

# LAW REFORM COMMISSION OF BRITISH COLUMBIA

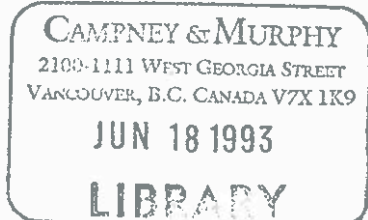
## ANNUAL REPORT

1992/93



*Appendix D of this report = LRC 125*

LRC 132



The Law Reform Commission of British Columbia was established by the *Law Reform Commission Act* in 1969 and began functioning in 1970.

The Commissioners are:

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 LYMAN R. ROBINSON, Q.C.  
 PETER T. BURNS, Q.C.  
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Sharon St. Michael is Secretary to the Commission.

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**TO THE HONOURABLE COLIN GABELMANN  
ATTORNEY GENERAL OF THE PROVINCE OF BRITISH COLUMBIA**

The Law Reform Commission of British Columbia has the honour to present its Annual Report for 1992/93. It outlines the progress made by the Commission during the period from April 1, 1992 to March 31, 1993.

## **I INTRODUCTION AND HIGHLIGHTS**

The Law Reform Commission of British Columbia was created in 1969 by the Law Reform Commission Act and it commenced operation in 1970. The function of the Commission is set out in section 2 of the Act:

The Commission is to take and keep under review all the law of the Province, including statute law, common law and judicial decisions, with a view to its systematic development and reform, including the codification, elimination of anomalies, repeal of obsolete and unnecessary enactments, reduction in the number of separate enactments and generally the simplification and modernization of the law....

"Twenty Years of Law Reform," a detailed description of the Commission's approach to this mandate and its accomplishments, was set out in its Annual Report 1989/90.<sup>1</sup>

The period under review was an exceptionally productive time for the Commission. Seven Reports were submitted to you on the following matters:

- The *Insurance Act*, S. 26(1)
- Supreme Court Rule 54: Reciprocally Enforceable Judgments
- Wrongful Interference with Goods
- Non-Charitable Purpose Trusts
- Informal Public Appeal Funds
- Fixtures and the *Personal Property Security Act*
- Apportionment of Costs and Contributory Negligence: Section 3 of the *Negligence Act*

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1. See the "Electronic Appendices" at heading IV.

In the past year, progress was also made on a number of other projects on the Commission's program as these were brought closer to completion.

A significant development during the closing months of the past year has been the process of planning for the relocation of the Commission's premises – a measure made necessary by the consolidation of other Ministry operations. We will be relocating to space within the same building complex and we will be able to configure it to suit our evolving needs more closely than the current premises.

## II COMMISSION MEMBERSHIP

As presently constituted, the Commission consists of four members:

Arthur L. Close, Q.C.  
 Peter T. Burns, Q.C.  
 Lyman R. Robinson, Q.C.  
 Thomas G. Anderson

A complete list of Commission members, past and present, is set out as Appendix C to this Report.

The term of office of the Honourable Ronald I. Cheffins, Q.C. came to an end during the year under review. We would like to place on record our appreciation of his contribution to our work during the eight years he served as a Commission member.

## III DEVELOPING THE PROGRAM

### 1. INTRODUCTION

When the Law Reform Commission of British Columbia became operational in 1970 its first step was to develop a program of the projects and studies it intended to pursue. Developing the program involved a highly visible process of consultation with the Ministry of the Attorney General, the legal profession and the public.

Today, owing to the incremental nature of changes in the Commission's program, the process of developing it is much less visible and from time to time we are asked about the way in which topics are selected for examination and report by the Law Reform Commission. The purpose of this portion of our Annual Report is to attempt, briefly, to describe the process.

### 2. SOURCES OF PROJECTS

#### (a) The Attorney General

Under section 2 of the *Law Reform Commission Act* the Attorney General may refer specific subjects to the Commission for examination and report. Various Attorneys General have done so on a number of occasions over the years, and about 30 percent of our Reports have their origins in such a reference.

#### (b) Other Sources

##### (i) *Suggestions from Outside the Commission*

The Commission frequently receives suggestions for law reform measures or which identify areas of the law regarded as unsatisfactory. These suggestions emanate from the legal profession (both from individual practitioners and through the official organs of the bar such as the sections of the Canadian Bar Association), judges and the general public.

##### (ii) *Projects Generated Internally*

The Commission's legal staff monitors a large number of reports and legal periodicals. These are a fruitful source of potential projects. An article written by an academic lawyer in a learned journal may identify unsatisfactory aspects of the law which call for reform. Judges will occasionally find themselves applying a doubtful rule and the reasons for judgment may set out a cry (sometimes ringing, sometimes muted) for reform. We also maintain reciprocal exchange agreements with other law reform agencies throughout the world. Occasionally work being done by a law reform agency in, say, Australia, may alert us to the fact that our own law is deficient in the area under consideration.



(iii) *Action on Suggestions*

Once an area of the law has been identified as suitable for possible action by the Law Reform Commission, one of two things might happen. First, if the suggestion deals with a short, neat point which is unlikely to be controversial, we may proceed on it immediately with a Minor Report to the Attorney General.

Most often, however, the Commission's first step is to open a file on the suggestion as one of a large number of "subjects of interest." Once such a file has been opened, we start gathering material on the topic under consideration. We may communicate with individuals knowledgeable on the particular topic to get their views on the desirability of reform in the area. We may canvas other jurisdictions to see if the particular subject has been perceived as a problem there and, if so, what the response has been.

Periodically we review our program and, in particular, the subjects of interest files to identify those topics which might be suitable for addition to our program for active work.

## 3. CRITERIA FOR SELECTION

Given the numbers of the various sources of topics for potential Commission projects, it is necessary to pick and choose among them. What considerations underlie a decision to select one topic, in preference to another, for action? There is no single criterion, but a number of the factors relevant to this decision are outlined below.

(a) *Credibility*

The Commission has, generally, tended to confine its work to areas where lawyers are recognized as having particular credibility. Our specialty is the formulation of legal policy. If in a particular topic, the issues of legal policy are less significant than policy issues on which other disciplines have greater expertise, we would probably tend to defer. This is an issue on which we have commented at length in previous Annual Reports.

(b) *Is There a Legal Solution?*

Many issues brought to the Commission's attention do not turn on defects in the substantive law. Rather, the defects are in matters of administration and the institutions through which the law is applied. While there is no hard and fast position on this, the Commission tends to be cautious in approaching topics which appear to call for altered institutional arrangements rather than "self-executing" changes in the law.

(c) *Balance in the Program*

The Commission attempts to maintain a program which is balanced in a number of ways. There is a balance between large projects and small projects. There is a balance between projects which are intensely theoretical and projects which are intensely practical. There is also a balance in respect of subject matter. It would be unfortunate if the Commission were perceived as devoting its resources wholly to lengthy projects on one narrow area of law however valuable or important work in that area might be.

(d) *Likelihood of Implementation*

The issue of how far the program of a law reform agency should be shaped by implementation considerations is a difficult one on which views may, quite properly, vary widely. The view that has generally prevailed in this Commission over the years is that we should not be deterred from undertaking a study in which an important point of principle is involved by reason only that the government of the day may not share the Commission's sense of urgency with respect to reform in the area involved, or may be hostile to the recommendations likely to emerge. At the same time, we have been sensitive to the fact that the Commission is a publicly funded agency and this carries with it the responsibility to manage its resources in the way most likely to achieve results.

## 4. SUMMARY

As law reform agencies go, the British Columbia Commission has adopted a highly pragmatic approach to the way in which it selects its topics. Once a topic has been selected,

however, the Commission has been less restrained and has been prepared to come up with highly innovative solutions and proposals. It should also be noted that the criteria which are applied to the selection of Commission topics are not part of an articulated policy. They really emerge from an examination of the Commission's work over the years.

#### IV CARRYING OUT THE PROGRAM

##### 1. RESEARCH AND WRITING

The research to carry out the program calls for time-consuming work by qualified people. This can be achieved by having the research done by personnel who are employed full-time or by persons with special expertise who are retained on a part-time or occasional basis. Although in its early years, the Commission relied heavily on outside consultants, our experience has led to a preference for the former approach. Consequently, most of the research and writing is now conducted by full-time members of the Commission staff.

##### 2. THE CONSULTATION PROCESS

The Commission makes a general practice of inviting comment and criticism of its research and analysis before submitting a formal Report on any particular subject. This process of consultation greatly assists the Commission in developing recommendations for the reform of the law that are both relevant and sound.

The chief means by which the Commission carries out this process is through the circulation of Working Papers to those who are knowledgeable, or who have a special interest in the subject under study. A Working Paper sets out the tentative views of the Commission and outlines the background against which these views were formed. Comment on all aspects of the Working Paper is invited. Occasionally, copies of a draft Report may be given limited circulation for comment, if the topic under consideration makes the wide circulation of a Working Paper inappropriate.

Whatever consultative mechanism is adopted, the Commission thoroughly re-examines its tentative conclusions in the light of the comment and criticism received. Final recommendations are developed accordingly.

#### V PROGRESS ON THE PROGRAM

The description below is limited to those projects which were active in the past year. Details of other projects may be found in earlier Annual Reports and in two appendices to this Report. Appendix A is a table setting out all Reports which the Commission has made to date, and references to legislation in which the recommendations have been implemented in whole or in part. One of our "electronic appendices" (described later in this Report) supplements Appendix A with information respecting the contents of our past Reports and articles and cases in which they have been cited. We also set out, in Appendix B, a list of the Working Papers which the Commission has issued for consultation purposes.

