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INSTITUTE OF MERCANTILE AGENTS

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CREST HOTEL, BRISBANE, 23 MARCH 1984

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The Hon Justice MD Kirby CMG
Chairman of the Australian Law Reform Commission

TIMES OF CHANGE

It is said that the most diabolic Chinese curse is to wish upon a person that he will live through interesting times. Curse or not, we are certainly living through a period of rapid social, moral and technological change. It has been the fate of our generation to see the coincidence of three remarkable scientific developments: nuclear physics, biotechnology and informatics. Nuclear physics will not much affect mercantile agents — unless some madman gets access to the button and destroys us all. Biotechnology is not of immediate concern, though doubtless future mercantile agents will be born by procedures of in vitro fertilisation. Perhaps the very best mercantile agents will even be cloned! Informatics, on the other hand, the marriage of computers and communications technology, will have a profound effect on the work of mercantile agents and on the laws governing them. I propose to address myself to these effects.

Nowadays, it is hard to pick up a newspaper and to avoid reading about the changing technology and the way it will impact the community generally and the credit community in particular:

- Electronic fund transfers. The introduction of electronic funds transfers (EFT) in Australia is now well advanced. According to reports in the Australian Financial Review (15 February 1984) the Reserve Bank of Australia is seeking to promote the efficiency of EFT in the Australian financial system. However, EFT has clear legal and social implications. In the United States a Presidential Commission into EFT proposed numerous changes to United States Federal law which were subsequently adopted to preserve the privacy of credit customers and the protection of their

civil liberties. With the introduction of EFT and cashless forms of credit, computerised records of transactions could disclose not only the physical movements of the customer but also buying patterns and preferences. Specific legislation, as in the United States, will be required in Australia.

- New cheque laws. A much delayed reform, connected to the new information technology, made some progress in February 1984. On 23 February 1984 Attorney-General Evans circulated a draft Bill designed to codify the law on cheques in Australia. The object of the legislation is to update the uncertain application of laws on bills of exchange. It is also to implement some of the as-yet unattended recommendations of the Manning Committee which delivered its report 16 years ago. Among the principal clarifications or changes proposed by the draft law is the provision that cheques will not be invalid because undated, post-dated, ante-dated or bearing the date of a Sunday. Simplification of crossings will be provided and provision made for the presentation of cheques by collecting banks to the paying bank by transmission of particulars by computer, telex or telephone rather than physical movement of the cheques. It has been suggested that this reform alone will save Australia's four biggest banks in the order of $350 million a year (Age, 24 February 1984, 5). If this is true, it shows the wastefulness of delay in some areas of law reform and the urgency of providing swifter attention to reform reports.

There are other developments which provide the backdrop to this meeting of your Institute:

- Martin report. On top of Senator Evans' announcement about cheques law was the tabling of the Martin Report on the Australian Financial System by the Federal Treasurer, Mr Paul Keating. According to the National Times (24 February 1984) the report sets the scene for 'a banking revolution' in Australia. The thrust of the report is the suggestion of deregulation of banking, specifically the suggestion of the removal of interest rate ceilings and limitations on short-term deposits by Australian banks. These limitations have led to the strong growth of merchant banking in Australia. Removal of the restrictions would, it is suggested, remove much of the impetus for non-bank financial institutions. Amongst other things acknowledged in the Martin Report is the ownership by banks of the cheque clearing system and the suggestion of access to that system by non-bank financial institutions under the supervision of the Reserve Bank. Building society and credit union spokesmen have voiced anxiety about the proposals. Writing a financial editorial in the Sydney Morning Herald (2 March 1984) John Short predicted that many of the key proposals in the Martin Report would be strongly opposed by people in the present Federal Government.

Uniform credit laws. The slow, meandering course of law reform continues to be demonstrated in the field of uniform credit laws. Proposals for such laws originated in the 1960s in South Australia. They were taken up by the Molomby report to the Victorian Government, also in the 60s. Seemingly countless meetings have been held with a parade of successive Ministers of Consumer Affairs and Law Ministers. Yet Australia is still waiting. At the end of 1983 the New South Wales Government announced its legislation aimed at facilitating the introduction of uniform credit laws. Amongst features of the new laws are the provision for licensing of anyone offering consumer credit; control of interest rates on extended credit less than $14 000; rationalisation of credit agreements and the replacement of hire purchase and moneylending statutes; and changes in the position of legal ownership of goods bought under credit sale. Our country is still waiting for uniform credit laws. I shall return to the issue of uniformity in the laws governing your activities. But we all know that uniform law reform has not been a particular strength of the Australian lawmaking scene.

