



THE LAW COMMISSION

(LAW COM. No. 22)

STATUTE LAW REVISION: FIRST REPORT

DRAFT STATUTE LAW (REPEALS) BILL PREPARED UNDER
SECTION 3(1)(d) OF THE LAW COMMISSIONS ACT 1965

*Presented to Parliament by the Lord High Chancellor
by Command of Her Majesty
May 1969*

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The Law Commission was set up by section 1 of the Law Commissions Act 1965 for the purpose of promoting the reform of the law. The Commissioners are—

The Honourable Mr. Justice Scarman, O.B.E., *Chairman*.

Mr. L. C. B. Gower.

Mr. Neil Lawson, Q.C.

Mr. N. S. Marsh, Q.C.

Mr. Andrew Martin, Q.C.

Mr. Arthur Stapleton Cotton is a special consultant to the Commission. The Secretary of the Commission is Mr. J. M. Cartwright Sharp, and its offices are at Lacon House, Theobald's Road, London, W.C.1.

LAW COMMISSION

STATUTE LAW REVISION: FIRST REPORT

Draft Statute Law (Repeals) Bill prepared under section 3(1)(d) of the Law Commissions Act 1965

*To the Right Honourable the Lord Gardiner,
the Lord High Chancellor of Great Britain*

In our First Programme on Consolidation and Statute Law Revision (Law Com. No. 2) we outlined the new approach which we intended to adopt in regard to statute law revision and we stated that we proposed to work systematically through the existing statutes with a view to recommending the repeal, not only of matter which can be treated as inoperative, but also of matter that no longer serves a substantial purpose. Although this work is still in its early stages, sufficient progress has been made for us to submit to you, in accordance with section 3(1)(d) of the Law Commissions Act 1965, a draft Bill for the implementation of our first proposals.

Accordingly we have prepared, in consultation with the Scottish Law Commission, the draft Bill which accompanies this Report as Appendix 1. We have proposed as its short title "Statute Law (Repeals) Bill". This title is in place of the more usual "Statute Law Revision Bill" because the draft, though it includes many proposals which could well have been included in earlier Statute Law Revision Bills, is wider in scope than Bills which have been enacted in the past. The proposed long title, however, makes it clear that the draft Bill's purpose is to promote the revision (or reform) of the statute law by the repeal of certain enactments therein described.

In the preparation of the draft Bill, we have consulted, as respects proposed repeals which affect them, the Sovereign, the Church of England authorities and the relevant Government departments. A draft has also been discussed with various other bodies, including those representing professional and academic lawyers. So far as we are aware, there is no objection to any of the proposed repeals.

The enactments recommended for repeal are set out in the Schedule to the draft Bill. The draft also includes a number of provisions connected with the repeals recommended. These provisions are included as clauses which are designed either to preserve the effect of certain parts of enactments otherwise ready

and so recommended for repeal, or to make further provision for supporting recommended repeals.

An explanatory note on the contents of the draft Bill accompanies this Report as Appendix 2.

(Signed) LESLIE SCARMAN
Chairman of the Law Commission

May 1969

APPENDIX 1
Statute Law (Repeals) Bill

ARRANGEMENT OF CLAUSES

Clause

1. Repeal of enactments.
2. Advowsons.
3. Rentcharges, etc. under Copyhold Act 1894.
4. Inclosure of common land.
5. Savings.
6. Provisions relating to Northern Ireland.
7. Application to Channel Islands and Isle of Man.
8. Short title.

SCHEDULE—Enactments Repealed.

Statute Law (Repeals)

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Promote the reform of the statute law by the repeal, A.D. 1969 in accordance with recommendations of the Law Commission, of certain enactments which (except in so far as their effect is preserved) are no longer of practical utility, and by making other provision in connection with the repeal of those enactments.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

5 1. The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in column 3 of the Schedule. Repeal of enactments.

2.—(1) In proceedings by way of quare impedit commenced within six months of induction, judgment shall be given for the removal of an incumbent instituted to fill the vacancy, if he was 10 instituted on a presentation made without title and is made a defendant to the proceedings. Advowsons.

(2) Where the Crown presents to a benefice which is full of an incumbent, effect shall not be given to the presentation without judgment having been given for the removal of the incumbent in 15 proceedings by way of quare impedit brought by or on behalf of the Crown. Subsection (1) above shall apply in relation to proceedings so brought whether or not they are commenced within the period of six months therein referred to.

(3) The provisions of this section shall have effect in place of 20 chapter 5 of the Statute of Westminster, the Second, chapter 10 of the statute of uncertain date concerning the King's prerogative and chapter 1 of 13 Ric. 2. Statute 1.

Statute Law (Repeals)

- Rentcharges etc. under Copyhold Act 1894. 1894 c. 46.
3. Notwithstanding the repeal by this Act of the Copyhold Act 1894—
- (a) the owner for the time being of a rentcharge created under the provisions of that Act or of a certificate of charge under that Act shall have for the recovery of the rentcharge or, as the case may be, any sum in the nature of interest or periodical payment becoming due under the certificate the like remedies as are provided by section 121 of the Law of Property Act 1925;
- (b) the owner for the time being of such a certificate of charge shall also have, in respect of every sum whether in the nature of interest or periodical payment or principal sum secured by the certificate, the like remedies as a chargee by deed expressed to be by way of legal mortgage of an estate in fee simple has in respect of the principal sum and interest secured by his charge; and
- (c) a certificate of charge under that Act and the charge made thereby shall be transferable by endorsement on the certificate.
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- 1925 c. 20.
4. Any common law right to inclose or approve common land is hereby abolished.
- Inclosure of common land.
- 5.—(1) The repeal by this Act of the Sunday Fairs Act 1448 shall not have the effect of requiring any market or fair to be held on a Sunday or other special day mentioned in that Act; and a market or fair may continue to be held on any day on which it might lawfully have been held if that Act had not been repealed.
- 25
- 1558 c. 1.
- (2) The repeal by this Act of section 2 of the Act of Supremacy shall not affect the continued operation so far as unrepealed of the Submission of the Clergy Act 1533, the Appointment of Bishops Act 1533, the Ecclesiastical Licences Act 1533 and the Suffragan Bishops Act 1534; and the repeal by this Act of section 5 of the Act of Supremacy shall not affect the continued operation so far as unrepealed of the Sacrament Act 1547.
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- 1533 c. 19.
1533 c. 20.
1533 c. 21.
1534 c. 14.
1558 c. 1.
1547 c. 1.
- (3) The repeal by this Act of section 20 of the Act of Uniformity 1662 shall not affect the continued operation of section 7 of the Act of Uniformity 1548 in relation to the Book of Common Prayer annexed to the said Act of 1662.
- 1662 c. 4.
1548 c. 1.
- (4) The repeal by this Act of section 1 of the Feigned Recoveries Act 1542 shall not make barrable any entail existing at the passing of this Act which was unbarrable by reason of that section.
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- 1542 c. 20.

Statute Law (Repeals)

6.—(1) The following provisions of this Act, that is to say, sections 2 to 5, and so much of this Act as repeals the enactments mentioned in Parts III and IV of the Schedule shall not extend to Northern Ireland; but notwithstanding anything in the Government of Ireland Act 1920, the Parliament of Northern Ireland shall have power to make laws for purposes similar to the purposes of those provisions.

Provisions relating to Northern Ireland.
1920 c. 67.

(2) Save as expressly provided by subsection (1) above, this Act extends to Northern Ireland and shall, as respects matters within the powers of the Parliament of Northern Ireland, be subject to alteration by that Parliament as if it had been an Act passed before the day appointed for the purposes of section 6 of the Government of Ireland Act 1920.

1920 c. 67.

(3) The repeal by this Act of any enactment mentioned in Part II of the Schedule to this Act shall not affect the continued operation of section 20 of the Irish Church Act 1869.

1869 c. 42.

7. This Act, in so far as it repeals any of the provisions of the Societies (Miscellaneous Provisions) Act 1940, shall extend to the Channel Islands and the Isle of Man.

Application to Channel Islands and Isle of Man.
1940 c. 19.

8. This Act may be cited as the Statute Law (Repeals) Act 1969.

Short title.

Statute Law (Repeals)

Section 1.

