

The Law Commission

(LAW COM. No. 107)

FIFTEENTH ANNUAL REPORT 1979-1980

*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.

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**THE LAW COMMISSION
FIFTEENTH ANNUAL REPORT: 1979-1980**

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THE LAW COMMISSION

FIFTEENTH ANNUAL REPORT: 1979-1980

*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 Fifteenth Annual Report pursuant to section 3(3) of the Law Commissions Act 1965. For convenience we have extended the period covered by the Report to the end of the 1979-80 Parliamentary Session: it therefore deals with the period 1 November 1979 to 13 November 1980.

PART I

THE PAST YEAR IN OUTLINE

Reports

1.1 We have submitted nine Reports to you since our last Annual Report. Four of them dealt with substantive law reform: one in the field of contract law, one in that of crime and two were concerned with family law. Four more¹ recommended technical legislative amendments in connection with consolidation Bills: those on Reserve Forces, Highways, Magistrates' Courts and Judicial Pensions respectively. The ninth, prepared jointly with the Scottish Law Commission, introduced a draft Statute Law (Repeals) Bill. A brief account of each of the main reports is as follows:

- (i) Our *Report on Insurance Law*² deals with the duty of disclosure on the part of a person applying for insurance and with the effect of non-disclosure; it also deals with the creation of "warranties" and the effect of breaches of them. Our recommendations are designed to strike a fairer balance between the insured and insurers by giving greater protection to the insured under the law. The Report also analyses the proposed E.E.C. Council Directive on insurance contract law and concludes that it would not provide a satisfactory basis for the reform of our law.
- (ii) Our *Report on Attempt, and Impossibility in relation to Attempt, Conspiracy and Incitement*³ contains a general review of the concept of "attempt" in the criminal law and represents an important step towards the eventual formulation of a criminal code. It simplifies the law of attempt and deals in particular with the difficulty of convicting those who have clearly attempted or conspired to commit crimes but who fail to achieve their objective only because circumstances unknown to them make it impossible for them to succeed.

¹ (1980) Law Com. Nos. 98, 100, 101 and 105. The last one was prepared jointly with the Scottish Law Commission and it was simultaneously submitted to the Lord Advocate. These recommendations were made in accordance with the procedure mentioned in Part I, fn. 30 below.

² (1980) Law Com. No. 104; see para. 2.2 below.

³ (1980) Law Com. No. 102; see para. 2.9 below.

The Report recommends reversal of the House of Lords decisions in *Houghton v. Smith*⁴ and *D.P.P. v. Nock and Alsford*.⁵

- (iii) Our *Report on Orders for Sale of Property under the Matrimonial Causes Act 1973*⁶ recommends that the Court should have express power to make an order for sale in divorce proceedings. The absence of such a power has widely been thought to be an undesirable gap in the Court's powers under the 1973 Act, and our recommendations eliminate the need to take circuitous procedural steps to achieve the same end.
- (iv) Finally, we have published a Report entitled *The Financial Consequences of Divorce: The Basic Policy*⁷ which is unlike most of our reports in that it does not reach even tentative conclusions by way of proposals for reform. Since it is evident that public opinion is very divided on this important issue—especially as it relates to the financial obligations of divorced husbands towards their former wives—the Report is intended to provide information and to discuss possible reforms as a basis for public discussion.

Working Papers

1.2 During the period under review we published two Working Papers for comment and criticism ; a third will be published on 26 November 1980.

- (i) *Time Restrictions on the Presentation of Divorce and Nullity Petitions*.⁸ This paper provisionally concludes that the rule which prohibits the presentation of divorce petitions in the first three years of marriage, unless exceptional hardship on the part of the petitioner or exceptional depravity on the part of the respondent can be shown, is unsatisfactory and should be replaced. The Working Paper sets out a field of choice for reform of this rule.

In relation to nullity proceedings it is provisionally proposed that in cases where the petitioner suffers from mental incapacity there should be a discretion to extend the period of three years within which nullity petitions alleging that the marriage is voidable must be presented.

- (ii) *Classification of Limitation in Private International Law*⁹ is concerned with the question whether (as at present) the English rules as to the limitation of actions should always apply to actions in our courts, even if the substantive issues fall to be decided in accordance with some foreign law ; or whether in such cases the English courts should apply the whole of the relevant foreign law including its limitation rules. The Paper suggests that our present law should be changed.
- (iii) *Financial Relief after Foreign Divorce*¹⁰ makes a provisional recommendation that the Court's jurisdiction to make financial provision

⁴ [1975] A.C. 476.

⁵ [1978] A.C. 979.

⁶ (1980) Law Com. No. 99; see para. 2.19 below.

⁷ (1980) Law Com. No. 103; see para. 2.18 below.

⁸ Working Paper No. 76; see para. 2.22 below.

⁹ Working Paper No. 75; see para. 2.40 below.

¹⁰ Working Paper No. 77; see para. 2.25 below.

or to adjust property rights should be extended so that in appropriate cases such orders can be made notwithstanding that the parties have been divorced (or that there had been a decree of nullity or judicial separation) outside the British Isles. If the foreign decree is recognised here (as it usually will be) the present inability of either of the parties to apply for an English financial order can give rise to hardship.

The Report of the Royal Commission on Legal Services

1.3 The Benson Report¹¹ contained two important suggestions on matters which (as the Commission acknowledged) fell outside their terms of reference but which are of direct relevance to our statutory functions.

(a) The first¹² was that civil procedure should be kept under continuous review, and the Commission suggested that the Law Commission (suitably expanded) might perform this duty. We are conscious of the fact that we have only been able to deal with questions of procedure to the extent that they were incidental to our work on the substantive law and we welcome the Royal Commission's suggestion in principle. A review of civil procedure is indeed overdue. However, there appears to be no early prospect of the Law Commission being expanded and we cannot realistically envisage the possibility of our undertaking this task ourselves. If a review of civil procedure were included in a programme of law reform, it would fall to us to make a recommendation as to the agency by which that branch of the law should be examined;¹³ but it does not seem to us that there is any other official body now in existence which is in a position to undertake this far-reaching assignment. The task obviously calls for the setting up of a new body designed for the purpose. We would be very willing to take part in any discussions relating to the composition of such a body and its terms of reference. However, civil procedure is potentially a subject of almost limitless scope and it would first be necessary for considerable preliminary work to be carried out in order to form a clear view about the nature and scale of the reforms which might be aimed at.

(b) The second¹⁴ of the Benson suggestions was that the Law Commission should set up a Conveyancing Standing Committee to be responsible for making recommendations aimed at simplifying conveyancing. We have given close consideration to this suggestion, and have discussed it with The Law Society. While we are broadly sympathetic to the suggestion, we could not, with the resources available, play an active part on such a Committee without seriously interrupting work on the various land law topics set out in Part II below. We have therefore decided not to pursue this suggestion, at least for the time being.

The Benson Commission went on to mention a number of topics for possible consideration by the Conveyancing Standing

¹¹ (1979) Cmnd. 7648.

¹² *Ibid.*, paras. 6.30 and 43.4.

¹³ Law Commissions Act 1965, s. 3(1)(b).

¹⁴ Cmnd. 7648 annex 21.1, para. 2.

Committee which they envisaged. Some of these topics are now, or will be, reviewed by us in the ordinary way: restrictive covenants, for example, and mortgages. The Benson Commission did not suggest that their list should be taken as indicating priorities in this field, and there are certainly some matters which we believe are more urgent in terms of systematic law reform than some of the items in the list—for example, the necessity of written evidence in connection with contracts relating to land, and the question whether the trust for sale is now the most appropriate machinery for giving effect to concurrent (or indeed successive) ownership of land. Nevertheless, we consider that we should place on record our present views on the items in the “Benson list” and we accordingly do so in Appendix 1 below.

Codification of the Criminal Law

1.4 We have for some time been conscious that our limited resources have prevented us from making progress on the general principles of liability in criminal law commensurate with the work which we and the Criminal Law Revision Committee have been doing in relation to the reform and restatement in statutory form of the most important substantive offences. Yet systematic and sustained work in this field is clearly necessary if the eventual goal of codification is to be attained. We were therefore particularly glad to receive proposals from the Criminal Law Reform Committee of the Society of Public Teachers of Law that a small group of distinguished academic lawyers should undertake the task of formulating the basis of a code of general principles and a common vocabulary in this field. This work would serve to lay the foundations for the ultimate objective of a criminal code. The consultations and administrative arrangements necessary to implement these proposals have not yet been completed, but we hope to be able to make a more definite public announcement in the near future.

Conveyancing and the Matrimonial Home

1.5 We should mention the recent decision of the House of Lords in *Williams & Glyn's Bank Ltd. v. Boland*.¹⁵ This case highlights the conflict which may exist between two objectives, each highly desirable: simple and safe conveyancing, and the proper protection of a co-owner of property whose name is not on the title. We sought to resolve this conflict so far as it affects co-owning spouses when we made our recommendations relating to the matrimonial home in our *Third Report on Family Property*;¹⁶ the problem also arises in the context of our current review of the Land Registration Acts. In so far as these two objectives are not reconcilable the law must clearly determine how best to strike a balance. At your request we are now considering this topic in the light of this decision.¹⁷

¹⁵ [1980] 3 W.L.R. 138.

¹⁶ (1978) Law Com. No. 86. The recommendations included important new rights for co-owners in equity of matrimonial homes and, in particular, it was proposed that such a co-owner should be able, through registration, to ensure that the legal owner could not effectively sell or mortgage the home without the co-owner's consent.

¹⁷ See further paras. 2.31 and 2.32 below.

The Consideration and Implementation of Law Reform Recommendations

1.6 A comparison between Appendix 1 of our *Fourteenth Annual Report* and Appendix 5 to this Report indicates that of our law reform Reports shown last year as unimplemented only one¹⁸ has been fully implemented during the past year. While non-implementation is sometimes due to doubts about the merits of particular recommendations, it is apparent that in many cases this is not the explanation. We feel that we must express our concern about this, since—so far as we can judge—the problem may be one which is liable to persist. Moreover, it is not confined to recommendations made by us alone. A number of important law reform proposals made by other bodies during the past ten years or so have not been implemented and in some cases it is not even known whether they are accepted by the Government, even in principle. Of the latter we would cite two examples from the field of tort: the recommendations made in 1975 by the (Faulks) Committee on Defamation¹⁹ and many of those made in 1978 by the (Pearson) Royal Commission on Civil Liability and Compensation for Personal Injuries.²⁰ It becomes very difficult for us to plan our work if the Government does not express a view on recommendations made by ourselves and others within a reasonable time after delivery of the reports containing them.²¹ It is therefore not surprising that in the section in Part II headed “Contract and Tort” the law of tort is represented by only one item (Breach of Confidence): the absence of a policy decision on many of the recommendations in the Pearson Report²² makes it impracticable for us to continue our work in that and related fields.²³

The foremost difficulty lies in the fact that the implementation of nearly all recommendations for law reform involves legislation, and that this takes up both parliamentary time and the time of officials in the Government Departments affected. It is not always appreciated that the number of days available each Session in the House of Commons for the consideration of “optional” Bills (i.e. leaving legislation such as Finance and Appropriation Bills out of consideration) is not large, and governments naturally give priority to Bills forming part of their own programme. In the result the Departments concerned must give priority to programme Bills, and a full programme inevitably leads to great difficulty in finding parliamentary time for the implementation of law reform Bills. The cumulative effect in practice is that even the consideration of our recommendations by the Departments concerned is put on one side. The reduction in the number of officials in Whitehall Departments which is now taking place is also relevant to these problems.

¹⁸ (1976) Law Com. No. 74, *Charging Orders*: see para. 2.51 below. In addition an amendment of the Rules of Court has implemented a minor suggestion contained in (1978) Law Com. No. 88, *Interest*: see para. 2.52 below.

¹⁹ Cmnd. 5909.

²⁰ Cmnd. 7054.

²¹ The Government is, on occasion, capable of very swift reaction: a large measure of approval of the reforms recommended in our *Report on Insurance Law* (Law Com. No. 104) was indicated in a consultative document issued by the Department of Trade within days of the publication of our Report. See *Hansard* (H.C.) 4 Nov. 1980 col. 498.

²² It is known only that there are no immediate plans for implementation: *Hansard* (H.C.) 31 Oct. 1980 col. 402. The position in relation to the Faulks Report is essentially the same: *Hansard* (H.L.) 29 Oct. 1980 col. 396.

²³ See (1970) Law Com. No. 32, *Civil Liability for Dangerous Things and Activities*; and (1973) Law Com. No. 56, *Personal Injury Litigation—Assessment of Damages*.

Hitherto, the record of implementations of our recommendations has, despite all the difficulties, been remarkably good, but the pace has clearly slowed down in recent years. Most of our Reports containing recommendations for law reform were, until 1976, implemented in whole or in part within two years, and many of them were dealt with within one year; there are however no fewer than eight of our Reports now outstanding from the years 1977-79 and this gives rise to some anxiety as to the future.

As our Chairman said in a lecture at Sheffield University in June: "Admittedly, we have now at last got a statutory scheme for the systematic and continuous review of our law. But all we have done is to create the basic machinery; we have not found the administrative and legislative solutions to make it effective."²⁴ Having discussed the problem with the Permanent Secretaries of some of the Departments whose responsibilities include areas of law on which we are working, we believe that if policy decisions are taken within a reasonable time purely administrative difficulties can be overcome. But in so far as the obstacles to implementation have their origin in Parliament and parliamentary procedure their solution is much harder to envisage. Law reform is ultimately in the hands of Parliament and of the Government of the day, and it will not progress unless there exists the necessary political will that it should.

