

Subsection 2 of section 11 seems similarly unfair. This provides that when a liquidator or assignee in bankruptcy of an insolvent contracting carrier brings an action against an actual carrier for separate liability under section 10(3)(b) he is to hold any money he receives firstly for the contracting party, and then as an asset in liquidation or bankruptcy. It appears any money the liquidator or assignee in bankruptcy recovers off actual carriers under section 10(3)(a) will go into the general pool of assets, the contracting party being left to claim as an unsecured creditor. Thus it is more in the interests of other unsecured creditors if the liquidator or assignee in bankruptcy recovers from actual carriers jointly liable than off any one separately liable actual carrier.

## XII. CONCLUSION

The effects of the Act are more extensive than was envisaged by the report that originated this piece of reforming legislation.<sup>69</sup> In including the provisions relating to the actual carrier Parliament has taken a positive step towards dealing with the problems of modern containerised transport. Although the Act has not been universally well received,<sup>70</sup> bodies such as the insurance companies who are most directly affected by the provisions apportioning the loss between various carriers have sought to use the provisions in section 10 to reclaim and to avoid as much of the loss or damage as possible.<sup>71</sup>

It is perhaps inevitable that in attempting to draft such an intricate piece of legislation there would occur some flaws in the wording. It is submitted that these flaws do not make section 10 and the related provisions unworkable but it may require some judicial interpretation to determine their inter-relationship. The slight alteration to the wording of the Act suggested in the course of the paper may have helped clarify certain aspects of them.

69 *Supra* n.1.

70 The main dissatisfaction is within the insurance industry and stems from many consignors "opting out" of the Act by consigning their goods "at owner's risk" in exchange for a lower rate of freight and then pressuring the insurance companies to provide the higher risk coverage at old premiums. There may be a move from within the industry to have the opting out provisions removed from the Act.

71 If there is more than one carrier involved the contracting carrier's insurance company will pay up and then attempt to claim as much as possible off the actual carriers and their insurance companies.



# LEPROSY RELIEF

**The Leprosy Trust Board** is a lay organisation incorporated under the Charitable Trusts Act 1957 with the Charitable Trusts Office, Christchurch.

It was founded by **P. J. Twomey**, universally known as "**The Leper Man**".

**Registered Office:**

115 Sherborne Street, Christchurch.

**Postal Address:**

Private Bag, Christchurch.

**AIMS OF THE BOARD:** The control of Leprosy and other tropical diseases in the South Pacific.

**FUNDS:** The Board relies on Legacies, but sends out annually a mailed circular. It does not conduct salvage drives or door to door collections.

**EXPENDITURE:** Funds are distributed annually between all medical missions and Island Administrations according to their need — without favour — without regard for creed. (N.B. All money is distributed for medical work only.) Lists of latest allocations available on request and audited accounts are sent to all newspapers annually.

**AREA OF WORK:** **The South Pacific**, i.e. from Bouganville to Tahiti. From the Gilbert and Ellice Islands in the north to New Zealand. There is no other lay organisation assisting lepers in this area.

**FORM OF BEQUEST:** I give and bequeath to the Leprosy Trust Board (Inc.) whose registered office is at 115 Sherborne Street, Christchurch, N.Z., the sum of  
upon trust to apply for the general purposes of the Board and I declare that the acknowledgement in writing by the Secretary for the time being of the said Leprosy Trust Board (Inc.) shall be sufficient discharge of the Legacy.

**YOUR RECOMMENDATION WILL ENSURE THE CONTINUATION OF THIS VITAL WORK. WE WILL BE GLAD TO SUPPLY ANY FURTHER INFORMATION.**

## Book notes

**THE HAGUE CONVENTIONS ON THE SERVICE OF PROCESS, THE TAKING OF EVIDENCE AND LEGALISATION.** Published by the Commonwealth Secretariat, London, 1979, 63 pp. Paperbound.

**INTERNATIONAL CONVENTIONS IN THE FIELD OF SUCCESSION.** Published by the Commonwealth Secretariat, London, 1980, 85 pp. Paperbound. U.K. £4.00.

**LEGAL LITERATURE IN SMALL JURISDICTIONS.** Published by the Commonwealth Secretariat, London, 1981, 188 pp. Paperbound. U.K. £12.00.

Noted by A. H. Angelo\*

The first two of these recent Commonwealth Secretariat publications are accession kits. Effectively they are "do-it-yourself" manuals for Commonwealth governments that wish to accede to certain international conventions but that lack the necessary information, expertise or time to get the job done easily. Where expertise and time are at a premium these publications resolve most of the difficulties.

