



LAW COMMISSION

Report No 32

Annual Report 1994

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- NZLC R24 Report for the period 1 April 1991 to 30 June 1992 (1992)
- NZLC R25 Contract Statutes Review (1993)
- NZLC R26 Report for the year ended 30 June 1993 (1993)
- NZLC R27 The Format of Legislation (1993)
- NZLC R28 Aspects of Damages: The Award of Interest on Money Claims (1994)
- NZLC R29 A New Property Law Act (1994)
- NZLC R30 Community Safety: Mental Health and Criminal Justice Issues (1994)
- NZLC R31 Police Questioning (1994)

Preliminary Paper series

See inside back cover



Report of the

LAW COMMISSION

for the year ended 30 June 1994

Presented to the House of Representatives under section 17 of the Law Commission Act 1985 and section 44A of the Public Finance Act 1989

1994

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17 October 1994

Dear Minister

I have the honour to transmit to you the report of the Law Commission for the year ended 30 June 1994.

This report is prepared under section 17 of the Law Commission Act 1985 and section 44 of the Public Finance Act 1989.

Yours sincerely

K J Keith
President

Hon Douglas Graham MP
Minister of Justice
Parliament House
WELLINGTON

PART 1

Report on the Year Ended 30 June 1994

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.

AN OVERVIEW

Publications

In the course of the year, the Commission published three reports: *The Format of Legislation* (NZLC R27), *Aspects of Damages: The Award of Interest on Money Claims* (NZLC R28) and *A New Property Law Act* (NZLC R29). It also published two substantial discussion papers carrying forward its large task of codifying the law of evidence: *Documentary Evidence and Judicial Notice* (NZLC PP22) and *Privilege* (NZLC PP23).

Work on other aspects of the evidence reference, as well as on the other high priority projects on the Commission's programme, was carried forward. In particular, a report on police questioning and the admissibility of improperly obtained evidence was near completion.

New reference

In February 1994, the Commission received a new reference from the Minister of Justice asking it, as a matter of high priority, to consider, "with the purpose of protecting members of the public from substantial risk of harm from individuals whose release into the community would

pose that risk”, relevant provisions of the Mental Health (Compulsory Assessment and Treatment) Act 1992 and the Criminal Justice Act 1985. By the year’s end, the Commission had approved a draft report. The completion of this urgent task necessarily delayed planned work on some of the Commission’s other projects.

See pages 7–16 for a more detailed account of all work done on projects during the year.

Possible projects

At the suggestion of the Minister of Justice, the Commission evaluated a possible new project to widen the scope of the existing law permitting creditors to set aside fraudulent conveyances, at present contained in s 60 of the Property Law Act 1952. It distributed for comment a paper outlining the advantages and disadvantages of reforming this area of the law.

The Commission also began defining the initial concept and scope of a possible project on barriers to women’s access to justice by reason of *cost, culture, credibility* and *caregiving*. Cost refers to the economic position of women; culture to the experience of women due to their ethnicity; credibility to attitudes held about women; and caregiving to issues arising from women’s biology and their role as the main caregivers in our society. Within this framework, the project would evaluate specific areas of the law for their impact on women and make policy recommendations.

Follow-up

In its report *The United Nations Convention on Contracts for the International Sale of Goods: New Zealand’s Proposed Acceptance* (NZLC R23), the Commission supported the Government’s intention of introducing legislation to implement the Convention and of acceding to it. The Commission was therefore pleased to note that, on 30 June 1994, a Bill giving the Convention the force of law in New Zealand received its third reading. (It was assented to on 1 July 1994.)

The Commission helped carry forward the implementation of other recommendations for legislative change made in earlier reports. For example, it made a further input into the final form of aspects of the company law reform package, based largely on its reports NZLC R9 and NZLC R16, and due to enter into force on 1 July 1994. It also contributed to necessary work on several related matters.

See the more detailed account of follow-up work on pages 16–18.

Advisory work and Legislation Advisory Committee

The Commission's advisory work and its contribution to the work of the Legislation Advisory Committee were again significant. In a briefing paper presented to the Minister of Justice in November 1993, the Commission reflected on its experience in carrying out these aspects of its work over the seven years of its existence, and identified 10 recurring issues which the Government could address to improve further both the process and the substance of law-making. These have since been incorporated in the Commission's revised statement of its **Long-term business objectives** (page 24). The nature of the advisory work and the work of the Legislation Advisory Committee is described on pages 18–21.

Commissioners

During the year, a new Commissioner, Joanne Morris OBE, was appointed and took up office. The Honourable Justice Blanchard, who was convening Commissioner for the work on a new Property Law Act, resigned on 30 June 1994 on the completion of the report (see also page 22 and appendix A).

Te ao Maori

The Commission took further the various initiatives described in its last annual report to better equip itself to fulfil its statutory duty, in making its recommendations, to take into account te ao Maori (the Maori dimension). In particular, the small group of Maori from whom the Commission had earlier sought guidance, Bishop Manuhuia Bennett, Judge Michael Brown, Professor Mason Durie and Whetu Wereta, agreed to act as a standing Maori Committee.

After initial discussions on the role that such a Committee could play in the work of the Commission, the following terms of reference were agreed:

To assist the Law Commission in the development of a bicultural framework for the law of New Zealand by

- advising on consultation with Maori,
- assisting the Commission to identify projects for the reform and development of areas of law of interest or concern to Maori,
- advising on the priority to be accorded to projects and recommending processes for their development.

The Committee acts as a conduit for the Commission's relationship

with Maori. It does not purport to speak for Maori. Its role during the past year has included helping the Commission identify areas of its work which are of concern to Maori and advising the Commission how it should consult with Maori. The Commission's project on the law of succession, in particular, is seen as going to the heart of tikanga Maori, and therefore as a test of the Commission's ability to respond to Maori concerns.

Maori name

With the benefit of advice from both its Maori Committee and Te Taura Whiri I Te Reo Maori (the Maori Language Commission), the Law Commission adopted the Maori name Te Aka Matua O Te Ture (soon to be incorporated in its logo). The name reflects the legend of Tawhaki who was exhorted to climb to the heavens by clinging to the main vine that had struck roots in the earth, not to the tendrils that swayed to and fro in the air (Alpers, *Maori Myths and Legends* (Auckland, Longman Paul, 1964)).

1993 Suffrage Year

As part of the 1993 Suffrage Year celebrations, in November 1993 the Law Commission organised a seminar for women and women's organisations. The purpose was to discuss two issues arising out of the Commission's work on the law of evidence of particular interest and relevance to women: the rule which prevents a person from being compelled to testify, in a criminal trial, against his or her spouse, and the questioning of rape victims about their prior sexual history. The seminar provided an opportunity for the Commission to debate the underlying legal policy questions with a wide range of women. It also enabled women and women's organisations not previously in contact with the Commission to become aware of its work and the role that they could play in it.

THE LAW COMMISSION'S CONSULTATION PROCESSES

*In all forms of Government the people
is the true legislator*

Edmund Burke

In its 1993 annual report, the Law Commission, in discussing the principles which influence and sustain law reform, stressed the importance of open, consultative processes as a precondition for democratic law-making. The Commission's draft *Legislation Manual*

will emphasise the benefits to be gained from this approach (see *Legislation*, page 12). In the course of its own reviews of particular areas of the law, the Commission has always followed the practice of consulting as widely as possible, but experience has led it, over the last few years, to refine and develop some aspects of its consultation processes.

The Commission is specifically authorised by its Act to engage consultants. It makes use of this power to commission papers from members of the legal and other professions who have special knowledge of relevant areas and issues. It also distributes drafts of its own research and policy papers to experts in the field for criticism and comment. This type of input helps the Commission to gather the facts, understand the existing law, and put forward sensible and workable proposals. Recently, the Commission has sought to draw more members of university law faculties and departments teaching other academic disciplines into this process. The Commission depends on, and acknowledges with gratitude, the benefit it has received from those who have contributed in this way, almost always at less than a professional fee and very often with no remuneration other than reimbursement of out-of-pocket expenses.

From its earliest days, the Commission has also made efforts to engage in dialogue with affected groups and members of the public—again in exercise of powers conferred by its Act. Its review of the accident compensation scheme in 1987–1988 elicited more than 2000 submissions, many of which were discussed at first hand with their authors. This, however, was a high water mark. Not all topics that the Commission reviews give rise to the same level of public interest. Yet the Commission is in no doubt that the members of the public, as the users of the law, should head the list of its customers (see the revised statement of the Commission’s **Long-term business objectives**, page 24).

While the Commission will seldom be able directly to sample public opinion on a widespread basis, to the fullest extent possible it will continue the practice of consulting with community groups. In order to supplement its existing range of contacts, it will pay particular attention to those groups which do not have a legal or professional focus, and are either broadly-based or can give the Commission access to a particular perspective which would not otherwise be readily available.

Some of these groups may not have the experience or resources to make formal submissions, but the Commission is happy to receive

information and views in any way that suits those who would like to contribute to its work. In some cases it may be able to make contact through an umbrella organisation that has a community of interest or an existing relationship with the target group, or bring together individuals who have not formerly been linked but could usefully work together in making an input.

So far as the Commission's budget permits, it is willing to consider applications for limited financial assistance from groups which are likely to be able to make a significant contribution to a particular project, but are not themselves able to fund the collection or presentation of relevant material. It has established guidelines for considering such applications. These are available on request. In all cases, the purposes for which the funds are to be used and the manner in which they are to be accounted for must be agreed beforehand.

The approaches just outlined are likely to help the Commission in its consultations with Maori. For that purpose, and with the assistance of its Maori Committee, it has formulated the following strategy, which is, however, equally appropriate for consultation with other community groups:

- the Commission must provide clear written and oral information about the issues or problems, but without restricting the right of those taking part to raise other issues and problems it thinks are relevant;
- it must provide a clear statement of the purpose of the consultation and what is expected of those being consulted;
- it must give those being consulted sufficient time to consider the issues and other information provided;
- it must provide sufficient copies of any written material, and other resources if appropriate;
- it must provide immediate feedback on the impressions derived from consultation through a hui or other meeting, more considered feedback later, including information about the decisions taken, and, if appropriate, an opportunity for those consulted to make a further input;
- those consulted should be asked to evaluate the consultation process: this will enable the Commission to improve its consultation strategy.