Seminar on Law Reform

1.7 On the suggestion of officials in your Department the Civil Service College organised a seminar on law reform which took place at Sunningdale on 8-10 October 1980. In the context of the foregoing paragraph we consider that this seminar was an event of considerable importance. Lord Scarman presided, and it was attended by both Law Commissions and by 22 senior administrators and lawyers from Government Departments with responsibilities in all parts of the United Kingdom. These included, in particular, the Departments of the Environment, Health and Social Security, Trade, the Home Office, the Scottish Office, and the Lord Advocate's and your Departments. The discussions were led by distinguished speakers with parliamentary, administrative and academic experience from within and outside the public service.²⁵

The fact that this seminar took place, and the scale and level of participation, are in themselves of great significance. There is an ever-present risk that those who are subjected to the continuous pressure of day-to-day business will lose sight of the need to keep the law which underlies their work under constant review. The topics discussed ranged from the importance of empirical socio-legal research to the practical problems concerning the implementation of recommendations for law reform. This was the first occasion of a collective meeting between the Law Commissions and senior Civil Servants who are inevitably involved when law reform recommendations are made by us in different fields. We found the meeting of great value and will be considering the lessons to be learned from it during the coming year.

²⁴ Second Edward Bramley Memorial Lecture "Law Reform in Changing Times"; now published in 96 *L.Q.R.* p. 515.

²⁵ The speakers are named in Appendix 2, where we also set out the terms of reference of the seminar.

Summaries of Working Papers

1.8 In last year's Annual Report we included a paragraph²⁶ about our methods of consultation. As there anticipated we have started producing simplified summaries of Working Papers which contain suggestions or provisional recommendations on which we want to receive the views of the general public. The Working Papers themselves may appear somewhat daunting and unfortunately they are not cheap. The experiment began with a summary of the Working Paper on *Time Restrictions on Presentation of Divorce and Nullity Petitions*²⁷ and we are grateful to Her Majesty's Stationery Office for their co-operation in providing it, and for agreeing to repeat the exercise in connection with a forthcoming Working Paper on *Rights of Access to Neighbouring Land*.²⁸ We do not propose to provide a separate summary in this form, free of charge, in every case; sometimes it will not be appropriate to provide one at all, and in some instances, where we anticipate that the main interest will be confined to a small section of the public, we may reproduce a typed summary ourselves.²⁹

Open Days

1.9 In order to promote fuller exchanges of views, we decided that we should hold "open days" to which law teachers specialising in certain topics would be invited, and at which our teams concerned with those topics would act as hosts. Two such "open days" were held during the past year, one on 14 November 1979 on Family Law subjects and the other on 5 March 1980 on matters within the fields of Private International Law and E.E.C. law. These were very successful and we hope that we will be able to arrange similar meetings with law teachers and others, covering all other aspects of our work.

Consolidation of Statutes

1.10 We have already referred to the consequences for law reform measures of a crowded parliamentary timetable. The past year has shown that similar difficulties can arise from the same cause in the context of consolidations.

Work on the consolidation of the statute law on a particular subject often brings to light anomalies and inconsistencies which cannot be remedied in a consolidation Bill. Such Bills have the great procedural advantage that they are considered in depth only once, by the Joint Select Committee on Consolidation Bills; but they must not incorporate any changes in the law beyond those which result from the special procedures for amendment which are available.³⁰ If changes are necessary which cannot be effected under one

²⁶ *Fourteenth Annual Report 1979-1980* (Law Com. No. 97) para. 1.4.

²⁷ See para. 1.2 above.

²⁸ See para. 2.30 below.

²⁹ As we have done in connection with our Working Paper on *Financial Relief after Foreign Divorce*: para. 1.2 above.

³⁰ Minor amendments may be introduced either under the Consolidation of Enactments (Procedure) Act 1949 or under the analogous procedure involving recommendations made by either of the Law Commissions, referred to in para. 6 of the Note introducing our *First Programme on Consolidation and Statute Law Revision* (1966). See also our *Second Annual Report 1966-67* (Law Com. No. 12) para. 101.

of the special procedures, a Schedule of the necessary amendments is drafted for inclusion in an appropriate programme Bill and the consolidation Bill is prepared on the assumption that the amendments have already been enacted. We therefore have to try to link our work on a consolidation which calls for amendments of this nature with a suitable legislative vehicle for those amendments; it only happens very rarely that those in charge of the Government's legislative programme can be persuaded to present a Bill which deals with pre-consolidation amendments alone. Although the pre-consolidation amendments which we prepare in this way do not affect the policy enshrined in the legislation in question (and therefore ought not to prolong to any significant extent parliamentary consideration of the programme Bill in which they are included) they can undoubtedly be used to disrupt the parliamentary timetable. In the result those in charge of the legislative timetable are not always receptive to a proposal for the inclusion of a Schedule of such amendments in a programme Bill, particularly towards the end of a busy Session. We draw attention to this because, as noted in paragraph 2.47 below, an unfortunate instance of this kind recently occurred, leading to the loss for an indefinite period of an opportunity to consolidate the legislation on Civil Aviation.

In our view, this matter of the prior enactment of necessary but uncontroversial amendments in order to enable consolidation Bills incorporating these to proceed through Parliament under the special procedure of the Joint Committee is one which requires serious consideration, and we therefore think that this is a matter which you may wish to draw to the attention of both Houses of Parliament.

Suggestions for Law Reform

1.11 We think that there may be a general impression that in selecting the topics for reform with which we deal we only have regard to matters which occur to ourselves or which are referred to us by yourself or other Ministers. This is not so. For example, we take careful note of suggestions for reform made by Judges in reported cases or directly to us. We would also like to make it clear that we welcome proposals not only from those who encounter defects in the law in connection with their work but also from the general public. However, we cannot properly be asked for advice on individual cases or to comment on them. Perhaps inevitably, a substantial part of our mail consists of communications from disappointed litigants whom we have then to disappoint further by pointing out, in effect, that we are neither a Citizens Advice Bureau nor a Court of Appeal.

Our Secretary

1.12 At the end of June Mr. J. C. R. Fieldsend, our Secretary since September 1978, left the Law Commission to accept the invitation of the new Government of Zimbabwe to return to that country as its Chief Justice. He was called to the Bar of Southern Rhodesia in 1947 and became a High Court Judge in 1963. In 1968 he dissented in the constitutional case of *Madzimbamuto v. Lardner Burke*³¹ and subsequently resigned; he then

³¹ The majority decision which had pronounced the legality of the Rhodesian Government after U.D.I. was reversed by the Privy Council; see [1969] 1 A.C. 719.

joined the Law Commission as an Assistant Solicitor, where he led the Criminal Law team for many years. We should like to express our gratitude and appreciation for all he did to further our work during his twelve years with us and to wish him every success in this important appointment. We welcome Mr. B. M. F. O'Brien, who has been with us since 1970, as his successor.

PART II

LAW REFORM PROJECTS—REPORT ON PROGRESS

CONTRACT AND TORT

General

2.1 Our work in the field of contract has during this year again concentrated almost exclusively on preparing our Report and draft Bill on insurance law so that these would be available as soon as possible against the background of the current Brussels negotiations on the harmonisation of insurance contract law within the E.E.C. We have therefore been unable to make any progress with the preparation of reports on Pecuniary Restitution on Breach of Contract¹ or on Penalty Clauses and Forfeiture of Monies Paid.² Nor have we been able to do any further work on the parole evidence rule,³ consideration or misrepresentation; or to do other than preliminary work on those aspects of the law relating to the supply of goods which your predecessor invited us to consider. Outside the law of contract, our activity has concentrated on breach of confidence. A first draft of a Report was considered by the Commission earlier this year and preparation of a final Report and a draft Bill is well advanced.

We are pleased to report that Professor G. H. Treitel (Vinerian Professor of English Law, Oxford University) and Mr. F. M. B. Reynolds (Fellow of Worcester College, Oxford) will be assisting us as Consultants on certain outstanding topics in the law of contract.

Insurance Law

2.2 Our *Report on Insurance Law—Non-disclosure and Breach of Warranty*, with a draft Bill appended to give effect to our recommendations, was submitted to you on 19 August 1980. Publication of the Report followed on 28 October 1980.⁴

In our Report we examined the relevant provisions of the proposed E.E.C. directive on insurance law and concluded that they would provide an unsatisfactory means of reforming our present law. We therefore made recommendations as to the way in which the law in this area should be reformed.

Non-disclosure: our recommendations are that the insured should remain subject to a duty of disclosure (and in the event of a breach of that duty the insurer should remain entitled to avoid a contract of insurance) but that the ambit of the duty should be substantially reduced. In addition we recommended that all proposal forms and renewal notices should contain warnings to the insured about his duty of disclosure and about the consequences of breach of that duty, and we recommended that the insured should be supplied with a copy of the completed proposal form and in many cases

¹ The subject of Working Paper No. 65.

² The subject of Working Paper No. 61.

³ The subject of Working Paper No. 70.

⁴ (1980) Law Com. No. 104.

with a copy of any information given to the insurer on renewal. We also made recommendations regarding the construction of questions in proposal forms and renewal notices and regarding the standard of accuracy which the insured must attain when answering such questions.

Warranties: our recommendations are as follows. First, a term of a contract of insurance should be capable of constituting a warranty only if it is material to the risk. Secondly, the insurer should be entitled to reject claims on the ground of breach of warranty unless the insured can show either:

(a) that the broken warranty was intended to reduce the risk that a particular type of loss would occur, and the loss which in fact occurred was of a different type; or

(b) that even though the loss was of a type which the broken warranty was intended to make less likely, the insured's breach could not have increased the risk that the loss would occur in the way in which it did in fact occur.

The insurer should still be entitled to *repudiate the policy* for breach of warranty, but the repudiation would take effect only from the date on which a written notice of repudiation was served on the insured. We also recommended that the insurer should be obliged to furnish the insured with a written document containing the warranties by which the insured is bound under the contract. Finally, we recommended that reliance by insurers on the device of "basis of the contract" clauses should not be permitted except in relation to promises which are effective during the period of cover, for example that the insured would take precautions in relation to the insured property.

Our Report does not recommend changes in the law applying to insurance in the marine, aviation and transport fields. Nevertheless, there may be consumer cases within those fields in which the Secretary of State considers that it would be appropriate to apply the changes, and we accordingly recommended that he should be given power to extend the operation of the legislation to such cases. The recommendations also do not affect contracts of reinsurance except consequentially to a minor extent.

We were pleased to note that the Department of Trade expressed agreement with the need for reform within a few days after publication of our Report.⁵ The Department has already circulated a consultative document to obtain reactions.

Breach of Confidence

2.3 In our last Annual Report⁶ we pointed out that, although the central and comparatively simple principle of the law of confidence is that a person who acquires information under an obligation of confidence should not disclose or use it contrary to the terms of that obligation, the many uncertainties in the existing law and the controversial issues of law reform policy involved have complicated and prolonged our examination of this topic.

⁵ *Hansard* (H.C.) 4 Nov. 1980, col. 498.
¶ Para. 2.9.

During the course of the past year we have given consideration to a completed draft report on breach of confidence. We have taken the opportunity of reviewing our earlier conclusions on several issues of particular difficulty, including—

- (i) the extent to which an obligation of confidence should be founded on the acceptance of that obligation by the recipient,
 - (ii) the emphasis to be placed by the courts on considerations of the public interest in proceedings to enforce an obligation,
- and (iii) the extent to which it is appropriate to apply the procedure for enforcing obligations of confidence to information obtained under statutory powers.

These and other issues are difficult to resolve satisfactorily because there is an underlying conflict between principles, each of which appears to be fundamental and desirable: protection of confidence and freedom of communication. They also raise in an acute form the problem of how far it is legitimate and reasonable for the law of confidence to be used to achieve wider objectives: in particular to prevent invasions of personal privacy and, in a commercial context, to secure the payment of compensation for the profitable use of another's ideas in accordance with legal principles of unjust enrichment.

We have made good progress in resolving the outstanding difficulties and work is well advanced on the preparation of a further draft of our Report and of draft clauses to implement our recommendations. These will now also be able to take into account the views expressed by the House of Lords in *British Steel Corporation v. Granada Television*⁷ on the matters which we have under review. We hope to submit our Report, with an accompanying draft Bill, during the first half of 1981.

Our Report will contain recommendations for replacing the existing law of confidence with a statutory duty backed up by an appropriate range of civil remedies. But three matters concerning the scope of the Report need to be stressed. The first is that, owing to the width of the field which such a statutory duty has to cover, it is not practicable to recommend legislation which provides detailed guidance regarding particular breach of confidence situations. Our solutions are necessarily of a broad nature to provide a framework of law within which detailed solutions to particular problems can be worked out. Secondly, there are practical limitations on the extent to which any law of confidence can be expected to prevent abuses of confidence; we believe that a law of confidence will command respect only if it is realistic in its approach. Finally, we would stress that we have confined our recommendations, as under our reference⁸ we are bound to do, to those which are necessary to clarify and improve the law of confidence. The boundaries between confidence and related fields, such as privacy and

⁷ [1980] 3 W.L.R. 774.

