COMMITTEE FOR THE ECONOMIC DEVELOPMENT OF AUSTRALIA

BOULEVARD HOTEL, SYDNEY, WEDNESDAY 1 JUNE 1983

COST EFFECTIVENESS IN LAW REFORM

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The Hon Mr Justice M D Kirby CMG
Chairman of the Australian Law Reform Commission

THE ALRC IN A CHANGING WORLD

The Australian Law Reform Commission is a permanent national institution established by the Federal Parliament to make report on the reform, modernisation and simplification of Federal laws in our country. Some of the most distinguished lawyers in Australia are or have been Members of the Commission. Sir Zelman Cowen was a part-time Commissioner before becoming Governor-General. Sir Gerard Brennan was one of the foundation Commissioners and is now a Justice of the High Court, busily engaged today in the Tasmanian Dams case. Mr John Cain, the Premier of Victoria, was also a foundation Commissioner. Senator Gareth Evans, now the Federal Attorney-General, was appointed in January 1975. Judges, Federal and State, barristers and law teachers have given a portion of their busy lives to the Commission to assist in the orderly improvement of the legal system.

The basic notion of the Law Reform Commission is now new. In 1597 Francis Bacon suggested that the problem with the common law technique was one of intermittency. Though the common law could itself be an instrument for reform, it very much depended on chance factors : would an appropriate test case come before the courts? Would it be appealed to a court that could lay down the principles? Would the lawyers or the clients be up to the great issues of law and law reform involved? Would the judges grasp the nettle or avoid it? Bacon saw the need for a permanent continuing institution. As you know, the law never rushes things. It was not until 1965 that the English Law Commission was established. Since then, law reform bodies have been set up in all parts of the world. We have 11 of them in Australia. The Federal Commission is the largest. But even its budget is little more than $1million. This represents a puny investment in the improvement of the legal system. As a country, we tend to grumble and complain about the state of the law. But we resent spending money on the improvement of the legal system, though the law is the one discipline that

affects everybody in society. If you are healthy, you can avoid doctors. If you hate cats, you may never visit a veterinary surgeon. But the law is involved every time you cross the road, buy a meat pie or take a bus trip. No-one will know better the expansion of the law and of law making than businessmen. Our busy Parliaments turn out more than 1,000 Acts of Parliament each year, to say nothing of subordinate legislation. We live in a world of big law making. But little of this law can be properly described as law reform. Our investment in law reform is paltry : less than 10 cents per annum per taxpayer.

The Australian Law Reform Commission has delivered a number of reports to Government. Some of these are still under consideration in Canberra. But some have already led to changes in the law both at a Federal and State level. Senator Evans has promised fresh attention to the logjam of law reform. He has indicated his desire to ensure that law reform reports are processed by the bureaucracy more quickly and sympathetically. I suspect that these promises are based on Senator Evans' own experience as a Law Reform Commissioner and on his avid attention to the BBC series 'Yes Minister'.

There are many matters upon which I could have addressed you tonight. For example, I could have chosen:

* first, the basic institutional problems in improving the laws in Federal Australia;
* secondly, the problems facing reform of the Australian Constitution : a matter not unconnected with the economic development of Australia. In some ways, the compact formed by the Founding Fathers in the last days of the 19th century remains suitable for Australia today. But in others it provides ineffeciencies and inconvenience that would doubtless reward discussion;
* thirdly, I could have addressed specific topics being examined by the Law Reform Commission relevant to the business sector. For example, our work on consumer indebtedness, bankruptcy, insurance law or class actions would all be worthy of specific debate;
* fourthly, I could have embarked upon a review of the implications for our legal system of science and technology. The microchip, nuclear fission and biotechnology all present challenges to Australia, including to its economy. But they also present challenges to the legal system, which it is not terribly well geared to meet.

Distaining these topics, I have chosen to speak instead about a matter that is likely to become one of increasing concern. I refer to the costs and benefits of law reform. I will close with a few remarks about uniform law reform : a matter upon which there is still much work to be done in Australia and in respect of which we can learn from the United States, Canada and Europe.

COST/BENEFIT : A GROWING DEBATE

In the past few days, I have been confronted, in a number of ways, with the cost/benefit debate in law reform.