In other ways, too, the Commission is proactive in seeking outside contributions to its work. It has encouraged, among law practitioners,

members of the judiciary and others, the formation of special committees which provide comments at appropriate stages of a Commission project. It frequently holds or encourages others to hold seminars at which the Commission's proposals can be debated. At all stages of a project the Commission engages in discussions with other interested public sector agencies, particularly those which will have to administer or apply the changed law that the Commission recommends. In its reports, it outlines the consultation processes followed and identifies the points on which there were differences of opinion among those who made an input.

In all of these ways the Commission seeks to follow open, collaborative processes before reaching its independent conclusions. Most law reform proposals formulated in this way attract support across the political spectrum. In the new political climate likely to be created by a proportionally elected parliament, such processes will be even more necessary than they are now to build support for changes in the law.

THE LAW COMMISSION'S OUTPUTS

All the Commission's outputs come within the output class: policy advice. They fall into four categories: **projects**; **follow-up on matters** on which the Commission has reported; **advisory work**; and participation in the work of the Legislation Advisory Committee.

For the Commission's statement of service performance see page 39. The following narrative account describes the work in each category done during the year.

Projects

Evidence

The Commission made substantial progress on 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 published two further discussion papers, each containing draft code provisions. In each case, submissions were invited by 1 September 1994.

In *Evidence Law: Documentary Evidence and Judicial Notice* (NZLC PP22), the Commission noted that the present law concerning the admissibility and use of documentary evidence is out of date and at risk of failing to keep up with changes in technology, as well as being too complex and technical. It therefore proposed a complete overhaul of the rules of documentary evidence aimed at simplifying and clarifying

them, reducing them in number, and placing them within the framework of the principles underlying the law of evidence as a whole. The discussion paper deals with

- the rules and presumptions governing the authentication of documentary evidence;
- the facilitation of proof of public and private documents;
- the admissibility and use of machine-produced evidence;
- the secondary evidence rule;
- the pre-trial procedures for dealing with documentary evidence, in both civil and criminal cases.

The paper also covers the separate, but related, topic of judicial notice, and proposes a code provision which allows fact-finders to take judicial notice of adjudicative facts which cannot reasonably be disputed.

The Commission's seventh discussion paper in its series on evidence, *Evidence Law: Privilege* (NZLC PP23), considered critically the existing heads of privilege which, for legitimate social reasons, protect situations of confidence by allowing certain persons to withhold relevant evidence from a court. It presented tentative proposals dealing with the following matters:

- privileges associated with the conduct of legal practice and litigation, in particular legal professional privilege, and the "without prejudice" rule in settlement negotiations;
- the protection which the law should afford the particular confidential relationships of husbands and wives, and partners in analogous relationships, ministers of religion and those in their spiritual care, doctors and clinical psychologists and their patients, law enforcement agencies and informers, and journalists and their sources;
- the more general doctrines of privilege which have developed in recent years under the head of privilege now known as "public interest immunity". There are two aspects: confidential relationships generally, and Crown privilege.

The privilege against self-incrimination, which has close links with the principle that, in a criminal trial, the Crown must prove its case beyond reasonable doubt and cannot compel defendants to provide evidence against themselves, will be the subject of a separate discussion paper (see *Criminal procedure* below).

The complex topic of evidence of character and credibility has been the subject of intensive work, resulting in the preparation of a research paper, a set of policy proposals and skeletal rules for inclusion in the proposed Evidence Code. Research on other smaller topics is well advanced, but that on the evidence of children and other vulnerable witnesses was delayed by the need to give priority to the Commission's reference on community safety (see page 13). Nevertheless, as one of the Commission's large projects which need to be progressed steadily over a long period, the completion of an Evidence Code retains its high priority.

Criminal procedure

The need to press on with all work contributing to an Evidence Code, in criminal as well as civil cases, has affected the Commission's priorities among the large number of topics which fall within the scope of its reference from the Minister of Justice requiring it to review the whole of the law governing criminal procedure.

In the year under review, the Commission's main task was to complete a first report following on from its discussion paper *Criminal Evidence: Police Questioning* (NZLC PP21), published in September 1992. That publication generated widespread public debate, most of it well-informed and constructive, though not uncritical. The Commission also received a range of formal submissions, all of which were given careful consideration. In addition, the Commission's proposals were the subject of two well-attended seminars, giving the opportunity to discuss the issues in depth.

The first report, in near-final form by the year's end, deals with police questioning and the admissibility of improperly obtained evidence. None of the criticisms of the Commission's proposals in these areas was so serious as to require modification of their essential thrust, but they did lead the Commission to make some important changes in matters of detail. A second report, also arising from NZLC PP21, will deal with the right of silence and confessions.

The Commission made progress with research on the privilege against self-incrimination and identification evidence, again topics integral to the proposed Evidence Code. It also completed an outline of a discussion paper on the prosecution process, following on from its issues paper *The Prosecution of Offences* (NZLC PP12), with a view to undertaking further research on particular issues.

Law of property

Property Law Act The Commission presented its report *A New Property Law Act* (NZLC R29) to the Minister of Justice on 28 June 1994. The report recommends a draft Act to replace the Property Law Act 1952.

The draft Act repeals and replaces, to the extent necessary, all the Imperial enactments relating to property that are still in force in New Zealand (see the Imperial Laws Application Act 1988 and the Law Commission's report *Imperial Legislation in Force in New Zealand* (NZLC R1), paras 49–75). It also codifies, and in some cases modifies, aspects of the common law, particularly in relation to mortgages and leases.

The draft Act was developed after extensive consultation. It is written, so far as possible, in plain language. It is reproduced in the report in the format recommended by the Commission for all legislation (see *The Format of Legislation* (NZLC R27)).

The report on a new Property Law Act completes the Law Commission's review and reform of a large area of the law that is fundamental to the efficient conduct of all commercial activity.

Tenure and Estates As foreshadowed in last year's annual report, the Commission continued work on a report on reform of the doctrine of tenure and estates in land. To a large extent the draft report follows the proposals put forward in the Commission's discussion paper on the subject (NZLC PP20). The legislation to accompany the recommendations contained in the report will be drafted when the relationship between the Commission's proposals and the Land Transfer Act 1952 has been further clarified. Once that work has been completed, further consultation will be held with Maori and other interested parties. Consequential amendments to the draft of the new Property Law Act will be included in the Commission's report.

Aspects of damages: interest on money claims

On 24 May 1994 the Commission presented to the Minister of Justice its report *Aspects of Damages: The Award of Interest on Money Claims* (NZLC R28). This is the third and, for the time being, last report in a series dealing with the law of damages (see also NZLC R18 and R19).

The Commission's latest report in this area, dealing with interest on debt, damages and other valid money claims, found the existing common law and statutory provisions to be unsatisfactory because they

fail to compensate plaintiffs effectively and consistently for being kept out of money owed to them. The Commission therefore recommended a new, comprehensive and mandatory statutory regime which gives the court a discretion to depart from it only in a limited range of special circumstances. The main features of the draft Act recommended by the Commission are as follows:

- Interest must be awarded
 - on all money judgments and valid money claims,
 - from the date of entitlement to the money to the date of payment in full,
 - at a rate which fluctuates with market interest rates, and compounds over time, but
 - only if proceedings for recovery of the money claim have been commenced.
- The interest rate must be calculated
 - by reference to the two-year government stock yield rate,
 - with provision for compounding on monthly rest days, and
 - without taking into account any taxation consequences of the award of interest.
- The amount of interest is to be incorporated into a table of multipliers (to be published monthly by the Department of Justice) from which the total amount payable at a particular date, including interest, can be calculated readily in each case.

Succession

During the year the Commission completed an internal paper identifying the areas and issues which would need to be examined in reforming and developing the law of succession. It also undertook other background research. This provided a basis for planning ongoing work, including research into the questions and values relating to matters of succession seen as important by the various groups within the New Zealand community.

In particular, the Law Commission asked experts to prepare two sets of papers. The first set, on the present-day operation of the Family Protection Act 1955, was discussed at a seminar held in February 1994 attended by the authors of the papers and others. The second set, dealing with relevant social and public policy issues, was discussed at

a further seminar convened in May 1994 with the assistance of Kay Saville-Smith, New Zealand Institute for Social Research and Development. A member of the Commission's staff also assisted the Department of Social Welfare with research on the nature of the New Zealand family.

At a further one-day seminar, held in May 1994 at the offices of the Law Commission, Professor John Wade from Bond University, Queensland, Australia, discussed mediation processes with those involved in the succession project. The seminar was organised by the Principal Family Court Judge, Judge Mahony, in conjunction with the New Zealand Law Society and the Law Commission, and was attended by the Chief Ombudsman, the Solicitor-General, the Banking Ombudsman and representatives from the New Zealand Law Society, the Legal Services Board and the Department of Justice.

The Commission also arranged for the setting up, in the various regions of New Zealand, of seven groups consisting of members of the practising legal profession, academics and other interested persons. Their mandate is to discuss and respond to a series of issues papers prepared by the Law Commission or expert consultants on the disposition of statutory claims against the estate of deceased persons, including, in particular, claims under the Family Protection Act 1955 and the Law Reform (Testamentary Promises) Act 1949.

Finally, the Commission asked two experts to prepare papers on the issues relevant to the succession project that are likely to be of concern to Maori, and to advise the Commission on ways in which the Commission could best consult with the wider Maori community. By the year's end the research had been progressed to the point at which the consultants were able to have useful discussions with the Commission and its Maori Committee. The Commission was advised that the law of succession goes to the heart of tikanga Maori. Its initiative in reviewing this area of the law was welcomed, but the Commission was left in no doubt that, in taking on the task of doing so in a way that meets its statutory duty to take account of te ao Maori, it had accepted a major challenge.