##### 1. SUPREME COURT RULE 54: RECIPROCALLY ENFORCEABLE JUDGMENTS

Our work in relation to the development of the *Uniform Enforcement of Canadian Judgments Act* (described in our last Annual Report) led us to consider those provisions of the *Rules of Court* which touch on foreign judgments. Rule 54 sets out the procedure to be followed for registering a judgment under Part 2 of the *Court Order Enforcement Act* (reciprocal enforcement of judgments provisions). It also applies to proceedings under the *Canada/U.K. Convention* which governs the enforcement of judgments between Canada and the United Kingdom.

There are a number of ways in which Rule 54 conflicts with the provisions of Part 2 of the *Court Order Enforcement Act*. The Rule also draws unnecessary distinctions between the procedure to register judgments under Part 2 and the procedure to register judgments under the *Canada/U.K. Convention*. These distinctions seem difficult to justify and a greater degree of procedural harmony is called for.

At the invitation of the Attorney General's Rules Revision Committee, we undertook the preparation of a revised Rule 54 to meet the concerns that had been identified. A draft revised Rule 54, with commentary, was embodied in a short Report that was submitted in October 1992.

## 2. TRUSTS PROJECTS

### (a) Non-Charitable Purpose Trusts

As a general rule, a trust that is framed for the benefit of a purpose rather than a person is invalid unless the purpose is charitable. In law, charity is a narrow concept which excludes many activities beneficial to the public. In a Report submitted in November 1992 the Commission examined the rule and the anomalies that flow from it and concluded that the current limitations which the law places on the creation of non-charitable purpose trusts should be abolished.

The Report sets out recommendations and draft legislation to make it possible to create a fully enforceable non-charitable purpose trust. This would be a useful and flexible device that would facilitate long-term support for many worthwhile activities and allow individuals to order their affairs in ways the current law does not permit.

### (b) Informal Public Appeal Funds

A generous response to human need is characteristic of our society. One manifestation of this is the way in which public appeals for funds will spring up almost spontaneously when disaster strikes individuals or a community. Those who set a public appeal in motion often do not worry about the legal characteristics of the fund.

Occasionally, this can lead to difficulties when circumstances unfold in a way leaving money in the fund that cannot be spent for the purposes for which it was collected. The general law of trusts is not well suited to deal with this situation. It may require that these funds remain "locked in" virtually forever. The fund raiser who attempts to deal with the surplus sensibly (perhaps by applying it to a purpose similar in spirit to that for which it was collected) may be committing a breach of trust.

Early in 1993 the Law Reform Commission submitted a Report recommending changes to rationalize the legal status of informally created public appeal funds and to remove the uncertainties the present law creates for those involved in raising them.

### (c) The *Trustee Act*

Basic research is underway for a more general review of the *Trustee Act*. Particular attention will be paid to trustee powers, including those concerning investment, and to certain rules governing the administration of trust estates that may now be outdated. Modernization of the language of the *Trustee Act* is another objective. This is a relatively long-term project.

## 3. INSURANCE ACT: SECTION 26(1)

Section 26(1) of the *Insurance Act* allows someone who suffers loss caused by an insured person to proceed directly against the insurer. This procedure is usually unnecessary but the section provides a valuable right where the insured is unwilling or unavailable to claim on the policy. Unfortunately, the way the section is drafted means that the direct right of action is not always available.

This limitation came to light in a recent British Columbia case in which a claimant under the *Family Compensation Act* was not able to maintain an action against the insurer of the person responsible for the wrongful death.

In June 1992 we submitted a Minor Report that recommended changes to section 26 that would ensure that its policy is fully realized. The text of this Report is set out in full as Appendix D to this Annual Report.

## 4. APPORTIONMENT OF COSTS AND CONTRIBUTORY NEGLIGENCE: SECTION 3 OF THE *NEGLIGENCE ACT*

Legal proceedings are often necessary to recover compensation for loss or injury caused by others. A person required to proceed to court will ordinarily recover some compensation for the costs incurred in doing so. But a plaintiff who shares



responsibility for personal loss or injury may find the award of costs drastically reduced because of the contributory negligence.

When a plaintiff is contributorily negligent, an award of costs is governed by section 3 of the *Negligence Act*, which provides that the parties' liability for costs is "in the same proportion as their respective liability to make good the loss or damage" although the court has discretion to make a different order. The proper exercise of this discretion when a contributorily negligent plaintiff is successful at trial is a question that has been considered by the courts many times. Emerging from reported cases is an expression of concern that the rules for awarding costs set out in the *Negligence Act* produce an inappropriate result.

In a Report submitted in January 1993 the Commission recommended that section 3 of the *Negligence Act* be repealed leaving the issue of costs to be determined with reference to the *Rules of Court* only.

## 5. WRONGFUL INTERFERENCE WITH GOODS

Late 19<sup>th</sup> century reforms rationalized civil procedure and in so doing simplified large portions of the law. Various rights and remedies once regarded as separate and distinct matters of law were consolidated and through this process were refined, simplified and made to operate more efficiently. But some aspects of the law escaped these reforms and still bear the mark of antique notions of civil procedure. These unaltered areas of the law are more technical and complex than they need to be and lead to doubt and confusion about legal rights and methods of seeking a just resolution of disputes.

The Commission touched on one part of this problem a number of years ago in *Report on the Replevin Act* (LRC 38, 1978). The recommendations for modernization were speedily adopted.

The old remedies of conversion and detinue, essentially untouched by the 19<sup>th</sup> century reforms, are part of another area of the law seriously in need of attention. The relief to which a claimant is entitled, under these ancient remedies, can vary

significantly depending on the facts in issue. Situations that are functionally similar can end up being treated quite differently.

In a Report submitted in November 1992 the Commission recommended changes to the law that would rationalize and modernize the remedies available to parties where there has been a wrongful interference with personal property. It recommends that the older remedies be replaced with a new statutory remedy that gives the court flexibility to tailor relief to the needs of the case before it, uninhibited by limitations that were shaped by historical considerations that lost their relevance many years ago. These recommendations are embodied in draft legislation that is included in the Report.

## 6. LIENS FOR LOGGING WORK

The *Woodworker Lien Act* is designed to protect or secure the interests of wage earners and other persons engaged in aspects of the forest industry. It is the frequent target of calls for reform and modernization. A quick reading of the Act makes it obvious why concerns are raised. The Act is a legal relic which embodies an archaic approach to statutory security. It is drafted in out-moded and inaccessible language. It establishes a registration scheme which achieves nothing. Procedures contained in the Act for the enforcement of the lien have escaped the modernization and rationalization that other aspects of civil procedure have received in recent years.

In October 1992, we distributed a Working Paper that considered the operation of the *Woodworker Lien Act* (and a related statute, the *Tugboat Worker Lien Act*). The Working Paper considered both the repeal of these Acts and their possible replacement with new and modern legislation that builds on the concepts of the *Personal Property Security Act*. Draft legislation was included in the Working Paper to show the form that new legislation might take.

The Commission is in the process of considering the responses to the Working Paper and we hope to submit final recommendations later in 1993.

## 7. PECUNIARY LOSS AND THE *FAMILY COMPENSATION ACT*

When a person is wrongfully injured by another, but the injuries do not prove to be fatal, the main focus of the law is compensating that person for loss arising from the injuries, although others close to the injured person may also suffer loss. When a person is wrongfully killed legislation shifts the law's concern more directly to compensating at least some who are affected by the death. In British Columbia, the legislation is called the *Family Compensation Act*. It is almost 150 years old.

As with much of the law the legal rights that people have when a family member is injured or killed have been developed by courts and legislatures in a piecemeal way. Even so, through the vigilance of the courts, assisted by an increasingly specialised bar, many of the principles of compensation for loss arising from personal injury and fatal accident have continued to evolve to reflect contemporary views. But this is not true of all aspects of this body of law. A review of recent cases reveals a series of inconsistencies and anomalies in the law, attributable in large measure to the fact that entirely different theories of compensation apply depending upon whether or not a person's injuries prove to be fatal.

A Working Paper titled *Pecuniary Loss and the Family Compensation Act* was published in November 1992. It explores the law governing third party rights when a person is wrongfully injured or killed by another and suggests some ideas for treating these rights with more consistency.

Responses to the Working Paper are being received and considered. We expect to submit our final recommendations before the end of 1993.

## 8. FRANCHISE REGULATION

Suggestions have reached the Commission that the marketing of franchises and other business opportunities may require attention. These activities currently take place in a legal environment which is virtually free of any kind of statutory regulation, leaving the "consumers" of business opportunities very much at risk. Such concerns have prompted a number of jurisdictions to enact laws which regulate the marketing of

franchises and business opportunities as well as the substance of these relationships.

Whether or not legislation in this area would be desirable for British Columbia is a difficult issue. We are in the process of gathering information and examining the experience of other jurisdictions.

## 9. *PERSONAL PROPERTY SECURITY ACT*: FIXTURES AND OTHER LAND-RELATED INTERESTS

In January 1992 the Attorney General requested that the Commission review aspects of the relationship between the *Personal Property Security Act* and the *Land Title Act*. At the highest level of generality, we were asked to ascertain whether the two statutes operate harmoniously in their application to property which has the characteristics of both land and personal property, such as fixtures, growing crops and rights to the payment of money secured by interests in land. Do they strike an appropriate balance among the interests of lenders, borrowers and the public? A more specific aspect of the reference asked the Commission to consider some particular issues which have arisen in relation to the taking of security interests in fixtures.

