

Scot Law

- Com : 70 : Sixteenth Annual Report 1980-81, 1981
- : *Memo*: Some Obsolete and Discriminatory Rules in the Law of Husband and Wife, 1982
- : : Discussion Document on Breach of Confidence, 1982

- *Standing and Class Actions*. WIH. Draft report on Standing is being reviewed. Expected publication early 1983.
- *Debt Recovery*. Project to be reviewed late 1982.

new references

- NSWLRC *Community Law Reform*: Commission may now consider all proposals from community at large and indicate to Attorney-General those which warrant further consideration. Attorney-General will then determine whether a specific reference should be given to NSWLRC to allow full investigation of proposal with a view to recommendations. See above p. 132.
- PNGLRC *Domestic Violence*: Legal and other reforms necessary to protect women from domestic violence and to bring the problem to public notice.
- SALRC *Limitation of Actions*: Late developing injuries.
Limitation of Actions: Prescription.
Statutory Bonds and Undertakings.
- VLRC *Criminal Responsibility and Intoxication*: Consideration of the law following *R. v. O'Connor* (1980) 29 ALR 449. *Criminal Law: Homicide*: Review and consider proposals for reform of the law of murder and manslaughter. See above p. 143.

what's going on in the LRC's?

Australian Law Reform Commission (ALRC)

- *Insurance Contracts*. Draft report still with printer.
- *Law Reform Digest*. Manuscript with printer. Publication expected before end of 1982.
- *Sentencing*. Work in suspension. Comment on need for appointments and staff by Senate Standing Committee on Constitutional and Legal Affairs. see above p. 122.
- *Privacy*. Work in Hand (WIH). Draft report expected for consideration by Commission November 1982. Publication early 1983. Discussions with State colleagues led by Professor Hayes.
- *Evidence*. WIH. Three more consultative documents circulating. Further meeting with consultants summoned October 1982 by Mr T.H. Smith.
- *Aboriginal Customary Laws*. WIH. See above p. 125.

N.S.W. Law Reform Commission (NSWLRC)

- *De Facto Relationships*. Drafting of final report under way, anticipated availability for presentation to Parliament by Attorney-General, Autumn Session 1983.
- *Accident Compensation*. Examination of case studies progressing, submissions from interested individuals and groups being received. Commission-sponsored conference held on 29 September for migrant welfare workers and a pamphlet 'Accidents Can Happen' has been widely distributed to stimulate awareness amongst those affected by present compensation systems.
- *Criminal Procedure*. Heavy consultative program has been undertaken and good progress made. Drafting of first issues paper substantially completed and publication anticipated early in 1983.
- *Legal Profession Inquiry*. Fourth Report dealing with professional indemnity insurance, solicitors' trust accounts and the solicitors' fidelity fund, remains to be completed and published.
- *Evidence*. Work proceeding in co-operation with the ALRC.

New Zealand Contracts and Commercial Law Reform Committee (NZCCLRC)

- *Warranties in the Sale of Consumer Goods*. Working paper distributed July 1977. Final report near completion. Awaiting the preparation of a draft Bill.
- *Insurance Law*. Discussion paper distributed October 1979. Final report near completion. The covers the following following topics: insurable interests, protection of life policies against creditors, insuring children's lives, particular average clauses in non-marine policies, payment of interest after maturity of life policies, and insurance cover on sold property.
- *Chattels Securities (Secured Transactions)*. NZCCLRC is preparing a discussion paper examining the possibility of a comprehensive chattels security registration system or an indemnity insurance scheme.
- *Set-Off*. A preliminary working paper has been prepared for the NZCCLRC. This will be released in the form of a discussion paper early in 1983.
- *Frustration*. A preliminary working paper has been prepared for the NZCCLRC. A draft report is in preparation.
- *Arbitration Act 1908*. No significant progress has yet been made towards reviewing this Act.

- *Contribution in Civil Cases.* A subcommittee has prepared a draft discussion paper for consideration by the NZCCLRC. This should be released by the Committee early in 1983.
- *White and Carter (Councils) Ltd v. McGregor.* The NZCCLRC has been asked to review the rule from *White and Carter (Councils) Ltd*. A draft report has been prepared and is being considered. It should be available early in 1983.