Legislation

The Commission has both a standing reference from the Minister of Justice and a statutory duty to advise on ways of making the law of New Zealand as understandable and accessible as is practicable. The attainment of this goal will result in significant long-term savings in costs for everyone concerned with making, administering or applying the law.

In December 1993, the Commission published its report *The Format of Legislation* (NZLC R27). The report recognised the growing awareness, in New Zealand and elsewhere, that the physical appearance of legislation is an important factor affecting access to the law. It recommended changes to the design and typography of legislation when published under the authority of the New Zealand Government, and presented a sample statute in the proposed new format. The response to the Commission's recommendations has been generally very positive, both from within New Zealand and overseas. Its proposals were taken up by the Working Party on the Reorganisation of the Income Tax Act 1976, especially in its Second Report (September 1993; see also **Follow-up**, page 16).

Work continued on developing a draft *Legislation Manual for New Zealand*, though it could not be given a high priority. The Commission plans to publish parts 1–3 of the draft manual, dealing with the development of legislation, its structure, and matters of style, under cover of a first report which will also foreshadow the publication of part 4. Part 4 will suggest approaches to recurring policy and drafting questions (such as the conferment of discretions or rights of appeal) and will include standard provisions to be departed from only if there is good reason. Part 4 is to be published in instalments, each instalment being covered by a further brief report. Work on the draft *Legislation Manual* assumes that a new Interpretation Act will be enacted (see the Commission's report NZLC R17 and the draft Act there recommended).

The Law Commission is committed to promoting the use of plain language in all legal writing, but particularly in the drafting of legislation. In October 1993, Professor Joseph Kimble of Thomas M Cooley Law School, an expert on plain legal language who was visiting New Zealand for the purpose of conducting seminars with the wider legal community, held an instructive and enjoyable discussion with members of the Commission and its staff.

Community safety

In late February 1994, the Commission received from the Minister of Justice a reference asking it to consider, “with the purpose of protecting members of the public from substantial risk of harm from individuals whose release into the community would pose that risk”, relevant provisions of the Mental Health (Compulsory Assessment and Treatment) Act 1992, including its definition of “mental disorder”, and the Criminal Justice Act 1985. The Commission was also asked, with the same purpose, to consider whether the Criminal Justice Act 1985 or any other enactment should be amended to confer a power to

continue to detain a person beyond the time the person is, under the present law, entitled to be released.

In each case the Commission was required to consider appropriate powers and procedures, including safeguards for the protection of the individuals concerned. The Commission was also required to have regard to the situation of children and young persons who are detained in the custody of the Director-General of Social Welfare under the Children, Young Persons, and Their Families Act 1989 and pose a substantial risk of harm to other members of the public.

The Commission gave priority to the completion of a report. By 30 June 1994 it had approved a near-final draft. (The report, *Community Safety: Mental Health and Criminal Justice Issues* (NZLC R30), was published on 30 August 1994.)

In the meantime, on 30 March 1994, a Mental Health (Compulsory Assessment and Treatment) Amendment Bill had been introduced in Parliament and referred to the Social Services Select Committee. The issues addressed by the Bill overlapped those raised by the Commission's terms of reference. The Law Commission therefore made a submission on the Bill, and subsequently appeared before the Select Committee on two occasions. The second meeting was also attended by members of the Justice and Law Reform Select Committee.

The Commission's submission did not support the Bill's aim of creating a new detention regime separate from the existing criminal justice and mental health systems for persons who are considered dangerous by reason of intellectual impairment to a "severe" degree or a personality disorder. The submission noted that there were difficulties in predicting the dangerousness of particular individuals, and considered that the proposals had an element of retrospectivity in their application to former mental health patients.

While acknowledging that there might be some intellectually impaired offenders who could not be dealt with readily under the present law by either the mental health or the criminal justice systems, the Commission noted that the most severely impaired posed little risk of dangerous offending. On the other hand, persons with personality disorders whose offences had shown that they were likely to remain dangerous could and should be dealt with by the criminal justice system. The submission agreed with the Bill's aim of broadening the definition of "under disability" in s 108 of the Criminal Justice Act 1985 to remove the requirement of dangerousness and to clearly include intellectually handicapped persons and others who, by reason of their mental state,

were unfit to stand trial. The Commission suggested that, if the amendment Bill were to proceed, there were various ways in which it could be improved. (The Commission's submission is reproduced in appendix B to its report. The report itself addresses the underlying issues in greater depth.)

Official Information Act 1982

During the year the Commission completed a draft report on the Official Information Act 1982. This draft was circulated to government departments, academics, and interest groups for comment. Many submissions were received. During February and March 1994, meetings were held with interested parties to discuss the draft report. There were differing responses to the Commission's initial view that the Act was, in general, working well. The meetings also highlighted the role of the Official Information Act in the changing political environment. This matter was discussed further by Sir Kenneth Keith in papers presented at the Newspaper Publishers Association of New Zealand (Inc) 1994 Editors Conference and a conference on Public Accountability in the MMP Environment.

The task of reviewing the draft report in the light of the helpful submissions received was delayed by the need to give priority to the work on community safety (see above). The Commission plans to complete this task and publish the report in the next financial year.

Other projects

In general, it was not possible to devote resources to other projects on the Commission's programme, all of which had been given a low priority at the beginning of the year. However, some work was done in identifying the issues relevant to the review of *Remedies for Wrongs to Goods*. In relation to the *Apportionment of Civil Liability*, the Commission began, in response to the submissions received on its discussion paper on that topic (NZLC PP19), to re-examine, from both the legal and the economic viewpoint, the question whether those contributing to a loss should retain solidary liability for the whole of the loss as well as individual liability for their share. Preliminary research was completed on the review and replacement of the Imperial Acts relating to the remedy of *Habeas Corpus*.

There was little activity during the year in relation to *Private International Law*, apart from the Commission's continued association with the Pacific Economic Cooperation Council (PECC). In September

1993, it was represented at a meeting of that organisation in Singapore by Mr Roger Pitchforth of the Faculty of Business Studies at Massey University. The President, at the request of the Commonwealth Secretariat, prepared a paper on the implementation of treaties in national law for the Commonwealth Law Ministers meeting held in Mauritius in November 1993. It drew on the papers given to the Commonwealth Law Conference and Commonwealth Law Reform Agencies Conference earlier in the year.

The Commission decided that, as from 1 July 1994, the project would be renamed *International Obligations*, with the changed focus of promoting awareness of, and compliance with, New Zealand's international obligations, as well as promoting the internationalisation of the law where appropriate. The work being done on choice of law issues would be picked up, so far as relevant, in the succession project. The initiative to review the question of jurisdiction and the enforcement of foreign judgments, on which it had been possible to do only a small amount of work, would not, for the time being, be pursued.

Advisory work arising out of projects on the Commission's programme is included in the account of that output (page 29).

Follow-up

The Commission was pleased to note the enactment of the Sale of Goods (United Nations Convention) Act 1994 (formerly clauses 230–235 of, and the Schedule to, the Law Reform (Miscellaneous Provisions) Bill (No 2), on which the Commission had provided comments). The new Act will give the force of law in New Zealand to the 1980 United Nations Convention on Contracts for the International Sale of Goods. It was assented to on 1 July 1994 and enters into force on a date to be appointed, the intention being that this should be the date on which the Convention will become binding on New Zealand. In its report NZLC R23, the Commission set out the reasons why the New Zealand Government should accede to the Convention and sought to enhance understanding of its provisions among members of the legal profession and the trading community.

The Commission continued to be involved in the implementation of aspects of the company law reform package arising from its reports *Company Law: Reform and Restatement* (NZLC R9) and *Company Law Reform: Transition and Revision* (NZLC R16). The new Companies Act 1993 and related legislation entered into force on 1 July 1994. During the year under review, the Commission responded to

numerous requests for information about the new companies regime. It also took part in a meeting with a delegation from the Australian Parliamentary Joint Committee on Corporations and Securities, contributed to work on new Liquidation Regulations, and on amendments to the Receivership Act 1993 and the Property Law Act 1952 proposed in the Company Law Reform (Miscellaneous Provisions) Bill, and made a submission to the Justice and Law Reform Select Committee on amendments to the Insolvency Act 1967 proposed in the Law Reform (Miscellaneous Provisions) Bill (No 2). Professor Sutton took part in the deliberations of a working party set up by the Trustee Companies Association to deal with the apportionment by trustees of returns from investment, in the light of the relaxation, under the Companies Act 1993, of the rule requiring nominal capital to be maintained.

The Commission followed up its report on *The Format of Legislation* (NZLC R27) in discussions with the Speaker and a meeting with the Finance and Expenditure Select Committee which was considering the Second Report of the Working Party on the Reorganisation of the Income Tax Act 1976. The sample presentations in the Working Party's report had largely followed the Commission's recommended format. Both the Speaker and the Committee were supportive of the changes proposed. The Commission was also invited to brief the Justice and Law Reform Select Committee which, on 8 March 1994, reported as follows:

The Justice and Law Reform Committee has considered the Law Commission Report *The Format of Legislation* and endorses the recommendations for a proposed new format of legislation contained in that report. The committee recommends to the House that the proposed new format of legislation be considered by the Standing Orders Committee.

As a follow-up to the Commission's report *Intellectual Property: The Context for Reform* (NZLC R13), which recommended an integrated approach to all aspects of intellectual property law reform, Professor Sutton participated in the establishment of the Copyright Consultative Committee and its subsequent work. This included work on the Layout Designs Bill.

In addition, on a number of occasions the Commission discussed with the Minister of Justice and his Department the prospects for the introduction of Bills based on the draft Acts contained in other Commission reports. In a post-election briefing paper given to the Minister of Justice on 29 November 1993, the Commission noted that

the National Party, in its election manifesto, had announced support for the enactment of legislation recommended by the Commission in three of its reports—*A Personal Property Securities Act for New Zealand* (NZLC R8), *Arbitration* (NZLC R20) and *A New Interpretation Act* (NZLC R17)—and that the first two of these were also expressly supported by the Labour Party.