We proceeded on the more specific portion of the reference first giving it a relatively high priority and in January 1993 submitted an *Interim Report on Fixtures and the Personal Property Security Act*. Apart from two issues which the Commission identified as requiring further study, the conclusion in the Interim Report is that the general approach to fixtures taken by the PPSA is satisfactory and the focus of any law reform measures should be to clarify the operation of the Act where that appears to be necessary. Recommendations are made accordingly.

Work on the balance of the reference continues.

## 10. STANDARDIZING ASSUMPTIONS RELATING TO INCOME TAX GROSS-UP CALCULATIONS

Concerns have been expressed in relation to the way in which the "gross-up" for income tax is calculated with respect to the "future care" portion of awards in personal injury cases. In

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particular, a suggestion came from the judiciary that the possibility of developing standardized assumptions should be explored. This led the Law Reform Commission to add a project on this topic to its program in 1992. Our approach has been to constitute a Special Advisory Committee to study the issues and report to the Commission. The Committee includes actuaries, lawyers, a taxation expert and an economist. It is chaired by the Honourable Mr. Justice Finch of the Supreme Court of British Columbia.

The Committee started work in September 1992 and has met on several occasions. We are optimistic that the Committee will bring forward recommendations that will significantly simplify litigation involving gross-up issues with a consequent saving to litigants and the public. The membership of the Committee and its terms of reference are set out in Appendix E to this Report.

#### 11. CONFLICT OF INTEREST RULES APPLICABLE TO SOCIETIES

Early in 1992 the Honourable E.N. (Ted) Hughes, examined aspects of the operation of the Commonwealth Games Society which is responsible for mounting the 1994 Commonwealth Games in Victoria. A particular focus was the awarding of construction contracts in circumstances that might constitute a conflict of interest for certain Board members. In the course of his Report on this matter, Mr. Hughes raised a concern that the general rules which govern conflicts of interest in relation to societies and their officers no longer meet public expectations and that this matter should be referred by the Attorney General to the Law Reform Commission.

This matter has been referred to us and we are currently in the process of conducting research and gathering material.

#### 12. TORT LIABILITY OF OPERATORS OF RECREATIONAL FACILITIES

This topic was referred to the Commission by the Attorney General in 1992. A catalyst for the reference was public complaints that the operators of ski facilities were requiring prospective skiers to sign very broadly drawn waivers of liability. These waivers purported not only to protect the operators from risks which are inherent to any participation sport, but also from

liability for injuries caused by the operator's negligence or equipment malfunction. It has been questioned whether the ability to require such a waiver is in the public interest. Similar concerns arise in a variety of recreational activities.

From the perspective of the ski industry, the issues surrounding the use of waivers is intertwined with their concern to promote safety on the ski slopes and give legislative force to reasonable rules of conduct by skiers. Research and consultation on this project are proceeding.

#### 13. SPECIAL PROJECTS

##### (a) Law Reform Database

Early in 1992 the Commission distributed the Law Reform Database. The Database serves as an electronic index, accessible through keyword searches, to over 5,000 publications of law reform bodies around the world. It was created to serve as a research tool to assist in ascertaining what attention particular topics may have received from law reform bodies.

The Database is distributed on computer disk and copies of it, along with a printed User's Manual, have been sent to over 700 institutions world-wide where legal research is carried out. This includes law schools and their libraries, Ministries of Justice and other government agencies concerned with legal policy making and law libraries which are an adjunct to court houses.

During the year under review, we have taken steps to keep the database current with a view to distributing a revised and expanded version of it at some point.

##### (b) *Limitation Act* Case Finder

A major initiative during the year under review has been the creation of a computer database which embraces all of the case law surrounding British Columbia's *Limitation Act*. Because the *Limitation Act* is the product of recommendations made by the Commission, we have always had a particular interest in monitoring its operation. Over the years a substantial number of decisions have been gathered together. In order to make this



resource available, we developed a database to act as a computerized index to this body of case law and act as a case finder that retrieves relevant cases in response to queries based on section number references or key words describing legal issues or relevant facts.

While the database was originally conceived as a research tool for internal use by the Law Reform Commission, we are making it available to British Columbia's legal profession, and other recipients of our Annual Report, as one of the "electronic appendices" contained on the computer disk that accompanies the Report. More details on our electronic appendices are set out later.

#### 14. SUBJECTS OF INTEREST

Preliminary research or the gathering of material regularly proceeds on a number of matters which are not yet part of the Commission's program or under active consideration for addition to it. In most cases the object is to determine if a particular topic is appropriate for formal inclusion in the program as a Commission project. Many of these matters arise out of particular suggestions made, and problems drawn to the Commission's attention, by the legal profession and members of the public.

## VI THE ELECTRONIC APPENDICES

### 1. GENERAL

The usual medium for the distribution of the Commission's work has been the printed page. Our creation of the Law Reform Database and its distribution in 1992 marked a departure from this pattern. A further innovation is the inclusion, with this Annual Report, of three "electronic appendices." A computer diskette containing information on three topics will be found in a pocket in the back cover.

General information on the electronic appendices is set out below. Technical information on installing and operating them may be found in (printed) Appendix F to this Report.

### 2. LIMITATION ACT CASE FINDER

This is a database containing approximately 500 records - one for each case decided since the enactment of the *Limitation Act* in 1975. Each record contains information as to the judge involved, cases cited, *Limitation Act* provisions in issue and descriptive key words. All these fields are individually searchable from within the "runtime" software provided as part of the package. This database package also includes a series of help screens to assist users.

### 3. LAW REFORM COMMISSION REPORTS

This file is, essentially, a significantly expanded version of Appendix A to this Report. Owing to space limitations, Appendix A is able only to record title, date and implementation information respecting our past Reports. In this file, we are able to include key words that help describe the contents of the Report as well as references to cases and articles that have cited the Report. Information on the way this data is structured will be found at the beginning of the file itself.

### 4. TWENTY YEARS OF LAW REFORM

"Twenty Years of Law Reform" is the title of an article written in 1989 and first published in the *Advocate*.<sup>2</sup> It was subsequently reprinted as an Appendix to our Annual Report 1989/90. The article describes the Commission's approach to its statutory mandate and analyses its work and impact up to 1990.

The version of the article included as an electronic appendix has been edited to avoid duplicating material that is set out in Part III of this Annual Report.

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2. (1990) 48 *Advocate* 235.

## VII ACTION ON COMMISSION RECOMMENDATIONS

### 1. INTRODUCTION

Previous Annual Reports have expressed our pleasure over the interest taken in our work by successive Attorneys General, as reflected in the implementation of recommendations contained in past Commission Reports. This interest continued during the past year with legislation that carried forward Commission work and recommendations described below.

### 2. UNIFORM ENFORCEMENT OF CANADIAN JUDGMENTS ACT

The enactment of the *Enforcement of Canadian Judgments Act* implemented the Commission's recommendation that uniform legislation on that topic be adopted in this province. The *Uniform Enforcement of Canadian Judgments Act* was promulgated by the Uniform Law Conference of Canada in 1991 and the Commission's work in this area played a major role in shaping the Uniform Act. We are particularly gratified by the speed with which government moved on this recommendation.

### 3. REVISIONS TO THE SUPREME COURT RULES

A "package" of revisions to the *Supreme Court Rules* were promulgated early in 1993. It included revisions based on recommendations made in three past Commission Reports.

#### (a) Settlement Offers

A number of the recommendations made in our 1984 *Report on Settlement Offers*, those concerned with offers to settle for non-monetary relief, were implemented.

#### (b) Rule 54: Reciprocally Enforceable Judgments

This Report is described in greater detail earlier in this Annual Report. The recommendation that a new and substantially revised version of Rule 54 be adopted was implemented.

### (c) Affidavits

Our 1990 *Report on Affidavits: Alternatives to Oaths* pointed out that a degree of doubt surrounded the question whether an affidavit could be validly created by affirmation. This doubt was put to rest by an amendment to the *Affirmation Regulation* in 1991.

It was a matter of concern to the Rules Revision Committee that the *Supreme Court Rules* did not, on their face, appear to recognize affirmation as a valid way of creating an affidavit. The Commission's advice was sought, informally, as to ways in which the *Rules* might be clarified on this point. We responded by drafting revisions to some key provisions of the *Rules* that concerned affidavits. These revisions were adopted by the Committee and are now incorporated into the *Rules*.

### 4. REPORT ON DEFAMATION

A Report which we submitted in 1985 contained a number of recommendations for changes to the law of defamation. One of these recommendations has been brought forward in a Bill<sup>3</sup> introduced into the current session of the provincial Legislature.

The recommendation involved would, in effect, reverse the much-criticized decision of the Supreme Court of Canada in *Cherneskey v. Armadale Publishers*.<sup>4</sup> That decision significantly limited the availability of the defense of fair comment to newspapers with respect to the publication of letters to the editor.

## VIII THE AVAILABILITY OF COMMISSION PUBLICATIONS

All final Reports on major topics issued by the Commission are formally published with the intention that they be available to the public. From time to time the Commission also submits minor Reports, in the form of a letter to the Attorney General. These minor Reports are usually reproduced in full as appen-

3. Bill M 201, *An Act to Enhance Freedom of Public Expression*, introduced March 22, 1993. At the date this Annual Report was finalized the Bill had not progressed beyond first reading.

4. (1978) 90 D.L.R. (3d) 321.

dices to the Annual Report which covers the period in which the minor Report was made. Our Annual Reports are distributed by the Commission and are available on request and free of charge so long as stocks last.