New Zealand Criminal Law Reform Committee (NZCLRC)

- *Bail.* Final report in preparation.
- *Drunkenness.* WIH.
- *Discovery in Criminal Cases.* WIH.

New Zealand Property Law and Equity Reform Committee (NZPLERC)

- *Positive Covenants Running with the Land.* Second working paper in preparation.
- *Share Premium Reserve Dividends.* Report in preparation.
- *Capital Profit Dividends.* WIH.
- *Law Relating to Watercourses and Adjacent Land.* WIH.
- *Law Relating to Landlord and Tenant.* WIH.
- *Trustee Investments.* WIH.

New Zealand Public and Administrative Law Reform Committee (NZPALRC)

- *Powers of Entry.* Final report being completed on study of statutory powers of entry onto private property. Over 150 enactments conferring such power identified. A number of principles and desirable characteristics of general application by which such powers might be measured, and to which they should generally be expected to conform have been formulated. NZPALRC has examined each enactment by reference to those principles and consulted with the Department responsible for its administration concerning any respects in which it falls short of them. The report will describe the classes of power which, in the NZPALRC opinion, need not conform to one or more of the general principles, and make specific recommendations for amendments to individual enactments so that they meet acceptable standards. Report expected to be published early 1983.
- *Government Policy Directions.* This is a study of statutory provisions which authorise the Government to give policy directions to administrative tribunals and other bodies. The NZPALRC aims to derive a set of desirable characteristics, and to give specific consideration to any problems which may arise when an enactment which empowers the Government to give policy directions to a decision maker also provides a right of appeal. The NZPALRC is in the process of considering replies

from the bodies concerned, and from Government Departments responsible for the relevant legislation. Report expected to be published towards the middle of 1983.

- *Land Rating Classification.* Involves examination of the differing procedures available under legislation for classifying land for rating purposes, and consideration whether the individual enactments provide for procedures which meet modern standards of fairness; and also whether the present diversity of procedures is justified, or whether uniformity would be desirable.
- *Privative Clauses.* Background paper being prepared with a view to consideration of this topic next year.
- *Tribunals' Procedure.* The NZPALRC is concerned to scrutinise at an early stage draft legislation which is being prepared to provide a uniform procedure of general application for Tribunals.

Papua New Guinea Law Reform Commission (PNGLRC)

- *Abolition of Native Regulations.* Only two regulations remain to be covered: succession and adultery. Both these subjects now have their own reference.
- *Adultery.* Adultery remains a criminal offence under certain conditions for automatic citizens of Papua New Guinea. Report No. 5 'Report on Adultery', published February 1977, recommended that it no longer be a criminal offence. The Report may be presented to Parliament in 1983.
- *Criminal Justice System.* This broad reference to review the criminal law, procedure, evidence, sentencing and treatment of offenders, the state or urban crime and young offenders etc. has had very little work in recent years apart from 'Young Persons in Conflict with the Law' (Report No. 9.). Report No. 9 has been criticised in great detail and the proposed bill will be redrafted. A number of papers on aspects of the reference have been published. One containing proposals on criminal responsibility may go to Parliament in 1983. Work on the topic of detention for interrogation, and confessions has not been proceeded with. No end to the reference is in sight.
- *Law Relating to Wills and Succession to Property.* The reference wanted the old native regulation to be replaced. Following the publication of working paper No. 12, 'Law of Succession', in April 1978, very little work has been done on this reference. This work has very low priority.
- *Compensation.* In Papua New Guinea societies 'compensation' is used as a means of settling disputes and the introduced law had little regard for its value in either criminal or civil law. Report No. 11 on Customary Compensation was completed in June 1980 and may be debated in Parliament this year. The PNGLRC regularly

reviews compensation for motor vehicle deaths and a fourth paper on this subject should be published this year. No end to the reference is in sight.