Subsequently, the Commission discussed with the Minister the ways in which the introduction of the legislation recommended in these and other Commission reports would support four themes emphasised in briefing papers submitted to Ministers by the Department of Justice, The Treasury and the Ministry of Commerce. These were: the internationalisation of the law; the value of good contract law; the preparation of better legislation; and the settlement of disputes. All were seen as contributing to the goal of enhanced economic performance.

The reports still under consideration by the Minister of Justice at 1 July 1994 are listed in the Commission's objectives for the year ending 30 June 1995 (see **Follow-up** page 28).

Advisory work

The Law Commission's advisory work continued to grow in volume and to cover an increasingly wide range of topics. Sometimes it was connected with work on current projects, or with matters on which the Commission had expertise by reason of its earlier reports. In other cases it reflected increasing awareness that the Commission is a source of objective advice based on a wide view of the law and its administration. Ministers, officials and public and private sector agencies seeking to promote or give effect to new law in particular areas turned to the Commission for advice on whether their proposals accorded with general legal principle and meshed well with the law as a whole.

The Commission has, of course, to be careful about the balance it maintains between its project and its advisory work. Nevertheless, it is clear that, in both the short and the longer term, the Commission is able, through its advisory work, to make significant progress towards its goal of coherent and accessible law. This is all the more useful at a time when the opportunities for the inclusion of law reform measures in the Government's legislative programme are limited.

Advisory work ranged from brief comments to the preparation of substantial papers and participation in interdepartmental and other

committees and working groups. It related to a wide variety of matters, of which the following are examples:

- proposals for legislation, including
 - the reorganisation of the Income Tax Act 1976 (involving membership of the Working Party on the Reorganisation of the Income Tax Act 1976 which published two reports in the course of the year),
 - compulsory DNA testing and the setting up of a DNA database,
 - reform of the minor offence and infringement notices procedure,
 - transport law reform,
 - civil defence legislation,
 - the Children, Young Persons, and Their Families Amendment Bill (submission to the Social Services Select Committee),
 - the retention and disposal of personal information about health or disability,
 - the Antarctica (Environmental Protection) Bill (submission to the Foreign Affairs and Defence Select Committee),
 - new fisheries legislation, and
 - the review of the Residential Tenancies Act 1986;
- recently enacted legislation, including
 - the Takeovers Code, and
 - provisions for Service Charters and Rule development in transport legislation;
- constitutional issues, including
 - the role of the Governor-General in relation to the formation of a government,
 - the structure of the courts if appeals to the Judicial Committee of the Privy Council were to be abolished,
 - the giving of certificates by the Attorney-General under the New Zealand Bill of Rights Act 1990,
 - whether a Retirement Commissioner, if appointed, should be an officer of Parliament,

- constitutional issues arising from the Health Commissioner Bill,
- the consideration of environmental issues in settling claims under the Treaty of Waitangi, and
- changes likely to flow from the institution of a proportionally elected Parliament;
- international law issues, particularly the implementation in domestic law of New Zealand’s international obligations, generally and in specific contexts (see, as a consequence of the volume of work and wide interest in this area, the decision to undertake, in the 1994/95 financial year, the renamed project *International Obligations*, page 16);
- issues of policy or practice relating to particular areas of the law, including
 - the Accident Rehabilitation and Compensation Insurance scheme,
 - the Cabinet Office Manual,
 - the Ministry of Health’s consumer safety project,
 - the withdrawal of food and fluids from patients in a persistent vegetative state,
 - the consistency of breath screening powers with the New Zealand Bill of Rights Act 1990, and
 - the law and policy relating to the non-profit sector;
- general issues relating to the nature of law, law-making processes and law reform, including
 - participation in the work of a subcommittee of the Courts Consultative Committee which is reviewing the measures taken in other countries comparable to New Zealand to address gender bias in the court system, and
 - the preparation, on a regular basis, of summaries of current developments in New Zealand public law.

Legislation Advisory Committee

The Commission again contributed to the work of the Legislation Advisory Committee, through Sir Kenneth Keith’s participation as a

member, the assistance given by other Commissioners and members of the Commission's research and secretarial staff, and the provision of office space and facilities for the Chairperson of the Committee, Dr Mervyn Probine.

During the period under review, the Committee made submissions on the following Bills:

- Ozone Layer Protection Amendment Bill (No 2);
- Fiscal Responsibility Bill, and consequential amendments to the Public Finance Act 1989;
- Layout Designs Bill;
- New Zealand Sports Drug Agency Bill;
- Te Ture Whenua Maori Amendment Bill.

It also made comments on the proposed Customs and Excise Bill, the draft Health and Safety in Employment (General Workplace Conditions) Regulations, and the departmental drafts of a Hazardous Substances Bill and Transport Infringement Notices. With the assistance of the Commission, it began work on legislative requirements of consultation.

For a discussion of the substance of the Committee's recent work, see *Report of the Legislation Advisory Committee, 1 July 1992 to 31 December 1993: Issues of Principle* (Report No 8).

PERSONAL RESPONSIBILITIES OF COMMISSIONERS

Sir Kenneth Keith, as a member and Vice President of the International Humanitarian Fact Finding Commission established under the First Additional Protocol to the Geneva Conventions for the Protection of War Victims, attended the annual meeting of that Commission in Berne in February 1994, and, with colleagues, met the representatives of the permanent members of the Security Council and Dr Boutros Boutros Ghali, the Secretary-General, at United Nations Headquarters in New York. As a member of the Permanent Court of Arbitration, he participated in a meeting of members of the Court held at The Hague in September 1993.

The Honourable Justice Wallace continued to serve as a member of the Courts Consultative Committee with particular responsibilities in relation to court administration and case flow management. In February

1994 he was appointed as the first President of the Electoral Commission constituted by the Electoral Act 1993. He also sat from time to time in the High Court.

THE LAW COMMISSION'S MEMBERS AND STAFF

Commissioners

On 7 February 1994, Joanne Morris OBE was appointed as a Law Commissioner. She brings to her work the benefit of her experience as a member of the law faculty, first at Sydney University and later at the Victoria University of Wellington, as Chairperson of the Ministerial Committee of Inquiry into Pornography and as a member of both the Broadcasting Standards Authority and the Waitangi Tribunal. Because the two last-mentioned responsibilities are ongoing, her appointment to the Law Commission is part-time.

The Honourable Justice Blanchard took up his appointment as a Judge of the High Court in August 1992, but remained a member of the Law Commission in order to oversee the completion of a report on a new Property Law Act, for which he was the convening Commissioner. With the delivery of the completed report to the Minister of Justice, the Honourable Justice Blanchard resigned from the Law Commission with effect from 30 June 1994. The Commission is grateful for all that he continued to contribute to the project while at the same time carrying out his judicial duties.

Staff

The year saw a high staff turnover, in part as a reflection of the Commission's policy of not offering long-term careers to the members of its legal research staff. Two senior legal research officers, Carolyn Risk and Nicola White, left to take up other positions in the public sector, the first as a member of the staff of the Commerce Commission and the second as an official in the Department of the Prime Minister and Cabinet. Two legal research officers, Kevin Kelly and Dean van Mierlo, also left, each to make a change of career direction involving overseas travel. A secretary, Leanne Kelly, and our office assistant, Melissa Harrison moved to other employment. During their time with the Commission, all made a distinctive contribution to its work for which we are grateful.

The Commission was fortunate in being able to make a larger than usual number of new appointments to its research staff. This was, however, attributable more to the quality of the applicants than to a

planned long-term change in the Commission's staff establishment. Janet Lewin, Diane Stephenson and James Mullineux were appointed as senior legal research officers, and Ross Carter, Vanessa Inskip, Ian Murray, Diana Pickard and Penny Webb-Smart joined us as legal research officers. Moira Thorn joined the secretarial staff and Brenda Speak became our new office assistant. Rachel Brown was engaged as a filing and library clerk on a part-time basis.

A list of Commissioners and staff members as at 30 June 1994 is set out in appendix A.

PART 2

The Law Commission's Objectives

The Law Commission has revised the statement of its long-term business objectives to relate them more closely to its aim of helping to achieve coherent and accessible laws that reflect the values and aspirations of New Zealand society.

LONG-TERM BUSINESS OBJECTIVES

What is the Law Commission's business?

The Commission's business is to improve:

- the substantive content of the law of New Zealand;
- the law-making process;
- the administration of the law;
- methods of resolving disputes
 - between one member of the public and another, and
 - between members of the public and the state.

What drives the Law Commission's business?

The Commission meets identified needs for the reform and development of the law or its administration, particularly where

- the area of law is complex and requires thorough-going revision over an extended period, and
- the work cannot more appropriately be done by another agency.

What are the outputs of the Law Commission's business?

The Commission's outputs belong to the Output class: policy advice.

The Commission gives policy advice through

- its **projects** for the reform and development of particular aspects of the law, taken up at the request of the Minister of Justice or on the Commission's own initiative, and leading to a report recommending changes to the law or its administration, including draft legislation if appropriate;
- its **follow-up** to its 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, and
 - participating in appropriate ways in the preparation of legislation implementing the Commission's recommendations and in the parliamentary processes leading to its enactment;
- its **advisory work** on aspects of the law being reviewed by other public sector bodies, or on proposals made as a result of the review, and, as opportunity arises, on ways in which
 - the law can be made as understandable and accessible as possible, and
 - the substance of the law as a whole, its administration and law-making processes can be systematically improved;
- its contribution to the work of the **Legislation Advisory Committee**.

What are the Law Commission's values?

