

The Law Commission

(LAW COM. No. 131)

EIGHTEENTH ANNUAL REPORT 1982-1983

*Laid before Parliament by the Lord High Chancellor
pursuant to section 3(3) of the Law Commissions Act 1965*

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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 Ralph Gibson, *Chairman*.

Mr. Stephen M. Cretney.

Mr. Brian J. Davenport, Q.C.

Dr. Peter M. North.

The Secretary of the Law Commission is Mr. J. G. H. Gasson and its offices are at Conquest House, 37–38 John Street, Theobalds Road, London WC1N 2BQ.

**THE LAW COMMISSION
EIGHTEENTH ANNUAL REPORT: 1982-1983**

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THE LAW COMMISSION

EIGHTEENTH ANNUAL REPORT: 1982-1983

*To the Right Honourable The Lord Hailsham of Saint Marylebone, C.H.,
Lord High Chancellor of Great Britain*

We have the honour to present our Eighteenth Annual Report pursuant to section 3(3) of the Law Commissions Act 1965. It covers the period from 1 November 1982 to 31 October 1983, but for convenience we mention some developments since then.

PART I

THE PAST YEAR IN OUTLINE

Introduction

1.1 The Law Commission was established by the Law Commissions Act 1965 to promote law reform. Under that Act, the Law Commission is required "to keep under review all the law . . . with a view to its systematic development and reform, including in particular the codification of such law, the elimination of anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernisation of the law . . .". For these purposes we receive and consider suggested reforms, prepare programmes of future work in law reform and formulate specific law reform proposals including legislation. Our responsibility includes the preparation of Bills for the repeal of obsolete statutory material and for the consolidation of statutes. Three substantial programmes of law reform were prepared between 1965 and 1973.¹ Much work has been done within those programmes but they have not yet been completed. Our progress on programme projects, and upon projects undertaken as a result of references, is dealt with in Part II. The Commission also acts as a clearing house for law reform proposals. Law reform proposals received by us, or noted in law reports and other published works, are considered and, as appropriate, are either taken into account in our current work, or referred to the relevant department or committee for attention, or noted for possible future work. The overriding constraint on the publication of complete proposals for law reform is the limited number of lawyers available to do the work. The Commission's staff and cost are described in Appendix 1 and Appendix 4 respectively below.

Reports

1.2 During the year since our last Annual Report² we have submitted to you six reports on law reform projects, namely:

- (i) *Law of Contract: Pecuniary Restitution on Breach of Contract: Law Com. No. 121*³: This report which contains a draft Bill deals in the main with partial performance of entire contracts. Our recommendation (by a majority of us) is that a person who partially performs

¹See Law Com. Nos. 1 (1965), 14 (1968) and 54 (1973).

²*Seventeenth Annual Report 1981-82* (1983) Law Com. No. 119.

³See paras. 2.1-2.3, below.

an entire contract should have a right to some payment in respect of a benefit obtained by the other party under the contract. Under the present law there is generally no such right. The new rule would apply unless the parties to the contract have made some provision of their own or have made it clear that nothing at all was to be paid if the contract is only partly performed. In addition, we made recommendations to ensure that the party not in breach should have to pay no more than an amount reflecting the value of the benefit which he has received. The other matter dealt with in this report relates to the recovery of money paid in advance under a contract where there has been no total failure of consideration. We make no recommendations for legislation with reference to this matter.

- (ii) *The Incapacitated Principal: Law Com. No. 122*⁴: This report recommends that the present law be changed so as to permit the creation of a special type of power of attorney—an enduring power of attorney—which would not be automatically revoked by the subsequent mental incapacity of its donor. A number of safeguards are recommended to protect the donor's interests. These include requirements as to the form and content of the enduring power, and registration of the instrument creating it once the attorney has reason to believe that the donor is becoming, or has become, incapable. This report contains a draft Bill.
- (iii) *Criminal Law: Offences Relating to Public Order: Law Com. No. 123*⁵: This report examines, as part of our programme of codification of the criminal law, the four common law offences of affray, riot, rout and unlawful assembly. It recommends the abolition without replacement of the obsolete offence of rout, and the abolition of the other offences and their replacement by four new statutory offences. New offences of affray and riot are proposed in place of the common law offences so named, and two offences penalising respectively acts and threats of group violence in place of unlawful assembly. The report also recommends the abolition of certain obsolete or unnecessary statutory offences. This report contains a draft Bill.
- (iv) *Private International Law: Foreign Money Liabilities: Law Com. No. 124*⁶: This report contains a review of the law and procedure relating to foreign money liabilities in the light of the decision of the House of Lords in *Miliangos v. George Frank (Textiles) Ltd.*⁷ We recommend that the various questions of substantive law which arise in this field should be left for resolution by judicial development. Our conclusions relating to procedural issues do not call for primary legislation, except in relation to the implementation of our recommendations concerning interest on judgments and arbitral awards expressed in a foreign currency. As to those recommendations, an appropriate draft clause which would give effect to them is appended to the report.

⁴See paras. 2.89–2.92, below.

⁵See paras. 2.16–2.18, below.

⁶See paras. 2.57–2.58, below.

⁷[1976] A.C. 443.

- (v) *Property Law: Land Registration: Law Com. No. 125*⁸: This report contains recommendations for improving the land registration system in relation to the conversion or upgrading of registered titles, the registrability of leases, and the priority of dealings with interests under trusts of registered land. The report also deals with the identity and boundaries of registered land, concluding that the existing rule by which these boundaries are not precisely defined should remain but that there is scope for improvement in conveyancing practice which would help to avoid boundary disputes. This report contains a draft Bill.
- (vi) *Property Law: The Law of Positive and Restrictive Covenants: Law Com. No. 127*⁹: Just after the end of the period covered by this Annual Report, we submitted to you this report. Its main purpose is to remedy a defect in the law on which the Wilberforce Committee reported in 1963, namely that positive covenants affecting freehold land do not run with the burdened land so as to be enforceable against successive owners of it. The report seeks also to remedy certain shortcomings in the present law of restrictive covenants, and makes proposals for both types of covenants to be comprised in a new legal interest in land to be known as a "land obligation". There are ancillary proposals which would enable full use to be made of land obligations in property developments. The reform of this area of the law is long overdue. We think that the scheme put forward in our report could establish a satisfactory legal framework and meet the practical needs which the law should be able to satisfy. This report contains a draft Bill.

Working Papers

1.3 During the year we have completed two working papers inviting comment and criticism of our provisional proposals for reform in various fields of law. The first paper, in the field of contract law, deals with the implied terms in contracts for the sale and supply of goods.¹⁰ The second paper deals with problems which can arise in relation to liability for chancel repairs.¹¹

- (i) *Sale and Supply of Goods* This paper which was prepared jointly with the Scottish Law Commission examines the statutory implied terms as to quality and fitness for purpose in contracts for the supply of goods, the remedies for breach of such terms and the circumstances in which a buyer loses the right to reject the goods and terminate the contract. Our main proposals are (a) that there should be a new definition of merchantable quality, designed to clarify the present law and to encompass minor defects in goods and (b) that there should be a flexible regime of remedies for breach of any of the implied terms—abandoning the constricting strict classification of terms into conditions or warranties.

⁸See paras. 2.44.1–2.44.2, below.

⁹See paras. 2.47–2.50, below.

¹⁰*Sale and Supply of Goods* (1983) Working Paper No. 85, Consultative Memorandum No. 58. See paras. 2.4–2.7, below.

¹¹*Liability for Chancel Repairs* (1983) Working Paper No. 86. See paras. 2.45–2.46, below.

- (ii) *Chancel Repairs*: The present law on chancel repairs is of ancient origin and its operation is both uncertain and anomalous. The paper discusses the features of chancel repair liability and identifies the options for reform. Although a limited reform confined to protecting purchasers would be possible, our provisional conclusion is that the liability is both anachronistic and unjustifiable and should be abolished altogether. The liability would be phased out over a period of 20 years.

Work on Family Law

1.4 The Matrimonial and Family Proceedings Bill, which received a second reading in the House of Lords on 21 November 1983¹² seeks to implement the recommendations made in our reports dealing with time restrictions on divorce and nullity petitions,¹³ the financial consequences of divorce,¹⁴ and financial relief after foreign divorce.¹⁵ The Commission's Second Programme of Law Reform¹⁶ committed it to a comprehensive examination of Family Law with a view to its systematic reform and eventual codification, and over the years substantial progress has been made to these ends. The Commission has for example been responsible for reports dealing with the preliminaries to marriage¹⁷ (including the legal consequences of betrothal), the rules governing capacity to marry¹⁸ and the marriage ceremony itself,¹⁹ the financial consequences of divorce,²⁰ family property and family provision on death,²¹ the grounds for divorce, nullity and judicial separation proceedings in the superior courts,²² the law governing proceedings in the domestic court,²³ and illegitimacy.²⁴ It has also been responsible for reports concerning the international aspects of family law, such as the circumstances in which foreign divorces should be recognised here.²⁵ With the exception of

¹²See *Hansard* (H.L.) 21 November 1983, vol. 445 cols. 28–98.

¹³(1982) Law Com. No. 116.

¹⁴We made proposals for change in the policy of the law in our report, *The Financial Consequences of Divorce. The Response to the Law Commission's Discussion Paper, and Recommendations on the Policy of the Law* (1981) Law Com. No. 112. This report was based on the response to our Discussion Paper, *The Financial Consequences of Divorce: The Basic Policy* (1980) Law Com. No. 103.

¹⁵(1982) Law Com. No. 117.

¹⁶(1968) Law Com. No. 14, Item XIX.

¹⁷*Breach of Promise of Marriage* (1969) Law Com. No. 26; *Family Law: Solemnisation of Marriage in England and Wales* (1973) Law Com. No. 53.

¹⁸*Family Law: Report on Nullity of Marriage* (1970) Law Com. No. 33.

¹⁹*Family Law: Solemnisation of Marriage in England and Wales* (1973) Law Com. No. 53.

²⁰*Family Law: Report on Financial Provision in Matrimonial Proceedings* (1969) Law Com. No. 25; and see the report referred to in note 14 above.

²¹*Family Law: First Report on Family Property. A New Approach* (1973) Law Com. No. 52; *Family Law: Second Report on Family Property. Family Provision on Death* (1974) Law Com. No. 61; *Family Law: Third Report on Family Property. The Matrimonial Home (Co-ownership and Occupation Rights) and Household Goods* (1978) Law Com. No. 86.

²²*Reform of the Grounds of Divorce: the Field of Choice* (1966) Law Com. No. 6; *Family Law: Report on Nullity of Marriage* (1970) Law Com. No. 33.

²³*Family Law: Report on Matrimonial Proceedings in Magistrates' Courts* (1976) Law Com. No. 77.

²⁴*Family Law: Illegitimacy* (1982) Law Com. No. 118.

²⁵See the report on the *Hague Convention on Recognition of Divorces and Legal Separations* (1970) Law Com. No. 34; see also *Family Law: Report on Jurisdiction in Matrimonial Causes* (1972) Law Com. No. 48.

the third report on family property,²⁶ the report on the solemnisation of marriage²⁷ and the report on illegitimacy,²⁸ all these reports have been implemented; and the greater part of the legislation dealing with matrimonial causes has been consolidated.²⁹ In addition we expect shortly to complete a joint report with the Scottish Law Commission, to which we refer at paragraphs 2.32 to 2.34 below, concerning the problems of jurisdiction and enforcement in child custody cases in the United Kingdom; we also expect to submit a report on the subject of declarations as to status in family matters.³⁰

1.5 In the light of these achievements it might be thought that the Commission's activity in this field would now be coming to an end. We do intend, in the year ahead, to re-appraise the future direction of our family law work; but for a number of reasons we expect to continue to be active in this area. This is partly because it is necessary, particularly at a time of rapid social change, to keep a close watch on the law to ensure that it does not become outdated. In this context we have already found it necessary to look again at some aspects of the code of family law including matters relating to the ground for divorce. Amongst other questions to which attention has been drawn are whether the law provides an adequate framework to enable justice to be done (particularly in relation to property disputes) in cases where an extra-marital relationship breaks down.³¹ The statute law relating to children is also in a most unsatisfactory state;³² and we would hope to be able to play an effective part in the rationalisation and simplification of such law.

Civil Procedure

1.6 In the 1979 Report of the Royal Commission on Legal Services³³ under the chairmanship of Lord Benson the recommendations made included many directed to the improvement of our civil procedure. Since publication of that report much has been done, both directly within your Department and by committees appointed by you, to reduce avoidable delays and costs within the civil process and to make the system more effective;³⁴ but there has continued to be much concern and discussion among the public, and within the professions and Government, over the problems of providing at reasonable cost to the public and on reasonably equal terms sufficient and prompt access to justice for all those who require it. In November 1983 the Government response³⁵ to the recommendations contained in the Benson Report, was that "The Lord Chancellor intends to undertake a complete and systematic review of civil procedure. The first steps will be a thorough-going

²⁶(1978) Law Com. No. 86. The recommendations in that report were repeated in the report on *The Implications of Williams & Glyn's Bank Ltd. v. Boland* (1982) Law Com. No. 115.

²⁷(1973) Law Com. No. 53.

²⁸You have already indicated your intention to implement this report as soon as resources become available: *Hansard* (H.L.) 21 November 1983, vol. 445 col. 93.

²⁹In the Matrimonial Causes Act 1973: see the Commission's report (1972) Law Com. No. 51.

³⁰See para. 2.36, below.

³¹The fact that the courts may not be able to achieve justice as the law now stands was referred to in the Court of Appeal case *Burns v. Burns* *The Times* 2 August 1983.

³²See para. 2.43, below.

³³(1979) Cmnd. 7648.

³⁴See *Seventeenth Annual Report 1981-82* (1983) Law Com. No. 119, paras. 1.6-1.12.

³⁵(1983) Cmnd. 9077.

factual and statistical study of the business management of work at all stages of civil litigation. The main purpose of the review will be to develop the present system and, if necessary, to restructure it, in order to achieve the most expeditious, economical and convenient disposal of business.”³⁶ It was also announced that the Government accepted in principle that the procedures of all the main tribunals needed to be reviewed.³⁷

1.7 We have no doubt that these important decisions were most welcome to many members of the public and of the legal profession. Improvements by reforms in procedures will be expected; but it is necessary to repeat what has been said before: effective reforms in civil procedure require long and difficult work. The reasons for this difficulty are not in the reluctance of lawyers to accept change but come from the fact that the system of civil procedure has been developed and devised over centuries to ensure justice between parties to different sorts of dispute and with different resources and knowledge. The system serves a form and method of trial with which the public is familiar and which fits the concept of justice and expectations of most of us. The consequences of changes in the rules of procedure must be fully worked out before they are submitted for approval. It is hoped that some help will be given, and useful discussion promoted, by the Seminar on civil procedure which, with your encouragement, the Commission proposes to hold in 1984. The intention is that papers should be prepared for submission to the Seminar containing proposals as to the purpose and direction of the review of civil procedure and as to suitable topics and lines of enquiry which should receive attention in the course of it. These proposals are to be discussed and assessed at the Seminar. The Law Commission is grateful for assistance received in preparations for the Seminar from representatives of The Law Society, of the Senate of the Inns of Court and the Bar, from the Society of Public Teachers of Law, from officials in your Department and from many individual lawyers.

Departure of Commissioner

1.8 The term of office as Law Commissioner of Stephen Edell ended on 31 October 1983. He came to the Law Commission in 1975 from private practice as a solicitor in London and for 8 years he has with great skill and energy directed the projects of the Law Commission in the field of real property and landlord and tenant. In addition, he directed our projects on the incapacitated principal³⁸ and our third report on family property.³⁹ He brought to all these tasks wide and detailed knowledge of the law and experience in and understanding of its working. He has also made a distinct and respected contribution to all the work of the Commission. Stephen Edell has returned to private practice in London after 8 years of productive and devoted public service. We wish him well. We miss his help and advice.

³⁶*Ibid.*, chapter 43 at p. 31.

³⁷*Ibid.*, chapter 15 at p. 18.

³⁸(1983) Law Com. No. 122 and see paras. 2.89–2.92, below.

³⁹(1978) Law Com. No. 86.

