

The Law Commission

(LAW COM. No. 176)

TWENTY-THIRD ANNUAL REPORT 1987-1988

INCLUDING

THIRD ANNUAL REPORT OF THE CONVEYANCING STANDING COMMITTEE

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

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

The Commissioners are —

The Honourable Mr. Justice Beldam, *Chairman*

Mr. Trevor M. Aldridge

Mr. Richard Buxton, Q.C.

Professor Brenda Hoggett

The Secretary of the Law Commission is Mr. Michael Collon and its offices are at Conquest House, 37-38 John Street, Theobalds Road, London, WC1N 2BQ.

THE LAW COMMISSION
TWENTY-THIRD ANNUAL REPORT: 1987-1988
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THE LAW COMMISSION

TWENTY-THIRD ANNUAL REPORT

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

We have the honour to present our Twenty-Third Annual Report pursuant to section 3(3) of the Law Commissions Act 1965. It covers a period of fourteen months, from 1 November 1987 to 31 December 1988. We explain below¹ the reasons for this.

PART I

THE PAST YEAR IN OUTLINE

1.1 The year under review has seen the publication of four Reports and a major Discussion Paper, together with eight Working Papers. In itself this could justifiably be regarded as a considerable achievement. But the fact that the work done during the year has seen the completion of three major projects undertaken under our Programmes of law reform has given further proof of their value in enabling the Commission to work flexibly but systematically under them. It has in addition justified the emphasis placed on the Commission's duty to prepare and submit such Programmes when its functions were first defined.²

1.2 At the time of this Report the Children Bill is being debated in the House of Lords. You will yourself be aware of the substantial contribution which the Commission has made to the whole field of the law relating to the care and custody of children at a time of great public concern. Working under item XIX of its Second Programme, the Commission has since 1984 produced a comprehensive review of the private law affecting the Guardianship and Custody of Children.³ Side by side the Commission was able to provide substantial assistance to the Government's Review of Child Care Law.⁴

1.3 In the criminal law the Commission is shortly to submit to you a Report containing a draft Criminal Code⁵ which will cover over 90 per cent of indictable offences dealt with in the Crown Court. Since approval was given to item XVIII of its Second Programme, the Commission has systematically promoted a codification of the criminal law.⁶ In the course of doing so it has recommended the abolition of many anachronisms and has stimulated the modernisation and reform of offences. The Code project could not have reached fruition had it not been for the stimulus given to it in 1980 by the Society of Public Teachers of Law and for the sustained efforts of the Code Team of Professor J.C. Smith, C.B.E., Q.C., Professor Edward Griew and Professor Ian Dennis. In addition, judges and those who practise and teach the law throughout England and Wales have, by studying and commenting on the initial draft of the General Part of the Code, made a substantial and invaluable contribution to the project. Nevertheless the Commission can justifiably point to its work over the period since 1968 and the inclusion of such an item in its Programme of work as having been instrumental in sustaining interest in the production of a Criminal Code. In the same period far-reaching changes have taken place in the system of prosecution, and further changes have been proposed in the legal system which have been described as the most radical of the century.⁷ At such a time the arrival of a comprehensive statement of the criminal law clearly drafted and systematically arranged could be said to be providential. It is also, however, a tribute to the far-sightedness of those who decided to include such a project in the Commission's Second Programme.

¹Para. 1.16.

²Law Commissions Act 1965, s. 3(1)(b).

³See paras. 2.16-2.21 below.

⁴*Review of Child Care Law: Report to Ministers of an Interdepartmental Working Party*, published by the Government as a consultative document, September 1985; followed by the White Paper, *The Law on Child Care and Family Services* (1987) Cm. 62.

⁵See paras. 2.5-2.6 below.

⁶See, for example, Working Papers Nos. 17, 31, 43, 50 and 55.

⁷*The Times*, 26 January 1989.

1.4 Recognising the importance of simplifying and modernising the law relating to the transfer of land, the Commission included in its First Programme a recommendation that it should undertake an examination of this subject. Initially item IX was confined to the system of conveying unregistered land, but in the course of its work the Commission concluded that the scope of its enquiry should be widened to cover both registered and unregistered land. Approval for this was sought and speedily obtained.⁸ The Commission has thus been able to produce a series of Reports making recommendations for improvement, some of which have already been implemented. During the past year the Commission produced its fourth (and final) Report which included a Bill intended to cover the same ground as the existing six statutes⁹ and to include clauses giving effect to the recommendations of the Commission's third Report.¹⁰ At a time when there is great public interest in the simplification of the practice of conveyancing, this Bill should make a significant contribution to modernising the law relating to title to land.