SCHEDULE

ENACTMENTS REPEALED

PART I

Constitutional Enactments

Statute, etc.	Title, short title or subject	Extent of repeal	5
3 Edw. 1. (1275).	(Statute of Westminster, the First).	The whole statute, so far as unrepealed, except chapter 16.	
25 Edw. 1. (1297).	(Confirmation of Magna Carta).	The whole statute, so far as unrepealed, except articles 9 and 29.	10
25 Edw. 1. (1297).	(Confirmation of the Charters).	The whole statute.	
25 Edw. 1. (1297).	A Statute concerning Tallage.	The whole statute.	15
28 Edw. 1. (1300).	Articles upon the Charters.	The whole statute, so far as unrepealed.	
15 Edw. 2. (1322).	Revocation of the New Ordinances.	The whole statute.	20
1 Edw. 3. Stat. 2. (1327).	(Borough liberties).	Chapter 9.	
2 Edw. 3. (1328).	Statute of Northampton.	Chapter 8.	
5 Edw. 3. (1331).	(Unlawful attachment).	Chapter 9.	25
14 Edw. 3. Stat. 1. (1340).	(Confirmation of liberties).	Chapter 1.	
25 Edw. 3. Stat. 5. (1351).	(Unlawful attachments etc.).	Chapter 4.	30
28 Edw. 3. (1354).	(Unlawful attachments etc.).	Chapter 3.	
42 Edw. 3. (1368).	(Unlawful attachment etc.).	Chapter 3.	
7 Hen. 4. (1405).	(Confirmation of liberties).	Chapter 1.	35
4 Hen. 5. Stat. 2. (1416).	(Confirmation of liberties).	Chapter 1.	

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
2 Hen. 6. (1423).	(Confirmation of liberties).	Chapter 1.
5 1 Mary Sess. 3. c. 1.	The Queen Regent's Pre-rogative Act 1554.	The whole Act.
5 Eliz. 1. c. 18.	The Lord Keeper Act 1562.	The whole Act.
16 Chas. 1. c. 14.	The Ship Money Act 1640.	The whole Act, so far as unrepealed.
10 12 Chas. 2. c.1.	The Parliament Act 1660.	The whole Act.
12 Chas. 2. c. 30. (1660).	An Act for the attainder of several persons guilty of the horrid murder of His late sacred Majesty King Charles the First.	The whole Act, so far as unrepealed.
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13 Chas. 2. Stat. 1. c. 6. (1661).	An Act declaring the sole right of the Militia to be in the King and for the present ordering and disposing of the same.	The preamble, so far as unrepealed.
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PART II
Ecclesiastical Enactments

Statute, etc.	Title, short title or subject	Extent of repeal
25 13 Edw. 1. (1285).	(Statute of Westminster, the Second).	Chapter 5.
13 Edw. 1. (1285).	(Statute of Winchester).	Chapter 6.
30 9 Edw. 2. Stat. 1. (1315).	Articles for the Clergy.	The whole statute, so far as unrepealed.
[Of uncertain date].	Of the King's Prerogative.	Chapter 10.
25 Edw. 3. Stat. 6. (1351).	An Ordinance for the Clergy.	The whole statute, so far as unrepealed.
35 13 Ric. 2. Stat. 1. (1389).	(Royal presentations to benefices).	Chapter 1, so far as unrepealed.

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
15 Ric. 2. (1391).	(Appropriation of benefices).	Chapter 6, so far as un- repealed.
4 Hen. 4. (1402).	(Appropriation of benefices).	Chapter 12, so far as un- repealed. 5
8 Hen. 6. c. 1. (1429).	(Convocation to have privilege of Parliament).	The whole chapter, so far as unrepealed.
23 Hen. 8. c. 20. (1531).	An Act concerning restraint of payment of annates to the See of Rome.	The whole Act, so far as unrepealed. 10
24 Hen. 8. c. 12.	The Ecclesiastical Appeals Act 1532.	The whole Act, so far as unrepealed.
25 Hen. 8. c. 19.	The Submission of the Clergy Act 1533.	The whole Act, so far as unrepealed, except sections 1 and 3. 15
25 Hen. 8. c. 20.	The Appointment of Bishops Act 1533.	The preamble and sections 1 and 2.
25 Hen. 8. c. 21.	The Ecclesiastical Licences Act 1533.	The preamble and sections 1, 2, 15, 21 and 23. 20
27 Hen. 8. c. 28.	The Suppression of Reli- gious Houses Act 1535.	The whole Act, so far as unrepealed.
28 Hen. 8. c. 16.	The Ecclesiastical Licences Act 1536.	The whole Act, so far as unrepealed.
31 Hen. 8. c. 13.	The Suppression of Reli- gious Houses Act 1539.	The whole Act, except section 25 19. 25
32 Hen. 8. c. 7.	The Tithe Act 1540.	Section 5, so far as un- repealed.
32 Hen. 8. c. 20. (1540).	The Liberties to be used.	The whole Act. 30
37 Hen. 8. c. 4.	The Dissolution of Colleges Act 1545.	The whole Act, so far as unrepealed.
1 Edw. 6. c. 1.	The Sacrament Act 1547.	The whole Act, so far as unrepealed, except section 8. 35
2 & 3 Edw. 6. c. 1.	The Act of Uniformity 1548.	The whole Act, so far as unrepealed, except section 7.
2 & 3 Edw. 6. c. 21.	The Clergy Marriage Act 1548.	The whole Act, so far as unrepealed. 40

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
5 & 6 Edw. 6. c. 1.	The Act of Uniformity 1551.	The whole Act, so far as unrepealed.
5 5 & 6 Edw. 6. c. 3.	The Holy Days and Fasting Days Act 1551.	The whole Act, so far as unrepealed.
5 & 6 Edw. 6. c. 12.	The Clergy Marriage Act 1551.	The whole Act, so far as unrepealed.
10 1 Eliz. 1. c. 1. (1558).	The Act of Supremacy.	The whole Act, so far as unrepealed, except section 8.
1 Eliz. 1. c. 2.	The Act of Uniformity 1558.	The whole Act, so far as unrepealed, except section 13.
15 13 Eliz. 1. c. 2. (1571).	An Act against the bringing in and putting in execution of bulls and other instruments from the See of Rome.	The whole Act, so far as unrepealed.
20 13 Eliz. 1. c. 12.	The Ordination of Ministers Act 1571.	The whole Act, so far as unrepealed.
35 Eliz. 1. c. 3. (1592).	An Act explaining the Statute of 34 Hen. 8. touching grants.	The whole Act.
25 13 Chas. 2. Stat. 1. c. 12.	The Ecclesiastical Jurisdiction Act 1661.	The whole Act, so far as unrepealed.
30 14 Chas. 2. c. 4.	The Act of Uniformity 1662.	The following provisions, so far as unrepealed:— Sections 2 and 3. In section 10 the words from “upon pain” onwards. Section 17. In section 20 the words “and statutes of this realm” and the words “have beene formerly made and”.
35 15 Chas. 2. c. 6.	The Act of Uniformity (Explanation) Act 1663.	The whole Act, so far as unrepealed.
40 1 Will. & Mar. c. 18.	The Toleration Act 1688.	The whole Act, so far as unrepealed.
45 7 & 8 Will. 3. c. 34. (1695).	An Act that the solemn affirmation and declaration of the people called Quakers shall be accepted instead of an oath in the usual form.	The whole Act, so far as unrepealed.

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
7 Ann. c. 18.	The Advowsons Act 1708.	The whole Act.
1 Geo. 1. Stat. 2. c. 6.	The Tithes and Church Rates Recovery Act 1714.	The whole Act, so far as unrepealed. 5
19 Geo. 3. c. 44.	The Nonconformist Relief Act 1779.	The whole Act, so far as unrepealed.
9 & 10 Vict. c. 59.	The Religious Disabilities Act 1846.	Section 1, so far as un- repealed.
23 & 24 Vict. c. 32.	The Ecclesiastical Courts Jurisdiction Act 1860.	Section 6. 10
26 & 27 Vict. c. 120. (1863).	The Lord Chancellor's Aug- mentation Act.	The whole Act.

PART III

15

Law of Property Enactments

Statute, etc.	Title, short title or subject	Extent of repeal
13 Edw. 1. (1285).	(Statute of Westminster, the Second).	The whole statute, so far as unrepealed, except chapters 20 1, 5, 37 and 42.
32 Hen. 8. c. 37.	The Cestui que vie Act 1540.	The whole Act, so far as unrepealed.
32 Hen. 8. c. 51.	The Queen Consort Act 1540.	The whole Act, so far as unrepealed. 25
34 & 35 Hen. 8. c. 20.	The Feigned Recoveries Act 1542.	The whole Act, so far as unrepealed.
13 Eliz. 1. c. 6.	The Letters Patent Act 1571.	The whole Act, so far as unrepealed.
12 Chas. 2. c. 24.	The Tenures Abolition Act 1660.	The whole Act, so far as 30 unrepealed, except sections 4 and 9.