PART II
LAW REFORM PROJECTS—REPORT ON PROGRESS

CONTRACT AND TORT

Pecuniary Restitution on Breach of Contract

2.1 A report¹, together with a draft Law Reform (Lump Sum Contracts) Bill, has been submitted to you and was published on 19 July 1983. At present it is a rule of law that where one party (the payer) to a contract agrees to pay the other party (the contractor) a sum of money on the completion of a particular job of work by the contractor, the latter is entitled to nothing if, in breach of contract, he fails substantially to perform the contract and the payer brings the contract to an end. This situation may be contrasted with that where such a contract comes to an end without either party being in breach, e.g. when the contract is frustrated. There, the Law Reform (Frustrated Contracts) Act 1943 provides that where, before a contract is frustrated, one party has conferred a valuable benefit upon the other that benefit must be paid for despite the non-completion of the contract. Our principal recommendation (by a majority) in the report is that a person who partially performs a lump sum contract but who, in breach of that contract, fails substantially to complete it, should in some circumstances be entitled to payment in respect of any benefit which he conferred on the other party from the partial performance. The report and draft Bill lay down the circumstances in which such payment must be made. This recommendation is substantially similar to the provisional proposal in our working paper².

2.2 In our Working Paper No. 65 we also proposed that where a party in breach had failed substantially to perform the contract but had conferred a valuable benefit on the other party by incomplete or defective performance, and had been paid the contract price or part of it by the other party, that other party should be entitled to the restitution of the money paid in excess of the value of the benefit conferred. In the light of our consultation, and after reconsidering this matter, we have abandoned this proposal. We have decided to recommend no change in the present rule under which, in the absence of a total failure of consideration, the party not in breach is entitled to damages for any loss or damage he has suffered as a result of that breach but is not separately entitled to restitution.

2.3 Finally, in our working paper we discussed the situation in which a seller having, in breach of contract, purported to sell and deliver goods which he had no right to sell, the buyer becomes entitled to reject them and recover in full the price that he has paid, despite any use or possession he may have had of them. Our criticism of this situation met with general agreement on consultation, but we have decided that this matter should be dealt with in the context of our present work on contracts for the supply of goods.

¹*Law of Contract: Pecuniary Restitution on Breach of Contract* (1983) Law Com. No. 121.

²*Law of Contract: Pecuniary Restitution on Breach of Contract* (1975) Working Paper No. 65.

Accordingly, it was discussed further and reforms were proposed in our recent working paper on sale and supply of goods³.

Supply of Goods

2.4 Our working paper on contracts for the supply of goods, which was prepared jointly with the Scottish Law Commission, was published on 4 October 1983⁴. This working paper deals with the implied terms as to quality and fitness, the remedies for breach of the implied terms and the circumstances in which a buyer loses his right to reject the goods. We have asked for comments on the working paper by 31 March 1984.

2.5 The paper proposes a new definition of merchantable quality designed to clarify the law and to encompass minor defects in goods. This definition should be formulated in such a way that it is sufficiently flexible to cover all types of goods in both consumer and non-consumer transactions coupled with a clear statement of certain important elements included within the idea of quality (e.g. freedom from minor defects, durability and safety) and a list of the most important factors to which regard should normally be had in determining the standard to be expected in any particular case. It is suggested that the expression "merchantable" should not be used in the new definition.

2.6 A flexible regime of remedies is proposed for breach of the implied terms in contracts for the supply of goods. We provisionally suggest that, where a seller has supplied defective goods, a consumer should be able to reject them and claim his money back, except where the seller can show that the nature and consequences of the breach are slight and that in the circumstances it is reasonable that the consumer should be required to accept cure (i.e. repair or replacement of the goods). If cure is not provided satisfactorily and promptly, the consumer should be able to reject the goods and claim his money back. The consumer should in all cases be able to claim damages. As far as non-consumer contracts are concerned, we propose a modification of the buyer's strict right to reject. Similar proposals are made in respect of other contracts for the supply of goods such as hire, hire-purchase and "trading-in" contracts.

2.7 Our provisional conclusion is that the policy of the present law, under which the buyer is generally only permitted to reject the goods for a relatively short period after he has received them, is sound and should not be altered. We do, however, propose a number of minor changes which would improve the position of the buyer. For example, if a consumer signs an "acceptance" note when the goods are delivered to him, he should not lose his right to reject them unless and until he has had a reasonable opportunity to examine them. Finally, the working paper deals with a number of miscellaneous matters such as the remedies for breach of the implied terms as to title and for delivery of the wrong quantity of goods. Proposals for reform are made in respect of these matters.

³*Sale and Supply of Goods* (1983) Working Paper No. 85, Consultative Memorandum No. 58, paras. 6.1-6.23.

⁴Working Paper No. 85, Consultative Memorandum No. 58. We also published at the same time a pamphlet which was a summary of this paper—*Law Reform: An Invitation for Views: Sale and Supply of Goods: The Customers rights against the Supplier*.

Minors' Contracts

2.8 The consultation period, following the publication in June 1982 of Working Paper No. 81 ended on 31 December 1982. A large number of comments were received, from schools, parents and others working with young people, as well as legal and commercial organisations. The more radical of the two proposals made in the working paper, namely that the age of full contractual liability should be lowered to 16, was not favoured by most of the teachers and pupils who told us their views. It was suggested to us that young people between 16 and 18 are lacking in worldly experience and are easily swayed by advertising and sales promotions, and it would not be in their interests to open to them the possibility of binding contracts. Comments received from legal and commercial organisations were, on the whole, slightly more favourable to the radical proposal than opposed to it. We have concluded, however, that so fundamental a reform as the effective lowering of the age of majority, so far as contractual liability is concerned, to 16 requires more in the way of public support than is apparently forthcoming. Accordingly we shall not be recommending this course in our report.

2.9 The other proposal contained in Working Paper No. 81 was the reformulation by statute of the present law. Anomalies, uncertainties and inconsistencies in the existing provisions could in this way be rectified. The results of our consultation have caused us to reconsider this proposal. Little dissatisfaction with the present law was expressed by those who wrote to us, beyond that which we ourselves identified in the working paper. It does not appear that the present law, for all its deficiencies, causes serious problems in practice. Minors do not seem to abuse their, in certain respects privileged, position; nor do they themselves complain about the converse of that privilege, the unavailability to them of credit. A statutory restatement of the present law would inevitably be a major undertaking and impose a demand on our resources which, in the light of our consultation, seems to us to be incommensurate with the importance of the subject. Undoubtedly there are some defects in the present law, and we have been considering how these could be remedied without going to the extent of restating the whole law. Our present view is that this purpose might best be achieved by a short bill, *inter alia* repealing the Infants Relief Act 1874, which would deal with certain obvious problems and generally reopen the law to further judicial development if, and as, circumstances might require.

2.10 We hope to submit our report on minors' contracts in the first half of 1984.

Parol Evidence Rule

2.11 The parol evidence rule provides that where a transaction is recorded in a document, it is not generally permissible to adduce other evidence of its terms or of other terms not included, expressly or by reference, in the document or of its writer's intended meaning. The scope of this rule has been greatly reduced, if not effectively abolished, by exceptions. The work which we have done during the course of the year has been concentrated on a problem raised on consultation concerning the effect upon assignees of abolishing the rule. In December 1982 we distributed a consultative document

which discussed this problem. We have now received and are considering the results of this further limited consultation with a view to preparing a report on this topic.

Earlier Reports: The Present Position

(i) Liability for Defective Products

2.12 We are not aware of any steps having been taken to implement the proposals on this topic made jointly by us and the Scottish Law Commission in our report in 1977. Further developments await the outcome of still continuing negotiations in Brussels on the draft E.E.C. Directive relating to liability for defective products.

(ii) Trespassers: Civil Liability of Occupiers

2.13 The Occupiers' Liability Bill was introduced into the House of Lords in the current session and has now reached the Commons. The Bill is concerned with the civil liability of an occupier to persons on his land and, so far as concerns those on his land who are outside the scope of the Occupiers' Liability Act 1957, it follows the Law Commission's recommendations on the subject in its Report No. 75⁵. In respect of those persons it replaces with statutory rules the rules of the common law governing the duty of an occupier as to their safety.

(iii) Insurance Law

2.14 In 1980 we reported on non-disclosure and breach of warranty in insurance law⁶. Since then the Department of Trade has issued a consultative document and has been involved in discussions with various organisations on the subject of reform in this area of the law. We understand that these discussions are continuing and that the Government intends to legislate on the subject at an early opportunity.

(iv) Breach of Confidence

2.15 In 1981 we reported on breach of confidence⁷ submitting a draft Bill to clarify and reform the law of England and Wales concerning civil liability for the misuse of information which is acquired in confidence or obtained improperly. We understand that your Department has been consulting interested organisations on our report.

CRIMINAL LAW

Offences against Public Order

2.16 We submitted our report⁸ to you on 29 June 1983 and it was published on 24 October 1983. This report deals primarily with conduct which causes the more serious breaches of public order and which is at present

⁵*Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability* (1976).

⁶*Insurance Law: Non-Disclosure and Breach of Warranty* (1980) Law Com. No. 104.

⁷*Breach of Confidence* (1981) Law Com. No. 110.

⁸*Criminal Law: Offences relating to Public Order* (1983) Law Com. No. 123.

covered by the common law offences of affray, riot, unlawful assembly and rout. For reasons explained in the report, it does not contain a review of *all* aspects of the law relating to public order. We have not duplicated the work done or in hand by others on some aspects of this part of the law. For example, the Home Office and the Scottish Office are carrying out a review of the Public Order Act 1936 and Lord Scarman, in his Report on the Brixton Disorders of April 1981⁹, considered and rejected a proposal for a new dispersal or "Riot Act" offence. Our report also does not examine the law of public nuisance in relation to public order. A separate review of the common law offence of public nuisance, much of which is remote from public order, will need to be carried out hereafter.

2.17 The report recommends that the common law offence of affray should be replaced by a statutory offence broadly similar to the common law offence. In relation to the common law offence of riot, it recommends the creation of a new statutory offence to deal with mass violence to be known as riot. Where 12 or more persons are present together, whether in a public or private place, using or threatening unlawful violence to persons or property for some common purpose and their conduct, taken together, is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of them who uses unlawful violence for the common purpose would be guilty of the offence of riot. Prosecutions would require the consent of the Director of Public Prosecutions and the offence would be triable on indictment with a maximum penalty of 10 years' imprisonment and a fine. The common law offence of unlawful assembly should be replaced by two new statutory offences. The first is an offence to be known as violent disorder: where 3 or more persons are present together using or threatening unlawful violence to persons or property, whether in a public or private place, and their conduct, taken together, is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of those persons who uses unlawful violence would commit the offence of violent disorder. The offence would be triable either way with a maximum penalty on indictment of 5 years' imprisonment and a fine. The second proposed offence penalises conduct intended or likely to cause fear or provoke violence: where 3 or more persons are present together, whether in a public or private place, using threatening, abusive or insulting words or behaviour which is intended or likely either to cause another person to fear immediate unlawful violence to persons or property or to provoke the immediate use of such violence by another person, each of them would commit the offence. It would be triable either way with a maximum penalty on indictment of 2 years' imprisonment and a fine. The report recommends the abolition without replacement of the common law offence of rout which is obsolete.

2.18 The report examines in detail each of the elements of the proposed new offences. It also recommends the repeal without replacement of certain old statutory offences in the field of public order¹⁰. The report includes a draft Criminal Disorder Bill which would give effect to its recommendations.

⁹Cmnd. 8427.

¹⁰Tumultuous Petitioning Act 1661; Shipping Offences Act 1793; Seditious Meetings Act 1817; Vagrancy Act 1824 (in part); Metropolitan Police Act 1839, s.54(13) (in part); City of London Police Act 1839, s.35(13) (in part).

“Poison-Pen” Letters

2.19 Our working paper on Criminal Libel¹¹ published in 1982 provisionally proposed the replacement of the common law offence of criminal libel by two statutory offences, one of criminal defamation and the other penalising those who send “poison-pen” letters and the like. In the course of considering our further work on criminal libel, it became evident to us that, while criminal libel has on occasion been used to punish the writers of poison-pen letters, there is in reality little connection between the often gravely defamatory matter, publication of which is penalised by the common law, and the typical poison-pen letter, which often is not defamatory in the technical sense and which is sent primarily in order to cause distress to the recipient. For the purpose of reporting on criminal libel, we have therefore provisionally decided to treat separately criminal libel and poison-pen letters.

2.20 Our consultation upon the working paper on criminal libel gave strong support to the provisional proposal that there should be a summary offence penalising those who send “poison-pen” letters and similar communications: the absence of such an offence at present was evidently felt to be a distinct gap in the law relating to a social problem for which a remedy was needed. We have decided to recommend that there should be such an offence and are at present seeking to answer the many difficult questions which arise in relation to the precise definition of the proposed offence. We hope to be able to submit a report to you by mid-1984.

Criminal Libel

2.21 Our consultation upon the working paper showed a strong majority in favour of the creation of a new statutory offence of criminal defamation penalising the publication of matter in the nature of “character assassination”, as had been provisionally proposed in that paper. We have decided to recommend such a statutory offence, in replacement of the present common law offence. The new offence would be very much narrower than the present offence; in particular, it would not be (as it is at present) a criminal offence to publish defamatory matter if what was published was true. We are at present working on the details of the proposed offence and hope to submit a report to you in the course of 1984.

Offences against Religion and Public Worship

2.22 Following the very extensive comment on our working paper,¹² the Commission considered a policy paper earlier this year containing recommendations for the modernisation and rationalisation of the offences of blasphemy and blasphemous libel, and offences relating to disturbances in a place of worship. A recommendation was approved that there should be a new statutory offence, to replace the common law offences of blasphemy and blasphemous libel, which would penalise insults to religious feelings and which should not be limited to Christianity. Work on a final report has now begun and we hope to submit it to you before Easter 1984.

¹¹*Criminal Libel* (1982) Working Paper No. 84.

¹²*Offences against Religion and Public Worship* (1981) Working Paper No. 79.

Binding Over to Keep the Peace

2.23 Our Seventeenth Annual Report¹³ referred to the fact that, while preparatory work had been carried out relating to this subject in pursuance of your reference to us under section 3(1) (c) of the Law Commissions Act, we had concluded that further research into current practice and other aspects was necessary before we could publish an adequately documented working paper. With the assistance of your Department and with the co-operation of the Magistrates' Association, the Justices' Clerks Society and the Society of Magisterial Officers, we are now undertaking such research during the period September 1983–April 1984. The first stage of the research has involved sending copies of a simple questionnaire to all magistrates' courts with the request that details be entered on them of cases of the imposition of binding over orders as they arise during the course of a specified calendar month. After analysis of the returned questionnaires, copies of a second, more detailed questionnaire are to be sent to a representative sample of magistrates' courts for a similar exercise during a specified month early in 1984. We hope that an analysis of this material will provide us with reliable information upon many aspects of the current use of this power in magistrates' courts which is not otherwise available.

2.24 This is the first occasion upon which the Law Commission has instituted and itself carried out research relating to current work, and we are grateful for the assistance of your Department and for the generous co-operation of the professional bodies involved.

Conspiracy to Defraud

2.25 The first stage in the resumption of our work on this important project was marked by the completion early this year of a study paper recording the developments in the relevant areas of the law during the last few years. In early November 1983 we noted that you and the Home Secretary had decided to appoint a committee "to consider in what ways the conduct of criminal proceedings in England and Wales arising from fraud can be improved, and to consider what changes in existing law and procedure would be desirable to secure the just, expeditious and economical disposal of such proceedings" and that Lord Roskill had agreed to be the Chairman of this Committee.¹⁴ We are at present considering whether our work in relation to conspiracy to defraud could usefully extend beyond the confines of considering only the offences to be recommended in replacement of the common law offence.

Criminal Code: The General Part

2.26 As mentioned in previous Annual Reports, a group of distinguished academic lawyers, Professor J. C. Smith, C.B.E., Q.C., of Nottingham University, Professor Edward Griev (University of Leicester), Mr. Peter Glazebrook (Jesus College, Cambridge) and Mr. Ian Dennis (University College, London), under the chairmanship of Professor Smith, has agreed to our request to study and draft the principles on which the General Part of a

¹³(1983) Law Com. No. 119, para. 2.23.