1.5 Although the year thus contains outstanding examples of the value of the Commission's work under its Programmes, the Commission is well aware that the sweeping nature of some of the items and of some of its initial aspirations have been criticised as overambitious, and some have not been fulfilled. Consequently the Commission has for some time been actively considering the possibility of submitting to you a Fourth Programme of law reform. In deciding upon the form which such a Programme should take the Commission recognises that it is desirable to maintain a balance between work which involves prolonged examination of a whole subject and work on projects of more limited scope. Such projects may arise out of the prolonged examination of a Programme item or be drawn to the Commission's notice independently. These more limited projects may require more urgent attention, but one of the advantages of the framework formed by the Programme items is that the Commission is able to build up and maintain an expertise in a particular branch of the law. Problems which arise within that branch of the law can thus be tackled speedily and systematically against the background of the Programme item.

1.6 The work of identifying and examining areas of the law which are said to be in need of reform is not only vital to a systematic approach but is undoubtedly one of the main purposes for which the Commission was established. In itself it involves the employment of our resources on work which must be painstaking and thorough. The function which programmes are intended to perform is important. They demonstrate to the public an awareness of the need to reform a particular branch of the law and that it will be tackled in a methodical way, and not merely dealt with if the need arises as a matter of expedience. Approval of the Programme is an indication of a commitment that, subject to questions of priorities and resources, the Government of the day are agreed that these shortcomings of the law will be tackled by the recommended agency.

1.7 The Law Commissions Act speaks of a requirement to submit programmes "from time to time". This has to be seen in context of the overall duty of the Commission to keep *all* the law under review and to receive and consider any proposals for the reform of the law which may be made or referred to it. The words "from time to time" have been described as "beautifully flexible".¹¹ Though these words are flexible, they are also vague. Beyond a perceived need for reform they give no guidance to the Commission in deciding the scope of Programme items or the period over which they should be tackled.

1.8 When formulating a Fourth Programme the Commission considered it desirable to take stock of progress which had been made under existing programmes by identifying those items which have been completed, those on which the Commission is actively engaged, and items on which for one reason or another work is not at present contemplated. Our programme would thus include items which had already been approved and on which the Commission is currently working or on which work still remains to be done. There would also be added to the Programme any further items which, as a result of its examination

⁸See First Annual Report 1965-1966, (1966) Law Com. No. 4, para. 70.

⁹Land Registration Acts 1925, 1936, 1966, 1986 and 1988, and Land Registration and Land Charges Act 1971, Pt. I.

¹⁰(1987) Law Com. No. 158; see paras. 2.28-2.30 below.

¹¹See *Hansard* (H.L.), 9 December 1965, Vol. 467: Lord Gardiner LC replying to the debate in the House of Lords on the Law Commission's first programme. He said the words would enable the Commission: "To produce a ten year programme and then come along with another programme ten years later, or a three months programme and in three months come along with another, or a five year programme and then every year revise it so that it was a sort of rolling five year programme".

of the subject, were considered in need of systematic reform. As in the case of previous Programmes, the content of such a Programme has been the subject of discussion with your Department. In the course of these discussions the need to plan the work actually to be undertaken by the Commission for a period of up to three years ahead has become apparent. In this plan of work provision needs to be made not only for the projects on which we are already working and those which it is intended to begin during the period, but also for the performance of all the other functions of the Commission under section 3 of the Act. Attention must be paid to the priority which should be accorded to individual projects and the ability of the Commission to carry them out in the light of the resources which your Department and Parliament may make available to the Commission during the period.¹² Whilst these factors are undoubtedly relevant in deciding whether an examination of a particular branch of the law should be carried out by the Commission itself or by some other agency, they do not affect the duty of the Commission to review the law on a particular subject for the purpose of deciding that it should be included as an item in a programme of systematic law reform.

1.9 There are many difficulties in preparing such a plan of action. The assessment of the amount of work involved in a law reform exercise and the time which is needed to complete it varies greatly from subject to subject. In the course of the work additional difficulties may come to light. Nevertheless the work of preparing such a plan of action is well advanced, though the Commission does desire to stress that the fact that a recommended agency may not be able to start work on an item within the three year period should not prevent its inclusion in a Programme submitted to you under section 3(1)(b) of the Act. The identification of Programme items is itself regarded as an important part of the work of the Commission. When an examination of a subject discloses an urgent need to consider a particular topic, the Commission sees it as important that its work should not be interrupted while discussion proceeds on the overall content of a Programme. The work already undertaken in investigating the subject may well be sufficiently comprehensive to form the basis of a consultation document; efficiency and the need to conserve resources is best achieved by securing a reasonable continuity of work.