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
<p>3 & 4 Will. 4. c. 74.</p> <p>5</p> <p>10</p> <p>15</p> <p>20</p>	<p>The Fines and Recoveries Act 1833.</p>	<p>In section 27 the words from “except” to “thirty- three”.</p> <p>In section 40 the words from “and if” onwards.</p> <p>In section 58 the words “except so far as the same may be varied by the clause next hereinafter contained.”</p> <p>Section 71 from “and all the previous clauses in this Act” onwards.</p> <p>In section 72 the words from “but every deed to be executed” to “Ireland”, where next occurring.</p> <p>Sections 77 and 78. Section 91.</p>
<p>7 Will. 4 and 1 Vict. c. 26.</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p>	<p>The Wills Act 1837.</p>	<p>In section 1, in the definition of “will” the words from “by virtue of an Act”, where first occurring to “knights service” where last occurring; and in the definition of “real estate” the words from “whether freehold” to “tenure, and”.</p> <p>In section 3 the words from “upon the heir” to “ancestor or”; and the words from “to all real estate” to “hereditaments; and also”.</p> <p>Sections 4 to 6. Section 8.</p> <p>In section 26 the words “customary, copyhold or” and the words “customary, copyhold and” in both places.</p>
<p>5 & 6 Vict. c. 94.</p> <p>45</p> <p>50</p> <p>55</p>	<p>The Defence Act 1842.</p>	<p>Section 8.</p> <p>In section 10, the words “feoffees or”, the words from “tenants for life” to “curators or”, the words from “femes covert” to “idiots or”, the word “surrender”, the words “enfranchisements, surren- ders” and the words from “and shall be a complete bar” onwards.</p>

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
5 & 6 Vict. c. 94— <i>cont.</i>	The Defence Act 1842— <i>cont.</i>	<p>In sections 12, 13 and 14 the word “surrender” wherever occurring, and in section 14 the word “surrendered”. 5</p> <p>In section 15 the words from “or being femes covert” to “for that purpose”, and the word “discover”. 10</p> <p>In section 18 the words “feoffees or”, the words from “femes covert” to “idiots or”, the word “surrender” and the word “surrenders”. 15</p> <p>In section 25 the words “enfranchisement of any copyhold or”. 20</p>
9 & 10 Vict. c. 70.	The Inclosure Act 1846.	<p>Section 6, except the words “such Assistant Commissioner shall frame a draft award”, and the words from “with a map or plan annexed thereto” to “under their seal”. 25</p> <p>Section 7.</p> <p>In section 8 the words from “and any such authority” to “may require” where next occurring, the words “shall insert a declaration in his draft award or”, and the words “as the case may require”. 30 35</p> <p>Section 9.</p> <p>In section 10 the words “authorised to take surrenders or grant admittance of or to copyhold or customary lands in such manor”. 40</p>
12 & 13 Vict. c. 49.	The School Sites Act 1849.	Section 6. 45
17 & 18 Vict. c. 112.	The Literary and Scientific Institutions Act 1854.	Section 15.
20 & 21 Vict. c. 57.	The Married Women’s Reversionary Interests Act 1857.	The whole Act, so far as unrepealed. 50

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
22 & 23 Vict. c. 35.	The Law of Property Amendment Act 1859.	Section 25.
5 45 & 46 Vict. c. 75.	The Married Women's Property Act 1882.	Sections 6 to 10. In section 11 the words from the beginning to "enure accordingly", and the words from "If at the time of the death of the insured" to "the same". Section 13. In section 17 the words from "or any such bank" to "are standing", and the final proviso. Sections 18 and 19. In section 24 the words from the beginning to "admini- stration". Section 25.
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56 & 57 Vict. c. 57.	The Law of Commons Amendment Act 1893.	The whole Act.
25	The Copyhold Act 1894.	The whole Act.
59 & 60 Vict. c. 25.	The Friendly Societies Act 1896.	Section 48.
7 Edw. 7. c. 18.	The Married Women's Pro- perty Act 1907.	Section 2.
30 4 & 5 Geo. 5. c. 59.	The Bankruptcy Act 1914.	Section 55(5), so far as it relates to any provision repealed by this Act in the Fines and Recoveries Act 1833.
35 12 & 13 Geo. 5. c. 16.	The Law of Property Act 1922.	Section 43(4) to (7). Sections 128 to 136. Sections 138 to 143. In section 188, paragraphs (2) to (5), (7), (8), (10) to (18), (20) to (22) and (24) to (29); paragraph (30) from "trustees for sale" onwards; and paragraph (32). Section 189. Schedules 12 to 14. In Schedule 15, paragraphs 14 to 17.
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Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
15 & 16 Geo. 5. c. 5.	The Law of Property (Amendment) Act 1924.	In Schedule 2, paragraphs 3 and 4. In Schedule 9, paragraph 6 5 in columns 1 and 2.
15 & 16 Geo. 5. c. 18.	The Settled Land Act 1925.	Section 38(ii). In section 58(1) the words "manorial incidents". Section 62(1) to (3). 10 In section 64(2) the words "extinguishment of manorial incidents". In section 71(1) paragraphs (iv) and (v). 15 In section 73(1) paragraphs (vi) and (vii).
15 & 16 Geo. 5. c. 20.	The Law of Property Act 1925.	Section 133. Sections 167 to 170. Section 178. 20
15 & 16 Geo. 5. c. 24.	The Universities and College Estates Act 1925.	In section 2(1), paragraph (ii). In section 26(1), paragraphs (v) and (vi).
15 & 16 Geo. 5. c. 76.	The Expiring Laws Act 1925.	In Schedule 1, the entry relating to 34 & 35 Hen. 8. 25 c. 20.
16 & 17 Geo. 5. c. 11.	The Law of Property (Amendment) Act 1926.	In the Schedule, so much of the entry relating to the Law of Property Act 1922 as amends Schedule 13. 30
25 & 26 Geo. 5. c. 30.	The Law Reform (Married Women and Tortfeasors) Act 1935.	Section 5. Schedule 1.
3 & 4 Geo. 6. c. 2.	The Postponement of Enact- ments (Miscellaneous Pro- visions) Act 1939.	The whole Act, so far as 35 unrepealed.
11 & 12 Geo. 6. c. 38.	The Companies Act 1948.	Section 217. In section 401(2) the words "or marriage of any female contributory" and 40 the words "and to the liabilities of husbands and wives".
11 & 12 Geo. 6. c. 63.	The Agricultural Holdings Act 1948.	Section 85. 45

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
5 12, 13 & 14 Geo. 6. c. 78.	The Married Women (Res- traint upon Anticipation) Act 1949.	Section 1(3). Schedule 1.
5 & 6 Eliz. 2. c. 27.	The Solicitors Act 1957.	Section 74(b).
10 7 & 8 Eliz. 2. c. 22.	The County Courts Act 1959.	In Schedule 1, the entry relating to the Law of Property Act 1922, and in the entry relating to the Law of Property Act 1925, the words "one hundred and sixty-nine" in column 1.
15 7 & 8 Eliz. 2. c. 72.	The Mental Health Act 1959.	In Schedule 5 the entries relating to the Defence Act 1842 and the Copyhold Act 1894. In Schedule 7, in the entry relating to the Fines and Recoveries Act 1833, the words from "In section ninety-one" onwards.
20 8 & 9 Eliz. 2. c. 58.	The Charities Act 1960.	In Schedule 6, the entry relating to the Copyhold Act 1894.

PART IV

Enactments relating to Sunday Observance

Statute, etc.	Title, short title or subject	Extent of repeal
30 27 Hen. 6. c. 5.	The Sunday Fairs Act 1448.	The whole chapter.
1 Chas. 1. c. 1.	The Sunday Observance Act 1625.	The whole Act, so far as unrepealed.
35 3 Chas. 1. c. 2. (1627).	An Act for the further reformation of sundry abuses committed on the Lord's Day commonly called Sunday.	The whole Act, so far as unrepealed.

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
29 Chas. 2. c. 7.	The Sunday Observance Act 1677.	The whole Act, so far as unrepealed.
34 & 35 Vict. c. 87.	The Sunday Observation Prosecution Act 1871.	The whole Act, so far as unrepealed. 5
12 & 13 Geo. 5. c. 50.	The Expiring Laws Act 1922.	In Schedule 1, the entry relating to the Sunday Observation Prosecution Act 1871. 10
14 Geo. 6. c. 28.	The Shops Act 1950.	Section 59(2).
2 & 3 Eliz. 2. c. 57.	The Baking Industry (Hours of Work) Act 1954.	Section 12(1).
6 & 7 Eliz. 2. c. 65.	The Children Act 1958.	In section 7(2), the words "notwithstanding anything 15 in section six of the Sunday Observance Act 1677".
7 & 8 Eliz. 2. c. 5.	The Adoption Act 1958.	In section 43(2), the words "notwithstanding anything 20 in section six of the Sunday Observance Act 1677".

PART V

Hallmarking Enactments

Statute, etc.	Title, short title or subject	Extent of repeal
18 Eliz. 1. c. 15. (1575).	An Act for Reformation of Abuses in Goldsmiths.	The whole Act, so far as unrepealed. 25
8 & 9 Will. 3. c. 8. (1696).	An Act for encouraging the bringing in wrought plate to be coined.	In section 8, the words from "upon paine that all [such] silver vessells plate or other 30 manufactured silver" onwards.
1 Ann. c. 3. (1702).	(Assay of plate).	Sections 3 and 5.