¹⁴*Hansard* (H.L.) 8 November 1983, vol. 444, col.790.

Criminal Code should be based. The task is seen primarily as the restating of the present law in a coherent and consistent manner coupled with the suggestion of limited reforms where the law is seen to be defective. In March 1983 members of the Commission met the code group at Jesus College, Cambridge in order to consider the work so far done and the principles being applied. It was agreed that the work is proceeding well. The Law Commission attaches great importance to the preparation of a draft of the General Part of a Criminal Code so that prolonged and wide consultation may take place on the utility of enacting such a code; on the structure and terms in which it should be drafted; and on the procedural methods by which Parliament might be invited to consider and enact such a code of which the major part would be intended to reproduce existing law.

The Mental Element in Crime

2.27 For the new statutory offences, which we recommended in the report on offences against public order (see paragraphs 2.16–2.18 above), it was necessary to determine the mental element which the prosecution would be required to prove before the accused could be convicted. The law ought to state in clear and simple terms what must be proved to have been the mental state of the accused with reference to alleged wrongful conduct. The test laid down by these terms has to be applied by magistrates' courts and by juries. The law is now such that complication and difficulty cannot be entirely avoided in stating and applying the terms of the necessary mental element for a new statutory offence and we consider that attention should be drawn to the causes of this difficulty.

2.28 It would be appropriate if the mental element necessary for proof of the new offences recommended in our report on offences against public order, including riot and affray, were the same as offences of unlawful wounding or of criminal damage to property. Charges of unlawful wounding and of criminal damage may be expected to be joined in some cases with charges of riot, violent disorder or affray. Both the offence of unlawful wounding under s. 20 of the Offences Against the Person Act 1861 and the offence of criminal damage under s. 1 of the Criminal Damage Act 1971 can be proved if the accused is shown to have done the act intentionally or recklessly, but the concept of "recklessness" is not the same for each offence. Under the Offences Against the Person Act 1861 the word consistently used to describe the necessary mental element in the more serious offences created was "maliciously". This word requires proof of "either (1) an actual intention to do the particular kind of harm that in fact was done; or (2) recklessness as to whether such harm should occur or not (i.e. the accused has foreseen that the particular kind of harm might be done yet has gone on to take the risk of it)".¹⁵ Where, however, the word "reckless" itself is used in a statute creating an offence, as in s. 1 of the Criminal Damage Act 1971, the accused is proved to have been reckless if "(1) he does an act which in fact creates an obvious risk that property will be destroyed or damaged and (2) when he does the act he either has not given any thought to the possibility of there being any such risk or has recognised that there was some risk involved and has nonetheless gone

¹⁵*R. v. Cunningham* [1957] 2 Q.B. 396.

on to do it".¹⁶ Broadly speaking, therefore, the essential difference between the two explanations of the word "reckless" is that under the 1971 Act a person is guilty if there was a risk that his act would cause damage, *whether or not he was aware of that risk*, whereas under the 1861 Act a person is only guilty if it is proved that he actually foresaw the risk.

2.29 It was necessary, therefore, for a choice to be made in our report on offences against public order as to which concept of recklessness should be recommended for application to the proposed new offences. If possible, no court should be required to apply or to describe to a jury two different concepts of recklessness for different charges against one or more defendants. The importance of clarity and simplicity in directions to a jury is obvious. We found the choice difficult. On balance, we concluded that, while the concept of recklessness in the law relating to offences against the person remains as it is, the best course was to make express provision in the proposed new statutory offences which avoids use of the word "reckless" and which reflects the substance of the law applied by the courts to offences against the person.

2.30 Although these questions give rise to difficulty for those who must draft and explain the proposed new statutory offences, they are of minimal practical importance in relation to the offences against public order reviewed in our report. The nature of the prohibited conduct is such that questions of the mental state of the accused are unlikely to arise if the prohibited acts are proved against him. The effect of self-induced intoxication might be relevant and for that we proposed specific provision which would apply the law laid down in *D.P.P. v. Majewski*.¹⁷ such intoxication would be no defence. Nevertheless it seems to us that the question of the mental element in our criminal law is one which calls for further general examination. It has been suggested to us that, while the definition of the word "recklessness" where it appears in the Road Traffic Act and in the Criminal Damage Act 1971, as laid down by the House of Lords in *Caldwell* and *Lawrence*, has served to reduce the attention which a jury has to give to the thoughts which passed through the mind of the accused, nevertheless substantial difficulties remain for judges who must direct juries in accordance with those authorities.

2.31 In its report on the mental element in crime¹⁸ in 1978 the Law Commission recommended that key words should be used to express the mental element in new statutory offences, namely "intention", "knowledge" and "recklessness" and that, save where Parliament should provide otherwise, those words should have the same meaning whenever used thereafter in an Act of Parliament. The recommended meaning of "recklessness" was broadly similar to the meaning which the word has in the context of the Offences Against the Person Act 1861. The recent decisions of

¹⁶*R. v. Caldwell* [1982] A. C. 341 at 354 *per* Lord Diplock. See also *R. v. Lawrence* [1982] A. C. 510 and *R. v. Seymour* [1983] A. C. 493.

¹⁷ [1977] A. C. 433.

¹⁸*Criminal Law: Report on the Mental Element in Crime* (1978) Law Com. No. 89.

the House of Lords to which we have referred above¹⁹ have given to the word "reckless" when used in statutes, a meaning different from that proposed in the Law Commission report. In November 1983 there was presented to Parliament the report of the Scottish Law Commission on the mental element in crime.²⁰ That Commission had been asked to consider, in relation to the law of Scotland, the report of this Commission on the mental element in crime and to advise. Our report was given rigorous examination by the Scottish Law Commission and its report will be of great value in the work of reconsidering both the general approach and the detailed recommendations. The work of reconsideration cannot, in our view, be long delayed and will in any event be necessary for completion of the work which is being carried out upon the general principles governing a criminal code.

FAMILY LAW

Conflicts of Jurisdiction affecting Children

2.32 During the year, in collaboration with the Scottish Law Commission, we have made considerable progress with the preparation of a joint report and draft Bill dealing with the jurisdiction to make custody orders, and with the enforcement of those orders within the United Kingdom. In the field of family law it is this topic to which we have devoted most of our efforts and resources during the year under review. The formulation of a detailed scheme of enforcement which will be broadly acceptable in all three component jurisdictions of the United Kingdom has proved a particularly difficult task, for there were powerful objections of principle to the simple solution by which custody orders in one country would be automatically enforceable in another. For this reason, it has not been possible for us to complete the final stages of our joint report this year, as we had hoped,²¹ but we expect to submit it to you with draft legislation in the first half of 1984.

2.33 As we said in our last Annual Report,²² the joint report will not be directly concerned with the resolution of international custody conflicts. Nevertheless, it will take into account international developments in this field so that our recommendations will be capable of operation in conjunction with either or both of the two recent child custody conventions concluded respectively in the Council of Europe²³ and at the Hague Conference on Private International Law,²⁴ matters on which we have had discussions with your Department.

¹⁹See n. 16 above. Since those cases were decided, the Court of Appeal has held that "reckless" when used in the definition of rape has a meaning different from that given by the House of Lords in *Caldwell* and *Lawrence*, different from that used in relation to the 1861 Act and different from that proposed by the Law Commission: see *R. v. S.*, *The Times*, 5 December 1983.

²⁰ Scot. Law Com. No. 80.

²¹*Seventeenth Annual Report 1981-1982* (1983) Law Com. No. 119, para. 2.41.

²²*Ibid.*, para. 2.42.

²³European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Children, 20 May 1980, European Treaty Series, No. 105. The United Kingdom signed this convention on 20 May 1980.

²⁴Hague Convention on the Civil Aspects of International Child Abduction, 25 October 1980. The United Kingdom has not yet signed this convention.

2.34 In formulating our proposals on the enforcement of custody orders we have noted that Parliament is considering a Private Member's Bill²⁵ designed to implement certain recommendations of the Criminal Law Revision Committee in their Report on Offences against the Person²⁶ on the criminal law relating to the abduction of children from England and Wales.²⁷

The Ground for Divorce

2.35 In the course of the year we have been preparing material on this topic, with a view to analysing the legal issues and formulating the options for reform. Although our main concern is with the substantive law dealing with the irremediable breakdown of marriage and the facts by which it is established, this is a field in which the interaction of law, procedure and practice is particularly crucial. We are therefore taking full account of the consultative paper issued in September by the Matrimonial Causes Procedure Committee under the chairmanship of Mrs. Justice Booth, and we shall continue to keep the Committee informed of our progress. We have also studied the Report of the Inter-departmental Committee on Conciliation²⁸ and the consultation paper, issued this year by your Department, on the possible reorganisation of jurisdiction in family matters.

Declarations as to status

2.36 Following the completion of our report on illegitimacy²⁹ we have been able to resume work on declarations as to status in family matters, a topic on which we issued a working paper³⁰ in 1973. Our report, which is almost ready, will put forward legislative proposals for a modern code of declaratory relief in relation to such matters as the validity of marriages and foreign divorces, legitimacy and legitimation. Our report will also recommend the abolition of the action of jactitation of marriage.³¹

Earlier reports: the present position

- (i) *Financial Consequences of Divorce, Time Restrictions on the Presentation of Divorce and Nullity Petitions, and Financial Relief after Foreign Divorce.*

2.37 We note that the Matrimonial and Family Proceedings Bill, which will if enacted implement the substance of the recommendations contained in our reports³² on these matters, has received its Second Reading in the House of Lords.³³

²⁵The Child Abduction Bill was presented by Mr. Timothy Wood, M.P. on 20 July 1983 and received its Second Reading on 16 December 1983: *Hansard* (H.C.), vol. 50. col. 1371.

²⁶(1980) Cmnd. 7844.

²⁷The Bill also contains a provision for its application to Northern Ireland by Order in Council.

²⁸(1983) H.M.S.O.

²⁹(1982) Law Com. No. 118.

³⁰Working Paper No. 48.

³¹See also *Family Law: Jactitation of Marriage* (1971) Working Paper No. 34.

³²*Family Law: The Financial Consequences of Divorce. The Response to the Law Commission's Discussion Paper and Recommendations on the Policy of the Law* (1981) Law Com. No. 112; *Family Law: Time Restrictions on Presentation of Divorce and Nullity Petitions* (1982) Law Com. No. 116; *Family Law: Financial Relief after Foreign Divorce* (1982) Law Com. No. 117.

³³*Hansard* (H.L.), 21 November 1983, vol. 445, cols. 28-98.

(ii) *Illegitimacy*

2.38 Our report³⁴ (together with a draft Family Law Reform Bill) on this subject, which was published on 20 December 1982, had a generally favourable reception. We have noted the announcement³⁵ in Parliament of your support for it.

(iii) *Solemnisation of Marriage*

2.39 The law governing the solemnisation of marriage is complex. Indeed, the report of a Joint Working Party, set up in 1969 by the Commission and the Registrar General to enquire into the law and to propose changes, referred to the "proliferation of procedures" governing this matter, and observed that it was hardly surprising that the law was in consequence "not understood by members of the public or even by all those who have to administer it."³⁶ Our report on solemnisation of marriage in England and Wales³⁷ made proposals for reform; and recommended that there should ultimately be a new, comprehensive Marriage Act. These proposals have not been implemented.

2.40 In the course of this year, Parliament enacted the Marriage Act 1983. This Act has two main objectives. First, it makes it easier for this country to give effect to its obligations under the European Convention on Human Rights³⁸ by providing facilities for marriages to be solemnised in a prison or hospital in which one of the parties is detained. Secondly, the Act contains provisions which carry further a policy, first given effect in the Marriage (Registrar General's Licence) Act 1970, of providing the seriously ill and disabled with facilities to contract a marriage.³⁹

2.41 The passing of this Act illustrates one of the dilemmas of law reform. On the one hand, the substance of the changes will no doubt be warmly welcomed; but, on the other, piecemeal reform of this kind has an unfortunate effect not only on the state of the statute book but also on its clarity. The enactment of the 1983 Act means that there are substantially overlapping measures on the statute book; and it contributes to the complexity of the marriage law and renders the prospect of any future rationalisation more burdensome, and thus less probable. It appears, however, that a major rationalisation and consideration of the present law on marriage does not command high priority.

Other Family Law Work

De facto Spouses

2.42 In the course of the year Mr. C. J. Barton of the North Staffordshire Polytechnic completed his survey (to which we referred in our last Annual Report)⁴⁰ on the law governing the enforceability of agreements between

³⁴*Family Law: Illegitimacy* (1982) Law Com. No. 118.

³⁵*Hansard* (H.L.) 21 November 1983, vol. 445, col. 93.

³⁶(1973) Law Com. No. 53, Annex. para. 6.

³⁷(1973) Law Com. No. 53.

³⁸Article 12.

³⁹It has long been possible for such marriages to be celebrated on the authority of an Archbishop's Special Licence if both parties are free to marry in the eyes of the Church of England.

⁴⁰(1983) Law Com. No. 119, para. 2.45.

unmarried cohabiting partners. We found this a valuable piece of work, which will assist us in deciding the scope of any future work in this area. Other recent developments, notably the decision of the Court of Appeal in *Burns v. Burns*,⁴¹ suggest to us that there is a need to identify legal problems which in practice cause hardship in this field, and we intend to give further thought to how this may best be approached.

2.43 Another matter of considerable legal importance is the increasing complexity of the law concerning the custody and guardianship of children.⁴² English law does not contain a comprehensive code covering the legal position of children; rather, it consists of a "cascade of legislation"⁴³ employing different concepts and terminology and of a multitude of judicial decisions given in different procedural contexts. We share the concern of those who have commented on the unsatisfactory nature of the existing law and called for reform,⁴⁴ and we agree that this is a matter which deserves priority. We therefore intend to start a preliminary review as soon as resources permit.

PROPERTY LAW (APART FROM LANDLORD AND TENANT)

Land Registration

2.44.1 During this year we completed our first report on land registration, Law Com. No. 125. It deals with four separate topics, namely identity and boundaries, conversion of title, treatment of leases and the minor interests index. As to the general boundaries rule, under which the exact boundaries of registered land are left undetermined, our recommendation is that the rule be retained. As to conversion of title, we have recommended a simplified scheme the general principle of which is that, subject to certain qualifications, if the registrar is satisfied as to an inferior title it should be capable of conversion. On the treatment of leases, we have recommended changes in the law with regard to the registrability of leases and to their protection. Lastly, as to the minor interests index, which has been authoritatively described as "valueless", we have recommended that the requirement to make entries upon it be abolished and that priorities of dealings with interests under trusts of registered land be regulated instead by the rule in *Dearle v. Hall*, i.e. the order in which notices of dealings are given to the trustees.

2.44.2 In the coming year we shall work on a further report on land registration which will deal with other topics raised in the working papers,

⁴¹*The Times*, 2 August 1983.

⁴²In paras. 3.2-3.12 of our report on *Illegitimacy* (1982) Law Com. No. 118, we give a brief account of the statutory framework.

⁴³*Hewer v. Bryant* [1970] 1 Q.B. 357, 371, per Sachs, L. J.

⁴⁴See, for example, J.C. Hall (1972) C.L.J. 248; J.M. Eekelaar (1973) 89 L.Q.R. 210; S. Maudment (1981) C.L.J. 135; A. Samuels (1981) 11 F.L. 15; S. Maudment (1981) 131 N.L.J. 835 and A. Samuels (1982) J.P. 248. See also the Scottish Law Commission's *Eighteenth Annual Report (1982-1983)* (1983) Scot. Law Com. No. 81, para. 2.9. We have also expressed the view that the law relating to the circumstances in which children are received or taken into care of a local authority is in need of simplification and rationalisation: *Fourteenth Annual Report (1978-1979)* (1980) Law Com. No. 97, para. 2.30 and we have noted that this view has been expressed by several witnesses to the Social Services Committee of the House of Commons which considered the question of children in care in the 1982-3 session of Parliament.

including overriding interests, rectification of the register and indemnity for errors, and inspection of the register. Two of these topics require further explanation. First of all, we had at one time intended to include the topic of inspection of the register in the report which has recently been published, but we have decided to defer making recommendations on this topic until we have undertaken fresh consultations and analysed the response. Secondly, the topic of overriding interests is complicated by the need to take account of the response to our report on *Williams and Glyn's Bank Ltd. v. Boland*.⁴⁵ We there proposed⁴⁶ that certain co-ownership interests (in practice, often relating to the family home), which at the moment may take effect as overriding interests and thus bind a purchaser whether or not he had notice of them, should be enforceable only if the interest was registered in the appropriate manner. We also proposed that the disadvantages of the proposed registration requirement should be offset by enacting the scheme of co-ownership of the matrimonial home elaborated in our third report on family property.⁴⁷ In the Parliamentary debate on the *Boland Report*⁴⁸ you indicated that the Government had no concluded view on the totality of our recommendations. In the absence of decision that legislation be introduced to implement the proposals in that report, it will be necessary in our forthcoming report to discuss and to weigh again the conflicting advantages of the simplification of the conveyancing system which could be achieved by requiring registration of adverse interests likely to affect purchasers against the disadvantages to persons entitled to informally created rights in making those rights defeasible if not registered.