1.10 A subject which the Commission has proposed as a new Programme item is the law of trusts. Our work on various branches of the law, and in particular the Transfer of Land (item IX) and Family Law (item XIX), has brought us face to face with numerous issues in this subject. In the course of our existing projects significant interrelationships with and implications for the law of trusts are often drawn to our attention. These affect property other than land and relationships other than those within the family. We are aware of the work that the Law Reform Committee has already done in one area of this subject¹³ but it seemed to the Commission that the work involved in an overall review of the law of trusts made it more suitable for examination by the Commission itself.

1.11 Among particular aspects which need attention in this branch of the law is the use of powers of attorney by trustees. Both the effects of the decision in *Walia v. Michael Naughton Ltd.*¹⁴ and the relationship between section 3(3) of the Enduring Powers of Attorney Act 1985 and the general law relating to the use of powers of attorney by trustees have been identified as meriting urgent consideration. Considerable work has already been done on these aspects of the law of trusts, including the production of a paper for the consideration of Commissioners, which could undoubtedly form the basis of a Working Paper.¹⁵ This would be much more expeditiously and economically produced while those who have already done so much of the preliminary work are still with the Commission. Consequently we hope that you will feel able to give approval for the continuation of our work on these topics as soon as possible, if necessary in advance of a decision on Trusts as a Programme item.

1.12 The end of 1988 marked a significant change in the composition of the Commission. Mr. Brian Davenport, Q.C., who was appointed a Commissioner in 1981, retired when his term of office came to an end. During his time with the Commission he had primarily been responsible for criminal law. The Criminal Law Team working under him has made a significant contribution to reform of the criminal law, not only in the Criminal Code project, to which we have already referred, but also in the law relating to public order offences.

¹²See Law Commissions Act 1965, s. 5.

¹³Twenty-Third Report, Powers and Duties of Trustees (1982) Cmnd. 8733.

¹⁴[1985] 1 W.L.R. 1115, [1985] 3 All E.R. 673.

¹⁵See paras. 2.39-2.42 below.

Our Working Papers on Binding Over and Conspiracy to Defraud also owe much to the thoroughness and quality of his work. His contribution to the Commission was enlivened by a fertile mind and an imaginative use of analogy which will be greatly missed. We wish him every success in the consultative research post on which he has now embarked.

1.13 Professor Julian Farrand also left at the end of the year to take up appointment as Ombudsman to the insurance industry. Since his appointment in 1984, Professor Farrand has been responsible for initiating a review of some important aspects of land law. The Report on Land Registration to which we have already referred owes a great deal to his experience and expertise in this field. He has directed the work of the Commission towards simplifying land law and the formalities attached to contracts for the sale of land. In addition he initiated and guided the Commission's project on the law of mortgages which was a major undertaking. Under his chairmanship the Conveyancing Standing Committee has produced a number of recommendations for changes in the practice of conveyancing which, if adopted, would make the buying and selling of a house simpler and more straightforward. To all the Commission's projects Professor Farrand brought an incisive analysis, as well as his practical experience. To him, too, we extend our good wishes in his new appointment.

1.14 Mr. Richard Buxton, Q.C., was appointed a Law Commissioner from 3 January 1989 and has taken over from Mr. Brian Davenport, Q.C., primary responsibility for the criminal law.

1.15 In a year in which so much has been accomplished it is right that we should pay tribute to the exceptionally hard work of the core of lawyers from the government legal service who manage the various projects, and to the work of our research assistants and the Commission's administrative and supporting staff.

1.16 We mentioned earlier that this report covers a period of fourteen months. The Law Commissions Act 1965 received the Royal Assent on 15 June 1965, and our first seven annual reports all dealt with the period from 16 June of the previous year to 15 June of the year of the report, though they did of course mention some developments which strictly speaking fell after that period. However, in our Eighth Annual Report¹⁶ we explained that it covered the whole period from 16 June 1972 to 30 October 1973, to keep it in line with the period of a normal Parliamentary Session, so it could deal with the fate of Law Commission Bills introduced in that session. From the Seventeenth Annual Report¹⁷ we have adopted the practice of covering the period from 1 November of one year to 31 October of the following year; but since our report has not been completed and signed until nearly three months later, inevitably it has covered some developments in the following months. It seems to us that the period which the report purports to cover should reflect the true position. Accordingly this report covers the period of fourteen months from 1 November 1987 to 31 December 1988, and future annual reports will each cover a calendar year.

