

# The Law Commission

(LAW COM. No. 47)

**SIXTH ANNUAL REPORT  
1970-1971**

*Laid before Parliament by the Lord High Chancellor  
pursuant to section 3 (3) of the Law Commission 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 Scarman, O.B.E., *Chairman*.

Mr. Claud Bicknell, O.B.E.

Mr. Aubrey L. Diamond.

Mr. Derek Hodgson, Q.C.

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

The Secretary of the Commission is Mr. J. M. Cartwright Sharp, and its offices are at Conquest House, 37-38 John Street, Theobalds Road, London, WC1N 2BQ.

**THE LAW COMMISSION  
SIXTH ANNUAL REPORT: 1970-71**

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# THE LAW COMMISSION

## SIXTH ANNUAL REPORT: 1970-71

*To the Right Honourable the Lord Hailsham of Saint Marylebone,  
Lord High Chancellor of Great Britain*

We have the honour to present our Sixth Annual Report pursuant to section 3(3) of the Law Commissions Act 1965. The Report relates to the year ended 15 June 1971, the sixth anniversary of our establishment, but, as in recent Annual Reports, we have mentioned in footnotes matters of importance which have occurred between 15 June and to-day.

### INTRODUCTION

1. The membership of the Commission has changed again in our sixth year. Mr. Neil Lawson, Q.C., was appointed to the High Court Bench on 19 April and his place was taken by Mr. Derek Hodgson, Q.C., a practitioner on the Northern Circuit; and, within the year under report, it was announced that Mr. L. C. B. Gower would take up appointment as Vice-Chancellor of Southampton University on 1 October 1971. His successor will be a solicitor, Professor Aubrey L. Diamond, who is well known not only as a teacher of law, but also for his work with the Consumer Council.
2. These changes, taken together with the appointment in 1970 of Mr. Claud Bicknell in place of Mr. Andrew Martin, Q.C., are of importance in the development of the Commission, giving effect as they do to its continuity of function as envisaged in the Law Commissions Act of 1965.

#### *Relationship between different aspects of our work*

3. Conveniently, though imprecisely, our functions may be divided into law reform proper, consolidation and statute law revision; but they are intimately connected parts of one process, none of which should be neglected if the law is to be developed in an orderly manner. We are sometimes asked why we devote so much time and effort to statute law revision—a function which, in the light of section 3(1) of the Law Commissions Act, we regard as covering not only the repeal of what is obsolete or unnecessary, but also the restatement in modern language of obscure provisions and the abbreviation of lengthy and unwieldy ones. The continuance on the Statute Book of dead matter gives lawyers up and down the country a certain amount of unnecessary work each year and also brings the law into disrepute with the public generally by making it appear irrelevant and out of date. Some of our statutes are not even in English and many of the older ones are archaic in their language and their meaning and application are quite uncertain. There is the further consideration that the new edition of the Statutes in Force which is now in preparation (and which is designed to provide, by a system of regular renewals, a permanently up-to-date record of the living statute law) ought not be cluttered up with archaisms.

### *Progress of work*

4. Nine Acts of Parliament (apart from consolidations), which owed their preparation wholly or partly to the work of the Law Commission, will have reached the Statute Book in the 1970-71 Session of Parliament—

Administration of Estates<sup>1</sup>

Animals

Criminal Damage

Law Reform (Miscellaneous Provisions)<sup>1</sup>

Nullity of Marriage

Powers of Attorney

Recognition of Divorces and Legal Separations<sup>2</sup>

Statute Law (Repeals)

Wild Creatures and Forest Laws.

5. This is a high score<sup>3</sup> which we do not expect to reach in a normal year. If one includes nine Consolidations,<sup>4</sup> a total of eighteen Bills originating in whole or in part from work done by or on behalf of the Law Commission will have been passed by Parliament in the 1970-71 Session. This fact underlines the point that we made in paragraph 6 of our Fifth Annual Report:<sup>5</sup> that the often expressed fear that Parliament would not find time for law reform legislation emanating from the Law Commissions was ill-founded. The managers of the Government's legislative business have been generous with time notwithstanding the other urgent calls that had to be made on it; and Private Members have shown themselves very ready to use the time allotted to them to push forward the work of law reform.

6. Progress with consolidation has not been as good as we had hoped. But it rarely can be. However "ripe" for consolidation a topic may be, our work on it cannot usefully be continued if the topic becomes the subject of current legislation. For this reason work done on a Magistrates' Courts Bill has had to be put aside and certain other consolidations postponed or dropped. Nevertheless, nine consolidation Bills will have reached the Statute Book by the end of the Session, including the important Town and Country Planning Bill. A further instalment of the consolidation of the Road Traffic legislation will be introduced into Parliament before the recess and will be ready for reintroduction in the next Session, together with a number of other consolidations. Progress in the next few years is likely to be slower since a senior draftsman is now fully employed with the contract team.

7. Although it will never prove possible to draw up a detailed programme of fixed priorities in consolidation, we have published a second programme on consolidation and statute law revision<sup>6</sup> which indicates certain major areas in which consolidation is needed.

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<sup>1</sup> Only partly based on recommendations of the Law Commission.

<sup>2</sup> Prepared jointly with the Scottish Law Commission.

<sup>3</sup> It would be even higher if one were to include the Matrimonial Proceedings (Polygamous Marriages) Bill which was given a second reading in the House of Lords on 9 July but cannot become law in the present Session of Parliament.

<sup>4</sup> See paras. 79 and 80 below.

<sup>5</sup> Law Com. No. 36; (1970) H.C. 170.

<sup>6</sup> Law Com. No. 44; (1971) H.C. 338.

8. Two of the Acts which were passed this Session (the Wild Creatures and Forest Laws Act and the Statute Law (Repeals) Act) were produced in pursuance of our statute law revision function.

*Arrangement of this Report*

9. Part I of this Report contains a detailed progress report on the Items in our law reform programmes ; Part II gives an account of work done on law reform outside our programmes ; Part III reviews the work done in the field of consolidation and statute law revision ; and in Part IV we outline briefly the year's developments in the organisation and other activities of the Law Commission. In Appendix 1 we set out lists of the Commission's papers which have been (a) published by the Commission as Working Papers or (b) laid before or presented to Parliament. In Appendix 2 we summarise in tabular form the extent to which our legislative proposals have been implemented by Parliament, and in Appendix 3 we give the membership of advisory bodies set up during the year or set up during previous years and still functioning but with substantially altered membership.



## PART I

### LAW REFORM PROGRAMMES : REPORT ON PROGRESS

10. Items I–XVII, mentioned below, derive from our First Programme of Law Reform and Items XVIII–XX from our Second. In the progress report below, we omit Items that have been merged in others and those on which work has been completed.

#### **Item I. Codification of the Law of Contract**

11. Preliminary drafts on Definitions and Formation, Content and Third Party Rights were discussed with the Advisory Panel<sup>7</sup> at a meeting held at All Souls College, Oxford, on 25 and 26 September 1970. A further meeting with the Panel took place at All Souls on 16 and 17 April 1971 when drafts on Performance and Breach were discussed. Work has continued on the remaining preliminary drafts, which deal with defective contracts. A senior draftsman is now beginning a study of the preliminary drafts—work which will proceed while consultations will continue with the Advisory Panel and others.

#### **Item II. Exemption Clauses in Contracts**

12. A Working Paper dealing with the Exclusion of Liability for Negligence in the Sale of Goods and with Exemption Clauses in other types of contracts has been practically completed by the Scottish Law Commission and ourselves.<sup>8</sup>

#### **Item IV. Civil Liability for Dangerous Things and Activities**

13. As mentioned in our last Annual Report,<sup>9</sup> our Report<sup>10</sup> on this item analysed the defects of the present law and explained why we were not in a position to put forward positive recommendations for reform.

#### **Item V. Civil Liability for Animals**

14. The Animals Bill, introduced in the House of Lords in July 1970, received the Royal Assent on 12 May 1971. Its provisions come into operation on 1 October 1971. It gives effect, with some modifications, to the recommendations of our Report on this subject.