- *Family Law*. Covers the review of eight separate Acts and the case law. Some work should be done on this broad reference in 1983. No completion date is available.
- *Declaration and Development of the Underlying Law*. The Constitution provides for the development of the Underlying Law as a means of transforming a colonial into an egalitarian society. Report No. 7 was published in 1977. The Law Reform Commission has been asked by the new Minister of Justice to review the proposals in this report. Expected to be completed in 1983.
- *Economic and Commercial Laws*. This reference is an expression of economic nationalism in its call for a review of all commercial and economic legislation. No work has been done on this Reference in 1982. No completion date is available.
- *Contract Protection*. Involves a review of the *Transactions with Natives Act* 1958. Report No. 6, 'Fairness of Transactions', of November 1977 may be tabled in Parliament soon. Reference may be completed in 1982.
- *Local and District Courts*. Following a seminar and the publication of Working Paper No. 16, 'Seminar on the Reorganisation of Local and District Courts', in November 1980, drafting instructions for a new Magistrates Courts Bill incorporating the views of all interested parties have recently been approved by the Commission and forwarded to the First Legislative Counsel. Expected to be completed in 1983.
- *Common Law and Equity*. Review of common law and equity in order to achieve a uniquely Papua New Guinean legal system. This reference has been subsumed under the reference on the Underlying Law. No completion date is available.
- *Customary Law*. Involves an inquiry into customary law throughout the nation. Once again this reference related to the development of the Underlying Law. Research and publication on customary law continues. No completion date is available.
- *Administrative Law*. Involves a broad review of administrative law. So far very little work has been done on this reference and no completion date can be set.
- *Sorcery*. Involves a review of the operation of the Sorcery Act 1971. The PNGLRC publishes papers on this subject from time to time and the topic is considered important, but study of the Sorcery Act has so far suggested that it is better than the proposed alternatives. No completion date is available.

- *The Legal Profession and the Judiciary*. Involves broad review of both the profession and the judiciary. A two day seminar jointly organised by the PNGLRC and the Legal Training Institute was held in May 1982. The reference continues to be of great interest to the public and the legal profession. No completion date has been set.
- *Corruption and Bribery*. Involves broad review of bribery, corruption and the abuse of public funds. A working paper is to be published soon. Expected to be completed in 1983.
- *Domestic Violence*. This reference, given on 18 August 1982, involves review of domestic violence. A research project involving 20 student researchers is planned as a background to reform in family and criminal law. 1982 is expected date of completion.

Queensland Law Reform Commission (QLRC)

- *Supreme Court Act and Ancillary Acts*. Report 32 on this topic is with the printer and it is hoped it will soon be ready for distribution. The report is a comprehensive review of the substantive law regulating civil procedure in the Supreme Court.
- *Real Property Acts*. A complete review of the Acts is being undertaken. Working Paper No. 25 has been published on 'Writs of Execution, Bills of Mortgage/ Bills of Encumbrance Distinction, and Caveats', as practitioners indicated this area was in need of immediate attention.
- *Survey of Juries*. A survey is being undertaken in conjunction with the Research Section of the Department of Justice and is to be similar to the one conducted by N.S.W. Bureau of Crime Statistics and Research.

South Australian Law Reform Committee (SALRC)

- *Perpetuities and Accumulations*. Paper completed and circulated but not yet discussed.
- *Inherited Imperial Law*. Being completed in nine sections. Six have been finished and there are three more to complete:
 - (a) Set-off — paper to be discussed at October meeting.
 - (b) Champerty — not yet researched.
 - (c) Estates tail — to be left until general law of property reform dealt with.
- *Real Property Act*. Dormant at present.
- *Evidence Act*. Further research, first draft completed.
- *Administrative Appeals*. Dormant at present.
- *Options in Leases and Unregistered Leases* Notes prepared for draft.
- *Crown Proceedings*. Presently before Committee.
- *Fire Insurance Law*. Research taking place
- *Detinue, Trover and Trespass*. Notes prepared for paper.

- *Locus Standi*. Some parts of this are complete and others have still to be dealt with.
- *Simplified Form of Mortgage*. Partly discussed, further discussion needed.
- *Civil Procedure*. Parts of report drafted, but further research still to be undertaken.
- *Products Liability and Consumer Statutes*. Dormant at present.
- *Civil Rights of Children*. Paper prepared.
- *Limitation of Actions — Prescription*. Paper being prepared.
- *Limitation of Actions — Late Developing Injuries*. WIH.
- *Rights of Access to Neighbouring Land*. Not yet researched.
- *Mistake of Law and Mistake of Fact*. Research completed, but paper not yet written.
- *Statutory Bonds and Undertakings*. Notes prepared for paper.
- *Wills and Intestacies*. Being dealt with in other papers.

