

Book reviews

PASSION: AN ESSAY ON PERSONALITY, by Roberto Mangabeira Unger, Free Press, New York & London, 1984, ix + 300pp. Reviewed by Ian Macduff.*

Passion, either the book or the emotion, might seem to have little place in a law review. This concern will be reinforced by legal readers — already familiar with Unger's previous works on law and politics¹ — when they find only one mention of law, and this in the form of a footnote, at page 264, suggesting that the legal and institutional implications of his discussion might be found in Unger's review essay on the critical legal studies movement.

But a consideration of Unger's thesis is important for at least two reasons. First, Unger's voice in the critical legal studies movement is an important one, though other writers associated with the same development in jurisprudence have taken issue with him and deny that Unger stands as any kind of "spokesman" for the movement.² Second, given that Unger writes on passion and personality from the perspective of one whose larger agenda is that of jurisprudence and social theory, it is possible to use *Passion* as the basis for a more extended assessment of the direction that jurisprudence might take. A third argument can be added: for all that Unger's discussion might seem remote, inaccessible and theoretical, this project is practical, ambitious and political. Beneath the discussion of passion — and moved by that same discussion — is an agenda for personal and political action.

Given the scope of the book, the fact that it touches nothing less than what Unger sees to be the perennial issues in human relations, this review can only seek to isolate some of those elements which seem to be particularly illustrative of his thesis. What I will also seek to do is to speculate, briefly, beyond the scope of the book, to imagine what we might make of it as jurists and lawyers. Strictly speaking, this sort of speculation is not necessary: the enterprise stands alone as a survey of human personality which traverses the traditions of social science, psychology, history and more. The argument may be that it is just such an understanding of human personality that makes sense of, and provides the fundamental agenda for, a specific discipline such as jurisprudence.

This is a difficult book. For those who have met Unger's *Knowledge and Politics* and *Law in Modern Society*, this will probably come as no surprise. But the difficulty lies not

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1 *Knowledge and Politics* (Free Press, N.Y., 1975); *Law in Modern Society* (Free Press, N.Y., 1976); "The Critical Legal Studies Movement" (1983) 96 Harv. L. Rev. 561.

2 Alan Hunt "The Theory of Critical Legal Studies," (1986) 6 Oxford Jnl of Legal Studies, 1.

simply in the particular density of Unger's style, but rather more in the task which he addresses, which is nothing less than an understanding of the essence of what it means to be human, in relationship with others. It is, after all, such a relationship which is marked by passion or its degenerate forms. The difficulty, even the inaccessibility, of at least some of this book brings to mind the comment by a neurophysiologist (whose name I forget) to the effect that, if the human brain were so simple that we could understand it, we would be so simple that we couldn't. There is a sense, therefore, in which the task Unger sets himself is impossible, at least to the extent that the ineffable, transient, complex and perverse elements of human nature and relationship will always deny reduction to a sufficiently simple form that a book demands. For this reason, Unger's book presents a methodological dilemma as well as a difficult substantive topic.

One reaction to the complexity of this book — apart from abandonment — is to recognize then, that its very depth is a statement of the irreducibility of the topic. Consider it this way: in writing about law in his critical legal studies work,³ Unger proposes that the central dilemma of law and legal theory is 'indeterminacy'. In this he is not alone in that the predecessors of the CLSers, the legal realists,⁴ saw law as marked by several kinds of indeterminacy. It is this indeterminacy — the "open texture of rules", the problems of language itself, the problems created in the competition between moral and legal norms — which later writers, especially Hart and Dworkin, sought to address by presenting models of and justifications for the processes of judicial reasoning and decision-making. But indeterminacy for Unger is not simply created by competition between competing authoritative rules; rather, it is an indeterminacy created, first, by the necessarily ethical content of rules, and second, by the fact that this ethical content provides no self-evident code for the resolution of its inner contradictions. For the moral philosopher, this becomes the problem of intuitionism and relativism. For Unger, it is that; and it is also a reflection of the fact that the moral dilemmas of human relationships are not so susceptible to codification and doctrine, notwithstanding the temptations offered by unitary models of the right and the just. A response to the complexity of this book may be then, that there cannot be — on Unger's analysis — a simple account of the human enterprise; nor can there be a simplistic package of resolutions to the moral dilemmas. To fall into that trap is to continue to recycle through the ambiguities of the apparent tension in the struggle between moral autonomy and "solidarity" or shared moral norms.

