

No. , 1967.

A BILL

To constitute a Law Reform Commission; to define its powers, authorities, duties and functions; and for purposes connected therewith.

[Mr. McCaw—15 August, 1967.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Law Reform Commission Act, 1967". Short title.

2. In this Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

10 "Chairman" means the Chairman of the Commission.

77459 30—

"Commission"

Law Reform Commission.

“Commission” means the Law Reform Commission constituted under this Act.

“Commissioner” means a commissioner appointed under section three of this Act.

5 “Executive member” means the officer of the Commission appointed under section six of this Act.

“Reference” means a reference referred to in section ten of this Act.

10 **3.** (1) There shall be a Law Reform Commission which shall have and may exercise the powers, authorities, duties and functions conferred and imposed upon it by this Act. Constitution of the Commission.

(2) Subject to this section, the Commission shall consist of not less than three nor more than six commissioners appointed by the Governor, that is to say—

15 (a) a chairman of the Commission who shall be a judge or a retired judge of the Supreme Court; and

(b) other persons each of whom appears to the Minister to be suitably qualified by the holding of judicial office or by experience as a barrister or solicitor or as a teacher of law in a university.

20

(3) A commissioner shall, subject to this Act, hold office—

(a) in the case of the Chairman being, at the time of his appointment, a judge of the Supreme Court, until he attains the age of seventy years, or, if by the instrument of his appointment his appointment is for a term enduring beyond the time when he attains the age of seventy years, until that term expires; and

25

(b) in any other case, until the expiry of such term, not exceeding seven years, as the Governor shall by the instrument of appointment of that commissioner specify, but shall be eligible for re-appointment.

30

(4)

Law Reform Commission.

5 (4) So long as there are two or more commissioners, no act or proceeding of the Commission or any commissioner shall be vitiated by reason only that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the office of any commissioner.

10 4. (1) The appointment of a holder of a judicial office as a commissioner shall not, nor shall his service as commissioner, affect his tenure of that office or his rank, title, status, precedence, salary or other rights or privileges as a holder of that office. Appointment of holders of judicial office as commissioners.

15 (2) A holder of a judicial office may, notwithstanding that he is a commissioner, exercise his powers as a holder of that office, but while he is a commissioner he shall not (unless otherwise provided by the instrument of his appointment as commissioner) be required to perform his duties as a holder of that office.

(3) The service, as commissioner, of a holder of a judicial office shall, for all purposes, be taken to be service as a holder of that judicial office.

20 5. (1) The Governor may appoint a commissioner to be Deputy Chairman. Deputy Chairman.

25 (2) Subject to subsection two of section ten of this Act, the Deputy Chairman shall during the absence, illness or incapacity of the Chairman have and may exercise the powers, authorities, duties and functions conferred or imposed upon the Chairman by this Act.

6. (1) The Governor may appoint a person who appears to the Minister to be suitably qualified to be the executive member of the Commission. Executive member.

30 (2) The executive member shall, subject to this Act, hold office for such term, not exceeding seven years, as the Governor shall by the instrument of appointment of the executive member specify, but shall be eligible for re-appointment.

(3)

Law Reform Commission.

(3) The executive member shall have such powers and shall perform such duties as the Chairman shall direct.

7. (1) The persons named and described in the Schedule to this Act shall be deemed to have been appointed by the Governor under this Act as the first Chairman, first commissioners and first executive member of the Commission as shown beside the name and description of each in that Schedule.

First appointments.

(2) Each of the first commissioners (other than the Chairman) and the first executive member shall, subject to this Act, hold office for the term stated beside his name and description in the Schedule to this Act computed from the first day of January, one thousand nine hundred and sixty-six.

8. (1) Each commissioner (other than the holder of a judicial office) and the executive member shall receive such remuneration and allowances as the Governor may from time to time determine.

Remuneration, allowances and rights.

(2) The appointment of a commissioner (other than the holder of a judicial office) and the executive member shall, subject to this Act, be in accordance with such terms and conditions as may be specified in the instrument of his appointment or as may be agreed upon by the Governor and the commissioner or executive member.

(3) The provisions of the Public Service Act, 1902, or any Act amending that Act, shall not apply to the appointment of any commissioner or the executive member and a commissioner and the executive member shall not, in that capacity, be subject to any such Act.

9. (1) The Governor may remove the Chairman or a commissioner, being the holder of a judicial office, from office upon the address of both Houses of Parliament, but not otherwise.

