review and reform and suitable for inclusion in its programme, but is not in a position to add to its programme until work on some of its current projects has been completed, or further Commissioners are appointed.

STATEMENT OF OBJECTIVES FOR THE YEAR ENDING 30 JUNE 1993

Output class: Policy advice
Estimated income: \$2,958,222
(excluding GST)

Estimated expenditure:\$3,606,357
(excluding GST)

Outputs

Performance measures

Projects

The publications and work towards publications to be produced within the period, together with all legal and policy advice that it is necessary or desirable to provide to other agencies on matters related to projects

Quantity

The number of projects included in the Commission's programme is to be as determined by the Commission, taking account of section 7 of the Law Commission Act 1985.

The number of publications to be produced, or amount of other work to be done, within each project is to be as set out in project plans approved by the Commission.

Legal and policy advice to other agencies on matters related to projects is to be provided as required, in response to requests, or, where appropriate, on the Commission's initiative.

Quality

The Commission's project work is to be of the standard set by the Commission, as assured by its internal processes and external review.¹

Time

The time for the production of project work is to be as set out in approved project plans, or, in the case of legal or policy advice, within a timeframe agreed with, or enabling its effective use by, the recipient.

Cost

The cost of project work is to be within the approved project budget.

Follow-up

The follow-up work this year should be directed to the recommendations in the Commission's reports on:

Company Law (NZLC R9 and NZLC R16) (until the Companies Bill and related legislation is enacted)
A Personal Property Securities Act for New Zealand (NZLC R8)
Limitation Defences in Civil Proceedings (NZLC R6)
Disclosure and Committal (NZLC R14)
Interpretation (NZLC R17)
Damages (NZLC R18 and NZLC R19)
Arbitration (NZLC R20)
Emergencies (NZLC R22)
Intellectual Property (NZLC R13) (Watching brief)
The United Nations Convention on Contracts for the International Sale of Goods: New Zealand's Proposed Acceptance (NZLC R23)

The outputs will take the form of participation as appropriate in discussions and other activities likely to promote full understanding of the recommendations in the reports referred to or to assist in their implementation in accordance with the decisions of the Minister, the Government and Parliament

Advisory work

The outputs are the provision of advice, in accordance with s 5(1)(c) of the Law Commission Act 1985, on proposals by other agencies for the review or reform of the law.²

Quantity

Follow-up is to

- be discussed at the regular policy meetings between the Law Commission and the Department of Justice;
- be discussed with the Minister of Justice, other Ministers or departments and parliamentary select committees as requested, or on the Commission's initiative where appropriate;
- involve participation in, or the convening of, seminars and conferences as appropriate and as opportunity offers.

Quality

To the Commission's standards, as assured by its internal processes and external review.¹

Time

As agreed, or otherwise at a time enabling the follow-up work to be effective, taking account of the Government's legislative programme, the parliamentary timetable and other relevant factors.

Cost

Within the project budget, or, if there is no project budget, within the budget for **Advisory work**.

Quantity

- Advice is to be provided on proposals referred to the Law Commission by the Minister of Justice, other Ministers or select committees, and, to the extent that resources permit, by other government agencies; and

- taken up on the Commission's initiative where the proposals bear on the Commission's project work or Commission involvement is an important step in achieving the Commission's aim.

Quality

To the Commission's standards assured by its internal processes and external review.¹

Time

As agreed with the recipient, or otherwise at a time enabling the advice to be taken into account and acted upon within the timeframe of the recipient.

Cost

Within the budget for **Advisory work**.

Legislation Advisory Committee

The output is the contribution to the work of the Legislation Advisory Committee to be provided by Sir Kenneth Keith in his capacity as a member of the Committee, the assistance of the Commission's research and secretarial staff and the office accommodation made available for the Chairman of the Committee, Dr Mervyn Probine.

Quantity

As agreed with the Committee, subject to the availability of the Commission's resources.

Quality

To the Commission's standards as assured by its internal processes and external review.¹

Time

As agreed with the Committee.

Cost

To be within the Commission's budget for its contribution to the work of the Legislation Advisory Committee.

Notes to the Statement of Objectives

- 1 In the case of the Commission's project work, external review involves both the use of expert consultants - to contribute to the writing, or to act as members of an advisory group which considers and comments on successive drafts - and also wide consultation with interested agencies and groups before publication. In most cases, a discussion paper is published, is widely circulated, and submissions on it are invited and considered before the preparation of a final report which contains a description of the consultation process.