#### **Item VI. (b) Personal Injury Litigation—Assessment of Damages**

15. There has been delay in the publication of our comprehensive Working Paper on this topic. This has been caused in part by the need to reconsider the implications for certain aspects of the subject of recent decisions by the courts, notably the views expressed by the House of Lords in *Taylor v. O'Connor* [1971] A.C. 115. A Working Paper will be published shortly.<sup>11</sup>

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<sup>7</sup> The constitution of this Panel is set out in Appendix 3.

<sup>8</sup> Working Paper No. 39 was published on 27 September 1971.

<sup>9</sup> Law Com. No. 36 para. 15.

<sup>10</sup> Law Com. No. 32; (1970) H.C. 142.

<sup>11</sup> Working Paper No. 41 was published on 18 October 1971.

## **Item VII. Civil Liability of Vendors and Lessors for Defective Premises**

16. Our final Report<sup>12</sup> on this important subject was submitted to you on 16 November 1970.

## **Item VIII. Codification of the Law of Landlord and Tenant**

17. In November 1970 work began on the preparation of the Landlord and Tenant Code itself. We are pleased that Mr. Lionel Blundell, Q.C., and Sir Noël Hutton, G.C.B., Q.C., have agreed to bring their great experience to bear on this work as members of our team working on this subject. The augmented team continues to work closely with the Landlord and Tenant Working Party.<sup>13</sup> It is too early to make a precise forecast of the date when our work on the Code will be completed; it is our aim to produce it in the form of a draft Bill appended to a Report within four years.

18. At the same time we are preparing for submission to you Reports on particular subjects about which we are making proposals for law reform. These Reports, which will not include any draft clauses, are based upon a full consideration of proposals made to us by the Working Party and after consultation with persons and interests concerned. We shall be preparing clauses covering these proposals for inclusion in the draft Code. These subjects include:—

(a) *Obligations of landlords and tenants.*

19. The preparation of a Report is nearing completion.

(b) *Termination of tenancies.*

20. The Report is still being prepared.

(c) *Covenants against assignment, alterations and change of user.*

21. Comments received on our Working Paper No. 25 have been analysed, and a Report will be prepared when the two Reports mentioned above have been completed.

(d) *Disclaimer of leases in bankruptcy*

22. The Working Party has agreed to a number of proposals on this question, about which we are consulting the Department of Trade and Industry, so as to ensure that our recommendations are compatible with the general law of bankruptcy as it is at present applied. When we have completed discussions with the Department, we shall prepare a Working Paper for general consultation.

(e) *Fire insurance provisions in leases*

23. A Working Paper setting out the provisional views of the Working Party and the Commission on the proper division of responsibility between landlords and tenants to insure, should be ready for publication later this year.

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<sup>12</sup> Law Com. No. 40; (1970) H.C. 184.

<sup>13</sup> The names of members are listed in Appendix 3 to this Report.

## Item IX. Transfer of Land

### (a) *Rights appurtenant to land*

24. Our Working Paper on this subject has been written and will be published in the near future.<sup>14</sup> In it we shall put forward provisional proposals for rationalising the law governing those rights (for example, rights of support, rights of way, rights of light and rights under positive and negative covenants) which are or ought to be enforceable by one landowner against another.

### (b) *Land registration*

25. The first of our series of Working Papers on land registration was published on 3 September 1970;<sup>15</sup> it dealt with leasehold matters and the extent to which the register should be open to public inspection. It is evident from the observations which we have received that strong views are held on the latter question, both for and against publicity. A second Paper, covering overriding interests and the Minor Interests Index, will be published in the near future;<sup>16</sup> and work has started on a third, in which identity and boundaries, and rectification and indemnity will be the topics for discussion.

### (c) *Rentcharges*

26. In our last Annual Report<sup>17</sup> we stated that the evidence which we had received indicated that our proposal that legal rentcharges should no longer be capable of being created was controversial. We are preparing a Report and expect to submit it during the next year.

### (d) *Chancel repairs*

27. Our enquiries into the incidence of the liability to repair chancels of parish churches have been greatly assisted by the Registrar of the diocese of Oxford, who procured the inclusion of a question directed to this matter in the Articles of the Bishop's visitation. From that sample it appears that the liability is more common than we thought. Nonetheless, it is seldom recorded in a manner designed to bring it to the notice of an intending purchaser of affected land, and in a paper sent to all diocesan registrars we suggested that the liability might be made registrable in a public register (perhaps as a local land charge). The idea did not meet with a very encouraging reception. We are, however, continuing discussion with the General Synod and the Representative Body of the Church in Wales, because it is possible that they may soon make decisions relating to church repairs which would influence proposals for reform which we might make.

### (e) *Local land charges*

28. Work on this topic has continued.

### (f) *Attempted acquisition of land by adverse possession*

29. We have now concluded our enquiry to which we referred in our last Annual Report<sup>18</sup> into the prevalence of attempts to acquire "squatters' titles"

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<sup>14</sup> Published as Working Paper No. 36 on 5 July 1971.

<sup>15</sup> Working Paper No. 32.

<sup>16</sup> Published as Working Paper No. 37 on 26 July 1971.

<sup>17</sup> Law Com. No. 36, para. 26.

<sup>18</sup> Law Com. No. 36, para. 30.

in certain parts of South East Essex. As the Attorney General indicated in a written Answer to a question in the House of Commons,<sup>19</sup> we advised you that it would not be satisfactory to make any limited changes in the law to deal with the particular situation in which it was thought that the law was being abused. The Chief Land Registrar is fully aware of the particular problem and we are satisfied that the administrative safeguards which he has introduced will in most cases solve it.

#### **Item XIV. Common Law "Misdemeanours": Crime of Conspiracy**

30. The crime of conspiracy, on which the Criminal Law Revision Committee had been working, is now being dealt with by us, and we are examining the subject with the Working Party<sup>20</sup> which has been assisting us in our review of the general principles of criminal law.

#### **Item XV. Miscellaneous Matters involving Anomalies, Obsolescent Principles or Archaic Procedures**

##### *(a) Actions for loss of services, loss of consortium, seduction and enticement*

31. We pointed out in our last Annual Report<sup>21</sup> that it seemed prudent to postpone further work on the uncompleted aspects of Item XV(a) until our comprehensive Working Paper on Damages has been published. That Working Paper<sup>22</sup> will set out the views we expressed in Working Paper No. 19 on the incidental loss incurred by the family of a person who suffers personal injury, as revised in the light of comments received.

##### *(c) Actions for pound-breach, rescous and replevin*

32. For the reasons given in our last Annual Report<sup>23</sup> consideration of these questions remains in abeyance.

##### *(d) The tort and crime of maintenance*

33. Our task under this heading was largely completed by the submission in October 1966 of our Report<sup>24</sup> on the reform of the law relating to Maintenance and Champerty, and our recommendations were implemented by sections 13 and 14 of the Criminal Law Act 1967. In paragraph 19 of that Report, however, two questions were reserved for further consideration. These were:

(a) the possibility of introducing remuneration by way of "contingency fees" for solicitors acting in contentious matters; and

(b) the desirability of strengthening the law to protect the public against unscrupulous "claims agencies".

34. In a letter of 25 February 1971, we reported to you our agreement with the view, expressed by The Law Society in a memorandum of March 1970 entitled "Claims Assessors and Contingency Fees", that the existing

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<sup>19</sup> *Hansard*, 19 January 1971, Vol. 809, Col. 242.

<sup>20</sup> Membership of this Working Party is listed in Appendix 3.

<sup>21</sup> Law Com. No. 36, para. 32.

<sup>22</sup> Working Paper No. 41 published on 18 October 1971.

<sup>23</sup> Law Com. No. 36, para. 34.

<sup>24</sup> Law Com. No. 7.

rules of law and professional conduct should not, subject to one limited exception, be altered to permit solicitors to charge on a contingency fee basis in contentious proceedings. The Law Society's memorandum recommended that an exception should be made from the general rule in the case of actions on contracts which, before judgment, were for liquidated sums of money. On this point, however, we do not think that it would be right for us to institute an inquiry limited to debt collecting actions alone, without considering the general question of the basis of solicitors' remuneration; this is a problem which, it may be thought, should not be investigated by a body consisting exclusively of lawyers, especially as this is an issue on which the interests of the public and the profession may appear to conflict.