⁸ "(a) to consider the law of England and Wales relating to the disclosure or use of information in breach of confidence and to advise what statutory provisions, if any, are required to clarify or improve it; and (b) to consider and advise what remedies, if any, should be provided in the law of England and Wales for persons who have suffered loss or damage in consequence of the disclosure or use of information unlawfully obtained and in what circumstances such remedies should be available."

unjust enrichment arising from the use of other people's ideas, are fine and their demarcation is a difficult task. But it is clear to us that it would be neither appropriate nor desirable to distort the concept of confidence in order to achieve other purposes, however desirable they might be thought to be.

We are grateful to Mr. Norman S. Marsh, QC, CBE, for continuing to assist us as a consultant.

Minors' Contracts

2.4 In our last Annual Report⁹ we expressed the hope that we would be able to publish a Working Paper on minors' contracts during the course of this year. However, owing to our concentration during the earlier part of the year on the preparation of the Insurance Law Report, we could make little progress on the law relating to minors' contracts. Latterly we have been able to devote more time to this topic, and we now hope to be in a position to publish a Working Paper next year.

Supply of Goods

2.5 Our current work on the law relating to supply of goods is primarily concerned with the terms as to merchantable quality and fitness for purpose implied by law into contracts of sale, hire purchase, and other contracts for the supply of goods. In considering the scope of these terms we shall be reviewing both the remedies to which a recipient of goods supplied under these types of contract ought to be entitled on breach of the various implied terms and also the rules under the Sale of Goods Act 1979 which determine when goods have been accepted by a buyer. We indicated in our last Annual Report¹⁰ that we would be unable to start work on this topic until our other commitments in the contract field permitted. Work on this project has now begun with the preparation of an analysis of the present law and its uncertainties. Some research has also been done into the proposals made in similar law reform exercises in Canada and Australia.

Hire-Purchase Law

2.6 In our last Annual Report¹¹ we referred to a detailed proposal we had received suggesting that all hire-purchase agreements should in future be deemed to be conditional sales. In order to decide whether this proposal should be taken further, we consulted various persons and bodies interested in hire-purchase law. The general consensus was that reform of the law along the lines suggested would not be satisfactory, principally for two reasons. First, it was suggested that the root of the problem is that hire-purchase and conditional sale transactions are not simple sales. They also create security interests akin to mortgages and there is no statutory requirement for their registration. This is a matter which was considered in general by the Committee on Consumer Credit¹² (the Crowther Committee)

⁹ Para. 2.5.

¹⁰ Para. 2.3.

¹¹ Para 2.7.

¹² In their *Report on Consumer Credit* (1971) Cmnd. 4596.

and which will no doubt be adverted to by the Insolvency Law Review Committee (the Cork Committee) when considering reservation of title clauses in their final report.¹³

Secondly, it was suggested that the proposal would have the effect of preventing the parties from making an agreement whereby the customer has not bound himself to purchase the goods,¹⁴ but merely has the option to do so. It was pointed out to us that in some cases the objective of the parties was to allow the customer to decide at a later date whether or not to purchase the goods. It was also emphasised to us that hire-purchase agreements are no longer confined to consumer contracts but may be used in major commercial projects, and that the flexibility afforded by the legal position whereby there is no final commitment to purchase is regarded as highly desirable by the providers of finance as well as by their customers.

For these and other reasons we decided that we should not pursue this proposal any further.

Reform of Sale of Goods Act 1979, section 25(1)

2.7 During the course of the year we received a proposal that the word "seller" should be substituted for the word "owner" where the term "owner" appears in what is now section 25(1) of the Sale of Goods Act 1979. It was argued that the present section could lead to the situation whereby if a thief sold the goods which he had stolen to an innocent purchaser (who would obtain no better title than that of the thief), and if the innocent purchaser sold the goods to an innocent third party, then the latter would obtain good title even against the owner. Though there undoubtedly appears to be a problem with the wording of section 25(1) in this respect, we think that this is unlikely to lead to real difficulty in practice. In addition, we considered that since this problem was not the only one that arises out of section 25(1)¹⁵ it would be inappropriate to suggest an amendment to section 25(1) to meet one point, which in our view does not create practical difficulties, without dealing also with the other wider issues which may be of greater importance in practice. We also concluded that it might be inappropriate to examine the problems of the passing of title under section 25(1) without considering the broader problems presented by retention of title clauses, on which we are awaiting the final report of the Insolvency Law Review Committee (the Cork Committee). We have therefore decided not to pursue this topic further.

CRIMINAL LAW

General

2.8 We completed and submitted a Report on the law of attempt and related matters¹⁶ during the past year. We have now undertaken to review common law offences relating to public order and the power of courts to bind over to keep the peace and be of good behaviour.¹⁷ As we explain

¹³ This issue is not discussed in the *Interim Report of the Insolvency Law Review Committee* (1980) Cmnd. 7968.

¹⁴ See s. 27 of the Hire Purchase Act 1965 and s. 99 of the Consumer Credit Act 1974.

¹⁵ See the *Twelfth Report of the Law Reform Committee on Transfer of Title to Chattels* (1966) paras. 21-25 and 40.

¹⁶ See para. 2.9 below.

¹⁷ See paras. 2.14 and 2.15 below.

below, considerable progress has been possible on work already in hand. But we have not been able to do as much as we would have wished on preparing a report on conspiracy to defraud, principally because of the demands of the Royal Commission on Criminal Procedure on the time of the Commissioner primarily responsible. Now that the work of that Commission is approaching completion, we expect to resume work more intensively on this difficult subject. The important initiative taken by the Society of Public Teachers of Law in relation to codification of the criminal law has been referred to in Part I.¹⁸

The Law of Attempt

2.9 We submitted to you on 2 April 1980 our *Report on Attempt, and Impossibility in Relation to Attempt, Conspiracy and Incitement*; ¹⁹ the work was undertaken as part of Item XVIII of our Second Programme of Law Reform (Codification of the Criminal Law)²⁰ and apart from incitement²¹ and conspiracy to defraud²² completes the area covered by our Working Paper on *Inchoate Offences: Conspiracy, Attempt and Incitement*.²³ The Report with its appended draft Criminal Attempts Bill was published on 25 June 1980; it attracted considerable notice in the lay press as well as in legal publications and was the subject of the principal seminar held by the Criminal Law Group of the Society of Public Teachers of Law at the Society's annual conference in September 1980. We understand that a Bill will be brought forward for legislation in the 1980/81 Parliamentary Session.

The principal recommendations contained in the Report are intended to rationalise, in statutory form, the law of attempt and to alter the law relating to "impossible" attempts and conspiracies. Attempt as a common law offence will thus be abolished; apart from the issue of impossibility, our recommendations do not depart radically from the existing law but we believe that its formulation in statutory terms will make it simpler to apply and also facilitate eventual codification.

The recommendations relating to attempts and conspiracies which are impossible to carry out or complete in particular circumstances are designed both to establish beyond doubt that situations such as attempted theft from an empty purse are subject to penal sanctions and to reverse the decisions of the House of Lords in *Haughton v. Smith*²⁴ and *Director of Public Prosecutions v. Nock and Alford*.²⁵ This will ensure that where persons attempt or conspire together to commit an offence but, contrary to their belief, the facts are such that it is impossible to carry out or complete the offence, they will nevertheless be liable for attempt or (as the case may be) conspiracy. The Report also discusses impossibility in relation to incitement, but since the law here has already been settled by decided cases which accord with the principles recommended in the Report in relation to attempt and conspiracy²⁶

¹⁸ See para. 1.4 above.

¹⁹ (1980) Law Com. No. 102.

²⁰ (1968) Law Com. No. 14.

²¹ As to which see below.

²² As to which see para. 2.13 below.

²³ (1973) Working Paper No. 50.

²⁴ [1975] A.C. 476.

²⁵ [1978] A.C. 979.

²⁶ *R. v. McDonough* (1962) 47 Cr. App. R. 37, approved in *D.P.P. v. Nock and Alford* [1978] A.C. 979 at p. 999 (per Lord Scarman).

no provision for it is made in the draft Bill. As we mentioned last year,²⁷ full consideration of incitement has been held over to be dealt with in the context of complicity.

Treason, Sedition and Allied Offences

2.10 Consideration by the Commission of the internal policy paper to which we referred last year²⁸ has not yet been completed, principally because detailed examination made clear to us the extremely difficult problems in defining those capable of committing treason which are raised by the present state of the United Kingdom laws relating to nationality. These particular difficulties should be eliminated to a large extent if the Government's proposals set out in its recent White Paper on *British Nationality Law*²⁹ are enacted.

The provisional proposals which we put forward in the Working Paper³⁰ were, of course, strictly limited to the law of England and Wales. Even so, they clearly have strong cross-border implications in that the law of treason in Scotland was assimilated to that of England and Wales in 1708, although the distinctive character of Scots law has been preserved in relation to allied offences such as sedition and conspiracy to alter the constitution by force. These and other policy considerations make the subject a particularly sensitive one and we shall have to consult very fully with our colleagues in Scotland on how best to carry the work forward. In these circumstances, we have not thought it right to give the subject priority and we do not expect to complete a report in the coming year.

Blasphemy

2.11 We have received a considerable number of enquiries about our work on the law of blasphemy, and our public announcement shortly after the decision of the House of Lords in *Whitehouse v. Lemon*³¹ that we were undertaking a review of the subject has continued to elicit a substantial response. The sensitivity which treatment of the subject requires, however, and the need to examine a wide range of non-legal considerations in drawing up our provisional proposals have delayed publication of our Working Paper. Nevertheless we expect soon to have it completed for publication. In view of the exceptional interest which we anticipate, we hope to have the Working Paper distributed on a very wide basis; and we also hope that it may be possible to provide a separate summary of the issues.³²

Criminal Libel

2.12 A Working Paper on criminal libel has been prepared in draft and we hope to publish it early next year. We have taken note not only of the observations of the House of Lords in *Gleaves v. Deakin*,³³ but also of the remarks of the trial judge³⁴ at the first of the "Gleaves" prosecutions³⁵ that the present law is "wholly unfitted for modern times".

²⁷ Law Com. No. 97, para. 2.12.

²⁸ Law Com. No. 97, para. 2.14.

²⁹ (1980) Cmnd. 7897.

³⁰ (1977) Working Paper No. 72, *Treason, Sedition and Allied Offences*.

³¹ [1979] A.C. 617, on appeal from *R. v. Lemon*.

³² See para. 1.8 above.

³³ [1979] 2 All E.R. 497, on appeal from *R. v. Wells Street Stipendiary Magistrate, ex parte Deakin*.

³⁴ Comyn J.

³⁵ *The Times* 28 February 1980.

Conspiracy to Defraud

2.13 Resumption of intensive work upon a report setting out what new substantive offences would be required if conspiracy to defraud in its present form were to be abolished is one of our foremost priorities for the coming year. We have taken note of a number of matters which have grown in importance during the past year and will require consideration in this context. These include the unauthorised use of facilities provided by employers and others to make secret profits, the perpetration of frauds by means of computers, the serious problem of "pirate" copying of gramophone records, tapes and video tapes, and the difficult distinction as to inducement which the law at present seems to draw between cheque card offences and those involving credit cards.³⁶

Common Law Offences of Public Order

2.14 After consultation with the Home Office, it has been agreed that we should review common law offences in the fields of public order and certain old statutory provisions having a bearing upon public order, with a view to their reform, statutory restatement and eventual codification. The offences concerned include riot, rout, unlawful assembly, and affray, and public nuisance in so far as that offence is used in the area of public order; they constitute the one major group of offences at common law which has not hitherto been the subject of review by a law reform agency.

Our review of the common law offences will proceed in conjunction with the examination by the Home Office of the Public Order Act 1936 and related legislation, which has already been the subject of a Green Paper³⁷ published this year. We are in close touch with the Home Office with regard to the scope and timetable of our respective reviews; at present it seems likely that the work of the Home Office, which is largely concerned with the problems presented by public meetings and processions, will be finished substantially in advance of our own review.

Binding Over to Keep the Peace

2.15 We have agreed with the Home Office that, in conjunction with our examination of public order,³⁸ we should also review the power to bind over to keep the peace, both at common law and under the Justices of the Peace Act 1361. This has been the subject of considerable comment in recent years, principally because it enables courts to bind over individuals who have not been charged with any offence. This power is exercised in a substantial number of cases, particularly, it seems, in relation to domestic disputes. There are in addition anomalies in legislation connected with binding over which deal with appeals and penalties, all of which need to be examined. These aspects of binding over take it outside the strict bounds of the law relating to public order, and hence beyond the scope of our programme for codifying the criminal law. For these reasons we have obtained from you a reference under section 3(1)(e) of the Law Commissions Act 1965 to enable us to deal comprehensively with every aspect of this topic.

³⁶ Compare *R. v. Lambie* (*The Times* 5 August 1980) and *R. v. Charles* [1977] A.C. 177.

³⁷ *Review of the Public Order Act 1936 and related legislation* (1980) Cmnd. 7891.

³⁸ This falls under item XVIII of our existing programme.

Complicity and Vicarious Liability

Criminal Liability of Corporations

2.16 While these topics are clearly in need of clarification and restatement with a view to their eventual codification, neither of them presents a problem so urgent as to require immediate attention. Moreover, they are subjects which would naturally fall within the proposals by the Society of Public Teachers of Law referred to in Part I.³⁹ We have therefore given priority to other matters in the past year, and we do not expect early completion of reports upon them.

