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Law Reform Commission of Victoria

Report No. 19

ANNUAL REPORT ⁸⁸

September 1988

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ACQUISITIONS



LAW REFORM COMMISSION OF VICTORIA

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30 September 1988

The Hon Andrew McCutcheon, MP
Attorney-General
200 Queen Street
MELBOURNE VIC 3000

Dear Attorney-General,

I have pleasure in enclosing the Annual Report of the Law Reform Commission for last year.

The Report indicates a substantial increase in efficiency of the Commission. The number of papers produced increased. The consultation programs were extended and the publication of the Commission's work in the community at large encouraged the involvement of many groups and individuals in law reform processes.

Yours sincerely,

A handwritten signature in cursive script that reads "Jude Wallace".

Jude Wallace
Acting Chairperson

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1. INTRODUCTION

- 1 This is the fourth Annual Report of the Victorian Law Reform Commission since its establishment by the Law Reform Commission Act 1984. The Report provides background on the Commission's functions and activities; its performance against objectives; and on the 1988/89 work program.

Functions

- 2 The functions of the Commission as set out in the Act are:
- 6(1)(a) to examine, report and make recommendations to the Attorney-General in respect of any proposal or matter relating to law reform in Victoria referred to the Commission by the Attorney-General;
 - (b) to examine, report and make recommendations to the Attorney-General on any matter which the Commission considers raises relatively minor legal issues which are of general community concern if the Commission is satisfied that the examination of that matter will not require a significant deployment of the resources available to the Commission;
 - (c) to suggest to the Attorney-General that a proposal or matter relating to law reform in Victoria be referred to the Commission by the Attorney-General;
 - (d) to monitor and coordinate law reform activity in Victoria.

The Commission reports to the Attorney-General at the end of its work on a reference. Some references are designated as 'standing references' which may generate a number of separate reports. The Attorney-General may specify a reporting date on a reference. The Commission's reports are tabled in the Parliament within 14 sitting days of their receipt by the Attorney-General.

Current references

- 3 The Commission's references are grouped under a number of broad headings, tied to the program budgeting format. The Project Delivery Program covers the reference activity. Its sub-programs and associated references are set out below:

Sub-Program	Current references
Public Administration	Plain English Obsolete Legislation Codes of Practice

	Occupational Regulation Admission to Legal Practice
Property and Commerce	Land Law Liquidated Damages and Penalties Product Liability
Medicine, Science and the Law	Informed Consent to Medical Treatment Genetic Manipulation
Criminal Justice	Sexual Offences Homicide Insanity Evidence
Uniform Law Reform	Evidence Standing Reference on Interstate Cooperation

4 A description of the work on the references is set out in the following chapter. New references from the Attorney-General during the year were:

- Product Liability (in cooperation with the Australian Law Reform Commission)
- Road Traffic Regulations
- Admission to Legal Practice
- Codes of Practice
- Uniform Law Reform
- Law of Evidence

The Commission

5 The Commission is constituted by full and part-time Commissioners. No new members were appointed during 1987/88. At 30 June 1988, the members were:

Full-time Commissioners

David St L Kelly (Chairperson)
Dr David Neal
Ms Jude Wallace

Part-time Commissioners

The Hon Mr Justice James
Gobbo
Dr Linda Hancock
Ms Susan McCulloch
Mr Leigh Masel
Professor Marcia Neave
Mr Anthony Smith
Mr Gary Sullivan
The Hon Mr Justice Frank Vincent
Professor Louis Waller
Dr Philip Williams

-
- 6 It is customary for Annual Reports to include a note of thanks to staff members for their contributions in the past year. In the case of the Commission's staff this practice would be wholly inadequate. During 1987/88 the Commission's staff has been welded into a highly efficient law reform unit. The dedication and endeavour of the staff have allowed the Commission to change the face of law reform in Australia.
 - 7 The Commission's staff of fifteen full-time and four part-time employees has worked together to lift output from eleven reports and discussion papers in 1986/87 to twenty-six in 1987/88. This is a prodigious feat and a credit to them all.
 - 8 The individual contributions of researchers and reference secretaries are recorded below. The Commission would, however, like to make special mention of the efforts of its administrative staff. This group of five undertook a heavy burden. The Commission's increased work program lifted its public profile which generated a high demand for Commission papers and more general information. Substantial responsibility was thrust on relatively inexperienced officers. The skill and enthusiasm they displayed is reflected in the high level of recognition the Commission now enjoys.

Consultants

- 9 The Commission records its thanks to its invaluable honorary consultants. The Commission's consultants are engaged over long periods of time in work on particular references. Their expert knowledge of the law, the environment in which it operates, and its practical operation, provide a strong quality control process. The commitment made by the consultants is one of the Commission's most valuable resources.
- 10 Consultants' interest and support is generated by the quality and volume of the Commission's research. When contrasted with the alternative model for law reform characterised by a single Commissioner assisted by one or more researchers, it is doubtful whether the single Commissioner approach can achieve the same result at a similar level of efficiency.
- 11 The consultants assisting on Commission references during 1987/88 are set out under reference headings.

2. REVIEW OF THE YEAR'S WORK

- 12 The Commission completed twenty-six reports and discussion papers in 1987/88. These were all submitted to the Attorney-General for tabling in Parliament in the year and released by the Commission for public consultation.

Plain English

- 13 The Division members and Consultants are:

Division

David St L Kelly (Chairperson)
Mr Leigh Masel
Mr Gary Sullivan
Dr Philip Williams

Consultants

The Hon Michael Arnold, MLC
Mr Ben Bodna
Mr Robin Brett
Mr David Burridge
Mr Bruce Cameron
Mr Michael Crennan
Mr Phillip Cummins, QC
Mr Mark Dreyfus
Mr John Ewens, CMG, CBE, QC
Professor Harold Ford
Mrs Eve Grimm
Mr Peter Ickeringill
Mr Campbell Johnston
Dr Greg Lyons
Mr Peter Marks
Mr Robert Miller
Mr Eamonn Moran
Mr Ian Renard
Dr Robert Smith
The Hon Haddon Storey, MLC
Ms Kathy Walter

Research was provided by Robert Smith.

- 14 The *Plain English and the Law* Report was published in October 1987. Since then, the Commission has continued to demonstrate to many different audiences that plain English can be used in all forms of legal drafting. Continuing programs for rewriting the standard legal forms used by the Law Institute of Victoria and also new legislation and regulations have established the Commission as the leader in plain English drafting.
- 15 A reference to redraft the Road Safety (Traffic) Regulations 1987 in plain English has been received. The report will be in the form of redrafted regulations.