35. The Law Society's memorandum went on to criticise a number of the activities of firms and individuals in this country who, while not being legally qualified themselves, engage in the business of negotiating the settlement of claims on behalf of the victims of personal injuries; but the Council of The Law Society did not feel able to press for legislation designed to diminish or eliminate reliance on the services of claims assessors. They suggested, however, that the Law Commission should confer with official bodies representing insurance interests about their experience of the activities of claims assessors. We held a meeting on 25 November 1970 with representatives of insurance interests who expressed themselves as opposed to any hardening of the law against claims agencies. In particular, they pointed out that there are many small claims now settled by claims assessors which would not be remunerative for solicitors to deal with. Because of this conflict of view, which we do not feel we are the appropriate body to resolve, we have reported to you that we do not intend to take the matter further.

#### **Item XVI. Judicature Act (Northern Ireland)**

36. In view of the recommendations contained in Part V of the Report of Lord MacDermott's Committee,<sup>25</sup> the Lord Chancellor and the Prime Minister of Northern Ireland (as Minister of Home Affairs) jointly set up a committee on 11 February 1971 to consider what changes might be agreed to by the United Kingdom and Northern Ireland Governments on the matters of joint concern mentioned in paragraphs 226 and 227 of that Report (viz. the modification of existing jurisdictions, the better co-ordination of the work and sittings of the several courts and court systems, etc.) and to make recommendations and an interim report on any matter which merits immediate attention or warrants separate treatment. Mr. Justice Lowry<sup>26</sup> was appointed chairman.

#### **Item XVII. Interpretation of Statutes**

37. The examination of the special problems connected with the interpretation of treaties has continued jointly with the Scottish Law Commission and in consultation with the Lord Chancellor's Office and the Foreign and Commonwealth Office.<sup>27</sup>

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<sup>25</sup> (1970) Cmnd. 4292.

<sup>26</sup> Since 2 August 1971 Lord Chief Justice of Northern Ireland.

<sup>27</sup> Fifth Annual Report, Law Com. No. 36, para. 36.

## **Item XVIII. Codification of the Criminal Law**

### *(a) General principles of the criminal law.*

38. We have received comments from many of those to whom our Working Paper<sup>28</sup> on the Mental Element in Crime was sent.

39. The Working Party<sup>29</sup> which is assisting us in our study of some aspects of the general principles of criminal law continues its work on complicity and liability for the acts of another and the criminal liability of corporations. It has begun a study of the crime of conspiracy, which is being considered as part of an examination of all inchoate offences.

40. Our consultations with those who commented on our Working Paper on the Territorial Extent of the Criminal Law<sup>30</sup> have not yet been completed.

### *(b) Certain specific offences*

41. Our Report<sup>31</sup> on Offences of Damage to Property was published on 16 September 1970, and the resulting Criminal Damage Bill, which is based on our recommendations, has nearly completed its passage through Parliament.<sup>32</sup> The Bill will greatly simplify this branch of the law, replacing the old codification of 1861 with its needless multiplicity of offences.

42. Consultations on our Working Paper<sup>33</sup> on Forgery are almost complete, and we are preparing our Report.

43. We published a Working Paper<sup>34</sup> on Perjury on 14 October 1970 and we are now analysing the comments received.

44. The Criminal Law Revision Committee are continuing their examination of offences against the person.

## **Item XIX. Family Law**

### *Family property*

45. Following the seminar on this subject held at Manchester University on 23 and 24 September 1970, work has proceeded on a Working Paper which will review the field of family property law and will advance a number of alternative proposals with regard to the property rights of spouses. It will be published shortly<sup>35</sup> and widely distributed to elicit views from the public at large. The social survey on the attitude of married people to their property and its management, which was foreshadowed in our Fifth Annual Report,<sup>36</sup> has been conducted by the Office of Population Censuses and Surveys, Social Survey Division, and the results are expected to be available in the coming winter.

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<sup>28</sup> Working Paper No. 31.

<sup>29</sup> Membership of this Working Party is listed in Appendix 3.

<sup>30</sup> Working Paper No. 29.

<sup>31</sup> Law Com. No. 29; (1970) H.C. 91.

<sup>32</sup> It received the Royal Assent on 14 July.

<sup>33</sup> Working Paper No. 26.

<sup>34</sup> Working Paper No. 33.

<sup>35</sup> Working Paper No. 42 published on 26 October 1971.

<sup>36</sup> Law Com. No. 36, para. 49.

### *Nullity*

46. The Nullity of Marriage Bill, giving effect to the recommendations in our Report on this subject,<sup>37</sup> was introduced as a Private Member's Bill by Mr. Alexander Lyon, M.P. for York. It has passed most of its stages in Parliament.<sup>38</sup> The Bill codifies, with some amendments, the grounds on which the court may grant a decree of nullity of a void or voidable marriage, the bars to the grant of a decree and the effect of a decree of nullity on a voidable marriage.

### *Solemnisation of marriage*

47. The Working Party set up in December 1969, in conjunction with the Registrar General, to enquire into the formal requirements for the solemnisation and registration of marriages in England and Wales and to recommend improvements, has prepared a Working Paper which the Law Commission has agreed to publish.<sup>39</sup>

### *Polygamous marriages*

48. Our Report on Polygamous Marriages<sup>40</sup> was submitted on 21 December 1970. Our recommendations regarding social security legislation will be substantially implemented by the National Insurance Bill now before Parliament.<sup>41</sup> On 10 June 1971 Lady Summerskill introduced a Bill in the House of Lords to implement our remaining recommendations which deal with matrimonial proceedings.<sup>42</sup>

### *Jurisdiction of English courts in matrimonial matters*

49. Comments on our Working Paper on Jurisdiction in Matrimonial Causes (other than Nullity)<sup>43</sup> have been analysed and considered. A Working Paper on Jurisdiction in Nullity is in an advanced state of preparation.<sup>44</sup> Our final recommendations on both the subjects mentioned above will be included in a Report dealing with jurisdiction in matrimonial causes generally, which we expect to publish later this year.

### *Matrimonial law in magistrates' courts*

50. In January 1971 the Home Office and the Law Commission set up a Working Party, presided over by our Chairman, to recommend what changes were desirable in the matrimonial law administered by magistrates and in any related legislation as a result of recent matrimonial legislation. Some time must elapse before we shall be in a position to issue a Working Paper to ascertain the views of the public generally.

### *Jactitation of marriage*

51. In January 1971 we published a short Working Paper on Jactitation of Marriage,<sup>45</sup> provisionally recommending abolition of this remedy. We are now considering the comments received.

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<sup>37</sup> Law Com. No. 33 submitted on 23 October 1970; H.C. 164.

<sup>38</sup> Royal Assent 1 July 1971; came into force 1 August 1971.

<sup>39</sup> Working Paper No. 35 published on 28 June 1971.

<sup>40</sup> Law Com. No. 42 published on 2 February 1971; H.C. 227.

<sup>41</sup> National Insurance Act 1971, section 12, which received the Royal Assent on 14 July 1971.

<sup>42</sup> This Bill was supported by all the Lords who spoke in the debate on 9 July and was given a second reading.

<sup>43</sup> Working Paper No. 28 published in April 1970.

<sup>44</sup> Published as Working Paper No. 38 on 28 July 1971.

<sup>45</sup> Working Paper No. 34.

### *Family law affecting children*

52. No date has yet been fixed for the coming into operation of Part III of the Family Law Reform Act 1969 which will give effect to most of the recommendations of our Report on Blood Tests and the Proof of Paternity in Civil Proceedings.<sup>46</sup> A great deal of preparatory work is involved but we understand that it will shortly be completed.