Criminal Law Revision Committee

2.17 In our *Second Programme of Law Reform*⁴⁰ we recommended that Offences Against the Person and Sexual Offences should be examined by the Criminal Law Revision Committee. The Committee issued its *Report on Offences Against the Person*⁴¹ this year. In this Report we welcome in particular the endorsement by the Committee of the general approach which we adopted in our *Report on the Mental Element in Crime*⁴² to the problem of defining "intention" and "recklessness".⁴³ The attention given by the Committee to the problems of extraterritorial jurisdiction in the context of particular offences⁴⁴ also accords with the approach suggested by us in our *Report on Territorial and Extraterritorial Jurisdiction*.⁴⁵

Sexual offences form the second group of offences which under our *Second Programme* are to be reviewed by the Criminal Law Revision Committee. The Committee's work on them has been divided into two. The first part relates to all sexual offences excluding the laws on prostitution, and a Working Paper containing proposals in regard to these offences has just been published.⁴⁶ The second part of the Committee's work covers the laws relating to prostitution, and following the circulation last year of a questionnaire requesting preliminary views on the subject from the public and legal profession, work has continued on the preparation of a Working Paper.

FAMILY LAW

Financial Consequences of Divorce : The Basic Policy

2.18 In our last Annual Report⁴⁷ we said that although we were aware of a great deal of criticism of the divorce laws relating to the financial consequences of divorce the problem involved fundamental issues of social and economic policy and of the philosophy of marriage upon which opinions were still deeply divided. Accordingly we did not feel that it was then appropriate for us to initiate any action on this topic. In the course of the year we continued to receive a great deal of correspondence on this matter and after consultation with you we decided that it might help to clarify the

³⁹ Para. 1.4 above.

⁴⁰ (1968) Law Com. No. 14, Item XVIII.

⁴¹ Fourteenth Report (1980) Cmnd. 7844.

⁴² (1978) Law Com. No. 89.

⁴³ See Cmnd. 7844, paras. 11 and 21.

⁴⁴ *Ibid.*, Part VIII.

⁴⁵ (1978) Law Com. No. 91, para. 8.

⁴⁶ *Working Paper on Sexual Offences* (October 1980).

⁴⁷ Para. 2.25.

fundamental issues underlying the debate if we were to publish a discussion paper dealing with the basic policy. This Paper, *The Financial Consequences of Divorce: The Basic Policy*⁴⁸ was submitted to you on 13 August 1980 and published on 6 October 1980. The Paper outlines the present law and the historical and social factors which helped to shape it. It contains a summary of the complaints and criticisms made about the working of the present law, and analyses the arguments against continued acceptance of an underlying principle of the present law, that is to say that marriage involves a life-long obligation which may continue even after divorce. Finally the Paper discusses some of the principles which might be considered if it were decided that this policy was in need of reform, and the Paper also outlines the case for retaining the existing law.

The object of our Paper is to provide information and to promote informed discussion; it examines the field of choice but it does not put forward any firm conclusions or recommendations. We received both before and since the publication of the Paper a substantial number of comments and criticisms about the law and intend to analyse the points put to us before deciding whether there is any further action that we can usefully take in this controversial field.

One of the problems of financial provision at a time of high inflation is of course the fall in the real value of maintenance orders. A Bill⁴⁹ introduced by Mr. Robert Taylor M.P. which aimed to provide machinery for the annual up-rating of the amounts payable under maintenance orders for children reached the Committee stage but it made no further progress and was subsequently withdrawn.⁵⁰ Mr. Taylor then wrote to us about his proposals but we came to the conclusion that the desirability of providing machinery for indexation of orders consequent on marital breakdown was a matter which could most usefully be discussed as and when decisions had been taken as to the basic policy of the law. We are also aware of the formidable technical and other difficulties which would be involved in a scheme of the type proposed, which would necessitate careful study at Departmental level. We accordingly decided not to pursue this matter for the time being.

Orders for Sale of Property

2.19 Our Report on *Orders for Sale of Property under the Matrimonial Causes Act 1973*⁵¹ with draft clauses was submitted to you on 14 December 1979 and published on 14 February 1980. The Report recommended an amendment to the 1973 Act so as to give the court express power to order sale of property where financial provision⁵² or property adjustment⁵³ orders are made in divorce, nullity and judicial separation proceedings.⁵⁴

⁴⁸ Law Com. No. 103.

⁴⁹ Affiliation Orders and Aliments (Annual Up-rating) Bill which subsequently became the Child Maintenance Orders (Annual Up-rating and Exemption) Bill 1980.

⁵⁰ The proposals are briefly referred to in para. 28 of our Paper on *The Financial Consequences of Divorce: The Basic Policy* (Law Com. No. 103).

⁵¹ Law Com. No. 99.

⁵² Under the Matrimonial Causes Act, s. 23.

⁵³ *Ibid.*, s. 24.

⁵⁴ In *Ward v. Ward and Greene* [1980] 1 W.L.R. 4 it was suggested that the court's powers to order sale in matrimonial proceedings were wider than had previously been appreciated; see also *Practice Note (Matrimonial Property: Order for Sale)* [1980] 1 W.L.R. 4. Nevertheless, implementation of our proposals will clarify the court's powers and extend them in a number of significant respects.

Illegitimacy

2.20 Our Working Paper on this subject,⁵⁵ issued on 5 July 1979, continued to be the subject of comment, often very fully and carefully considered, for a considerable period beyond the closing date. We have now been able to analyse and discuss the views of those who wrote to us, particularly on the central and most difficult question whether reform should seek merely to remove the legal disadvantages of illegitimacy so far as they affect the child, or whether (as we provisionally proposed in the Working Paper) reform should go further and remove the concepts of legitimacy and illegitimacy altogether from the law of family relations. On this issue we received an impressive amount of cogently argued evidence from bodies and persons with a wide range of knowledge and experience. In particular, the tentative proposal to confer parental "rights" on both parents of children born outside marriage—albeit only rights which in any legal proceedings would be over-ridden unless it would clearly be in the child's interests to give effect to them—was a matter of much discussion and some anxiety. We have now started work on the preparation of our report and the accompanying draft legislation. We hope to submit this to you towards the end of 1981.

Declarations as to Status

2.21 Work is now in hand on the preparation of a report which will deal with the powers to make declarations which were discussed in our *Working Paper on Declarations in Family Matters*⁵⁶ as well as those matters, such as a possible power to make a declaration of parentage,⁵⁷ which come within the scope of our report on illegitimacy.

Time Restrictions on the Presentation of Divorce and Nullity Petitions

2.22 Our Working Paper on *Time Restrictions on Presentation of Divorce and Nullity Petitions*⁵⁸ was issued on 12 June 1980 and we are still receiving comments on it. The paper deals with two restrictions in the Matrimonial Causes Act 1973. The first and more important is the rule that divorce petitions cannot be presented within three years of the marriage unless the applicant establishes, in a preliminary hearing, that the case involves exceptional hardship or exceptional depravity. We took the provisional view that some change in the law was justified because, although there may well be a strong case for preserving some restriction on the availability of divorce in the early years of marriage, the present restriction may encourage a man or woman whose marriage has broken down to make hurtful and wounding allegations in order to get leave to petition within 3 years of the marriage. The Working Paper examines a number of possible alternatives to the rule now in force.

The second restriction requires nullity proceedings to be started within three years of the marriage if the marriage is alleged to be voidable. It has been represented to us that this rule can cause hardship in cases where the petitioner's mental condition makes it difficult or impossible for him or her

⁵⁵ Working Paper No. 74.

⁵⁶ Working Paper No. 48.

⁵⁷ There is no such power under the existing law: see *re J.S. (a minor)* [1980] 1 All E.R. 1061.

⁵⁸ Working Paper No. 76. A Summary of the paper *Law Reform? An Invitation for Views—Divorce in the Early Years of Marriage* was also published.

to take the necessary action within this period. We have therefore provisionally proposed that the court should have a discretion to extend the time in cases where mental incapacity is involved.

The Ground for Divorce

2.23 In our last Annual Report we said⁵⁹ that we intended, when we had completed our Working Paper on Time Restrictions, to undertake a review of the Ground for Divorce. We have not yet started any detailed work towards the preparation of a Working Paper on this subject. We are, however, keeping a close watch on developments both in this country and overseas and we envisage that in due course we shall prepare a paper analysing the operation of the present law, and presenting a field of choice for reform.

It will in due course be necessary for us to decide whether it is appropriate to publish a separate report on Time Restrictions, or whether this subject can most sensibly be dealt with in the context of a general review of the Ground for Divorce. It will also be necessary to consider the extent to which further reform of the substantive law in this area can sensibly be considered in isolation from the procedures in matrimonial litigation. We expect to give further thought to these questions in the course of the coming year.

Judicial Separation

2.24 In our Working Paper on *Time Restrictions*⁶⁰ we noted⁶¹ the significant increase in the use made of judicial separation proceedings over the years. In 1971 there were only 211 petitions; in 1978 there were 2,611. Little is known about the reasons for the increased use of such petitions, and at our suggestion limited research projects are being undertaken under the aegis of Professor P. M. Bromley of Manchester University and of Mrs. Susan Maidment of Keele University which will, we hope, throw some light on this matter. We are of course well aware of the importance of empirical research as a foundation for law reform proposals, and we are particularly grateful to Professor Bromley and Mrs. Maidment for agreeing to undertake this work for us.

Financial Relief after Foreign Divorce

2.25 Our Working Paper on this subject⁶² which was published on 26 November 1980, provisionally proposes that the English court should have power to make financial provision or property adjustment orders after foreign⁶³ divorce, nullity or legal separation where a foreign divorce or annulment is recognised here, provided that the applicant satisfies certain jurisdictional and other criteria and that in all the circumstances the court is satisfied that such an application ought to be entertained. Lack of such a power has caused hardship and difficulty in some recent cases,⁶⁴ particularly those where a person who has lived in this country for many years was divorced in a country where the courts lacked power (or did not exercise the powers that

⁵⁹ Para. 2.24.

⁶⁰ See para. 2.22 above.

⁶¹ In para. 34 of the Working Paper.

⁶² Working Paper No. 77.

⁶³ *i.e.* outside the United Kingdom, Channel Islands or Isle of Man.

⁶⁴ Notably *Quazi v. Quazi* [1979] 3 W.L.R. 833 (H.L.). See also *Turczak v. Turczak* [1970] P. 198; *Torok v. Torok* [1973] 1 W.L.R. 1066; *Joyce v. Joyce and O'Hare* [1979] Fam. 93.

they had) to order financial provision. In some cases, the applicant's only hope of redress lay in applying to the English court to refuse to recognise the validity of the foreign divorce. If such an application is successful, a "limping" marriage, valid in this country but not elsewhere, is the result, which is clearly undesirable.

Conflicts of Jurisdiction Affecting Children—Inter U.K.

2.26 We have now concluded the further consultation envisaged in our last Annual Report⁶⁵ on the revised proposals agreed between ourselves and the Scottish Law Commission and designed not only to eliminate the possibility of conflicting orders being made in different parts of the United Kingdom but also to provide effective machinery for the mutual enforcement of such orders. The preparation of a joint report to cover both jurisdiction and enforcement in child custody cases throughout the United Kingdom will shortly be put in hand.

Conflicts of Jurisdiction Affecting Children—International

2.27. This year has seen a number of important developments in this area. First, the Council of Europe Convention on the Recognition and Enforcement of Child Custody Decisions was signed⁶⁶ by the United Kingdom on 20 May 1980. The Convention aims to secure the recognition and enforcement in all contracting States of orders relating to custody of children, and the restoration of custody to the person deprived of the child after the improper removal of that child from one contracting State to another ("kidnapping"). Secondly, on 25 October 1980 the terms of a Convention on the Civil Aspects of International Child Abduction were settled at the Fourteenth Session of The Hague Conference on Private International Law. Thirdly, the question of child kidnapping within the Commonwealth was discussed at the meeting of Commonwealth Law Ministers at Barbados in April 1980. We played an active part in discussing these initiatives with those representing the United Kingdom; we also prepared a detailed paper analysing the issues involved, and the policy factors which would need to be discussed in formulating legislation to give effect in this country to any international conventions.

Children in Care

2.28 In our last Annual Report⁶⁷ we pointed out that, although the law relating to the circumstances in which a child is received or taken into care of a local authority was in need of simplification and rationalisation, a review of the law would necessarily involve difficult questions of policy and resources. Although Departmental resources do not at the moment permit the comprehensive review which we believe to be desirable, we have now started preliminary discussions with the Department of Health and Social Security and others concerned on a number of comparatively uncontroversial areas of law on which it might be possible to make some progress.

⁶⁵ Para. 2.28.

⁶⁶ The Convention has not, however, yet been ratified.

⁶⁷ Para. 2.30.

PROPERTY LAW (APART FROM LANDLORD AND TENANT)

Rights Appurtenant to Land

2.29 Preparatory work on this project has continued during the year, but the team has also been engaged on other work (including in particular our work on Landlord and Tenant⁶⁸ and on Rights of Access to Neighbouring Land⁶⁹) and has therefore been unable to give sustained attention to it. We much regret our continued inability to make real progress with this wide and important subject. We hope to do so during the coming year, and the first aspect of the matter with which we shall deal, as we said in last year's Annual Report,⁷⁰ will be positive and restrictive covenants.