Occupational regulation

- 16 The Division members and Consultants are:

Division

David St L Kelly (Chairperson)
Mr Leigh Masel
Mr Gary Sullivan
Dr Philip Williams

Consultants

Mr Anthony Moore
Dr Anthony Tarr

Research support was provided by Richard Wright.

- 17 The reference is being conducted jointly with the Regulation Review Unit in the Department of Industry, Technology and Resources. The reference is progressively reviewing a number of occupations, but is initially addressing occupational regulation systems administered by the Attorney-General and the Minister for Police and Emergency Services. Mr Bob Emsley from the Police Ministry has been closely involved in the Inquiry's processes. Ms Christine Frazer was the reference secretary to the Inquiry.
- 18 Two reports and three discussion papers have been completed. The discussion papers cover Real Estate Agents and Auctioneers, Secondhand Dealers, and Private Agents. The reports concern Real Estate Agents and Auctioneers, and Principles for Occupational Regulation.
- 19 The discussion paper and report on the real estate industry argued for a deregulatory approach which included removal of commission scales and abolition of licences for most people in the occupation. The report aimed for a more open, competitive and efficient approach to occupational regulation in the real estate industry.

Land law

- 20 The Division members and Consultants are:

Division

David St L Kelly (Chairperson)
Ms Jude Wallace (Commissioner
in Charge)
Professor Marcia Neave
Mr Dennis Hall
Mr John Hockley
Dr Philip Williams

Consultants

Mr John Barry
Mr Bob Eddington
Mr Robert Hatch
Mr Tony Smith
Mr Anthony X Lyons
Mr Allan J Myers
Mr Richard Park
Mr Shiv Rakkar
Mr Peter Shattock
Mr P N Wikrama-Nayake

Research support was provided by Murray Raff. The reference secretary was Pauline Martin.

21 The Land Law reference involves an examination of the laws governing the land title system. The impetus for the reference lay in the plans of the Department of Property and Services to computerise land registration and to establish 'Landata', a comprehensive computer-based land information system.

22 Work on the reference has continued during the year along with a draft plain English *Lands Bill*, an options paper on mining law, and a plain English *Subdivision Act* 1988.

23 The reference is composed of seven parts:

1. *The Torrens Register Book*

A Report on this topic was published.

2. *Mortgagee sales and judgment debts*

A Report on this topic was published.

3. *Land title priorities*

A discussion paper was published which argued for an expanded role for caveats to enable the lodging of a caveat to give substantial protection to the public. A report will be published shortly.

4. *State guarantee*

The discussion paper was postponed to enable joint work on the insurance fund in New South Wales to be conducted. The New South Wales Law Reform Commission and the Victorian Commission will publish a joint discussion paper.

5. *Restrictive covenants and easements*

A discussion paper will be published shortly. It will account for the *Subdivision Act* 1988 and the implications that the new subdivision procedures have on creation and removal of minor interests.

6. *Land Titles Act*

A new draft Act covering the *Property Law Act* 1958 and the *Transfer of Land Act* 1958 will be the culmination of the reference. Draft legislation will be published as a discussion paper.

7. *Sale of land*

A discussion paper was published which argued for improvements in the conveying process and for a balance of protection between vendors and purchasers. The paper relied on the submissions made by the Sale of Land Act Committee of the Law Institute of Victoria. A report will be published soon.

8. *Trusts*

On 14 July 1987, the Commission received a further reference from the Attorney-General directing attention to reform of the *Settled Land Act 1958*, the *Trustee Act 1958* and trusts for sale. A discussion paper will be published shortly.

Codes of practice

24 The Division members are:

David St L Kelly (Chairperson)
Ms Jude Wallace (Commissioner in Charge)

25 On 23 November 1987 the Commission received a reference from the Attorney-General directing attention to codes of practice. Codes are frequently incorporated into regulations. There are no general standards applicable to codes. The Commission will examine the legislative status of codes, their availability to the public, their content, and legal consequences for their breach. The report was due in May 1988 but was postponed to allow the Commission to work on other priority projects in the land law area.

Admission to legal practice

26 On 10 March 1988, the Commission received a reference on admission to legal practice. This reference will cover formal and informal qualifications, the role of practical experience and other matters relevant to entry to the profession. Work on the reference will commence in December 1988.

Sexual offences

27 The Division members and Consultants are:

Division

David St L Kelly (Chairperson)
Dr Linda Hancock
Ms Susan McCulloch
Dr David Neal (Commissioner in Charge)
Professor Marcia Neave
The Hon Mr Justice Frank Vincent
Ms Jude Wallace
Professor Louis Waller

Consultants

Ms Carmel Benjamin
Ms Meredith Carter
Ms Alison Champion
His Hon Judge Cullity
Mr Matthew Goode
Mr Ian Gray
Ms Christine Haag
His Hon Judge Hassett
Mr Ian Heath
Dr Terry Kaufman

Det Sen Sgt Peter Laidler
Professor David Lanham
Det Sen Sgt Joy Murphy
Mr Richard Read
Professor Peter Sallman
Mr Michael Tovey
Mr John Willis

Jo Szwarc was the project manager. Research support was provided by Sue Rayner-Laver. Ms Lyn Topham was the reference secretary.

- 28 In October 1985 the Commission was directed by the Attorney-General to review the law relating to sexual offences. The reference has been dealt with in four parts:
- the substantive law relating to sexual offences;
 - procedure and evidence in the prosecution of sexual offences;
 - sexual offences against victims with impaired mental functioning; and
 - sexual offences against children.

The substantive law

- 29 The report on this part, entitled *Rape and Allied Offences: Substantive Aspects*, was given to the Attorney-General in June 1987 and released in September following its tabling in Parliament.

Procedure and evidence

- 30 The report on this part was given to the Attorney-General in March 1988. It contains draft legislation to indicate how the recommendations in this report and the report on substantive aspects could be implemented.

Victims with impaired mental functioning

- 31 A discussion paper was issued in January 1988 and, following a period of extensive community consultation, the report was given to the Attorney-General in June 1988.

Children

- 32 A discussion paper was issued in March 1988 and the report will be available for tabling in the Spring Session of Parliament. To assist in the preparation of the report, three research projects were commissioned. These examine:
- the attitudes and practices of sexual assault centre staff towards reporting sexual offences against children to the statutory child protection agencies;
 - a profile of child sexual assault victims seen at a major hospital, and the management of their cases; and
 - obstacles to the prosecution of cases reported to the police.