AUSTRALIAN LAW REFORM COMMISSION

A number of the tasks before the Australian Law Reform Commission, in the past and at present, are relevant to the work of mercantile agents in Australia:

- Evidence. Our current project on reform of the Federal laws of evidence is designed to simplify and modernise the rules of evidence followed in Federal and Territory courts. Amongst matters tackled is the proof of business records, often a stumbling block in establishing matters before courts which would not be the subject of serious dispute in the real world of business.
- Service and execution of process. Another current project before us relates to reform of the Federal law on service and execution of process. That law has remained virtually unchanged since it was enacted at Federation. Nowadays Australians are much more mobile. Modern means of transport facilitate movement from jurisdiction to jurisdiction. In the age of instantaneous communications, as well as because of the development of many non court tribunals and other moves, the time has come for us to consider whether simpler and less expensive procedures should be introduced with legal process issued in one State for service in another. This is a new task before the Law Reform Commission. The Commissioner in charge of the project, Dr Michael Pryles of Monash University, and I would welcome comments on the best means of improving the present statute. In particular, we would welcome instances known to mercantile agents of difficulties and inefficiencies that have arisen in the execution of process out of the State.

nsurance. Under the leadership of my colleague Professor David St L Kelly, now Head of the Law Department in Victoria, the Commission has concluded a major review of the law governing insurance. Important proposals have been made for the regulation of insurance intermediaries and changes in the law governing insurance contracts. Legislation has been introduced into Federal Parliament as a warrant of the intention of the Federal Government to proceed with important reforms in this area.

- Privacy. The last report to be tabled in Federal Parliament, in December 1983, dealt with suggestions for new laws for the protection of individual privacy in Australia. Principles and institutions were proposed for such typically modern problems as electronic surveillance, optical and telephonic interceptions, powers of entry and data protection and data security. All of these matters are of high relevance to mercantile agents and I intend to touch upon some of the chief points.
- Debts. Finally, there is the Law Reform Commission's still current project on debt recovery law reform. That project, in turn, may be divided into three parts:
  - the first, dealt with in a 1977 report of the Commission, addressed the special problems of small consumer debtors who get into debt difficulties and want a moratorium procedure to pay off their debts. That report is still before the Federal Government; although I understant it is now being actively worked upon with a view to an early Cabinet decision;
  - the second phase is possibly the one which most interests mercantile agents. I refer to the current project being tackled under the leadership of Professor David Kelly dealing with reform of debt recovery laws generally. This project is now well advanced. Following extensive consultation on a widely distributed discussion paper, proposals are now being developed which should come together in a report of the Commission towards the end of 1984.
  - in recent weeks, the third phase has begun. This originated in a reference from the Federal Attorney-General on the whole law of insolvency in Australia — consumer and corporate insolvency. Clearly this third phase, which will take a number of years to complete, will be of interest and concern to mercantile agents throughout Australia.

REGULAR PAYMENT OF DEBTS

Before I turn to the major matters of my address to you, concerning privacy protection and reform of debt recovery process — I want to say something about the Commission's sixth report. It is timely that I should do so, as I understand that the report may be about to enter an active phase, possibly with the introduction of reforming

Fede legislation. I am prompted to say something because the Secretary of the Queensland Division of the Institute, with commendable candour, cautioned me that many members of the Institute:

> feel that overdue consideration was given to the rights of debtors and too little to the rights of creditors. This is not to suggest that our members are in favour of debtors' prisons or the suchlike, far from it. However, one only has to be an active collection agent or, indeed, a process server to know that there is a certain percentage of the population which delights in evading debts and evading process servers. Hence, it is often felt that far more stringent remedies should be available where it can be shown that a debtor is demonstrating nothing but contempt for the system.

Let me start my response to these sincere anxieties by outlining the structure of the Commission's report Insolvency : The Regular Payment of Debts (ALRC 6, 1977). The proposals, put forward in 1977, have actually become rather more relevant because of the downturn in the economy, the rise in unemployment, particularly youth unemployment and uncertainty about the future, together with the structural change that results from technological developments that affect so many avenues of employment. All of these developments, as I am sure you will agree, make reconsideration of debt recovery law and process more important than at any time since the Great Depression.