Tasmanian Law Reform Commission (TasLRC)

- *Wills*. Report in final draft for settling.
- *Tranquilliser Guns*. Report in final draft for settling.
- *Rape and other Sexual Offences*. Report in final draft for settling.
- *Rule Against Perpetuities*. Report in final draft for settling.
- *Instalment Contracts for the Sale of Land*. Report in final draft for settling.
- *Review of Boundary Fences Act 1908*. WIH.
- *Charitable Trusts*. WIH.
- *Compensation for Personal Injuries Arising out of Tort*. WIH.

Victorian Chief Justice's Law Reform Committee (VCJC)

- *Unincorporated Association*. 1980 report led to the enactment of the Associations Incorporation Act 1981. Research into further problems that will continue to arise when associations of persons remain unincorporated has continued at Monash University and is nearing completion.
- *Habeas Corpus Act*. This sub-committee is considering three related matters:
 - (1) the application in Victoria of s. 6 of the Habeas Corpus Act 1979;
 - (2) a proposed amendment to the presentment rules to require that the Crown file a presentment within a stipulated time from the date on which a person is committed for trial;

- (3) a proposal to amend the law to permit the accused to plead and the judge to rule on the admissibility of evidence before the jury is empanelled in a criminal trial.

- *The Supreme Court Act 1958, s. 142-159 (Foreign Attachment)*. Sub-committee was set up March 1977. Considering a proposal to repeal the 'archaic' provisions of the Supreme Court Act which enable the attachment of property of a defendant who cannot be served in Victoria in the light of the development of the 'Mareva injunction'.
- *Wills for Mentally Disordered Persons*. Proposal for legislation to enable a judge to direct or authorise the making of a will on behalf of a person incapable of making one himself. Interim report approved in principle, December 1981.
- *Exemption Clauses in Contract*. Sub-committee set up May 1978 to review generally the law relating to exemption clauses in contract.
- *Hearsay Rule*. This sub-committee was established September 1981 to consider the ALRC proposals for the reform of the hearsay rule set out in Evidence RP 3.
- *Competence and Compellability of Witnesses*. This sub-committee was set up in January 1982 to consider the ALRC proposals contained in Evidence RP 5.

Victorian Law Reform Commissioner (VLRC)

- *Corporate Crime*. WIH. A discussion paper is being prepared.
- *Intoxication and Criminal Responsibility*. WIH. A preliminary memorandum on the present law has been prepared and considered by the Law Reform Advisory Council.
- *Law of Homicide*. WIH.

Victorian Legal and Constitutional Committee (VLCC)

- *This Committee replaces the former Statute Law Revision Committee. It is set up under the Parliamentary Committees (Joint Investigatory Committees) Act 1982. All the previous references from the VSLRC have been referred to it so far reference to these see [1982] Reform 74. The Chairman is Mr Milton Whiting MP. A further twelve members, all parties and both the Assembly and Council are represented.*

Western Australia Law Reform Commission (WALRC)

- *Privacy*. Work is progressing in collaboration with the ALRC.
- *Limitation and Notice of Actions: Latent Disease and Injury*. The Commission has been asked, as a matter of urgency, to report on the problems with the law relating to limitation and notice of actions being experienced by persons who contract a

disease or suffer an injury which remains latent for a significant period of time. Draft report is being considered and is expected to be submitted to Attorney-General in early October.

- *Medical Treatment of Minors*. WIH. Many submissions being received.
- *Local Courts Act*. Research and consideration given to preliminary submissions received. Information is also being exchanged with ALRC. The project is in two parts. Part I deals with all matters up to the point of judgment. Part II with execution of judgments. Working paper on Part I is expected before the new year.
- *Strata Titles*. The report is near completion and is expected to be submitted in near future.
- *Criminal Process and Mental Disorder*. WIH.
- *Putative Fathers*. WIH.