Chancel Repairs

2.45 Our working paper on chancel repairs⁴⁹ was published on 28 October 1983. It reviews the history of the liability which attaches to some land for chancel repair and examines the unsatisfactory aspects of the liability and the case for reform. The law in this area is shown to be riddled with anomalies. For example, the liability attaches only to ancient churches belonging to the Church of England and the Church in Wales and it relates to the repair of the chancels alone and not to the repair of the church buildings as a whole. Furthermore the liability presents a potential trap for purchasers who may find that they have acquired with the land purchased the responsibility for repairing part of a church of which they have never heard and at which they have no intention of worshipping. Normal conveyancing procedures cannot guarantee immunity against the liability. It is, for example, not registrable and so will not be revealed by the usual searches. And the relevant parish records may be of little assistance. In many cases these records are either unclear or have been lost so that the extent to which the liability can be enforced is uncertain not only to purchasers but also to the relevant parochial church councils.

2.46 It is considered that the very existence of the liability is no longer justifiable and that, although there are a number of possible solutions, the

⁴⁵(1982) Law Com. No. 115.

⁴⁶(1982) Law Com. No. 115, para. 116.

⁴⁷(1978) Law Com. No. 86.

⁴⁸*Hansard* (H.L.), 15 December 1982, vol. 437, col. 662.

⁴⁹*Transfer of Land: Liability for Chancel Repairs* (1983) Working Paper No. 86.

proper approach is accordingly not to attempt reform but to abolish it altogether. The provisional conclusion reached by the working paper is that chancel repair liability should be phased out, without compensation, over a period of twenty years. Thereafter no further liability could arise. In 1982 this tentative conclusion received the provisional approval of the General Synod of The Church of England. We are grateful for this co-operation in the exercise.

Rights Appurtenant to Land

2.47 Our first report on the subject of appurtenant rights, *The Law of Positive and Restrictive Covenants*, has been completed and was submitted to you on 9 November 1983.

2.48 In our last Annual Report⁵⁰ we said that we had embarked on a limited round of specialist consultation, with two objectives: the first, to obtain advice on certain specific problems; the second, to seek approval of our general approach, mainly from professional and other bodies. This consultation as well as bringing to light a number of valuable points, did elicit the general support for which we had hoped. We also pursued our discussions with H.M. Land Registry about the manpower difficulties to which we referred in our last Annual Report,⁵¹ and their implications for our proposals, and have sought to resolve this problem in the way which appears from the report.

2.49 As we have mentioned in previous Annual Reports, the place in land law which is now occupied by covenants (other than those between landlord and tenant) will be taken, under our proposals, by a new legal interest in land to be known as a "land obligation". Subject to registration, land obligations (whether positive or restrictive in character) will be directly enforceable as between successive owners of the benefited and burdened land, thus reversing the present rule that the burden of a positive covenant does not run with land.

2.50 Our report includes recommendations designed to cater for the needs of property developments (including freehold flats). It will be possible to set up "development schemes", which are designed to fulfil the same purposes as "building schemes" under the present law but which will have other important functions as well. They will, for example, enable a developer to establish a "manager" of the scheme, with power to enforce land obligations imposed on the development units, including obligations to contribute towards the manager's own costs in making repairs and providing services. The scheme may also impose reciprocal obligations on the manager which are enforceable by the unit owners. We make a special recommendation designed to enable existing blocks of freehold flats to be "rescued", by means of a court application, from difficulties which may beset them because of the present rule that positive covenants do not run with land.

⁵⁰*Seventeenth Annual Report (1981-1982)* (1983) Law Com. No. 119, para. 2.49.

⁵¹*Ibid.*, para. 2.50.

Rights of Access to Neighbouring Land

2.51 The response to our working paper⁵² has now been analysed and we have considered a preliminary policy paper. We have decided to prepare a final report recommending that a landowner should be able to obtain access to his neighbour's land in order to carry out works on his own property. Such access would be based upon the principle described in the working paper, that is to say, it would arise at the discretion of a court and upon such conditions as the court considered just.

Statutory Rights of Reverter

2.52 In our last Annual Report⁵³ we pointed out that the report of a Working Party on this subject published in November 1981 contained proposals which raised issues of policy for the Government. The enactments concerned⁵⁴ with statutory rights of reverter are complex and antiquated but their principal effect is that when land granted in Victorian times for schools, churches and other charitable purposes ceases to be used for those purposes, the ownership of the land reverts to the grantor or his successors. We understand that the relevant Government Departments are engaged in a round of consultation in order to resolve the issues of policy.

LANDLORD AND TENANT

Landlord and Tenant

2.53 In our last Annual Report⁵⁵ we referred to our two outstanding reports on this subject—one on covenants restricting dispositions, alterations and change of user (“the covenants report”); and the other on termination of tenancies (“the termination report”)—both of which were completed in draft, but without clauses, some years ago for consultation purposes. We recorded that we had then recently received the reactions of the Department of the Environment to the two draft reports and would be considering whether either or both of them should, when submitted to you for publication, be accompanied by draft clauses.

2.54 So far as the termination report is concerned we have decided that clauses should be drafted which would give effect to that part of the report which deals with what we have called “landlords’ termination orders”. This part sets out to rationalise and simplify the present law of forfeiture, which deals with the termination of tenancies by landlords for breaches of obligation on the part of their tenants. The merits of the scheme proposed, and the practicability of implementing it, will best be assessed if there is available for consideration a draft Bill. We have decided not to draft clauses for

⁵²*Rights of Access to Neighbouring Land* (1980) Working Paper No. 78.

⁵³*Seventeenth Annual Report 1981-1982* (1983) Law Com. No. 119, para. 2.60.

⁵⁴The main enactments are the School Sites Act 1841, the Literary and Scientific Institutions Act 1854, the Consecration of Churchyards Act 1867 and the Places of Worship Sites Act 1873.

⁵⁵*Seventeenth Annual Report 1981-1982* (1983) Law Com. No. 119, para. 2.65.

implementation of that part of the report which would introduce into the law the new concept of tenants' termination orders, namely termination (with compensation) of a tenancy by order of the court on application by the tenant and on the ground of breaches of obligation by the landlord. We have no doubt about the merits of these proposals but we realise that they may be regarded as more controversial because they are innovatory and that they may require a longer period of further consultation before they can be accepted for introduction into Parliament. When they are accepted, clauses to give effect to them can be drafted. It seemed better to us not at this stage to expend the time of draftsmen and others upon the work of drafting these clauses. The report will be completed and submitted, together with draft clauses on landlords' termination orders, as soon as possible.

2.55 Our present intention is that the covenants report will be completed without clauses. We very much hope that action to implement the termination report, with clauses dealing with landlords' termination orders, will demonstrate that codification, with amendments, of parts of the law of landlord and tenant is both possible and welcome. Clauses to implement the covenants report can be drafted when required.

2.56 We have however given consideration recently to one particular aspect of the covenants report. It has to do with the delays often experienced by tenants who wish to assign their leases, or to sublet, and who are required to obtain their landlords' consent before doing so. Even though the relevant covenant may provide that such consent is not to be unreasonably withheld, the landlord suffers no penalty for withholding or refusing consent unreasonably, or for unreasonably delaying a decision. Our draft report proposes that he should in future be liable in damages to the tenant for any loss which the tenant may suffer in this way; and we think that a damages sanction of this kind will serve in practice to avoid the delays to which we have referred. The Law Society, however, have advocated a scheme whereby a landlord to whom a request for consent had been made would, if he failed to respond within a fixed period, be deemed to have given the consent required. At their request we have recently reconsidered the possibility of recommending a "deemed consent" scheme of this kind, but we have come to the regretful conclusion that we cannot do so. This decision does not spring from an objection of principle: on the contrary, we think that a deemed consent scheme would have much to commend it if it could be made to work effectively and to produce a result which was both fair and certain. In practice, however, it does not seem to us that it could fulfil these criteria.⁵⁶

⁵⁶Since this paragraph was written, we have learned that the Government is consulting upon the possibility of including in the Housing and Building Control Bill provisions allowing secure tenants to exchange their tenancies, and upon the question whether a scheme for deemed consent by the landlord (usually a local authority) should be a feature of these provisions. We shall of course consider any further developments in this matter very carefully. Preliminary indications, however, are that a scheme of this kind, and in this particular setting, would give rise to substantially fewer problems than a general scheme of the kind with which we have been concerned.

PRIVATE INTERNATIONAL LAW

Foreign Money Liabilities

2.57 Our report⁵⁷ on this topic was published on 18 October 1983. In our last Annual Report⁵⁸ we explained that our working paper on this topic,⁵⁹ which was published on 22 October 1981, had elicited a number of comments which were very detailed and which raised various issues of policy for our consideration. The report comprises a review, in the light of the comments which we received on our working paper, of the various substantive and procedural issues in this field. In particular, we canvass in the report the questions which arise from the decision of the House of Lords in *Miliangos*⁶⁰ and the subsequent judicial development of the principle laid down in that case. We conclude that no change in this principle should be introduced, and primary legislation relating to the substantive law in this field is not recommended. We do, however, set out our views on a number of procedural matters and, as we explain in the report, we have in mind that our conclusions on these matters, on which we received detailed comments from the Bar and from the Law Society, should be considered by the bodies concerned with making the rules and administrative directions which govern the procedure of the courts.

2.58 The report is accompanied with a draft clause (and explanatory notes) upon the only procedural matter as to which we recommend reform by primary legislation—namely, the rate of interest that should be applicable to judgments and arbitral awards which are expressed in a foreign currency. In our report we suggest that, although the implementation of our recommendations on this one point by means of a separate Bill might not be appropriate, the clause could be incorporated in some other legislation when the opportunity arises.

Polygamous Marriages

2.59 We referred in our last Annual Report⁶¹ to the publication in September 1982 of a consultative document⁶² prepared jointly by the Scottish Law Commission and ourselves which set out proposals for the retrospective abolition of the rule that a marriage entered into in polygamous form by a person domiciled in this country was regarded as void in this country, even if the marriage was in fact monogamous.⁶³ We explained that this rule, which in relation to marriages celebrated after 31 July 1971 was generally thought to have been embodied in English law by section 11 (d) of the Matrimonial Causes Act 1973, had recently been held by the Court of Appeal in *Hussain*

⁵⁷*Private International Law: Foreign Money Liabilities* (1983) Law Com. No. 124.

⁵⁸*Seventeenth Annual Report (1981-82)* (1983) Law Com. No. 119, para. 2.72.

⁵⁹*Private International Law: Foreign Money Liabilities* (1981) Working Paper No. 80.

⁶⁰*Miliangos v. George Frank (Textiles) Ltd.* [1976] A.C.443.

⁶¹*Seventeenth Annual Report (1981-82)* (1983) Law Com. No. 119, para. 2.74.

⁶²*Polygamous Marriages: Capacity to Contract a Polygamous Marriage and the Concept of the Potentially Polygamous Marriage* (1982) Working Paper No. 83; Consultative Memorandum No. 56.

⁶³The consultative document also contained provisional proposals for related changes in the present law, including the abolition of the concept of the "potentially polygamous" marriage.

v. *Hussain*⁶⁴ not to be applicable to a marriage entered into after that date by a man who was domiciled in England and Wales; that *Hussain* had been decided at a very late stage in the preparation of the consultative document; that in the view of the two Commissions the decision in *Hussain* did not remove the need for the proposed statutory reforms; and that the decision itself gave rise to difficulties and anomalies which called for resolution by means of legislation.⁶⁵

2.60 We have reconsidered the provisional proposals in the consultative document in the light of the comments submitted on consultation to both Commissions, and in the light of the information which has been supplied at our request by a number of Government Departments concerning the practical effect of the *Hussain* decision upon the procedures operated by those departments. Work has now commenced on the preparation of a joint report and draft legislation. We are conscious that careful consideration will need to be given to the question of the extent to which our proposals should have retrospective effect.

2.61 We hope to publish a joint report with the Scottish Law Commission, accompanied with a draft Bill and explanatory notes, during the first half of 1984.

Recognition of Foreign Nullity Decrees

2.62 We issued in April 1983, a consultation paper on the *Recognition of Foreign Nullity Decrees and Related Matters* which was prepared jointly with the Scottish Law Commission. The paper was not published as a working paper, but circulated direct, together with an invitation to comment, to those whom we thought might have a particular interest in the subject. We departed in this respect from our usual processes of consultation partly because we believed that the general public interest in the subject would not be great, and partly because there seemed to us to be a limited range of options for reform. We did, however, make public through the press, the publication of this paper and made copies available to all who sought them from us.

2.63 The course proposed in our consultation paper was to replace the existing common law rules for the recognition of foreign nullity decrees by a statutory regime, essentially the same as that contained in the Recognition of Divorces and Legal Separations Act 1971 with regard to the recognition of foreign divorces and legal separations. At the same time we proposed certain changes to the 1971 Act, which were also to be reflected in the scheme for the recognition of foreign nullity decrees. We intend to produce a single statute applying the same rules to the recognition of all foreign decrees of these kinds.

2.64 The response to our consultation paper has been gratifying especially as we set a rather limited consultation period and we have received a number of very helpful comments on aspects, both theoretical and practical, of this

⁶⁴[1983] Fam. 26.

⁶⁵*Seventeenth Annual Report (1981-82)* (1983) Law Com. No. 119, para. 2.76.

topic. We are now in the course of preparing a report on this subject, which we hope to submit in the first half of 1984.

Choice of Law Rules in Tort and Delict

2.65 The Joint Working Party on Private International Law which was set up by ourselves and the Scottish Law Commission⁶⁶ has continued its consideration of this subject during the year under review. The present members of the Joint Working Party are listed in Appendix 2, and we are grateful for their assistance. Although at least one further meeting will be necessary, the Joint Working Party has now reached an advanced stage in its deliberations; a draft of the joint consultative document is in course of preparation, and we hope that this will be published in the first half of 1984.

2.66 Since our last Annual Report we have been in touch with the Office of Law Reform in Northern Ireland, and we now envisage that the proposals contained in the joint consultative document and the ensuing report will extend to Northern Ireland as well as to the other parts of the United Kingdom.

Choice of Law Rules relating to Marriage

2.67 As indicated at paragraph 2.80 of our last Annual Report, we suspended work on this project in 1973 in the hope that a satisfactory convention would emerge from the Hague Conference on Private International Law. The 1976 Hague Convention on Celebration and Recognition of the Validity of Marriages is not, we understand, acceptable to the Government and we have therefore decided to resume work, jointly with the Scottish Law Commission, on a general review of choice of law rules relating to marriage. We plan to advance work with the assistance of a Joint Working Party on which we hope there will be representation from interested Departments. Some preliminary work on this topic has already been completed within the Commission. A detailed policy paper on the choice of law rules relating to the formal validity of marriages has been prepared for consideration by the Joint Working Party. We and the Scottish Law Commission intend to set up and convene the Joint Working Party once a further paper on the choice of law rules governing capacity to enter into marriage has been prepared.