Homicide

33 The Division members and Consultants are:

Division	Consultants
David St L Kelly (Chairperson)	Mr J Coldrey
Ms Jude Wallace	Det Chief Insp B Cole
Dr David Neal (Commissioner in Charge)	Mr M Goode
The Hon Mr Justice Frank Vincent	Mr H Hallenstein
Professor Marcia Neave	Mr D Just
Dr Linda Hancock	Ms R Lansdowne
Mr Tony Smith	Mr C Lovitt
Professor Louis Waller	Ms J McCulloch
	Mr M O'Brien
	Det Sen Sgt R Ryan
	Mr Chin Liew Ten
	Mr M Weinberg, QC

Research support was provided by Brownyn Naylor, Peter Mees, Ann-Maree Farrell and Christopher Caleo. Lyn Topham was the reference secretary.

- 34 Work on this reference began in July 1987. The reference requires the Commission to review the law of homicide and make recommendations which will reduce the incidence of homicide and provide a more just and efficient set of laws.
- 35 The Commission issued a discussion paper in March 1988. This paper has been widely circulated and prompted a large number of submissions. There has also been an intensive study of homicide cases reported to police, all homicide prosecutions from 1981 to 1987, and a study of police reports on domestic violence incidents.
- 36 The final report will be submitted in April 1989.

Insanity and automatism

37 The Division members and Consultants are:

Division	Consultants
David St L Kelly (Chairperson)	Dr A Bartholomew
Dr Linda Hancock	Mr B Bodna
Dr David Neal (Commissioner in Charge)	Dr J Bright
Mr Gary Sullivan	Mr J Coldrey
The Hon Mr Justice Frank Vincent	Mr D Dugan
Professor Louis Waller	Ms J Flitcroft
Ms Jude Wallace	Assoc Prof R Fox

Dr J Grigor
Chief Insp M Hyde
Mr I Joblin
Judge M Kelly
Mr A Lawson
Mr M O'Brien
Mr A Rassaby
Mr R Read
Mr N Rees
Mr R Richter
Dr D Sime
Mr Chin Lieu Ten
Mr J Van Groningen

Research assistance was provided by Ann Marie Farrell and Sue Rayner-Laver. Lyn Topham was the reference secretary.

- 38 The Commission received a reference to examine the law relating to insanity and automatism in February 1987. This work arose out of an earlier Commission report on gross intoxication as a criminal defence.
- 39 Work began on the reference in November 1987. A discussion paper was issued in August 1988 and the consultation process has begun. The final report will be submitted in December 1988.

Medicine, science and the law

- 40 The Division members and Consultants are:

Division

David St L Kelly (Chairperson)
(Commissioner in charge of
Gene Manipulation)
Professor Louis Waller
(Commissioner in charge of
Informed Consent)
The Hon Mr Justice James Gobbo
Dr Linda Hancock
Mr Leigh Masel
Ms Susan McCulloch
Professor Marcia Neave
The Hon Mr Justice Frank Vincent
Ms Jude Wallace
Dr Philip Williams

Consultants for Informed Consent

Mr Ian Cunningham
Professor John Funder
Dr Neville Hicks
Professor Harold Luntz
Mr John Snowdon

Consultants for Gene Manipulation

Dr Felicity Allen
Dr Ditta Bartels
Dr Margaret Brumby
Professor Max Charlesworth
Professor David Danks
Professor Leonard Harrison
Dr Sue Meek

Professor Nancy Millis
Dr Marilyn Sleight

Research support in Informed Consent was provided by Kathy Sanders and in Gene Manipulation by Loane Skene. Mrs Christine Frazer was the reference secretary.

Genetic manipulation

- 41 A discussion paper was published in March 1988 and many submissions were received, especially from the scientific community. A report has been prepared and will be published later this year. It covers broad ethical issues; laboratory safety and compensation for work-related injuries; compensation for personal injury and property damage outside the workplace; possible environmental effects if genetically altered organisms are released in field trials or agriculture; quality control of products manufactured by genetic manipulation techniques; and the use of genetic therapy in human disease.

Informed consent to medical procedures

- 42 Informed Consent is concerned with the nature and amount of information a doctor is required to give a patient before the patient makes a decision whether to consent to treatment.
- 43 In October 1987 the Commission published a discussion paper which identified the lack of clarity in the Australian law. Both doctors and patients were unsure of the information legally required to be given to patients. The discussion paper canvassed medical and community views about the legal standard for giving information and how such requirements should be enforced. The Commission is cooperating with the Australian Law Reform Commission and the New South Wales Law Reform Commission on this reference with the aim of achieving uniform recommendations for law reform.
- 44 The Commission also published *Informed Consent: Symposia Papers* which explored difficult issues such as informed consent of minors, the elderly and disabled patients, and the different medical procedures now available, including IVF, transsexual and cosmetic surgery.
- 45 A wide range of submissions was received which, together with the consultations and research work already accomplished, will form the basis of the final report. This will be completed midway through next year.

Obsolete legislation

- 46 The Division members and Consultants are:

Division	Consultant
David St L Kelly (Chairperson)	Mr John Finemore
Mr Tony Smith	
Ms Jude Wallace	

Research support was provided by Robert Smith. Sandy Ward was the reference secretary.

- 47 This is a continuing reference and a second report is being prepared. The report will be ready by 31 October.

Liquidated damages and penalties

- 48 The Division members and Consultants are:

Division	Consultants
David St L Kelly (Chairperson)	Mr David Bailey
Ms Jude Wallace	Mr S W Begg
	Ms Sue Campbell
	Mr Tony Duggan
	Mr Peter Kelly
	Mr Frank O'Brien
	Mr Hayden Opie
	Mr Hugh Scott-McKenzie
	Mr David Wells
	Mr John Wilkin

A discussion paper has been published. Robert Smith provided the research and Sandy Ward was the reference secretary.

Product liability

- 49 The Australian Law Reform Commission has a major reference on compensation for losses caused by defective products. Both the Victorian and the New South Wales Law Reform Commissions have similar references and are cooperating with the Australian Law Reform Commission to ensure that consistent recommendations are achieved. The reference will include major research papers on the existing law and policy issues, the economic impact of product liability laws, the basis of product liability, the parties in product liability actions, and remedies and defences. An issues paper has been published by the Australian Law Reform Commission. A discussion paper will be published next year and will form a basis for an extensive program of public consultation by all three Commissions.

Additional work

- 50 In addition to this 'on-program' work, the Commission made a number of submissions to various inquiries and other areas of public interest. These activities were carried out under the Commission's general responsibility to monitor and coordinate law reform activity in Victoria. A formal reference was given to provide the Attorney-General with a report dealing with implementation in Victoria of appropriate recommendations of the Report on Evidence by the Australian Law Reform Commission. A pilot study was completed and implementation is now being considered by the Standing Committee of Attorneys-General.