In the 1979 publication Professor D. McClean provides<sup>1</sup> "a commentary on the text and operation of each Convention, guidance as to decisions required prior to accession, and (where appropriate) guidance as to possible legislation"<sup>2</sup> for the Hague Conventions on *Abolishing the requirement of legalisation for foreign public documents*, *Service Abroad of Judicial and Extra-judicial Documents in Civil and Commercial Matters*, and *Taking of Evidence Abroad in Civil and Commercial Matters*. The English text of the three conventions is included in the "kit".

The 1980 volume was prepared by Professor K. Patchett along the same lines as the 1979 one. Professor Patchett deals with the *Hague Convention on the Conflicts of Laws relating to the Form of Testamentary Dispositions*, the *UNIDROIT Convention on the Form of an International Will*, the *Hague Convention concerning the International Administration of the Estates of Deceased Persons*, and the *Council of Europe Convention on the Establishment of a Scheme of Registration of Wills*.

\* Reader in Law, Victoria University of Wellington.

1 Page 1.

2 In respect of the Legalisation Convention it is stated at p.63 that though it is believed no legislation is needed to implement the Convention, Barbados did legislate for accession. It should be noted that Mauritius also passed an Act (No. 11 of 1969 (amended in 1973)) for the Convention and the requirements of arts. 3 and 6.

The seven conventions covered by these two volumes are all open to accession by Commonwealth states and in most cases already have Commonwealth state parties.<sup>3</sup>

The two volumes provide much historical and comparative data as well as the basic practical information needed by government advisers. They are valuable compendiums of relevant material not just for Crown lawyers but also for practitioners, teachers and students working in the field of conflict of laws.

*Legal Literature in Small Jurisdictions* is a collection of papers serving as the report of the 1978 conference at Osgoode Hall Law School on the problems of developing a local legal literature in jurisdictions where the market is too small to be a commercially viable one for a publisher. The subject is canvassed in a general sense by the Report, and the specifics of local legal literature are given for Hong Kong, Papua New Guinea, Eastern African jurisdictions, Ethiopia, Sudan, Canada and Sri Lanka.

In the smallest of jurisdictions it may well be<sup>4</sup> that the telephone, social occasions and oral communication of various kinds are more important than writing for finding out about the law; nevertheless even there the need exists for the law — what is talked about — to be in written form. That need is essentially the same as in large jurisdictions. Legislation, and typically in Common Law countries law reports too, must be readily accessible in an up-to-date form. Though an obvious and easily stated requirement, many jurisdictions do not even have accessible legislation. This Report highlights the problems, suggests ways of solving them and considers the significance of the new technologies. Computer-based data retrieval systems are unlikely to solve the legal literature difficulties of a small state, photocopying is still expensive where the volume of material is small, microfilm literature however might save costs, and the discriminating use of established law publishers abroad for non-local sales certainly will go some way to reducing costs of local production.

As the Report recognises, and the surveys of Sudan and Ethiopia indicate, there is a select but significant market for the law literature of small jurisdictions. Traders need the information and students and researchers frequently resort (and perhaps even more frequently wish to resort) to the literature because of the historical significance of its contents and the usefulness comparatively of novel solutions to common problems. The international market for this literature is, it is suspected, largely untapped and unsatisfied. The law library for instance which wishes to buy materials from small jurisdictions typically has an immense task. What material is published, where, and from whom may it be purchased and at what price? In the absence of ready answers the available money is spent elsewhere. This Report provides a significant service in that it provides (till 1978) in respect of several jurisdictions the sort of data that ideally should be available for all jurisdictions on a continuing basis. The Report refers to questionnaires on legal literature completed by many jurisdictions before the Toronto conference took

3 New Zealand is not yet a party to any of the conventions

4 Page 4.

place and in this context it is prima facie regrettable that those completed surveys were not also published in the Report.

The role of government printers is clear but not easily directed:<sup>5</sup>

The extent to which a government printer will be able to perform [his legal literature] functions is a political decision, depending on the extent of the resources, human and monetary, allocated to it. To put it another way, the operation of a government printer depends primarily on political forces and secondarily on market forces.

The role of law schools is also clear. If not as markets for legal literature<sup>6</sup> at least as a source and publisher of important secondary materials. What is required now and on an on-going basis is more information of the kind provided by this Report.

*Legal Literature in Small Jurisdictions* is printed in A.4 format, and meticulously presented by Professor W. Twining and Mrs J. Uglow, the joint editors. It is however a reference text in the nature of a special issue of a law journal rather than a book for reading.<sup>7</sup> It can be recommended as a very useful source of information for government lawyers, academic lawyers, law publishers, and law librarians.

5 Page 75.

6 Page 16 per Professor Twining: "[I]t is my personal judgment, based on teaching in jurisdictions where textbooks have been available and in jurisdictions where there have been no text books, that on the whole the absence of textbooks serves as often as not to enhance rather than detract from the quality of students' educational experience."

7 With approximately 900 words to the page, long lines and small type size, this reviewer found that while reference was easy reading as such was not.