Crown Publications Inc. is responsible for the distribution of all Reports made by the Commission on particular topics. A nominal charge is made for copies of those Reports. Orders should be directed to:

CROWN PUBLICATIONS INC.  
546 Yates Street  
Victoria, B.C.  
V8W 1K8  
Telephone: (604) 386-4636  
FAX: (604) 386-0221

Orders may be placed in person or by mail or telephone. Visa, Mastercard and American Express are accepted. A number of our older Reports are now out of print and are not available for purchase. Those Reports are indicated with an asterisk in Appendix A.

Crown Publications Inc. maintains a "notification list" and all persons on the list are advised upon publication of a Commission Report, so they may order copies if they wish. Standing orders for Commission Reports may also be lodged by certain categories of buyer. Anyone who wishes to be added to the notification list, or wishes information concerning standing orders should contact Crown Publications Inc.

The Commission is solely responsible for the distribution of its Working Papers. These documents are usually produced in limited quantities and our supplies of them are invariably exhausted by, or shortly after, their initial distribution. Usually we are unable to respond to requests either for copies of past Working Papers or to be placed on a mailing list to receive copies of all Working Papers.

The Law Reform Database is available on request from the Commission.

## IX ACKNOWLEDGMENTS

### 1. COMMISSION STAFF

As we have pointed out in previous Annual Reports, our policy of doing the greater part of our research work internally, rather than relying on outside consultants, places a heavy burden of responsibility on the shoulders of our permanent staff. They invariably respond to the challenge with energy, enthusiasm and careful scholarship. We wish to express our sincerest thanks to all those individuals who, in the past year, contributed to our work in this way.

Our particular thanks go to Gregory G. Blue for the intelligence and enthusiasm he brings to his work with us. In addition to research and writing with respect to various projects, he has participated in the work on our two special database projects. Elizabeth S. Liu, a former staff member, also assisted us greatly in carrying out our program through the conduct of basic legal research in a number of areas.

Over the summer months our research group was also joined by two law students who worked with us. R. Duff Reilly of the University of Victoria Faculty of Law and Simon Thomson of the University of British Columbia Faculty of Law undertook basic research on a number of topics and provided the Commission's full-time research staff with valuable assistance.

We also wish to acknowledge the very important role played by Mark Hiltz. Mr. Hiltz, a professional librarian, has assumed day-to-day responsibility for our database projects and is coordinating the move of the Commission library to our new premises.

Our support staff also make a notable contribution to the work of the Commission. They bring intelligence and efficiency to their duties and share a concern that our work should be of the highest quality in every respect. Our support staff presently consists of Sharon St. Michael, Secretary to the Commission, who functions as office manager, and Linda Grant, who operates our desktop publishing system. We thank them for their efforts on our behalf.



## 2. JUDGES' LAW REFORM COMMITTEE

The Judges' Law Reform Committee is important to our operation. This Committee provides a continuing point of contact with the judiciary. The Committee assists us through responding to our Working Papers and other consultative documents and by calling to our attention defects in the law that its members are well-situated to identify. The Committee members bring a unique perspective to bear on our work and their advice is invariably cogent and helpful.

As presently constituted, the Committee is composed of the following members:

The Honourable Mr. Justice H.P. Legg  
 The Honourable Mr. Justice J.C. Cowan  
 The Honourable Mr. Justice B.D. Macdonald  
 The Honourable Madam Justice C.M. Huddart  
 The Honourable Mr. Justice J.E. Hall  
 The Honourable Madam Justice M.V. Newbury  
 The Honourable Madam Justice P. Kirkpatrick  
 His Honour Judge P. d'A. Collings

The Judges' Committee plays a major role in the law reform process and we wish to record our gratitude to the individual members of the bench who give so generously of their time and energy to this end.

## 3. THE LAW FOUNDATION

The Law Foundation of British Columbia continues to respond generously to the Commission's requests for funding to help sustain its operation. In the past year, the Foundation again provided much needed assistance.

The support of law reform is listed as one of the Foundation's objects in the statute under which it is constituted. In enabling the Law Reform Commission to carry on with its functions, the Law Foundation truly fulfils that object and renders an important service to the people of the Province.

## 4. THE LEGAL PROFESSION

The support which we have received from the organized bar and its individual members has continued. We rely heavily on the assistance of the legal profession in a number of ways. At the research stage of our projects, individual lawyers assist us in gathering facts and in acting as a "sounding board" with respect to various approaches to difficult issues. Requests for help of this kind are invariably the subject of a generous response. At the more formal stage of consultation, various sections of the British Columbia Branch of the Canadian Bar Association assist us in our deliberations with thoughtful submissions on the proposals and tentative conclusions set out in our Working Papers. We wish to thank all members of the bar who give generously of their time and experience.

Our consultation with the legal profession has been greatly facilitated in recent years by the creation of the Legislation and Law Reform Committee of the British Columbia Branch of the Canadian Bar Association. This Committee provides us with a continuing point of contact on law reform matters. Gregory Steele, the Committee Chair, and Ann McLean, who serves the Committee as Legislation and Law Reform Officer, have both assisted us in a variety of ways and we are deeply indebted to them.

## 5. MINISTRY AND GOVERNMENT PERSONNEL

There are a number of individuals and agencies within Government who have, in the past year, contributed to the work of the Commission.

The Law Reform Commission has always had a special relationship with the office of Legislative Counsel. Its personnel are invariably, within the limits of their resources, responsive and helpful when we request assistance in the preparation of proposed legislation.

We also work closely with members of the Ministry's Policy and Legislation Services Division. A happy spirit of cooperation exists between our groups which, we believe, greatly enhances the effectiveness of the Law Reform Commission. Our thanks go



to the individuals within that Division with whom our own personnel have worked during the past year.

We also wish to express our appreciation to Ms. Jane Taylor, Director of Library Services to the Ministry. She has assisted us in keeping our own collection up to date and provided access to new materials in a timely fashion.

Finally, we wish to thank the Attorney General and all those within his Ministry who, during the period under review, in their dealings with the Commission on a day-to-day basis have contributed to our work and made life easier. In particular our thanks go to The Hon. Mr. Justice E.R.A. Edwards, the former Deputy Attorney General, Brian Neal, his successor, and various officers within the Information Services, Data Services, Financial Services and the Facilities Management divisions and units of the Ministry. All have, in one way or another, assisted us greatly.



ARTHUR L. CLOSE, Q.C.



PETER T. BURNS Q.C.



LYMAN R. ROBINSON, Q.C.



THOMAS G. ANDERSON

## APPENDIX A

### REPORTS AND RECOMMENDATIONS MADE BY THE COMMISSION

No.	Title	Date	Recommendations Implemented in Whole or in Part by
1	Limitations – Abolition of Prescription*	Dec. 1970	<i>Land Registry (Amendment) Act, 1971</i> , S.B.C. 1971, c. 30, s. 8 (see now <i>Land Title Act</i> , R.S.B.C. 1979, c. 219, s. 24).
2	Annual Report 1970*	Dec. 1970	Not applicable
3	Frustrated Contracts Legislation*	Feb. 1971	<i>Frustrated Contracts Act</i> , S.B.C. 1974, c. 37 (see now <i>Frustrated Contract Act</i> , R.S.B.C. 1979, c. 144); <i>Landlord and Tenant Act</i> , S.B.C. 1974, c. 45, s. 61(e) (see now <i>Residential Tenancy Act</i> , S.B.C. 1984, c. 365, s.8(3)); <i>Commer- cial Tenancies Act</i> , R.S.B.C. 1960, c. 207, s. 34 (see now <i>Commercial Tenan- cy Act</i> , R.S.B.C. 1979, c. 54, s. 33).
4	Debt Collection and Collection Agents*	Mar. 1971	<i>Debt Collection Act</i> , S.B.C. 1973, c. 26 (see now <i>Debt Collection Act</i> , R.S.B.C. 1979, c. 88).
5	Expropriation*	Dec. 1971	<i>Expropriation Act</i> , S.B.C. 1987, c. 23.
6	Annual Report 1971*	Dec. 1971	Not applicable
7	<i>Mechanics' Lien Act</i> *	June 1972	<i>Builders Lien Amendment Act, 1984</i> , S.B.C. 1984, c. 16, s. 3 [in part]; <i>Builders Lien Amendment Act (No. 2)</i> , 1984, S.B.C. 1984, c. 17, s. 1 [in part].
8	Deficiency Claims and Repossessions*	June 1972	<i>Conditional Sales Act</i> , S.B.C. 1973, c. 19 (see now <i>Sale of Goods on Condition Act</i> , R.S.B.C. 1979, c. 373); <i>Bills of Sale Act</i> , S.B.C. 1973, c. 7 (see now <i>Chattel Mortgage Act</i> , R.S.B.C. 1979, c. 48).