Rights of Access to Neighbouring Land

2.30 A Working Paper on this subject was completed in August but its publication has been held back to enable a summary to be produced simultaneously. The paper deals with a specific problem which you referred to us under section 3(1)(e) of the Law Commissions Act 1965: the difficulties which may arise when a building is erected so close to a boundary that its owner cannot repair or do other work on it unless he can have access for this purpose to the neighbouring land, and he has no legal right to such access.⁷¹ The Working Paper discusses the important question of principle as to whether there should be some legal means of obtaining access in these circumstances and concludes provisionally that there should. It puts forward for consideration a scheme which would enable the owner of the building to apply to a tribunal for access in order to carry out a particular project of work, and would give the tribunal power to grant the application, to refuse it, or to grant it subject to conditions.

Family Property

2.31 Our *Third Report on Family Property: the Matrimonial Home (Co-ownership and Occupation Rights) and Household Goods*,⁷² published in June 1978, was divided into three Books, to each of which a separate draft Bill was appended.

There have been no developments during the year in regard to Book Three, dealing with *Use and Enjoyment of the Household Goods*.

As to Book Two, dealing with *Rights in Respect of Occupation of the Matrimonial Home*, discussions took place during the year between your Department, H.M. Land Registry and ourselves, and other work was done, with a view to the introduction of the Matrimonial Homes (Rights of Occupation) Bill during the last Session of Parliament; but in the event this was prevented by lack of parliamentary time. We hope that time can be found for it soon.

As to Book One, dealing with *Co-ownership of the Matrimonial Home*, there are two developments to record. The draft Bill (The Matrimonial

⁶⁸ Paras. 2.34 to 2.37 below.

⁶⁹ Para. 2.30 below.

⁷⁰ Para. 2.34.

⁷¹ The problem is well illustrated by the case of *John Trenberth Ltd. v. National Westminster Bank Ltd.* (1979) 39 P. & C.R. 104; 253 Estates Gazette 151.

⁷² Law Com. No. 86.

Homes (Co-ownership) Bill) was introduced in the House of Lords by Lord Simon of Glaisdale and received its Second Reading after a Debate in February.⁷³ Lord Simon was unable to take the matter further during that Session, but we understand that the Bill is likely to be reintroduced in due course. In the meantime, however, the House of Lords has upheld the decision of the Court of Appeal in *Williams & Glyn's Bank Ltd. v. Boland* and *Williams & Glyn's Bank Ltd. v. Brown*.⁷⁴ This decision, and the approval expressed by their Lordships of the resulting state of the law, run counter to some of the recommendations relating to the methods of protecting the rights of co-owners contained in Book One and reflected in the draft Bill. We refer to that decision in greater detail in the next paragraph because it has inescapable implications for our work on one aspect of the land registration system; but because the decision is of immediate practical importance we are, at your request, undertaking further consultations which will give us guidance not only as to the recommendations which we should in due course make in relation to the law relating to registered land but also as to the soundness of the existing recommendations on this aspect of the subject contained in Book One of our *Third Report on Family Property*.

Land Registration

2.32 Work has continued on the preparation of our report on aspects of land registration, including such matters as whether the register should be opened to public inspection, the rules governing identity and boundaries, the registration of leases, the protection and priority of interests such as mortgages, the rules governing rectification and indemnity, and the definition and scope of overriding interests, that is to say, interests which will bind a person dealing with the land although they are not referred to on the register.

A new dimension has been given to this work by the important decision of the House of Lords referred to above (*Williams & Glyn's Bank Ltd. v. Boland*) which is concerned with the protection of the rights of persons entitled to share in the beneficial ownership of property which they occupy jointly with the legal owner. This is a problem which also affects unregistered land but was brought into sharp focus in the case of registered land when it was decided that such rights could take effect as overriding interests. This means that a purchaser or mortgagee may be adversely affected by the rights of a member of the proprietor's family (or, indeed, of others) who are living in the property even though their equitable interests are not protected by entry on the register. These interests may have arisen as a result of an express trust or even quite informally because, for example, a person has contributed financially to the purchase of the house. The decision thus raises once again the conflict between two interests—that of protecting family members against the consequences of unauthorised dealing with the family home, and that of simplifying and facilitating property transactions and thereby limiting the legal costs incidental to land transfer. You asked us to consider the consequences of the decision and it appeared to us essential to carry out further consultation if we were to be

⁷³ See *Hansard* (H.L.) 12 February 1980, cols. 112-154.

⁷⁴ [1980] 3 W.L.R. 138.

in a position to recommend how this conflict might in this context be resolved. Our consultation is designed, in the first instance, to ascertain the extent of the additional burden and difficulties of making the enquiries which those advising purchasers (and particularly mortgagees) consider necessary to protect their clients against the risk of being bound by undisclosed and formally unprotected interests. This is, in large part, a fact-finding enquiry, and we have directed it primarily to those professionally concerned with conveyancing and the provision of house-purchase finance: solicitors, Building Societies and Banks. If our enquiries reveal that the decision has indeed increased the complication and cost of dealing in land, we shall then have to seek to balance this against any advantages, in terms of further protection for the rights of spouses and others, stemming from the *Boland* decision. It may well be the end of the year before we have received all the evidence we have sought on this problem, with the inevitable result that publication of our final report on Land Registration will be delayed. Nevertheless, we still hope to be able to publish the report in 1981, since preparation of much of the report has reached an advanced stage.

Statutory Provisions for Reverter

2.33 Certain statutes (notably the School Sites Act 1841) contain provisions under which land reverts to its previous owner (or his successors in title) if the use for which the land was granted comes to an end. The statutes in question give rise to difficult problems of construction and the picture has been further complicated by subsequent legislation in the education field, and by the changes made by the Law of Property Act 1925. Another major source of difficulty is that in very many cases the identity of the person entitled to the land on reverter is not now known. Most of the grants in question were made in the nineteenth century.

The Working Party set up under our aegis to consider the operation of these statutory rights of reverter has circulated a draft report—in effect a Working Paper—to a substantial number of people likely to be interested. The existence of the draft was also advertised in appropriate journals and copies have been sent to those who have asked for them.

The draft report recommends (*inter alia*):

- (a) The repeal of the Acts in question so that land cannot be granted thereunder in future.
- (b) The abolition of rights of reverter under the Places of Worship Sites Act 1873 in relation to future cessers of use under existing grants. This recommendation was made on the basis that it was unlikely that the original grantor would have anticipated that the church or chapel (once built) would ever become redundant.
- (c) The establishment of a scheme enabling school trustees to sell land which had reverted to an unknown revertee, preserving the right of the revertee to claim the net proceeds within a set period thereafter.
- (d) The enactment of provisions interpreting ambiguous parts of the existing statutes.

There has been a considerable body of response to the Working Party's request for comments on the draft report. Reconsideration of the recommendations in the light of comments has been subjected to some delay but we

understand that the way is now clear for the Working Party to prepare a report for submission to us.

LANDLORD AND TENANT

General

2.34 In our *Thirteenth Annual Report 1977-1978*⁷⁵ we reviewed our work in the field of landlord and tenant law and explained some of the problems besetting our original project for its codification. We said that we would reconsider the form and nature of our future work in this field in the light of parliamentary and other reactions to our already published *Report on Obligations of Landlords and Tenants*⁷⁶ and to the two outstanding reports about to be mentioned.

Covenants Restricting Dispositions, Alterations and Change of User

2.35 The situation in regard to our proposed report on this subject remains almost unchanged. In the summer of 1979 we sent a full draft report without clauses to your Department, to the Department of the Environment and to other Government Departments for the purposes of consultation. Some comments have been received, but the Department of the Environment wish to defer comment on this report until they have seen a draft of the other outstanding report mentioned in the next paragraph.

Termination of Tenancies

2.36 A full draft of the report on this topic, which is to be submitted to the same Departments on a consultative basis, was considered by the Commission in May this year. The policy of the report was then settled but the subject is a complex one and the draft which we considered is being extensively rewritten in order to improve the form in which the issues are presented. This has taken some time but we hope to be able to submit the draft report during the next few months. It would in fact have been possible to submit the report sooner than this, but since we understood from the Department of the Environment that their work on the Housing Act would prevent them from considering it until late in the year, the team postponed the task of rewriting the report to complete the Working Paper on *Rights of Access to Neighbouring Land*.⁷⁷

The draft report recommends that the present law relating to the termination of tenancies by forfeiture, which is unnecessarily complex and has many unsatisfactory features, should be swept away and replaced by a new and straightforward system under which tenants' breaches of obligation would entitle landlords to seek a termination order from the court. Our scheme for landlords' termination orders will incorporate many features designed to rationalise and improve the existing law. The report will also recommend an entirely new scheme for tenants' termination orders, under which a tenant would be entitled for the first time to apply for the termination of his tenancy because of breaches of obligation by his landlord. It will incorporate provisions for the payment of compensation to a tenant for the loss of a tenancy ended for this reason.

⁷⁵ Law Com. No. 92, para. 2.34.

⁷⁶ (1975) Law Com. No. 67.

⁷⁷ See para. 2.30 above.

2.37 The final Reports on the two aspects of landlord and tenant law dealt with in the two preceding paragraphs will be submitted to you when we have completed our consultations with other relevant Government Departments.

PRIVATE INTERNATIONAL LAW

Obligations

(a) Contract

2.38 In our last Annual Report⁷⁸ we mentioned that the Brussels Group of Experts⁷⁹ completed consideration of the draft Convention on the law applicable to Contractual Obligations in February 1979 and that Governments of Member States were asked to submit comments on the draft by the end of 1979. The English text of the draft Convention was issued for consultation by your Department and the Scottish Courts Administration with a request for comments by 31 October 1979. Following upon these consultations, the Joint Working Group on Private International Law⁸⁰ set up by the Scottish Law Commission and ourselves met in December 1979 to consider the results of consultation with a view to advising on the matters to be included in the Government's observations on the draft Convention. A further meeting of the Joint Working Group was held in March 1980 to brief the United Kingdom representatives at the Brussels negotiations which took place in March and April. The draft Convention was opened for signature in Rome on 19 June 1980.⁸¹

The Joint Declaration to the draft Convention states that the Governments of Member States will consider "the possibility of conferring jurisdiction in certain matters on the Court of Justice of the European Communities and, if necessary, to negotiate an agreement to this effect". At their meeting on 19 June 1980 in Rome, the representatives of the Governments of the Member States, meeting within the Council, instructed a Working Party of experts to seek ways of implementing this aspect of the Joint Declaration. The Working Party held meetings in July and November. We have continued to provide assistance with these negotiations.

Arbitration agreements and agreements conferring jurisdiction on courts are at present excluded from the scope of the draft Convention. It is expected that consideration will be given early next year to the question whether choice of law rules on such agreements should be included in a separate protocol to the draft Convention and, if so, what the rules should be.

(b) Tort

2.39 The Joint Working Party⁸² set up by us and the Scottish Law Commission⁸³ met twice in the year under review. Work has started on the preparation of a joint working paper which we hope to issue for consultation in the coming year.

⁷⁸ Para. 2.41.

⁷⁹ This Group was set up by the E.E.C. Commission and comprises representatives from all nine Member States.

⁸⁰ The membership of this Joint Working Group was set out in Appendix 3 of our *Thirteenth Annual Report* (Law Com. No. 92).

⁸¹ The draft Convention was signed the same day by the plenipotentiaries of seven Member States. The United Kingdom and Denmark have not yet signed the draft Convention. The Convention will enter into force on the first day of the third month following the deposit of the seventh instrument of ratification: Article 29.

⁸² The membership is shown in Appendix 4 of this Report.

⁸³ See our *Fourteenth Annual Report* (Law Com. No. 97) para. 2.42.

Classification of Limitation of Actions

2.40 We completed our Working Paper No. 75 on this topic on 14 February 1980 and it was published on 15 May 1980 with a request for comments by 31 October 1980. The main provisional proposal in the Working Paper is that statutes of limitation should be classified as substantive, rather than as procedural, for choice of law purposes. This would have the effect that, in the case of a claim with a foreign element, the period within which the claim may be brought would be determined by the law of the country which governs the claim generally, and not by reference to English law as the law of the forum.

After analysing the comments received on our Working Paper, we shall start work on the preparation of a report. We hope to be in a position to submit the report to you in the course of next year.

Foreign Money Liabilities

2.41 The Joint Working Party⁸⁴ set up by us and the Scottish Law Commission to examine the problems which may arise when money is due in a currency other than that of the place of payment or the place where payment is sought met in December 1979 to consider discussion papers dealing with the need for reform of the substantive law on foreign money liabilities and of the procedural rules governing the conversion of foreign money claims into sterling. The views of the Working Party have been taken into account in the preparation of draft sections of a Working Paper dealing with these topics which were examined at a further meeting of the Working Party in November 1980. We hope to publish this Working Paper during the course of the coming year. The Working Party also considered an analysis of the Council of Europe Convention on Foreign Money Liabilities (1967). We have decided, after discussions with the Scottish Law Commission, to prepare a joint Report on the merits of the 1967 Convention and of the Council of Europe Convention on the Place of Payment of Money Liabilities (1972) and we hope to be able to submit such a Report to you in the first half of 1981.

Insurance Services Directive—E.E.C. Draft

2.42 Negotiations have continued in Brussels on this draft Directive and our private international law team has advised the Department of Trade on the choice of law provisions in the draft Directive.

Recognition of Foreign Nullity Decrees

2.43 The Joint Working Party⁸⁵ set up by ourselves and the Scottish Law Commission met in May. Work has commenced on the preparation of a joint working paper which we hope to issue for consultation in the course of next year.

Polygamous Marriages

2.44 Section 11(d) of the Matrimonial Causes Act 1973 provides that a person who is domiciled in England has no capacity to enter into a valid

⁸⁴ The membership of this Joint Working Party is set out in Appendix 4 to this Report.