3. PERFORMANCE AGAINST OBJECTIVES

- 51 The Commission set itself four objectives in its 1986/87 Annual Report. Two had a short-term planning horizon, and two were ongoing:
- deliver the Commission's work plan;
 - enhance law reform monitoring and coordination processes in Victoria;
 - assist the development of uniform law reform in Australia; and
 - install a modern in-house publishing system.

The work plan

- 52 The Commission's 1987/88 work plan listed 39 reports and discussion papers for completion in the review period. Two discussion papers in the Occupational Regulation series were not proceeded with when research indicated that the issues would be appropriately covered in a final report. The completion of the *Informed Consent to Medical Treatment* Report was deferred to allow participation of the Australian and New South Wales Commissions. A discussion paper on the Credit Act Redraft was added.
- 53 Seven publications in the Land Law Reference were deferred in order to complete priority tasks on the *Subdivision Act 1988*, the proposed new Lands Act and *Options for Reform of Mining Law*. Two parts were added to the Land Law program: Sale of Land and Trusts.
- 54 Against the adjusted target of 33 papers, 26 were completed.

Publications and reports submitted in 1987/88

Public administration

Plain English and the Law Report

Obsolete Legislation Report

Occupational Regulation

- Estate Agents Report and Discussion Paper
- Secondhand Dealers Discussion Paper
- Private Agents Discussion Paper
- Principles of Regulation Report

Property and commerce

Torrens Register Book Report
Mortgagee Sales and Judgment Debts Report
Priorities Discussion Paper
Sale of Land Discussion Paper
Liquidated Damages and Penalties Discussion Paper
Credit Act Redraft Discussion Paper
Subdivision Act Redraft
Lands Act Redraft
Mines Act Options Paper

Medicine, science and the law

Informed Consent to Medical Treatment Discussion Paper
Genetic Manipulation Discussion Paper

Criminal justice

Sexual Offences

- Rape — Substantive Aspects Report
- Rape — Procedure and Evidence Report
- Victims with Impaired Mental Functioning Report and Discussion Paper
- Child Sex Offences Discussion Paper

Homicide Discussion Paper
Insanity Discussion Paper

Annual Report

Enhance law reform monitoring and coordination

- 55 The strategies adopted by the Commission have included:
- taking a strong role in public debates;
 - contributing to consultations being conducted by other agencies;
 - being available to the media for comment on matters of law reform; and
 - ensuring that law reform issues are widely debated in the community.
- 56 These strategies have been successful. The Commission has become a primary point of contact for the public and the media on the wide variety of legal and social issues raised by its reference. The Commission has been particularly successful in taking its work to rural Victoria through ABC Regional Radio.
- 57 Submissions have been made to Parliamentary Committees and other enquiries such as the Social Development Committee, the Work Care Inquiry, the Sentencing Committee and the Joint Churches Inquiry into Prisons.

-
- 58 Cooperation with the Victoria Police has resulted in the plain English Infringement Notice, a single form which replaces the voluminous documentation the police were previously required to complete.
 - 59 The Commission has also assisted the Department of Planning and Environment in drafting its plain English Metropolitan Planning Scheme.
 - 60 Concern with the quality of criminal statistics in Victoria arose during the Commission's review of homicide law. With the assistance of the Victoria Law Foundation, a seminar was conducted to establish the feasibility of a Bureau of Crime Statistics and Research in Victoria. This joint effort of the Commission and the Foundation has resulted in the commitment by Government to set up a Bureau.
 - 61 The Commission has not yet established an overall strategy to achieve its monitoring objective in a structured way. However, *ad hoc* efforts have been successful, and the objective remains a priority for 1988/89.

Assist the development of uniform law reform

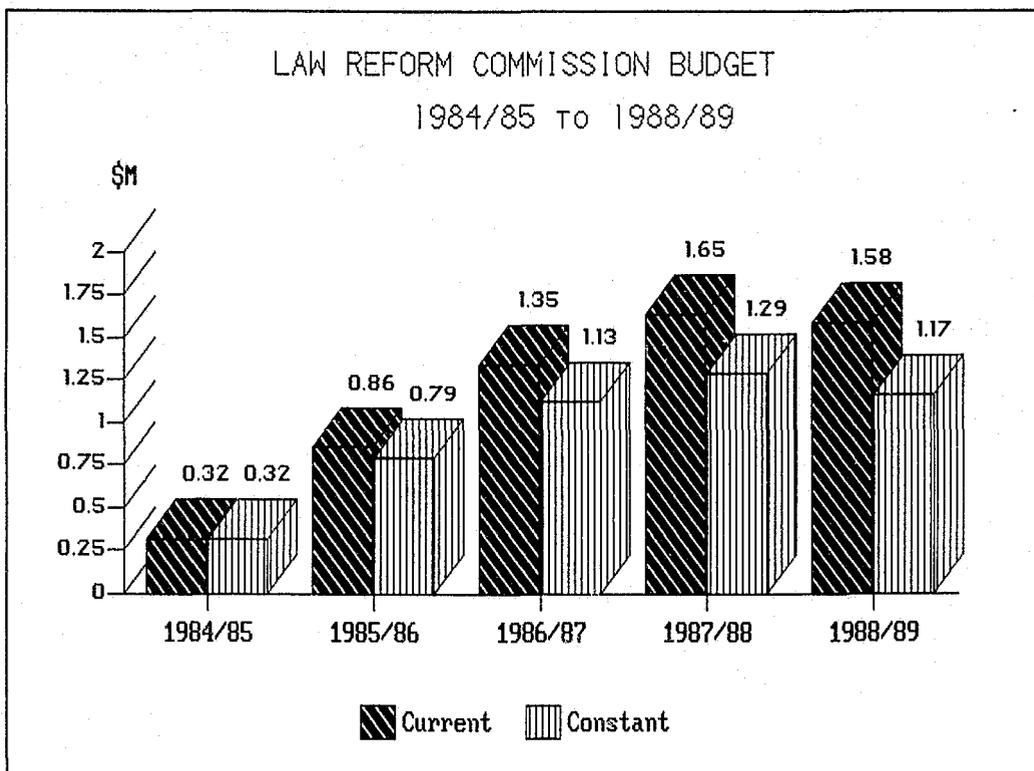
- 62 The Attorney-General gave the Commission a standing reference on uniform law reform during 1987/88. The Commission is to suggest projects being undertaken by other agencies in which it might participate and report, either alone or jointly with the other agency. The Commission is also requested to advise the Attorney-General of completed reports of other agencies whose recommendations should be considered for implementation in Victoria.
- 63 If the Attorney-General accepts the Commission's advice, a specific reference on the subject can be given requiring it to consult with interested parties. After consultation, the Commission will report to the Attorney-General on what changes should be made to Victorian law.
- 64 The reference has allowed work on two 'joint venture' inquiries with the New South Wales Law Reform Commission and the Australian Law Reform Commission, in the areas of informed consent to medical treatment and product liability. Preliminary discussions have commenced with the West Australian and New Zealand Commissions on other projects.
- 65 The activity received further impetus at the 1988 Australian Law Reform Agencies Conference. After a joint presentation by the Victorian and New South Wales Commissions, the participating agencies agreed to form a liaison committee with special responsibility to examine how the agencies could promote the harmonisation of business law between Australia and New Zealand. The Memorandum of Understanding for a Closer Economic Relationship was signed in Darwin on 1 July 1988 by the Deputy Prime Ministers of the two countries, the Hon Lionel Bowen and the Rt Hon Geoffrey Palmer. The agreement will provide the basis for harmonisation of laws, not only between Australia and New Zealand, but between the various jurisdictions within Australia.