In giving policy advice, the Law Commission

- considers the nature and needs of New Zealand communities, families, individuals, businesses and other private sector organisations;
- seeks to achieve a balance among the goals of enhanced economic performance, social justice, and the protection of the environment;

- strives to ensure that proposals for the reform or development of the law
 - conform with general legal principles,
 - have a clearly defined scope,
 - can be consistently applied,
 - fit coherently with the rest of the legal system, and
 - are inherently fair according to general community standards;
- takes into account te ao Maori (the Maori dimension) and gives consideration to the multicultural character of New Zealand society;
- gives effect to the principles of the Treaty of Waitangi, the New Zealand Bill of Rights Act 1990 and New Zealand's international obligations;
- is responsive to the increasing internationalisation of the law and the way in which unified or harmonised law assists New Zealand to operate in an integrating world economy;
- takes account of enduring constitutional, legal and political principles and responsibilities relating to the conduct of public affairs, as well as recent changes in the New Zealand constitution and government structures including
 - a proportionally elected Parliament, and
 - the increased transparency in, and accountability for, the use of the taxpayers' money and assets.

What are the Law Commission's quality standards?

The Commission's policy advice

- is based on accurate research into, and analysis of, the relevant facts as well as the existing law and practice;
- sets out and applies the relevant values and principles, including, where appropriate, the costs and benefits of the Commission's proposals according to the best available information and methods of analysis;
- simplifies the expression and content of the law, so far as possible;

- is based on wide and open consultation with all affected interests, including the general public, or organisations representing sections of the public, to the full extent appropriate and practicable in the particular case;
- is given independently and, in the case of its reports, publicly.

Who are the Law Commission's customers?

Because the Law Commission is required to publish every report that it submits to the Minister of Justice, its policy advice given in that way is in the public domain. Its constitutive Act gives it wide ranging powers to publicise its work in other ways. For these reasons, the Commission's recommendations and advice are pervasive in their effect.

Its customers are

- all members of the public, and organisations representing interested or affected sections of the public: they are the ultimate users of the law;
- members of the legal and other professions and experts in a variety of fields: they contribute to and benefit from the Commission's work by helping it to identify issues and apply standards relevant to particular areas of the law and the law as a whole;
- members of the judiciary and others engaged in dispute resolution: in applying the statute law, as well as the common law and equity, they take account of policy issues and trends identified in the Commission's reports and other publications;
- government departments and other public sector organisations, the Minister of Justice and other Ministers, Cabinet, Parliamentary Select Committees and Parliament as a whole: they
 - consider the recommendations made in the Commission's reports, or Bills based on draft legislation recommended in the Commission's reports, and
 - draw on the Commission's reports and other advice and consider submissions from the Legislation Advisory Committee in reviewing other aspects of the law of New Zealand.



OBJECTIVES FOR THE YEAR ENDING 30 JUNE 1995

In the light of its long-term business objectives, the Law Commission has set the following objectives for the 1994/95 financial year.

Projects

To carry through their various stages towards final report the projects for the reform and development of particular areas of the law which are on the Commission's programme, in accordance with the priority accorded to each project from time to time.

To consider the implications of including new projects in its programme, at the request of the Minister of Justice or on the Commission's own initiative.



Follow-up

To follow up, in the manner described in its **Long-term business objectives**, the following final reports:

<i>A Personal Property Securities Act for New Zealand</i>	NZLC R8	April 1989
<i>Arbitration</i>	NZLC R20	October 1991
<i>Contract Statutes Review</i>	NZLC R25	May 1993
<i>A New Property Law Act</i>	NZLC R29	June 1994
<i>Aspects of Damages: The Rules in Bain v Fothergill and Joyner v Weeks</i>	NZLC R19	May 1991
<i>Aspects of Damages: The Award of Interest on Money Claims</i>	NZLC R28	May 1994
<i>Limitation Defences in Civil Proceedings</i>	NZLC R6	October 1988
<i>Criminal Procedure: Part One: Disclosure and Committal</i>	NZLC R14	June 1990
<i>A New Interpretation Act: To Avoid "Prolixity and Tautology"</i>	NZLC R17	December 1990
<i>The Format of Legislation</i>	NZLC R27	December 1993
<i>Final Report on Emergencies (Draft War Emergencies Act only)</i>	NZLC R22	December 1991

Intellectual Property: The Context for Reform

NZLC R13 March 1990

Community Safety: Mental Health and Criminal Justice Issues

NZLC R30 August 1994

Police Questioning

NZLC R31 October 1994

Advisory work

To provide advice on the review, reform or development of aspects of the law of New Zealand by government departments or other public sector organisations, or on proposals made as a result of the review,

- at the request of the Minister of Justice, other Ministers, Cabinet or Select Committees, and, to the extent that resources permit, other government agencies, and

on the Commission's initiative where the proposals bear on the Commission's projects or Commission involvement is likely to contribute significantly to achieving the Commission's aim.

As opportunity arises, to advise on ways in which

- the law can be made as understandable and accessible as possible, and
- the substance of the law as a whole, its administration and law-making processes can be systematically improved.

Legislation Advisory Committee

To contribute to the work of the Legislation Advisory Committee, through

- the participation of Sir Kenneth Keith as a member of the committee,
- the assistance of other Commissioners and the Commission's research and secretarial staff, and
- the provision of office accommodation for the Chairperson of the Committee, Dr Mervyn Probine.

*Advisory work
Required to
developed to
advise all
to be awarded
target not sp
direct output
hours for 7 am
for staff
member.
Output #
interim project*

*Indirect output
= overlaid.
Signals contribution
of K&K to external
issues of DoJ review.*

*Priority areas:
Job -
Need to review
how to work @ staff
1 extra person available??
Must depend on chair
This decision on chair
of JCS. Staff
expectations*

? what level?

**PROJECTS ON
THE LAW COMMISSION'S PROGRAMME
AS AT 1 JULY 1994**

GROUP: Evidence/Criminal procedure

<i>Project</i>	<i>Subproject</i>	<i>Priority</i>	<i>Status</i>
Evidence <i>Purpose</i> To replace the present complex and uncertain common law and statutory rules of evidence with an evidence code	Documentary evidence	1	Discussion paper published; submissions being considered
	Privilege	1	Discussion paper published; submissions being considered
	Conduct, character and credibility	1	Discussion paper to be completed
	Competence of witnesses; vulnerable witnesses	1	Discussion paper to be written
	Witness questioning rules	1	Research paper being prepared
	Miscellaneous research tasks	1	Research to be undertaken
	Report	1	Report with draft Evidence Code to be written and published
Criminal procedure <i>Purpose</i> To review the whole of criminal procedure, to ensure that it provides for fair trials and effective and efficient investigation and prosecution of offences, taking account of New Zealand's obligations under the International Covenant on Civil and Political Rights, the New Zealand Bill of	Police questioning and confessions	1	Report on police questioning and improperly obtained evidence to be published Report on right of silence and confessions to be written
	Privilege against self-incrimination	1	Research paper to be revised; discussion paper to be prepared
	Identification evidence	1	Research paper to be completed
	Prosecution of offences	1	Research papers to be written; discussion paper to be prepared

<i>Project</i>	<i>Subproject</i>	<i>Priority</i>	<i>Status</i>
Rights Act 1990 and the Treaty of Waitangi	Diversion	1	Research to be undertaken and paper prepared
	Powers of entry, search and arrest	2	NZLC R22 recommended the enactment of legislation codifying police powers and the repeal of the International Terrorism (Emergency Powers) Act 1987
	Jury trials	2	Preliminary research completed
	Classification of offences	3	Background research to be completed
	Principles for the reform and development of criminal procedure	3	Background research to be completed
	Preliminary hearings	3	Work yet to be planned and scheduled
	Onus of proof	3	
	Bail and remand	3	
	Trial process	3	
	Payment of costs to acquitted persons	3	

GROUP: Commercial law and property

<i>Purpose</i> To replace the Wills Act 1837, the Administration Act 1969, the Family Protection Act 1955 and the Law Reform (Testamentary Promises) Act 1949 with a new Succession Act which will simplify the law, enable better effect to be given to the intentions	Succession	Wills	1	Research being undertaken with the help of outside experts and in conjunction with interested parties, particularly social science experts and the legal profession; consultation being undertaken with Maori; report on family protection to be written, if necessary preceded by a discussion paper
		Non-wills	1	
		Policy	1	
		Procedures	1	

<i>Project</i>	<i>Subproject</i>	<i>Priority</i>	<i>Status</i>
of testators and take account of the diversity of New Zealand families			
Property	Tenures	2	Further research being undertaken on implications of the abolition of tenures and estates for the Land Transfer Act 1952; consultation to be undertaken with Maori; results to be reflected in draft report which will include consequential amendments to the new Property Law Act recommended in NZLC R29
<i>Purpose</i> To review and modernise the Property Law Act 1952 and other aspects of the law of property			
Remedies for wrongs to goods		2	Need for reform to be evaluated; purpose and scope of project to be defined
<i>Purpose</i> To review the fragmentary common law remedies and replace them with a modern statute			
Apportionment of civil liability		2	Consideration of submissions and new issues to be completed; report to be written
<i>Purpose</i> To review the law relating to liability where the acts or omissions of two or more persons cause loss or damage			
Guarantees		2	Research to be completed
<i>Purpose</i> To review the law of guarantees with a view to replacing it with a comprehensive statutory regime			

<i>Project</i>	<i>Subproject</i>	<i>Priority</i>	<i>Status</i>
Unfair contracts		3	Consider whether to write a report
<i>Purpose</i>			
To review aspects of the law of contract and ensure that it meets the needs of the commercial community and consumers			
GROUP: Public law			
Official Information Act 1982		1	Report to be completed and published
<i>Purpose</i>			
To review the operation in practice of aspects of the Act			
Community safety		1	Report to be published
<i>Purpose</i>			
To consider relevant provisions in the Mental Health (Compulsory Assessment and Treatment) Act 1992 and the Criminal Justice Act 1985 with the purpose of protecting members of the public from substantial risk of harm from individuals whose release into the community would pose that risk			

