

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE ON
THE STATUTES AMENDMENT BILL]

House of Representatives, 21 October 1955

Hon. Mr Marshall

LAW REFORM AMENDMENT

ANALYSIS

Title.
1. Short Title.

Law Reform

2. Claims in tort against estates of deceased persons.
3. Contribution between tortfeasors.
4. Crown liable in damages for mental or nervous shock.

A BILL INTITULED

AN ACT to amend the Law Reform Act 1936 and the Law Reform Act 1944. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Law Reform Amendment Act 1955. Short Title.

2. (1) Section three of the Law Reform Act 1936 is hereby amended by adding to paragraph (b) of subsection three the following proviso: Claims in tort against estates of deceased persons.

“Provided that no such proceedings shall be maintainable unless notice in writing giving reasonable information of the circumstances upon which the proceedings will be based and the name and address of the prospective plaintiff and of his solicitor or agent (if any) in the matter is given by the prospective plaintiff to the personal representative of the deceased person as soon as practicable after the personal representative took out representation.” 1936, No. 31

(2) Section three of the Law Reform Act 1936 is hereby further amended by inserting, after subsection three, the following subsection:

“(3A) Notwithstanding anything in subsection three of this section, application may be made to the Court, after notice to the personal representative, for leave to bring the proceedings at any time before the expiration of six years after the date when the cause of action arose, whether or not notice has been given to the personal representative under subsection three of this section; and the Court may, if it thinks it is just to do so, grant leave accordingly; subject to such conditions (if any) as it thinks it is just to impose, where it considers that the failure to give the notice or the delay in bringing the proceedings, as the case may be, was occasioned by mistake or by any other reasonable cause or that the personal representative was not materially prejudiced in his defence or otherwise by the failure or delay. No distribution of any part of the estate of the deceased made before the date of the giving of the notice of the intended application shall be disturbed by reason of the application or of an order made thereon.”

Contribution
between
tortfeasors.

3. Section seventeen of the Law Reform Act 1936 is hereby amended by inserting, after subsection one, the following subsection:

“(1A) A tortfeasor may recover contribution under this section from the husband or wife or the former husband or wife of the person by whom the damage was suffered, in any case where he could have recovered such contribution if the marriage relationship had never existed.”

Crown liable
in damages for
mental or
nervous shock.
1944, No. 18

4. Section two of the Law Reform Act 1944 is hereby amended by adding the following subsection as subsection two thereof:

“(2) This section shall bind the Crown.”