* Freedom of information laws. First, over the weekend, I had to sum up a conference on the effect of the Freedom of Information Act in Australia. The conference was attended by high level representations of Federal Government Departments, business, the judiciary and legal profession, academics and so on. Unfortunately, Mr John Stone, whose heart is said not to be in the moves for open government, did not prove venturesome enough to accept the invitation to attend. In a number of interventions, particularly from the Federal public service, concern was expressed as to whether the FOI Act, however theoretically desirable, was more costly than Australia could afford. Mr Derek Volker, Secretary of the Department of Veterans' Affairs, put it this way. Processing two FOI applications had cost, in man hours at a high level, something of the order of $900. He asked whether it would not be more appropriate, and a better use of scarce funds, to tell more veterans about their rights and to spend the money being spent on FOI on actually enhancing those rights. Of course, these questions were economic questions. They confronted the basic economic problem. With scarce resources, how do we maximise the expenditure of those resources to the best advantage of our people? Dr Peter Wilenski, now Head of the Department of Education and Youth Affairs, drew attention to the fact that economic costs include opportunity costs. In totalling the costs of freedom of information legislation, one must not merely add together the unit costs of the time spent by Federal officials in processing citizen claims. One must also ask about the opportunities lost by those officials and what better public service they could have been pursuing had they not been so engaged. Although never expressed in economic terms, it was clear that the seminar was repeatedly addressing economic questions. This was a healthy sign, because all too often lawyers and law makers have ignored the economic costs of what they are about. Hard times, it seems, impose greater rigour on us all. Law makers and law reformers are increasingly looking to the costs. Of course, many of the participants pointed out that the benefits of freedom of information legislation are often intangible benefits, difficult to assess in dollars and cents. But it was interesting to me (and I drew it to the attention of the seminar) that this issue of costs and benefits was now coming out in the open, with increasing clarity and vigour.

* Insurance broker regulation. Then on Sunday night, no doubt with many of you. I watched the 60 Minutes program. It was the first in a series. It dealt with a problem of secret remuneration of an insurance broker. It was claimed that an insurance broker not only received commission from the insurance company, but also very significant and undisclosed fees from the client insureds. It was claimed that the insured was not sent the policy documents disclosing the differential fee or, if sent the documents, that the extra fees were deleted. In some cases the mark up by the broker on the commission charged by the insurer was something of the order of 150%. Watching this segment of the 60 Minutes program, I sat up in my seat. The Law Reform Commission had produced a report on insurance brokers regulation. The report suggested that proved cases of default and inpropriety on the part of some insurance brokers required the introduction of a modest package of Federal regulatory legislation. This legislation would introduce the concept of broker registration, trust accounting and basic rules of proper broker conduct. One of those rules required the insurance broker to disclose to the client all amounts received by way of remuneration, whether from the insurer or from the insured himself. No provision in our recommendations was more hotly contested by some insurance broking interests than this. The Treasury, on the other hand, contested the whole package. They claimed that it was better to leave it to the insurance market to sort out good and bad insurance brokers. Their advice was accepted by the Fraser Administration.

Senator Evans, in Opposition, introduced a Private Member's Bill based on the Law Reform Commission's report. The Bill attracted the support of Labor Senators, Democrats, Senator Harradine and a number of Liberal Senators. It was in the House of Representatives when the Parliament was dissolved. Senator Evans has now indicated that he intends to reintroduce the measure as a Government Bill. The case is a classic one of costs and benefits. Are the costs of regulating insurance brokers (including the bureaucratic costs and the opportunity costs) outweighed by the benefits of promoting good professional conduct, upholding the name of honourable insurance brokers and removing 'bad apples' from the business? The Treasury though no. The Law Reform Commission, supported by the insurance industry generally and many Members of the Parliament, thought yes. True it is, many of the benefits of regulation were intangible. But the sad cases of duplicity and suggested dishonesty on the part of insurance brokers, revealed in the 60 Minutes program, at least tends to suggest the need for legislation. It may not be good enough for society to say : the market will sort it out. This will be a satisfactory intellectual answer, unless you happen to be that part of the market that is left unprotected from the unscrupulous, the dishonest or the venal.

There was no mention of the Law Reform Commission's report nor even of the Attorney-General's Bill and announced policies of the Labor Government in the 60 Minutes program. Watching the program, I reflected (during the commercials) on the issues of costs and benefits in insurance law reform.