Removal and vacation of office.

(2)

Law Reform Commission.

(2) A commissioner (not being the holder of a judicial office) and the executive member shall be deemed to have vacated his office if—

- 5 (a) he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
- (b) he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or allowances or of his estate for their benefit;
- 10 (c) he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- 15 (d) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour which is punishable as aforesaid; or
- 20 (e) he resigns his office by writing under his hand addressed to the Governor.

10. (1) The Commission, in accordance with any reference to it made by the Minister of his own motion or on a proposal by the Commission—

Powers
and
duties of
Commission.

- (a) shall consider the law, enacted or promulgated by the Legislature of New South Wales or by any person under the authority of that Legislature, with a view to, or for the purpose of—
 - 30 (i) eliminating defects and anachronisms in the law;
 - (ii) repealing obsolete or unnecessary enactments;
 - (iii) consolidating, codifying or revising the law;
 - 35 (iv) simplifying or modernising the law by bringing it into accord with current conditions;

(v)

Law Reform Commission.

- (v) adopting new or more effective methods for the administration of the law and the dispensation of justice;
- 5 (vi) systematically developing and reforming the law;
- (b) shall consider proposals relating to matters in respect of which it is competent for the Legislature of New South Wales or any person under the authority of that Legislature to enact or promulgate laws; and
- 10 (c) may for the purposes of this section hold and conduct such inquiries as it thinks fit.

(2) For the purposes of any inquiry under this section—

- 15 (a) the Commission and the Chairman shall have the powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part II of the Royal Commissions Act, 1923, as amended by subsequent Acts, and that Act, as so amended, (section thirteen and Division 2 of Part
- 20 II excepted) shall, mutatis mutandis, apply to any witness summoned by or appearing before the Commission; and
- 25 (b) the provisions of Division 2 of Part II of that Act, as so amended, shall apply where the Chairman or the Deputy Chairman, if he is a judge of the Supreme Court and is acting as Chairman, is presiding at the inquiry.

11. The provisions of the Defamation Act, 1958, shall ^{Privilege.} extend and apply to any inquiry, and report as a result of an inquiry, made by the Commission under the authority of this Act and to the proceedings of the Commission and to reports of those proceedings as if those proceedings were an inquiry made by the Commission under the authority of this

30 Act.

35 Act.

Law Reform Commission.

- 12.** (1) The Commission shall meet from time to time at such places and times as the Chairman directs. Proceedings
of the
Commission
- (2) The quorum for a meeting shall be two commissioners.
- 5 (3) The Chairman shall preside at all meetings at which he is present and, in the event of the votes being equal, shall have a casting as well as a deliberative vote.
- (4) In the absence of the Chairman and Deputy Chairman from a meeting the commissioners present shall
10 choose one of themselves to preside.
- (5) The Commission may regulate and conduct the proceedings at its meetings as it thinks fit and shall keep minutes of those proceedings.
- 15 (6) Subject to this Act, the Commission may delegate to any of the commissioners any of its powers, authorities, duties and functions.
- 13.** (1) The Commission may from time to time and shall, upon direction by the Minister, make an interim report on its work under any reference. Reports.
- 20 (2) The Commission shall at the end of its work under any reference make a final report on its work under the reference.
- (3) The Commission shall, as soon as practicable after the thirtieth day of June in each year, make a report
25 of the proceedings of the Commission during the period of twelve months ending on that day.
- (4) A report made by the Chairman and one other commissioner shall be a report of the Commission for the purposes of this Act.
- 30 (5) The Commission shall furnish each of its reports to the Minister for presentation to Parliament.

Law Reform Commission.

14. (1) The staff of the Commission (other than the Staff. executive member) shall be appointed under and be subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts.

5 (2) The Commission may with the approval of the Minister administering any Department and of the Public Service Board and on such terms as may be arranged make use of the services of an officer or employee of that Department.

SCHEDULE.

Sec. 7.

10

Office	Name and Description	Term of Office
Chairman ..	The Honourable Mr. Justice James Kenneth Manning, Puisne Judge of the Supreme Court of New South Wales.	
15 Commissioner ..	David Gilbert Benjafield, Esquire, Professor of Law in the University of Sydney.	Two years.
20 Commissioner ..	Robert Davy Conacher, Esquire, Barrister.	Seven years.
Commissioner ..	Hector McDonald Scott, Esquire, Solicitor.	Three years.
Executive Member	Ronald Earle Walker, Esquire, Barrister.	Five years.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

[10c]

LAW REFORM COMMISSION BILL, 1967.