The approach taken by the Law Reform Commission was a fairly simple one. It had five principal components:

- First, we proposed the establishment of a regular payment of debts scheme, so that people in debt could secure a short moratorium, credit counselling, the arrangement of their debts and a scheme, with the consent of the majority of creditors, for debt repayment.
- Secondly, integral to our plan and essential for its success was the availability of expert debt counsellors. Their advice would be essential both in securing the operation of the scheme and in complying with its procedures. The Commission proposed the establishment of a training scheme for people wishing to become debt counsellors.
- Thirdly, we proposed important changes to bankruptcy laws including the automatic discharge from bankruptcy of non-business bankrupts six months from the commencement of bankruptcy. In fact, this proposal was followed by the previous Government to the extent that the period for automatic discharge was reduced from five years to three years.
- Fourthly, we suggested the need for a radical overhaul of the procedures by which creditors pursue the recovery of debts. This is the second phase of the Commission's work which is now proceeding actively.

Fifthly, we stressed the need for a wide-ranging review of the Bankruptcy Act and an investigation of consumer credit interest rates in Australia. In the lastmentioned connection, we urged that the investigation should give specific attention to the existence of different interest rates from different sources in the consumer credit market and the extent to which those on lower incomes might be excluded in whole or part from the credit market and might have to pay higher charges for credit than more affluent citizens. As a result of this suggestion, we have now received the insolvency reference, which is the third phase of our activities in this area.

I realise that there is concern about dishonest debtors. I share that concern. But in defence of the Law Reform Commission's proposals I would wish you to consider the following factors:

- Origin : US wage earner plans. First, the proposal for a 'regular payment of debts scheme' drew heavily upon a system of law that has been operating successfully in the United States for 40 years. In that country, the system is called 'wage earner plans'. People receiving an income who wish to aggregate their debts and find a system of repayment of total debts can enter a 'wage earner plan' outside bankruptcy. The system has been remarkably successful and efficient in the United States. In the financial year 1981 creditors were paid the massive total of $131 751 943 under the wage earner plan system. The sum recovered represented 80% of the total amount received by the administration of the plan. The proposals put forward by the Australian Law Reform Commission in its sixth report would almost certainly be even more cost-efficient than the wage earn plans in the United States because of the Commission's emphasis on the use of voluntary debt counsellors rather than exclusive reliance on more salaried public officials.

- United Kingdom report. Secondly, it should not be thought that the Australian Law Reform Commission's proposals are the isolated aberration of a few Antipodean reformers, bent on copying United States laws and procedures. After all, the United States is the largest credit economy in the world and it is appropriate that smaller fish should look at how they cope. Recently, the Australian proposals received something of a boost when the report of the Cork Committee in England was published in June 1982. That report followed five years of study. Because our insolvency and debt laws are largely drawn from those of Britain, much of what Sir Kennedy Cork and his colleagues had to say is of direct relevance to us in Australia. The Cork report contains numerous recommendations aimed at simplifying insolvency procedures, improving the standards of the administration of insolvent estates and increasing funds available to unsecured creditors of insolvency debtors.

but important to the present point was the fact that the Cork Committee in 1982, like the Australian Law Reform Commission in its 1977 report, urged that bankruptcy should basically be reserved for cases of misconduct, that simpler procedures should be adopted for discharge from bankruptcy and that a system should be introduced for a Debts Arrangement Order, outside bankruptcy. Such an order would be rather similar to the wage earner plans of the United States and the regular payment of debts scheme proposed by the Australian Law Reform Commission.

. Australian practice. Apart from the United States legislation and the Australian and British legislative proposals, it cannot be said too often that the practice of most creditors in Australia is entirely compatible with the suggested changes in the law. We all know that most creditors are only too happy to have schemes laid down by which debts can be regularly paid, in whole or in great part. The problem for the creditor is all too often that the debtor simply ignores demands and reminders, leaving no alternative but abandonment or legal process. A further basic problem at the moment is that under s.213 of the Bankruptcy Act 1966 (Cth) any arrangement involving an extension or composition of debts which is not in accordance with the Bankruptcy Act is rendered void. Despite this legal impediment and other practical drawbacks, considerable success is already being achieved in Australia in making relevant arrangements and ensuring that debtors can make agreed payments of aggregate debts. However, the whole system operates in a legal limbo. And we all know that all you need is one recalcitrant creditor who insists selfishly upon his own rights, indifferent to the interests of other creditors and of the debtor, and the whole pack of cards can come tumbling down. What is needed is something that will protect the majority interests of creditors and debtor. But it is needed outside bankruptcy because bankruptcy still has a social stigma.