* Efficient judicial administration. Thirdly, this morning, I addressed a conference of New South Wales Magistrates. My topic was the future of sentencing. In the course of addressing this topic, I mentioned initiatives that had been taken in Pennsylvania for the reduction of disparity in judicial sentencing. In part, the initiatives involved the use of data, including computerised data. In the course of the dialogue which followed my paper, a number of the magistrates suggested that a great deal of court time was being taken up in purely routine work. Magistrates were often reduced to highly paid clerks, getting through the paper work, filling out forms and using scarce judicial man-hours (and woman-hours) to process the very large work docket through the courts. As I spoke, it occurred to me that this problem too involves a balancing of costs and benefits. The benefits of an independent Judicial officer examining cases presented by the enthusiastic Executive arm of government or as between fellow citizens, needs no words of praise from me. It is the genius of the interaction between the arms of government which we have inherited from Britain. But are we maximising the use of this scarce judicial manpower? Are there ways by which we could cut down the routine and utilise our judges and magistrates on the work they do best, viz judging and deciding cases?

As always, the Americans lead the way in concern about improved judicial administration. Increasingly, they are introducing word processors to the courts, so that, at a touch of a few buttons, the mechanical processing of the papers can be completed, without derogating from the quality of the juducial decision. Much court work, indeed much legal work, is routine. Computers and word processors can help in that regard. The Americans also report increasing use of telecommunications to cut the costs of courts. Applications and motions to the courts are made, in some instances at least, by telephone or telephone conference. The lawyers and the judge are linked up at an appointed time. Routine applications, particularly of a legal kind, are dealt with efficiently by 'teleconferencing'. It is now 100 years since Alexander Graham Bell invented the telephone. Yet we have done little to adapt our court procedures to this technique. We still impose on judges, barristers, solicitors and above all witnesses, the inconvenience of court hours fixed in times long before the advent of the modern means of communication. Take heart. Reform is beginning in Australia.

The Administrative Appeals Tribunal, for example, was faced with the problem of hearing appeals in social security cases, often from distant country towns scattered throughout the continent. To send a Member of the Tribunal to Gilgandra, Goondiwindi or Bourke would be prohibitively expensive. The cost of doing so would far outweigh the amounts at stake, however important to the litigants. Recognising this, the Administrative Appeals Tribunal has introduced a system of telephone hearings. Even though witnesses are involved and cannot be seen, they are linked by telephone at an appointed time to the Tribunal Member and the representative of the relevant department. Although not a perfect system of justice, it is much fairer than excluding the applicant from access to the umpire. I am told that the system is working well. It obviously has lessons for the general courts system. The retreat of the High Court of Australia to Canberra has put it out of the reach of many litigants, particularly in Sydney and Melbourne. The Court still travels to the other capital cities but not now to Sydney and Melbourne. In the old days, clients with an apparently good cause could often secure a barrister to go up the street to present their applications to the High Court, often at little or no cost. But where the costs of travel to Canberra are involved, this has put many applications out of the reach of ordinary citizens. Clearly, the solution is the use of telecommunications. In due course we will come to teleconferencing in its full glory : visual as well as oral images. In the meantime, our courts in this large country, and in particular our Federal courts, should be paying attention to the needs to utilise telecommunications for the improvement of the efficiency of their operations.

These three instances, from the past week, illustrate the way in which courts, law makers and law reformers are, daily, being confronted with the economic problem. How can we maximise the use of scarce resources in Australia to ensure cost-effective administration of justice and cost-effective law reform?

EFFICIENCY AND EQUITY

As an indication of the growing concern about the economics/law interface, the issue of cost effectiveness has been given prominence in the last two Annuals Reports of the Australian Law Reform Commission. In this, the Commission has merely reflected the growing debate in Australia about the efficacy of relying upon market forces to optimise the achievement of economic and social goals, rather than relying upon legal regulation. An American authority on the subject is Judge Richard Posner, formerly an Economics Professor at Chicago. He wrote a book, Economic Analysis of Law.

The book suggests that considerations of the economic impact of the law have long influenced judges in the development of the common law, even if they did not articulate or even fully understand what they were doing. What has changed, he said, was that matters which were largely unarticulated until recent times are now increasingly coming out into the open. People are much more likely to look closely at cost/benefit analysis of policy options. Moreover, law makers and law reformers are more likely to seek and act on the advice of economists in making judgments.