⁸⁵ See Appendix 4 to this Report.

marriage abroad if that marriage is, under the law of the country where it is celebrated, regarded as polygamous or potentially polygamous. In our last Annual Report⁸⁶ we referred to the problem which may arise from the non-recognition of an overseas marriage which, though potentially polygamous according to the law of the place of celebration, is in fact monogamous. In December 1979 we circulated to a limited number of consultees a brief memorandum on section 11(d) with a view to discovering the nature and extent of any practical difficulties caused by the section. In the light of these preliminary consultations, we have concluded that the present state of the law does give rise to practical difficulties. We were influenced in reaching this conclusion not only by comments of some of those whom we consulted but also by the results of a survey of the effect of this and other legal rules on immigrant families in one particular area of the country. The Survey was carried out by Dr. David Pearl of Fitzwilliam College, Cambridge, under the auspices of the Social Science Research Council.

We have therefore decided to include the reform of this area of the law in our work in the fields of family law and private international law, with the aim of producing a working paper in due course.

International Administration of Estates

2.45 In our last Annual Report,⁸⁷ we recorded that some work had been done on this project (which is concerned with the implementation of The Hague Convention on the International Administration of Estates) during the year, but that pressure of other matters had again prevented us from making any substantial progress. We have now reviewed the situation.

The Convention has been open to ratification since 1973, but it has been ratified by only two countries—Portugal and Czechoslovakia—and requires a third ratification before it comes into force. Despite the work which we have done on the project over the years, a great deal remains still to be done (including the preparation of the necessary draft clauses) and the task of completing it must necessarily compete with our other and more pressing tasks for the very limited resources which we have at our disposal. We have therefore decided to suspend work on this project for the time being. This decision will be reviewed from time to time in the light both of our own current commitments and of the circumstances which may currently affect the Convention itself. We took our decision in consultation with your Department and communicated it to the Scottish Law Commission (who had also devoted much time to the Convention but had suspended their work pending the receipt of our own proposals) as soon as it had been taken.

STATUTE LAW

General

2.46 We report below on the work done during the year on the consolidation of statutes and on statute law revision, which has followed lines which have now become familiar. In addition, however, we are in the process of preparing a Report in which we will consider in a more general way the methods of modernising and simplifying the existing body of statute law. We hope to submit that Report to you in the course of next year.

⁸⁶ Para. 2.48.

⁸⁷ Para. 2.47.

Consolidation

2.47 During the greater part of the 1979-80 Session we have had available to us one draftsman fewer than we had originally anticipated: this was the result of our having released one of our younger draftsmen to go on secondment to the Solomon Islands. Nevertheless, the Session has seen the introduction of one of our largest consolidation Bills, Highways, together with a number of other Bills, some of which were of considerable complexity. Moreover, despite the heavy liability imposed on Parliamentary Counsel at Whitehall during the 1979-80 Session, they have been able to continue to provide us with limited but most welcome assistance on consolidation.

Unfortunately we have to record that, during the 1979-80 Session, The Social Welfare (Local Services) Bill was lost. This Bill received its Second Reading in the House of Lords and was committed in the usual way to the Joint Select Committee on Consolidation Bills for examination. The Department which has responsibility for administering the legislation in question was of course in entire agreement with our proposed consolidation. However, while the matter was before the Committee a group representing certain disabled people raised objections to the inclusion in the Bill of certain provisions of a particular Act in which they were interested.⁸⁸ The main ground of objection was that these provisions form part of a "charter" for the disabled and therefore ought not to be subsumed in a consolidation of a more general character. The Committee decided to defer further consideration of the Bill, in effect *sine die*, so that it was lost with the ending of the Session. We feel that we must express our concern about this course of events and its danger as a possible precedent. If these objections had been raised on Second Reading there would have been an opportunity for them to be debated, but in the event it proved impossible for the points raised to be dealt with. While it is of course true that consolidation sometimes involves the loss of the separate identity of part of the legislation to be consolidated, this loss (if such it is) has to be weighed against the desirability of a comprehensive consolidation of all the legislation in a particular field. Consideration will now no doubt have to be given to the future of this Bill in the next Session.

Details of the progress with consolidation during the past year are as follows:

- (i) The following consolidation Acts (other than consolidation Acts relating to Scotland only) were passed in the 1979-80 Session of Parliament:—

- Child Care
- Foster Children
- Highways
- Justices of the Peace
- Limitation
- Magistrates' Courts
- Overseas Development and Co-operation
- Reserve Forces
- Residential Homes
- Sale of Goods

⁸⁸ Chronically Sick and Disabled Persons Act 1970, ss. 1 and 2.

The major consolidations were Highways, Justices of the Peace and Magistrates' Courts.

(ii) Bills are in preparation on the following topics:—

- Acquisition of Land (Authorisation Procedure)
- Animal Health
- Betting and Gaming Duties
- Broadcasting
- Compulsory Purchase (Vesting Declarations)
- County Courts
- English Industrial Estates Corporation
- Film Finance Corporation
- Film Levy Finance
- Housing
- Judicial Pensions
- Litter
- Medical
- New Towns
- Pilotage
- Public Service Vehicles
- Representation of the People
- Reserve Forces (Protection of Civil Interests)
- Road Traffic Regulation
- Social Work (Education and Training)
- Trustee Savings Banks
- Weights and Measures.

The work on a fresh attempt at the consolidation of the Housing Acts, a mammoth task but one which has been in prospect ever since our *Second Programme on Consolidation* (Law Com. No. 44), is only at a very early stage.

(iii) Work was begun on the preparation of Bills on the following subjects and in some cases this is at an advanced stage:—

- Civil Aviation
- Countryside
- Custody and Guardianship
- Local Authority Health Functions
- Value Added Tax.

However, this work is not proceeding at present, either because some parts of the law to be consolidated have not yet been brought into force, or because of the possibility of substantive changes in the law, or because of difficulties which require resolution by primary legislation in advance of consolidation. The Government was unfortunately unable to assist us by including in the Bill which became the Civil Aviation Act 1980 a Schedule of pre-consolidation amendments. Such amendments are a necessary prerequisite to the introduction of the Civil Aviation Consolidation Bill and it may be, therefore, that much of the work done in connection with this Bill, if not wasted, will not now come to fruition for some considerable time.

Statute Law Revision

2.48 A further Report on Statute Law Revision, which includes a draft Statute Law (Repeals) Bill, has been prepared jointly with the Scottish Law Commission and submitted to you and the Lord Advocate.⁸⁹ The Report recommends the repeal of 121 whole Acts and the removal of redundant matter from 127 other Acts.⁹⁰ It represents a further stage in the continuing process of simplifying the statute law generally and bringing it up to date. Many of the proposals in the Report and Bill are designed to facilitate the work of producing *Statutes in Force* and stem from suggestions made by the editorial staff.

Chronological Table of Local and Personal Acts

2.49 A comprehensive and reliable table of these Acts of Parliament would provide a basic tool for all concerned in the preparation of legislation and a significant step towards the rationalisation of local and personal legislation, which covers a wide spectrum of topics and overlaps the public general legislation to a much greater extent than is generally realised.⁹¹

The project involves the preparation of an authoritative index recording the extent to which all Acts of a local or personal nature are in force or have been expressly repealed or otherwise affected by subsequent legislation. Legislation of a public and general nature is covered by the *Chronological Table of the Statutes*⁹² which has been published annually in cumulative form since 1870, and editions published since 1974 also record, in a separate table, the effect of local and personal legislation enacted since then. However, no satisfactory record exists anywhere of the present effect of the confusing mass of local and personal legislation enacted before 1974. The objective is therefore to make good this deficiency and to provide a permanent source of reference in this field.

Owing to the magnitude of the task, work on it has had to be broken down into stages, beginning with the last 50 years for which there is no reliable or authoritative record. Only one member of our staff has at any one time carried the burden of the detailed research necessary for this first stage of the project, which has accordingly taken until this year to complete. The text of a Chronological Table of the present effect of all local and personal legislation enacted during the years 1925-1973 is now being finalised with a view to publication in 1981.

We should like to record our indebtedness for this work to Mrs. J. J. Harkin and to her predecessor, Miss J. K. Harrison. We are also grateful to lawyers on the staff of the Greater London Council, the British Waterways Board, the British Transport Docks Board, the British Railways Board, the London Transport Executive, the National Ports Council and the Electricity Council with whom we have had useful and helpful discussions in connection with the project.

⁸⁹ *Statute Law Revision: Tenth Report*, Law Com. No. 106; submitted on 20 November 1980.
⁹⁰ In cases where our proposals relate to a topic on which substantive legislation is before Parliament, it may be more appropriate for the proposals to be implemented by such legislation rather than by a Statute Law (Repeals) Bill.

⁹¹ For instance, legislation governing the police in the City of London is still contained in Local Acts reaching back to 1839 (the City of London Police Act 1839).

⁹² The current edition, which is published by H.M. Stationery Office, is in two volumes and covers the period 1235-1978.

Statutes in Force

2.50 We look forward to the completion of the Official Revised Edition of the statutes in 1981. The value of this work lies not only in the fact that the previous publication, *Statutes Revised*, is greatly out of date (it contains no statutes passed since 1948 and it is unreliable even in respect of earlier enactments because of subsequent consolidations, amendments and repeals), but also because unlike its predecessor it is published in separate parts in binders and will therefore be easier to keep up to date by the issue of Group supplements and revised versions of Acts previously published. Thus, although the editorial staff have naturally been concentrating on completing the few Groups of statutes remaining to be published, no fewer than thirty supplements bringing previously published Groups up to date are currently in the course of preparation. Moreover, work will soon begin on the revision of Acts previously published.

The work is published by H.M.S.O. and is arranged in Groups of 131 Titles containing the statutes in force within the topic comprised by each Group. The complete edition will include all the Public General Acts in force in the United Kingdom, but it will also be possible to subscribe separately to the Acts in force in the different constituent parts of the United Kingdom, as well as to particular Groups with which specialists in particular topics may be concerned, and to purchase individual Acts.

Our Chairman and Sir Anthony Stainton, a former First Parliamentary Counsel who is one of the draftsmen working on our consolidation programme, have again served as members of the Editorial Board.

OTHER MATTERS

Charging Orders

2.51 We are glad to record that the recommendations made in our *Report on Charging Orders*⁹³ have been implemented in the Charging Orders Act 1979, which was based on the draft Bill annexed to the Report. The Act was brought into force on 3 June 1980 by the Charging Orders Act 1979 (Commencement) Order 1980.⁹⁴

Interest

2.52 The principal recommendations contained in our *Report on Interest*⁹⁵ have been the subject of consideration by the Government during the year.⁹⁶ We are glad to note that effect has been given to one suggestion contained in that Report by a change in the Rules of Court.⁹⁷ A payment into Court by a defendant will now be treated as inclusive of interest on the estimated maximum amount of the principal sum which would be awarded on judgment. Hitherto, a payment into Court placed a plaintiff in something of a dilemma because if he accepted the amount paid in in satisfaction of his substantive claim he had, in effect, to forgo any claim to interest. In future a defendant who wishes to protect himself against a full award of costs in favour of the plaintiff will have to offer (by way of payment into

⁹³ (1976) Law Com. No. 74.

⁹⁴ S.I. 1980 No. 627.

⁹⁵ (1978) Law Com. No. 88.

⁹⁶ See *Hansard* (H.C.) 29 October 1980, cols. 281-282.

⁹⁷ Rules of the Supreme Court (Amendment No. 2) 1980, r.5.

Court) not merely an amount in respect of the debt or damages constituting the plaintiff's substantive claim, but also an appropriate amount of interest thereon up to the date of payment in.

Products Liability

2.53 The Law Commission and the Scottish Law Commission reported on Products Liability in 1977⁹⁸ and recommended that strict liability for defective products should be introduced. The Pearson Commission Report, published in 1978, reached similar conclusions on this issue.⁹⁹ The joint Report of the two Law Commissions recommended that the United Kingdom should accede to the Council of Europe Convention on Products Liability in regard to Personal Injury and Death (1977) but that the then E.E.C. draft Directive on this topic was defective in a number of aspects—though not as to the basic principle of strict liability. During the course of the past year we have continued to assist Departments which have sought our views in the context of the continuing discussion of the draft E.E.C. Directive on Products Liability. It is now clear that the Government, though not opposed to a Directive in this field, regards the latest draft as defective because it does not include a “state of the art” defence¹⁰⁰—a defence which both Law Commissions, the Pearson Report, the Council of Europe and the E.E.C. Commission have all rejected.

The Incapacitated Principal

2.54 Considerable progress has been made during the year towards the formulation of a scheme which would enable a power of attorney to survive the supervening mental incapacity of the donor. Our aim is to facilitate the making of arrangements (in suitable cases) which would be simpler, cheaper and generally more attractive than receivership under the Mental Health Act 1959; and which should, incidentally, reduce the burden on the Court of Protection. The principal difficulty in formulating proposals lies in providing adequate security for the donor (who, unlike an ordinary donor of a power of attorney, is in the nature of things unable to look after his own interests) against abuse. We have throughout had the fullest co-operation of the Master of the Court of Protection and we believe that we now have the essential elements of a scheme which should prove generally acceptable. We expect to submit a report on the matter during 1981.