EXPLANATORY NOTE.

THE object of this Bill is to constitute a Law Reform Commission consisting of not less than three nor more than six commissioners, the Chairman to be a judge or retired judge of the Supreme Court and the other commissioners to have specified qualifications.

The Bill empowers the Commission to consider, enquire into and report upon matters of law reform and legislative proposals in accordance with any reference made to it by the Attorney General.

The Bill applies certain provisions of the Royal Commissions Act, 1923, to inquiries conducted by the Commission and confers certain protections under the Defamation Act, 1958, on proceedings of the Commission.

LAW REPORT COMMISSION BILL, 1902

The Commission on the Law Report Commission Bill, 1902, was organized on January 1, 1902, and has since that time been engaged in a study of the subject of law reports. The Commission has held numerous public hearings and has received many suggestions from the legal profession and the public. It has also conducted extensive research into the various methods of preparing law reports and has compared the results with those of other countries. The Commission believes that the present system of law reports in this country is inefficient and costly, and that it is necessary to adopt a more efficient and economical system. The Commission proposes to create a Law Report Commission, which shall be composed of representatives of the legal profession and the public. This Commission shall be authorized to prepare and publish law reports, and to regulate the preparation and publication of law reports by other persons. The Commission also proposes to create a Law Report Commission, which shall be composed of representatives of the legal profession and the public. This Commission shall be authorized to prepare and publish law reports, and to regulate the preparation and publication of law reports by other persons.

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[MR. McCaw—15 August, 1967.]

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1. This Act may be cited as the "Law Reform Commission Act, 1967". Short title.

2. In this Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

10 "Chairman" means the Chairman of the Commission.

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"Commission"

Law Reform Commission.

“Commission” means the Law Reform Commission constituted under this Act.

“Commissioner” means a commissioner appointed under section three of this Act.

5 “Executive member” means the officer of the Commission appointed under section six of this Act.

“Reference” means a reference referred to in section ten of this Act.

10 **3.** (1) There shall be a Law Reform Commission which shall have and may exercise the powers, authorities, duties and functions conferred and imposed upon it by this Act. Constitution of the Commission.

(2) Subject to this section, the Commission shall consist of not less than three nor more than six commissioners appointed by the Governor, that is to say—

15 (a) a chairman of the Commission who shall be a judge or a retired judge of the Supreme Court; and

(b) other persons each of whom appears to the Minister to be suitably qualified by the holding of judicial office or by experience as a barrister or solicitor or as a teacher of law in a university.

20

(3) A commissioner shall, subject to this Act, hold office—

(a) in the case of the Chairman being, at the time of his appointment, a judge of the Supreme Court, until he attains the age of seventy years, or, if by the instrument of his appointment his appointment is for a term enduring beyond the time when he attains the age of seventy years, until that term expires; and

25

(b) in any other case, until the expiry of such term, not exceeding seven years, as the Governor shall by the instrument of appointment of that commissioner specify, but shall be eligible for re-appointment.

30

(4)

Law Reform Commission.

(4) So long as there are two or more commissioners, no act or proceeding of the Commission or any commissioner shall be vitiated by reason only that, at the time when the act or proceeding was done, taken or commenced, there was
5 a vacancy in the office of any commissioner.

4. (1) The appointment of a holder of a judicial office as a commissioner shall not, nor shall his service as commissioner, affect his tenure of that office or his rank, title, status, precedence, salary or other rights or privileges as a holder
10 of that office. Appointment of holders of judicial office as commissioners.

(2) A holder of a judicial office may, notwithstanding that he is a commissioner, exercise his powers as a holder of that office, but while he is a commissioner he shall not (unless
15 otherwise provided by the instrument of his appointment as commissioner) be required to perform his duties as a holder of that office.

(3) The service, as commissioner, of a holder of a judicial office shall, for all purposes, be taken to be service as a holder of that judicial office.

20 5. (1) The Governor may appoint a commissioner to be Deputy Chairman. Deputy Chairman.

(2) Subject to subsection two of section ten of this Act, the Deputy Chairman shall during the absence, illness or incapacity of the Chairman have and may exercise the powers,
25 authorities, duties and functions conferred or imposed upon the Chairman by this Act.