Install a publishing system

- 66 The Commission's 1987/88 work plan contained a massive increase in publications to be produced as both discussion papers and reports. The existing word processing equipment was outdated and inappropriate. A re-equipment plan was developed early in the financial year. A decision was taken to implement a UNIX based system.
- 67 The equipment allows for direct communication between the Commission's machine and the typesetter. Turnaround times have been reduced, and typesetting costs lowered dramatically. Using conventional approaches, typesetting costs were around \$27.00 per page. Quotations of \$11.00 per page are now achievable, with no loss of quality.
- 68 For small-scale publications, a desktop publishing system is available. Presentations have been enhanced through the use of micro-computer graphics packages.
- 69 The effectiveness of the publishing activity has also been improved by employing an editor of publications on a part-time basis. The editor, Ms Bette Moore, has stylistic control of all output. She manages the post-Commission decision process, up to the tabling of reports in the Parliament and release of discussion papers.

4. THE 1988/89 PROGRAM

- 70 The Commission's budget has grown progressively since its establishment in 1984. The budget for 1988/89, however, has been reduced. In constant dollar values, the 1988/89 budget of \$1.584 million represents a reduction of 10.6% over the 1987/88 funding level. The figure below traces the Commission's budget, in current and constant dollars, since 1984/85.



- 71 Reports and Discussion Papers on the following references will be published in 1988/89:

Public Administration

- Obsolete Legislation Report 2
- Secondhand Dealers Report
- Private Agents Report
- Sheepowners Protection Act Report
- Police Standing Orders and Police Manual Report
- Equal Opportunity Act Discussion Paper and Report
- Codes of Practice Discussion Paper and Report
- Admission to Legal Practice Discussion paper

Property and Commerce

Credit Act Rewrite Report
Penalties and Liquidated Damages Report
Product Liability Report

Land Law

Trust Discussion Paper
Sale of Land Report
Priorities Report
Insurance Discussion Paper
Easements and Covenants Discussion Paper and Report

Medicine, Science and the Law

Informed Consent to Medical Treatment Report
Genetic Manipulation Report

Criminal Justice

Homicide Report
Mental Malfunction and Criminal Responsibility Report
Summary Offences and Vagrancy Acts Report
Sexual Offences Against Children Report
Sexual Offences Against Victims with Impaired Mental Functioning Report

- 72 The work program for 1988/89 is comparable in scale to the 1987/88 program. The Commission's 1988/89 output will be produced with a budget 10% lower in real terms than that available in 1987/88.

Appendix A

STAFF OF THE COMMISSION

EXECUTIVE DIRECTOR

Richard Wright

RESEARCH

Francine McNiff
(to 31.8.87)
Bronwyn Naylor
Murray Raff
Kathy Sanders
Loane Skene
Robert Smith
Josef Szwarc
Nerida Wallace
(to 18.3.88)

LIBRARIAN — Victoria Law Foundation

Beth Wilson
Catherine Williamson
(July — December 1987)

ADMINISTRATIVE REFERENCE STAFF SECRETARIES

Debra Bartlett
Kylie Owen
Elizabeth Russell
Esther Shoueka
Deanne Wade
Christine Frazer
Pauline Martin
Lyn Topham
Sandy Ward

EDITOR

Bette Moore
(part-time)

RESEARCH ASSISTANTS

Christopher Caleo
(three months)
Anne Marie Farrell
(part-time to 13.7.88)
Peter Mees
(part-time)
Sue Rayner-Laver
(part-time)

Appendix B

REPORTS AND DISCUSSION PAPERS PRODUCED 1987/88

Rape and Allied Offences: Procedure and Evidence

Discussion Paper No 5, March 1987

Priorities

Discussion Paper No 6, May 1988

Rape and Allied Offences: Substantive Aspects

Report No 7, June 1987

Mortgagee Sales and Judgment Debts

Report No 8, June 1987

Plain English and the Law

Report No 9, June 1987

Obsolete Legislation

Report No 10, August 1987

Annual Report 1986-1987

Report No 11, September 1987

Informed Consent to Medical Treatment

Discussion Paper No 7, October 1987

The Torrens Register Book

Report No 12, November 1987

Informed Consent — Symposia 1986

Issues Paper, December 1987

Sale of Land

Discussion Paper No 8, May 1988

Rape and Allied Offences: Victims with Impaired Mental Functioning

Discussion Paper No 9, January 1988

Liquidated Damages and Penalties

Discussion Paper No 10, May 1988

Genetic Manipulation

Discussion Paper No 11, March 1988

Sexual Offences Against Children

Discussion Paper No 12, March 1988

Homicide

Discussion Paper No 13, March 1988

Rape and Allied Offences: Procedure and Evidence

Report No 13, March 1988

Occupational Regulation: Estate Agents and Auctioneers

Report No 14, April 1988

Mental Malfunction and Criminal Responsibility

Discussion Paper No 14, August 1988

Sexual Offences against People with Impaired Mental Functioning

Report No 15, NOT YET RELEASED

Obsolete Legislation

Report No 16, NOT YET RELEASED

Occupational Regulation: Principles for Occupational Regulation

Report No 17, June 1988, NOT YET RELEASED

Annual Report 1987-1988

Report No 19, September 1988

JOINT PUBLICATIONS WITH REGULATION REVIEW UNIT

Occupational Regulation: Estate Agents and Auctioneers

Discussion Paper Series No 1, September 1987

Occupational Regulation: Estate Agents and Auctioneers

Report Series No 1, April 1988 (LRCV Report No 14)

Occupational Regulation: Private Agents

Discussion Paper Series No 2, May 1988

Occupational Regulation: Second-hand Dealers, Marine Stores Dealers and Pawnbrokers

Discussion Paper Series No 3, May 1988

Occupational Regulation: Principles for Occupational Regulation

Report Series No 2, June 1988 (LRCV Report No 17)

Appendix C

ACCOUNTING REPORTS

AUDITOR-GENERAL'S REPORT

The accompanying financial statements comprising balance sheet, statement of income and expenditure, statement of sources and applications of funds and notes to the financial statements of the Law Reform Commission of Victoria have been audited as required by the *Law Reform Commission Act 1984* and in accordance with Australian Auditing Standards.