Domicile

2.68 Over the last thirty years or so there has been growing dissatisfaction with the concept of domicile as a connecting factor. The question of the reform of the law of domicile has twice before been considered by the Lord Chancellor's Private International Law Committee.⁶⁷ The main defects in the law, which the Committee identified in its first report, are: (a) the excessive importance given to the domicile of origin, in particular the rule that the domicile of origin revives when a domicile of choice is abandoned without the acquisition of a new one,⁶⁸ and the heavy burden of proof resting on those

⁶⁶See our *Fourteenth Annual Report (1978-1979)* (1980) Law Com. No. 97, para. 2.42.

⁶⁷*First Report of the Private International Law Committee* (1954) Cmd. 9068; *Seventh Report of the Private International Law Committee* (1963) Cmnd. 1955.

⁶⁸*Udny v. Udny* [1869] L.R. 1 Sc. & D. 441.

who assert that a domicile of origin has been changed; and (b) the difficulties involved in proof of intention to change a domicile.⁶⁹ Attempts to implement the Committee's recommendations were unsuccessful.⁷⁰ Since then there have been a number of developments. First, some reforms in our law of domicile have been introduced by the Domicile and Matrimonial Proceedings Act 1973.⁷¹ These confer capacity to acquire an independent domicile on married women and make certain, mainly consequential, changes to the rules relating to domicile of children. Secondly, domicile has become less important in the field of family law in that habitual residence has been introduced as a replacement or alternative connecting factor,⁷² and it has also proved necessary to devise a special meaning for domicile in the Civil Jurisdiction and Judgments Act 1982 in order to make it accord more closely with the civil law concept of domicile. Thirdly, a number of common law countries, for example Australia and New Zealand, have introduced more wide-ranging reforms than were introduced here in 1973, and the question of the reform of the law of domicile was, we understand, considered at the meeting of the Commonwealth Law Ministers held in February 1983.

2.69 Dissatisfaction with the law of domicile continues to manifest itself in our consultations in family matters⁷³ and recently Lord Scarman has referred to "the long and notorious existence of this difficult concept in our law, dependent upon a refined, subtle and frequently very expensive judicial investigation of the devious twists and turns of the mind of man . . .".⁷⁴ Examination of the law of domicile in this country would seem to be opportune and we said so in our working paper on polygamous marriages.⁷⁵ We are now giving consideration, in collaboration with the Scottish Law Commission, as to how best to proceed with this subject, and to this end we are undertaking consultations with your Department and other interested

⁶⁹The main recommendations of the Committee to cure these defects were that the rule in *Udny v. Udny* should be abolished, and that certain rebuttable presumptions as to a person's domicile should be established. The Committee also made recommendations concerning the domicile of children and the mentally ill.

⁷⁰In 1958 a Domicile Bill to give effect to the Committee's recommendations failed primarily because of opposition by the foreign business community in England who feared that the enactment of the principal presumption proposed might make it harder for them to prove that they were not domiciled in this country and so might make them liable to United Kingdom income tax and estate duty. A less ambitious Bill in 1959 also failed to make progress. For an account of the legislative progress of the two Bills, see Mann, "The Domicile Bills" (1959) 8 I.C.L.Q. 457. The Private International Law Committee was invited to reconsider the question of reform of the law of domicile in the light of the objections made to the two Domicile Bills and their further report, published in 1963, was to a large extent a confirmation of their earlier views.

⁷¹Sects. 1, 3 and 4. These reforms resulted from the proposals made by a Departmental Committee under the chairmanship of the then Chairman of the Law Commission (Scarman J.) and consisting of representatives of the two Commissions, the Lord Chancellor's Department and the Scottish Office: see our *Seventh Annual Report (1971-72)* (1972) Law Com. No. 50, para. 54.

⁷²See, e.g., Recognition of Divorces and Legal Separations Act 1971, and Domicile and Matrimonial Proceedings Act 1973.

⁷³Most recently, in the comments received on our working paper on *Polygamous Marriages* (1982) Working Paper No. 83, Consultative Memorandum No. 56.

⁷⁴*R. v. Barnett L.B.C., ex p. Shah* [1983] 2 W.L.R. 16, 28.

⁷⁵(1982) Working Paper No. 83, Consultative Memorandum No. 56, para. 5.35.

Departments. Similar consultations are being carried out by the Scottish Law Commission in Scotland.

Classification of Limitation of Actions

2.70 We note that you have introduced a Bill,⁷⁶ entitled the Foreign Limitation Periods Bill, for the purpose of implementing the recommendations in our report⁷⁷ on this topic, which was published in June 1982. We understand that this Bill has now reached the Commons.

STATUTE LAW

Consolidation

2.71 During the 1982–83 Session of Parliament the following consolidations (other than consolidation Acts relating to Scotland only) were passed:—

- Litter Act 1983
- Matrimonial Homes Act 1983
- Mental Health Act 1983
- Pilotage Act 1983
- Representation of the People Act 1983.

2.72 Three other consolidations, which had been introduced but not passed before the general election, were re-introduced in the new Parliament and enacted on 26 July 1983. They were:—

- Car Tax Act 1983
- Medical Act 1983
- Value Added Tax Act 1983.

2.73 Consolidation Bills are in preparation on the following topics:—

- Building Control
- Capital Transfer Tax
- Clean Air
- Companies
- County Courts
- Dentists
- Exhibition of Films
- Food
- Housing
- Public Health (Control of Disease)
- Registered Homes

⁷⁶See *Hansard* (H.L.), 27 July 1983, vol. 443, cols. 1546–1550.

⁷⁷Law Com. No. 114. See our *Seventeenth Annual Report 1981–82* (1983) Law Com. No. 119, paras. 2.67–2.70.

Reserve Forces (Protection of Civil Interests)
Road Traffic and Road Traffic Regulation
Sewerage
Weights and Measures.

2.74 In our Seventeenth Annual Report⁷⁸ we drew attention to the work being done on some of the consolidations listed above. We referred to the fact that there had been consultation upon the structure of the consolidation of the Companies Acts, in particular on the question whether the legislation should be divided between several Acts or reproduced in one Act. The consolidation was first prepared in the form of several draft Bills and was then submitted again for consideration by representatives of the legal profession, of accountants and of other interested bodies, with a further consultative document prepared by the Department of Trade and Industry and the two Law Commissions. The response was overwhelmingly in favour of consolidation of the main bulk of the legislation in the form of one Companies Act together with two or three small Acts on separate, peripheral and transitional matters. The work is now well advanced and the consolidation Bills will be available for introduction early in 1984. The main Bill now contains 713 clauses and 23 schedules and is divided into 25 parts.

2.75 Consultation was also carried out upon the wording of the draft Bills, and upon amendments appropriate to the process of consolidation. A great deal of detailed and painstaking work was done both by individuals and by committees of the professions in returning comments and suggestions to the two Law Commissions. We are grateful for all the help given to us. Many suggestions for amendments seemed to us to fall outside the confines of what we can properly recommend as "desirable to enable a satisfactory consolidation . . . to be produced".⁷⁹ These suggestions have been sent to the Department of Trade and Industry. They form a valuable collection of proposed amendments which will merit consideration for the ordinary process of amending legislation.

2.76 On 18 November 1983 a report (Law Com. No. 126), containing amendments to the existing Companies legislation recommended by the Law Commission and the Scottish Law Commission, was submitted to you and to the Lord Advocate. The amendments have all been agreed by the Department of Trade. Most of the work, other than that of the draftsman, upon this consolidation, has been done by lawyers and officials in the Department of Trade. It was long and very burdensome work. We are very grateful to them.

2.77 The work on the Countryside Bill which was mentioned in our last Annual Report⁸⁰ has had to be suspended at the request of the Department of the Environment because of pressure of work caused by recent changes in the law. We understand that this period of delay is expected to be short. Steady progress is being made on the consolidation of the Housing Acts and

⁷⁸(1983) Law Com. No. 119, paras. 2.83-2.89.

⁷⁹Companies Act 1981, s.116(1).

⁸⁰(1983) Law Com. No. 119, para. 2.85.

it is hoped that the work of preparation will be completed in time for the Bill to be introduced during the 1984–85 session. The Law Commission's long-standing commitment to consolidate the Public Health Acts is being fulfilled by the work now being done on the Bills relating to the control of disease, building control and sewerage. Other smaller parts of these and related Acts have already been consolidated in the Refuse Disposal (Amenity) Act 1978 and the Litter Act 1983.

2.78 The work of re consolidating the road traffic legislation is proceeding at a pace which should permit introduction this session of a Road Traffic Regulation Bill to be followed next session by another Bill to re consolidate the Road Traffic Act 1972. This complex and much used body of statute law stands in great need of consolidation and high priority is being given to the work on these Bills.

2.79 In the field of tax law we are glad to report that work is well advanced on the consolidation of the capital transfer tax legislation and that work is about to begin on the re consolidation of the Income and Corporation Taxes Act 1970. This last is being done by a special arrangement, similar to that under which the consolidation of the Companies Acts has been carried out, namely the employment on contract of a retired Parliamentary Counsel. Projects of this size and complexity, which require a number of years to complete, could not be carried out if we were limited to our ordinary drafting resources.

Statute Law Revision

2.80 In collaboration with the Scottish Law Commission, work is in progress on the preparation of a further report on statute law revision. We expect the report, which will include a draft Statute Law (Repeals) Bill, to be ready for submission to you during the present session of Parliament.

2.81 The work includes several research projects linked with recent or projected consolidations, notably those relating to medical practitioners, dentists, companies and pilotage.⁸¹ In the case of medical practitioners and dentists, we are undertaking, in consultation with the medical and dental authorities concerned, a review of the unrepealed enactments which pre-date the Medical Act 1956 and the Dentists Act 1957.⁸² The review is being undertaken at the request of the Department of Health and Social Security and its objective is to identify the enactments which either require restatement in modern terms or can be proposed for repeal so that the medical legislation as a whole can be brought up to date.⁸³ In the case of companies, we are undertaking research and consultation with a view to removing from the Companies Acts obsolete provisions relating to cost-book companies, a form

⁸¹See paras. 2.71–2.76, above.

⁸²The first consolidations of the medical and dental legislation.

⁸³The legislation under consideration includes the Apothecaries Act 1815, the Medical Act 1858, the Medical Act 1860, the Apothecaries Act Amendment Act 1874, the Medical Act (Royal College of Surgeons of England) 1875, the Dentists Act 1878, the Medical Act 1886 and the Apothecaries Act 1907. The Midwives Act 1936 is also being reviewed. A private member's Bill to replace the Anatomy Act 1832 and the Anatomy Act 1871 received its Second Reading on 16 December 1983.

of company that has not existed since 1920; and at a later stage we intend to examine the extent to which the Companies Clauses Consolidation Acts 1845 to 1888, and other legislation concerning companies which pre-dates the Companies Act 1948, still continue to serve a purpose.

Chronological Table of Local and Personal Acts

2.82 This project was instituted in 1974 by direction of the Statute Law Committee. It is designed to provide an authoritative and much needed legislative working tool signposting the effects of the series of public local Acts⁸⁴ passed since 1797 and also the series of private Acts (now known as personal Acts) which reaches back to 1539. Work has been completed on the first stage of the project, which covers the effects of legislation passed during the period 1925–1973⁸⁵ and a detailed text has been prepared showing, in two separate chronological tables, the information retrieved by research.

2.83 Both the volume and the scope of local legislation are striking. Between 1797 and 1981 some 16,000 public general Acts were passed at Westminster, but the public local Acts for the same period number over 26,000. This reflects the fact that from the time of the Industrial Revolution until well into the 20th century local Acts formed the majority of the legislation reaching the statute book.⁸⁶ Local legislation covered a wide range of subjects and played a pivotal role in establishing and regulating the institutions of the modern urban society. Since the 19th century Parliament has been gradually moving from a system of largely local legislation to one of legislation in general terms. This development has effectively stemmed the tide of fresh local legislation, but a vast backlog of local law enacted in the past remains, which continues to be operative in a variety of situations.

2.84 Local legislation is still a basic source of law in many fields and it overlaps the system of general legislation to a surprising extent.⁸⁷ It is a hazard to legal advisers, it impedes efforts to simplify the law and it complicates the process of making institutional changes. Despite repeated re-organisations, the substantive powers of many public authorities are still to be found in public local Acts, having been inherited from their predecessors.

2.85 Until recently this body of legislation was largely uncharted and inaccessible in practice except to the specialist. The simple question of whether a particular enactment was in force could often only be answered by undertaking detailed and time-consuming research and consultation. But since 1974 the position has been changing in consequence of two important initiatives. The first is the work undertaken to compile the Chronological

⁸⁴The term is descriptive. Technically the public Acts were divided in 1797 into two separate series of "public general Acts" and "public local and personal Acts". There have been several changes of classification since then.

⁸⁵Section 4 of the *Chronological Table of the Statutes 1235–1981* (2 vols.) H.M.S.O. records the effects of local and personal legislation passed from 1974 onwards. This work is the responsibility of the Statutory Publications Office.

⁸⁶For example, in 1901 there were 281 local Acts in eight volumes compared with 40 public general Acts in a single volume.

⁸⁷In 1973, for example, some 20 public general Acts are thought to have made provision for the repeal, amendment, modification, exclusion or saving of local legislation.

Table of Local and Personal Acts showing the extent to which local legislation is in force. The other is the rationalisation of local authority legislation which was set in train by the provisions of the Local Government Act 1972, s.262(9) and the Local Government (Scotland) Act 1973, s.225(6). These enactments introduced a general cesser mechanism whereby whole categories of local legislation cease to have effect after a prescribed period during which those concerned are expected to promote fresh legislation re-enacting powers which are still needed.

2.86 The project for a Chronological Table of Local and Personal Acts is a joint responsibility of the Law Commission and the Scottish Law Commission as respects legislation passed before 1973. The first stage of the project has involved—

- (a) the compilation of complete lists of the local, private and personal Acts passed at Westminster since 1539;
- (b) primary research, by the scanning of texts, into the effects of the local and personal legislation passed at Westminster during the research period 1925–1973 and into the effects on local and personal legislation of the public general Acts, Church Assembly or General Synod Measures and general statutory instruments and statutory rules and orders passed or made during that period;
- (c) the preparation of a text incorporating the information retrieved in two separate tables (covering the series of public local Acts and private Acts respectively) in a form which approximates to that used for the *Chronological Table of the Statutes 1235–1981* (which covers the public general Acts).

The text of the tables runs to nearly 800 pages, the earliest entry relating to an Act of 1627 which was affected by legislation passed in 1948 and 1956. Tables are in word-processed form to facilitate the inclusion of information retrieved as a result of further research. At its meeting on 2 December 1983 the Statute Law Committee gave its approval in principle to the publication of the work for general reference.

2.87 The project when completed will record the effects of all the local and personal legislation, whenever passed. It is work that should have been done 100 years ago.⁸⁸ The project forms an essential part of the work of simplifying the statute law, and of making it accessible. The information recorded in the tables is essential for this purpose and the work in progress to rationalise local authority law has reinforced the case for a complete chronological table. The provision of reliable and accessible information as to the extent to which Acts of Parliament are in force is a requirement of any legal system. For these reasons we regard it as important that this work should be brought to completion within a reasonable time-span of, say, five years. We are encouraged by the fact that the Statute Law Committee has recently confirmed that the importance of the project justifies the effort that will be needed to complete it within such a period of time. We are accordingly

⁸⁸The equivalent work covering the public general Acts (now the Chronological Table of the Statutes 1235–1981) was first published in 1870. It has proved to be an indispensable tool in the task of reforming the public general Acts.

examining the possibility of increasing the numbers at present engaged on research for the project.

Accessibility of Local Statutory Instruments

2.88 In 1981 the British Library set up a working party to advise on the future development of its services in the area of law, to the legal profession, academics and the wider public. We submitted suggestions to the working party on the need for a national collection of local statutory instruments and orders. Although these instruments and orders are a form of legislation they are not necessarily printed and research on their effect is difficult because it is not possible at present to consult the bulk of them in one place. The working party has recommended⁸⁹ that particular attention should be paid to developing the British Library's stock of local statutory instruments.

OTHER MATTERS

Incapacitated Principal

2.89 A report,⁹⁰ together with a draft Enduring Powers of Attorney Bill, has been submitted to you and was published on 28 July 1983. The principal recommendation is that the law should be changed so as to permit the creation of a special type of power of attorney—the enduring power of attorney—which would continue to be operable despite the supervening mental incapacity of its donor.