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
5 10 15 20	12 Geo. 2. c. 26. The Plate (Offences) Act 1738.	In section 11 the words from “ or to and for any warden ” to “ Newcastle-upon-Tyne ”; the words “ such warden, deputy warden or assayer ”, and the words “ or assayers ”. Section 18. In section 20 the words from “ or any assayer at York ” to “ Newcastle - upon - Tyne,”; and the words “ or any warden of the company at any of the cities or places aforesaid ”. In section 21 the words from “ or in the assay office at York ” to “ Newcastle-upon-Tyne ”.
25	38 Geo. 3. c. 69. The Gold Plate (Standard) Act 1798.	In section 3 the words from “ and the wardens and assayer ” to “ Newcastle upon Tyne ”.
30	7 & 8 Vict. c. 22. The Gold and Silver Wares Act 1844.	In section 7 the words from “ or any of the several companies ” to “ Newcastle-upon-Tyne.”. In section 15 the words from “ and by the several companies ” to “ Newcastle-upon Tyne.”.

PART VI

35 *Enactments relating to the Commonwealth*

Statute, etc.	Title, short title or subject	Extent of repeal
40	24 & 25 Geo. 5. c. 2. The Newfoundland Act 1933.	Section 3.
11 & 12 Geo. 6. c. 7.	The Ceylon Independence Act 1947.	In section 4, in subsection (1) the words from “ and His Majesty ” to “ section one of this Act ”; and subsections (3) and (4).

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
11 & 12 Geo. 6. c. 8.	The Mandated and Trust Territories Act 1947.	In section 1, in subsection (1) the words "Subject to subsection (2) of this sec- tion"; subsection (2); in subsection (5) the words "and an Order in Council thereunder may modify"; and subsection (6). 5
12, 13 & 14 Geo. 6. c. 22.	The British North America Act 1949.	Section 2. 10
14 Geo. 6. c. 5.	The Newfoundland (Con- sequential Provisions) Act 1950.	Sections 1 and 3. The Schedule. 15
4 & 5 Eliz. 2. c. 31.	The Pakistan (Consequen- tial Provision) Act 1956.	In section 1, in subsection (1) the words "and subject to the provisions of subsection (3) of this section"; and subsection (3). 20
5 & 6 Eliz. 2. c. 6.	The Ghana Independence Act 1957.	In section 4(4), the words from "and Her Majesty" to "that day".
6 & 7 Eliz. 2. c. 45.	The Prevention of Fraud (Investments) Act 1958.	In section 28(7), the words "subsection (3) of section one of the Pakistan (Con- sequential Provision) Act 1956". 25
8 & 9 Eliz. 2. c. 55.	The Nigeria Independence Act 1960.	In section 3(4), the words from "and Her Majesty" to "that day". 30
9 & 10 Eliz. 2. c. 16.	The Sierra Leone Independ- ence Act 1961.	In section 3(3), the words from "and Her Majesty" to "that day".
10 & 11 Eliz. 2. c. 1.	The Tanganyika Independ- ence Act 1961.	In section 3(4), the words from "and Her Majesty" to "that day". 35
10 & 11 Eliz. 2. c. 40.	The Jamaica Independence Act 1962.	In section 3(5), the words from "and Her Majesty" onwards. 40
10 & 11 Eliz. 2. c. 54.	The Trinidad and Tobago Independence Act 1962.	In section 3(4), the words from "and Her Majesty" onwards.
10 & 11 Eliz. 2. c. 57.	The Uganda Independence Act 1962.	In section 3(4), the words from "and Her Majesty" onwards. 45

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
5 11 & 12 Eliz. 2. c. 1.	The Tanganyika Republic Act 1962.	In section 1, in subsection (1) the words " and subject to the following provisions of this section"; and subsections (2) and (3).
10 1963 c. 54.	The Kenya Independence Act 1963.	In section 4, in subsection (4) the words from " and Her Majesty" onwards; and in subsection (5) the words " and any Order in Council made under the said subsection (4)".
15 1963 c. 55.	The Zanzibar Act 1963.	Section 4. In section 5(1) and (2) the words " or section 4".
20 1963 c. 57.	The Nigeria Republic Act 1963.	In section 2, subsection (1); in subsection (2) the words " Any Order in Council made under subsection (1) of this section, and"; and subsection (3).
25 1964 c. 20.	The Uganda Act 1964.	In section 2, subsection (1); in subsection (2) the words " Any Order in Council made under subsection (1) of this section, and"; and subsection (3).
30 1964 c. 46.	The Malawi Independence Act 1964.	In section 4, in subsection (4) the words from " and Her Majesty" onwards; subsection (5); and in subsection (6) the words " and any Order in Council made under the said subsection (4)".
35 1964 c. 65.	The Zambia Independence Act 1964.	Section 9. In section 10(1) and (2), the words " or section 9".
40 1964 c. 86.	The Malta Independence Act 1964.	In section 4, in subsection (4) the words from " and Her Majesty" onwards; subsection (5); and subsection (7) except the words " Schedule 2 to this Act and subsection (4) of this section shall not extend to Malta as part of its law".
45		

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
1964 c. 93.	The Gambia Independence Act 1964.	In section 4, in subsection (4) the words from "and Her Majesty" onwards; subsection (5); and subsection (6) except the words "Schedule 2 to this Act and subsection (4) of this section shall not extend to The Gambia as part of its law".
1965 c. 5.	The Kenya Republic Act 1965.	In section 2, subsection (1); in subsection (2) the words "Any Order in Council made under subsection (1) of this section, and"; and subsection (3).
1966 c. 29.	The Singapore Act 1966.	In section 4, subsection (1); in subsection (2) the words "An Order in Council under this section and"; and subsection (3).

PART VII

Miscellaneous Enactments

25

Statute, etc.	Title, short title or subject	Extent of repeal
3 Edw. 1. (1275).	(Statute of Westminster, the First).	Chapter 16.
13 Edw. 1. (1285).	(Statute of Westminster, the Second).	Chapters 37 and 42.
2 Edw. 3. (1328)	Statute of Northampton.	Chapter 15.
7 Hen. 4. (1405).	(Sales by wholesale in City of London).	Chapter 9.
18 Hen. 6. c. 1. (1439).	(Date of letters patent).	The whole chapter.
11 Hen. 7. c. 1. (1495).	An Act that no person going with the King to the wars shall be attaint of treason.	The whole Act.

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
19 Hen. 7. c. 7.	The Ordinances of Corporations Act 1503.	The whole Act.
5 28 Hen. 8. c. 5.	The Apprentices Act 1536.	The whole Act, so far as unrepealed.
5 & 6 Edw. 6. c. 16.	The Sale of Offices Act 1551.	The whole Act, so far as unrepealed.
10 1 & 2 Phil. & Mar. c. 12.	The Distress Act 1554.	The whole Act, so far as unrepealed.
7 Jas. 1. c. 12.	The Shop-books Evidence Act 1609.	The whole Act, so far as unrepealed.
7 Jas. 1. c. 15.	The Crown Debts Act 1609.	The whole Act, so far as unrepealed.
15 21 Jas. 1. c. 3. (1623).	The Statute of Monopolies.	In the preamble, the words from "and of the benefitt" to "the forfeiture". In section 1, the words from "or to give licence" to "the same or any of them," Sections 2 to 4.
20 29 Chas. 2. c. 3. (1677).	The Statute of Frauds.	Section 22.
5 Will. & Mar. c. 6.	The Royal Mines Act 1693.	Section 2.
25 49 Geo. 3. c. 126.	The Sale of Offices Act 1809.	The whole Act, so far as unrepealed.
55 Geo. 3. c. 134.	The Crown Pre-emption of Lead Ore Act 1815.	The whole Act, so far as unrepealed.
30 1 & 2 Geo. 4. c. 54.	The Clerk of Assize (Ireland) Act 1821.	Section 7.
6 Geo. 4. c. 97.	The Universities Act 1825.	In section 3, the words "and night walker".
5 & 6 Will. 4. c. 24.	The Naval Enlistment Act 1835.	The whole Act, so far as unrepealed.
35 1 & 2 Vict. c. 43.	The Dean Forest (Mines) Act 1838.	The preamble. Sections 1 to 13. Sections 16 from "and a list" onwards. In section 17 the words "to the said Commissioners hereby appointed".
40		