. Creditor consent. The fourth point to be made is that the Law Reform Commission's proposals, which would clearly affect mercantile agents once introduced, are pivoted on the ultimate agreement of the majority of creditors. In order to save the costs that presently attend bankruptcy procedures, it was suggested that there should be no meetings of creditors. Instead, use should be made of the mail both as a means of informing creditors of a proposal for a program and as a means of creditors signifying their approval or disapproval of a debtor's proposal. The scheme would be limited to non-business debts not exceeding in total $15 000. This sum will clearly have to be reviewed in the light of the passage of the years. A recent British White Paper on the Cork Report proposed a cut-off point at £15 000.

The proposal would, however, become operative and binding on all creditors but only so long as more than half of the creditors in number and amounts did not indicate that they rejected the proposal. True it is the Commission required actual disapproval rather than positive approval. However, the ultimate final say would remain with creditors. If they, possibly advised by mercantile agents, felt that the program being proposed was not realistic or just, they would disapprove and the moratorium would be lost by the debtor who could then be pursued in the normal courts. The important point is that the creditors retain ultimate control.

Cost/benefit. Finally, there is the issue of costs and benefits in law reform. The Commission is receiving expert advice from economists on this subject. There is no doubt that there is a hard core of bad debtors who, for fraudulent and criminal reasons or otherwise evade process and their credit responsibilities. To some extent the credit system, like credit cards, operates on a bad debt factor. Even if we reintroduce imprisonment, public whipping, the Clink Prison, the stocks and the other paraphernalia that once beset debtors, there would remain a hard core of bad payers. What we have to do, in law reform, is to design cost-efficient laws and procedures that will increase, at the margin, the repayment rate and, instil credit responsibility, without adding grossly to the costs and other burdens of debt process. A survey conducted by the Law Reform Commission in conjunction with its 1977 report, demonstrated the pathetically small amounts that are typically recovered in bankruptcy from non-business bankrupts. A system of law that spends a lot of money on the recovery process and does not in the end extract much blood from the stone, is not one deserving of respect. We must improve our criminal laws to deal with the frankly dishonest and fraudulent debtors. We must improve the efficiency of our insolvency and debt recovery laws to maximise the recovery to creditors and to cut down on the costs of legal and service process. We must adjust our laws to the reality of the modern extension of credit. We must take into account the fact that in times of Recession, perfectly honest and decent fellow citizens can suffer unexpected unemployment and need a little help for a time, so long as they make genuine and honest efforts to repay as much of the debt as they can. As to the balance, there will always be a write-off factor. It must not grow too large lest it undermine community credit responsibility. We must always keep in our minds the costs to the total community of the provision of judges, magistrates, courtrooms, transcripts, sheriffs and bailiff officers as well as the costs of lawyers and mercantile agents. When all of these costs grow disproportionate to the recovery, the lessons must be drawn both for reform of our laws, institutions and procedures and also for write-off policies, distasteful though these can sometimes be in individual cases.

REG ATION OF DEBT COLLECTION AGENCIES

I now turn briefly to the second phase of the Law Reform Commission's proposals, dealing with the general law of debt recovery. On this subject the Commission issued a discussion paper, Debt Recovery and Insolvency (DP6, 1978). I would caution you that there has been very significant movement in the Commission's thinking since that discussion paper was distributed and nationally debated. We have been assisted by the very thoughtful and critical comments of the Institute and its members. The whole process of law reform is one of attracting public attention to tentative proposals so that, when they are finally put up to Parliament, they are as sensible, practical and efficient as can be devised. Nominally, the Australian Law Reform Commission is preparing its report in the context of the Australian Capital Territory. However, we are consulting nationally and it is our hope that our work will be of use in other jurisdictions as well.

One early question that remains with us is how debt collection practices might be regulated in Australia. Legislation to govern debt collection exists in all jurisdictions of Australia except the Australian Capital Territory, a Federal responsibility. Existing controls apply only to debt collectors themselves. The same collection practices, if used by the actual creditors, go largely unregulated in Australia. Some of you might think that this amounts to discrimination against mercantile agents! We would certainly welcome comments on whether, should control of practices of debt collection be appropriate, such control should be extended not only to the agent or the creditor but also to the creditor himself. In saying this I do not overlook the fact that there are already a number of minor regulations of creditor conduct. For example the Trade Practices Act prohibits creditors, if they are corporations covered by that Act, from using physical force, undue harassment or coercion at a place of residence in connection with payment for goods and services. In South Australia, creditors may not use 'house agencies' (ie their own collection departments disguised as outside collection bodies). Also in South Australia it is unlawful to supply documents or forms to other persons to enable such persons to falsely pretend that they are a commercial agent. The use of forms of demand resembling court processes is forbidden in all jurisdictions of Australia except the ACT and Tasmania.