During the past year a number of useful texts have been published in Australia on the economic analysis of law.[1] In one of these, Professor Maureen Brunt and Dr Allan Fels offer comments on the proper function of economic analysis of law reform proposals:

> The economic approach to proposals for law reform is ... to analyse the contribution that a particular proposal ... might make to an efficient and equitable legal process. Indeed, some economists (especially the Chicago line) would adopt an even narrower focus, confining the analysis largely to efficient legal processes. And certainly most economists would agree that the main contribution to be made by economics to the analysis of the law does lie in the realm of efficiency.[2]

I call attention to the fact that these two authors, each of them with exprience in Federal institutions, acknowledges that two concerns must be weighed : efficiency and equity (or fairness). It is sometimes said that lawyers are, typically, concerned with conceptions of 'fairness' or 'equity'. Economists, it is said, are typically concerned with 'efficiency'. Whatever happens to economists, it is now increasingly being perceived that lawyers, law makers and law reformers must be concerned with efficiency too.[3]

Interestingly enough, the Campbell Committee, in its final report, acknowledged that economic efficiency was not the only proper goal of public policy in Australia:

> Clearly governments must have regard for important objectives besides economic efficiency. The growth in government intervention in the financial system over the last few decades can be explained largely in terms of these other objectives. The committee in no way questions the social priorities of governments.[4]

Where government intervention was thought necessary to achieve a defined social goal, the Campbell Committee sought to encourage those with the responsibility of framing the government intervention to seek the most cost-effective method of intervention that would achieve the desired objective (including social or equitable objectives) at minimum cost (including opportunity costs). Implicit in the stance of the committee was a recognition that there is often a need to compromise between efficiency and equity. A highly efficient use of resources may sometimes bring redistribution effects which may or may not be considered desirable from a social point of view.

During the past year or so, there has been a lot of loose talk about 'unacceptable' regulation of economic activity, the need to leave things to the market, unrestricted by law, and the need to rely on self-regulation. Let me say at the outset that I agree that some legal regulation of the economy has been unacceptable and even counter-productive. Bureaucratic controls have been needlessly costly for the objective being sought. Furthermore, self-regulation undoubtedly has a part to play. It can sometimes be more effective — certainly more cost effective — than an army of administrators and the expensive panoply of the courts.

Nonetheless, this line of criticism of the law tends to overlook the fact that sometimes, the law has actually facilitated and encouraged economic enterprise. This point was made by Lord Wilberforce in his Holdsworth Lecture on 'Law and Economics':

> The invention of the limited company came about ... as part of what would today no doubt be called ... a legal breakthrough, in which institutions designed for the needs of an aggrarian economy suddenly, by a process of radiation, became adapted to a commercial society. The company, the abolition of the laws of usury, the introduction of cheques, the formulation of Patent Law and trade marks, were all part of the movement which did not merely reflect the expansion of commercial practice; but also — perhaps more truly — gave an essential impulse to it.[5]

The point being made is that we must get criticism of the law, lawyers, law makers and legal regulation into a correct perspective. Just as not all businessmen are bad, nor all economists gloomy, so some laws can positively encourage business and enterprise. We need plenty of those laws in Australia. Furthermore, other laws, though inhibiting, controlling or redirecting business, can be justified on the grounds of equity. The costs may be outweighed by the social benefits that are secured. Those benefits will sometimes include intangible benefits, such as I have mentioned in the context of the Law Reform Commission's proposals for the regulation of insurance brokers.

Though one must be careful in putting too much faith in the law as a means of instilling good conduct, there is no doubt that had the Law Reform Commission's proposals requiring insurance brokers to reveal their remuneration to their clients (and punishing and even excluding them if they did not do so), been in force, the course of conduct illustrated by the 60 Minutes program over the weekend would either not have occurred, or would more clearly been punishable or, at the very least, would have been significantly discouraged. All of these points have been made by me, from time to time, in a number of speeches delivered since the report on insurance mediaries was tabled. The points have been repeated in the Annual Reports of the Australian Law Reform Commission. They are not, of course, beyond debate. In a free society, people with differing views will freely express dissent. Thus, some economists have criticised the Law Reform Commission's approach to economics and cost/benefit analysis. But they have praised the fact that the Law Reform Commission is now venturing into this field and has publicly recognised -- for the first time in any law reform institution in the English-speaking world -- the importance of economic analysis of law reform issues.[6]