In my opinion, the financial statements have been prepared in accordance with the form approved by the Treasurer and present fairly the state of affairs of the Law Reform Commission of Victoria as at 30 June 1988 and the results of its operations for the year ended on that date in accordance with Australian Accounting Standards.

MELBOURNE
28/09/1988

C.A. BARAGWANATH
Auditor-General

LAW REFORM COMMISSION OF VICTORIA

CERTIFICATE

In our opinion, the accompanying financial statements comprising a balance sheet, statement of income and expenditure, statement of sources and applications of funds and the accompanying notes are in accordance with the requirements of Section 20(3) of the *Law Reform Commission Act 1984* and present fairly the financial transactions for the year ended 30 June 1988 and the financial position of the Commission as at 30 June 1988.

At the date of signing the financial statements we are not aware of any circumstances that would render any particulars included in the statements misleading or inaccurate.

Debra Bartlett
.....
PRINCIPAL ACCOUNTING OFFICER 23 Sept 1988
DATE

Jude Wallau
.....
ACTING CHAIRPERSON 23 Sept 1988
DATE

A. Neal
.....
COMMISSIONER 23 Sept. 1988
DATE

LAW REFORM COMMISSION OF VICTORIA

BALANCE SHEET

as at 30 June 1988.

	Notes	1988	1987
		\$	\$
CURRENT ASSETS			
Cash at Bank		107,101	85,742
Cash on Hand		48	33
Prepayments		12,281	13,976
Interest Receivable		590	154
Sundry Debtors		<u>14,315</u>	<u>4,057</u>
		134,335	103,962
FIXED ASSETS			
	3	<u>255,212</u>	<u>200,667</u>
Total Assets		<u>389,547</u>	<u>304,629</u>
CURRENT LIABILITIES			
Sundry Creditors		25,562	—
Prov. for Annual Leave		57,072	70,062
Prov. for Long Service Leave		29,751	6,191
Accrued Expenses		98,397	76,682
Unexpended Advance	4	<u>—</u>	<u>8,800</u>
		210,782	161,735
NON-CURRENT LIABILITIES			
Prov. for Long Service Leave		15,230	3,468
CAPITAL AND RESERVES			
Retained Earnings		64,887	40,778
Contributed Capital		<u>98,648</u>	<u>98,648</u>
		163,535	139,426
Total Equities and Liabilities		<u>389,547</u>	<u>304,629</u>

The accompanying notes form an integral part of the balance sheet.

LAW REFORM COMMISSION OF VICTORIA

STATEMENT OF INCOME AND EXPENDITURE

for the year ended 30 June 1988.

	Notes	1988	1987
		\$	\$
INCOME			
Contributions received from the Victoria Law Foundation	5	1,647,310	1,335,000
Other Income	6	7,253	10,952
		1,654,563	1,345,952
Less:			
EXPENDITURE			
Salaries & Related Items	7	950,357	811,863
Printing & Distribution		160,647	41,155
Rent & Rates		108,212	92,731
Administrative Expenses	8	94,163	96,581
Consultancy Fees		83,432	73,772
Superannuation		55,158	56,713
Depreciation of Fixed Assets		40,694	35,987
Audit Fees		5,475	2,160
Loss on Disposal of Fixed Assets		1,141	2,499
Other Expenses	9	131,175	120,506
		1,630,454	1,333,967
SURPLUS FOR THE YEAR		24,109	11,985
RETAINED EARNINGS — 1			
July, 1987		40,778	42,228
APPROPRIATIONS — Closure of Special Account		—	(13,435)
RETAINED EARNINGS — 30			
June, 1988		64,887	40,778

The accompanying notes form an integral part of the statement.

LAW REFORM COMMISSION OF VICTORIA

STATEMENT OF SOURCES AND APPLICATIONS OF FUNDS

for the year ended 30 June 1988.

	Notes	1988		1987	
		\$	\$	\$	\$
SOURCES OF FUNDS					
Funds from Operations	10				
Inflow of Funds From Operations					
Contribution from VLF		1,647,310		1,335,000	
Other Revenue		7,253		10,952	
Proceeds from Sale of Fixed Assets		—	1,654,563	2,900	1,348,852
Outflow of Funds From Operations			<u>1,553,297</u>		<u>1,311,066</u>
			101,266		37,786
Reduction in Assets					
Current Assets					
Interest Receivable		—		213	
Prepayments		<u>1,695</u>	1,695	—	213
Increase in Liabilities					
Current Liabilities					
Sundry Creditors		25,562		—	
Provision for Annual Leave		—		19,223	
Accrued Expenses		21,715		42,853	
Unexpended Advance		—	<u>47,277</u>	<u>8,800</u>	<u>70,876</u>
Total Sources of Funds			<u><u>150,238</u></u>		<u><u>108,875</u></u>
APPLICATIONS OF FUNDS					
Increase in Assets					
Current Assets					
Cash at Bank		21,359		33,671	
Cash on Hand		15		33	
Prepayments		—		7,259	
Sundry Debtors		10,258		4,057	
Interest Receivable		<u>436</u>	32,068	—	45,020
Non-Current Assets Fixed Assets			96,380		63,855
Decrease in Liabilities					
Current Liabilities					
Provision for Annual Leave		12,990		—	
Unexpended Advance		<u>8,800</u>	<u>21,790</u>	—	—
Total Applications of Funds			<u><u>150,238</u></u>		<u><u>108,875</u></u>

The accompanying notes form an integral part of the statement.

LAW REFORM COMMISSION OF VICTORIA

Notes to and Forming Part of the Financial Statements for the year ended 30 June 1988.

1. FORMATION OF COMMISSION

The Commission was formed under the *Law Reform Commission Act 1984* to replace the Law Reform Commissioner from 4 December, 1984.