Obituary

The Hon. John Maddison

The former Attorney-General for New South Wales, Mr John Maddison died on 29 August 1982 in Sydney. He was educated at Sydney Grammar School and Sydney University and elected to State Parliament in 1962. In 1965 he became Minister of Justice and was Attorney-General from 1975 to 1976. In 1980 he retired from Parliament. He continued working as a legal consultant with the Law Foundation of New South Wales. In Parliament and after his resignation, Mr Maddison displayed a keen interest in law reform and strove for the better operation of the legal system. At the time of his death, he was 60 and he leaves a widow and three children.

Personalalia

The Hon. Sir Daryl Dawson KBE, CB

On 30 July 1982 the Federal Attorney-General, Senator Peter Durack, announced the appointment of Mr Daryl Dawson QC as a Justice of the High Court of Australia. Mr Dawson had been the Solicitor-General for Victoria since 1974. He graduated as a Bachelor of Laws with Honours from the University of Melbourne and a Master of Laws from Yale University. He was the Fulbright Scholar in 1955 and the Sterling Fellow at Yale University in 1955 and 1956. He joined the Victorian Bar in 1957 and was appointed a Queen's Counsel in 1971. As Victorian Solicitor-General, Mr Dawson was an ex officio member of the Victorian Chief Justice's Law Reform Committee and he participated in the work of that committee over many years. In 1980-81 he also chaired an inquiry for the Victorian Government concerning land conveyancing in Victoria and proposed a number of reforms of the law and practice governing land conveyancing. See also above p. 129.

ALRC Commissioners

The Federal Attorney-General, Senator Peter Durack QC, has announced the reappointment as part-time members of two of the Commissioners of the ALRC. They are Mr Bruce DeBelle, an Adelaide practitioner and Mr James Mazza, a Perth practitioner. Mr DeBelle, who has been reappointed until 30 June 1983, continues to lead the project on standing and class actions. He is closely involved in the continuing work of Aboriginal customary laws (see above p. 125). Mr Mazza is a member of the ALRC division on standing and class actions. He has been reappointed until 22 August 1984. One of the former Commissioners, Professor Gordon Hawkins, who retired after a foundation term of seven years at the end of 1981, has been appointed as Director of the N.S.W. Institute of Criminology within the University of Sydney. Professor Hawkins succeeds to the directorship following Professor Robert Roulston.

Mr George Brouwer

In [1982] *Reform* 39, these pages recorded the retirement of the first Secretary and Director of Research of the Australian Law Reform Commission, Mr Brouwer. He left the Commission in September 1981 to become Secretary of the Defence Review Committee. On the eve of the conclusion of the work of that Committee (in early August 1982) it was announced that Mr Brouwer had been appointed Secretary and Permanent Head of the Victorian Premier's Department. He will work directly to the Premier of Victoria The Hon. John Cain MP, himself a past ALRC Commissioner (see [1982] *Reform* 4). Mr. Brouwer was selected from 48 candidates and according to Mr Cain he will play a key role in the Government's plan to develop a central policy co-ordinating role for the Premier's Department to oversee advice to the Cabinet and to review government policy. Mr Brouwer was educated at Xavier College, Melbourne and took his initial law degree at Melbourne University. He served for 15 years in the Commonwealth Service, chiefly in the Prime Minister's Department where he worked in the Cabinet Office. According to the Melbourne *Age* he has become Victoria's 'most powerful public servant'. With beguiling modesty, Mr Brouwer was willing to concede 'important' but not 'powerful' (*Age* 4 August 1982).

The Hon. Mr Justice B.H. McPherson

The new Chairman of the Law Reform Commission of Queensland is a judge of the Supreme Court of that State, Mr Justice McPherson. The judge has had a long association with the QLRC as was pointed out in the note on his appointment to the Supreme Court in [1982] *Reform* 76. He succeeds Mr Justice Andrews who has retired from the chairmanship after nine years. Mr Justice McPherson is only the third Chairman of the Commission, the first having been Sir Walter Campbell, now Chief Justice of Queensland. The new chairman's scholarly and practical experience will equip him well in the task of leading law reform in Queensland.

WALRC Changes

The former Chairman of the Law Reform Commission of Western Australia, Mr Eric Freeman, a Senior Officer of the Crown Law Department of that State, has been appointed