¹⁶(1973) Law Com. No. 58.

¹⁷(1983) Law Com. No. 119.

PART II

THE YEAR UNDER REVIEW

REPORTS AND WORKING PAPERS PUBLISHED IN THE YEAR UNDER REVIEW (OTHER THAN STATUTE LAW)

2.1 We list below the reports (other than those relating to consolidation or repeal of statutes)¹ which we have submitted since our last annual report:

- (i) Facing the Future: A Discussion Paper on the Ground for Divorce, Law Com. No. 170.
- (ii) Family Law: Review of Child Law: Guardianship and Custody, Law Com. No. 172.
- (iii) Property Law: Fourth Report on Land Registration, Law Com. No. 173.
- (iv) Landlord and Tenant Law: Privity of Contract and Estate, Law Com. No. 174.
- (v) Family Law: Matrimonial Property, Law Com. No. 175.

2.2 Since our last annual report we have also published the following working papers:

- (i) Criminal Law: Conspiracy to Defraud, Working Paper No. 104.
- (ii) Transfer of Land: Title on Death, Working Paper No. 105.
- (iii) Trusts of Land: Overreaching, Working Paper No. 106.
- (iv) Transfer of Land: Implied Covenants for Title, Working Paper No. 107.
- (v) Distribution on Intestacy, Working Paper No. 108.
- (vi) Transfer of Land: Passing of Risk from Vendor to Purchaser, Working Paper No. 109.
- (vii) Computer Misuse, Working Paper No. 110.
- (viii) Part II of the Landlord and Tenant Act 1954, Working Paper No. 111.

REPORT ON PROGRESS

2.3 There follows a description of the substance of these reports and working papers, together with a summary of current and future work.

Contract Law

Rights to goods in bulk

2.4 Under section 16 of the Sale of Goods Act 1979 a person who buys goods which form part of a larger bulk cannot become the owner of those goods until his portion has been physically separated from the rest of the bulk. This means, amongst other things, that his rights against third parties, who may have damaged the goods, are very limited. The problem seems to arise principally, but not exclusively, in relation to the international carriage of goods by sea. In the light of responses received from a questionnaire circulated to the main commodity trade associations, the Commission decided to prepare a working paper. The paper is well advanced. We are consulting with the Scottish Law Commission and we hope to be able to make speedy progress.

Criminal Law

Criminal Code

2.5 Work on the project to prepare a draft Criminal Code is now almost complete. We shall shortly be submitting our report, together with a draft Criminal Code Bill for England and Wales. Part I of the draft Bill covers the general principles of liability applicable to a Criminal Code. Most of these principles are still to be found in the common law, though some have recently been defined by statute. Part II contains specific offences grouped into five chapters dealing with: offences against the person; sexual offences; theft, fraud and related offences; other offences relating to property; and offences against public peace and safety. The source of most of the offences stated by the first two chapters is recommendations of the Criminal Law Revision Committee; the remaining three chapters broadly restate existing offences. These five groups include the most frequently encountered indictable offences and together would, we believe, encompass 90-95 per cent of the work of the criminal courts in relation to such offences.

¹See Statute Law section (para. 2.62 *et seq.*).

2.6 The report and the draft Bill are the culmination of many years' work by the Commission in the field of criminal law. Since the project began in 1981, much of the burden of work has been carried out under our auspices by a small group of distinguished academic lawyers – Professor J.C. Smith, C.B.E., Q.C. (Chairman), Professor Edward Griew and Professor Ian Dennis (the “Code team”). It was the Code team’s “Report to the Law Commission on Codification of the Criminal Law”² which, in 1985, we presented to the then Lord Chancellor as a “document for discussion”. That report contained the Code team’s proposals for a draft Criminal Code Bill. The revised draft Bill which we are about to publish takes account of the many comments received on the earlier draft Bill and our conclusions on them, as well as considerably expanding the scope of offences covered in Part II. Once again, we are pleased to acknowledge the substantial help which has been provided by Professor Smith and his two colleagues. As well as continuing to advise us on all aspects of the Code project, they have acted as the draftsmen of the Criminal Code Bill. They have also been responsible for preparing a detailed commentary on the clauses in the Bill; this commentary will be published as part of our report.