No.	Title	Date	Recommendations Implemented in Whole or in Part by
9	Legal Position of the Crown*	Dec. 1972	<i>Crown Proceedings Act</i> , S.B.C. 1974, c. 24 (see now <i>Crown Proceeding Act</i> , R.S.B.C. 1979, c. 86); <i>Interpretation Act</i> , S.B.C. 1974, c. 42, s. 13 (see now <i>Interpretation Act</i> , R.S.B.C. 1979, c. 206, s. 14).
10	Annual Report 1972*	Dec. 1972	Not applicable
11	Interim Report on Evidence*	Feb. 1973	<i>Attorney-General Statutes Amendment Act</i> , 1975, S.B.C. 1975, c. 4, s. 6 (see now <i>Evidence Act</i> , R.S.B.C. 1979, c. 116, ss. 37, 38).
12	Pre-Judgment Interest*	May 1973	<i>Prejudgment Interest Act</i> , S.B.C. 1974, c. 65 (see now <i>Court Order Interest Act</i> , R.S.B.C. 1979, c. 76).
13	Landlord and Tenant - Residential Tenancies*	Dec. 1973	<i>Landlord and Tenant Act</i> , S.B.C. 1974, c. 45 (see now <i>Residential Tenancy Act</i> , S.B.C. 1984, c. 10).
14	Annual Report 1973*	Jan. 1974	Not applicable
15	Limitations - General*	Mar. 1974	<i>Limitations Act</i> , S.B.C. 1975, c. 37 (see now <i>Limitation Act</i> , R.S.B.C. 1979, c. 236); <i>Law Reform Amendment Act</i> , 1985, S.B.C. 1985, c. 10, s. 6 [in part].
16	Costs of Accused on Acquittal*	June 1974	----
17	Procedure Before Statutory Bodies*	Nov. 1974	----
18	A Procedure for Judicial Review of the Actions of Statutory Bodies*	Dec. 1974	<i>Judicial Review Procedure Act</i> , S.B.C. 1976, c. 25 (see now <i>Judicial Review Procedure Act</i> , R.S.B.C. 1979, c. 209).
19	Annual Report 1974*	Jan. 1975	Not applicable
20	Costs of Successful Unassisted Lay Litigants*	Apr. 1975	----

No.	Title	Date	Recommendations Implemented in Whole or in Part by
21	The Termination of Agencies*	Apr. 1975	<i>Miscellaneous Statutes Amendment Act (No. 1)</i> , 1987, S.B.C. 1987, c. 42, s. 91 (see now <i>Power of Attorney Act</i> , R.S.B.C. 1979, c. 334, ss. 1-4); <i>Miscellaneous Statutes Amendment Act (No. 2)</i> , 1987, S.B.C. 1987, c. 43, s. 104 (see now <i>Trustee Act</i> , R.S.B.C. 1979, c. 414, ss. 14(7), 14(11)).
22	Powers of Attorney and Mental Incapacity*	May 1975	<i>Attorney-General Statutes Amendment Act</i> , 1979, S.B.C. 1979, c. 2, s. 52 (see now <i>Power of Attorney Act</i> , R.S.B.C. 1979, c. 334, s. 7).
23	Personal Property Security*	Oct. 1975	<i>Personal Property Security Act</i> , S.B.C. 1989, c. 36.
24	Security Interests in Real Property: Remedies on Default*	Dec. 1975	<i>Miscellaneous Statutes (Court Rules) Amendment Act</i> , S.B.C. 1976, c. 33, s. 94(a) [in part] (see now <i>Law and Equity Act</i> , R.S.B.C. 1979, c. 224, s. 16); <i>Supreme Court Rules</i> , Rule 50 (11), 3(2) [in part]; <i>Land Titles Act</i> , S.B.C. 1978, c. 25 [in part] (see now <i>Land Title Act</i> , R.S.B.C. 1979, c. 219, ss. 224-225); <i>Attorney General Statutes Amendment Act</i> , S.B.C. 1980, c. 1, s. 15 (see now <i>Law and Equity Act</i> , R.S.B.C. 1979, c. 224, s. 21.1) [in part]; <i>Property Law Act</i> , R.S.B.C. 1979, c. 340, s. 28 [in part]; <i>Law Reform Amendment Act</i> , 1985, S.B.C. 1985, c. 10, s. 5 (see now <i>Law and Equity Act</i> , R.S.B.C. 1979, c. 224, s. 16.1) [in part].
25	Annual Report 1975*	Jan. 1976	Not applicable
26	Minors' Contracts*	Feb. 1976	<i>Law Reform Amendment Act</i> , 1985, S.B.C. 1985, c. 10, ss. 1, 2, 10 (see now <i>Infants Act</i> , R.S.B.C. 1979, c. 196, Part 2.1 (ss. 16.1-16.11)).
27	Extra-Judicial Use of Sworn Statements*	Apr. 1976	See, e.g., <i>Mineral Act</i> , 1977, S.B.C. 1977, c. 54, s. 20(2).

No.	Title	Date	Recommendations Implemented in Whole or in Part by
28	The Rule in <i>Bain v. Fothergill</i> *	June 1976	<i>Conveyancing and Law of Property Act</i> , S.B.C. 1978, c. 16, s. 33 (see now <i>Property Law Act</i> , R.S.B.C. 1979, c. 340, s. 33).
29	Annual Report 1976*	Dec. 1976	Not applicable
30	The Rule in <i>Hollington v. Hewthorn</i> *	Jan. 1977	<i>Evidence Amendment Act</i> , 1977, S.B.C. 1977, c. 70 (see now <i>Evidence Act</i> , R.S.B.C. 1979, c. 116, ss. 15(3), 80, 81).
31	Waiver of Conditions Precedent in Contracts*	Apr. 1977	<i>Attorney-General Statutes Amendment Act</i> , 1978, S.B.C. 1978, c. 11, s. 8 (see now <i>Law and Equity Act</i> , R.S.B.C. 1979, c. 224, s. 49).
32	Proof of Marriage in Civil Proceedings*	June 1977	<i>Attorney-General Statutes Amendment Act</i> , 1979, S.B.C. 1979, c. 2, s. 18 (see now <i>Evidence Act</i> , R.S.B.C. 1979, c. 116, s. 58).
33	The <i>Statute of Frauds</i> *	June 1977	<i>Law Reform Amendment Act</i> , 1985, S.B.C. 1985, c. 10, ss. 7, 8 (see now <i>Law and Equity Act</i> , R.S.B.C. 1979, c. 224, s. 54).
34	Tort Liability of Public Bodies*	June 1977	----
35	<i>Offences Against the Person Act</i> , 1828, Section 28*	Aug. 1977	<i>Attorney-General Statutes Amendment Act</i> , 1978, S.B.C. 1978, c. 11, s. 8 (see now <i>Law and Equity Act</i> , R.S.B.C. 1979, c. 224, s. 3).
36	Annual Report 1977*	Jan. 1978	Not applicable
37	<i>Absconding Debtors Act</i> and <i>Bail Act</i> : Two Obsolete Acts*	Mar. 1978	<i>Attorney-General Statutes Amendment Act</i> , 1978, S.B.C. 1978, c. 11, ss. 1, 2.
38	The <i>Replevin Act</i> *	May 1978	Rules of Court, Rule 46 as amended Nov. 26, 1981 by B.C. Reg 467/81. <i>Attorney General Statutes Amendment Act</i> , 1982, S.B.C. 1982, c. 46, ss. 3-6, 25, 37-41.
39	The <i>Attachment of Debts Act</i> *	Oct. 1978	----

No.	Title	Date	Recommendations Implemented in Whole or in Part by
40	Execution against Land*	Oct. 1978	----
41	Annual Report 1978*	Jan. 1979	Not applicable
42	Creditors' Relief Legislation: A New Approach*	Jan. 1979	----
43	Guarantees of Consumer Debts*	June 1979	<i>Consumer Protection Amendment Act</i> , 1980, S.B.C. 1980, c. 6, s. 3. [in part].
44	Parol Evidence Rule*	Dec. 1979	----
45	Annual Report 1979 (Limitation Periods in Actions Against Estates; Defamation and Letters to the Editor)*	Jan. 1980	<i>Attorney General Statutes Amendment Act</i> , 1980, S.B.C. 1980, c. 1, ss. 7, 17 (see now <i>Estate Administration Act</i> , R.S.B.C. 1979, c. 114, s. 66(4)(b)); <i>Negligence Act</i> , R.S.B.C. 1979, c. 298, s. 7(3).
46	Civil Litigation in the Public Interest*	June 1980	----
47	Calculation of Interest on Foreclosure	Sept. 1980	<i>Attorney General Statutes Amendment Act</i> , 1981, S.B.C. 1981, c. 10, s. 28 (see now <i>Law and Equity Act</i> , R.S.B.C. 1979, c. 224, s. 18.1).
48	The Recovery of Unauthorized Disbursements of Public Funds	Sept. 1980	<i>Financial Administration Act</i> , S.B.C. 1981, c. 15, s. 67.
49	Annual Report 1980 (Discount Rates)*	Jan. 1981	<i>Attorney General Statutes Amendment Act</i> , 1981, S.B.C. 1981, c. 10, s. 30 (see now <i>Law and Equity Act</i> , R.S.B.C. 1979, c. 224, s. 51).
50	Cable Television and Defamation*	Mar. 1981	<i>Law Reform Amendment Act</i> , 1985, S.B.C. 1985, c. 10, s. 9 (see now <i>Libel and Slander Act</i> , R.S.B.C. 1979, c. 234, s. 1 ["broadcasting"])
51	Benefits Conferred under a Mistake of Law	Sept. 1981	----

No.	Title	Date	Recommendations Implemented in Whole or in Part by
52	The Making and Revocation of Wills*	Sept. 1981	<i>Attorney General Statutes Amendment Act (No. 2)</i> , 1990, S.B.C. 1990, c. 34, s. 9 (see now <i>Law and Equity Act</i> , R.S.B.C. 1979, c. 224, s. 46) [in part].
53	Distress for Rent*	Nov. 1981	----
54	Annual Report 1981	Jan. 1982	Not applicable
55	Arbitration*	May 1982	<i>Commercial Arbitration Act</i> , S.B.C. 1986, c. 3. <i>Foreign Arbitral Awards Act</i> , S.B.C. 1985, c. 74 [in part].
56	Presumptions of Survivorship*	Nov. 1982	----
57	The Crown as Creditor: Priorities and Privileges*	Nov. 1982	----
58	Interpretation of Wills*	Nov. 1982	----
59	Interest and Jurisdictional Limits in the County and Provincial Courts [Printed as an Appendix to LRC 60]*	July 1982	<i>Miscellaneous Statutes Amendment Act (No. 1)</i> , 1984, S.B.C. 1984, c. 25, s. 63 (see now <i>Small Claims Act</i> , S.B.C. 1989, c. 38, s. 3(1)); <i>Miscellaneous Statutes Amendment Act (No. 2)</i> , 1984, S.B.C. 1984, c. 26, s. 2.
60	Annual Report 1982*	Jan. 1983	Not applicable
61	Standing of a Common Law Spouse to Apply under the <i>Family Compensation Act</i> [Printed as an Appendix to LRC 73]*	Jan. 1983	<i>Family Law Reform Amendments Act</i> , 1985, S.B.C. 1985, c. 72, s. 3 (see now <i>Family Compensation Act</i> , R.S.B.C. 1979, c. 120, s. 1).
62	Interspousal Immunity in Tort	Mar. 1983	<i>Charter of Rights Amendments Act</i> , 1985, S.B.C. 1985, c. 68, ss. 50-53, 79, 83, 98 (see now <i>Law and Equity Act</i> , R.S.B.C. 1979, c. 224, s. 55).