Sometimes our differences with economists turn on economic analysis. More often, they turn upon different perceptions of intangible benefits that are seen, by the Law Commissioners, to outweigh the economic costs of interference with the market. Perhaps the clearest example of this is to be found in the debate I have had with Dr Peter Swan about one of the early reports of the Law Reform Commission. This dealt with the law on human tissue transplantation. It proposed that commerce in human organs and tissues should be legally forbidden?[7]

Dr Swan suggested that the Law Reform Commission's approach would inhibit a mutually beneficial trade in body parts.[8] He suggested that people should be able to sell their organs, either during their life or after it. He said that laws forbidding such practices would merely interrupt the efficient operation of the market under which poor people gain benefits by selling such parts to rich people. The Law Reform Commission report was anxious precisely to stop such traffic. It was considered that parts of the human body were so intimate, vital and deserving of special social respect that we should not permit traffic in them. Examples of poor people in South America selling corneas and other body parts to rich people in North America convinced the Commissioners that this was a ghoulish trade. Furthermore, the traditions of the free supply of human blood and other means of simplifying the law to promote the easier supply of organs and tissues seemed preferable to the Commissioners than the uninhibited operation of the market place in this case. Dr Swan's analogy between body parts and spare motor parts was just considered unacceptable. This difference of view between a distinguished economist and the Law Reform Commission helps, at once, to define the value and the limits of economic analysis of law reform.

UNIFORM LAW REFORM

In my closing remarks, I want to say something about the problem of uniform law reform. It is a problem of special significance for the economic development of Australia. First, let me make it clear that I speak from the standpoint of one who believes in the general value of our Federal system. Whatever may be said for smaller countries, a large continent, made up of scattered communities, most of them hugging the arc of coastline in the South Eastern corner, need some system of decentralised government. Effectively that means a Federal system which divides responsibility for subject matters of the law between a central and a unit government. Federalism is intensely legalistic. Many of the great political issues must be submitted to the courts for resolution, just as the Tasmanian Dams case is this day being argued before the Justices of the High Court. Federalism can be very inconvenient and expensive and frustrating. But the pressures of the 21st century are going to be towards the centralisation of power. Above all, informatics will force the pace of centralisation. In these circumstances, federalism is a form of governmental 'planned inefficiency'. Though this may upset some economists, I am sure that citizens who reflect upon it will see the merits of dividing the great power of government, especially in today's world. Diversity, as Chief Justice Bray once said, is the protectress of freedom.

Having established so much, it remains the fact that the division of powers, settled in the closing days of the 19th century are not always suitable for the economic and other needs of Australia as it approaches the 21st century. For example, the regulation of biotechnology, in truth a matter for mankind, is divided between the various State and Territory jurisdictions of Australia. We have five current inquiries in Australia on in vitro fertilisation (test tube babies). It will be a miracle if they come up with similar or even consistent responses. Likewise, the microchip, computers and information systems generally are subject to State laws. Unless some unimaginative legal basis can be found in the Federal Constitution to justify national regulation, we will have to face the spectre of different State regulation of computers. A technology which is national, indeed international, and whose very efficiency lies in its instantaneous linkages, may not be readily susceptible for national legislative control. We in the Law Reform Commission are confronting this precise problem in designing Federal legislation for the protection of privacy. How inefficient it will be if the universal computer is submitted to State regulation on matters such as data protection and data security, computer vulnerability, computer crime, use of the evidence from computers, computer contracts and so on.

The ways of enhancing the power of Federal regulation over new areas, not mentioned in the 1901 Constitution, are several:

* rely on the judges of the High Court to expand the scope of Federal regulation by judicial construction of the Constitution;
* rely on the people to expand Federal regulation at referenda;
* rely on governments to agree to references of power or uniform laws.

Though the judiciary has helped to adapt the old Constitution to new circumstances, this is a dangerous and uncertain path. The people, for their part, have proved remarkably reluctant to agree to frank changes in the Constitution. There may be pointers to a greater willingness to accept change. But these are uncertain. References of power have been notably few in our country's history, because power is so frequently political. Likewise the history of uniform laws is equally discouraging.

In some ways, the work of the Australian Law Reform Commission itself can promote uniform laws. For example, the report on Human Tissue Transplants is now the basis of the law in all jurisdictions of Australia, except Tasmania. Likewise, a number of other reports, in traditional areas of State law, have formed the basis of copied legislation in a number of States and Territories. We regard this as an important part of our work for our statutory charter calls our attention to uniformity of laws.