### *Recognition of foreign decrees of divorce and legal separation*

53. The Recognition of Divorces and Legal Separations Bill, now nearing the end of its passage through Parliament,<sup>47</sup> was based on a joint Report by the Scottish Law Commission and ourselves on The Hague Convention on Recognition of Divorces and Legal Separations.<sup>48</sup> When the Bill comes into force the United Kingdom will be in a position to ratify the Convention. In the place of the present uncertain and unsatisfactory law the Bill contains a code governing the recognition of overseas divorces and legal separations.

### *Conflict of laws : miscellaneous problems*

54. More work has been done on the preparation of a Working Paper on outstanding problems in conflict of laws arising in matrimonial matters. This Working Paper will be primarily concerned with the recognition of foreign marriages, foreign decrees of nullity and foreign declarations of status.

### *Declarations as to status*

55. A Working Paper is being prepared dealing with the whole question of declarations as to family and matrimonial status made in this country, including the jurisdiction of our courts to make such declarations.

## **Item XX. Interpretation of Wills**

56. Mr. Justice Megarry's Sub-Committee of the Law Reform Committee is preparing a draft report for submission to the main Committee.

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<sup>46</sup> Law Com. No. 16 published 30 October 1968; H.C. 2.

<sup>47</sup> The Recognition of Divorces and Legal Separations Act received the Royal Assent on 27 July 1971 and the majority of the recommendations will come into force on 1 January 1972.

<sup>48</sup> Law Com. No. 34; Scot. Law Com. No. 16; submitted to Ministers on 26 October 1970; (1970) Cmnd. 4542.



## PART II

### LAW REFORM OUTSIDE THE PROGRAMMES

#### Administration Bonds

57. Our Report<sup>49</sup> on Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters was submitted to you on 3 September and published on 15 October 1970. The main recommendation in that Report was that Administration Bonds should be dispensed with in the majority of cases in future. On 25 November Sir Clive Bossom, M.P. (Leominster) introduced the Administration of Estates Bill which implemented the proposals in this Report and at the same time carried out another reform of the law sought by the two Law Commissions: the abolition throughout the United Kingdom of the requirement of re-sealing of grants of administration and confirmations. The Bill received the Royal Assent on 12 May and the main provisions of the new Act will come into force on 1 January 1972.

#### Administrative Law

58. The Commission have carried out a review of the existing remedies for the judicial control of administrative acts and omissions, as requested by your predecessor,<sup>50</sup> with the assistance of an expert consultative panel.<sup>51</sup> A Working Paper containing provisional proposals for the improvement of this part of the law is in preparation and will be issued in due course for comments and criticism.<sup>52</sup>

#### Breach of Statutory Duty

59. It is notorious that the courts have found difficulty in deciding whether a breach of duty imposed by a statute gives rise to a cause of action at the instance of a person who has suffered loss as a result of the breach. The difficulty arises in those cases in which the statute is silent on the question. Lawyers continue to experience difficulty in advising clients what their legal position is in these circumstances and in a number of cases it is not ascertainable without going to the expense and trouble of litigation. There has been strong judicial criticism of statutes which leaves this issue in the air.<sup>53</sup>

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<sup>49</sup> Law Com. No. 31; (1970) Cmnd. 4497.

<sup>50</sup> Fifth Annual Report, Law Com. No. 36, para. 61.

<sup>51</sup> A list of the members of this panel was set out in Appendix 3 to our Fifth Annual Report, Law Com. No. 36.

<sup>52</sup> Working Paper No. 40 was published on 11 October 1971.

<sup>53</sup> Lord du Parcq said in a well-known passage in *Cutler v. Wandsworth Stadium Ltd.* [1949] A.C. 398 at 410:—"To a person unversed in the science or art of legislation it may well seem strange that Parliament has not by now made it a rule to state explicitly what its intention is in a matter which is often of no little importance, instead of leaving it to the courts to discover, by a careful examination and analysis of what is expressly said, what that intention may be supposed probably to be . . . I trust, however, that it will not be thought impertinent, in any sense of that word, to suggest respectfully that those who are responsible for framing legislation might consider whether the traditional practice, which obscures if it does not conceal, the intention which Parliament has, or must be presumed to have, might not safely be abandoned."

In *Solomons v. R. Gertzenstein Ltd.* [1954] 2 Q.B. 243 at 267, Romer L.J. said:—"I also share to the full the sentiments which Lord du Parcq expressed in *Cutler's Case* on the question of civil rights in relation to statutory obligations."

60. In the Law Commissions' Report on the Interpretation of Statutes,<sup>54</sup> we recommended legislation introducing a general provision whereby in future enactments it would be presumed, unless express provision to the contrary is made, that a breach of a new statutory duty was intended to be actionable at the suit of any person who sustained damage in consequence of the breach. It would equally clarify the legal position if such a presumption were to be expressed in the reverse sense so as to exclude civil liability in the absence of express words. We recognise that very many new statutes do indicate whether a breach of duty imposed by the statute attracts civil liability and that it is the practice of Parliamentary Counsel to draw the attention of Government Departments to the value of making the position clear. Nevertheless we believe that it would help to bring certainty into the statute law if the question were put beyond doubt by a rule of law embodying one or other of these presumptions, thus diminishing the need to go to law to establish the legal position.

### **The Law of Burials, etc.**

61. In collaboration with the Department of the Environment we are undertaking a review of the legislation relating to burials and certain aspects of cremations,<sup>55</sup> with the object of producing recommendations for a draft Bill to revise the law relating to the disposal of the dead and to restate it in modern and concise terms.

62. The present law on the subject of burials dates mainly from the nineteenth century and is contained in several separate but overlapping codes<sup>56</sup> which together constitute a tangle of authorities, procedures and enactments. Consolidation would perpetuate the obscurities and anomalies, and nothing short of a radical revision and rationalisation of the content of the law can be expected to achieve a satisfactory result. The existing cremation law<sup>57</sup> is less complex, but it needs to be properly integrated with the law governing other modes of disposal of the dead, particularly in view of the increasing importance of the practice of cremation.<sup>58</sup>

63. The legislation which is being prepared to reorganise local government is certain to have a considerable impact on this part of the law, and until its provisions are known our work on the Burial law must wait.

### **Contempt**

64. The Committee on Contempt of Court, under the chairmanship of Lord Justice Phillimore, was set up on 27 May 1971. Mr. Derek Hodgson, Q.C., one of our number, is a member of the committee.

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<sup>54</sup> Law Com. No. 21; Scot. Law Com. No. 11; (1969) H.C. 256.

<sup>55</sup> The Department Committee on Death Certification and Coroners are reviewing the certification procedure necessary before a body can be cremated.

<sup>56</sup> e.g. the Burial Acts 1852 to 1906; the Public Health (Interments) Act 1879; the Cemeteries Clauses Act 1847; and the legislation governing churchyard burials.

<sup>57</sup> The Cremation Acts 1902 and 1952.

<sup>58</sup> Cremations followed 19·8% of the total number of registered deaths in 1952 in England and Wales; by 1970 this proportion had risen to 56·7%.

## **Domicile**

65. In May we appointed members of the legal staff to join the Working Party set up by you to consider the possibility of giving married women an independent domicile.

## **Insurable Interests**

66. The review of the law relating to insurance companies being conducted by the Department of Trade and Industry will embrace this subject and we have therefore decided not to continue our work on it for the time being.

## **International Conventions**

### *(a) International agency*

67. The two conventions of the International Institute for the Unification of Private Law (UNIDROIT) were discussed at a meeting of experts held in Rome between 30 June and 4 July 1970, and further at a meeting of a working party which met in Geneva from 18–22 December 1970.<sup>59</sup> From these discussions there emerged a single draft uniform law dealing with agency of an international character in the sale and purchase of goods. This draft was considered by a further meeting of experts held in Rome from 21–29 May 1971.<sup>60</sup>

### *(b) Other international conventions*

68. We have been consulted concerning a number of existing or proposed international conventions. Among those on which we have expressed views is a draft convention for an International Form of Will prepared by UNIDROIT.

