

1882.
NEW ZEALAND.

STATUTE REVISION COMMISSION

(REPORT OF THE).

Presented to both Houses of the General Assembly by Command of His Excellency.

To His Excellency Sir ARTHUR HAMILTON GORDON, G.C.M.G., Governor of the Colony of New Zealand.

MAY IT PLEASE YOUR EXCELLENCY,—

We, the Commissioners appointed under “The Revision of Statutes Act, 1879,” have the honor to report as follows:—

STATUTES OF THE COLONY.

Since last session we have prepared several new consolidating Bills, absorbing seventy-two complete Acts of the General Assembly and some parts of others, besides several Provincial Ordinances of which a list is given below. We have other Bills under consideration which we hope to submit to your Excellency at an early date. We have also further considered and revised certain of the measures prepared last session, but which from pressure of business in the General Assembly were not passed into law. The reason and extent of the further revision of these Bills are mentioned hereafter.

NEW CONSOLIDATIONS.

1. Cemeteries, including 4 Acts and 20 Provincial Ordinances.
2. Customs Duties, } including 16 Acts.
3. Customs Laws, }
4. Justices of the Peace, including 8 Acts and parts of 4 others.
5. Law Practitioners, including 9 Acts and parts of 2 others.
- Property Law, embracing—
6. Conveyancing and Acts directly relating thereto, including 15 Acts;
7. Landlord and Tenant, including 4 Acts;
8. Leases and Sales of Settled Estates, including 2 Acts;
9. Trustees and Mortgagees, including Trustee Acts and the general enactments relating to Education and Charitable Trusts, including 9 Acts and part of another.
10. Stamp Duties, including 5 Acts.

The foregoing shows a total of 72 Acts consolidated.

After the Bills consolidating the law of property were in type, our attention was called to “The Conveyancing and Law of Property Act, 1881,” recently passed in England, and which makes important changes in the law of real property; and within the last few days we have seen copies of Bills, introduced by the Government in the present session of the Imperial Parliament, to further amend the above Act, and the law respecting the settlement of land.

Considering the importance of the subject dealt with, and looking to the fact that within the last few years the law on these subjects has been largely amended in England, we have thought it prudent not to complete these measures till there has been opportunity of considering all the above amendments, with the view of adapting any provisions that may appear to us likely to be useful in this colony. Obviously, it would not be expedient merely to consolidate our law, some of which was passed in the early years of the colony, without taking into consideration the amendments of recent years in England. The Bills, therefore, respecting the law of property will be submitted to your Excellency at a later period of the coming session of the General Assembly.

Of the Bills prepared last session, the following did not become law: (1) Companies, (2) Fisheries, (3) Friendly Societies, (4) Lunatics, (5) Machinery Inspection, (6) Privileges, (7) Public Trust Office, (8) Public Works.

Of these, the Companies Bill was withdrawn by the Government, in order that it might be circulated amongst mercantile associations and others likely to be interested in its provisions. It has not been altered by us in any way. The Friendly Societies Bill has been further revised, so as to give effect to certain suggestions made to us. The nature of these is explained in the special report attached to the Bill. The Lunatics Bill has been further amended, in consequence of the action taken by the Legislative Council respecting this measure; and the result of our labours is stated in the special report accompanying the Bill. The Privileges Bill has been amended, as stated in the special report upon that Bill. The Bill respecting the Public Trust Office, which we had prepared for last session, we have not reconsidered, as we understand that there is an intention to introduce a Bill on the subject containing alterations and amendments amounting virtually to a new measure, such as we do not feel it within the scope of our powers to recommend to the Legislature. It will, however, we understand, be introduced as a Government Bill in the usual way.

Respecting the Public Works Bill, certain changes in the law made during the last session have necessitated a revision of the Bill, and some alterations have been made in matters of a technical nature, to which reference will be found in the special report.

The labour attending these revisions has been very great, especially in such lengthy measures as the Lunatics Bill and Public Works Bill.

CRIMINAL CODE.

In our last report (6th June, 1881) we stated that, if the Legislature should deem it desirable that such a code should be prepared for their consideration without waiting for the final decision of the Imperial Parliament, we should be able to prepare a Bill founded on the English Bills of 1878, 1879, and 1880, before the then next session of the General Assembly. We find that the English Bill of 1880, founded upon the Bills of 1878 and 1879, was not carried through the English Parliament in the session of 1880, or in that of 1881; but in the Queen's Speech on the opening of the present session an announcement was made to the effect that the Government would be prepared to introduce a measure on the subject. Moreover, we learn from reports of recent proceedings in the House of Commons that a Criminal Law Amendment Bill, introduced by Mr. Hopwood, and a Criminal Procedure Bill, introduced by Mr. Gorst, have been read a second time; but it was announced, on behalf of the Government, that, though they offered no objection to the second reading, they admitted that the full responsibility of codifying the criminal law must rest with them. We have not hitherto been able to procure information whether the Bill prepared by the Government be identical with that of 1880 or not; but we are of opinion that it would be inexpedient to introduce a Bill into the General Assembly until the fate of the English measure has been determined.

We have nevertheless proceeded with the work of examination and adaptation, and should have now had a draft Bill ready for printing had it not happened that one of the Commissioners was obliged to devote considerable time to the performance of extraordinary judicial duties, and has since been suffering from indisposition temporarily unfitting him for business.

We are, however, of opinion that this unavoidable delay will prove advantageous in the end, as we shall be able, as soon as the Imperial measure is disposed of, to complete the draft Bill, and, with the sanction of the Assembly, to have it printed and circulated among the members of the Legislature, the legal profession, and the public, before its introduction.

We do not think it desirable to make a general report at present upon the proposed English code, pointing out its objects and scope, showing what subjects it deals with and what it omits, the new provisions, and the extensions or modifications of the law as it now stands which it contains, the subjects with respect to which legislation in the colony would be *ultra vires*, and the objections which have been raised to the substance and form of the proposed enactments. Such a report we think would be of comparatively little value without specific reference to the provisions of a Bill in a completed condition.

GENERAL.

With one or two exceptions, all the larger subjects to be found in the Statute Book which would come within the scope of our functions have been dealt with. The exceptions are, the laws relating to the Supreme and other Courts of the colony, and those affecting local governing bodies.

Respecting these, however, it is expected that during the ensuing session of the General Assembly measures will be introduced which will affect some of these subjects; and the consolidation of others which yet remain to be dealt with will be easily accomplished. Assuming, therefore, that the measures now prepared and in preparation become law, we think we may assure your Excellency that the work of the Commission, so far as consolidation is concerned, ought to close with the session of 1883.

The work of reprinting the Acts, in a shape similar to that of the volume of Imperial Acts published last year, could then be proceeded with immediately after the close of the session above mentioned.

ALEXANDER J. JOHNSTON,
W. S. REID,
Commissioners.

Wellington, 15th May, 1882.