A charitable account, therefore, of the complexity of this book would suggest that, like the modernism in art with which Unger presents his work as a parallel, the annoying inaccessibility of the work is part of the point of it: that which is too accessible lulls us into a false sense that the world which is represented, either in art, or in social theory, is

3 "The Critical Legal Studies Movement," *supra*, n.1.

4 See Andrew Altman "Legal Realism, Critical Legal Studies, and Dworkin" (1986) 15 *Philosophy and Public Affairs* 205.

as comprehensible as its mode of representation.⁵ In this respect, Unger does nothing particularly new: physicists might see this in terms of the principle of uncertainty which leads us to acknowledge the role of the observer in what is observed; Korzybski and others have argued that there can be no model which adequately or accurately represents the world; communication theorists, drawing on the work of Gregory Bateson, talk in terms of the distinction between the map and the territory. What is different about Unger, I suspect, is that, more than simply acknowledging that ineradicable limitation in our forms of representation, he seeks to demonstrate it. Just as the modernists sought to emphasise that what we looked at in their paintings was not and could never be “representative”, but was only a painting, so with this attempt to write about that which is fundamental to human nature: reality is irreducible to art.

So much for the form of the book: if we regard the formidable difficulty of the book as part of the exercise, the prospect of three hundred pages of it becomes more bearable. That modernist form is perhaps made more explicit by the fact that there is no index, only one footnote and no chapter headings to speak of. The body of the book, after an eighty-nine page introduction, is divided into four sections: Passion I, II, III, and IV, with an extended appendix, “A Program for Late Twentieth-Century Psychiatry”. No obvious indication in this of the progression of the thesis. A flippant account of the task of the book might suggest that it presents a comprehensive set of definitions of the range of human responses to association with others: in pursuit of passion we are taken through lust, despair, ardour, hatred, insatiability, moderation, prudence, courage, fairness — through the modernist gamut of the virtues and vices. It is only the absence of an index which makes this aspect of the book less significant, especially given Unger’s willingness to provide an account of each of these human attributes and capacities. But again, form follows function: it is not the point of this book to provide the packaged and populist version of the sentiments. The purpose instead is to seek to address that which is fundamental in human association, to draw out its implications by reference to the kinds of emotions which mark such association, and to present “passion” as that quality which marks specific relationships.

The object of Unger’s thesis becomes more accessible when we recognize that the book is an account of one issue, one puzzle. The problem, which Unger has addressed in earlier work, is that of the relationship between the individual and society. Again, Unger is not alone in seeing this as perhaps the fundamental question: from Aristotle through to Durkheim, Marx and beyond, it might not be too farfetched to say that this is the puzzle which has informed all of social theory, at least implicitly. The issue for Unger is to seek to reconstruct this relationship in a modernist form and, in so doing, to transform the puzzle into an opportunity. The dilemma that runs through this book is the recognition that each of us needs other people: the development of the individual

⁵ See David Luban “Legal Modernism” (1986) 84 Michigan L. R. 1656. Luban notes, in a splendid review of CLS and modernism, that the common ground between the two movements includes their failure to satisfy the identified need, either aesthetic or radical; the emergence of each movement together with polemics, manifestos, labels, and “words, words, words”; and the inability to distinguish, at times, between what is fraudulent and what is simply bad in art and social theory. [1657 - 1658].

identity is marked by the irony that I need others for that development, yet the presence of those others inhibits me. How, then, is the balance to be found between the twin imperatives of autonomy and solidarity? The duality of self and others is expressed by Unger in a number of forms, but in each case it comes down to a recognition that relationships are marked by mutual need and mutual jeopardy: we need others in order to recognize ourselves, but risk absorption into the other in the process.

If that is the descriptive account, what is more important with Unger's work is to recognize the moral task. In this respect, Unger may be regarded as laying the moral foundations of critical legal studies and, at the same time, thinking through the moral imperatives that lie at the heart of the law. The value of this book is that the perennial issues of law and morality may be addressed, but not in the familiar form of the attempts to delineate boundaries and common territory, but rather in that what Unger seeks to do is to make explicit just what the moral agenda is that we need to resolve. What Unger seeks to do is to present the foundations — and the tasks — of a moral theory of human community. And at the same time it is necessary to recognize that — given the indeterminacy issue — it is not possible to codify that moral theory. What this means is that the moral task becomes that of constant confrontation with the demands of living with other people, and of constant renewal and reinvention of our lives as moral beings. This does not mean, however, that Unger offers a justification for a form of moral individualism and intuitionism which means that anything goes: the very nature of the agenda of moral thought and action means that there remains a constant reference point in terms of the tasks of finding the right relationship between self and others.