## **Judgments Extension Acts**

69. The Scottish Law Commission have received a large number of comments on Memorandum No. 12 which seem to confirm the preliminary view of the Law Commissions that the arrangements for the enforcement of judgments in the different parts of the United Kingdom are capable of substantial improvement. The precise nature of this improvement is a matter that will have to be considered in the light of the convention regulating the reciprocal enforcement of judgments within the European Economic Community if the decision is finally taken to enter that Community. Further progress must await that decision.

## **Limitation of Actions**

70. As we reported in our last Annual Report,<sup>61</sup> we submitted proposals to you on 27 October 1970 to solve certain difficulties which had come to light in the operation of the Limitation Act 1963—in particular as a result of the decision of the Court of Appeal in *Lucey v. Henleys, etc., Limited*.<sup>62</sup>

<sup>59</sup> Professor A. E. Anton of the Scottish Law Commission attended on both occasions as the United Kingdom representative.

<sup>60</sup> Professor A. E. Anton, and Mr. M. Abrahams of the Law Commission, represented the United Kingdom.

<sup>61</sup> Law Com. No. 36, para 67, fn. 57.

<sup>62</sup> [1970] 1 Q.B. 393.

The Law Reform (Miscellaneous Provisions) Bill, introduced into the House of Commons by Mr. Arthur Probert, M.P. (Aberdare), was framed in part to implement our proposals. This Bill has nearly passed through all its stages in Parliament.<sup>63</sup> In April 1971 you referred this branch of the law generally to the Law Reform Committee.

### **Organ Transplants**

71. On the invitation of the Bar Council, one of our number attended a Seminar at All Souls College, Oxford, in January at which the law relating to the transplantation of human organs was discussed by a group of lawyers, doctors and other people with special interests in the subject. The law reform committee of the Bar Council subsequently published its own report.<sup>64</sup>

### **Powers of Attorney**

72. The proposals contained in our Report<sup>65</sup> were implemented, with minor modifications, in the Powers of Attorney Bill introduced on 17 December 1970 into the House of Commons by Mr. Martin McLaren, M.P. (Bristol, North-West). The Bill received the Royal Assent on 12 May 1971 and comes into force on 1 October.

73. In our Report<sup>66</sup> we supported the recommendation of The Law Society that a complete review of the present procedure for dealing with the property of persons of unsound mind should be put in hand. We understand that the need for such an inquiry and its scope are receiving your consideration.

### **Tax Law**

74. The consultative Group examining the taxation of income and gains from land concluded its task in December 1970, and their report to us and the Scottish Law Commission was published in full on 28 April 1971, appended to a short Report of our own.<sup>67</sup>

75. The Group has been reconstituted,<sup>68</sup> and it is now considering certain proposals which have been made with a view to preparing the ground for a satisfactory consolidation of the Estate Duty legislation.

### **Uncertainty in relation to Trusts and Powers**

76. This question is being studied by a working party of members of the Bar and solicitors which was set up, at our request, by the General Council of the Bar and the Council of The Law Society.<sup>69</sup> Recent litigation<sup>70</sup> and another possible appeal arising from it may largely dispose of the problems that followed the decision of the Court of Appeal in *I.R.C. v. Broadway Cottages Trust*.<sup>71</sup>

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<sup>63</sup> Royal Assent 1 July 1971.

<sup>64</sup> General Council of the Bar: *Report of law reform committee on the law relating to organ transplantation*; (20 July 1971. 25p.)

<sup>65</sup> Law Com. No. 30 submitted on 7 August and published on 23 September 1970; Cmnd. 4473.

<sup>66</sup> Law Com. No. 30, para. 27.

<sup>67</sup> Law Com. No. 43; Scot. Law Com. No. 21; (1971) Cmnd. 4654.

<sup>68</sup> See Appendix 3 for membership.

<sup>69</sup> See Fourth Annual Report, Law Com. No. 27, para. 81; (1969) H.C. 27.

<sup>70</sup> *Re Baden's Deed Trusts (No. 2)* [1971] 3 W.L.R. 475; *McPhail v. Doultton* [1971] A.C. 424 (on appeal from *Re Baden's Deed Trusts* [1969] 2 Ch. 388).

<sup>71</sup> [1955] Ch. 20.

## PART III

### CONSOLIDATION AND STATUTE LAW REVISION

#### Second Programme

77. The Law Commission's Second Programme on Consolidation and Statute Law Revision<sup>72</sup> was published in April. It indicates certain major areas in which in our view consolidation is urgently required, but for reasons there given does not cover all topics which might be thought candidates for consolidation, and does not attempt to map out in detail the course which our work on consolidation will take.

78. The Second Programme also draws attention to the growing practice of including in current legislation the repeal of enactments which have ceased to serve any useful purpose and which would otherwise be candidates for inclusion in a Statute Law Revision or Statute Law (Repeals) Bill. This is helping to speed up the removal of dead wood from the Statute Book.

#### Consolidation

79. This year saw the passage into law of the following Consolidation Bills:—

The Guardianship of Minors Bill

The Vehicles (Excise) Bill<sup>73</sup>

The Hydrocarbon Oil (Customs and Excise) Bill

The Coinage Bill<sup>74</sup>

The National Savings Bank Bill<sup>75</sup>

The Attachment of Earnings Bill.

80. The Tribunals and Inquiries Bill,<sup>76</sup> the Prevention of Oil Pollution Bill<sup>76</sup> and the Town and Country Planning Bill have been introduced and, if all goes well, should reach the Statute Book before the end of the Session. The Town and Country Planning Bill, which runs to 295 clauses and 25 schedules and covers 381 pages, incorporates amendments to give effect to recommendations made by us in a Report.<sup>77</sup>

81. A Bill of over 200 clauses, representing the second and largest instalment of the consolidation of Road Traffic legislation, is in an advanced state of

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<sup>72</sup> Law Com. No. 44.

<sup>73</sup> Incorporating amendments to give effect to recommendations made by the Law Commissions in a Joint Report (Law Com. No. 39; Scot. Law Com. No. 19) (1970) Cmnd. 4547.

<sup>74</sup> Incorporating amendments to give effect to recommendations made by the Law Commissions in a Joint Report (Law Com. No. 38; Scot. Law Com. No. 18) (1970) Cmnd. 4544.

<sup>75</sup> Incorporating amendments to give effect to recommendations made by the Law Commissions in a Joint Report (Law Com. No. 41; Scot. Law Com. No. 20), (1971) Cmnd. 4574.

<sup>76</sup> Received Royal Assent on 27 July 1971.

<sup>77</sup> Law Com. No. 45 (1971) Cmnd. 4684.] This Bill received the Royal Assent on 28 October 1971.

preparation,<sup>78</sup> as are Bills to consolidate the legislation on Friendly Societies; the legislation on local employment and, in view of the forthcoming return to Greenwich Mean Time, the legislation on Summer Time. All four Bills should be ready for introduction in the autumn, or early next year.

82. Supervening legislation has made it impossible to proceed as originally intended with the consolidation of the Magistrates' Courts Act 1952 and related later enactments.

83. Work on the legislation on the composition of certain courts and on legislation on cinematograph films has been discontinued at the instance of the departments concerned.

84. Work is proceeding on consolidations of the legislation on the following topics :—

- Betting and Gaming Duties
- Clean Air
- Costs in Criminal Cases
- Estate Duty
- Housing
- Land Charges (other than local land charges)
- Lotteries and Amusements with Prizes
- Matrimonial Causes
- The National Debt
- Poisons
- Solicitors.

Of these, Housing and the National Debt are being undertaken for us by lawyers outside the government service ; and, in the case of Estate Duty, work on the necessary amending legislation and on the eventual consolidation is in the hands of our Tax Group.<sup>79</sup> If our forthcoming proposals on the matrimonial jurisdiction of the English courts, which we expect to publish later this year, are implemented, we hope to be able to include them in the consolidation of the Matrimonial Causes legislation.

