

LAW REFORM

Law reform for the sake of reform is unacceptable. It is a very scientific matter which needs tremendous research before it can be successfully carried to a conclusion. The starting point of this research must inevitably be to discover the reasons why a particular law was passed, and what the social conditions were at the time when it was passed. From that point it is necessary to consider each amendment that has been made to the law since its initiation. Again the amendments have to be studied to see whether an amendment was brought about by a change in the social conditions or by reason of the fact that the law was inadequate in carrying out the original purpose in some particular aspect. The process has to be repeated until all the amendments and the reasons for them and the social conditions existing at the time have been discovered. The next step is to examine the existing social conditions and to see whether there has been any change since the last amendment was made. Having ascertained all these things, it is then necessary to examine similar legislation in other countries, again discovering whether the social conditions in those other countries are the same as exist in this country. Much of our legislative reform in the past has been what has been commonly known as "scissors and paste" Acts. That is to say, because England has seen fit to amend a particular statute, New Zealand has followed by taking the amendment and pasting into its own statute. This in itself is not a proper method of reforming the law, as the conditions in England are not necessarily the same as in this country at the time of such amendment, and it always must be borne in mind that New Zealand was a country that was originally founded for certain purposes, in particular it was primarily an agricultural country which is now developing secondary industries. All these things have to be very carefully studied before law reform can be efficiently and properly carried out.

This research work must not be carried out by lawyers alone, for the simple reason that lawyers see only a very small portion of the cases that occur with regard to any particular law, and have no knowledge of the vast number of cases that are never considered by lawyers. The team, therefore, must also consist of practical persons who from day to day deal with particular branches of the application of the law. Such people have a far greater knowledge of the existing defects in the law than anyone with a purely academic approach, such as lawyers, sociologists or similar persons.

Law reform must be a team effort where every side and angle and facet of the law in the day to day relationship between persons in the country are examined, so that the law may deal with the general situation in an efficient manner.

Above all, law reform must avoid "tinkering" with the existing law for the sake of overcoming a particular case or cases. No truer statement has ever been made than that hard cases make bad law.

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