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
1 & 2 Vict. c. 43— <i>cont.</i>	The Dean Forest (Mines) Act 1838— <i>cont.</i>	<p>Section 18.</p> <p>Section 19 from the beginning to the words "London Gazette, then" 5</p> <p>In section 20 the words "by the said Commissioners or".</p> <p>In section 22 the words from "or from" to "Buildings". 10</p> <p>Sections 24 to 26.</p> <p>Section 27 from the beginning to the words "the passing of this Act and" in the proviso; the words from "for the term", where first occurring in the proviso to "paid to Her Majesty, Her Heirs and Successors" except the words "and the yearly rent"; the words "respectively as aforesaid"; and the words "to Her Majesty" wherever afterwards occurring. 25</p> <p>Section 28. 30</p> <p>Sections 30 to 44.</p> <p>Sections 50 and 51.</p> <p>In section 53 the words from the beginning to "successors, and" except the words "the said gaveller"; and the words from "the said commissioners", in the second place where they occur to "their agents" except the words "the gaveller". 35</p> <p>Section 55.</p> <p>In section 56 the words from "with the previous approbation and allowance" to "under their hands and seals"; and the first proviso. 45</p> <p>Section 57 from "and the gaveller" onwards.</p> <p>In section 60 the words from "and when" to "direct". 50</p> <p>Section 63.</p> <p>In section 65, in the first proviso the words "and enrolled in the office of land revenue records and enrolments"; and the second proviso. 55</p>

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
1 & 2 Vict. c. 43— <i>cont.</i> 5 10 15 20	The Dean Forest (Mines) Act 1838— <i>cont.</i>	Section 66. In section 68 the words from “by the said Commissioners hereby appointed” to “determined” where next occurring; the words from “after the time limited” to “ten days”, where next occurring; and the proviso from “and that for the purposes of this Act” onwards. Sections 70 to 82 Section 83 from the begin- ning to “provided never- theless, that”. Sections 84 to 89. Section 91.
3 & 4 Vict. c. 65.	The Admiralty Court Act 1840.	The whole Act, so far as unrepealed.
5 & 6 Vict. c. 83. (1842). 25	An Act to abolish the court of Saint Briavel’s, and for the more easy and speedy recovery of small debts within the hundred of Saint Briavel’s in the county of Gloucester.	The whole Act, so far as unrepealed.
16 & 17 Vict. c. 69. 30	The Naval Enlistment Act 1853.	The whole Act, so far as unrepealed.
16 & 17 Vict. c. 107.	The Customs Consolidation Act 1853.	Sections 332 and 333, 335 to 341 and 343 to 345.
24 & 25 Vict. c. 40. (1861). 35 40	An Act to make further provision for the manage- ment of Her Majesty’s Forest of Dean, and of the mines and quarries therein and in the hundred of Saint Briavel’s in the county of Gloucester.	The preamble. Section 2. Sections 5 and 6. Section 17. Section 22. Section 27.
34 & 35 Vict. c. 85. 45	The Dean Forest (Mines) Act 1871.	The preamble. Section 2 except in so far as it defines “principal Acts”. Sections 5 to 32 (but without prejudice to the award thereunder).
37 & 38 Vict. c. 42.	The Building Societies Act 1874.	Section 7.

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
38 & 39 Vict. c. 16.	The Regimental Exchange Act 1875.	The whole Act.
39 & 40 Vict. c. 36.	The Customs Consolidation Act 1876.	Section 275, so far as un- 5 repealed.
40 & 41 Vict. c. 40.	The Writs Execution (Scotland) Act 1877.	Section 4.
42 & 43 Vict. c. 36.	The Customs Buildings Act 1879.	Sections 3 and 4 and, so far as unrepealed, section 6. 10
42 & 43 Vict. c. 44.	The Lord Clerk Register (Scotland) Act 1879.	Section 4.
45 & 46 Vict. c. 17.	The Customs and Inland Revenue Buildings (Ireland) Act 1882.	Sections 3 and 5. 15
58 & 59 Vict. c. 19.	The Court of Session Consignations (Scotland) Act 1895.	In section 2, the words " or by any of the clerks of court, as the case may be". In section 3, from the begin- 20 ning to the words " pro- vided that " and the words from " and the Clerk " to " such clerk ". In section 16, the words " or any of the Clerks of Court". 25 Section 17.
59 & 60 Vict. c. 19.	The Public Health Act 1896.	The whole Act, so far as unrepealed.
60 & 61 Vict. c. 24.	The Finance Act 1897.	The whole Act, so far as unrepealed. 30
4 Edw. 7. c. 7.	The Finance Act 1904.	The whole Act, so far as unrepealed.
4 Edw. 7. c. 16.	The Public Health Act 1904.	The whole Act, so far as unrepealed.
4 Edw. 7. c. clvi.	The Dean Forest (Mines) Act 1904.	Section 5. 35 Section 7(3). Section 8.
9 & 10 Geo. 5. c. 82.	The Irish Land (Provision for Sailors and Soldiers) Act 1919.	Section 2. 40
10 & 11 Geo. 5. c. 18.	The Finance Act 1920.	Section 57, so far as un- repealed.
15 & 16 Geo. 5. c. 36.	The Finance Act 1925.	Section 5(4).
15 & 16 Geo. 5. c. 88.	The Coastguard Act 1925.	Section 1(3). 45

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
17 & 18 Geo. 5. c. 18.	The Royal Naval Reserve Act 1927.	Section 1(2).
5 15 & 20 Geo. 5. c. 21.	The Finance Act 1929.	The whole Act, so far as unrepealed.
22 & 23 Geo. 5. c. 46.	The Children and Young Persons Act 1932.	Sections 70, 77 and 87, so far as unrepealed. In section 90, the words in subsection (1) from "and the Children Acts" onwards and, in subsection (2), the words from the beginning to "except that" Schedule 2.
10		
15		
2 & 3 Geo. 6. c. 21.	The Limitation Act 1939.	In section 31(2), the words from "or a convict" onwards.
3 & 4 Geo. 6. c. 19.	The Societies (Miscellaneous Provisions) Act 1940.	The following provisions, so far as unrepealed:— Sections 1 to 7. In section 8(1), the words from "or any" to "1928". In section 10(1), the definitions of "building society", "emergency", "period of emergency", "society" and "trade union". Section 12(3). The Schedule.
20		
25		
30		
12, 13 & 14 Geo. 6. c. 47.	The Finance Act 1949.	Section 17.
35 14 & 15 Geo. 6. c. 39.	The Common Informers Act 1951.	In the Schedule, the entries relating to 2 Hen. 6. c. 17, the Apprentices Act 1536, the Leases by Corporations Act 1541, 8 & 9 Will. 3. c. 8 and the Sale of Offices Act 1809.
40		
14 & 15 Geo. 6. c. 59.	The Price Control and other Orders (Indemnity) Act 1951.	The whole Act.
45 4 & 5 Eliz. 2. c. 35.	The Validation of Elections (Northern Ireland) Act 1956.	The whole Act.
6 & 7 Eliz. 2. c. 65.	The Children Act 1958.	Sections 38 and 40(2). Schedule 3.

Statute Law (Repeals)

Statute, etc.	Title, short title or subject	Extent of repeal
8 & 9 Eliz. 2. c. 64.	The Building Societies Act 1960.	Section 63. In Schedule 5, the entry relating to the Friendly Societies Act 1829. 5
10 & 11 Eliz. 2. c. 37.	The Building Societies Act 1962.	Section 125(2) and (4). Section 133(2) and (5).
1964 c. 24.	The Trade Union (Amalgamations, etc.) Act 1964.	Section 11(2) and (3). Schedule 3. 10
1967 c. 86.	The Countryside (Scotland) Act 1967.	In section 11(1) the words from "In this subsection" onwards.

PART VIII

Acts of the Parliament of Ireland

15

Statute, etc.	Title, short title or subject	Extent of repeal
37 Hen. 6. c. 1.	The Warrants and Patents Act (Ireland) 1459.	The whole Act.
2 Eliz. 1. c. 1.	The Act of Supremacy (Ireland) 1560.	Section 14. 20
4 Ann. c. 12.	The Royal Mines Act (Ireland) 1705.	Section 4.
10 Geo. 1. c. 5.	The Mines Act (Ireland) 1723.	Section 12. 25

PART IX

Church Assembly Measures

Statute, etc.	Title, short title or subject	Extent of repeal
2 & 3 Geo. 6. No. 1.	The Queen Anne's Bounty (Powers) Measure 1939.	In section 1, paragraph (vi). 30

APPENDIX II

EXPLANATORY NOTE ON THE DRAFT BILL

Clause 1 repeals the scheduled enactments.

Clause 2 deals with the legal procedure for the removal of a clerk in holy orders alleged to have been wrongfully presented to an ecclesiastical benefice, and preserves the effect of the provisions contained in the undermentioned enactments which are included in Part II of the Schedule.

Subsection (1) of clause 2 will preserve the provision in chapter 5 of the Statute of Westminster, the Second (13 Edw. 1) (1285) that an incumbent duly instituted although on a wrongful presentation may be removed if a *quare impedit* is brought within six months.