6. (1) The Governor may appoint a person who appears to the Minister to be suitably qualified to be the executive
member of the Commission. Executive member.

30 (2) The executive member shall, subject to this Act, hold office for such term, not exceeding seven years, as the Governor shall by the instrument of appointment of the executive member specify, but shall be eligible for re-appointment.

(3)

Law Reform Commission.

(3) The executive member shall have such powers and shall perform such duties as the Chairman shall direct.

7. (1) The persons named and described in the Schedule to this Act shall be deemed to have been appointed by the Governor under this Act as the first Chairman, first commissioners and first executive member of the Commission as shown beside the name and description of each in that Schedule.

First appointments.

(2) Each of the first commissioners (other than the Chairman) and the first executive member shall, subject to this Act, hold office for the term stated beside his name and description in the Schedule to this Act computed from the first day of January, one thousand nine hundred and sixty-six.

8. (1) Each commissioner (other than the holder of a judicial office) and the executive member shall receive such remuneration and allowances as the Governor may from time to time determine.

Remuneration, allowances and rights.

(2) The appointment of a commissioner (other than the holder of a judicial office) and the executive member shall, subject to this Act, be in accordance with such terms and conditions as may be specified in the instrument of his appointment or as may be agreed upon by the Governor and the commissioner or executive member.

(3) The provisions of the Public Service Act, 1902, or any Act amending that Act, shall not apply to the appointment of any commissioner or the executive member and a commissioner and the executive member shall not, in that capacity, be subject to any such Act.

9. (1) The Governor may remove the Chairman or a commissioner, being the holder of a judicial office, from office upon the address of both Houses of Parliament, but not otherwise.

Removal and vacation of office.

(2)

Law Reform Commission.

(2) A commissioner (not being the holder of a judicial office) and the executive member shall be deemed to have vacated his office if—

- 5 (a) he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
- (b) he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or allowances or of his estate for their benefit;
- 10 (c) he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- 15 (d) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour which is punishable as aforesaid; or
- 20 (e) he resigns his office by writing under his hand addressed to the Governor.

10. (1) The Commission, in accordance with any reference to it made by the Minister of his own motion or on a proposal by the Commission—

Powers and duties of Commission.

- (a) shall consider the law, enacted or promulgated by the Legislature of New South Wales or by any person under the authority of that Legislature, with a view to, or for the purpose of—
 - 30 (i) eliminating defects and anachronisms in the law;
 - (ii) repealing obsolete or unnecessary enactments;
 - (iii) consolidating, codifying or revising the law;
 - 35 (iv) simplifying or modernising the law by bringing it into accord with current conditions;

(v)

Law Reform Commission.

- (v) adopting new or more effective methods for the administration of the law and the dispensation of justice;
- 5 (vi) systematically developing and reforming the law;
- (b) shall consider proposals relating to matters in respect of which it is competent for the Legislature of New South Wales or any person under the authority of that Legislature to enact or promulgate laws; and
- 10 (c) may for the purposes of this section hold and conduct such inquiries as it thinks fit.
- (2) For the purposes of any inquiry under this section—
- 15 (a) the Commission and the Chairman shall have the powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part II of the Royal Commissions Act, 1923, as amended by subsequent Acts, and that Act, as so amended, (section thirteen and Division 2 of Part
- 20 II excepted) shall, mutatis mutandis, apply to any witness summoned by or appearing before the Commission; and
- 25 (b) the provisions of Division 2 of Part II of that Act, as so amended, shall apply where the Chairman or the Deputy Chairman, if he is a judge of the Supreme Court and is acting as Chairman, is presiding at the inquiry.

11. The provisions of the Defamation Act, 1958, shall ^{Privilege.} extend and apply to any inquiry, and report as a result of an inquiry, made by the Commission under the authority of this Act and to the proceedings of the Commission and to reports of those proceedings as if those proceedings were an inquiry made by the Commission under the authority of this

30 Act.

35 Act.

Law Reform Commission.

12. (1) The Commission shall meet from time to time at such places and times as the Chairman directs. Proceedings of the Commission.

(2) The quorum for a meeting shall be two commissioners.

5 (3) The Chairman shall preside at all meetings at which he is present and, in the event of the votes being equal, shall have a casting as well as a deliberative vote.