2.90 The report accepts that the present law is unsatisfactory. It may be perfectly sensible for a husband, for example, to appoint his wife (or other close relative) as his attorney so that his affairs can be administered in the event of his becoming mentally incapable. The present law frustrates his natural desire to do this in that a power of attorney granted by him is automatically revoked by his subsequent mental incapacity.

2.91 Whilst, however, our principal recommendation is to permit the creation of enduring powers, we recognise that safeguards are necessary to reduce the risk of abuse by incompetent or dishonest attorneys; for an incapable donor will no longer be able to supervise the activities of his attorney. We accordingly recommend a number of safeguards to protect the donor's interests. For example, the enduring power should be created in a special prescribed form which would include a statement by the donor that he intends the power to continue despite his subsequent mental incapacity. The form would also incorporate explanatory notes. A further safeguard is a requirement that the attorney register the enduring power at the Court of Protection once he has reason to believe that the donor is, or is becoming, mentally incapable. Before he could register, the attorney would usually be required to notify the donor's nearest relatives so that they could object to the registration if they wished.

⁸⁹*Report of the British Library Working Party on Provision for Law*, (1983), para. 6.5. See also paras. 2.2.1, 3.2 and 3.5.

⁹⁰*The Incapacitated Principal*, (1983) Law Com. No. 122.

2.92 The report reflects the overwhelming support for a change in the law in this area. Many other countries have already introduced enduring powers. Our recommendations are intended to achieve an acceptable balance between the need to protect the donor's interests and the need to produce a simple, cheap and attractive facility that people will want to use.

Advice to Government Departments, etc.

2.93 We have been asked for our advice or views on a variety of matters mainly in the international field. We are not always able to respond to these requests either because of lack of resources or because the request falls outside the general area of law with which we are currently concerned. We list here some of the matters on which we were able to respond and which are not referred to elsewhere in this report.

(i) E.E.C. Convention on Contractual Obligations

2.94 The E.E.C. Convention on the Law applicable to Contractual Obligations which was concluded in 1980 has not yet been brought into force. One reason for this has been the absence of agreement between the Member States over the question whether jurisdiction in relation to the Convention should be conferred on the European Court of Justice. Discussion of this issue has continued during the year, as it has since 1980, and we have provided advice from time to time. No agreement between the Member States has yet been reached.

(ii) Proposed E.E.C. Directive on Commercial Agents

2.95 We reported⁹¹ in 1977 on the then draft directive on the law relating to commercial agents. Negotiations are still continuing on a proposed directive on this topic and we have expressed our views to the Department of Trade on the latest version. We remain unconvinced that this is an area of law in need of reform or of harmonisation.

(iii) Unidroit: Draft Convention on Agency in the International Sale of Goods

2.96 Negotiations under the aegis of Unidroit have continued over a period of years with the objective of finalising a convention on agency of an international character. An unsuccessful attempt to conclude such a convention was made at a diplomatic conference in Romania in 1979. Further discussions followed that conference and a revised draft was presented to a diplomatic conference in Switzerland in February 1983. When consulted upon this latest draft, we maintained our earlier view that we were unconvinced of the need for such an international convention. It should, however, be reported that, at the diplomatic conference in Switzerland earlier this year (in which 58 States participated) a convention on agency in the international sale of goods was adopted.

(iv) Draft E.E.C. Directive on Non-Life Insurance Services

2.97 In 1979, we published a report on the choice of law rules in the then draft of the E.E.C. Directive on Non-Life Insurance Services. This report was prepared by a Joint Working Group of the Law Commission and the Scottish

⁹¹*Law of Contract: Report on the Proposed E.E.C. Directive on the Law Relating to Commercial Agents*, (1977) Law Com. No. 84.

Law Commission. Negotiations on this directive have continued in Brussels ever since and we have, from time to time, provided advice and assistance in those negotiations in so far as they relate to choice of law issues. There has, however, been little progress towards agreement between the Member States on the choice of law issues in the year under review.

Law Reform Committee

2.98 The Law Reform Committee's work on Latent Damage has taken account of *Pirelli General Cable Works Ltd. v. Oscar Faber and Partners*.⁹² That case concerned a claim in the tort of negligence for damage to property and it raised the question of the starting date for the relevant period of limitation where the damage is latent in the first instance. Their Lordships reached substantially the same conclusion in regard to latent damage to property as they had reached twenty years before, in relation to latent injury,⁹³ namely that time starts to run against the plaintiff from the date that the damage is sustained, although it may not be discovered or discoverable until very much later. The Law Reform Committee's report on the subject of Latent Damage is now almost complete.

Bingham Committee

2.99 At the end of March 1983 the Bingham Committee⁹⁴ issued a consultative document on the subject of Discovery of Documents and Disclosure. Submissions were requested to reach the Committee by 31 July and work has begun towards the production of a report on the subject.

Criminal Law Revision Committee

2.100 The Criminal Law Revision Committee has published two working papers on the law relating to sexual offences.⁹⁵ Consultations on the first of these, dealing with sexual offences (apart from the laws relating to prostitution), has been completed and a report on this subject is now being drafted. It is expected to be published during the coming year.

⁹²[1983] 2 WLR 6.

⁹³*Cartledge v. Jopling* [1963] A.C. 758.

⁹⁴The Committee was set up in 1982 "to examine the duty owed by a party to proceedings or his solicitor not to use documents disclosed to him on discovery for any purpose unconnected with those proceedings and to consider whether any changes are, in the opinion of the Committee, desirable". It is chaired by the Honourable Mr. Justice Bingham and its members are the Honourable Michael Beloff, Q.C., Mr. Charles Butcher, Mr. Edward Nugee, Q.C., Professor Harry Street, Judge Wingate, Q.C. and Mr Charles Wintour.

⁹⁵*Working Paper on Sexual Offences (apart from the Laws relating to Prostitution)* (1980), and *Working Paper on Offences relating to Prostitution and Allied Offences* (1982).

PART III
GENERAL

Responsibilities of Commissioners and Legal Staff

3.1 The responsibilities of Commissioners and legal staff for law reform projects falling within particular fields of law are shown in Appendix 1. The Appendix reflects the position at the date of this report.

3.2 Professor G. H. Treitel (Vinerian Professor of English Law, Oxford University) and Mr. F. M. B. Reynolds (Fellow of Worcester College, Oxford and Reader in Law, Oxford University) continue to assist us as consultants on particular projects to reform the law of contract. We are very grateful for their help.

3.3 Upon his retirement as Permanent Secretary in your Department Sir Wilfrid Bourne, K.C.B., Q.C., offered to do part time work for the Law Commission on a voluntary basis. In that capacity he has given help of great value in the drafting of policy papers and in analysing the response to consultation documents. Topics on which he has worked include minors' contracts, the parol evidence rule and rights of access to neighbouring land.

Staff

3.4 Our full-time legal staff at present numbers 22: the Secretary, 6 draftsmen and 15 other lawyers. We also have 25 full-time non-legal staff. 4 lawyers (including 2 draftsmen) and 2 non-legal staff assist us part-time.

Library

3.5 The Library has continued to be deeply involved with research projects of legal staff. Preliminary investigations are being undertaken with a view to the installation of a system of computerised legal information retrieval.

3.6 In September, the report of the British Library Working Party on Provision for Law was published, which acknowledged the suggestions made by the Commission on the provision of local statutory instruments. The Librarian is a member of a sub-committee set up by the British and Irish Association of the Law Librarians to consider response to and implementation of the report.

3.7 Liaison is maintained with other law libraries and we are grateful especially to the Library of the Institute of Advanced Legal Studies for loans and photocopies not available from our own stock. We have also been able to meet a number of requests for loans from other libraries.

Co-operation with Scottish Law Commission

3.8 Our annual joint meeting was held in London on 21 and 22 April 1983 when we discussed the progress of our joint activities and the impact on the work of each Commission of projects we are undertaking separately.

During the course of the year we have worked jointly on a number of law reform projects in the field of private international law.¹ In addition we have worked with them on projects concerning contracts for the supply of goods² and conflicts of jurisdiction affecting children.³ We also work jointly with the Scottish Law Commission on matters in the field of statute law, and in particular on proposals for the consolidations or repeal of enactments which apply both to England and Wales and to Scotland.

Co-operation with other lawyers

3.9 We have had meetings during the course of the year with representatives of the Law Reform Committee of the Senate of the Inns of Court and the Bar, the Law Society, the Society of Public Teachers of Law, the Association of Law Teachers and the Oxford Centre for Socio-Legal Studies. We attach great importance to our relations with these organisations. Finally, we had "open days" on Private International Law and the Law of Contract. These followed the pattern established in previous years. Law teachers specialising in these subjects were invited and the teams concerned with them acted as hosts. We are considering holding an open day on Criminal Law in 1984. We find all these meetings most helpful in assisting us to keep in touch with the thinking of practising and academic lawyers.

Relations with lawyers overseas

3.10 We have continued to maintain contact with law reform agencies in other countries and, in particular, in the Commonwealth. In connection with the latter Mr. Davenport attended the Seventh Commonwealth Law Conference held in Hong Kong between 19 and 23 September 1983. On 21 September 1983 he took part in the Forum on Law Reform Within The Commonwealth at a meeting of the Commonwealth Law Reform Agencies held in Hong Kong and organised by the Law Reform Commission of Hong Kong. The meeting afforded a valuable opportunity for the exchange of ideas and information and we are grateful to the Law Reform Commission of Hong Kong for the invitation to attend. It is clear that law reform agencies have much to learn from each other, both about their methods of working and in relation to individual projects. It is hoped that the next meeting of Commonwealth Law Reform Agencies will take place in Jamaica immediately before the next Commonwealth Law Conference.

3.11 In October 1983 Dalhousie University in Halifax, Nova Scotia, celebrated the centenary of its Law School. It was the first common law Law School in Canada and it has earned a high reputation both by the work of its faculty and by the achievements in law and politics of its graduates. In recognition of the shared heritage of the common law and of the spirit and endeavour of law reform, our Chairman was invited to take part in the celebrations at Dalhousie and to deliver one of a series of four lectures on the experience of the common law. In the distinguished company of the Right Honourable Pierre Trudeau, Prime Minister of Canada, of the Honourable Mr. Justice Brian Dickson of the Supreme Court of Canada, of the Honour-

¹See paras. 2.59-2.69, above.

²See paras. 2.4-2.7, above.

³See paras. 2.32-2.34, above.

able Taslim Elias, President of the International Court of Justice, and of the Honourable Rachelle Glube, Chief Justice of the Trials Division of the Supreme Court of Nova Scotia, our Chairman was honoured by the conferring of the honorary degree of Doctor of Laws of Dalhousie University.

Law Commission Publications: Background information

3.12 Law Commission reports are published by H.M.S.O. as parliamentary papers, that is they appear in one of the numbered series of papers coming before either House. Some reports are "act papers" which an Act of Parliament has required should be laid before the House of Commons and which the House has ordered to be printed. These are the annual reports and reports which are "laid before Parliament by the Lord High Chancellor pursuant to section 3(2) of the Law Commissions Act 1965", that is reports relating to items appearing in the Commission's Programmes. Since 1968 these have been published as House of Commons Papers and have that number in the bottom left hand corner. Other Commission reports are not demanded by the Act (i.e. references under section 3(1)(e) of the Act) and these are "presented to Parliament by the Lord High Chancellor by command of Her Majesty" and known as command papers.

3.13 In 1967 it was agreed that for reasons of convenience our reports should also form a discrete sequence and the Law Com. numbering was introduced. Numbers 1-10 were numbered retrospectively and a note of explanation was contained in No. 11. Law Commission working papers are not mentioned in the Act and are published by the Commission itself and not the Lord Chancellor. They are not, therefore, parliamentary papers although since 1973 (No. 47) they have been published through H.M.S.O.

3.14 A full list of the published working papers and reports of the Law Commission is given in Appendix 3. This Appendix indicates the extent to which law reform proposals made by the Law Commission have been implemented by legislation and which of the reports contains a draft Bill or draft clauses. We wish to thank Professional Books for continuing to publish reprints of our working papers and reports.

Visitors from Overseas

3.15 Among the visitors to the Law Commission from overseas in the past year were:

- Professor Gordon Bale (Queen's University, Kingston, Canada)
- Mr. Frank Bates (University of Tasmania, Australia)
- Dr. Bitto (Scientific Officer, Institute for Legal and Administrative Sciences of the Hungarian Academy of Sciences, Budapest)
- Professor James Crawford (Law Reform Commissioner, Australia)
- Mr. B. E. D. de Speville (Secretary to the Hong Kong Law Commission)
- Mr. W. H. Hurlburt, Q.C. (Director, Institute of Law Research and Reform, Alberta, Canada)
- Professor George Klippert (University of British Columbia, Canada)
- Mr. Justice Linden (President of the Law Reform Commission, Canada)

Mr. C. S. Mohan (District Judge, Singapore)
Mr. George Ryan (Law Reform Commissioner, Victoria, Australia)
Mrs. Soulioti (Law Commission, Cyprus)
Mr. William Teale (Senior Law Reform Officer, Australian Law Reform
Commission)
Professor Louis Waller (Law Reform Advisory Council, Victoria,
Australia).

(Signed) RALPH GIBSON, *Chairman.*
STEPHEN CRETNEY.
BRIAN DAVENPORT.
PETER NORTH.

JOHN GASSON, *Secretary.*
22 December 1983.

APPENDIX 1

RESPONSIBILITIES OF COMMISSIONERS AND LEGAL STAFF

CONTRACT AND TORT

Generally: Dr. P. M. North, Mr. M. W. Parkington (until April 1983) with Mr. P. Jacob (until October 1983), Mr. I. H. Maxwell (until September 1983) and Mr. O. J. Parker.

Supply of Goods: Mr. B. J. Davenport, Q.C., Chairman, Dr. P. M. North, Mr. M. W. Parkington (until April 1983) with Mr. P. Jacob (until October 1983) and Mr. O. J. Parker.

CRIMINAL LAW

Mr. B. J. Davenport, Q.C., Chairman, Mr. C. W. Dymont with Mr. M. N. Farmer and Mrs. B. M. Hindley.

FAMILY LAW

Mr. S. M. Cretney, Dr. P. M. North, Mr. D. S. Gordon with Mr. R. L. Jones,* Mr. A. Akbar, Mr. M. Hatcher and Miss J. C. Hern.

PROPERTY LAW

Generally: Mr. S. B. Edell, Mr. R. T. Oerton with Mr. A. J. Tuck and Mr. J. D. Saunders.

Landlord and Tenant: Mr. S. B. Edell, Mr. R. T. Oerton with Mr. K. A. T. Davey, C.B.* and Mr. A. J. Tuck.

Land Registration: Mr. S. M. Cretney, Mr. D. S. Gordon with Miss J. C. Hern and Mrs. L. S. Daniel (until May 1983).

PRIVATE INTERNATIONAL LAW

Dr. P. M. North and Mr. S. M. Cretney, with Mr. A. Akbar, Mr. A. Cope, Mr. R. J. Dormer and Mr. I. H. Maxwell (until September 1983).

STATUTE LAW

Consolidation: Chairman, Mr. J. C. Jenkins, with Miss M. S. Christie,* Mr. M. L. Dunlap, Lady Johnston,* Miss C. E. Johnston, Mr. P. R. Lane, Mr. D. H. S. Robson and Mr. G. B. Sellers.

Statute Law Revision: Chairman, Mr. R. H. Streeten with Mr. G. F. Aronson, C.B.* and Mr. A. M. Rowland.

The Chronological Table: Chairman, Mr. R. H. Streeten with Mr. A. M. Rowland and Mrs. J. J. Harkin**.

OTHER MATTERS

The Incapacitated Principal: Mr. S. B. Edell with Mr. P. Jacob (until October 1983) and Mr. J. D. Saunders.

*Part-time members of the legal staff.