Reports are published, tabled in Parliament and copies are distributed to interested or affected individuals and groups, including major law firms. They are submitted to appropriate legal journals for review, and a great deal of informal feedback is received from Ministers and parliamentary select committees, legal and other professional societies, judges, members of the legal profession, and law reform agencies and interested bodies and individuals in other countries.

In the case of advisory work, external review consists of the informal feedback received in the course of any consultations with officials or others outside the Law Commission in the course of preparing the advice, or received from the recipient, together with evidence of the extent to which the advice is accepted and acted upon.

- 2 For administrative purposes, the Commission's advisory work, other than that arising out of projects, is itself treated as though it were a single, consolidated project. Resources will be allocated in advance so as to be available for advisory work. It is not possible, however, to foresee the specific occasions on which the Commission will be asked, or will consider it appropriate, to provide advice. Therefore the specification of quantity is that in the Commission's strategic plan, which relates its advisory role to the achievement of its aim.

PART 4

General

THE COMMISSION'S MEMBERSHIP

For the whole of the period under review the Commission had only three members, one of whom, Mr Peter Blanchard, was able to spend only four-fifths of his time on Commission work. As a result all of the Commissioners were under considerable pressure. The announcement by the Minister of Justice in March 1992 that Professor Richard Sutton, of the Faculty of Law at Otago University, had been appointed as a member of the Commission with effect from 1 July 1992 signalled a much needed addition to the Commission's strength. Professor Sutton will bring to the Commission's work both academic scholarship and practical experience of law reform. He chaired the Property Law and Equity Reform Committee from 1981 to 1986.

Unhappily, the potential for redistributing the Commission's workload among four Commissioners instead of three was to prove short-lived. On 25 June 1992 the Attorney- General announced the appointment of Mr Peter Blanchard as a Judge of the High Court. The Commission warmly congratulates the Hon Mr Justice Blanchard on his appointment, while regretting that it is shortly to lose his services. The Judge is to take up his judicial duties at the beginning of August, but has indicated his willingness to remain a Commissioner and to give enough time to the completion of a report on a new Property Law Act, of which he has been the architect, to enable its publication as early as possible in 1993.

THE COMMISSION'S STAFF

In a year in which there was a considerable turnover in both the research staff and the administrative staff of the Commission, and additional pressures arising from the small number of Commissioners, the Commission was fortunate in having a full measure of support from all staff members. A series of staff seminars was held, attended by all Commissioners and staff, at which the Commission's strategic plan, project planning processes, the allocation of responsibilities among members of project teams, financial accounting and reporting, and the records system were discussed. The series will be concluded in the 1992/93 financial year with the discussion of personal objective setting, performance assessment and employment contracts.

During the year, two senior legal research officers, Loretta Desourdy and Moira Thompson, and two legal research officers, Michael Dreaver and Lisa Atkinson, left the Law Commission, all but one to travel overseas. We wish them well in their future careers. The Commission farewelled its manager, Frank Muller, and its records officer, Marjorie Park, both to enjoy retirement; and Brenda Bracegirdle, Maryanne Swinburne and Margaret Roche also left during the period. To all of them we express our appreciation for their contributions to the Commission's work.

The Commission welcomed John Lett as its new manager, and Serena Barrett as administration officer; Jackie Hogg and Jacqueline Kitchen joined us as part-time members of the library staff; Nicola Beddie joined the secretarial staff; and Carolyn Risk, Kevin Kelly and Bill Sewell took up positions as members of the legal research staff. A list of Commissioners and staff members as at 30 June 1992 is set out in Appendix A.

PART 5

Finance

The Law Commission is funded from money appropriated by Parliament. The accounts of the Commission for the 15-month period ended 30 June 1992 are attached.

During the period under review the Commission completed its programme of investment in new computer technology begun in the 1990/91 year. As predicted in the 1991 Annual Report, the Commission incurred a substantial operating deficit of \$506,960, of which \$379,551 was attributable to the write-down of obsolescent equipment and changes in depreciation policy.

Although the Commission's income for the 15 months ended June 1992 was slightly less than that of the preceding 12 months, operating expenses (other than depreciation and the loss on disposal of assets) did not exceed income. This was mainly due, however, to the small number of Commissioners throughout the period (see Part 4).

The Commission's grant income for the 1992/93 fiscal period is expected to be \$2,832,222 (excluding GST). The achievement of its projected programme will require the Commission to meet the shortfall in funds from its working capital.