Interest on Compensation

2.55 In August 1979 the President of the Lands Tribunal pointed out to us that the Tribunal has no general power to award interest on compensation from a time earlier than the date of its award, and suggested that some consideration might be given to amending the Lands Tribunal Act 1949 so as to confer such a power. After a preliminary investigation we concluded that in broad principle land compensation should automatically bear interest from the date when the claimant suffers injury. This rule already applies in many cases. However we were aware that there are many classes

⁹⁸ Law Com. No. 82; Scot. Law Com. No. 45 (1977).

⁹⁹ *Report of the Royal Commission on Civil Liability and Compensation for Personal Injury* (1978) Cmnd. 7054, Vol. I, Chapter 22.

¹⁰⁰ *Hansard* (H.C.) 4 Nov. 1980, cols. 1106–1200; (H.L.) 12 Nov. 1980, cols. 1373–1461.

of case where such compensation is payable and that it would be necessary to look at each individually before concluding that this principle should apply to it. We therefore believed that further research would be necessary and suggested, after discussions with your Department, that this work would most appropriately be done by the Department primarily responsible for matters of land compensation. Accordingly we prepared a short memorandum of our findings and views and submitted this to your Department, the Department of the Environment and the Lands Tribunal in January 1980.

Law Reform Committee

2.56 Most of the Law Reform Committee's recommendations relating to the limitation of actions¹⁰¹ have now been implemented in the Limitation Amendment Act 1980, and in May you published the Committee's Report on *The Making and Revocation of Wills*.¹⁰² The two topics on which the Committee (now chaired by Lord Scarman) are presently engaged are

- (i) *The Powers and Duties of Trustees*, on which work is continuing ; and
- (ii) *Latent Damage*. This is a new reference. You have asked the Committee to examine the law relating to the accrual of the cause of action (and limitation generally) in negligence cases involving latent defects.¹⁰³ The Committee will not be concerned with damage arising from disease or personal injury.

Draft E.E.C. Directives

2.57 We now mention two draft E.E.C. Directives on which our views have been sought by Government Departments and which have not been considered elsewhere in this Report.

- (i) *Draft E.E.C. Directive on Guarantees and Indemnities*

We have sent further comments on the latest draft of this Directive to your Department and to the Department of Trade. We continue to have serious reservations about this Directive as an instrument of law reform.

- (ii) *Draft E.E.C. Directive on the Winding Up of Direct Insurance Undertakings*

The Department of Trade has made the latest version of this draft Directive available to us. While we welcome being kept fully informed of this development in the field of insurance law, the Department accepts that the subject-matter of this draft Directive is specialised and that formal advice or comments on it are not expected from us.

¹⁰¹ Contained in their *Twenty-first Report* (1977) Cmnd. 6923.

¹⁰² Cmnd. 7902.

¹⁰³ As, for example, in *Anns v. Merton London B.C.* [1978] A.C. 728.

PART III

GENERAL

Staff

3.1 Our full-time legal staff numbers 24: the Secretary, 4 draftsmen, 19 other lawyers. We also have 23 full-time non-legal staff. Six lawyers and an additional librarian assist us part-time.

Library

3.2 Our own library meets most of our needs but we are grateful also to those other libraries on whose resources we rely for publications we do not hold.

Our Librarian is keeping a watching brief on the new technology which is invading the sphere of legal information retrieval and maintaining contact with other librarians in the field, principally through the British & Irish Association of Law Librarians and his editorship of their journal, *The Law Librarian*.

Co-operation with the Scottish Law Commission

3.3 The Annual Joint Meeting with the Scottish Law Commission was held in Edinburgh on 17 April and we are most grateful to the University of Edinburgh for their generous hospitality on that occasion. The two Commissions have remained in close contact with one another on matters of mutual interest and the presence of most of the Scottish Law Commissioners at the Seminar at Sunningdale¹ meant that this year we had a further useful collective meeting.

Co-operation with Other Lawyers

3.4 We know that it is not easy for busy practitioners to find time to consider suggestions for law reform and to offer comments on them and this makes us all the more grateful for the work done by the Senate of the Inns of Court and the Bar, and The Law Society, and by their respective law reform Committees. They are among our most constant correspondents; and the comments which they make on our papers are only a relatively small part of the work which they do in the field of law reform much of which is done on their own initiative.

At our customary annual meeting with The Law Society we discussed in particular means whereby Local Law Societies could be more directly consulted at the Working Paper stage.

Excellent relations have been maintained with the Society of Public Teachers of Law and we have already² referred to the initiative concerning the ultimate codification of the criminal law which has been taken under its aegis.

We continue to exchange publications and maintain both collective and personal contact with numerous law reform agencies established overseas, and especially in the Commonwealth.

¹ See para. 1.7 above.

² Para. 1.4 above.

Other Activities

3.5 Every year each of us carries out a number of engagements in an official capacity—addressing University Law Societies, attending Conferences, and so on—to which we do not normally refer in our Annual Report. However, the following events and activities deserve particular mention.

Our Chairman represented you at the Sixth Commonwealth Law Conference, held in Lagos in August 1980. He met many lawyers from the Commonwealth, including members of Law Reform Commissions, and also visited the newly established Law Reform Commission of Nigeria. In June he delivered the Second Edward Bramley Memorial Lecture, “Law Reform in Changing Times”³ at Sheffield University; and he has continued throughout the year to be the Chairman of your Working Party on Foreign Judgments.

Mr. Cretney delivered the Ninth Chorley Lecture “The Codification of Family Law”⁴ at the London School of Economics.

Mr. Forbes’ membership of the Royal Commission on Criminal Procedure continued throughout the year.

Dr. North delivered the Sixth Horace Read Memorial Lecture “Hague Conventions and the Reform of English Conflict of Laws”⁵ at Dalhousie University (Halifax, Nova Scotia). He took the opportunity of his visit to Canada, during September, to meet members of the Alberta Institute of Law Research and Reform, the British Columbia Law Reform Commission, the Nova Scotia Law Reform Advisory Commission and the Ontario Law Reform Commission.

We took part in the programme on the Law Commission (Radio 4, 26 October 1980) in the series entitled “Talking Law”. We greatly welcome the opportunity to take part from time to time in broadcast discussions on law reform topics with which we are concerned, as well as articles in the Press and legal journals which help to stimulate public and professional reaction to our proposals.

Visits from Lawyers Overseas

3.6 Among our visitors from overseas in the past year were:

Mme. Joan Mendes-France and 8 student judges (Ecole Nationale de la Magistrature, Bordeaux, France)

H. Allan Leal (Deputy Attorney General, Ontario, Canada)

Dr. Branko M. Vukmir (Institute of International Trade, Zagreb, Yugoslavia)

Mr. B. Bhattacharyya (Indian Institute of Foreign Trade, New Delhi, India)

Professor William Tetley (Faculty of Law, McGill University, Canada)

Professor Frans van der Burg (Faculteit der Rechtsgeleerdheid, Katholieke Hogeschool Tilburg, Netherlands)

Professor Ole Lando (Institute of European Market Law, Copenhagen, Denmark)

Dr. Claus-Dieter Ehlermann (Director General of Legal Services, E.E.C. Commission, Brussels, Belgium)

³ (1980) 96 *L.Q.R.* 515.

⁴ To be published in the *Modern Law Review* in 1981.

⁵ To be published in the *Dalhousie Law Review* in 1981.

Professor Yaichiro Seki (Yokohama National University, Japan)
Mrs. S. Charlesworth (Australian Law Reform Commission)
Mr. Bruce M. Debelle (Commissioner, Australian Law Reform Commission)
Professor A. J. McClean (University of British Columbia, Vancouver, Canada)
Mr. Malcolm Evans (Deputy Secretary General, UNIDROIT, Rome, Italy)
Professor Taniguchi (Kyoto University, Japan)
Sir John Rowell, CBE (Commissioner, Queensland Law Reform Commission, Australia)
Mr. Allen A. Zysblat (Senior Assistant to Attorney General of Israel)
Mr. Andrew Li (Sub-Committee on Arbitration, Hong Kong Law Reform Commission)
Mr. William Kaputin (Chairman, Papua New Guinea Law Reform Commission)
Professor Richard W. Effland (Arizona State University, U.S.A.)
Mr. Justice Dorab Patel (Supreme Court of Pakistan)
Chief Folarin Coker (Lagos, Nigeria)
Mr. David Williams, QC (British Columbia, Canada).

(Signed) MICHAEL KERR, *Chairman.*
STEPHEN M. CRETNEY.
STEPHEN EDELL.
W. A. B. FORBES.
PETER M. NORTH.

B. M. F. O'BRIEN, *Secretary.*
16 December 1980.

APPENDIX 1

THE VIEWS OF THE LAW COMMISSION ON THE PROPOSALS OF THE ROYAL COMMISSION ON LEGAL SERVICES FOR THE IMPROVEMENT AND SIMPLIFICATION OF CONVEYANCING LAW AND PROCEDURE.*

1. This appendix is divided into two parts A and B. The first part lists those suggestions mentioned in annex 21.1 to the Benson report which in our view are not suitable for further consideration by us alone. The second part deals with the remaining proposals.

A. Suggestions in annex 21.1 which are not suitable for further consideration by the Law Commission alone

Simplification of records

2. The proposals made under this heading are:—

- (a) All necessary assistance should be given to the Land Registry to enable it to maintain and improve the pace of registration of title (para. 7).
- (b) Computerisation of registration of title should be pursued with all speed (para. 8).
- (c) The possibility of standardising a system for all local authority searches and enquiries should be investigated. Furthermore there may be scope for organising information on a regional basis and it may be possible in the future to include in one computer-based service the information now held by the Land Registry and that held by local authorities. The simplification and co-ordination of the similar tasks undertaken by the Land Registry and local authorities should be considered (para. 9).

3. In our view the proposals mentioned in the preceding paragraph are basically administrative rather than legal. For that reason we think that the main task of considering them should be undertaken by others, although we might be able to give some assistance on the legal aspects.

Boundaries

4. Annex 21.1 makes two further suggestions, under the heading "simplification of procedure". The first of these relates to boundaries (para. 10). The Royal Commission propose that the manner of describing property included in a conveyance should be prescribed in conjunction with The Law Society and the Surveyors' Associations: it should be the professional duty of surveyors and solicitors to see that the correct procedure is followed and that adequate plans and measurements are prepared.

5. It is perfectly true that difficulty may be caused where boundaries are not shown precisely in documents transferring property. This is a difficult problem of mixed law and professional practice which we are considering in our work on Land Registration. However, the proposal seems to us to relate primarily to procedure rather than substantive law. We think that in present circumstances it would be best dealt with by the professional associations.

Exchange of contracts

6. The other suggestion made by the Royal Commission under the heading of "simplification of procedure" relates to the steps leading up to exchange of contracts (para. 11). This is a topic which we discussed in para. 12 of our Report on "*Subject to Contract*" Agreements (Law Com. No. 65). The Royal Commission propose that there should be an agreed procedure, which it should be the duty of the legal profession to observe, designed to reduce the time between agreement "subject to contract" on the one hand and exchange of contracts on the other. They also recommend that the standardisation of surveys and the elimination of dual surveys should be considered.

*See in the Report above para. 1.3.

7. We understand that the points raised by the Royal Commission in connection with surveys have already been considered by the Director General of Fair Trading. The examples given by the Commission in connection with the remainder of their proposals make it clear that these suggestions are again primarily concerned with matters of procedure. They would again be most appropriately dealt with by a committee set up by the professional associations.

B. The remaining suggestions in annex 21.1

8. We now turn to those suggestions in annex 21.1 which in our view are appropriate for further consideration by us. However we must make it clear at the outset that with our present resources we are unlikely to be able to deal with some of them in the foreseeable future. On the other hand, we already have others of them under consideration in the course of our present work. We deal first with those.

(i) Suggestions by the Royal Commission which are within the scope of work already completed or in hand at the Law Commission

(a) Restrictive Covenants

9. Annex 21.1 makes two suggestions in relation to restrictive covenants. The first (contained in para. 3) is that the time may have come to make past and present restrictive covenants unenforceable with certain exceptions. The second (referred to in para. 12) is that, where restrictive covenants are permitted to continue, they should be required to be in a standard form.

10. We have already considered the question whether restrictive covenants (and in particular their potential enforceability by and against successors in title to the original parties) serve any useful purpose in modern conditions. In paragraph 19 of our *Report on Restrictive Covenants* (Law Com. No. 11 published in January 1967) we expressed the view that, notwithstanding the broad control now exercised by planning authorities, privately imposed restrictions will continue to have a useful part to play. We have reconsidered this conclusion in the light of the Benson report but adhere to our original view. We therefore disagree with the first proposal relating to restrictive covenants in annex 21.1. We shall explain our reasons in full in our forthcoming Report on positive and negative covenants which is being undertaken as part of our work on Rights Appurtenant to Land.*

11. We accept that there would be advantages in the standardisation of restrictive covenants but we have considerable doubts whether they outweigh the disadvantages. Be that as it may, we shall give further consideration to the second suggestion relating to restrictive covenants in annex 21.1 in the Report on positive and negative covenants mentioned above.

(b) Matrimonial Homes Charges

12. The Royal Commission thought that the necessity for the registration of matrimonial homes charges with all its consequent difficulties and uncertainty would be removed if the law prescribed that a matrimonial home must be taken, or be deemed to have been taken, in the names of the spouses jointly, and a presumption was introduced that it was beneficially owned by the spouses jointly "as was recommended by the Law Commission in its First Report on Family Property (Law Com. No. 52, 1973)."