No.	Title	Date	Recommendations Implemented in Whole or in Part by
33	Peremptory Challenges in Civil Jury Trials	June 1983	<i>Law Reform Amendment Act</i> , 1985, S.B.C. 1985, c. 10, ss. 3, 4 (see now <i>Jury Act</i> , R.S.B.C. 1979, c. 210, ss. 18, 18.1).
34	Breach of Promise of Marriage	Aug. 1983	<i>Family Law Reform Amendments Act</i> , 1985, S.B.C. 1985, c. 72, ss. 1, 36 (see now <i>Family Relations Act</i> , R.S.B.C. 1979, c. 121, s. 75).
35	Foreign Money Liabilities	Sept. 1983	<i>Foreign Money Claims Act</i> , S.B.C. 1990, c. 18.
36	Competing Rights to Mingled Property: Tracing and the Rule in <i>Clayton's Case</i>	Sept. 1983	----
37	Bulk Sales Legislation	Oct. 1983	<i>Law Reform Amendment Act</i> , 1985, S.B.C. 1985, c. 10, ss. 11-13.
38	Intentional Interference with Domestic Relations	Nov. 1983	<i>Family Law Reform Amendments Act</i> , 1985, S.B.C. 1985, c. 72, ss. 35, 37, 40 (see now <i>Family Relations Act</i> , R.S.B.C. 1979, c. 121, s. 75) [in part].
39	Illegal Transactions	Nov. 1983	----
40	Statutory Succession Rights	Dec. 1983	----
41	Minor (Interim) Report on the <i>Land (Wife Protection) Act</i> [Printed as an Appendix to LRC 73]*	Jan. 1984	<i>Charter of Rights Amendments Act</i> , 1985, S.B.C. 1985, c. 68, ss. 61-78 (see now <i>Land (Spouse Protection) Act</i> , R.S.B.C. 1979, c. 223).
42	Minor Report on The Jurisdiction of Local Judges: Stays of Execution and Instalment Orders [Printed as an Appendix to LRC 73]*	Feb. 1984	Rules of Court, Rule 42(25) as amended by B.C. Reg. 18/85, s. 15 (effective April 1, 1985).
43	Annual Report 1983 /84*	Apr. 1984	Not applicable
44	Covenants in Restraint of Trade*	Apr. 1984	----



No.	Title	Date	Recommendations Implemented in Whole or in Part by
75	Review of Civil Jury Awards	Sept. 1984	----
76	Compensation for Non-Pecuniary Loss*	Sept. 1984	----
77	Settlement Offers	Sept. 1984	Rules of Court, Rule 37(25) to 37(29) as enacted by B.C. Reg. 55/93, s. 11 [In part].
78	The Authority of a Guardian	Jan. 1985	<i>Miscellaneous Statutes Amendment Act (No. 1)</i> , 1987, S.B.C. 1987, c. 42, ss. 22, 23 (see now <i>Family Relations Act</i> , R.S.B.C. 1979, c. 121, ss. 1, 25-(2), 25(3)).
79	A Short Form General Power of Attorney [Printed as an Appendix to LRC 80]*	Mar. 1985	<i>Miscellaneous Statutes Amendment Act (No. 1)</i> , 1987, S.B.C. 1987, c. 42, ss. 92, 93 (see now <i>Power of Attorney Act</i> , R.S.B.C. 1979, c. 334, s. 8 and Schedule).
80	Annual Report 1984 /85*	Apr. 1985	Not applicable
81	Performance under Protest*	May 1985	<i>Miscellaneous Statutes Amendment Act (No. 1)</i> , 1987, S.B.C. 1987, c. 42, s. 51 (see now <i>Law and Equity Act</i> , R.S. B.C. 1979, c. 224, ss. 57, 58).
82	Minor Report on the Domicile of a Minor [Printed as an Appendix to LRC 86]*	Sept. 1985	<i>Law Reform Amendment Act, 1988</i> , S.B.C. 1988, c. 42, s. 2, (see now <i>Infants Act</i> , R.S.B.C. 1979, c. 196, s. 19.1).
83	Defamation*	Sept. 1985	----
84	Personal Liability Under a Mortgage or Agreement for Sale	Sept. 1985	<i>Law Reform Amendment Act, 1988</i> , S.B.C. 1988, c. 42, ss. 5-7 (see now <i>Property Law Act</i> , R.S.B.C. 1979, c. 340, ss. 19.1-20.3).
85	Mortgages of Land: The Priority of Further Advances	Jan. 1986	----
86	Annual Report 1985 /86*	Apr. 1986	Not applicable

No.	Title	Date	Recommendations Implemented in Whole or in Part by
87	Spousal Agreements	Aug. 1986	----
88	Shared Liability	Aug. 1986	----
89	The Action <i>Per Quod Servitium Amittit</i>	Nov. 1986	<i>Law Reform Amendment Act, 1988</i> , S.B.C. 1988, c. 42, s. 4.
90	The Court Order Interest Act	Jan. 1987	----
91	Obsolete Remedies against Estate Property: <i>Estate Administration Act</i> , Part 9	Mar. 1987	<i>Law Reform Amendment Act, 1988</i> , S.B.C. 1988, c. 42, ss. 1, 3, 8, 9
92	Annual Report 1986 /87*	Apr. 1987	Not applicable
93	The Buyer's Lien: A New Consumer Remedy	Aug. 1987	----
94	Fraudulent Conveyances and Preferences	Jan. 1988	----
95	Annual Report 1987 /88*	Apr. 1988	Not applicable
96	Deeds and Seals	June 1988	----
97	Set-Off	July 1988	----
98	Minor Report on Practice in Relation to the Cancellation of a Certificate of <i>Lis Pendens</i> [Printed as an Appendix to LRC 104]*	Nov. 1988	<i>Land Title Amendment Act, 1989</i> , S.B.C. 1989, c. 69, ss. 27, 28 (see now <i>Land Title Act</i> , R.S.B.C. 1979, c. 219, ss. 231, 235).

No.	Title	Date	Recommendations Implemented in Whole or in Part by
99	<i>The Land (Settled Estate) Act</i>	Nov. 1988	<i>Attorney General Statutes Amendment Act, 1989, S.B.C. 1989, c. 64, ss. 8, 33, 34 (see now Trust and Settlement Variation Act, R.S.B.C. 1979, c. 413, s. 3.1).</i>
100	Co-Ownership of Land	Dec. 1988	----
101	Response to Access to Justice - The Report of the Justice Reform Committee [Printed as an Appendix to LRC 104]*	Dec. 1988	Not applicable
102	Wills and Changed Circumstances	Jan. 1989	----
103	Floating Charges on Land	Jan. 1989	<i>Personal Property Security Act, S.B.C. 1989, c. 36, s. 104 (see now Land Title Act, R.S.B.C. 1979, c. 219, s. 198.1).</i>
104	Annual Report 1988 /89*	Apr. 1989	Not applicable
105	Minor Report on Severance of Unconstitutional Enactments [Printed as an Appendix to LRC 113]*	May 1989	----
106	Vicarious Liability under the Motor Vehicle Act	June 1989	<i>Miscellaneous Statutes Amendment Act (No. 2), 1990, S.B.C. 1990, c. 58, s. 16 (see now Motor Vehicle Act, R.S.B.C. 1979, c. 288, s. 216) [in part].</i>
107	Minor Report on Loss Appraisal under the Insurance Act	July 1989	----
108	<i>The Commercial Tenancy Act</i>	Dec. 1989	----

No.	Title	Date	Recommendations Implemented in Whole or in Part by
109	Notice Requirements in Proceedings against Municipal Bodies	Jan. 1990	----
110	The Enduring Power of Attorney: Fine-tuning the Concept	Feb. 1990	----
111	Property Rights on Marriage Breakdown	Mar. 1990	----
112	The Ultimate Limitation Period: <i>Limitation Act, Section 8</i>	Mar. 1990	----
113	Annual Report 1989 /90*	Apr. 1990	Not applicable
114	Minor Report on Priority of Builders Liens under Bill 52	Oct. 1990	----
115	Minor Report on Affidavits: Alternatives to Oaths	Nov. 1990	<i>Affirmation Regulation Amendment, B.C. Reg. 314/91.</i>
116	Execution against Securities	Mar. 1991	----
117	Interim Report on Enforcing Judgments from outside the Province	Mar. 1991	----
118	Mortgages: Judicial Sales and Deficiency Claims	Mar. 1991	----
119	Annual Report 1990/91	Mar. 1991	Not applicable
120	Apartment Corporations	May 1991	----
121	<i>The Foreign Money Claims Act: Regulations</i>	Aug. 1991	----