Subsection (2) of clause 2 is designed to accompany the repeal of—

- (a) chapter 10 of the statute of uncertain date concerning the King's prerogative. That chapter provides that where an advowson belongs to the King and another presents, if the King in legal proceedings recovers his presentation, though more than six months from the time of avoidance, no time shall prejudice him, so that he present within the space of six months; and
- (b) the provision in chapter 1 of 13 Ric. 2. Stat. 1 (1389) (Royal presentations to benefices) that if the King presents to a benefice which is full, his presentee shall not be admitted until the King has recovered the presentation by action in the civil courts.

The repeal of these provisions accompanied by the enactment of subsection (2) does not affect the law except perhaps as to the effect of the provision in chapter 10 of the statute of uncertain date that the King is to present within six months. It is thought that the true construction of this provision is that if the Crown turns out an incumbent the Crown must present another within the ensuing six months. But it is unnecessary to have this rule, which would be unenforceable, on the statute book.

Clause 3 is designed to accompany the repeal of the Copyhold Act 1894 which is included in Part III of the Schedule. That Act dealt with the compulsory and voluntary enfranchisement of copyholds. Copyhold tenure was abolished by the Law of Property Act 1922 which provided that as from the 1st January 1926 every parcel of copyhold land should be enfranchised and cease to be of copyhold tenure.

If the whole of the Copyhold Act 1894 is repealed, it is necessary to enact the provisions contained in clause 3 because the compensation payable under that Act could take the form of a perpetual rentcharge and it is possible that some of these perpetual rentcharges still exist.

Paragraphs (a) and (b) of clause 3 reproduce in an up-to-date form the remedies conferred by sections 27(e) and 41(7) of the 1894 Act on the owner for the time being of a rentcharge granted under that Act or of a certificate of charge under that Act.

Paragraph (c) of the clause reproduces section 41(5) of the 1894 Act which enables a certificate of charge to be transferred by endorsement on the certificate.

Clause 4 supports the repeal, recommended by the Royal Commission on Common Land 1955-1958 (Cmnd. 462), of chapter 46 of the Statute of Westminster, the Second, (inclosure of commons), which is included in Part III of the Schedule. The clause abolishes the common law right, if it still exists, of the owner of the soil to inclose manorial waste superfluous to the requirements of the commoners.

The owner of a common had in times past the right to inclose, or technically to "approve", superfluous waste. This right flowed from the common law but was confirmed by the now repealed Statute of Merton (afterwards called the Commons Act 1236) and extended by chapter 46 of the Statute of Westminster, the Second. The right is to all intents and purposes obsolete, certainly since the passing of the Law of Commons Amendment Act 1893.

Clause 5 contains a number of savings. Subsection (1) deals with the situation created by the repeal of the Sunday Fairs Act 1448 which is included in Part IV of the Schedule. The subsection will prevent the repeal from having the effect of requiring fairs and markets to be held on a Sunday or other feast day which is a prohibited day under the provisions of the 1448 Act.

Subsection (2) of clause 5 relates to the repeal by Part II of the Schedule of the Act of Supremacy (with the exception of section 8) which was the first Act in the reign of Queen Elizabeth I. Among other things, the Act of Supremacy repealed an Act of Philip and Mary which had restored the authority of the See of Rome and revived certain statutes passed in the reign of Henry VIII and of Edward VI. The subsection provides that the repeal of sections 2 and 5 of the Act of Supremacy shall not affect the continued operation of the revived enactments.

Subsection (3) of clause 5 has been made necessary by the proposed repeal of section 20 of the Act of Uniformity 1662 which is included in Part II of the Schedule. Section 20 of the 1662 Act applies earlier laws for the uniformity of prayers, etc. After the Bill is enacted the only remaining earlier law so applied will be section 7 of the Act of Uniformity 1548. Subsection (3) provides that the repeal of section 20 of the 1662 Act shall not affect the continued operation of section 7 of the 1548 Act in relation to the Book of Common Prayer annexed to the Act of 1662.

Subsection (4) of clause 5 relates to the Feigned Recoveries Act 1542 which is included in Part III of the Schedule. Section 1 of that Act provides that where a royal grant is made in tail as a reward for services the entail cannot be barred. Although no such grants have been possible since 1702, there are still in existence a few entails which are unbarrable by reason of section 1 of the 1542 Act. Subsection (4) provides that the repeal of that section shall not have the effect of making any such entails barrable.

Clause 6 provides that certain provisions of the Bill shall not apply to Northern Ireland, but empowers the Northern Ireland Parliament to make laws for similar purposes. The provisions in question and the reasons they do not apply to Northern Ireland are as follows:—

- (a) Clause 2 (advowsons): advowsons have been abolished in Northern Ireland.
- (b) Clause 3 (rentcharges, etc., under the Copyhold Act 1894), clause 4 (inclosure of common land) and subsection (4) of clause 5 (savings in respect of the Feigned Recoveries Act 1542): Northern Ireland has not followed the 1925 property legislation and section 4(1) of the Government of Ireland Act 1920 restricts the powers of the Northern Ireland Parliament on matters relating to the Crown.
- (c) Subsection (1) of clause 5 (savings in respect of markets and fairs) and Part IV of the Schedule (enactments relating to Sunday observance): none of the enactments proposed for repeal applies to Northern Ireland.
- (d) Subsections (2) and (3) of clause 5 (savings in respect of ecclesiastical enactments): these subsections contain savings in consequence of the repeal by the Bill of sections 2 and 5 of the Act of Supremacy (1558) and of section 20 of the Act of Uniformity 1662. These enactments were repealed in their application to Northern Ireland by the First Schedules to the (U.K.) Statute Law Revision Acts of 1950 and 1953.

Subsection (3) of clause 6 makes it clear that any provisions which section 20 of the Irish Church Act 1869 made binding upon the members of the Church of Ireland are not to be affected by the repeals in Part II of the Schedule.

Clause 7 provides that the Bill, in so far as it repeals any of the provisions of the Societies (Miscellaneous Provisions) Act 1940, shall extend to the Channel Islands and the Isle of Man. The provisions of the 1940 Act specified in Part VII of the Schedule are being repealed by the Bill. Some of these provisions have already been repealed except in their application to the Channel Islands or the Isle of Man. The provisions of the 1940 Act specified in Part VII of the Schedule are either spent in their application to the Islands or never could have any effect there because the basic legislation on the subject did not extend there.

SCHEDULE

PART I

Constitutional Enactments

The relevant provisions of the Statute of Westminster, the First, deal with freedom of election and can be dispensed with in view of the Bill of Rights and the Representation of the People Act 1949.

The statute of 1297 (Confirmation of Magna Carta) consisted originally of 37 articles, of which 27 have been wholly repealed by Acts passed during the last hundred years, the most recent of which is the Criminal Law Act 1967. What is left of the statute (apart from the famous declaration of liberties contained in article 29 and the preservation of the rights and privileges of cities, boroughs and towns contained in article 9) relates to obsolete aspects of widowhood and dower; the relationship between the Crown and its debtors; the making of bridges, obstruction of rivers and putting down of weirs; and the treatment of foreign merchants in time of war and peace. These provisions are of no practical significance today, being either obsolete or superseded by the modern law on the subject.

The statute of 1297 (Confirmation of the Charters) contains provisions relating to the enforcement of Magna Carta and to aids and prises. Prisée was an ancient hereditary revenue of the Crown consisting of the right to take a certain quantity from cargoes of wine imported into England and was abolished in the nineteenth century.

Chapter 1 of A Statute concerning Tallage (1297), which has been relied on as a general declaration that taxation is leviable only by authority of Parliament, is superseded by the Bill of Rights. Chapter 2 relates to purveyance which was abolished by the Tenures Abolition Act 1660. Chapter 3 abolished any maletolt (tax) on wool; and the last chapter is a general confirmation of laws, liberties and free customs then existing.

The statute of 1300 relates to matters of civil procedure, now regulated by rules of court, or to matters which can have no general application since the passing of the Crown Proceedings Act 1947.

The statute of 1322 has been relied on as declaring that Parliament cannot legislate without the Crown. In fact, it declares the right of the Crown to participate in the legislative process. This right of the Crown is now beyond dispute and is recognised by the Royal Assent Act 1967.

The enactments of 1327, 1328, 1331, 1340, 1351, 1354, 1368, 1405, 1416 and 1423 reaffirm the principles enshrined in article 29 of Magna Carta or contain general declarations confirming Magna Carta, the Charter of the Forest and the customary liberties of the period. The enactments were important constitutional instruments in the context of the time at which they were passed, but are now only of historical interest.

The Act of 1554 declares that all regal power appertains to a Queen in as full and ample a manner as it does to a King. As the Act is purely declaratory, its repeal would not alter the law, which is now beyond dispute.