13. Our *First Report on Family Property* has been followed by our *Third Report* on the same subject (Law Com. No. 86 published on 13 June 1978). In Book One of the latter report we made proposals for co-ownership of the matrimonial home which would not however make matrimonial homes charges

*See in the Report above para. 2.29.

redundant. Indeed in Book Two of the same report we made detailed suggestions for the improvement of the system governing these charges. We do not consider that any further action should be taken on annex 21.1 para. 5 until the future of the proposals in Books One and Two of our *Third Report on Family Property* is clearer.*

(c) *Third Party Rights*

14. In annex 21.1 para. 6, the Royal Commission referred to our Working Paper No. 36 on *Rights Appurtenant to Land* and said that the reforms provisionally proposed there "together with a standardisation and simplification of the common forms of third party rights" would lessen the complications of conveyancing. We are proceeding with the work arising out of Working Paper No. 36. †We deal with standardisation and simplification of the common forms of third party rights in paras. 11, 15, 18 and 19 of this Appendix.

(ii) **Suggestions by the Royal Commission which are not within the scope of the present work of the Law Commission**

Mortgages

15. In annex 21.1 para. 14 the Royal Commission expressed the view that mortgages should be standardised and simplified. We have long held the view that the law of mortgages is ripe for reform and would like to deal with the proposals of the Royal Commission in the course of a review of the whole law in that area. Subject to further consideration when the time comes, we would like to make this a priority when resources permit.

Other matters

16. We are now left with four suggestions which we are unlikely to be able to examine in detail in the reasonably near future. At this stage, therefore, we deal with them in outline only.

17. *Tiers of leases*: Annex 21.1 para. 4 deals with a problem which is apparently peculiar to certain parts of Lancashire where there can be many tiers of leases relating to the same property. The Royal Commission point out that this is an unnecessary complication of the conveyancing process and propose the "compulsory enfranchisement by statute of all the leases except for the actual occupation tenancy". It seems to us that there is a substantial overlap between this proposal and the provisions of the Leasehold Reform Act 1967. We also have reservations about the solution canvassed in the Royal Commission's Report.

18. *Standard provisions in leases*: In annex 21.1 para. 13 the Royal Commission expressed the hope that some method of standardising the provisions of leases would be found and said that they were encouraged by the fact that we have the matter under consideration. We have completed some work in this area in our *Report on Obligations of Landlords and Tenants* (Law Com. No. 67). The two other reports relating to the law of landlord and tenant (relating respectively to *Covenants Restricting Dispositions, Alterations and Change of User* and to *Termination of Tenancies*) on which we are at present engaged** will also have some relevance. However, we do not expect to be able to give further consideration to the simplification of leases in the foreseeable future.

19. *Standard provisions in other documents*: In annex 21.1 para. 15 the Royal Commission suggested that consideration should be given to how far standardisation should be extended to other documents including the contract and the final conveyance or transfer. Transfers of registered land are already in a standard form (to which alterations are permitted) and contracts are normally subject to one of the standard sets of conditions of sale. We think that some minor simplification might be possible in relation to conveyances but this is not a matter of sufficient importance for us to give it priority.

*See in the Report above para. 2.31.

†*Ibid* para. 2.29.

**See in the Report above paras 2.35 and 2.36.

20. *Unfair bargains*: Finally, the Royal Commission suggests that consideration should be given to the provision of statutory protection against unfair bargains relating to land. We are not at present clear as to the extent of the problem and would need to carry out further investigations before coming to a definite conclusion on this topic.

APPENDIX 2

CIVIL SERVICE COLLEGE SEMINAR ON LAW REFORM*

The aim of the seminar :

To discuss the functions of the Law Commissions and other law reform agencies ; their relationship with government and the role of government in promoting law reform ; the problems which may arise in the selection of subjects for review, consultation during review and the implementation of reports ; and the means of improving co-operation in future work.

Chairman The Rt. Hon. Lord Scarman OBE

Speakers The Rt. Hon. Peter Archer QC MP, Solicitor-General 1974-79

A. J. E. Brennan, Deputy Under-Secretary of State, Home Office

Sir William Fraser KCB, Permanent Under-Secretary of State, Scottish Office

The Hon. Mr. Justice Kirby, Chairman of the Law Reform Commission of Australia

Anthony Lester QC, Special Adviser to the Home Secretary 1974-76

Professor Lord McGregor of Durriss, University of London

Professor Michael Zander, London School of Economics and Political Science.

*See in the Report above para. 1.7.

APPENDIX 3

RESPONSIBILITIES OF COMMISSIONERS AND LEGAL STAFF

(other than consultants and part-time staff)

as at the date of this Report

CONTRACT AND TORT

Generally: Chairman, Dr. P. M. North, Mr. M. W. Parkington with Mr. I. H. Maxwell, Mr. P. Jacob and Mr. O. J. Parker.

Breach of Confidence: Dr. P. M. North, Mr. R. H. Streeten with Mr. A. Cope.

CRIMINAL LAW

Generally: Chairman, Mr. W. A. B. Forbes, QC, Mr. C. W. Dyment with Mrs. B. Hindley, Mr. M. Churaman, Mr. A. Cope and Mr. M. N. Farmer.

FAMILY LAW

Generally: Mr. S. M. Cretney, Mr. D. S. Gordon with Mr. T. L. Rees, Miss A. E. Tutton and Mr. M. Hatcher.

LAND LAW (APART FROM LANDLORD AND TENANT)

Generally: Mr. Stephen Edell, Mr. R. T. Oerton with Mr. A. J. Tuck, Mr. I. H. Maxwell and Mr. J. Saunders.

Land Registration: Mr. S. M. Cretney and Mr. D. S. Gordon.

Reverter: Mr. Brian O'Brien.

LANDLORD AND TENANT

Generally: Mr. Stephen Edell, Mr. R. T. Oerton with Mr. A. J. Tuck.

PRIVATE INTERNATIONAL LAW

Generally: Chairman, Dr. P. M. North with Mr. A. Cope, Miss A. E. Tutton, Mr. R. J. Dormer and Mr. M. Hatcher.

International Administration of Estates: Mr. Stephen Edell, Mr. R. T. Oerton with Miss A. E. Tutton.

STATUTE LAW

Consolidation: Chairman, Mr. Peter Graham with Mr. P. F. A. Knowles, Mr. D. H. S. Robson and Mr. S. C. Laws.

Statute Law Revision: Chairman, Mr. R. H. Streeten with Mr. A. M. Rowland.

OTHER MATTERS

The Incapacitated Principle: Mr. Stephen Edell, Mr. Brian O'Brien with Mr. J. Saunders.

APPENDIX 4

MEMBERSHIP OF WORKING PARTIES

(1) Joint Working Party on Private International Law (paragraph 2.39)

Chairman: Professor A. L. Diamond (Institute of Advanced Legal Studies)
Mr. A. E. Anton, CBE (Scottish Law Commission)
Mr. T. N. Biggart, WS (Messrs. Biggart, Baillie and Gifford, Glasgow)
Mr. L. Collins (Herbert Smith & Co.)
Mr. H. F. Macdiarmid (Scottish Courts Administration)
Mr. C. G. J. Morse (King's College, London)
Dr. P. M. North (Law Commission)
Secretary: Mr. R. J. Dormer (Law Commission)

(2) Joint Working Party on Foreign Money Liabilities (paragraph 2.41)

Chairman: Dr. P. M. North (Law Commission)
Mr. A. E. Anton, CBE (Scottish Law Commission)
Mr. R. D. D. Bertram (Scottish Law Commission)
Mr. R. Brodie (Scottish Courts Administration)
Mr. R. Cassels (Royal Bank of Scotland)
Mr. A. Cope (Law Commission)
Miss N. O'Flynn (Department of Trade)
Mr. P. K. J. Thompson (Lord Chancellor's Department)
Secretary: Mr. R. J. Dormer (Law Commission)

(3) Joint Working Party on Recognition of Foreign Nullity Decrees (paragraph 2.43)

Joint Chairmen { Dr. P. M. North (Law Commission)
Mr. A. E. Anton, CBE (Scottish Law Commission)
Mr. A. Akbar (Law Commission)
Mr. J. Clarkson (Scottish Law Commission)
Mr. S. M. Cretney (Law Commission)
The Hon. Lord Dunpark (Court of Session)
Mr. J. Siddle (Foreign & Commonwealth Office)
Secretary: Miss A. E. Tutton (Law Commission)

(4) Working Party on Reverter (paragraph 2.33)

Chairman: Mr. Brian O'Brien (Law Commission)
Mr. J. W. Cook (Official Solicitor to the Church Commissioners)
Mr. R. G. Fairbairn (Messrs. Ellis & Fairbairn, Solicitors to Baptist Union)
Miss A. M. E. Jacobsen (Assistant Charity Commissioner)
Mr. G. T. Jones (Solicitor and Legal Adviser, Church in Wales)
Mr. B. L. Thorne (former partner in Messrs. Lee Bolton & Lee)
Mr. S. A. Williams (Deputy Legal Adviser, Department of Education and Science)
Secretary: Mr. A. E. L. Parnis, CBE (Secretary, Churches Main Committee)

APPENDIX 5

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 Administrative 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.	
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).	

<i>Working Paper</i>	<i>Title</i>	<i>Resulting Report</i>
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	Law Com. No. 55.
No. 27	Personal Injury Litigation: Assessment of Damages, Itemisation of Pecuniary Loss and the Use of Actuarial Tables as an Aid to Assessment.	Law Com. No. 56.
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).	
No. 33	Criminal Law: Perjury and Kindred Offences.	
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.	
No. 37	Transfer of Land: Land Registration (Second Paper).	
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).	
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.	Law Com. No. 76.
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.

* On sale at Her Majesty's Stationery Office.

<i>Working Paper</i>	<i>Title</i>	<i>Resulting Report</i>
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.	
†August 1974	Private International Law: EEC Preliminary Draft Convention on the Law Applicable to Contractual and Non-Contractual Obligations (prepared jointly with the Scottish Law Commission).	
*No. 57	Codification of the Criminal Law: Conspiracies Relating to Morals and Decency.	Law Com. No. 76.
*No. 58	Breach of Confidence.	
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 Paper—Scottish Law Commission Memorandum No. 20).	Law Com. No. 82.
*No. 65	Pecuniary Restitution on Breach of Contract.	
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.	
*No. 70	Law of Contract: the Parole 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.	
1980		
*No. 75	Classification of Limitation in Private International Law.	
*No. 76	Time Restrictions on Presentation of Divorce and Nullity Petitions.	
*No. 77	Family Law: Financial Relief after Foreign Divorce.	
*No. 78	Rights of Access to Neighbouring Land.	

An unabridged reprint of Working Papers 1–64, bound in seven volumes with a preface by the Chairman, has been published by Professional Books, Milton Trading Estate, Abingdon, Oxon. OX14 4SY at £135.

* On sale at Her Majesty's Stationery Office.

† This consultative document received a wide circulation but was not put on sale at Her Majesty's Stationery Office and was not given a number in the series.

B. Reports

(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 showing implementation. Those marked with an asterisk do not call for legislation.)

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
1965		
Law Com. No. 1	First Programme of the Law Commission.	*
1966		
Law Com. No. 2	Law Commission's First Programme on 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 1965-66	*
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).
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 1966-67	*
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 1967-68 (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).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
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).
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 1968-69 (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 1969-70 (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	Law Commission's Second Programme on 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 on 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 1970-71 (H.C. 32)	*
1972		
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).
Law Com. No. 50	Seventh Annual Report 1971-72 (H.C. 35).	*
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).	*

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
Law Com. No. 55	Criminal Law: Report on Forgery and Counterfeit Currency (H.C. 320).	No
Law Com. No. 56	Report on Personal Injury Litigation—Assessment of Damages (H.C. 373).	No
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 1972–73 (H.C. 34)	*

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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 these 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).
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 1973–74 (H.C. 40)	*

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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 1974–75 (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 the Supreme Court (Amendment No. 3) 1977 (S.I. 1977 No. 1955).
Law Com. No. 74	Charging Orders (Cmnd. 6412)	Charging Orders Act 1979 (c. 53).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
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	Matrimonial Proceedings in Magistrates' Courts (H.C. 637).	Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22).
Law Com. No. 78	Eleventh Annual Report 1975-76 (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 1976-77 (H.C. 96)	*
1978		
Law C m. No. 86	Family Law: Third Report on Family Property. The Matrimonial Home (Co-ownership and Occupation Rights) and Household Goods (H.C. 450).	No
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 small part by The Rules of the Supreme Court (Amendment No. 2) 1980 (S.I. 1980 No. 1010).
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).
Law Com. No. 91	Codification of the Criminal Law: Territorial and Extraterritorial Extent of the Criminal Law (H.C. 75).	No
Law Com. No. 92	Thirteenth Annual Report 1977-78 (H.C. 87).	*

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
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: Report on Implied Terms in Contracts for the Supply of Goods (H.C. 142).	No
Law Com. No. 96	Criminal Law: Report on Offences relating to Interference with the Course of Justice (H.C. 213).	No
Law Com. No. 97	Fourteenth Annual Report 1978-79 (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).	Reserve 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).	No
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).
Law Com. No. 102	Criminal Law: Attempt, and Impossibility in relation to Attempt, Conspiracy and Incitement (H.C. 646).	No
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 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).	Bill before Parliament.
Law Com. No. 106	Statute Law Revision: Tenth Report by the two Commissions (Scot. Law Com. No. 63) (Cmnd. 8089).	No
Law Com. No. 107	Fifteenth Annual Report 1979-80 ...	*

11 April 1979

C. Joint Working Group Report

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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