85. As a result of amendments made in the 1970–71 Session, the Standing Orders of both Houses of Parliament now provide for a Joint Committee on Consolidation, etc. Bills to be set up at the commencement of every Session.<sup>80</sup> One of the functions of the Joint Committee under the new Standing Orders will be to examine “ Bills to consolidate any enactments with amendments to give effect to recommendations made by one or both of the Law Commissions ” ; and we are encouraged by this recognition, as one of the standard methods of consolidation, of what is a relatively new form of Consolidation Bill.

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<sup>78</sup> The Bill, incorporating amendments to give effect to recommendations made by the Law Commissions in a Joint Report (Law Com. No. 46; Scot. Law Com. No. 22) (1971) (Cmnd. 4731) was introduced in the House of Lords on 26 July. There is no time for it to pass through Parliament in this Session, and it will therefore be re-introduced early in the next.

<sup>79</sup> See para. 75 above.

<sup>80</sup> This was hitherto provided for in each Session by a sessional order which had to be passed before the Joint Committee could be set up.

## **Statute Law Revision**

86. The year under review saw the introduction of two Bills prepared pursuant to this part of our statutory functions: namely, the Wild Creatures and Forest Laws Bill and the Statute Law (Repeals) Bill. The former was appended to our Second Report on Statute Law Revision<sup>81</sup> submitted to you on 27 June 1970. For technical reasons mentioned in that Report the Bill, which sought to abolish the old Forest Law itself, together with the Crown's ancient prerogative right to wild creatures, was wider in scope than the traditional Statute Law Revision Bill and was therefore unable to take advantage of the procedural privilege usually available to these Bills in their passage through Parliament.

87. As introduced, the Bill would have repealed in whole or in part some 64 statutes, 10 of them dating from the Middle Ages. It was, however, amended in the House of Lords to restore the prerogative right to royal fish, with the consequential omission from the repeals schedule of the mediaeval statute of uncertain date which confirmed that right. The Bill as brought from the Lords to the Commons was otherwise substantially unaltered.<sup>82</sup>

88. The Statute Law (Repeals) Bill, the draft of which was submitted to you on 30 October 1970 in our Third Report on Statute Law Revision,<sup>83</sup> was introduced in the House of Lords on 15 December 1970. The Bill was considered at three meetings of the Joint Select Committee on Consolidation Bills, who, on 28 April 1971, reported favourably on the Bill subject to a few amendments. As so amended the Bill<sup>84</sup> would repeal 87 whole Acts and parts of 85 others which passed into law between 1677 and 1969.

89. Further Bills are in preparation.

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<sup>81</sup> Law Com. No. 28, (1970); Cmnd. 4433.

<sup>82</sup> It received the Royal Assent without further amendment on 1 July 1971.

<sup>83</sup> Law Com. No. 37, (1970); Cmnd. 4546.

<sup>84</sup> Royal Assent 27 July 1971.

## PART IV

### MISCELLANEOUS

#### **Accommodation**

90. We occupy the lower ground, ground and first two floors of Conquest House.

#### **Staff**

91. Our full-time staff numbers 48: the Secretary, 4 draftsmen, 16 other lawyers and 27 non-legal staff. We also have the help of draftsmen in the office of the parliamentary counsel, who from time to time prepare consolidation Bills, and of Sir Noël Hutton, G.C.B., Q.C., formerly First Parliamentary Counsel, who has undertaken the drafting of the code of landlord and tenant law. We also have the part-time services of 7 other lawyers.

#### **Library**

92. The library collection in our lower ground floor now consists of almost 12,000 items. The large increase this year is due to the acquisition of such important source materials as a number of volumes of Parliamentary Debates, which almost complete our set of the fifth series (from 1909), the Local Acts 1891-1968 and Session Cases 1887-1964.

93. Increased accommodation for library staff has enabled a more convenient arrangement of seating for readers to be made. The main body of the library now contains ten seats and the reading room a further ten.

94. Thanks are once again due to the Institute of Advanced Legal Studies and other libraries, whose resources we frequently have to call on.

#### **Relations with lawyers in the United Kingdom**

95. Thanks to the generosity of University College, Cardiff, we were able to entertain not only the Scottish Law Commission at Cardiff in April, but also leading lawyers and university teachers from the Principality. We continue to keep closely in touch with the Scottish Law Commission on numerous subjects of common concern.

96. During his long residence in Northern Ireland our Chairman has been able to maintain close contact with the legal profession there on matters outside the ambit of his tribunal of inquiry.

97. As usual we held our annual meetings with representatives of the three branches of the legal profession in England and Wales. We regard these meetings as essential to our work, though they are, of course, supplemented by numerous other contacts with individual members of the profession.



98. Three seminars were held in the year on our initiative. Jointly with the Society of Public Teachers of Law we sponsored a seminar on the subject of "Matrimonial Property" at Manchester University on 23-24 September 1970. Apart from representatives of the two Law Commissions and teachers of law it was attended by the President of the Probate, Divorce and Admiralty Division and by Judge Inger Margarete Pedersen from Denmark. As mentioned in paragraph 11 above, we also held two discussions at All Souls College, Oxford, with our Advisory Panel on the codification of the law of contract.

#### **Relations with lawyers overseas**

99. In the course of the year the Commission has had several opportunities of exchanging views with, and obtaining information from, lawyers concerned with law reform in the Commonwealth and other countries. In January the Chairman and another Commissioner attended the Commonwealth Law Conference in New Delhi and contributed a paper to the section of the Conference which discussed the problems of law reform in the Commonwealth. During the visit they were most warmly received by the Indian Law Commission. In April the Commission was represented by a Commissioner at a conference on law reform organised by the British Institute of International and Comparative Law at Cumberland Lodge, Windsor Great Park, under the chairmanship of The Master of the Rolls. It was attended by representatives from a number of law reform agencies in Commonwealth countries. We have also been glad again to welcome the Rt. Hon. John Turner, Q.C., the Federal Minister of Justice and Attorney General of Canada, and so had an opportunity to discuss the Canadian Federal Law Commission set up during the year; and after the end of the year under report we had the pleasure of receiving some of the lawyers from the United States who were attending the meeting of the American Bar Association in London. The Association was addressed by our Chairman on the subject of "Trends in English Family Law". We continue to receive a considerable number of visitors and enquiries from overseas and Commissioners and members of the Staff have visited several European countries in connection with their work.

(Signed) Leslie Scarman, *Chairman*.  
Claud Bicknell.  
Aubrey L. Diamond.  
Derek Hodgson.  
Norman S. Marsh.

J. M. Cartwright Sharp, *Secretary*.  
28 October 1971.

## APPENDIX 1

### LIST OF THE LAW COMMISSION'S PUBLICATIONS

#### up to and including Sixth Annual Report

(a) Working Papers published in each calendar year:

- 1966** No. 1. Transfer of Land: Root of Title to Freehold Land (this is the subject of 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 (this subject was covered by Law Com. No. 8).
- No. 3. Restrictive Covenants (this is the subject of 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) (this is the subject of Law Com. No. 40).
- No. 6. Liability of Vendors and Lessors for Defective Premises (Second Paper) (this is the subject of Law Com. No. 40).
- 1967** No. 7. Provisional Proposals for Amendments to the Landlord and Tenant Act 1954, Part II (Business Tenancies) (this is the subject of Law Com. No. 17).
- No. 8. Provisional Proposals Relating to Obligations of Landlords and Tenants.
- No. 9. Family Law: Matrimonial and Related Proceedings—Financial Relief (this is the subject of Law Com. No. 25).
- No. 10. Proposals for Changes in the Law Relating to Land Charges Affecting Unregistered Land and to Local Land Charges (partly covered by Law Com. No. 18).
- No. 11. Powers of Attorney (this is the subject of Law Com. No. 30).
- No. 12. Proof of Paternity in Civil Proceedings (this is the subject of Law Com. No. 16).
- No. 13. Exploratory Working Paper on Administrative Law (this is the subject of Law Com. No. 20).
- No. 14. Interpretation of Statutes (Joint Working Paper—Scottish Law Commission Memorandum No. 6) (this is the subject of 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.
- 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) (this is the subject of Law Com. No. 24).
- No. 19. Loss of Services.
- No. 20. Nullity of Marriage (this is the subject of Law Com. No. 33).
- No. 21. Polygamous Marriages (this is the subject of Law Com. No. 42).
- 1969** No. 22. Restitution of Conjugal Rights (this is the subject of Law Com. No. 23).
- No. 23. Malicious Damage to Property (this is the subject of Law Com. No. 29).
- No. 24. Transfer of Land—Rentcharges.

