Postscript to note on Cheape v. New Zealand Law Society, (supra, pp. 41-49)

In the recent case of Reg. v. Hepworth and Fearnley, [1955] 3 W.L.R. 331, Lord Goddard has again addressed himself to the question of the terms of a description on the standard of proof in criminal matters. A recorder in a lower court, using the terms recommended by the Lord Chief Justice in Reg. v. Summers (1952), 36 Cr. App. R. 14, had directed the jury to be "satisfied" of the guilt of the accused before returning a verdict of guilty.

Lord Goddard says in explanation of Summers's case (supra, at 333):

> I, therefore, suggested that it would be better to use some other expression by which I meant to convey to the jury that they should only convict if they felt sure of the guilt of the accused. It may be that in some cases the word "satisfied" is enough. Then, it is said that the jury in a civil case has to be satisfied and, therefore, one is only laying down the same standard of proof as in a civil case. I confess that I have had some difficulty in understanding how there is or there can be two standards . . . . [Italics inserted.]

He then went on to say that it was not the words or formula but the effect of the summing-up and direction which really mattered, and that the recorder's summing-up had not been sufficient in its effect to establish the onus of proof which lay on the prosecution.

This judgment is yet further evidence that the adoption of a single standard of proof is the more desirable solution to the whole problem and emphasises the fact that the degree of proof necessary in a case depends, or should depend, upon the gravity of the allegation made.