What should the code on fair debt recovery practices include? Can I ask you to consider the following suggestions. I stress that they are not suggestions that have even yet been considered by the Australian Law Reform Commission. But they will, in due course, be debated. Your comments would be welcomed.

FAIR COLLECTION PRACTICES

In addition to current laws it is proposed that the code of fair collection practices should prohibit:

(i) the use or threatened use of violence or intimidatory tactics;

(ii) disclosure or threatened disclosure of a debt to a person or institution not genuinely concerned with the matter. This would include:

- disclosure to an employer and neighbours;
- positioning of vehicles bearing collection identification; and
- use of stationery bearing external collection identification.

This rule would not extend to 'normal' credit reporting practices.

- visits or telephone call which are unduly frequent or made at such hours that the caller might reasonably have known or expected that the call would unduly interfere with the privacy of the debtor, his family or other occupants of his residence or place of business or employment;
- the threat of procedures, remedies or administrative sanctions which cannot in law be carried out;
- knowingly misrepresentint the effect of such procedures, remedies or administrative sanctions that are available to the creditor, including enforcement measures through the courts or the use of the credit reference system;
- the use by creditors of stationery or names or titles in an attempt to induce the debtor to believe that a letter or other communication came from a solicitor or debt collection agent or some other person on the creditor's behalf;
- the use of forms of demand which resemble court forms.

Such a code might extend not only to the agent but also to the creditor himself. It could be supported by sanctions including:

- criminal penalties;
- loss of a licence by the agent;
- loss or suspension of a licence under the proposed uniform credit laws;
- compensation to the debtor, but limited to any actual loss suffered eg loss of wages.

We all agree that fair practices are needed to protect society against unscrupulous agents. Existing State laws in Australia are aimed largely at harassment of debtors. This is generally defined to include only the most gross collection tactics. It does not usually include deceptive tactics. There is a need to prevent debtors being deceived, whilst at the

same me ensuring that they are advised fully and frankly of the seriousness of the situation they are in and the consequences that might actually follow from further default. The Australian Law Reform Commission has heard of a number of cases of clearly inappropriate tactics such as:

- the threat of imprisonment of a debtor in a State where this cannot occur in law;
- the threat that the debtor will be prosecuted for embezzlement for non-payment of a civil debt;
- the occasional threat to a mother that she will lose her child if the debt is not paid, because the creditor or agent will report her non-payment to welfare authorities.

SERVICE OF PROCESS

Another matter which is under consideration by the Law Reform Commission, faithful to its object of cost-effectiveness in law reform, is the use of the mail in debt recovery process. For over a year now, the ordinary mail has been used for such process in the Australian Capital Territory. According to reports coming to me, the system is well regarded by officers of the ACT Court of Petty Sessions. I realise that mercantile agents will be opposed to this proposal, for fear that it will reduce their involvement in the debt recovery system — switching to Australia Post activities which are presently carried on by mercantile agents. However, we must ask ourselves whether, taken in aggregate and in social terms, any suggested reduced efficiency of mail service is compensated for by:

- the less intrusive nature of the mail;
- the less expensive features of mail service;
- the results in terms of response to mail as against personally served process.

It is my understanding that there has been no significant change in the ACT in repayment of non-business debts following service of process by ordinary mail. Accordingly to a Law Reform Commission survey, just over 40% of the non-business debtors either paid their debts or made other satisfactory arrangements following service by the bailiff. It is understood that this figure has not changed significantly since mail service was introduced with consequent significant savings in costs of service. Those costs must, in the ultimate, be borne either by the debtor or by the creditor or by the community. We must try to reduce them.

I realise that mercantile agents have a great affection for the tried and long-established procedures of personal service. I suppose that that affection is also based on the feeling that the knock at the door by the bailiff may help to instil fear and shame and promote repayment. On the other hand, the statistics do not appear to bear out this mythology. Perhaps if the British had invented the penny post before they invented the bailiff, we would have seen service of debt process by mail long before this.