- 1970** No. 25. The Law of Landlord and Tenant: Working Party's Provisional Proposals Relating to Covenants Restricting Dispositions, Parting with Possession, Change of User and Alterations.
- No. 26. Criminal Law—Forgery.
- No. 27. Personal Injury Litigation: Assessment of Damages, Itemisation 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).
- No. 29. Codification of the Criminal Law: Subject III: Territorial and Extra-territorial Extent of the Criminal Law.
- 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.
- No. 32. Transfer of Land: Land Registration (First Paper).
- No. 33. Criminal Law: Perjury and Kindred Offences.
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- 1971** No. 34. Family Law: Jactitation of Marriage.
- No. 35. Family Law: Solemnisation of Marriage.
- No. 36. Transfer of Land: Appurtenant Rights.
- No. 37. Transfer of Land: Registration (Second Paper).
- No. 38. Family Law: Jurisdiction in Suits for Nullity of Marriage.
- No. 39. Exemption Clauses in Contracts for Services (Joint Working Paper—Scottish Law Commission Memorandum No. 15).
- No. 40. Administrative Law.
- No. 41. Personal Injury Litigation—Assessment of Damages.
- No. 42. Family Law: Family Property Law.

(b) Publications which have been laid before Parliament under section 3(2) and (3) of the Law Commissions Act 1965 and publications which have been presented to Parliament as Command Papers in each calendar year:

- 1965** Law Com. No. 1. First Programme.
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- 1966** Law Com. No. 2. First Programme on Consolidation and Statute Law Revision.
- Law Com. No. 3. Proposals to abolish Certain Ancient Criminal Offences.
- Law Com. No. 4. First Annual Report 1965–66.
- Law Com. No. 5. Landlord and Tenant: Interim Report on Distress for Rent.
- 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.
- 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).
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- 1967** Law Com. No. 9. Transfer of Land: Interim Report on Root of Title to Freehold Land.
- Law Com. No. 10. Imputed Criminal Intent (*Director of Public Prosecutions v. Smith*).
- Law Com. No. 11. Transfer of Land: Report on Restrictive Covenants.

- Law Com. No. 11A. Sea Fisheries (Shellfish) Bill. Report by the Law Commission and the Scottish Law Commission on the Consolidation of Certain Enactments Relating to Shellfish Fisheries and Shellfish (Cmnd. 3267).
- Law Com. No. 12. Second Annual Report 1966-67.
- Law Com. No. 13. Civil Liability for Animals.
- 1968** Law Com. No. 14. Second Programme of Law Reform.
- Law Com. No. 15. Third Annual Report 1967-68.
- Law Com. No. 16. Blood Tests and the Proof of Paternity in Civil Proceedings.
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- 1969** Law Com. No. 17. Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II.
- Law Com. No. 18. Transfer of Land: Report on Land Charges Affecting Unregistered Land.
- Law Com. No. 18A. Trustee Savings Banks Bill. Report by the Commission and the Scottish Law Commission on the Consolidation of the Trustee Savings Banks Acts 1954 to 1968 (Cmnd. 4004).
- Law Com. No. 19. Proceedings against Estates (Cmnd. 4010).
- Law Com. No. 20. Administrative Law (Cmnd. 4059).
- Law Com. No. 21. Interpretation of Statutes. Report by the Law Commission and the Scottish Law Commission: Scot. Law Com. No. 11.
- Law Com. No. 22. Statute Law Revision: First Report (Cmnd. 4052).
- Law Com. No. 23. Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights.
- Law Com. No. 24. Exemption Clauses in Contracts. First Report: Amendments to the Sale of Goods Act 1893. Report by the Law Commission and the Scottish Law Commission: Scot. Law Com. No. 12.
- Law Com. No. 25. Family Law: Report on Financial Provision in Matrimonial Proceedings.
- Law Com. No. 26. Breach of Promise of Marriage.
- Law Com. No. 27. Fourth Annual Report 1968-69.
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- 1970** Law Com. No. 28. Statute Law Revision: Second Report. Draft Wild Creatures and Forest Laws Bill (Cmnd. 4433).
- Law Com. No. 29. Criminal Law: Report on Offences of Damage to Property.
- Law Com. No. 30. Powers of Attorney (Cmnd. 4473).
- Law Com. No. 31. Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters (Cmnd. 4497).
- Law Com. No. 32. Civil Liability for Dangerous Things and Activities.
- Law Com. No. 33. Nullity of Marriage.
- Law Com. No. 34. Hague Convention on Recognition of Divorces and Legal Separations Report by the Law Commission and the Scottish Law Commission: Scot. Law Com. No. 16 (Cmnd. 4542).
- Law Com. No. 35. Limitation Act 1963 (Cmnd. 4532).
- Law Com. No. 36. Fifth Annual Report 1969-70.
- Law Com. No. 37. Statute Law Revision: Third Report (Cmnd. 4546).

- Law Com. No. 38. Coinage Bill. Report by the Law Commission and the Scottish Law Commission on the Consolidation of Certain Enactments Relating to Coinage (Cmnd. 4544).
- Law Com. No. 39. Vehicles (Excise) Bill. Report by the Law Commission and the Scottish Law Commission on the Consolidation of Certain Enactments Relating to Excise Duties on Mechanically Propelled Vehicles, and to the Licensing and Registration of Such Vehicles (Cmnd. 4547).
- Law Com. No. 40. Civil Liability of Vendors and Lessors for Defective Premises.
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- 1971** Law Com. No. 41. National Savings Bank Bill. Report by the Law Commission and the Scottish Law Commission on the Consolidation of Enactments Relating to the National Savings Bank (Cmnd. 4574).
- Law Com. No. 42. Family Law: Report on Polygamous Marriages.
- Law Com. No. 43. Taxation of Income and Gains Derived from Land. Report by the Law Commission and the Scottish Law Commission (Cmnd. 4654).
- Law Com. No. 44. Second Programme on Consolidation and Statute Law Revision.
- Law Com. No. 45. Town and Country Planning Bill. Report on the Consolidation of Certain Enactments Relating to Town and Country Planning (Cmnd. 4684).
- Law Com. No. 46. Road Traffic Bill. Report by the Law Commission and the Scottish Law Commission on the Consolidation of Certain Enactments Relating to Road Traffic (Cmnd. 4731).
- Law Com. No. 47. Sixth Annual Report 1970-71.