For jurisprudence, if we extrapolate from what Unger explicitly offers, this means that the fundamental tasks of the law are moral. That, at least, removes part of the preliminary debate in setting the agenda of jurisprudence. The difficulty is that law is beset by the same problems of indeterminacy as are the human relations which it presumes to govern. And again, the indeterminacy is not solely that of competing authoritative rules: it is an indeterminacy which arises, according to CLS theory, because of the final implausibility of the project of resolving the inevitable conflicts between the individual and others. But that is a matter for a different discussion. The point here is that, if we accept that the fundamental question to address concerns the relations between self and others, and if we accept that this is a moral puzzle (as well as a psychological minefield), then by extension the law rests upon the same moral foundation.

What Unger offers in *Passion*, is a moral project. In the first instance, it is a project of understanding the life which binds us together. This, for Unger, is the life of passion, “the life of longing and jeopardy [which] binds people together . . . [T]his life can be simultaneously tenacious and self-knowing only when transformed by the offer and acceptance of sustaining mutual involvement.”⁶ It is that relationship between people which is the context of and occasion for passion — plus all of the other sentiments which may mark human relations. Passion, then, requires definition if it is to be marked off

from other sentiments and if it is to serve as the basis for a moral life. Passion, for Unger, is the sentiment which marks a relation between individuals in which neither seek to use the other for his or her own ends. Passion is the sentiment which enables us to begin to answer the larger questions which, Unger suggests, social and philosophical theory needs to answer: questions such as “How may society be more fully opened to love?”

Passion also seems to mark the uncertainty and ambiguity of human relations, relations which are more or less healthy according to the foundation on which they rest. At times, Unger’s account of this suggests a foundation in the more despairing forms of European existentialism:⁷

“Caught in dying bodies and worldly cares, we may wonder whether we shall have time to reconcile ourselves to one another. Can the elusiveness and temporality of the self be made compatible with an experience of mutual revelation, presence and sacrifice? Can this act of fascination and bestowal ever be more than the refinement of lust or the dissolution of the other person into a mirage of your own making?”

The point Unger makes of this is that it is the task of dealing with other people, of finding the balance between autonomy and security, between need and hostility, which is the basis of the moral project. The dilemma is that it may be impossible to do so, at least in any final way. The image that runs through *Passion* is just that relationships provide this constant moral dilemma. Passion — again both the book and the sentiment — demands the kind of engagement which provides a constant encounter with the imperatives of being moral.

So, through the core of the book runs the account of the dialectic of individual and community, of attraction and rejection, fulfilment and jeopardy. What we may make of this is that Unger presents one of the more extensive and eclectic surveys of human sociability and isolation.⁸ What emerges is a recognition of the richness and complexity of human relations, marked not only by passion but also by the full range of sentiments which humans can muster. What Unger seeks to convey, as part of his moral task, is the sense that this richness is not readily encapsulated in nor controlled by single accounts of human nature, nor managed by supposedly comprehensive models of morality. There is something about the very complexity of this book which serves to convey that sense: it is by no means easy to deal with, but then, nor is the subject matter.

But if that is the situation or the problem, what can we make of it? If we are to live with the dilemmas of constant encounters with other people, without lapsing into doctrinaire security or intuitionist unpredictability, how does Unger imagine that the moral life may be lived? That this is important is made clear by Unger: this is not merely a descriptive account of the human situation, but rather an attempt to achieve one political and social goal, namely that of human empowerment. Unger’s argument that the recognition of passion (in his Kantian sense) as the key to balance between social beings is not merely an invitation to solitary review or bookishness — it is an agenda for

⁷ Ibid. 221.