No.	Title	Date	Recommendations Implemented in Whole or in Part by
122	<i>The Uniform Enforcement of Canadian Judgments Act</i>	Jan. 1992	<i>Enforcement of Canadian Judgments Act, S.B.C. 1992, c. 37</i>
123	Division of Pensions on Marriage Breakdown	Jan. 1992	----
124	Annual Report 1991 /92	Apr. 1992	Not applicable
125	<i>Insurance Act, Section 26(1)</i> [Printed as an Appendix to LRC 132]	June 1992	----
126	Supreme Court Rule 54: Reciprocally Enforceable Judgments	Oct. 1992	Rules of Court, Rule 54 as enacted by B.C. Reg. 55/93, s. 21
127	Wrongful Interference with Goods	Nov. 1992	----
128	Non-Charitable Purpose Trusts	Nov. 1992	----
129	Informal Public Appeal Funds	Jan. 1993	----
130	Fixtures and the <i>Personal Property Security Act</i>	Jan. 1993	----
131	Apportionment of Costs and Contributory Negligence: Section 3 of the <i>Negligence Act</i>	Jan. 1993	----
132	Annual Report 1992/93	Apr. 1993	Not applicable

## APPENDIX B

### OTHER PUBLICATIONS

#### A. The Law Reform Database

The Law Reform Database is described in the body of this Report.

#### B. Study Papers

Study Papers are documents prepared for the Law Reform Commission on particular topics by named authors. Published Study Papers are:

##### S1 The Office of the Sheriff

by Gordon Turriff and Elizabeth Edinger, 1983

##### S2 Family Property

by Thomas G. Anderson and Michael Karton, 1985

##### S3 Court Jurisdiction

by John W. Horn, 1989

#### C. Working Papers Issued by the Commission

Working Papers are produced for consultation purposes and ordinarily precede a final report on the topic under consideration. In the following list all of the Working Papers except those marked with an asterisk (\*) have in fact been superseded by a final report.

No.	Title	Year
1	Frustrated Contracts Legislation	1970
2	Abolition of Prescription	1970
3	Debt Collection and Collection Agents	1971
4	Deficiency Claims and Repossessions	1971
5	<i>The Mechanics' Lien Act</i>	1971
6	Expropriation	1971
7	Legal Position of the Crown	1972
8	Debtor-Creditor Relationships: Pre-Judgment Interest	1973

No.	Title	Year
9	Costs of Accused on Acquittal	1973
10	A Procedure for Judicial Review of the Actions of Statutory Bodies	1974
11	Tort Liability of Public Bodies	1974
12	Powers of Attorney and Mental Incapacity	1974
13	Costs of Successful Litigants in Person	1974
14	The <i>Powers of Attorney Act</i> and the Termination of Agencies	1974
15	Security Interests in Real Property: Remedies on Default	1975
16	Minors' Contracts	1975
17	Extra-Judicial Use of Sworn Statements	1975
18	The Enforcement of Judgments: The <i>Attachment of Debts Act</i>	1976
19	The Rule in <i>Hollington v. Hewthorn</i>	1976
20	The Statute of Frauds	1976
21	The Enforcement of Judgments: The <i>Creditors' Relief Act</i>	1976
22	The Enforcement of Judgments: Execution Against Land	1976
23	The <i>Replevin Act</i>	1977
24	Guarantees of Consumer Debts	1978
25	Arbitration	1979
26	Civil Litigation in the Public Interest	1979
27	The Calculation of Interest on Foreclosure	1980
28	The Making and Revocation of Wills	1980
29	Distress for Rent and Other Debts	1980
30	Benefits Conferred Under a Mistake of Law	1980
31	The Crown as Creditor: Priorities and Privileges	1981
32	Interpretation of Wills	1981
33	Foreign Money Liabilities	1981
34	Interspousal Immunity in Tort	1982
35	Statutory Succession Rights	1982

No.	Title	Year
36	Competing Rights to Mingled Property: Tracing and the Rule in <i>Clayton's Case</i>	1982
37	Peremptory Challenges in Civil Jury Trials	1982
38	Illegal Contracts	1982
39	Breach of Promise of Marriage	1983
40	Bulk Sales Legislation	1983
41	Covenants in Restraint of Trade	1983
42	Intentional Interference with Domestic Relations	1983
43	Compensation for Non-Pecuniary Loss	1983
44	Review of Civil Jury Awards	1983
45	Settlement Offers	1984
46	Performance Under Protest	1984
47	Mortgages of Land: The Priority of Further Advances	1985
48	Personal Liability Under a Mortgage or Agreement for Sale	1985
49	The <i>Court Order Interest Act</i>	1985
50	Shared Liability	1985
51	Spousal Agreements	1985
52	The Buyer's Lien: A New Consumer Remedy	1986
53	Fraudulent Conveyances and Preferences	1986
54	Set-Off	1987
55	Execution Against Shares	1987
56	Deeds and Seals	1987
57	Testamentary Intent and Unexpected Circumstances	1987
58	Co-Ownership of Land	1987
59	The <i>Land (Settled Estate) Act</i>	1988
60	Vicarious Liability Under the <i>Motor Vehicle Act</i>	1988
61	<i>Commercial Tenancy Act</i>	1988
62	The Enduring Power of Attorney: Fine-Tuning the Concept	1989
63	Property Rights on Marriage Breakdown	1989



No.	Title	Year
64	The Enforcement of Judgments Between Canadian Provinces	1989
65	Division of Pensions on Marriage Breakdown	1990
66	Non-Charitable Purpose Trusts	1991
67	Wrongful Interference with Goods	1992
*68	Liens for Logging Work	1992
*69	Pecuniary Loss and the <i>Family Compensation Act</i>	1992

\*Final Report not yet issued

## APPENDIX C

## PAST AND PRESENT MEMBERS OF THE COMMISSION

Hon. E.D. Fulton	Chairman	1970 to 1973
Hon. Mr. Justice F.U. Collier	Commissioner	1970 to 1971
Dr. Richard Gosse, Q.C.	Commissioner	1970 to 1972
Ronald C. Bray	Commissioner Acting Chairman	1971 to 1977 1973 to 1974
J. Noel Lyon	Commissioner	1972 to 1973
Allen A. Zysblat	Commissioner	1973 to 1976
Paul D.K. Fraser, Q.C.	Commissioner	1973 to 1979
Hon. Mr. Justice Peter Fraser	Commissioner Acting Chairman	1973 to 1982 1978 to 1979
Leon Getz	Chairman Commissioner	1974 to 1977 1974 to 1979
Hon. Mr. Justice J.D. Lambert	Commissioner Chairman	1976 to 1978 1978
Hon. Mr. Justice K.C. Mackenzie	Commissioner	1978 to 1983
Bryan Williams, Q.C.	Commissioner	1979 to 1984
Anthony F. Sheppard	Commissioner	1979 to 1984
Arthur L. Close, Q.C.	Commissioner Vice-Chairman Chairman	1979 to date 1983 to 1984 1984 to date
Hon. Mr. Justice J.S. Aikins	Chairman	1980 to 1983
Hon. Ronald. I. Cheffins, Q.C.	Commissioner Vice-Chairman	1983 to 1985 1984 to 1985 1987 to 1992
Hon. Mdm. Justice M.V. Newbury	Commissioner	1984 to 1991
Lyman R. Robinson, Q.C.	Commissioner	1985 to date
Peter T. Burns, Q.C.	Commissioner	1986 to date
Thomas G. Anderson	Commissioner	1990 to date

## APPENDIX D

**MINOR REPORT ON THE  
INSURANCE ACT: SECTION 26(1)**

Dear Mr. Attorney:

**Re: Minor Report: Insurance Act, s. 26(1) (LRC 125)**

Recent judicial decisions have highlighted a problem with the operation of the *Insurance Act*. Section 26(1) allows someone who suffers loss caused by an insured person to proceed directly against the insurer. This procedure is usually unnecessary but the section provides a valuable right where the insured is unwilling or unavailable to claim on the policy. Unfortunately, the way the section is drafted means that the direct right of action is not always available.

There are two different perspectives on the function third party liability insurance performs. The first function is to protect the policy holder against the risk of loss. If the policy holder who causes loss satisfies the victim's claim, the insured is reimbursed or indemnified by the insurer (subject to the terms of the policy). Historically, this was looked upon as the sole function of third party liability insurance. In other cases, particularly those involving large claims, in the absence of the policy there simply would be no compensation to the victim. As a result, the second function served by insurance is to make sure there are adequate funds to satisfy third party liability.

Insurance is a matter of contract between the insurer and the insured and, at common law, an injured person had no direct claim against the insurer. If the insured declined to call upon the insurer, a victim who could not satisfy the judgment from the wrongdoer's property remained uncompensated. This might happen, for example, where the insured became insolvent, or left the province to avoid creditors.

**B.C. Legislation**

Throughout Canada, the Commonwealth and the United States, legislation was enacted in the first part of this century to deal with the problem. In British Columbia, the relevant legislation is section 26(1) of the *Insurance Act*:

26. (1) Where a person incurs liability for injury or damage to the person or property of another, and is insured against that liability, and fails to satisfy a judgment awarding damages against him in respect of that liability, and an execution against him in respect of it is returned unsatisfied, the person entitled to the damages may recover by action against the insurer the amount of the judgment up to the face value of the policy, but subject to the same equities as the insurer would have if the judgment had been satisfied.