## APPENDIX 2

### IMPLEMENTATION OF THE LAW COMMISSION'S PROPOSALS

<i>Titles of relevant Reports</i>	<i>Date of Publication</i>	<i>Implemented</i>
Proposals to abolish certain ancient criminal offences (Law Com. No. 3)	22.6.66	Criminal Law Act 1967 (c. 58)
Proposals for reform of the law relating to maintenance and champerty (Law Com. No. 7)	22.11.66	Criminal Law Act 1967 (c. 58)
Report on the powers of appeal courts to sit in private and the restrictions upon publicity in domestic proceedings (Law Com. No. 8)	23.11.66	Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (c. 63)
Transfer of Land: Interim report on root of title to freehold land (Law Com. No. 9)	14.2.67	Law of Property Act 1969 (c. 59)
Imputed criminal intent ( <i>Director of Public Prosecutions v. Smith</i> ) (Law Com. No. 10)	28.2.67	In part by section 8 of the Criminal Justice Act 1967 (c. 80)
Transfer of Land: Report on restrictive covenants (Law Com. No. 11)	22.3.67	In part by Law of Property Act 1969 (c. 59)
Civil Liability for animals (Law Com. No. 13)	21.12.67	Animals Act 1971 (c. 22)
Blood tests and the proof of paternity in civil proceedings (Law Com. No. 16)	31.10.68	Family Law Reform Act 1969 (c. 46)
Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II (Law Com. No. 17)	22.1.69	Law of Property Act 1969 (c. 59)
Transfer of Land: Report on land charges affecting unregistered land (Law Com. No. 18)	20.3.69	Law of Property Act 1969 (c. 59)
Proceedings against estates (Law Com. No. 19)	2.5.69	Proceedings against Estates Act 1970 (c. 17)
Interpretation of Statutes (Joint Report with Scottish Law Commission) (Law Com. No. 21)	11.6.69	No
Statute Law Revision: First Report (Law Com. No. 22)	8.7.69	Statute Law (Repeals) Act 1969 (c. 52)
Proposal for the abolition of the matrimonial remedy of restitution of conjugal rights (Law Com. No. 23)	26.8.69	Matrimonial Proceedings and Property Act 1970 (c. 45)
Exemption clauses in contracts. First Report: amendments to the Sale of Goods Act 1893 (Joint Report with Scottish Law Commission) (Law Com. No. 24)	18.9.69	No
Financial provision in matrimonial proceedings (Law Com. No. 25)	23.9.69	Matrimonial Proceedings and Property Act 1970 (c. 45); Law Reform (Miscellaneous Provisions) Act 1970 (c. 33)

<i>Titles of relevant Reports</i>	<i>Date of Publication</i>	<i>Implemented</i>
Breach of promise of marriage (Law Com. No. 26)	15.10.69	Law Reform (Miscellaneous Provisions) Act 1970 (c. 33)
Statute Law Revision: Second Report. Draft Wild Creatures and Forest Laws Bill (Law Com. No. 28)	4.8.70	Wild Creatures and Forest Laws Act 1971 (c. 47)
Criminal Law: Offences of damage to property (Law Com. No. 29)	16.9.70	Criminal Damage Act 1971 (c. 48)
Powers of attorney (Law Com. No. 30)	23.9.70	Powers of Attorney Act 1971 (c. 27)
Administration bonds, personal representatives' rights of retainer and preference and related matters (Law Com. No. 31)	15.10.70	Administration of Estates Act 1971 (c. 25)
Nullity of Marriage (Law Com. No. 33)	4.12.70	Nullity of Marriage Act 1971 (c. 44)
Hague Convention on Recognition of Divorces and Legal Separations (Joint Report with Scottish Law Commission) (Law Com. No. 34)	1.12.70	Recognition of Divorces and Legal Separations Act 1971 (c. 53)
Limitation Act 1963 (Law Com. No. 35)	25.11.70	Law Reform (Miscellaneous Provisions) Act 1971 (c. 43)
Statute Law Revision: Third Report. Draft Statute Law (Repeals) Bill (Law Com. No. 37)	15.12.70	Statute Law (Repeals) Act 1971 (c. 52)
Coinage Bill (Joint Report with Scottish Law Commission) (Law Com. No. 38)	26.11.70	Coinage Act 1971 (c. 24)
Vehicles (Excise) Bill (Joint Report with Scottish Law Commission) (Law Com. No. 39)	2.12.70	Vehicles (Excise) Act 1971 (c. 10)
Civil Liability of Vendors and Lessors for Defective Premises (Law Com. No. 40)	16.12.70	No
National Savings Bank Bill (Joint Report with Scottish Law Commission) (Law Com. No. 41)	13.1.71	National Savings Bank Act 1971 (c. 29)
Polygamous Marriages (Law Com. No. 42)	3.2.71	No <sup>85</sup>
Taxation of Income and Gains Derived from Land (Joint Report with Scottish Law Commission) (Law Com. No. 43)	23.4.71	No
Town and Country Planning Bill (Law Com. No. 45)	10.6.71	Town and Country Planning Act 1971 (c. 78)
Road Traffic Bill (Joint Report with Scottish Law Commission) (Law Com. No. 46)	26.7.71	No <sup>86</sup>

<sup>85</sup> The Matrimonial Proceedings (Polygamous Marriages) Bill introduced by Lady Summerskill was given a second reading by the House of Lords on 9 July but will lapse at the end of the Session.

<sup>86</sup> Introduced in the House of Lords on 26 July but will lapse at the end of the Session.

### APPENDIX 3

#### MEMBERSHIP OF ADVISORY BODIES SET UP OR SUBSTANTIALLY ALTERED DURING THE YEAR

(1) Advisory panel on the codification of the law of contract (see paragraph 11).

The Rt. Hon. Lord Devlin  
The Rt. Hon. Lord Diplock  
The Rt. Hon. Lord Justice Megaw, C.B.E., T.D.  
\*The Hon. Lord Robertson  
The Rt. Hon. Lord Justice Roskill  
The Hon. Mr. Justice Donaldson  
Professor P. S. Atiyah  
Mr. A. R. Barrowclough  
Professor G. J. Borrie  
Mr. L. A. Duffield  
Professor A. G. Guest  
\*Mr. I. R. Guild, W.S.  
Mr. Mark Littman, Q.C.  
Mr. R. A. Lynex  
\*Mr. A. J. Mackenzie Stuart, Q.C.  
Mr. R. A. MacCrimmon, Q.C.  
Dr. F. A. Mann  
Professor F. J. Odgers  
Mr. A. L. Price, Q.C.  
Dr. L. S. Sealy  
Mr. Mark H. Sheldon  
Mr. G. H. Treitel  
Professor K. W. Wedderburn  
Professor J. F. Wilson  
\* Scottish members

(2) Landlord and Tenant Working Party (see paragraph 17).

Chairman:

Mr. Claud Bicknell, O.B.E. (Law Commission)  
Mr. M. J. Alberty, Q.C.  
Mr. R. H. Bernstein, Q.C.  
Mr. M. R. Dunnnett, F.R.I.C.S.  
Mr. P. S. Edgson, F.R.I.C.S.  
Mr. G. E. Gammie, (Department of the Environment)  
Mr. E. F. George  
Mr. D. S. Gordon (Lord Chancellor's Office)  
Mr. W. N. D. Lang, F.R.I.C.S.  
Mr. C. M. R. Peacock  
Mr. J. T. Plume  
Mr. C. B. Priday  
Mr. G. A. Sifton (Treasury Solicitor's Office)  
Mr. C. F. Wegg-Prosser  
Mr. V. G. Wellings

Secretary:

Mr. John Churchill (Law Commission)

Assistant Secretaries:

{ Mr. H. D. Brown (Law Commission)  
Mr. A. Akbar (Law Commission)



(3) Working Party on General Principles of the Criminal Law (see paragraphs 30 and 39)

- Joint Chairmen: { Mr. W. D. T. Hodgson, Q.C. (Law Commission)  
Mr. N. S. Marsh, Q.C. (Law Commission)
- The Rt. Hon. Lord Justice Edmund Davies  
The Hon. Mr. Justice Scarman, O.B.E. (Law Commission)  
Mr. T. R. Fitzwalter Butler (Law Commission)  
Mr. J. H. Buzzard  
Mr. A. E. Cox  
Mr. F. L. T. Graham-Harrison, C.B. (Home Office)  
His Honour Judge Mervyn Griffith-Jones, M.C.  
(The Common Serjeant)  
Mr. G. V. Hart (Home Office)  
Mr. J. N. Martin, O.B.E.  
Professor Glanville L. Williams, Q.C.
- Secretary: Mr. J. C. R. Fieldsend (Law Commission)
- Assistant Secretaries: { Mr. C. W. Dymont (Law Commission)  
Mr. G. B. Sellers. (Law Commission)

(4) Consultative Group on Tax Legislation (see paragraph 75)

- Chairman: Mr. M. C. Nourse, Q.C.
- Mr. J. C. Craig  
Professor J. M. Halliday, C.B.E. (Scottish Law Commission)  
Mr. W. H. B. Johnson (Inland Revenue)  
Mr. J. P. Lawton  
Mr. A. K. Tavaré (Inland Revenue)
- Secretary: Mr. B. M. F. O'Brien (Law Commission)
- Assistant Secretary: Mr. H. D. Brown (Law Commission)

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