<i>Project</i>	<i>Subproject</i>	<i>Priority</i>	<i>Status</i>
Legislation <i>Purpose</i> To make the law of New Zealand as understandable and accessible as practicable	<i>Legislation Manual</i> Parts 1-3	1	Report to be completed, together with Parts 1-3 of Manual
	Part 4	1	Work on Part 4 of Manual to be organised and supervised, with a view to publishing one to two instalments in the 1994/95 financial year
Habeas Corpus <i>Purpose</i> To review and replace the Imperial Acts dealing with the remedy of Habeas Corpus		1	Research to be completed; consultation to be undertaken as necessary and report to be written
International Obligations (formerly Private International Law) <i>Purpose</i> To promote the adoption of uniform or harmonised law and law consistent with New Zealand's international obligations	<i>Guide to International Legal Materials</i>	1	Draft research and resource guide to international legal materials of relevance in policy making to be prepared and circulated, with a view to the eventual publication of a report
Crown <i>Purpose</i> To review the legal status of the Crown, generally and in the context of the Crown Proceedings Act 1950		2	Advice already provided on the legal status of the Crown to be reviewed and further work required to complete the project, including a review of the Crown Proceedings Act 1950, to be identified

<i>Project</i>	<i>Subproject</i>	<i>Priority</i>	<i>Status</i>
Foreign state immunity		3	Work to follow completion of project on the Crown
<i>Purpose</i> To review the law of foreign state immunity taking account of the development of international law in this area, particularly in relation to the commercial activities of governments			
Digest of Law Reform in progress		3	To be re-evaluated, to see if the Commission has the resources to reactivate this project
<i>Purpose</i> To record in a database proposals for law reform and law reform work currently being undertaken by other agencies			

Possible projects

Fraudulent conveyances		2	Commission to decide whether to include a project on its programme
<i>Purpose</i> To consider whether to review the law on fraudulent conveyances with a view to extending it			
Women's access to justice		2	Concept outline and, if approved, a project definition to be prepared, with a view to the inclusion of a project on the Commission's programme
<i>Purpose</i> To consider whether there are barriers to women's access to justice with a view to their removal			

PART 3

Finance

The Law Commission is funded from money appropriated by Parliament. The financial statements for the year ended 30 June 1994 are attached.

At the beginning of the financial year the Commission had substantial reserves which had accumulated since the Commission's establishment, primarily as a result of its depreciation and investment policies.

For the year under review, the Commission budgeted for operating expenditure of \$3 612 545 (exclusive of GST). Its actual operating expenditure was \$3 205 873. This resulted in a deficit of \$223 713, as compared with the budgeted deficit of \$663 825.

This may be compared with the Commission's financial performance in the year ended 30 June 1993. In that year it budgeted for operating expenditure of \$3 606 357. Its actual expenditure was \$2 966 906. This resulted in a surplus of \$47 850, instead of the budgeted deficit of \$648 135.

The Commission's deficit budgeting is part of its strategy of bringing its grant and other income into closer alignment with its planned long-term operating level of about \$4 million a year (inclusive of GST). This involves running down its reserves to a level which will allow replacement of capital assets as required, as well as a small working capital, and at the same time seeking increased funding in the future to allow the proposed operating level to be sustained.

In the 1994/95 financial year, the Law Commission has budgeted for operating expenditure (including capital expenditure) of not more than \$3 775 034 (exclusive of GST). This expenditure will be funded mainly by a payment on behalf of the Crown from Vote: Justice of \$3 397 000 (inclusive of GST). The balance will be funded from the Law Commission's other income and accumulated reserves, resulting in a budgeted deficit of \$641 474.

REPORT OF THE AUDIT OFFICE

TO THE READERS OF THE STATEMENTS OF ACCOUNT OF THE LAW COMMISSION FOR THE YEAR ENDED 30 JUNE 1994

Authority and Scope of Audit

The statements of account appearing on pages 39 to 52 were prepared pursuant to section 41 of the Public Finance Act 1989 and are the responsibility of the Law Commission. The Audit Office's responsibilities include a requirement, pursuant to section 43 of the Public Finance Act 1989, to express an audit opinion on these statements.

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

Unqualified Opinion on Statements of Account

In our opinion the statements of account of the Law Commission fairly reflect:

- the achievement in respect of the performance targets and other measures adopted for the year ended 30 June 1994;
- the financial results and cash flows for the year ended 30 June 1994; and
- the financial position as at 30 June 1994.

H C Lim
Audit New Zealand
On behalf of the Controller and Auditor-General

12 October 1994
Wellington
New Zealand

LAW COMMISSION

STATEMENT OF MANAGEMENT

In the financial year ended on 30 June 1994, the management of the Law Commission was responsible:

- for the preparation of the annual financial statements and the judgments used therein;
- for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting.

In the opinion of the management of the Law Commission, the annual financial statements for the financial year fairly reflect the financial position and operations of the Law Commission.

K J Keith
President

J E Lett
Finance Manager

Statement of objectives for 1993/94

Performance measures

Outputs produced

of changed priorities or developments within the project itself.

See narrative account, pages 7 to 16, for a description of all work done.

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

Quality

All the Commission's project work was performed to 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.

Time

Except in the case of the project on community safety (see *Quantity*), the time taken for the production of project work was as set out in approved project plans, with such modifications as the Commission approved to take account of changed priorities or developments within the project itself.

Cost

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

Cost

The Commission set individual project budgets for all work to be done in the period 1 September 1993 to 30 June 1994 (or beyond if the budgeted phase of the project was to extend beyond the end of the financial year). **Time and other expenditure was recorded against the project budget, but the Commission's computer system did not permit cost-effective reporting of actual time and cost against the project budget.** The Commission's expenditure on its outputs as a whole was \$440 112 under budget.²

Statement of objectives for 1993/94

Follow-up

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, and
- participating in appropriate ways in the preparation of legislation implementing the Commission's recommendations and in the parliamentary processes leading to its enactment.

Performance measures

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.²

Quality

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

Outputs produced

Quantity

Follow-up included

- regular discussions and correspondence with the Minister of Justice and the Department of Justice about the inclusion in the Government's legislative programme of draft Acts recommended by the Law Commission;
- appearances before parliamentary select committees in connection with the Commission's recommendations on *The Format of Legislation* (NZLC R27);
- continuing discussion of, and input into, aspects of the new company law, based on the Commission's reports NZLC R9 and NZLC R16 and coming into force on 1 July 1994, and related issues.

See narrative account, pages 16 to 18, for a description of all work done.

Quality

All follow-up work was performed to the Commission's standards, as assured by its internal processes and external review.¹

Statement of objectives for 1993/94

Performance measures

Outputs produced

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.

Time

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

Cost

Within the budget for follow-up.

Cost

The Commission did not set a separate budget for follow-up for the 1993/94 financial year, but Commissioner and research officer time spent on discrete aspects of follow-up was charged to that output. The Commission's expenditure on its outputs as a whole was \$440 112 under budget.^{2,3}

Advisory work

To provide 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.

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
- 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.⁴

Quantity

The Commission again received a substantial number of requests for advice from Cabinet Ministers, departments and select committees and other sources. Therefore it was not, in general, possible for the Commission to advise on the law reform proposals of other agencies on its own initiative.

See narrative account, pages 18 to 20, for a description of all work done.

Statement of objectives for 1993/94

Performance measures

Outputs produced

Quality

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

Quality

All advice was provided to the Commission's standards as 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.

Time

All advice was provided 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.

Cost

The Commission did not set a separate budget for advisory work for the 1993/94 financial year but Commissioner and research officer time spent on advisory work was charged to that output. The Commission's expenditure on its outputs as a whole was \$440 112 under budget.²

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.

Quantity

The work done was as agreed with the Committee.

See narrative account, pages 20 to 21, for a description of all work done.

Quality

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

Quality

All work was performed to the Commission's standards as assured by its internal processes and external review.¹

Statement of objectives for 1993/94

Performance measures

Outputs produced

Time

As agreed with the Committee.

Time

All work was done within a timeframe agreed with the Committee.

Cost

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

Cost

The Commission did not set a budget for its contribution to the work of the Legislation Advisory Committee for the 1993/94 financial year but Commissioner and research officer time spent on that contribution was charged to that output. The Commission's expenditure on its outputs as a whole was \$440 112 under budget.^{2,5}

Notes to the Statement of Service Performance

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 consider and comment on successive drafts—and also wide consultation with interested agencies and groups before publication. In most cases, a discussion paper is published and widely circulated, and submissions on it are invited and considered before the preparation of a final report which itself contains a description of the consultation process followed in the particular case.

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, interested bodies and individuals in other countries.

In the case of follow-up, advisory work and assistance to the Legislation Advisory Committee, 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 submission, advice or other document, or received from the recipient, together with evidence of the extent to which the submission, advice or other document is accepted and acted upon.

2 In the 1993/94 financial year, the Commission made major improvements to its project management system. The Commission received regular reports on the quantity and timeliness of all work done in each phase of its projects. From 1 July 1994, the Commission will also receive regular reports on actual costs, as compared with budgeted costs, for each phase of its projects.

3 For budgetary purposes, the Commission's follow-up work is treated as if it were a single consolidated project.

- 4 For administrative and budgetary purposes, the Commission's advisory work is treated as though it were a single, consolidated project. Resources are 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 **Objectives for the year ending 30 June 1995** (pages 28–29), which relates its advisory role to the achievement of its aim.
- 5 For budgetary purposes, the Commission's contribution to the work of the Legislation Advisory Committee is treated as if it were a single consolidated project.

LAW COMMISSION

STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 1994

	Note	1994 \$	1993 \$
CURRENT ASSETS			
Bank of New Zealand		3 580	50 698
Call deposits		100 000	60 000
Short-term deposits	2	2 275 000	2 335 000
Accounts receivable		4 407	22 758
Prepayments		18 846	17 294
Interest receivable		42 134	25 247
Goods and Services Tax		16 438	8 245
		<u>2 460 405</u>	<u>2 519 242</u>
FIXED ASSETS	3	<u>380 882</u>	<u>499 156</u>
TOTAL ASSETS		<u>\$2 841 287</u>	<u>\$3 018 398</u>
CURRENT LIABILITIES			
Accounts payable and accruals		<u>267 282</u>	<u>220 680</u>
TOTAL LIABILITIES		<u>267 282</u>	<u>220 680</u>
ACCUMULATED FUNDS	4	<u>2 574 005</u>	<u>2 797 718</u>
TOTAL FUNDS EMPLOYED		<u>\$2 841 287</u>	<u>\$3 018 398</u>

The accompanying notes form part of the financial statements.