The Act of 1562, which relates to the authority of the Lord Keeper of the Great Seal, is again a declaratory Act which, in view of the long usage and custom since its passing, it is no longer necessary to retain.

The Ship Money Act 1640 annulled the proceedings against John Hampden in the Ship Money Case, declared ship-writs to be illegal and directed that the Petition of Right be observed for the future. In so far as the Act is not superseded by the Bill of Rights, it is now spent.

The Parliament Act 1660, which dissolved the Long Parliament and declared the Restoration Parliament to be valid notwithstanding irregularities in convening it, is spent.

The Act of 1660 (c. 30) was passed as a result of the execution of Charles I and reaffirmed that by the undoubted and fundamental laws of the Kingdom neither Parliament nor any other body of persons has any coercive power over the person of the Sovereign. The repeal of this declaration would not affect the constitutional position of the Sovereign.

The preamble to the Act of 1661 merely recites the well-established principle that the supreme command of the armed forces belongs to the Sovereign and that neither House of Parliament can lawfully levy war against the Sovereign.

PART II

Ecclesiastical Enactments

The repeals in this Part of the Schedule which affect the Church of England have been considered and agreed to by a committee of lawyers, under the chairmanship of the Dean of the Arches, appointed jointly by the Archbishops of Canterbury and York.

The following enactments which all deal with the right to present to or the appropriation (i.e. the perpetual annexation to a spiritual corporation) of ecclesiastical benefices are, with the exception of the provisions re-enacted in clause 2, obsolete, spent, unnecessary or superseded, namely, chapter 5 of the Statute of Westminster, the Second, chapter 10 of the statute of uncertain date, the statute of 1351, the specified chapters in the statutes of 1389, 1391 and 1402, the Advowsons Act 1708 and the Lord Chancellor's Augmentation Act (1863).

Chapter 6 of the Statute of Winchester forbade the holding of fairs and markets in churchyards. There is no need for this statutory prohibition, since fairs and markets cannot be held anywhere without lawful authority.

The statute of 1315 confers on the clergy certain outdated privileges.

Chapter 1 of the statute of 1429 extended freedom from arrest to clergy attending convocation and their retinues. The reason for the grant of this privilege (which does not extend to the Church Assembly) no longer exists.

The Clergy Marriage Acts of 1548 and 1551 allowed the clergy to marry and the Ordination of Ministers Act 1571 contains provisions (superseded by later legislation) prescribing certain qualifications for admission to a benefice. The repeal of the Acts of 1548 and 1551 will not revive the rule forbidding the clergy to marry; see section 38(2)(a) of the Interpretation Act 1889.

The following enactments which were designed to repudiate the authority of the See of Rome are no longer necessary and, again, their repeal will not revive that authority, namely, the Acts of 1531, 1532, 1536 and 1571 (c.2) and the specified parts of the three statutes of 1533 and of the Act of Supremacy (1558).

The repeal in the Act of 1540 (c. 7) and of the Acts of 1695 and 1714 will dispose of obsolete provisions relating to tithe.

The Acts of 1535, 1539, 1540 (c. 20), 1545 and 1592 dealt with the suppression of religious houses and the dissolution of colleges.

The part of the 1547 Act proposed for repeal provides for the punishment of persons contemptuously reviling the sacrament, and this can be left to be dealt with, where necessary, by the common law. The Act of 1551 (c. 3) appointed certain times and days for religious worship and provided that offenders should be punishable by censures of the church.

The specified parts of the Acts of Uniformity of 1548 and 1662 which were enacted for the enforcement of the respective Prayer Books of Edward VI and 1662, provide criminal sanctions in the secular courts which have not been used for a very long time and contain other provisions which are superseded or unnecessary. The Act of Uniformity 1551 contains a provision which is no longer enforced making it an offence punishable by ecclesiastical process not to go to church on Sundays and feast days. That Act and the specified part of the 1558 Act also contain provisions which the repeals in the 1548 Act will render unnecessary; and the Explanation Act of 1663 is spent.

The only extant provision of the Ecclesiastical Jurisdiction Act 1661 forbade the use of the now obsolete oath *ex officio*. This was an oath by which a clergyman charged in an ecclesiastical court with an offence was required to answer incriminating questions. This jurisdiction is now regulated by the Ecclesiastical Jurisdiction Measure 1963, sections 28 and 45 of which provide that subject to prescribed rules the procedure shall be the same as at the trial of a person by a court of assize exercising criminal jurisdiction.

The Toleration Act 1688 contains provisions to enable dissenters to perform by deputy certain offices which have either been abolished or which nowadays they would not be called upon to perform. Other provisions in that Act and the provisions of the Nonconformist Relief Act 1779 for the relief of nonconformist ministers depend on the making of a declaration that has long been obsolete. The provisions of the 1688 Act relating to the disturbance of religious services are unnecessary having regard to section 2 of the Ecclesiastical Courts Jurisdiction Act 1860.

The repeal of section 1 of the Act of 1846 is merely consequential on other repeals.

Section 6 of the Ecclesiastical Courts Jurisdiction Act 1860 contains savings which are, or on the enactment of the Bill will become, unnecessary.

PART III

Law of Property Enactments

The repeals in this Part of the Schedule have been considered and agreed to by lawyer representatives of the Chancery Bar Association and the Institute of Conveyancers.

Most of these repeals are consequential upon—

- (a) the abolition of copyhold tenure and the extinguishment of manorial incidents by the Law of Property Act 1922; or
- (b) the removal of the disabilities formerly imposed on married women and the fact that special provision is no longer necessary to deal with married women's property or with the case of a subsisting pre-1883 marriage where the wife has held the same property from before 1883.

The provisions of the Statute of Westminster, the Second, included in this Part are the preamble and chapter 46 (also known as the Commons Act 1285). The repeal of this medieval Act was recommended by a Royal Commission in 1958 (Cmnd. 642—paragraph 204).

The Cestui que vie Act 1540 no longer serves any practical purpose.

The Queen Consort Act 1540 is unnecessary having regard to the removal of disabilities formerly imposed on married women.

The Feigned Recoveries Act 1542 provides that where a royal grant is made in tail as a reward for services the entail cannot be barred. Such grants are no longer possible but clause 5(4) prevents the repeal from operating on the few existing unbarrable entails.

The Act of 1571 provides for the benefit of persons claiming under letters patent from the Crown a procedure, now obsolete, for making good title to lands.

The relevant provisions of the Tenures Abolition Act 1660, which are all now spent, unnecessary or superseded—

- (a) abolished the court of wards and liveries;
- (b) converted (subject to savings which can be repealed although still historically material) existing tenures by knight's service into free and common socage;
- (c) gave a father power (superseded by later legislation) to appoint a guardian of his infant children and conferred on the guardian certain powers that are no longer required; and

(d) abolished the royal prerogative of purveyance and pre-emption to obtain provisions for the royal family and household.

The Interpretation Act 1889 will prevent the repeal of these provisions from affecting their previous operation or reviving any rights taken away by them.

The relevant provisions of the Fines and Recoveries Act 1833 are spent, unnecessary or superseded. That Act provided a simpler method of barring entails.

The repeals in the Wills Act 1837 and the Defence Act 1842 are of provisions which are now obsolete, spent or unnecessary—mainly because of the abolition of copyholds and the removal of disabilities formerly imposed on married women.

The repeals in the Acts of 1846, 1849 and 1854 are of provisions no longer required because of the abolition of copyholds.

The only surviving operative provision of the Married Women's Reversionary Interests Act 1857 is now unnecessary by reason of the removal of the disabilities formerly imposed on married women and the provision as to the release of powers in section 155 of the Law of Property Act 1925.

The repeal in the 1859 Act is of definitions which no longer have any operation.

The repeals in the Married Women's Property Act 1882 are of special provisions relating to married women that are no longer necessary or of provisions superseded by later legislation.

The repeal of the 1893 Act is consequential upon the repeal of the Commons Act 1285.

The Copyhold Act 1894 deals with the enfranchisement of copyholds and its provisions (apart from those re-enacted in clause 3) are obsolete. Section 48 of the 1896 Act which relates to copyholds is also obsolete.

The relevant provision in the Married Women's Property Act 1907 has now become unnecessary; and the repeal in the Bankruptcy Act 1914 is consequential on the repeals in the Fines and Recoveries Act 1833.

The repeals in the Law of Property Act 1922 are of provisions which have become spent or inoperative or which relate to copyholds or manorial incidents; and the repeals in the Amendment Act of 1924 are consequential on other repeals or of provisions relating to copyhold and manorial incidents.

The repeals in the Settled Land Act 1925 are of provisions relating to manorial incidents.

Section 133 of the Law of Property Act 1925 is spent; the repeal of section 178 is consequential on the repeal in section 3 of the Wills Act 1837; and the remainder of the repeals in this Act are of provisions, no longer required, relating to married women.