2) This section does not apply in the case of a contract of automobile insurance.

Although the section does not apply to automobile insurance, other legislation makes sure the same legal policy applies in that context. The *Insurance (Motor Vehicle) Act* provides:

20. Notwithstanding that he has no contractual relationship with the corporation, a person having a claim against an insured for which indemnity is provided by an owner's certificate...on recovering judgment against the insured...may...maintain an action against the corporation to have the insurance money so applied.

**A Gap in the Legislation**

In the past decade, a number of Canadian cases have considered the ambit of section 26 of the *Insurance Act* (and comparable legislation in other provinces) and have found that it does not apply to all kinds of loss for which there is insurance. The words in the legislation "Where a person incurs liability for injury or damage to the person or property of another" do not encompass claims which are separate from injury or damage to a person or a person's property such as, for example, pure economic loss. Someone who suffers pure economic loss as a result of a professional person's negligence would have no right to proceed directly against the insurer where the wrongdoer declined to claim under the insurance policy: *Starr Schein Enterprises Inc. v. Gestas Corporation Ltd.*, (1987) 13 B.C.L.R.

(2d) 85 (B.C.C.A.); *Perry v. General Security Ins. Co. of Canada*, (1985) 11 D.L.R. (4th) 516 (Ont. C.A.).

A recent British Columbia case provides a dramatic example of the section's limitations. When a person is wrongfully killed by another, legislation – in British Columbia it is the *Family Compensation Act* – allows a spouse, parent or child who was financially dependent upon the deceased to recover lost support. A damage award for lost support can be substantial, but it is not "liability for injury or damage to the person or property of another," as the legislation requires. In *Scurfield v. Assitalia-Le Assicurazioni D'Italia S.P.A.*, [1992] B.C.J. No. 759 (B.C.S.C.), the wife of the deceased was unable to collect a judgment for \$1,253,309.40 from the insurers.

Courts that have considered the limitations on the section have called for its revision. Spencer J.'s remarks in the *Scurfield* case are typical:

The defendant's motion for judgment dismissing this claim is therefore allowed. It is a regrettable result, but one dictated by the wording of the section and the law. I draw attention to what Legg J. said in the trial decision in *Starr Schein Enterprises Inc.* when he shared the concern that the exclusion of judgments for pecuniary loss by the wording of s. 26(1) was both unfair and unfortunate for an innocent plaintiff. Apart from concerns about the level of the premium, there appears to be no justification why an insurer who would have had to pay a loss to an injured plaintiff should not be required to pay what is generally a lesser loss to that person's dependants where the injuries result in death. A change in the statutory wording would be required to effect the change.

### Recommendation

The judicial call for revising the law has led us to consider the legislation. We agree with the sentiments voiced by Mr. Justice Spencer and Mr. Justice Legg. It is our conclusion that there is no justification for insulating an insurer from responsibility to satisfy a claim covered by a valid policy of insurance. The limitation on the *Insurance Act* is an accident of legal drafting and probably reflects the fact that when the legislation was enacted claims for pure economic loss were not generally recoverable at law. But the law on that point has changed: see, e.g. *C.N.R. v. Norsk* (Unreported S.C.C. decision, [1992] S.C.J. No. 40). Although some judges have argued that the *Insurance*

*Act* should be interpreted against the background of changing law, it is an approach with obvious limitations and one which has not yet proved to be successful.

The equivalent provision in the *Insurance (Motor Vehicle) Act* (set out above) covers all losses. English legislation (the *Third Parties (Rights against Insurers) Act, 1930*) in force since 1930 is equally comprehensive.

It is worth pointing out that because British Columbia legislation adopts slightly different drafting approaches in the *Insurance Act* and the *Insurance (Motor Vehicle) Act*, the rights of a victim differ depending upon the identity of the insurer. A claim against a motorist insured in British Columbia for damages under the *Family Compensation Act*, for example, would be satisfied by the Insurance Company of British Columbia. But if the death occurred in a slightly different context, another insurer could escape liability by pointing to the loophole in the *Insurance Act*.

### Draft Legislation

The current formulation of section 26 is a source of injustice. It is easily corrected. Legislation along the following lines to replace subsection (1) would ensure that the policy extends to any insurable loss with respect to which there is a judgment against the insured:

(1) *Where a judgment for money based on a claim for which the judgment debtor is insured has not been satisfied, the judgment creditor may recover from the insurer the lesser of*

- (a) *the amount by which the judgment is unsatisfied, or*
- (b) *the amount which the insurer would have been obligated to pay, as an indemnity, to the judgment debtor had the judgment been satisfied by the judgment debtor.*

It is our recommendation that section 26(1) of the *Insurance Act* be revised.

Insurance legislation in Canada is a provincial responsibility but, through the Association of Superintendents of Insurance and the cooperation of the provincial legislatures, there is a high degree of uniformity among the laws of the provinces and the territories. The matters addressed by section 26(1) should be subject to a consistent national treatment. In the interests of uniformity, consequently, this matter should be brought by the Superintendent of Financial Institutions to the attention of the Association. The matter is of sufficient importance, however, that if the Association decides not to endorse this amendment, we recommend that British Columbia act unilaterally.

This letter constitutes a Minor Report (No. 125) of the Law Reform Commission. This recommendation was approved by the Commission at a meeting on June 26, 1992.

Yours sincerely,

Arthur L. Close, Q.C.  
Chairman

## APPENDIX E

### SPECIAL ADVISORY COMMITTEE ON STANDARDIZING ASSUMPTIONS RELATING TO INCOME TAX GROSS-UP CALCULATIONS

#### 1. Terms of Reference:

- A. The Committee will consider the extent to which it is possible and desirable to standardize the assumptions which are relevant to
- (1) the calculation of a "gross up" of
    - (a) the future care portion of a personal injury award, or
    - (b) an award for loss of dependency in a fatal accident case
 to adjust for the impact of taxation of income generated by the award, and
  - (2) the provision of a "management fee" as part of an award.

If the Committee concludes that it is possible and desirable to standardize the assumptions it shall proceed as described below.

- B. If the Committee concludes that standardization with respect to the gross-up calculation is desirable, but is possible only if certain assumptions applicable to the calculation of all awards in personal injury and fatal accident cases that are based on future losses are also standardized, the Committee may consider and make recommendations concerning those additional assumptions.
- C. The Committee will identify the variables that will affect the gross-up calculation or the provision of a management fee and determine which of the variables
- (1) depend on the facts of individual cases and the evidence led to establish them, or
  - (2) should not depend on the facts of individual cases nor vary from case to case.



- D. The Committee will consider those variables in the second group and recommend a fair and balanced set of assumptions to fix their content.
- E. The committee will consider ways of making the assumptions easy to apply in practice including the possibility of their incorporation in tables, algorithms and computer programs, and make appropriate recommendations or, if possible devise the tools for this purpose.
- F. The Committee will consider and make recommendations concerning the most appropriate legal technique of mandating the use of the assumptions.
- G. The Committee will consider the need for a periodic review of the assumptions and the best way to constitute a review and implement any necessary revisions.

## 2. Committee Members

The Honourable Mr. Justice L.S.G. Finch  
 Patrice Abrioux  
 Allan Brown  
 Rob Carson  
 Arthur Close  
 Jeremy Collisbird  
 Gregory Steele  
 Kevin Turnbull

## APPENDIX F

### INSTALLATION AND OPERATION OF THE ELECTRONIC APPENDICES

#### A. INSTALLING AND ACCESSING THE APPENDICES

Set out below are the instructions for the quick and easy installation of the electronic appendices and their supporting software into your computer. This diskette can only be used in a computer:

1. that is an IBM PC compatible with an 80286, 80386 or 80486 processor (an AT class computer or better);
2. that uses **PC DOS** or **MS DOS 2.0** or later, as its operating system;
3. that is equipped with a 3.5 inch floppy disk drive. (The electronic appendices are available from the Commission on 5.25 inch floppy disk on request.)

To install the appendices and supporting software place the distribution diskette in drive **A:** or drive **B:** and run the program:

#### INSTALL.EXE

You will be prompted for your choice of a custom installation or the default installation. The default installation assumes the distribution diskette is in drive **A:** and installation takes place to **C:\BCLRC**. A custom installation allows the user to specify the source drive, the target drive and the target directory.

When installation is complete, you should then change to the **C:\BCLRC** directory (or a user-specified directory). From the **DOS** prompt in that directory type:

**BCLRC** (followed by <ENTER>)

to access the electronic appendices.

These instructions are all most users will need to get started.

## **B. ADDITIONAL INFORMATION FOR THE COMPUTER LITERATE**

All files that have the extension **.TXT** are in **DOS** text (ASCII) format. A file in **DOS** text format can be loaded or imported into almost all word processors and text editors. Most software of this kind has "word search" capabilities so the user will have the ability to search the file for words or phrases that are of particular interest or relevance. This feature may be of special assistance in reviewing the **REPORTS.TXT** file.

The **INSTALL.EXE** program can be bypassed by using the **DOS** copy command to copy the files from the distribution diskette to the directory of your choice. A copy command in the form: **COPY LIM\*.\*** will copy only the files necessary for the *Limitation Act Case Finder*.

To run the Case Finder directly from the **DOS** prompt run **LIMITS.EXE**.

The file **LIMDB.ICO** is a custom icon for those who wish to configure the Case Finder to run from **MS WINDOWS**.