(4) In the absence of the Chairman and Deputy Chairman from a meeting the commissioners present shall
10 choose one of themselves to preside.

(5) The Commission may regulate and conduct the proceedings at its meetings as it thinks fit and shall keep minutes of those proceedings.

15 (6) Subject to this Act, the Commission may delegate to any of the commissioners any of its powers, authorities, duties and functions.

13. (1) The Commission may from time to time and shall, upon direction by the Minister, make an interim report on its work under any reference. Reports.

20 (2) The Commission shall at the end of its work under any reference make a final report on its work under the reference.

(3) The Commission shall, as soon as practicable after the thirtieth day of June in each year, make a report
25 of the proceedings of the Commission during the period of twelve months ending on that day.

(4) A report made by the Chairman and one other commissioner shall be a report of the Commission for the purposes of this Act.

30 (5) The Commission shall furnish each of its reports to the Minister for presentation to Parliament.

Law Reform Commission.

14. (1) The staff of the Commission (other than the Staff. executive member) shall be appointed under and be subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts.

5 (2) The Commission may with the approval of the Minister administering any Department and of the Public Service Board and on such terms as may be arranged make use of the services of an officer or employee of that Department.

SCHEDULE.

Sec. 7.

10

Office	Name and Description	Term of Office
Chairman ..	The Honourable Mr. Justice James Kenneth Manning, Puisne Judge of the Supreme Court of New South Wales.	
15 Commissioner ..	David Gilbert Benjafield, Esquire, Professor of Law in the University of Sydney.	Two years.
20 Commissioner ..	Robert Davy Conacher, Esquire, Barrister.	Seven years.
Commissioner ..	Hector McDonald Scott, Esquire, Solicitor.	Three years.
Executive Member	Ronald Earle Walker, Esquire, Barrister.	Five years.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 39, 1967.

An Act to constitute a Law Reform Commission; to define its powers, authorities, duties and functions; and for purposes connected therewith. [Assented to, 25th September, 1967.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Law Reform Commission Act, 1967". Short title.

2. In this Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

"Chairman" means the Chairman of the Commission.

"Commission"

Law Reform Commission.

“Commission” means the Law Reform Commission constituted under this Act.

“Commissioner” means a commissioner appointed under section three of this Act.

“Executive member” means the officer of the Commission appointed under section six of this Act.

“Reference” means a reference referred to in section ten of this Act.

Constitution of the Commission.

3. (1) There shall be a Law Reform Commission which shall have and may exercise the powers, authorities, duties and functions conferred and imposed upon it by this Act.

(2) Subject to this section, the Commission shall consist of not less than three nor more than six commissioners appointed by the Governor, that is to say—

- (a) a chairman of the Commission who shall be a judge or a retired judge of the Supreme Court; and
- (b) other persons each of whom appears to the Minister to be suitably qualified by the holding of judicial office or by experience as a barrister or solicitor or as a teacher of law in a university.

(3) A commissioner shall, subject to this Act, hold office—

- (a) in the case of the Chairman being, at the time of his appointment, a judge of the Supreme Court, until he attains the age of seventy years, or, if by the instrument of his appointment his appointment is for a term enduring beyond the time when he attains the age of seventy years, until that term expires; and
- (b) in any other case, until the expiry of such term, not exceeding seven years, as the Governor shall by the instrument of appointment of that commissioner specify, but shall be eligible for re-appointment.

(4)

Law Reform Commission.

(4) So long as there are two or more commissioners, no act or proceeding of the Commission or any commissioner shall be vitiated by reason only that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the office of any commissioner.

4. (1) The appointment of a holder of a judicial office as a commissioner shall not, nor shall his service as commissioner, affect his tenure of that office or his rank, title, status, precedence, salary or other rights or privileges as a holder of that office. Appointment of holders of judicial office as commissioners.

(2) A holder of a judicial office may, notwithstanding that he is a commissioner, exercise his powers as a holder of that office, but while he is a commissioner he shall not (unless otherwise provided by the instrument of his appointment as commissioner) be required to perform his duties as a holder of that office.

(3) The service, as commissioner, of a holder of a judicial office shall, for all purposes, be taken to be service as a holder of that judicial office.

5. (1) The Governor may appoint a commissioner to be Deputy Chairman. Deputy Chairman.