⁸ For a different kind of survey, see Drew Westen *Self and Society: Narcissism, Collectivism, and the Development of Morals* (C. U. P., Cambridge, 1985).

social action. Given that this quality becomes fundamental in relationships, it then becomes the critical focus for the assessment and critique — and transformation — of the institutional life of society which may enhance or inhibit the goal of empowerment. Thus, for Unger, the inquiry into relationships and work becomes the basis for the task of social transformation.⁹ In *Passion*, as in his essay on critical legal studies, Unger argues that reflection on self and society, on love and work, becomes the “ideology of cultural-revolutionary politics.”¹⁰ The point of social theory is to understand — and then to transform.

For Unger, the basis of that transformation is the movement beyond the pre-modernist tension between the “classical moralizing doctrines of the virtues and the vices”¹¹ and the political cynicism of a Machiavelli or Hobbes. Social theory marked by sentimentalism or cynicism fails to capture — let alone represent — the core dilemmas of human personality. The moral task then is that of the construction of a transformed view of the human enterprise: hence the focus on the opposition between need and resentment, group and independence, proximity and jeopardy.

The difficulty in summarizing what *Passion* is ‘about’ may well be the same difficulty we face in explaining modernist art: it defies the categories of representation which other forms of art and explanation may permit. As an exercise in social theory, *Passion* crosses boundaries, poaches themes, and refuses to make life easy for the reader. But for all that, it is possible to draw from this work a line of powerful argument which, in turn, contributes to the moral discourse which underlies jurisprudence. At the end of the day, the object of this argument is to understand the conditions for — as well as the challenges to — the goals of human emancipation and empowerment. Consider this in a series of points.

First, both descriptively and prescriptively, Unger presents human relations as the field of moral engagement. Descriptively, the circumstances are those of conflict and co-operation, attraction and repulsion, need and jeopardy. The paradoxical nature of human encounters is the context for social theory, psychology, jurisprudence and — in the Appendix to the book — psychiatry. Prescriptively, this irony of isolation and solidarity becomes the basis for the task of constantly renewing the grounds of our moral relationships. While the fluid nature of those relationships defies reduction to any formalism of rules and codes, Unger does argue that the quality of ‘passionate’ encounter can be sustained as the measure of the rest of our moral actions.

Thus, secondly, the goal of moral actors, both privately and collectively, is to abolish all ‘instrumental’ relations; that is, relationships in which individuals or groups serve as the means of attaining the goals of others. Unger’s historical perspective leads him to identify the persistence of instrumental relations as the core of evil in a flawed world and to argue that such relations are marked by sentiments of greed, lust, envy and hatred, rather than love and hope. What matters, therefore, is that the transformation of

9 *Passion* 34.

10 *Idem*.

11 *Ibid* 297.

relations is marked by a parallel transformation in human sentiments and understanding in their dealings with each other. In this respect, parallels may be drawn between Unger's work and that of a phenomenological tradition which argues that our lives are marked by the fictions¹² and illusions¹³ we live by, and that the task of emancipation is one of recognition of the illusory nature of social reality. This is not so far, too, from the psychiatry which deals in the more destructive and disabling illusions people may live by. Hence, I suspect, the agenda for twentieth-century psychiatry which concludes this book.

There are two parts to this action against instrumental relations. One is the call for transformation in individuals' dealings with each other, a call to acknowledge the importance of vulnerability to others and to act as models of the kind of engagement which will serve to abolish relations of domination and submission: "The person becomes better by laying his character — the rigidified version of his self — open to revision."¹⁴ At this level, *Passion* becomes an account of the attributes of the moral life and relations of the individual. The other aspect of this concerns collective and institutional relations: the rejection of instrumental relations at an individual level is to become the model of institutional conduct and the basis for the kind of transformation which Unger sees as the project of this work and critical legal studies. The social — and legal — project is that of achieving the conditions of human emancipation, part of the task of which is the rejection of all levels of instrumental relations.

Passion, therefore, becomes a code for encapsulating this moral and political project. In the first instance, we deal with the need for moral awareness, with the descriptive account of the moral life, its context, and its degraded forms. Beyond that, we encounter the translation of that moral understanding into forms of moral conduct. And, despite the presentation of "passion" as the attribute of non-instrumental relations, this does not obviate the task of constantly rethinking the terms of our moral encounters.