PRIVACY ISSUES

In closing, I want to turn to a number of privacy issues. These are addressed at great length in the Law Reform Commision's two-volume report on this subject which was tabled in Federal Parliament last year. In a very real sense the major protection for creditors in the future will not be ex post by a priori. In other words, it will be the credit reference system before the extension of credit (and the sanction of including bad payers in the credit reference system after default) that will constitute the major sanctions in the debt recovery business — rather than bankruptcy process, garnishee orders, public examination and so on. As we move to the cashless society, the importance of having an acceptable credit rating will become more and more vital. That rating will be in the computer.

One privacy principle that is generally accepted, particularly relevant for the age of computerised personal information, is the fair use principle. Personal information supplied for one purpose should not generally be available for other, different purposes except by consent of the data subject or authority of law. But where does this principle leave mercantile agents who seek access to information held in various public registers or records maintained by public authorities which are not available for inspection?

I understand that credit reference associations now accept mercantile agents as members. However, they may only gain access to a record in respect of an account passed to an inquiring agent for collection. Access is not permitted for private investigation work. Yet if this is to be a limitation, it clearly depends very largely upon the integrity of the mercantile agent in question. Unless there is an effective sanction, might there not be an occasional agent, especially if he has access to interrogating on-line data bases, who will be tempted to use credit reference information for other investigative activities?

The point to be made is that avoidance of the spectre of Orwell's nightmare world requires the introduction of rules which govern the movement of personal information through computerised systems. The Australian Law Reform Commission's report proposed basic rules, facilities for exceptions and institutions that would decide disputed cases and investigate and determine complaints.

I hope that we will have time for a consideration of some of these issues. For let there be no doubt that privacy protection will be a major issue for mercantile agents of the future.

One topic that should undoubtedly have the special attention of the Institute is the spectre of differing laws on privacy or data protection in different parts of Australia. It is now possible for a major credit bureau to operate in several States or indeed nationally with offices linked by on-line computer facilities. Information about a credit subject in Fortitude Valley can be made available in Sandy Bay, Tasmania. One's credit history cannot be left behind physically. It is surely in the interests of credit bureaux and their clients that a single computer program should be suitable for use in all offices throughout Australia without special arrangements having to be made to accommodate the particular laws of individual States or Territories. This is already an issue. But it will become a much more complex dynamic in years to come. I understand that the New South Wales Privacy Committee has prepared a report which is not yet public calling on the New South Wales Attorney-General to consider changes to credit reporting procedures in New South Wales. The Australian Law Reform Commission has not been provided with a copy of the report. But it does not require too much prescience to envisage that legislation will be proposed. This prospect should ensure that all those concerned about the efficiency of our legal system will consider actively the forthcoming wave of laws on privacy, data protection and data security. Privacy legislation is now promised in Queensland and South Australia. As the uniform credit legislation shows, we are not terribly successful in Australia in achieving uniform laws. Yet the universality and instantaneous nature of the new information technology — and its importance in the world of credit — makes it vital that we should redouble our efforts to secure national agreement in Australia at least about the basic principles for the legislative protection of privacy in our country.

CONCLUSIONS

I have now established that we live in interesting times. They are times of challenge for the law and its institutions. They are also times of challenge for the credit industry and mercantile agents. I hope that you will keep a close eye on the work of the Australian Law Reform Commission. The Australian Parliament has

signi ant unused powers in the realm of credit — insolvency powers, corporation powers, interstate trade and commerce powers, banking powers. I believe that it is likely that the next decade will see a significant increase in the Federal regulation relevant to your industry. I believe that this will come under the impetus of the necessities imposed by the new information technology. That technology will render the luxury of State laws with idiosyncratic differences more than the efficient operation of our economy can tolerate. In these circumstances, I predict that mercantile agents throughout Australia will be operating, within a decade or so, in a very different legal milieu. It will be a national regime of uniform legislation enacted by the Federal Parliament and governing credit activities in all parts of the continent.

Clearly it is vital that we should get this legislation right. It must strike a fair balance between the interests of creditors and debtors. The Australian Law Reform Commission will be playing its part in the development of the new legal regime. The Commission operates in an open and responsive way. It invites comments and criticisms of its work.

I express thanks to the Institute and many individual members of the Institute for their assistance to the Commission in the past. I can say, without a moment's hesitation, that the vigorous criticism that has been offered of our first draft proposals on debt recovery, has profoundly altered the shape and direction of those proposals. I hope that your vigour will be sustained. Certainly, in a world of rapid social, moral and technological changes, mercantile agents, like lawyers and others who provide services to the community, will need a ready capacity to adapt and change.