2. STATEMENT OF ACCOUNTING POLICIES

a) Basis of Preparation of Financial Statements

The general system of accounting underlying the financial statements encompasses the accruals and going concern bases. The financial statements have been prepared in accordance with Australian Accounting Standards, the historical cost convention and the *Law Reform Commission Act 1984*.

b) Long Service Leave

The provision represents the Commission's estimated liability as at 30 June 1988 for the Long Service Leave entitlements of its employees. Employees become eligible for Long Service Leave after a qualifying period of 10 years service with the Law Reform Commission. The Commission accrues for Long Service Leave after an employee reaches 5 years service. The portion of the total liability relating to employees with more than 10 years service is considered to be current, the balance is considered to be non-current.

Payments of Long Service Leave are included as expenditure under the item 'salaries and related items' in the Statement of Income and Expenditure.

c) Annual Leave

The provision represents the Commission's liability for Annual Leave as at 30 June 1988. The amount is based on the value of actual entitlements as at balance date and includes a leave loading component. Payments of annual leave are included as expenditure under the item 'salaries and related items' in the Statement of Income and Expenditure. The total liability has been shown as current in the Balance Sheet.

LAW REFORM COMMISSION OF VICTORIA

Notes to and Forming Part of the Financial Statements for the year ended 30 June 1988. (continued)

d) Depreciation

The rates of depreciation prescribed by Income Tax Order No 1217 have been used in all instances. It has been considered appropriate to use the diminishing value method. In accordance with recommendations from the Department of Management and Budget, Victoria, calculations have been made to the closest possible month.

e) Superannuation

The Commission contributes to four different superannuation schemes on behalf of staff who have elected to take out superannuation cover.

- (i) Law Reform Commission Superannuation Scheme covers Commission staff who wish to contribute to a superannuation scheme.
- (ii) State Superannuation Scheme covers those staff on secondment from the Attorney-General's Department whilst they are employed by the Commission.
- (iii) University Superannuation Scheme of Australia covers staff on secondment from Monash University whilst they are employed by the Commission.
- (iv) University of New South Wales Superannuation Scheme covers staff on secondment from the University of New South Wales whilst they are employed by the Commission.

LAW REFORM COMMISSION OF VICTORIA

Notes to and Forming Part of the Financial Statements for the year ended 30 June 1988.
(continued)

3. FIXED ASSETS

		1988		1987	
	\$	\$	\$	\$	\$
a) Fixed assets as at 30 June, 1988 are reported at cost less Accumulated Depreciation					
Office Furniture and Fittings	92,451			81,969	
Less: Accumulated Depreciation	<u>32,998</u>	59,453	<u>26,324</u>	55,645	
Office Equipment	70,657			62,765	
Less: Accumulated Depreciation	<u>20,543</u>		<u>12,822</u>		
		50,114		49,943	
Word Processing Equipment	190,505			113,640	
Less: Accumulated Depreciation	<u>73,487</u>		<u>51,135</u>		
		117,018		62,505	
Miscellaneous Items (3d)	9,363			9,363	
Less: Accumulated Depreciation	<u>3,803</u>		<u>2,822</u>		
		5,560		6,541	
Partitions (Demountable)	21,237			21,237	
Less: Accumulated Depreciation	<u>3,407</u>		<u>1,961</u>		
		17,830		19,276	

LAW REFORM COMMISSION OF VICTORIA

Notes to and Forming Part of the Financial Statements for the year ended 30 June 1988.

(continued)

Motor Vehicles	8,719	8,719	
Less: Accumulated Depreciation	<u>3,482</u>	<u>1,962</u>	
		5,237	6,757
Totals:			
Fixed Assets — at cost	392,165	297,693	
Less: Accumulated Depreciation	<u>137,720</u>	<u>97,026</u>	
	<u>255,212</u>	<u>200,667</u>	

- b) Policies in respect of depreciation are set out in Note 2 (d).
- c) Library books, literature and fixed assets of an insignificant value have been expensed in the year of purchase.
- d) Miscellaneous items comprise of various items such as carpentry fittings, dictation equipment, electrical work, furnishings etc which were purchased after December 1984 and were not allocated to the above categories at that time.

4. DEPARTMENT OF COMMUNITY SERVICES VICTORIA FOR SEXUAL OFFENCES REFERENCE

This amount represented an advance to the Commission by the Department of Community Services Victoria for two research projects. The costs of the research projects were borne by the Department and funds were advanced directly to the Commission by that Department. This advance has now been fully expended.

5. CONTRIBUTIONS RECEIVED FROM VICTORIA LAW FOUNDATION

The revised approved estimate payable by the Victoria Law Foundation in respect of the 1987/88 financial year was \$1,647,310 (\$1,335,000 1986/87). This amount was fully drawn by the Commission during the year.

6. OTHER INCOME

'Other Income' consists of:

	1988	1987	
	\$	\$	
Donations	—	2,221	
Insurance Recoveries	—	4,192	
Interest	7,253	4,344	
Sale of Publications	—	160	
Other	—	35	
	<u>7,253</u>	<u>10,952</u>	

LAW REFORM COMMISSION OF VICTORIA

Notes to and Forming Part of the Financial Statements for the year ended 30 June
1988. (continued)

7. SALARIES AND RELATED ITEMS

The figure shown in the financial statements for 'Salaries and Related Items' is comprised of:

	1988	1987
	\$	\$
Fringe Benefits Tax	2,689	2,623
Long Service Leave	35,322	(2,150)
Payroll Tax	52,590	48,909
Workcare	4,863	3,983
Salaries including Annual Leave		
— Board Members	308,844	
— Others	546,049	758,493
	<u>950,357</u>	<u>811,863</u>

8. ADMINISTRATIVE EXPENSES

The item 'Administrative Expenses' includes the following amounts:

	1988	1987
	\$	\$
Accounting Fees	6,025	5,072
Courier, Postage & Telephone	26,202	22,553
Electricity	8,067	6,383
Insurance	2,386	312
Office Expenses	44,849	42,807
Repairs & Maintenance	6,634	19,454
	<u>94,163</u>	<u>96,581</u>

LAW REFORM COMMISSION OF VICTORIA

Notes to and Forming Part of the Financial Statements for the year ended 30 June 1988.
(continued)

9. OTHER EXPENSES

The item 'Other Expenses' is made up of the following amounts:

	1988	1987
	\$	\$
Advertising	1,472	9,564
Bank Charges and Fees	1,027	800
Conference & Meetings	15,799	10,609
Equipment Hire Expenses	12,000	12,000
Library Expenses	33,426	34,787
Motor Vehicles	14,740	10,293
Software	5,495	3,861
Travelling	47,216	38,592
	<u>131,175</u>	<u>120,506</u>

10. FUNDS FROM OPERATIONS

	1988	1987
	\$	\$
Surplus for the year	24,109	11,985
Add Depreciation	40,694	35,987
Prov. for Long Service Leave	35,322	(2,150)
Loss on Disposal of Fixed Assets	1,141	2,499
	—	13,435
Less Special Account	101,266	34,886
Add Proceeds from Sale of Fixed Assets	—	2,900
	<u>101,266</u>	<u>37,786</u>
Funds from Operations		

LAW REFORM COMMISSION OF VICTORIA

Notes to and Forming Part of the Financial Statements for the year ended 30 June 1988.
(continued)

11. LEASE COMMITMENTS

	1988	1987
	\$	\$
Operating lease expenditure contracted for is payable as follows:		
Not later than one year	89,058	112,872
Later than one year, not later than two years	14,680	89,058
Later than two years, not later than five years	—	14,680
	<u>103,738</u>	<u>216,610</u>

Operating lease payments are included in the income and expenditure statement under the expense item 'Rent and Rates'.