REPORT OF THE AUDIT OFFICE

TO THE READERS OF THE FINANCIAL STATEMENTS OF THE LAW COMMISSION FOR THE PERIOD ENDED 30 JUNE 1992

The financial statements on pages 31 to 36 as required by section 15 of the Law Commission Act 1985, were prepared by the Commission's management, and are the responsibility of the Commission. The Audit Office's responsibilities include a requirement, pursuant to section 15, to express an opinion on the financial statements based on the results of our audit.

We conducted our audit in accordance with generally accepted auditing standards, with the objective of obtaining reasonable assurance that the financial statements are free from significant errors or omissions. In our audit we reviewed the evidence to support the amounts and disclosures in all statements. We also assessed the accounting practices used.

In our opinion, the financial statements of the Commission fairly reflect:

- The financial results of the operations and cash flows for the period to 30 June 1992; and
- The financial position as at 30 June 1992.

H C Lim
for Controller and Auditor-General

1 September 1992
Wellington
New Zealand

BALANCE SHEET AS AT 30 JUNE 1992

	Note	1992	1991
CURRENT ASSETS			
Bank of New Zealand		2,167	48,986
Call deposits		100,000	-
Short-term deposits	2	2,050,000	2,363,000
Accounts receivable		878	1,709
Prepayments		33,643	-
Interest receivable		29,016	127,127
Goods and Services Tax		38,439	48,802
		<u>2,254,143</u>	<u>2,589,624</u>
FIXED ASSETS	3	<u>692,849</u>	<u>1,203,316</u>
TOTAL ASSETS		<u>\$2,946,992</u>	<u>\$3,792,940</u>
CURRENT LIABILITIES			
Accounts payable		<u>197,124</u>	<u>536,112</u>
		197,124	536,112
ACCUMULATED FUNDS	4	<u>2,749,868</u>	<u>3,256,828</u>
TOTAL FUNDS EMPLOYED		<u>\$2,946,992</u>	<u>\$3,792,940</u>

The accompanying notes form part of the financial statements.

Signed on behalf of the Law Commission:

Alison Quentin-Baxter
Director

John Lett
Manager

**STATEMENT OF INCOME AND EXPENDITURE
FOR THE 15 MONTHS ENDED 30 JUNE 1992**

	Note	1992	1991
INCOME			
Government grant		3,096,000	2,885,630
Interest received		299,628	460,122
Sales of publications		18,949	4,245
Sundry income		356	-
Consultancy fees		-	97,778
Total income		<u>3,414,933</u>	<u>3,457,775</u>
EXPENDITURE			
Personnel			
Salaries and wages		1,527,928	1,548,758
Superannuation		23,071	-
ACC Levy		3,292	17,764
Fringe benefit tax	5	7,041	2,432
Commission activities			
Publications		129,949	68,936
Research and consultation		198,484	319,233
Travel		117,907	141,859
Library			
Library acquisitions		172,101	127,507
Searches - database		3,600	4,425
Computer software		79,572	80,707
Administration			
Audit fees		7,800	7,274
Bank interest and charges		1,886	675
Cleaning		18,398	17,257
Communications		46,541	47,852
Depreciation		403,570	196,548
Electricity		22,699	16,838
Insurance		7,673	4,121
Loss on disposal of assets		23,821	63,175
Other operating		70,673	46,943
Professional services		106,835	97,744
Rent and rates		585,371	473,590
Repairs and maintenance		97,895	55,282
Stationery		18,991	21,886
		<u>3,725,098</u>	<u>3,360,806</u>
Extraordinary item	6	<u>196,795</u>	-
Total expenditure		<u>3,921,893</u>	<u>3,360,806</u>
Excess income over expenditure			
Transfer to accumulated funds	4	<u>(506,960)</u>	<u>\$96,969</u>

The accompanying notes form part of the financial statements.