(2) Subject to subsection two of section ten of this Act, the Deputy Chairman shall during the absence, illness or incapacity of the Chairman have and may exercise the powers, authorities, duties and functions conferred or imposed upon the Chairman by this Act.

6. (1) The Governor may appoint a person who appears to the Minister to be suitably qualified to be the executive member of the Commission. Executive member.

(2) The executive member shall, subject to this Act, hold office for such term, not exceeding seven years, as the Governor shall by the instrument of appointment of the executive member specify, but shall be eligible for re-appointment.

(3)

Law Reform Commission.

(3) The executive member shall have such powers and shall perform such duties as the Chairman shall direct.

First
appoint-
ments.

7. (1) The persons named and described in the Schedule to this Act shall be deemed to have been appointed by the Governor under this Act as the first Chairman, first commissioners and first executive member of the Commission as shown beside the name and description of each in that Schedule.

(2) Each of the first commissioners (other than the Chairman) and the first executive member shall, subject to this Act, hold office for the term stated beside his name and description in the Schedule to this Act computed from the first day of January, one thousand nine hundred and sixty-six.

Remunera-
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8. (1) Each commissioner (other than the holder of a judicial office) and the executive member shall receive such remuneration and allowances as the Governor may from time to time determine.

(2) The appointment of a commissioner (other than the holder of a judicial office) and the executive member shall, subject to this Act, be in accordance with such terms and conditions as may be specified in the instrument of his appointment or as may be agreed upon by the Governor and the commissioner or executive member.

(3) The provisions of the Public Service Act, 1902, or any Act amending that Act, shall not apply to the appointment of any commissioner or the executive member and a commissioner and the executive member shall not, in that capacity, be subject to any such Act.

Removal
and
vacation
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9. (1) The Governor may remove the Chairman or a commissioner, being the holder of a judicial office, from office upon the address of both Houses of Parliament, but not otherwise.

(2)

Law Reform Commission.

(2) A commissioner (not being the holder of a judicial office) and the executive member shall be deemed to have vacated his office if—

- (a) he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
- (b) he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or allowances or of his estate for their benefit;
- (c) he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (d) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour which is punishable as aforesaid; or
- (e) he resigns his office by writing under his hand addressed to the Governor.

10. (1) The Commission, in accordance with any reference to it made by the Minister—

- (a) shall consider the law, enacted or promulgated by the Legislature of New South Wales or by any person under the authority of that Legislature, with a view to, or for the purpose of—
 - (i) eliminating defects and anachronisms in the law;
 - (ii) repealing obsolete or unnecessary enactments;
 - (iii) consolidating, codifying or revising the law;
 - (iv) simplifying or modernising the law by bringing it into accord with current conditions;

(v)

Powers
and
duties of
Commission.

Law Reform Commission.

- (v) adopting new or more effective methods for the administration of the law and the dispensation of justice;
- (vi) systematically developing and reforming the law;
- (b) shall consider proposals relating to matters in respect of which it is competent for the Legislature of New South Wales or any person under the authority of that Legislature to enact or promulgate laws; and
- (c) may for the purposes of this section hold and conduct such inquiries as it thinks fit.

(2) For the purposes of any inquiry under this section—

- (a) the Commission and the Chairman shall have the powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part II of the Royal Commissions Act, 1923, as amended by subsequent Acts, and that Act, as so amended, (section thirteen and Division 2 of Part II excepted) shall, mutatis mutandis, apply to any witness summoned by or appearing before the Commission; and
- (b) the provisions of Division 2 of Part II of that Act, as so amended, shall apply where the Chairman or the Deputy Chairman, if he is a judge of the Supreme Court and is acting as Chairman, is presiding at the inquiry.

Privilege.

11. The provisions of the Defamation Act, 1958, shall extend and apply to any inquiry, and report as a result of an inquiry, made by the Commission under the authority of this Act and to the proceedings of the Commission and to reports of those proceedings as if those proceedings were an inquiry made by the Commission under the authority of this Act.

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12. (1) The Commission shall meet from time to time at such places and times as the Chairman directs. Proceedings
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(2) The quorum for a meeting shall be two commissioners.

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(5) The Commission may regulate and conduct the proceedings at its meetings as it thinks fit and shall keep minutes of those proceedings.

(6) Subject to this Act, the Commission may delegate to any of the commissioners any of its powers, authorities, duties and functions.

13. (1) The Commission may from time to time and shall, upon direction by the Minister, make an interim report on its work under any reference. Reports.