**Non-legal member of the staff.

APPENDIX 2

MEMBERSHIP OF WORKING PARTIES

Joint Working Party on Private International Law*

Professor A. L. Diamond, <i>Chairman</i>	Institute of Advanced Legal Studies
Mr. A. E. Anton, C.B.E.	Consultant, Scottish Law Commission
Mr. R. D. D. Bertram, W.S.	Scottish Law Commission
Mr. L. A. Collins	Messrs. Herbert Smith & Co., London
Mr. B. J. Davenport, Q.C.	Law Commission
The Hon. Lord Maxwell	Scottish Law Commission
Mr. C. G. J. Morse	King's College, London
Dr. P. M. North	Law Commission
Mr. R. J. Dormer, <i>Secretary</i>	Law Commission

Joint Working Party on Recognition of Foreign Nullity Decrees*

Dr. P. M. North	} <i>Joint</i>	Law Commission
Dr. E. M. Clive		} <i>Chairmen</i>
Mr. S. M. Cretney		Law Commission
The Hon. Lord Dunpark		Court of Session
Mr. J. Siddle		Foreign and Commonwealth Office
Mr. P. J. Tweedale		Office of Law Reform, Northern Ireland
Mr. I. H. Maxwell, <i>Secretary</i>		Law Commission

*See paras. 2.65-2.66, above.

**See paras. 2.62-2.64, above.

APPENDIX 3

LIST OF THE LAW COMMISSION'S PUBLICATIONS

A. Working Papers

<i>Working Paper</i>	<i>Title</i>	<i>Resulting Report</i>
1966		
No. 1	Transfer of Land: Root of Title to Freehold Land	Law Com. No. 9.
No. 2	Draft Proposals on Powers of the Court of Appeal to Sit in Private and Restrictions upon Publicity in Legitimacy Proceedings	Law Com. No. 8.
No. 3	Restrictive Covenants	Law Com. No. 11.
No. 4	Should English Wills be Registrable?	
No. 5	Liability of Trade Vendors of New Dwelling Houses to First and Subsequent Purchasers (First Paper)	Law Com. No. 40.
No. 6	Liability of Vendors and Lessors for Defective Premises (Second Paper)	Law Com. No. 40.
1967		
No. 7	Provisional Proposals for Amendments to the Landlord and Tenant Act 1954, Part II (Business Tenancies)	Law Com. No. 17.
No. 8	Provisional Proposals Relating to Obligations of Landlords and Tenants	Law Com. No. 67.
No. 9	Family Law: Matrimonial and Related Proceedings. Financial Relief	Law Com. No. 25.
No. 10	Proposals for Changes in the Law Relating to Land Charges affecting Unregistered Land and to Local Land Charges.	Law Com. Nos. 18 and 62.
No. 11	Powers of Attorney	Law Com. No. 30.
No. 12	Proof of Paternity in Civil Proceedings	Law Com. No. 16.
No. 13	Exploratory Working Paper on Administration Law	Law Com. No. 20.
No. 14	Interpretation of Statutes (Joint Working Paper—Scottish Law Commission Memorandum No. 6)	Law Com. No. 21.
1968		
No. 15	Family Law: Arrangements for the Care and Upbringing of Children	
No. 16	Provisional Proposals Relating to Termination of Tenancies	
No. 17	Codification of the Criminal Law: General Principles. The Field of Enquiry	

<i>Working Paper</i>	<i>Title</i>	<i>Resulting Report</i>
No. 18	Provisional Proposals Relating to Amendments to sections 12-15 of the Sale of Goods Act 1893 and Contracting Out of the Conditions and Warranties implied by those sections (Joint Working Paper—Scottish Law Commission Memorandum No. 7)	Law Com. No. 24.
No. 19	Loss of Services	Law Com. Nos. 25 and 56.
No. 20	Nullity of Marriage	Law Com. No. 33.
No. 21	Polygamous Marriages	Law Com. No. 42.
1969		
No. 22	Restitution of Conjugal Rights	Law Com. No. 23.
No. 23	Malicious Damage to Property	Law Com. No. 29.
No. 24	Transfer of Land: Rentcharges (the subject of a further Working Paper No. 49).	
1970		
No. 25	The Law of Landlord and Tenant: Working Party's Provisional Proposals Relating to Covenant's Restricting Dispositions, Parting with Possession, Change of User and Alterations.	
No. 26	Criminal Law: Forgery	Law Com. No. 55.
No. 27	Personal Injury Litigation: Assessment of Damages, Itemization of Pecuniary Loss and the Use of Actuarial Tables as an Aid to Assessment	
No. 28	Family Law: Jurisdiction in Matrimonial Causes (other than Nullity)	Law Com. No. 48.
No. 29	Codification of the Criminal Law: Subject III. Territorial and Extra-Territorial Extent of the Criminal Law	Law Com. No. 91.
No. 30	Codification of the Criminal Law: Strict Liability and the Enforcement of the Factories Act 1961.	
No. 31	Codification of the Criminal Law: General Principles. The Mental Element in Crime	Law Com. No. 89.
No. 32	Transfer of Land: Land Registration (First Paper)	Law Com. No. 32.
No. 33	Criminal Law: Perjury and Kindred Offences	Law Com. No. 96.
1971		
No. 34	Family Law: Jactitation of Marriage (the subject of a further Working Paper No. 48)	
No. 35	Family Law: Solemnisation of Marriage	Law Com. No. 53.
No. 36	Transfer of Land: Appurtenant Rights	Law Com. No. 127.
No. 37	Transfer of Land: Land Registration (Second Paper)	Law Com. No. 125.

<i>Working Paper</i>	<i>Title</i>	<i>Resulting Report</i>
No. 38	Family Law: Jurisdiction in Suits for Nullity of Marriage	Law Com. No. 48.
No. 39	Exemption Clauses in Contracts for Services (Joint Working Paper—Scottish Law Commission Memorandum No. 15)	Law Com. No. 69.
No. 40	Administrative Law	Law Com. No. 73.
No. 41	Personal Injury Litigation: Assessment of Damages	Law Com. No. 56.
No. 42	Family Law: Family Property Law	Law Com. Nos. 52, 61 and 86.

1972

No. 43	Codification of the Criminal Law: General Principles. Parties, Complicity and Liability for the Acts of Another	
No. 44	Codification of the Criminal Law: General Principles. Criminal Liability of Corporations	
No. 45	Transfer of Land: Land Registration (Third Paper)	Law Com. No. 125.
No. 46	Charging Orders on Land	Law Com. No. 74.

1973

No. 47	Injuries to Unborn Children	Law Com. No. 60.
No. 48	Family Law: Declarations in Family Matters	
No. 49	Transfer of Land: Rentcharges	Law Com. No. 68.
No. 50	Codification of the Criminal Law: General Principles. Inchoate Offences: Conspiracy, Attempt and Incitement	
No. 51	Transfer of Land: "Subject to Contract" Agreements	Law Com. No. 65.
No. 52	Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability	Law Com. No. 75.
No. 53	Family Law: Matrimonial Proceedings in Magistrates' Courts	Law Com. No. 77.

1974

No. 54	Criminal Law: Offences of Entering and Remaining on Property	Law Com. No. 76.
No. 55	Codification of the Criminal Law: General Principles. Defences of General Application	Law Com. No. 83.
No. 56	Criminal Law: Conspiracy to Defraud **Private International Law: E.E.C. Preliminary Draft Convention of the Law Applicable to Contractual and Non-Contractual Obligations (prepared jointly with the Scottish Law Commission)	

**This consultative document received a wide circulation but was not put on sale at H. M. Stationery Office and was not given a number in the series.

<i>Working Paper</i>	<i>Title</i>	<i>Resulting Report</i>
No. 57	Codification of the Criminal Law: Conspiracies Relating to Morals and Decency	Law Com. No. 76.
No. 58	Breach of Confidence	Law Com. No. 110.
1975		
No. 59	Contribution	Law Com. No. 79.
No. 60	Firm Offers	
No. 61	Penalty Clauses and Forfeiture of Monies Paid	
No. 62	Criminal Law: Offences Relating to the Administration of Justice	Law Com. No. 96.
No. 63	Codification of the Criminal Law: Conspiracies to Effect a Public Mischief and to Commit a Civil Wrong	Law Com. No. 76.
No. 64	Liability for Defective Products (Joint Working Party—Scottish Law Commission Memorandum No. 20)	Law Com. No. 82.
No. 65	Law of Contract: Pecuniary Restitution on Breach of Contract	Law Com. No. 121.
1976		
No. 66	Interest	Law Com. No. 88.
No. 67	Transfer of Land: Land Registration (Fourth Paper)	
No. 68	Custody of Children: Jurisdiction and Enforcement within the United Kingdom (Joint Working Paper—Scottish Law Commission Memorandum No. 23)	
No. 69	The Incapacitated Principal	Law Com. No. 122.
No. 70	Law of Contract: The Parol Evidence Rule	
1977		
No. 71	Law of Contract: Implied Terms in Contracts for the Supply of Goods	Law Com. No. 95.
No. 72	Codification of the Criminal Law: Treason, Sedition and Allied Offences	
1979		
No. 73	Insurance Law: Non-Disclosure and Breach of Warranty	Law Com. No. 104.
No. 74	Family Law: Illegitimacy	Law Com. No. 118.

<i>Working Paper</i>	<i>Title</i>	<i>Resulting Report</i>
1980		
No. 75	Classification of Limitation in Private International Law	Law Com. No. 114.
No. 76	Time Restrictions on Presentation of Divorce and Nullity Petitions	Law Com. No. 116.
No. 77	Family Law: Financial Relief after Foreign Divorce	Law Com. No. 117.
No. 78	Rights of Access to Neighbouring Land	
1981		
No. 79	Offences against Religion and Public Worship	
No. 80	Private International Law: Foreign Money Liabilities	Law Com. No. 124.
1982		
No. 81	Minors' Contracts	
No. 82	Offences against Public Order	Law Com. No. 123.
No. 83	Polygamous Marriages: Capacity to Contract a Polygamous Marriage and the Concept of the Potentially Polygamous Marriage (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 56)	
No. 84	Criminal Libel	
1983		
No. 85	Sale and Supply of Goods (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 58)	
No. 86	Transfer of Land: Liability for Chancel Repairs	

Law Commission Working Papers Nos. 58, and 60 to 86 are on sale at H.M. Stationery Office and may be ordered through booksellers.

An unabridged reprint of Law Commission Working Papers Nos. 1-84, bound in eleven volumes, is published by Professional Books, Milton Trading Estate, Abingdon, Oxon. OX14 4SY. Vols. 1-9 (1-76) are available at £195, Vol. 10 (Nos. 77-80) and Vol. 11 (Nos. 81-84) are available separately at £33 each.

B. Reports and Programmes

Publications which have been laid before Parliament under section 3(2) or (3) of the Law Commissions Act 1965 and publications which have been presented to Parliament as Command Papers showing implementation. Those marked * do not call for legislation. Those marked ** contain a draft Bill or draft clauses.

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
1965		
Law Com. No. 1	First Programme of Law Reform	*
1966		
Law Com. No. 2	First Programme of Consolidation and Statute Law Revision	*
**Law Com. No. 3	Proposals to Abolish Certain Ancient Criminal Offences	Criminal Law Act 1967 (c. 58).
Law Com. No. 4	First Annual Report 1965-1966	*
Law Com. No. 5	Landlord and Tenant: Interim Report on Distress for Rent	No
Law Com. No. 6	Reform of the Grounds of Divorce: the Field of Choice (Cmnd. 3123)	*
**Law Com. No. 7	Proposals for Reform of the Law Relating to Maintenance and Champerty	Criminal Law Act 1967 (c. 58).
**Law Com. No. 8	Report on the Powers of Appeal Courts to Sit in Private and the Restrictions upon Publicity in Domestic Proceedings (Cmnd. 3149)	Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (c. 63).
1967		
**Law Com. No. 9	Transfer of Land: Interim Report on Root of Title to Freehold Land	Law of Property Act 1969 (c. 59).
**Law Com. No. 10	Imputed Criminal Intent (<i>Director of Public Prosecutions v. Smith</i>)	In part by section 8 of the Criminal Justice Act 1967 (c. 80).
Law Com. No. 11	Transfer of Land: Report on Restrictive Covenants	In part by Law of Property Act 1969 (c. 59).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
Law Com. No. 11A	Sea Fisheries (Shellfish) Bill: Report by the two Commissions on the Consolidation of Certain Enactments relating to Shellfish Fisheries and Shellfish (Scot. Law Com. No. 6A) (Cmnd. 3267)	Sea Fisheries (Shellfish) Act 1967 (c. 83).
Law Com. No. 12	Second Annual Report 1966-1967	*
**Law Com. No. 13	Civil Liability for Animals	Animals Act 1971 (c. 22).
1968		
Law Com. No. 14	Second Programme of Law Reform	*
Law Com. No. 15	Third Annual Report 1967-1968 (H.C. 312)	*
**Law Com. No. 16	Blood Tests and the Proof of Paternity in Civil Proceedings (H.C. 2)	Family Law Reform Act 1969 (c. 46).
1969		
**Law Com. No. 17	Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II (H.C. 38)	Law of Property Act 1969 (c. 59).
**Law Com. No. 18	Transfer of Land: Report on Land Charges Affecting Unregistered Land (H.C. 125)	Law of Property Act 1969 (c. 59).
Law Com. No. 18A	Trustee Savings Banks Bill: Report by the two Commissions on the Consolidation of the Trustee Savings Banks Acts 1954 to 1968 (Scot. Law Com. No. 10) (Cmnd. 4004)	Trustee Savings Banks Act 1969 (c. 50).
**Law Com. No. 19	Proceedings against Estates (Cmnd. 4010)	Proceedings Against Estates Act 1970 (c. 17).
Law Com. No. 20	Administrative Law (Cmnd. 4059)	*
**Law Com. No. 21	Interpretation of Statutes: Report by the two Commissions (Scot. Law Com. No. 11) (H.C. 256)	No
**Law Com. No. 22	Statute Law Revision: First Report (Cmnd. 4052)	Statute Law (Repeals) Act 1969 (c. 52).
**Law Com. No. 23	Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights (H.C. 369)	Matrimonial Proceedings and Property Act 1970 (c. 45).
**Law Com. No. 24	Exemption Clauses in Contracts: First Report. Amendments to the Sale of Goods Act 1893; Report by the two Commissions (Scot. Law Com. No. 12) (H.C. 403)	Supply of Goods (Implied Terms) Act 1973 (c. 13).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
**Law Com. No. 25	Family Law: Report on Financial Provision in Matrimonial Proceedings (H.C. 448)	Matrimonial Proceedings and Property Act 1970 (c. 45); Law Reform (Miscellaneous Provisions) Act 1970 (c. 33).
**Law Com. No. 26	Breach of Promise of Marriage (H.C. 453)	Law Reform (Miscellaneous Provisions) Act 1970 (c. 33).
Law Com. No. 27	Fourth Annual Report 1968-1969 (H.C. 27)	*

1970

**Law Com. No. 28	Statute Law Revision: Second Report. Draft Wild Creatures and Forest Laws Bill (Cmnd. 4433)	Wild Creatures and Forest Laws Act 1971 (c. 47).
**Law Com. No. 29	Criminal Law: Report on Offences of Damage to Property (H.C. 91)	Criminal Damage Act 1971 (c. 48).
**Law Com. No. 30	Powers of Attorney (Cmnd. 4473)	Powers of Attorney Act 1971 (c. 27).
**Law Com. No. 31	Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters (Cmnd. 4497)	Administration of Estates Act 1971 (c. 25).
Law Com. No. 32	Civil Liability for Dangerous Things and Activities (H.C. 142)	*
**Law Com. No. 33	Family Law: Report on Nullity of Marriage (H.C. 164)	Nullity of Marriage Act 1971 (c. 44).
**Law Com. No. 34	Hague Convention on Recognition of Divorces and Legal Separations: Report by the two Commissions (Scot. Law Com. No. 16) (Cmnd. 4542)	Recognition of Divorces and Legal Separations Act 1971 (c. 53).
Law Com. No. 35	Limitation Act 1963 (Cmnd. 4532)	Law Reform (Miscellaneous Provisions) Act 1971 (c. 43).
Law Com. No. 36	Fifth Annual Report 1969-1970 (H.C. 170)	*
**Law Com. No. 37	Statute Law Revision: Third Report (Cmnd. 4546)	Statute Law (Repeals) Act 1971 (c. 52).
Law Com. No. 38	Coinage Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Coinage (Scot. Law Com. No. 18) (Cmnd. 4544)	Coinage Act 1971 (c. 24).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
Law Com. No. 39	Vehicles (Excise) Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Excise Duties on Mechanically Propelled Vehicles, and to the Licensing and Registration of such Vehicles (Scot. Law Com. No. 19) (Cmnd. 4547)	Vehicles (Excise) Act 1971 (c. 10).
**Law Com. No. 40	Civil Liability of Vendors and Lessors for Defective Premises (H.C. 184)	Defective Premises Act 1972 (c. 35).
1971		
Law Com. No. 41	National Savings Bank Bill: Report by the two Commissions on the Consolidation of Enactments Relating to the National Savings Bank (Scot. Law Com. No. 20) (Cmnd. 4574)	National Savings Bank Act 1971 (c. 29).
**Law Com. No. 42	Family Law: Report on Polygamous Marriages (H.C. 227)	Matrimonial Proceedings (Polygamous Marriages) Act 1972 (c. 38).
Law Com. No. 43	Taxation of Income and Gains Derived from Land: Report by the two Commissions (Scot. Law Com. No. 21) (Cmnd. 4654)	In part by section 82 of the Finance Act 1972 (c. 41).
Law Com. No. 44	Second Programme of Consolidation and Statute Law Revision (H.C. 338)	*
Law Com. No. 45	Town and Country Planning Bill: Report on the Consolidation of Certain Enactments Relating to Town and Country Planning (Cmnd. 4684)	Town and Country Planning Act 1971 (c. 78).
Law Com. No. 46	Road Traffic Bill: Report by the two Commissions of the Consolidation of Certain Enactments Relating to Road Traffic (Scot. Law Com. No. 22) (Cmnd. 4731)	Road Traffic Act 1972 (c. 20).
Law Com. No. 47	Sixth Annual Report 1970-1971 (H.C. 32)	*
**Law Com. No. 48	Family Law: Report on Jurisdiction in Matrimonial Causes (H.C. 464)	Domicile and Matrimonial Proceedings Act 1973 (c. 45).
**Law Com. No. 49	Statute Law Revision: Fourth Report by the two Commissions (Scot. Law Com. No. 26) (Cmnd. 5108)	Statute Law (Repeals) Act 1973 (c. 39).