But we have not developed in Australia a conjoint Federal/State body to help facilitate uniform laws, where uniformity is desirable. There are such bodies in the United States, Canada and Europe. In the United States, since 1892, there has been a National Conference of Commissioners on Uniform State Laws. It has achieved many important uniform laws, including laws to facilitate commerce and trade. Thus the Commercial Code provides a basically common commercial law throughout the United States in all save one of the States. The exception is Louisiana where a French law system prevails. Likewise uniform laws have been developed on such matters as partnerships, declaratory judgments, insurance liquidations and the use of photocopies in evidence.

In Canada, a similar body was established in 1918. It too has produced a number of model uniform laws that have been copied in a number of the Provinces.

Even in Europe, the European Community's Commission is hard at work in developing Directives on private law matters to harmonise the laws of the member countries of the EEC. In the Law Reform Commission's work on insurance contracts law reform we had regard to the EEC Directive on the Co-ordination of Legislative and Statutory and Administrative Provisions Relating to Insurance Contracts.[9] In addition to the EEC Commission, the Council of Europe, since 1949, has been developing in more than 100 important conventions and agreements to seek to harmonise the laws of the European continent, where harmony would promote efficiency and justice.

We do not have such mechanisms in Australia. The Standing Committee of Attorneys-General has been labouring for more than three years on consideration of the Law Reform Commission's report on defamation laws. Everyone agrees that uniform defamation laws are needed. Senator Evans has promised that they will be produced by July 1983. But the process is a long, languid and agonising one. One can virtually count the uniform laws of Australia on the fingers of one's hands. We need new institutions to promote uniformity where that is appropriate. It is especially appropriate in matters of business regulation where national companies must struggle with compliance, in different States and Territories, with a plethora of laws, marginally different in irritating detail. I was therefore pleased to see, in the Law and Justice Policy of the new Federal Government, a promise to establish a national Advisory Council on Law Reform. I hope it will develop an established role in designing and promoting uniform laws. The matter is to be discussed at a meeting of the Australian Law Reform Agencies Conference in Brisbane in July 1983. Senator Evans has indicated his intention to attend and address that meeting.

The genius of English-speaking people is said to be in their capacity to reduce problem-solving in difficult questions to a routine. Often that means a committee or a commission. Law reform, if you think about it, is a routine, interdisciplinary solution to the taxing challenges which the law and society face today. The model of the Law Reform Commission is one that should be considered in the context of constitutional law reform and uniform law reform : two areas where our national record is discouraging. I hope that the Australian Law Reform Commission contributes to the economic and just operation of the legal system of Australia. I am delighted to have had this opportunity to address your committee.

FOOTNOTES

1. See The Law Reform Commission, Annual Report 1982 (ALRC 21) 1. The books include A J Duggan, The Economics of Consumer Protection : A Critique of the Chicago School Case Against Intervention, Adelaide Law Review Association, Uni of Adelaide, 1982; John Nieuwenhuyser and Marina Williams-Wynn, Professions in the Market Place, Melbourne University Press, 1982; Ross Cranston, Regulation and Deregulation : General Issues; R Cranston and A Schick (eds), Law and Economics, ANU, Canberra, 1982.

2. M Brunt and A Fels, 'Economics of Class Actions : A Research Design' in Law and Economics, (above), 5.

3. D Harding, 'Lawyers and the Regulation of Economic Activity', in A D Hambly and J L Goldring (eds), Australian Lawyers and Social Change, Law Book Co., Sydney, 1976, 219.

4. Committee of Inquiry on the Australian Financial System (Final Report, J K Campbell, Chairman), Australian Financial System, AGPS, Canberra, 1981, para 1, 7.

5. Lord Wilberforce, 'Law and Economics', Address to the Holdsworth Club, University of Birmingham, reprinted in B W Harvey (ed), The Lawyer and Justice, London, 1978, 73.

6. C Veljanovski, 'Cost Benefit and Law Reform in Australia', (1982) 132 New Law Journal, 893. See also [1983] Reform 51, 52.

7. The Law Reform Commission, Human Tissue Transplants (ALRC 7), 85.

8. P Swan, 'Is Law Reform Too Important to be Left to the Lawyers? Critique of Two Law Reform Commission Reports', in Law and Economics, above, 13.

9. The Law Reform Commission, Insurance Contracts (ALRC 20), 1982, 114.