Lease commitments are in respect of the property located at 7th and 8th floors, 160 Queen Street, Melbourne.

Appendix D

CUMULATIVE PUBLICATION LIST

PUBLICATIONS — SEPTEMBER 1988

LAW REFORM COMMISSION OF VICTORIA (1984 to date)

The Law of Homicide in Victoria: The Sentence for Murder

Report No 1, September 1985 *

Unsworn Statements in Criminal Trials

Report No 2, September 1985

Annual Report 1984-1985

Report No 3, September 1985 *

The Role of the Jury in Criminal Trials

Background Paper No 1, November 1985 *

Deregulation of Hire Purchase

Report No 4, July 1986

Legislation, Legal Rights and Plain English

Discussion Paper No 1, August 1986

Rape and Allied Offences: Substantive Aspects

Discussion Paper No 2, August 1986

Annual Report 1985-1986

Report No 5, September 1986 *

The Torrens Register Book

Discussion Paper No 3, October 1986 *

Mortgagee Sales and Judgment Debts

Discussion Paper No 4, October 1986

Criminal Responsibility: Intention and Gross Intoxication

Report No 6, November 1986

Rape and Allied Offences: Procedure and Evidence

Discussion Paper No. 5, March 1987 *

Priorities

Discussion Paper No 6, May 1988

Rape and Allied Offences: Substantive Aspects

Report No 7, June 1987 (\$2.70)

Mortgage Sales and Judgment Debts

Report No 8, June 1987 * (\$1.70)

Plain English and the Law

Report No 9, June 1987 (\$39.95)

Obsolete Legislation

Report No 10, August 1987 (\$1.70)

Annual Report 1986-1987

Report No 11, September 1987 (\$2.70)

Informed Consent to Medical Treatment

Discussion Paper No 7, October 1987

The Torrens Register Book

Report No 12, November 1987 (\$3.00)

Informed Consent — Symposia 1986

Issues Paper, December 1987

Sale of Land

Discussion Paper No 8, May 1988

Rape and Allied Offences: Victims With Impaired Mental Functioning

Discussion Paper No 9, January 1988

Liquidated Damages and Penalties

Discussion Paper No 10, May 1988

Genetic Manipulation

Discussion Paper No 11, March 1988

Sexual Offences Against Children

Discussion Paper No 12, March 1988

Homicide

Discussion Paper No 13, March 1988

Rape and Allied Offences: Procedure and Evidence

Report No 13, March 1988 (\$3.60)

Occupational Regulation: Estate Agents and Auctioneers
Report No 14, April 1988 (\$2.70)

Mental Malfunction and Criminal Responsibility
Discussion Paper No 14, August 1988

Sexual Offences Against People with Impaired Mental Functioning
Report No 15, NOT YET RELEASED

Obsolete Legislation
Report No. 16, NOT YET RELEASED

Occupational Regulation: Principles for Occupational Regulation
Report No 17, June 1988, NOT YET RELEASED

Annual Report 1987-1988
Report No 19, September 1988

JOINT PUBLICATIONS WITH REGULATION REVIEW UNIT

Occupational Regulation: Estate Agents and Auctioneers
Discussion Paper Series No 1, September 1987

Occupational Regulation: Estate Agents and Auctioneers
Report Series No 1, April 1988 (See Report No 14)

Occupational Regulation: Private Agents
Discussion Paper Series No 2, May 1988

Occupational Regulation: Second-hand Dealers, Marine Stores Dealers and Pawnbrokers
Discussion Paper Series No 3, May 1988

Occupational Regulation: Principles for Occupational Regulation
Report Series No 2, June 1988 (See Report No. 17)

LAW REFORM COMMISSIONER (1974-1984)

Law of Murder (Degrees of murder — capital and non-capital murder — narrowing definitions of murder) Report No 1, August 1974

Criminal Procedure: (Miscellaneous Reforms)

Working Paper No 1, June 1974 * Report No 2, October 1974 * Partially implemented

Crimes Act, 1976

Criminal Liability of Married Persons: (Special Rules)

Working Paper No 2, January 1975 *
Report No 3, June 1975 *

Crimes (Married Persons' Liability) Act, 1977

Delays in Supreme Court Actions

Working Paper No 3, June 1975 *
Report No 4, February 1976 *

Partially implemented ***Wrongs (Actions for Damages) Act, 1978***

Rape Prosecutions: (Court Procedures and Rules of Evidence)

Working Paper No 4, February 1976 *
Report No 5, June 1976 *

Rape Offences (Proceedings) Act, 1976

Spouse-Witnesses: (Competence and Compellability)

Report No 6, November 1976 *

Crimes (Competence and Compellability of Spouse Witnesses) Act, 1978, No 9230

Innocent Misrepresentation

Report No 7, June 1978 *

Duress, Necessity and Coercion

Working Paper No 5, September 1978 *
Report No 9, October 1980

Pre-Incorporation Contracts

Report No 8, 1979 *

Provocation as a Defence to Murder

Working Paper No 6, July 1979 *

Delivery of Deeds

Report No 10, December 1980

Unsworn Statements in Criminal Trials

Report No 11, June 1981 *

Provocation and Diminished Responsibility as Defence to Murder

Working Paper No 7, 1981 *

Report No 12, 1982

Intoxication and Criminal Responsibility

Issues Paper, 1983 *

Discussion Paper, June 1984 *

Murder: Mental Element and Punishment

Working Paper No 8, May 1984 *

* Indicates out of print.

Photocopies can be provided for those publications which are now out of print except for Background Paper No 1.

All Discussion Papers are available from the Information Officer, Law Reform Commission of Victoria, 160 Queen Street, Melbourne at no charge.

Reports No. 7 onwards can only be purchased from Information Victoria, 318 Little Bourke Street, Melbourne until out of stock.