STATEMENT OF CASH FLOWS
FOR THE 15 MONTHS ENDED 30 JUNE 1992

	1992	1991
CASH FLOWS FROM OPERATING ACTIVITIES		
Cash was provided from:		
Grant	3,096,000	1,974,518
Receipts from customers	<u>19,780</u>	<u>122,516</u>
	<u>3,115,780</u>	<u>2,097,034</u>
Cash was disbursed to:		
Payments to suppliers and employees	3,524,549	3,042,777
Taxes paid (GST)	135,993	36,961
	<u>3,660,542</u>	<u>3,079,738</u>
Net cash flows from operating activities	<u>(544,762)</u>	<u>(982,704)</u>
CASH FLOWS FROM INVESTING ACTIVITIES		
Cash was provided from:		
Investments	26,774,000	9,870,000
Proceeds from sale of fixed assets	1,556	2,204
Interest received	<u>398,663</u>	<u>541,000</u>
	<u>27,174,219</u>	<u>10,413,204</u>
Cash was applied to:		
Investments	26,461,000	9,333,000
Purchase of fixed assets	<u>115,276</u>	<u>514,635</u>
	<u>26,576,276</u>	<u>9,847,635</u>
Net cash used in investing activities.	<u>(597,943)</u>	<u>(565,569)</u>
CASH FLOWS FROM FINANCING ACTIVITIES		
Nil	-	-
Net increase (decrease) in cash held	53,181	(417,135)
Add opening cash brought forward 1/4/91	<u>48,986</u>	<u>466,121</u>
Ending cash carried forward 30/6/92	<u>102,167</u>	<u>48,986</u>

The accompanying notes form part of these financial statements.

NOTES TO THE FINANCIAL STATEMENTS FOR THE 15 MONTHS ENDED 30 JUNE 1992

1 STATEMENT OF ACCOUNTING POLICIES

General accounting policies

The measurement base adopted is historical cost. Reliance is placed on the fact that the Commission is a going concern. Accrual accounting is used to match expenses and revenues.

Particular accounting policies

The following particular accounting policies which materially affect the measurement of earnings and the financial position have been applied.

- Accounts receivable are stated at their estimated net realisable value.
- Investments are valued at cost.
- The foundation library is valued at cost and is not depreciated. Purchases are charged to the foundation library where these purchases represent sets of publications and the initial purchase is of previously issued volumes. Current volumes are charged to library acquisitions.
- Other fixed assets are stated at cost less aggregate depreciation. Depreciation has been calculated using the straight line method. The rates used are:

Computer equipment	20% straight line
Furniture and fittings	20% straight line
Office equipment	20% straight line
- Computer software is charged against income in the year that it is installed.
- Items of income and expenditure are stated exclusive of Goods and Services Tax.
- Operating lease payments, where lessors effectively retain substantially all the risks and benefits of ownership of the leased items, are included in the determination of the current year's excess income over expenditure in equal instalments over the lease term.
- Research and development expenditure is charged against income in the period in which it is incurred.

Changes in accounting policies

The Commission has reviewed its depreciation policy on all classes of depreciable assets. These were previously depreciated at 20% diminishing value. The Commission determined this method is no longer relevant and has applied the straight line method for the year ended 30 June 1992.

The effect of this change has been to increase the operating loss by \$182,756 compared with that which would have been reported using the previous policy. With this exception there have been no changes in the above accounting policies which have been applied on bases consistent with those used in previous years.

2 SHORT TERM INVESTMENTS

Maturity	1992		
	Interest Rate %	1992	1991
1 month	8.00	750,000	800,000
2 months	6.87	300,000	563,000
3 months	-	-	-
4 months	8.35	500,000	-
5 months	7.80	<u>500,000</u>	<u>1,000,000</u>
		<u>2,050,000</u>	<u>2,363,000</u>

3 FIXED ASSETS

	1992		
	Cost	Aggregate depreciation	Book value
Computer equipment	378,200	106,172	272,028
Foundation library	185,643	-	185,643
Furniture and fittings	914,465	698,724	215,741
Office equipment	<u>63,218</u>	<u>43,781</u>	<u>19,437</u>
	<u>1,541,526</u>	<u>848,677</u>	<u>692,849</u>

	1991		
	Cost	Aggregate depreciation	Book value
Computer equipment	759,056	319,420	439,636
Foundation library	181,847	-	181,847
Furniture and fittings	914,216	392,761	521,455
Office equipment	<u>110,834</u>	<u>50,456</u>	<u>60,378</u>
	<u>1,965,953</u>	<u>762,637</u>	<u>1,203,316</u>

4 ACCUMULATED FUNDS

Balance at 1/4/91	3,256,828	3,159,859
Excess income over expenditure	<u>(506,960)</u>	<u>96,969</u>
Balance at 30/6/92	<u>2,749,868</u>	<u>3,256,828</u>

5 FRINGE BENEFIT TAX

A one-off amount of \$53,507 was incurred on a lump sum retirement payment.

6 EXTRAORDINARY ITEM

The Wang Computer System has been written down by \$196,795. The system is considered obsolete and is no longer in use.

