

Charitable Trusts

Terms of Reference

The Commission was asked to consider and report on the law relating to charitable trusts. This reference was part of a general reference to review the law of trusts and the administration of estates given to the Committee in 1972 and adopted by the Commission upon its inception.¹

Background of Reference

The Commission determined that this part of the reference should not extend to a complete review of the law of charitable trusts but should be limited to an investigation of the relationship between the equitable doctrine of *cy-près* and the provision in s 7 of the *Charitable Trusts Act 1946 (WA)*, under which the purposes of a charitable trust may be varied.

From the outset, this part of the broader reference was given a lower priority than other parts of the reference where urgent reform was required. However, when it came to be considered in more detail, an issue arose as to whether the subject matter of this part of the reference required a full report.

Reference Withdrawn

During 1995, Mr Peter Creighton, a member of the Commission and a specialist in the law of trusts, carried out a review of the issues involved in this aspect of the reference and confirmed the Commission's earlier view that the subject did not warrant further inquiry.² It was also established that the Ministry of Fair Trading was conducting a concurrent inquiry into the law relating to charitable collections.³ In December 1995, the Commission reviewed the project on charitable uses in light of its decision to restructure its operations and determined that no further work should be done on the project. The reference was subsequently withdrawn.

¹ The Law Reform Committee of Western Australia was formally reconstituted as a Commission on 19 January 1973.

² Law Reform Commission of Western Australia, *Annual Report 1995–1996*, 40.

³ *Ibid.*