Signed on behalf of the Law Commission:

Alison Quentin-Baxter
Director

John Lett
Finance Manager

LAW COMMISSION

OPERATING STATEMENT FOR THE YEAR ENDED 30 JUNE 1994

	Note	1994	1993
		\$	\$
INCOME			
Government grant		2 817 778	2 817 778
Interest received		152 334	187 822
Sales of publications		12 048	9 156
Total Income		<u>2 982 160</u>	<u>3 014 756</u>
EXPENDITURE			
Personnel			
Salaries and wages		1 609 317	1 461 221
Superannuation		33 333	25 063
ACC levy		12 921	13 558
Fringe benefit tax		295	1 607
Commission activities			
Publications		121 913	62 592
Research and consultation		164 684	114 454
Travel		120 097	105 355
Library			
Library acquisitions		135 192	157 194
Searches - database		4 241	2 324
Computer software		3 757	20 655
Administration			
Audit fees		7 000	7 000
Bank charges		1 442	1 656
Cleaning		14 396	16 534
Communications		30 674	30 429
Depreciation		143 839	201 953
Electricity		14 299	13 141
Insurance		11 118	6 326
Loss on disposal of assets		-	9 910
Other operating		67 630	48 130
Professional services		120 577	102 706
Rent and rates		505 186	485 047
Repairs and maintenance		42 967	47 106
Stationery		40 995	32 945
Total Expenditure		<u>3 205 873</u>	<u>2 966 906</u>
Excess expenditure over income			
Transfer to accumulated funds	4/5	<u>\$(223 713)</u>	<u>\$47 850</u>

The accompanying notes form part of the financial statements.

LAW COMMISSION

STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 1994

	Note	1994 \$	1993 \$
CASH FLOWS FROM OPERATING ACTIVITIES			
Cash was provided from:			
Grant		2 817 778	2 817 778
Receipts from customers		12 460	9 802
Interest		135 448	191 591
		<u>2 965 686</u>	<u>3 019 171</u>
Cash was disbursed to:			
Payments to suppliers and employees		3 007 292	2 681 272
Net GST		1 520	26 198
		<u>3 008 812</u>	<u>2 707 470</u>
Net cash used in operating activities	5	<u>\$(43 126)</u>	<u>\$311 701</u>
CASH FLOWS FROM INVESTING ACTIVITIES			
Cash was provided from:			
Investments		60 000	-
Proceeds from sale of fixed assets		-	89
		<u>60 000</u>	<u>89</u>
Cash was applied to:			
Investments		-	285 000
Purchase of fixed assets		23 992	18 259
		<u>23 992</u>	<u>303 259</u>
Net cash from investing activities		<u>\$36 008</u>	<u>\$(303 170)</u>
CASH FLOWS FROM FINANCING ACTIVITIES			
Net increase (decrease) in cash held			
Add opening cash brought forward 1/7/93		(7 118)	8 531
		110 698	102 167
Ending cash carried forward 30/6/94		<u>\$103 580</u>	<u>\$110 698</u>
Represented by:			
BNZ Current Account		3 580	50 698
BNZ Call Account		100 000	60 000
		<u>\$103 580</u>	<u>\$110 698</u>

The accompanying notes form part of the financial statements.

LAW COMMISSION

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 1994

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 accumulated 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.
- All financial instruments are recognised in the Statement of Financial Position.

Changes in accounting policies

There have been no changes in the above accounting policies which have been applied on bases consistent with those used in previous years.

Comparative figures have been restated where necessary to conform with the current year presentation.

2 Short term investments

Maturity	1994 \$	1993 \$
One month	1 775 000	1 535 000
Two months	-	-
Three months	-	800 000
Four months	500 000	-
Five months	-	-
	<u>\$2 275 000</u>	<u>\$2 335 000</u>

Interest rates for the deposits maturing in one month range from 4.73% to 6.10%. The rate for the deposit maturing in four months is 5.90%. The fair value of financial instruments is equivalent to the carrying amount disclosed in the Statement of Financial Position.

3 Fixed assets

	Cost	1994 Accumulated depreciation	Book value
	\$	\$	\$
Computer equipment	384 458	268 575	115 883
Foundation library	185 643	-	185 643
Furniture and fittings	935 824	867 131	68 693
Office equipment	69 425	58 762	10 663
	<u>\$1 575 350</u>	<u>\$1 194 468</u>	<u>\$380 882</u>

	Cost \$	1993 Accumulated depreciation \$	Book value \$
Computer equipment	375 159	187 849	187 310
Foundation library	185 643	-	185 643
Furniture and fittings	920 226	811 528	108 698
Office equipment	68 758	51 253	17 505
	<u>\$1 549 786</u>	<u>\$1 050 630</u>	<u>\$499 156</u>

4 Accumulated funds

	1994 \$	1993 \$
Balance at 1/7/93	2 797 718	2 749 868
Excess expenditure over income	(223 713)	47 850
Balance at 30/6/94	<u>\$2 574 005</u>	<u>\$2 797 718</u>

5 Reconciliation of operating statement to statement of cash flows

	1994 \$	1993 \$
Excess income over expenditure	(223 713)	47 850
Non cash items		
Depreciation	143 839	201 953
Loss on disposal of assets	-	9 910
	<u>(79 874)</u>	<u>259 713</u>
Add/subtract movements in other working capital items		
Decrease in accounts receivable	18 351	(21 880)
Increase in prepayments	(1 552)	16 349
Increase in interest receivable	(16 887)	3 769
Increase in GST	(8 193)	30 194
Increase in accounts payable	45 029	23 556
	<u>\$ (43 126)</u>	<u>\$ 311 701</u>

6 Budget

For the year under review, the Commission budgeted for operating expenditure of \$3 612 545 (exclusive of GST). Its actual operating expenditure was \$3 205 873. This resulted in a deficit of \$223 713, as compared with the budgeted deficit of \$663 825. This may be compared with the Commission's financial performance in the year ended 30 June 1993. In that year it budgeted for operating expenditure of \$3 606 357. Its actual expenditure was \$2 966 906. This resulted in a surplus of \$47 850, instead of the budgeted deficit of \$648 135.

7 Commitments

	1994	1993
Non-cancellable operating lease	\$	\$
The Commission has a lease for the rental of the premises at Levels 10 and 11, 89 The Terrace, Wellington. The lease is from 16/2/87 until 30/6/98.		
One to two years	994 514	987 950
Two to five years	994 514	1 481 925
Beyond five years	-	-
Total expenditure committed	<u>\$1 989 028</u>	<u>\$2 469 875</u>

8 Contingencies

There were no material contingent liabilities as at balance date.

APPENDIX A

Members and staff of the Law Commission

Members of the Law Commission:

Sir Kenneth Keith KBE—*President*
The Hon Justice Wallace—*Deputy President*
Professor R J Sutton—*Commissioner*
L H Atkins QC—*Commissioner*
Joanne Morris OBE—*Commissioner*

Permanent staff of the Law Commission as at 30 June 1994:

<i>Director</i>	Alison Quentin-Baxter QSO
<i>Senior Legal Research Officers</i>	Loretta Desourdy Janet Lewin Paul McKnight James Mullineux Bill Sewell Phil Shattky (assigned to internal project on information systems) Diane Stephenson Penelope Stevenson
<i>Legal Research Officers</i>	Ross Carter Louise Delany Hamish Dempster Vanessa Inskeep Ian Murray Diana Pickard Michelle Vaughan Penny Webb-Smart Sachin Zodgekar

<i>Finance Manager</i>	John Lett
<i>Librarian</i>	Katrina Young-Drew (part-time)
<i>Assistant Librarian</i>	Jocelyn Ferguson (part-time)
<i>Library Assistant</i>	Jacqueline Kitchen (part-time)
<i>Secretaries</i>	Lynette Bridgeman
	Christine Kleingeld (part-time)
	Fiona MacDonald
	Moira Thorn
<i>Receptionist</i>	Glenys Bunkall
<i>Administration Officer</i>	Serena Barrett
<i>Office Assistant</i>	Brenda Speak
<i>Filing/Library Clerk</i>	Rachel Brown (part-time)

The office of the Law Commission is located at Level 10, 89 The Terrace, Wellington. The postal address is P O Box 2590, Wellington. DX 8434 Email Director@lawcom.govt.nz
Telephone 0-4-473 3453 Fax 0-4-471 0959

APPENDIX B

Areas of law reviewed by the Law Commission
as at 30 June 1994

<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 and Related Legislation	Discussion paper	NZLC PP1	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 Publication Act 1989
	A New Interpretation Act: To Avoid "Prolixity and Tautology"	Report	NZLC R17	December 1990	Under consideration by the Minister of Justice
	The Format of Legislation	Report	NZLC R27	December 1993	Recommendations endorsed by the Justice and Law Reform Select Committee and referred to the Standing Orders Committee for consideration
ACCIDENT COMPENSATION SCHEME (Reference)	The Accident Compensation Scheme	Discussion paper	NZLC PP2	September 1987	Followed by reports NZLC R3 and NZLC R4