The third main point that can be made about this book derives from the preceding issue. If the nature of our relations with others is fundamentally moral, and if such relations are in need of constant assessment and renewal, what this demands is engagement in a form of dialogue. To this extent, Unger's book is a call for moral and political discourse and forms part of that body of philosophical and political writing which marks the modern age as one which witnesses the loss of intelligent discourse and its replacement by slogans, relativism, moral individualism and political disinterest.¹⁵ The tasks of emancipation and renewal — indeed, the imperatives of the moral life, in

12 E.g. Marc Bloch *The Historian's Craft*, (M.U.P. Manchester, 1954): "Man spends his time devising techniques of which he afterwards remains the more or less willing prisoner." (39).

13 Ernest Becker *The Structure of Evil* (Free Press, N.Y., 1968): "There will one day be an immense harvest of liberating self-awareness for all mankind, when the fictional nature of social meanings becomes our common and explicit property . . . [I]t may do nothing less than bring together two thousand years of secular and radical religious striving for true freedom and dignity." (94).

14 *Passion* 266.

15 E.g. Neil Postman *Amusing ourselves to Death: Public Discourse in the Age of Show Business*. (Viking, 1985); J. H. Schaar *Legitimacy in the Modern State* (Transaction Books, New Brunswick, 1981).

Unger's terms — call on us to engage in active political and moral re-evaluation. This is no mere 'communication' which implies nothing more than the basic skills of personal encounter: discourse, if it is to have any effect, demands also that we have something intelligent to say to each other. The object of this book is to illustrate that the most basic, and the most intelligent, things that we have to say to each other concern nothing other than the terms of our living and being together. Get that right, and we might witness the larger transformations about which Unger remains optimistic.

In all of this Unger is an optimist, assuming a capacity and a willingness to forego the pleasures of the advantages we may gain over others in order to achieve the higher attributes of passionate dealings. At times the optimist may be naive, but in this case the struggle with the dilemmas at the very core of human relations suggests that passion is no easy option. The moral account of our engagements with each other becomes an account of the historical and political — and jurisprudential — task as we recognise the nature of the constraints we accept on our dealings and those which we cannot, and as we recognise the degree to which the institutional structure of society inhibits or demeans "our practical and passionate dealings with one another . . . [and that] the countermodels on which we have reason to act now are the ones that promise to empower us more fully."¹⁶

Quite how that transition from instrumental to passionate dealings is to be achieved is not made clear in this book: perhaps it is only the task of *Passion* to make explicit the moral dimensions of human encounters. That, for the moment, is probably enough, at least as a confirmation of the moral foundations of political discourse, the imperatives of such discourse and, for legal theory, the moral agenda of analysis and reform. It will probably be necessary to await Unger's three-volume work, *Politics*,¹⁷ before the programme for reconstruction is more fully spelled out.

TORT by **C. D. Baker**. 4 ed. Sweet & Maxwell, London, 1986. xxxii + 398 pp. (including tables and index). Price £8.95. Reviewed by W. R. Atkin.*

The publication of a fourth edition of Baker's text shows the enduring and dynamic qualities of the law of tort. In the years since 1979 when the third edition was published, many significant judgments have been given, not all of them by any means adding clarity to the law. Indeed, the area of duty of care, the fight over which, Baker rightly asserts in the Preface, continues "the main theatre of war", has been left in a state of considerable confusion. The courts in Britain have been seen backtracking on the extensions of liability that at first appeared to be opened up by cases such as *Arms v. Merton B.C.*¹ and *Junior Books v. Veitchi Co. Ltd.*² "The present House of Lords seems

¹⁶ *Passion* 246.

¹⁷ R. M. Unger *Politics* (C.U.P. forthcoming, 1987).

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¹ [1978] A.C. 728.

² [1983] A.C. 520.

to be intent on restoring the law to what it was before its own previous decision in *Junior Books . . .*”³ says Baker, commenting on the recent decision in *Leigh and Sullivan v. Aliakmon Shipping Co. Ltd.*⁴ The list of other decisions restricting liability gets longer — *Candlewood Navigation Corp. v. Mitsui O.S.K. Lines*,⁵ *Muirhead v. Industrial Tank*,⁶ *Peabody Fund v. Parkinson*,⁷ *King v. Liverpool City Council*,⁸ *Smith v. Littlewoods Ltd.*,⁹ *Curran v. Northern Ireland Co-Ownership Housing Assn. Ltd.*,¹⁰ not to mention the major Australian case *Sutherland v. Heyman*¹¹ and many others.