(2) The Commission shall at the end of its work under any reference make a final report on its work under the reference.

(3) The Commission shall, as soon as practicable after the thirtieth day of June in each year, make a report of the proceedings of the Commission during the period of twelve months ending on that day.

(4) A report made by the Chairman and one other commissioner shall be a report of the Commission for the purposes of this Act.

(5) The Commission shall furnish each of its reports to the Minister for presentation to Parliament.

Law Reform Commission.

Staff. **14.** (1) The staff of the Commission (other than the executive member) shall be appointed under and be subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts.

(2) The Commission may with the approval of the Minister administering any Department and of the Public Service Board and on such terms as may be arranged make use of the services of an officer or employee of that Department.

Sec. 7.

SCHEDULE.

Office	Name and Description	Term of Office
Chairman ..	The Honourable Mr. Justice James Kenneth Manning, Puisne Judge of the Supreme Court of New South Wales.	
Commissioner ..	David Gilbert Benjafield, Esquire, Professor of Law in the University of Sydney.	Two years.
Commissioner ..	Robert Davy Conacher, Esquire, Barrister.	Seven years.
Commissioner ..	Hector McDonald Scott, Esquire, Solicitor.	Three years.
Executive Member	Ronald Earle Walker, Esquire, Barrister.	Five years.

 BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 20 September, 1967.*

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 39, 1967.

An Act to constitute a Law Reform Commission; to define its powers, authorities, duties and functions; and for purposes connected therewith. [Assented to, 25th September, 1967.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Law Reform Commission Act, 1967". Short title.

2. In this Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

"Chairman" means the Chairman of the Commission.

"Commission"

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. R. CRAWFORD,
Chairman of Committees of the Legislative Assembly.

Law Reform Commission.

“Commission” means the Law Reform Commission constituted under this Act.

“Commissioner” means a commissioner appointed under section three of this Act.

“Executive member” means the officer of the Commission appointed under section six of this Act.

“Reference” means a reference referred to in section ten of this Act.

Constitu-
tion of the
Commis-
sion.

3. (1) There shall be a Law Reform Commission which shall have and may exercise the powers, authorities, duties and functions conferred and imposed upon it by this Act.

(2) Subject to this section, the Commission shall consist of not less than three nor more than six commissioners appointed by the Governor, that is to say—

- (a) a chairman of the Commission who shall be a judge or a retired judge of the Supreme Court; and
- (b) other persons each of whom appears to the Minister to be suitably qualified by the holding of judicial office or by experience as a barrister or solicitor or as a teacher of law in a university.

(3) A commissioner shall, subject to this Act, hold office—

- (a) in the case of the Chairman being, at the time of his appointment, a judge of the Supreme Court, until he attains the age of seventy years, or, if by the instrument of his appointment his appointment is for a term enduring beyond the time when he attains the age of seventy years, until that term expires; and
- (b) in any other case, until the expiry of such term, not exceeding seven years, as the Governor shall by the instrument of appointment of that commissioner specify, but shall be eligible for re-appointment.

(4)

Law Reform Commission.

(4) So long as there are two or more commissioners, no act or proceeding of the Commission or any commissioner shall be vitiated by reason only that, at the time when the act or proceeding was done, taken or commenced, there was a vacancy in the office of any commissioner.

4. (1) The appointment of a holder of a judicial office as a commissioner shall not, nor shall his service as commissioner, affect his tenure of that office or his rank, title, status, precedence, salary or other rights or privileges as a holder of that office. Appointment of holders of judicial office as commissioners.

(2) A holder of a judicial office may, notwithstanding that he is a commissioner, exercise his powers as a holder of that office, but while he is a commissioner he shall not (unless otherwise provided by the instrument of his appointment as commissioner) be required to perform his duties as a holder of that office.

(3) The service, as commissioner, of a holder of a judicial office shall, for all purposes, be taken to be service as a holder of that judicial office.

5. (1) The Governor may appoint a commissioner to be Deputy Chairman. Deputy Chairman.

(2) Subject to subsection two of section ten of this Act, the Deputy Chairman shall during the absence, illness or incapacity of the Chairman have and may exercise the powers, authorities, duties and functions conferred or imposed upon the Chairman by this Act.

6. (1) The Governor may appoint a person who appears to the Minister to be suitably qualified to be the executive member of the Commission. Executive member.