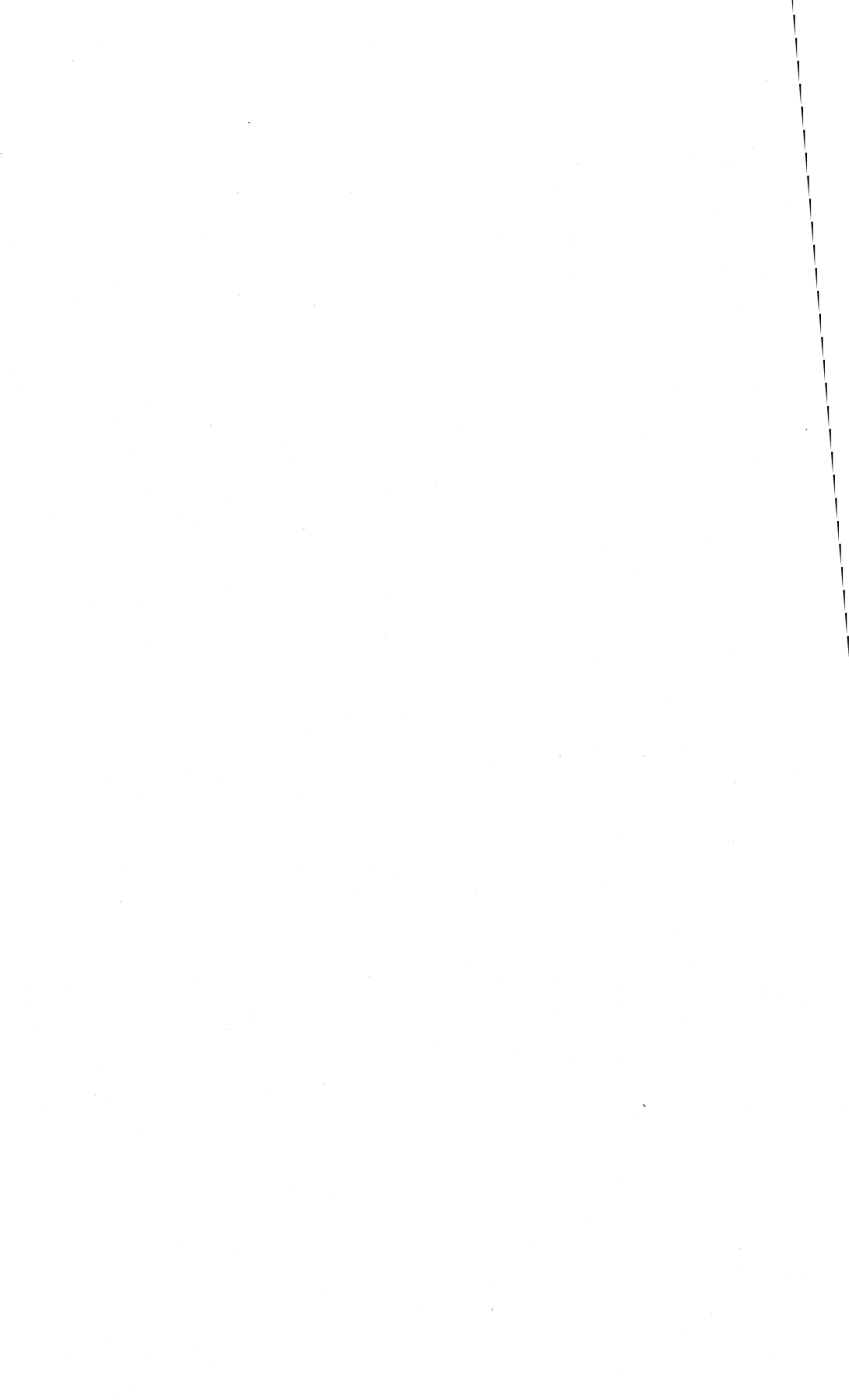
<i>Area of law</i>	<i>Publication</i>	<i>Type</i>		<i>Date</i>	<i>Outcome</i>
	The Accident Compensation Scheme: Interim Report on Aspects of Funding	Report	NZLC R3	November 1987	Considered in preparing the Accident Rehabilitation and Compensation Insurance Act 1992 and some recommendations reflected in its provisions Considered also in connection with reviews of the Accident Rehabilitation and Compensation Insurance Scheme 1992 and implementing regulations undertaken in 1994
	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 PP3	September 1987	Followed by report NZLC R6
	Limitation Defences in Civil Proceedings	Report	NZLC R6	October 1988	Under consideration by the Minister of Justice. Reflected in part in the Building Act 1991
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 Act 1993, Receiverships Act 1993 and amendments to the Property Law Act 1952 and the Companies Act 1955 entered into force on 1 July 1994
	Company Law Reform: Transition and Revision	Report	NZLC R16	September 1990	
LAW OF PROPERTY	Reform of Personal Property Security Law	Report to Law Commission	NZLC PP6	May 1988	Followed by report NZLC R8

<i>Area of law</i>	<i>Publication</i>	<i>Type</i>		<i>Date</i>	<i>Outcome</i>
	A Personal Property Securities Act for New Zealand	Report	NZLC R8	April 1989	Under consideration by the Minister of Justice. The Companies (Registration of Charges) Act 1993 entered into force on 1 July 1994 and applied the provisions of Part IV and section 463 of the Companies Act 1955 to companies registered or re-registered under the Companies Act 1993, but, under the Companies Act Repeal Act 1993, which comes into force on the close of 30 June 1997, the Companies Act 1955 is repealed
	The Property Law Act 1952	Discussion paper	NZLC PP16	July 1991	Followed by report NZLC R29
	A New Property Law Act	Report	NZLC R29	June 1994	Under consideration by the Minister of Justice
	Tenure and Estates in Land	Discussion paper	NZLC PP20	June 1992	To be followed by a report
ARBITRATION	Arbitration	Discussion paper	NZLC PP7	November 1988	Followed by report NZLC R20
	Arbitration	Report	NZLC R20	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
LAW OF EVIDENCE (Reference)	Hearsay Evidence	Options paper	NZLC PP10	June 1989	Followed by discussion papers NZLC PP13, NZLC PP14, NZLC PP15, NZLC PP18, NZLC PP22 and NZLC PP23

<i>Area of law</i>	<i>Publication</i>	<i>Type</i>		<i>Date</i>	<i>Outcome</i>	
	Evidence Law: Principles for Reform	Discussion paper	NZLC PP13	April 1991	To be followed by a report	
	Evidence Law: Codification	Discussion paper	NZLC PP14	April 1991		
	Evidence Law: Hearsay	Discussion paper	NZLC PP15	April 1991		
	Evidence Law: Expert Evidence and Opinion Evidence	Discussion paper	NZLC PP18	December 1991		
	Evidence Law: Documentary Evidence and Judicial Notice	Discussion paper	NZLC PP22	May 1994		
	Evidence Law: Privilege	Discussion paper	NZLC PP23	May 1994		
58	LAW OF CONTRACT	"Unfair" Contracts	Discussion paper	NZLC PP11	September 1990	To be followed by a report
		Contract Statutes Review	Report	NZLC R25	May 1993	Under consideration by the Minister of Justice
	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	Recommended principles for the grant of emergency powers adopted. Draft War Emergencies Act under consideration by Government
	CRIMINAL PROCEDURE (Reference)	The Prosecution of Offences	Issues paper	NZLC PP12	November 1990	To be followed by a discussion paper
		Criminal Procedure: Part One: Disclosure and Committal	Report	NZLC R14	June 1990	Under consideration by the Minister of Justice
		Criminal Evidence: Police Questioning	Discussion paper	NZLC PP21	September 1992	To be followed by a report on police questioning and improperly obtained evidence and by a separate report on the right of silence and confessions

<i>Area of law</i>	<i>Publication</i>	<i>Type</i>		<i>Date</i>	<i>Outcome</i>
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: The 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	NZLC PP17	November 1991	Followed by report NZLC R28
	Aspects of Damages: The Award of Interest on Money Claims	Report	NZLC R28	May 1994	Under consideration by the Minister of Justice
APPORTIONMENT OF CIVIL LIABILITY	Apportionment of Civil Liability	Discussion paper	NZLC PP19	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 legislation to implement the Convention and of acceding to it. Sale of Goods (United Nations Convention) Act 1994 enacted 1 July 1994

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



Other Law Commission publications:

Preliminary Paper series

- NZLC PP1 Legislation and its Interpretation: The Acts Interpretation Act 1924 and Related Legislation (discussion paper and questionnaire) (1987)
- NZLC PP2 The Accident Compensation Scheme (discussion paper) (1987)
- NZLC PP3 The Limitation Act 1950 (discussion paper) (1987)
- NZLC PP4 The Structure of the Courts (discussion paper) (1987)
- NZLC PP5 Company Law (discussion paper) (1987)
- NZLC PP6 Reform of Personal Property Security Law (report by Prof J H Farrar and M A O'Regan) (1988)
- NZLC PP7 Arbitration (discussion paper) (1988)
- NZLC PP8 Legislation and its Interpretation (discussion and seminar papers) (1988)
- NZLC PP9 The Treaty of Waitangi and Maori Fisheries—Mataitai: Nga Tikanga Maori me te Tiriti o Waitangi (background paper) (1989)
- NZLC PP10 Hearsay Evidence (options paper) (1989)
- NZLC PP11 “Unfair” Contracts (discussion paper) (1990)
- NZLC PP12 The Prosecution of Offences (issues paper) (1990)
- NZLC PP13 Evidence Law: Principles for Reform (discussion paper) (1991)
- NZLC PP14 Evidence Law: Codification (discussion paper) (1991)
- NZLC PP15 Evidence Law: Hearsay (discussion paper) (1991)
- NZLC PP16 The Property Law Act 1952 (discussion paper) (1991)
- NZLC PP17 Aspects of Damages: The Award of Interest on Debts and Damages (discussion paper) (1991)
- NZLC PP18 Evidence Law: Expert Evidence and Opinion Evidence (discussion paper) (1991)
- NZLC PP19 Apportionment of Civil Liability (discussion paper) (1992)
- NZLC PP20 Tenure and Estates in Land (discussion paper) (1992)
- NZLC PP21 Criminal Evidence: Police Questioning (discussion paper) (1992)
- NZLC PP22 Evidence Law: Documentary Evidence and Judicial Notice (discussion paper) (1994)
- NZLC PP23 Evidence Law: Privilege (discussion paper) (1994)

Report series

See inside front cover