The repeals in the Universities and College Estates Act 1925 are of provisions relating to manorial incidents; and that in the Act of 1926 is consequential upon the repeals in the 1922 Act.

The repeals in the 1935 Act are merely consequential on other repeals.

The only remaining operative provision of the 1939 Act is spent.

The repeals in the two Acts of 1948 are of provisions relating to pre-1883 marriages; and the repeals in the Acts of 1949, 1952 and 1957, in the two Acts of 1959 and in the Act of 1960 are merely consequential on other repeals.

PART IV

Enactments relating to Sunday Observance

The first four Acts are directed mainly against different forms of Sunday entertainment and trading, and were reported by the Departmental Committee on the Law of Sunday Observance (Cmnd. 2528—1964) to be “virtually obsolete and chiefly of historical interest”. The statute that now effectively controls Sunday entertainments, sports and pastimes is the Sunday Observance Act 1780 as amended by the Sunday Entertainments Act 1932; and for all practical purposes Sunday trading is now regulated by the Shops Act 1950.

Section 6 of the Act of 1677 deals with the service of process on Sundays. This matter would more appropriately be regulated by rules of court, which either already provide for it or could do so if the section were repealed.

The remainder of the repeals are consequential.

PART V

Hallmarking Enactments

The relevant provisions of the first two Acts impose penalties of forfeiture on the Goldsmiths' Company in respect of any plate marked by that Company which is found to be deceitful. The circumstances which led to the enactment of these provisions no longer apply.

The other enactments relate to the assay of plate at York, Exeter, Bristol, Chester, Norwich and Newcastle-upon-Tyne and are obsolete, since the assay offices concerned have all ceased to exist; the last to survive, at Chester, was abolished by the Assay Offices Act 1962.

PART VI

Enactments relating to the Commonwealth

Section 3 of the Newfoundland Act 1933, which authorised the Treasury to guarantee certain stock issued by the Government of Newfoundland, is spent as the stock has now been fully redeemed.

Most of the other enactments conferred general powers on Her Majesty by Order in Council to make such adaptations in any Act of Parliament of the United Kingdom as might be necessary in consequence of the attainment of independence by a territory or of some other constitutional change within the Commonwealth. The powers have never been exercised in practice and it is no longer necessary to retain them.

The remaining repeals are consequential.

PART VII

Miscellaneous Enactments

Chapter 16 of the Statute of Westminster, the First, which relates to the law of distress, duplicates, with negligible variations, the Statute of Marlborough.

Chapter 37 of the Statute of Westminster, the Second, prohibits distress except by bailiffs sworn and known, and is superseded by more recent enactments such as section 7 of the Law of Distress Amendment Act 1888. Chapter 42, which regulates the fees to be taken by the King's Marshall and the King's Chamberlain, is obsolete.

Chapter 15 of the Statute of Northampton prohibits the holding of a fair for longer than is authorised by the charter or prescriptive right under which the fair is held—which would in any case be the position apart from the statute—and requires the owner of the fair to proclaim at the beginning of the fair how long it is to last.

The enactment of 1405 is obsolete.

The enactment of 1439 was directed against the practice—which no longer needs statutory control—of ante-dating letters patent granting offices, etc., so as to determine retrospectively a previous grant at pleasure.

The Act of 1495 is generally regarded as excusing faithful service to a King de facto on the restoration of the King de jure and met the needs of a period in which no definite public law governed the descent of the Crown; but since the parliamentary settlement of the descent of the Crown the circumstances to which the Act was directed cannot arise.

The Ordinances of Corporations Act 1503, which required official approval of certain ordinances made by the Guild Companies, is now unnecessary in view of the modern law governing byelaws made by corporations.

The Apprentices Act 1536, which prohibited oaths imposed by companies in restraint of keeping shops by apprentices when made free, is unnecessary in view of the common law rules as to covenants in restraint of trade.

The Sale of Offices Acts of 1551 and 1809 are unnecessary having regard to the Prevention of Corruption Acts 1889 to 1916 and the common law relating to misbehaviour in a public office. The repeals in the Acts of 1821 and 1875 are consequential.

The Distress Act 1554, which relates to the impounding and distress of cattle, no longer serves a useful purpose and the welfare of any animals distrained is covered by the Protection of Animals Act 1911.

The Shop-books Evidence Act 1609 is an obsolete enactment relating to the admissibility in evidence of uncanceled entries of debt in shop-books.

The Crown Debts Act 1609 was directed against the practice of assigning debts to the Crown for the purpose of obtaining against the debtor the advantage of a procedure which has now been abolished.

The Statute of Monopolies is now unnecessary except in so far as its provisions can be regarded as forming the basis of the modern patent law, and these provisions are not affected by the repeals.

Section 22 of the Statute of Frauds is superseded by section 11 of the Wills Act 1837.

The Royal Mines Act 1693, as amended by the Crown Pre-emption of Lead Ore Act 1815, confers rights on the Crown to claim certain ores on payment. The rights are no longer exercised and the Crown Estate derives no benefit from the existence of the Acts.

The repeal in the Universities Act 1825 is consequential on the abolition by the Criminal Law Act 1967 of the offence of being a common night walker.

In the following enactments, namely, the Naval Enlistment Acts of 1835 and 1853, the Admiralty Court Act 1840, and the Finance Acts of 1897, 1904 and 1929, all the substantive provisions have already been repealed and only the title or short title survives.

The repeals in the cases of the Acts of 1838, 1842 (c. 83), 1861, 1871 and 1904 relating to the Forest of Dean and the hundred of St. Briavel's are of provisions all of which are agreed by the Forestry Commission to be obsolete, spent, unnecessary or superseded.

The relevant provisions of the Customs Acts of 1853, 1876, 1879 and 1882 and the Coastguard Act 1925 concern the acquisition and transfer of lands and buildings required for customs purposes and their subsequent disposal. The provisions are either unnecessary, having regard to powers conferred by other legislation, or spent.

The repeals in the Building Societies Acts of 1874, 1960 and 1962 are of provisions relating to unincorporated building societies, which no longer exist, or are consequential on the repeals in the Societies (Miscellaneous Provisions) Act 1940.

The relevant provisions of the Acts of 1877, 1879, 1895 and 1967 relating to Scotland are obsolete, spent or unnecessary.

The Public Health Acts of 1896 and 1904 are only in force in Northern Ireland; and the effect of S.R. & O. 1939 No. 1438 and the Public Health Act (Northern Ireland) 1967 is to make them obsolete there.

Section 2 of the Irish Land Act of 1919 imposes restrictions on the alienation of land granted to ex-servicemen in Northern Ireland after the first world war which are now unnecessary having regard to the length of time that has elapsed since the grants were made.

The repeal of section 57 of the Finance Act 1920 is consequential on the enactment of section 34(2) of the Finance Act 1967.

Section 5(4) of the Finance Act 1925 imposed penalties for the contravention of regulations which are no longer in force.

The repeal in the Royal Naval Reserve Act 1927 is merely of a repealing enactment.

The repeals in the Children Acts of 1932 and 1958 are of unwanted definitions or repealing enactments.

The repeal in the Limitation Act 1939 is of words which included convicts subject to the Forfeiture Act 1870 among the

classes of persons subject to a disability. Following the abolition of the status of convict by the Criminal Justice Act 1948, the words no longer have any effect.

The repeals in the Societies (Miscellaneous Provisions) Act 1940 are of special war-time provisions that are now spent and of provisions which have been repealed except in their application to the Channel Islands and the Isle of Man, where they now have no operation.

Section 17 of the Finance Act 1949 made permanent a provision of the Finance Act 1943 which is now enacted in permanent form in the Vehicles (Excise) Act 1962.

The repeals affecting the Common Informers Act 1951 are consequential on other repeals.

The Price Control and other Orders (Indemnity) Act 1951, which indemnified the President of the Board of Trade and others against the consequences of a failure to lay certain orders before Parliament, is spent.

The Validation of Elections (Northern Ireland) Act 1956 validated the election of named persons to the Senate or House of Commons of Northern Ireland notwithstanding their holding certain offices and indemnified them from any penal consequences which they may have incurred by sitting and voting as members of those Houses whilst disqualified. The Act is spent.

The repeals in the Trade Union (Amalgamations, etc.) Act 1964 are of spent transitional provisions or repealing enactments.

PART VIII

Acts of the Parliament of Ireland

Section 14 of the Act of 1560 relates to praemunire and its repeal is consequential on the repeal of the statutes of praemunire by the Criminal Law Act 1967.

The other enactments are the Irish counterparts of enactments included in Part VII, namely, the statute of 1439 relating to letters patent and section 2 of the Royal Mines Act 1693.

PART IX

Church Assembly Measures

The repeal in this Part of the Schedule is of a provision relating to manorial incidents that is no longer required.

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