7 COMMITTED EXPENDITURE

	1992	1991
<i>Rent</i>		
The Commission has a lease for the rental of the premises at Levels 10 and 11, Fletcher Challenge House, 87-91 The Terrace, Wellington. The lease is from 16/2/87 until 30/6/98.		
One to two years	1,111,886	1,099,601
Two to five years	1,683,151	1,689,822
Beyond five years	<u>565,325</u>	<u>1,267,369</u>
Total rent expenditure committed	<u>\$3,360,362</u>	<u>\$4,056,792</u>
Computer equipment	-	160,840
Other capital expenditure	-	9,488
Other operating	-	<u>35,989</u>
	-	<u>\$206,317</u>
Summary		
One to two years	1,111,886	1,305,918
Two to five years	1,683,151	1,689,822
Beyond five years	<u>565,325</u>	<u>1,267,369</u>
Total committed expenditure	<u>\$3,360,362</u>	<u>\$4,263,109</u>

8 There were no material contingent liabilities as at balance date.

APPENDIX A

Members of the Law Commission:

Sir Kenneth Keith KBE - *President*

The Hon Mr Justice Wallace - *Deputy President*

The Hon Mr Justice Blanchard - *Commissioner*

Professor R J Sutton - *Commissioner* (as from 1 July 1992)

Permanent staff of the Law Commission as at 30 June 1992:

Director

Senior Legal Research Officers

Legal Research Officers

Manager

Librarian (part-time)

Acting Librarian (part-time)

Assistant Librarian (part-time)

Library Assistant (part-time)

Secretaries

Receptionist

Administration Officer

Office Assistant

Alison Quentin-Baxter

Carolyn Risk

Phil Shattky

Penelope Stevenson

Kevin Kelly

Paul McKnight

Grant Marjoribanks

Susan Potter

Bill Sewell

Nicola White

Sachin Zodgekar

John Lett

Katrina Young-Drew (on leave)

Jocelyn Ferguson

Jackie Hogg

Jacqueline Kitchen

Nicola Beddie

Lynette Bridgeman

Carol Stevenson

Glenys Bunkall

Serena Barrett

Melissa Harrison

The office of the Law Commission is located at Level 10, Fletcher Challenge House,
87-91 The Terrace, Wellington.

Telephone 0-4-473 3453

Fax 0-4-471 0959

APPENDIX B

Table of areas of law reviewed by the Law Commission since 1986

<i>Area of Law</i>	<i>Publication</i>	<i>Type</i>		<i>Date</i>	<i>Outcome</i>
LEGISLATION (Reference)	Imperial Legislation in force in New Zealand	Report	NZLC R1	March 1987	Largely implemented by the Imperial Laws Application Act 1988 and associated legislation
	Legislation and its Interpretation: The Acts Interpretation Act 1924	Discussion paper	NZLC PP 1	June 1987	Followed by report NZLC R17
	Legislation and its Interpretation	Discussion and Seminar Papers	NZLC PP8	December 1988	Followed by report NZLC R17
	Legislation and its Interpretation: Statutory Publications Bill	Report	NZLC R11	September 1989	Implemented in part by the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publications Act 1989
	A New Interpretation Act	Report	NZLC R17	December 1990	Under consideration by the Minister of Justice
ACCIDENT COMPENSATION SCHEME (Reference)	The Accident Compensation Scheme	Discussion paper	NZLC PP2	September 1987	Followed by reports NZLC R3 and NZLC R4
	The Accident Compensation Scheme: Interim Report on Aspects of Funding	Report	NZLC R3	November 1987	Considered in preparing the Accident Rehabilitation and Compensation Insurance Act 1992 and some recommendations reflected in its provisions
	Personal Injury: Prevention and Recovery (Report on the Accident Compensation Scheme)	Report	NZLC R4	May 1988	
LIMITATION PERIODS (Reference)	The Limitation Act 1950	Discussion paper	NZLC PP 3	September 1987	Followed by report NZLC R6
	Limitation Defences in Civil Proceedings	Report	NZLC R6	October 1988	Under consideration by the Minister of Justice and reflected in part in the Building Act 1991