1972

Law Com. No. 50	Seventh Annual Report 1971-1972 (H.C. 35)	*
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<i>Report</i>	<i>Title</i>	<i>Implementation</i>
Law Com. No. 51	Matrimonial Causes Bill: Report on the Consolidation of Certain Enactments Relating to Matrimonial Proceedings, Maintenance Agreements, and Declarations of Legitimacy, Validity of Marriage and British Nationality (Cmnd. 5167)	Matrimonial Causes Act 1973 (c. 18).
1973		
Law Com. No. 52	Family Law: First Report on Family Property. A New Approach (H.C. 274)	Legislative proposals deferred until later reports.
Law Com. No. 53	Family Law: Report on Solemnisation of Marriage in England and Wales (H.C. 250)	No
Law Com. No. 54	Third Programme of Law Reform (H.C. 293)	*
**Law Com. No. 55	Criminal Law: Report on Forgery and Counterfeit Currency (H.C. 320)	Forgery and Counterfeiting Act 1981 (c. 45).
**Law Com. No. 56	Report on Personal Injury Litigation—Assessment of Damages (H.C. 373)	Administration of Justice Act 1982 (c. 53).
**Law Com. No. 57	Statute Law Revision: Fifth Report by the two Commissions (Scot. Law Com. No. 32) (Cmnd. 5493)	Statute Law (Repeals) Act 1974 (c. 22).
Law Com. No. 58	Eighth Annual Report 1972–1973 (H.C. 34)	*
1974		
Law Com. No. 59	Friendly Societies Bill: Report by the two Commissions on the Consolidation of the Friendly Societies Acts 1896 to 1971 and Certain Other Enactments Relating to the Societies to which those Acts Apply (Scot. Law Com. No. 35) (Cmnd. 5634)	Friendly Societies Act 1974 (c. 46).
**Law Com. No. 60	Report on Injuries to Unborn Children (Cmnd. 5709)	Congenital Disabilities (Civil Liability) Act 1976 (c. 28).
**Law Com. No. 61	Family Law: Second Report on Family Property. Family Provision on Death (H.C. 324)	Inheritance (Provision for Family and Dependents) Act 1975 (c. 63).
**Law Com. No. 62	Transfer of Land: Report on Local Land Charges (H.C. 71)	Local Land Charges Act 1975 (c. 76).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
**Law Com. No. 63	Statute Law Revision: Sixth Report by the two Commissions (Scot. Law Com. No. 36) (Cmnd. 5792)	Statute Law (Repeals) Act 1975 (c. 10).
Law Com. No. 64	Ninth Annual Report 1973-1974 (H.C. 40)	*

1975

Law Com. No. 65	Transfer of Land: Report on "Subject to Contract" Agreements (H.C. 119)	*
Law Com. No. 66	Supply Powers Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Supply Powers (Scot. Law Com. No. 38) (Cmnd. 5850)	Supply Powers Act 1975 (c. 9).
**Law Com. No. 67	Codification of the Law of Landlord and Tenant: Report on Obligations of Landlords and Tenants (H.C. 377)	No
**Law Com. No. 68	Transfer of Land: Report on Rentcharges (H.C. 602)	Rentcharges Act 1977 (c. 30).
**Law Com. No. 69	Exemption Clauses: Second Report by the two Commissions (Scot. Law Com. No. 39) (H.C. 605)	Unfair Contract Terms Act 1977 (c. 50).
**Law Com. No. 70	Statute Law Revision: Seventh Report by the two Commissions (Scot. Law Com. No. 40) (Cmnd. 6303)	Statute Law (Repeals) Act 1976 (c. 16).
Law Com. No. 71	Tenth Annual Report 1974-1975 (H.C. 51)	*

1976

**Law Com. No. 72	Jurisdiction of Certain Ancient Courts (Cmnd. 6385)	Administration of Justice Act 1977 (c. 38).
**Law Com. No. 73	Report on Remedies in Administrative Law (Cmnd. 6407)	Rules of Supreme Court (Amendment No. 3) 1977; Supreme Court Act 1981 (c. 54).
**Law Com. No. 74	Charging Orders (Cmnd. 6412)	Charging Orders Act 1979 (c. 53).
**Law Com. No. 75	Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability (Cmnd. 6428)	No
**Law Com. No. 76	Criminal Law: Report on Conspiracy and Criminal Law Reform (H.C. 176)	In part by Criminal Law Act 1977 (c. 45).
**Law Com. No. 77	Family Law: Report on Matrimonial Proceedings in Magistrates' Courts (H.C. 637)	Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
Law Com. No. 78	Eleventh Annual Report 1975-1976 (H.C. 94)	*
1977		
**Law Com. No. 79	Law of Contract: Report on Contribution (H.C. 181)	Civil Liability (Contribution) Act 1978 (c. 47).
**Law Com. No. 80	Statute Law Revision: Eighth Report by the two Commissions (Scot. Law Com. No. 44) (Cmnd. 6719)	Statute Law (Repeals) Act 1977 (c. 18).
Law Com. No. 81	Rent Bill: Report on the Consolidation of the Rent Act 1968, Parts III, IV and VIII of the Housing Finance Act 1972, the Rent Act 1974, sections 7 to 10 of the Housing Rents and Subsidies Act 1975 and Certain Related Enactments (Cmnd. 6751)	Rent Act 1977 (c. 42).
Law Com. No. 82	Liability for Defective Products: Report by the two Commissions (Scot. Law Com. No. 45) (Cmnd. 6831)	No
**Law Com. No. 83	Criminal Law: Report on Defences of General Application (H.C. 556)	No
Law Com. No. 84	Law of Contract: Report on the Proposed E.E.C. Directive on the Law Relating to Commercial Agents (Cmnd. 6948)	*
Law Com. No. 85	Twelfth Annual Report 1976-1977 (H.C. 96)	*
1978		
**Law Com. No. 86	Family Law: Third Report on Family Property. The Matrimonial Home (Co-ownership and Occupation Rights) and Household Goods (H.C. 450)	Housing Act 1980 (c. 51); Matrimonial Homes and Property Act 1981 (c. 24).
**Law Com. No. 87	Statute Law Revision: Ninth Report by the two Commissions (Scot. Law Com. No. 48) (Cmnd. 7189)	Statute Law (Repeals) Act 1978 (c. 45).
**Law Com. No. 88	Law of Contract: Report on Interest (Cmnd. 7229)	In part: Administration of Justice Act 1982 (c. 53); Rules of the Supreme Court (Amendment No. 2) 1980.
**Law Com. No. 89	Criminal Law: Report on the Mental Element in Crime (H.C. 499)	No
Law Com. No. 90	Interpretation Bill: Report by the two Commissions on the Interpretation Act 1889 and Certain Other Enactments relating to the Construction and Operation of Acts of Parliament and Other Instruments (Scot. Law Com. No. 53) (Cmnd. 7235)	Interpretation Act 1978 (c. 30).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
**Law Com. No. 91	Criminal Law: Report on the Territorial and Extra-territorial Extent of the Criminal Law	No
Law Com. No. 92	Thirteenth Annual Report 1977-1978 (H.C. 87)	*
Law Com. No. 93	Customs and Excise Management Bill: Report by the two Commissions on the Consolidation of the Enactments relating to the Collection and Management of the Revenues of Customs and Excise (Scot. Law Com. No. 54) (Cmnd. 7418)	Customs and Excise Management Act 1979 (c.2).

1979

Law Com. No. 94	Justices of the Peace Bill: Report on the Consolidation of Certain Enactments relating to Justices of the Peace (including Stipendiary Magistrates), Justices' Clerks and the Administrative and Financial Arrangements for Magistrates' Courts and to Matters connected therewith (Cmnd. 7583)	Justices of the Peace Act 1979 (c. 55).
**Law Com. No. 95	Law of Contract: Implied Terms in Contracts for the Supply of Goods (H.C. 142)	Supply of Goods and Services Act 1982 (c. 29).
**Law Com. No. 96	Criminal Law: Offences relating to Interference with the Course of Justice (H.C. 213)	No
Law Com. No. 97	Fourteenth Annual Report 1978-1979 (H.C. 322)	*
Law Com. No. 98	Reserve Forces Bill: Report on the Consolidation of Certain Enactments relating to the Reserve and Auxiliary Forces (Cmnd. 7757)	Reserves Forces Act 1980 (c. 9).

1980

**Law Com. No. 99	Family Law: Orders for Sale of Property under the Matrimonial Causes Act 1973 (H.C. 369)	Matrimonial Homes and Property Act 1981 (c. 24).
Law Com. No. 100	Highways Bill: Report on the Consolidation of the Highways Acts 1959 to 1971 and Related Enactments (Cmnd. 7828)	Highways Act 1980 (c. 66).
Law Com. No. 101	Magistrates' Courts Bill: Report on the Consolidation of Certain Enactments relating to the Jurisdiction of, and the Practice and Procedure before, Magistrates' Courts and the Functions of Justices' Clerks, and to Matters connected therewith (Cmnd. 7887)	Magistrates Courts Act 1980 (c. 43).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
**Law Com. No. 102	Criminal Law: Attempt, and Impossibility in relation to Attempt, Conspiracy and Incitement (H.C. 646)	Criminal Attempts Act 1981 (c. 47).
Law Com. No. 103	Family Law: The Financial Consequences of Divorce: The Basic Policy. A Discussion Paper (Cmnd. 8041)	*
**Law Com. No. 104	Insurance Law: Non-Disclosure and Breach of Warranty (Cmnd. 8064)	No
Law Com. No. 105	Judicial Pensions Bill: Report by the two Commissions on the Consolidation of Certain Enactments relating to Pensions and Other Benefits payable in respect of service in Judicial Office (Scot. Law Com. No. 62) (Cmnd. 8097)	Judicial Pensions Act 1981 (c. 20).
**Law Com. No. 106	Statute Law Revision: Tenth Report by the two Commissions (Scot. Law Com. No. 63) (Cmnd. 8089)	Statute Law (Repeals) Act 1981 (c. 19); Supreme Court Act 1981 (c. 54); British Telecommunications Act 1981 (c. 38).

1981

Law Com. No. 107	Fifteenth Annual Report 1979-1980 (H.C. 161)	*
Law Com. No. 108	Trustee Savings Bank Bill: Report by the two Commissions on the Consolidation of the Trustee Savings Banks Acts 1969 to 1978 (Scot Law Com. No. 65) (Cmnd. 8257)	Trustee Savings Banks Act 1981 (c. 65).
Law Com. No. 109	Private International Law: Council of Europe Conventions on Foreign Money Liabilities (1967) and on the Place of Payment of Money Liabilities (1972) (Joint Report Scot. Law Com. No. 66) (Cmnd. 8318)	*
**Law Com. No. 110	Breach of Confidence (Cmnd. 8388)	No
Law Com. No. 111	Property Law: Rights of Reverter (Cmnd. 8410)	No
Law Com. No. 112	Family Law: The Financial Consequences of Divorce. The Reponse to the Law Commission's Discussion Paper, and Recommendations on the Policy of the Law (H.C. 68)	No

1982

Law Com. No. 113	Sixteenth Annual Report 1980-1981 (H.C. 161)	*
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<i>Report</i>	<i>Title</i>	<i>Implementation</i>
**Law Com. No. 114	Classification of Limitation in Private International Law (Cmnd. 8570)	No
Law Com. No. 115	Property Law: The Implications of <i>Williams & Glyn's Bank Ltd. v. Boland</i> (Cmnd. 8636)	No
**Law Com. No. 116	Family Law: Time Restrictions on Presentation of Divorce and Nullity Petitions (H.C. 513)	No
**Law Com. No. 117	Family Law: Financial Relief after Foreign Divorce (H.C. 514)	No
**Law Com. No. 118	Family Law: Illegitimacy (H.C. 98)	No

1983

Law Com. No. 119	Seventeenth Annual Report 1981-1982 (H.C. 203)	*
Law Com. No. 120	Medical Bill: Report by the two Commissions on the Consolidation of the Medical Acts 1956 to 1978 and Certain Related Provisions (Scot. Law Com. No. 77) (Cmnd. 8839)	Medical Act 1983 (c. 54).
**Law Com. No. 121	Law of Contract: Pecuniary Restitution on Breach of Contract (H.C. 34)	No
**Law Com. No. 122	The Incapacitated Principal (Cmnd. 8977)	No
**Law Com. No. 123	Criminal Law: Offences relating to Public Order (H.C. 85)	No
**Law Com. No. 124	Private International Law: Foreign Money Liabilities (Cmnd. 9064)	No
**Law Com. No. 125	Property Law: Land Registration (H.C. 86)	No
Law Com. No. 126	Amendment of the Companies Acts 1948-1983: Report by the two Commissions under section 116 of the Companies Act 1981 (Cmnd. 9114)	No

1984

**Law Com. No. 127	Property Law: The Law of Positive and Restrictive Covenants (H.C. 201)	No
Law Com. No. 128	Registered Homes Bill: Report on the Consolidation of Certain Enactments Relating to Residential Care Homes and Nursing Homes and Registered Homes Tribunals (Cmnd. 9115)	No
Law Com. No. 129	Dentists Bill: Report by the two Commissions on the Consolidation of the Dentists Acts 1957 to 1983 (Scot. Law Com. No. 84) (Cmnd. 9119)	No

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
Law Com. No. 130	Public Health (Control of Disease) Bill: Report on the Consolidation of Certain Enactments relating to the Control of Disease (Cmd. 9128)	No
Law Com. No. 131	Eighteenth Annual Report 1982-83	*
**Law Com. No. 132	Family Law: Declarations in Family Matters (H.C. 263)	No

C. Joint Working Group Report

11 April 1979

Private International Law: Report on the choice of law rules in the Draft Non-Life Insurance Services Directive by a Joint Working Group of the Law Commission and Scottish Law Commission.

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APPENDIX 4

THE COST OF THE COMMISSION

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Entertainment	300
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Commissioners' Salaries**	221,500
Draftsmen, Legal Staff and Consultants***	518,900
Non-Legal Staff Salaries***	203,500
Superannuation	140,900
Miscellaneous	700
Headquarters' overheads	64,200
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	1,819,600

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***Including National Insurance Contributions.

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