The New Zealand Court of Appeal has been swept along on the *Anns* bandwagon (though now somewhat chastened after the Privy Council’s treatment of *Rowling v. Takaro Properties*¹²). What direction will New Zealand courts follow in the future? This is a little hard to predict but judging by the main comments Baker makes on any of the New Zealand cases, it might be thought that international opinion would encourage a less ambitious style. In *Meates v. Attorney-General*,¹³ the failure to perform non-contractual promises led to the government’s liability to the plaintiff shareholders. According to Baker, this case is particularly open to the charge that it is “making tort do the work of contract”.¹⁴ Its basis is not “the negligent making of a statement but the negligent failure to perform a promise”. This reviewer has never been particularly impressed by technical arguments on the supposed boundary line between tort and contract, and would be reluctant to discourage the creative urges of the Court of Appeal. Nevertheless, some account must obviously be taken of developments in the rest of the Common Law world — New Zealand should not end up out on a limb.

Baker’s text is a straightforward account of the law. Rarely does the author explore the underlying policy of the law in the way that, for example, Dias and Markesinis¹⁵ have attempted to do, and when he does, it is usually to draw attention to the recommendations of reports such as that of the Pearson Committee.¹⁶ The accident compensation scheme in New Zealand is referred to briefly, ending with the rather weak statement that “evidence in favour of accident compensation schemes is of some significance”.¹⁷ The text, as might be expected, is replete with case references but the style of the book is to omit footnotes entirely. The result, aided by good sub-headings, is

3 Page v.

4 [1986] A.C. 785.

5 [1986] A.C. 1.

6 [1986] Q.B. 1225.

7 [1985] A.C. 210.

8 [1986] 1 W.L.R. 890.

9 [1987] 2 W.L.R. 480.

10 [1987] 2 W.L.R. 1043.

11 [1985] 60 A.L.R. 1.

12 Argued before the Privy Council in July 1987.

13 [1983] N.Z.L.R. 308.

14 Page 86.

15 *Tort Law* (O.U.P., Oxford, 1984).

16 *Report of the Royal Commission on Civil Liability and Compensation for Personal Injury* (London, 1978, Cmnd. 7054).

17 Page 11.

to assist readability. However, disguised footnotes appear in many places in brackets (mercifully not lengthy) and cases are cited only with years after them. To find the full citation of a case it is necessary to go to the Table of Cases, which will usually suffice for most people's purposes, but which is deficient in some instances where no citation is even to be found there. (Cf *S v. McC*, referred to on pp. xxiii and 61. All the reader is told is that it was decided in 1972).

While duty of care cases have of course been keeping tort observers busy, many other significant decisions have appeared during the 1980s. Some reveal a deepening interest in personal issues, and so we have litigation over informed consent, contraceptive advice and wrongful life. Others betray their commercial bias, with important decisions dealing with interference with contract, conspiracy and passing off. The New Zealand Court of Appeal judgment in *Van Camp Chocolates v. Aulsebrooks*¹⁸ (spelt incorrectly as "Aulsebrooks") is discussed in the context of whether there is a general tort of causing loss by unlawful means and appears to be favourably received by the author. Whilst New Zealand cases are not infrequently cited in the book, there are others apart from those dealing with negligence, which might have merited inclusion. In the section on defamation, the 1983 English case of *Blackshaw v. Lord*¹⁹ is explored, but there is no sign of the most important recent New Zealand case of *Templeton v. Jones*,²⁰ which deals with the relationship between politics and free speech. Reference to it would be justified because of its recent citation, not altogether favourable, by the English Court of Appeal.²¹

In many areas of the law, traditional textbooks written for the British market are becoming less useful to New Zealand lawyers because of the diverging bodies of statutory law. This is far less true of tort, and so, Baker's book could prove handy to the student of tort (though the practitioner is likely to head for other texts). Nevertheless, the New Zealand reader will still have to keep a close eye on legislation which affects tortious principles. The Accident Compensation Act 1982 is the most dramatic example, but other developments are the important Fair Trading Act 1986 and the Commerce Act 1986.

18 [1984] 1 N.Z.L.R. 354.

19 [1984] Q.B. 1.

20 [1984] 1 N.Z.L.R. 448.

21 *Polly Peck (Holdings) Plc v. Trelford* [1986] Q.B. 1000.