<i>Area of Law</i>	<i>Publication</i>	<i>Type</i>		<i>Date</i>	<i>Outcome</i>
COURTS (Reference)	The Structure of the Courts	Discussion paper	NZLC PP4	December 1987	Followed by report NZLC R7
	The Structure of the Courts	Report	NZLC R7	March 1989	Substantial effect given to the Commission's recommendations in the various enactments passed to reform the jurisdiction of the courts in 1991 and 1992
COMPANY LAW (Reference)	Company Law	Discussion Paper	NZLC PP5	December 1987	Followed by reports NZLC R9 and NZLC R16
	Company Law: Reform and Restatement	Report	NZLC R9	June 1989	Companies Bill (introduced 1990) and Companies (Ancillary Provisions) } Bill (introduced 1991)
	Company Law Reform: Transition and Revision	Report	NZLC R16	September 1990	largely based on the draft Acts included in the Commission's reports. Under consideration by the Justice and Law Reform Select Committee.
LAW OF PROPERTY	Reform of Personal Property Security Law	Discussion paper	NZLCPP6	May 1988	Followed by report NZLC R8
	A Personal Property Securities Act for New Zealand	Report	NZLC R8	April 1989	Under consideration by the Minister of Justice
	The Property Law Act 1952	Discussion paper	NZLC PP1	6 July 1991	To be followed by a report
	Tenure and Estates in Land	Discussion paper	NZLCPP2 0	June 1992	To be followed by a report
ARBITRATION	Arbitration	Discussion paper	NZLC PP7	November 1988	Followed by report NZLC R20
	Arbitration	Report	NZLC PP20	October 1991	Under consideration by the Minister of Justice
MAORI FISHERIES (Reference)	The Treaty of Waitangi and Maori Fisheries - Mataitai Nga Tikanga Maori me te Tiriti o Waitangi	Background paper	NZLC PP9	March 1989	For use as a resource. Reference withdrawn by the Minister of Justice at the Law Commission's request.

<i>Area of Law</i>	<i>Publication</i>	<i>Type</i>		<i>Date</i>	<i>Outcome</i>
LAW OF EVIDENCE	Hearsay Evidence	Options paper	NZLCPP10	June 1989	Followed by discussion papers NZLC PP13, NZLC PP14 and NZLC PP15
	Evidence Law: Principles for Reform	Discussion paper	NZLC PP13	April 1991	To be followed by a report
	Evidence Law: Codification	Discussion paper	NZLCPP14	April 1991	
	Evidence Law: Hearsay	Discussion paper	NZLCPP15	April 1991	
	Evidence Law: Expert Evidence and Opinion Evidence	Discussion paper	NZLC PP18	December 1991	
LAW OF CONTRACT	"Unfair" Contracts	Discussion paper	NZLC PP11	September 1990	
EMERGENCIES	First Report on Emergencies: Use of the Armed Forces	Report	NZLC R12	February 1990	Implemented in the Defence Act 1990
	Final Report on Emergencies	Report	NZLC R22	December 1991	Under consideration by Government
CRIMINAL PROCEDURE (Reference)	The Prosecution of Offences	Issues paper	NZLC PP12	November 1990	Under further consideration by the Law Commission
	Criminal Procedure: Part One: Disclosure and Committal	Report	NZLC R14	June 1990	Under consideration by the Minister of Justice
INTELLECTUAL PROPERTY	Intellectual Property: The Context for Reform	Report	NZLC R13	March 1990	For use as a resource. No law changes recommended.
DAMAGES	Aspects of Damages: Employment Contracts and the Rule in <i>Addis v Gramophone Co</i>	Report	NZLC R18	March 1991	Implemented almost in entirety by the Employment Contracts Act 1991
	Aspects of Damages: The Rules in <i>Bain v Fothergill</i> and <i>Joyner v Weeks</i>	Report	NZLC R19	May 1991	Under consideration by the Minister of Justice
	Aspects of Damages: The Award of Interest on Debts and Damages	Discussion paper	NZLCPP17	November 1991	To be followed by a report

<i>Area of Law</i>	<i>Publication</i>	<i>Type</i>		<i>Date</i>	<i>Outcome</i>
APPORTIONMENT OF CIVIL LIABILITY	Apportionment of Civil Liability	Discussion paper	NZLCPP19	March 1992	To be followed by a report
PRIVATE INTERNATIONAL LAW	The United Nations Convention on Contracts for the International Sale of Goods: New Zealand's Proposed Acceptance	Report	NZLC R23	June 1992	Backgrounds, and expresses support for, the Government's announced intention of introducing implementing legislation and acceding to the Convention once the legislation has been enacted.

* For a list of the Law Commission's publications in numerical order, see inside front cover (Reports) and inside back cover (Preliminary Papers).

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