(2) The executive member shall, subject to this Act, hold office for such term, not exceeding seven years, as the Governor shall by the instrument of appointment of the executive member specify, but shall be eligible for re-appointment.

(3)

Law Reform Commission.

(3) The executive member shall have such powers and shall perform such duties as the Chairman shall direct.

First
appoint-
ments.

7. (1) The persons named and described in the Schedule to this Act shall be deemed to have been appointed by the Governor under this Act as the first Chairman, first commissioners and first executive member of the Commission as shown beside the name and description of each in that Schedule.

(2) Each of the first commissioners (other than the Chairman) and the first executive member shall, subject to this Act, hold office for the term stated beside his name and description in the Schedule to this Act computed from the first day of January, one thousand nine hundred and sixty-six.

Remunera-
tion,
allowances
and rights.

8. (1) Each commissioner (other than the holder of a judicial office) and the executive member shall receive such remuneration and allowances as the Governor may from time to time determine.

(2) The appointment of a commissioner (other than the holder of a judicial office) and the executive member shall, subject to this Act, be in accordance with such terms and conditions as may be specified in the instrument of his appointment or as may be agreed upon by the Governor and the commissioner or executive member.

(3) The provisions of the Public Service Act, 1902, or any Act amending that Act, shall not apply to the appointment of any commissioner or the executive member and a commissioner and the executive member shall not, in that capacity, be subject to any such Act.

Removal
and
vacation
of office.

9. (1) The Governor may remove the Chairman or a commissioner, being the holder of a judicial office, from office upon the address of both Houses of Parliament, but not otherwise.

(2)

Law Reform Commission.

(2) A commissioner (not being the holder of a judicial office) and the executive member shall be deemed to have vacated his office if—

- (a) he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
- (b) he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or allowances or of his estate for their benefit;
- (c) he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, as amended by subsequent Acts;
- (d) he is convicted in New South Wales of a felony or of a misdemeanour which is punishable by imprisonment for twelve months or upwards, or he is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be a felony or a misdemeanour which is punishable as aforesaid; or
- (e) he resigns his office by writing under his hand addressed to the Governor.

10. (1) The Commission, in accordance with any reference to it made by the Minister—

- (a) shall consider the law, enacted or promulgated by the Legislature of New South Wales or by any person under the authority of that Legislature, with a view to, or for the purpose of—
 - (i) eliminating defects and anachronisms in the law;
 - (ii) repealing obsolete or unnecessary enactments;
 - (iii) consolidating, codifying or revising the law;
 - (iv) simplifying or modernising the law by bringing it into accord with current conditions;
 - (v)

Powers
and
duties of
Commission.

Law Reform Commission.

- (v) adopting new or more effective methods for the administration of the law and the dispensation of justice;
 - (vi) systematically developing and reforming the law;
- (b) shall consider proposals relating to matters in respect of which it is competent for the Legislature of New South Wales or any person under the authority of that Legislature to enact or promulgate laws; and
- (c) may for the purposes of this section hold and conduct such inquiries as it thinks fit.
- (2) For the purposes of any inquiry under this section—
- (a) the Commission and the Chairman shall have the powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part II of the Royal Commissions Act, 1923, as amended by subsequent Acts, and that Act, as so amended, (section thirteen and Division 2 of Part II excepted) shall, mutatis mutandis, apply to any witness summoned by or appearing before the Commission; and
 - (b) the provisions of Division 2 of Part II of that Act, as so amended, shall apply where the Chairman or the Deputy Chairman, if he is a judge of the Supreme Court and is acting as Chairman, is presiding at the inquiry.

Privilege. **11.** The provisions of the Defamation Act, 1958, shall extend and apply to any inquiry, and report as a result of an inquiry, made by the Commission under the authority of this Act and to the proceedings of the Commission and to reports of those proceedings as if those proceedings were an inquiry made by the Commission under the authority of this Act.

Law Reform Commission.

12. (1) The Commission shall meet from time to time at such places and times as the Chairman directs. Proceedings
of the
Commission.

(2) The quorum for a meeting shall be two commissioners.

(3) The Chairman shall preside at all meetings at which he is present and, in the event of the votes being equal, shall have a casting as well as a deliberative vote.

(4) In the absence of the Chairman and Deputy Chairman from a meeting the commissioners present shall choose one of themselves to preside.

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In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 25th September, 1967.*