Computer Misuse

2.7 We published a working paper³ on 21 September 1988 which examined the activities which might be said to constitute computer misuse. The paper provisionally concluded that most forms of computer misuse are already covered by the criminal law and that a comprehensive computer crime statute is neither necessary nor appropriate for England and Wales. One of the main types of computer misuse identified in the paper which is not in general a crime is the unauthorised obtaining of access to a computer by “hacking”.⁴ We set out the arguments for and against extending the criminal law to cover such conduct and invited views on whether hacking should be an offence. We have requested comments from any interested individual or organisation on this and other issues dealt with in the paper by 28 February 1989. We are most grateful to Mr. Edward Phillips, lecturer in law at the University of Buckingham, for his help in preparing an appendix to the working paper surveying the law in other jurisdictions.

Binding over to Keep the Peace

2.8 A working paper⁵ was published in September 1987, examining the powers of magistrates and the Crown Court to bind persons over to keep the peace and be of good behaviour, and inviting comment on a number of issues which would need to be resolved before any detailed suggestions for reform could be made. We have received many well-informed and constructive comments from individuals and organisations with experience of the way in which existing powers to bind over are exercised. These comments, which contain many helpful suggestions for improving the relevant law and practice, have been analysed. We are now considering how to proceed with the next stage of this project.

Conspiracy to defraud

2.9 Following publication of our working paper,⁶ we have received a number of valuable and detailed comments on the options for reform of the law. These comments have been analysed. As the next step, we shall be considering our policy in the light of the consultation. We hope to publish our final report in 1989.

Jurisdiction over Fraud Offences with a Foreign Element

2.10 As we noted in our last annual report,⁷ the Criminal Law team of the Law Commission issued a consultation paper at the end of 1987 which considered ways in which the jurisdiction rules in relation to fraud offences might be reformed. The overwhelming majority of the consultees supported most of the proposals in the paper, and expressed the view that action was urgently needed. In the light of this support, the team suggested that the Commission itself should adopt the project and issue a final report. We agreed to this suggestion and, having undertaken a further round of consultation, a report including a draft Bill is in an advanced stage of preparation.

²(1985) Law Com. No. 143.

³Computer Misuse, (1988) Working Paper No. 110.

⁴See *R v. Gold and Schifreen* [1988] 2 W.L.R. 984, [1988] 2 All E.R. 186 (H.L.).

⁵Binding Over: The Issues, (1987) Working Paper No. 103.

⁶Conspiracy to Defraud, (1987) Working Paper No. 104. Our working paper is described in last year’s annual report: Twenty-Second Annual Report 1986-1987, (1988) Law Com. No. 169, para. 2.15.

⁷Twenty-Second Annual Report 1986-1987, (1988) Law Com. No. 169, para. 2.17 and Appendix 4(E).

Poison-pen letters

2.11 Subject to some minor amendments the draft Bill attached to our Report on Poison-Pen Letters⁸ has been enacted as the Malicious Communications Act 1988, which came into force on 29 September 1988.

Power of the Court of Appeal (Criminal Division) to order a retrial

2.12 Following the publication in March 1987 of a Home Office consultation paper to which was appended a discussion paper prepared by the Criminal Law team on this subject, provisions extending the power of the Court of Appeal (Criminal Division) to order a retrial have now been enacted in the Criminal Justice Act 1988.⁹

Corroboration

2.13 On 7 November 1988, you made a reference to us under section 3(1)(e) of the Law Commissions Act 1965 in the following terms: "To review the law concerning the corroboration of evidence in criminal proceedings and to make recommendations". We shall begin work on this important topic early in 1989.

Select Committee on Murder and Life Imprisonment

2.14 This Select Committee (Chairman, Lord Nathan) was established by the House of Lords in July 1988¹⁰ to consider—in relation both to England and Wales and to Scotland—the scope and definition of the crime of murder, the question whether life imprisonment should be a mandatory or a maximum penalty, and the working arrangements for reaching decisions on the release of convicted murderers. In November 1988 we were invited by the Select Committee to give evidence on these questions. Our written evidence was submitted in two parts. One was a study paper which set out the law on murder in other (mainly common law) jurisdictions, including recent proposals for reform. The other was a Memorandum setting out the Commission's recommendations for reform of the law in respect of the first two questions considered by the Committee. We have been further invited to give oral evidence to the Committee on 6 February 1989.

Judicial Studies Board

2.15 The Criminal Law team has continued the work, mentioned in our last annual report,¹¹ of preparing papers for presentation and discussion at judicial seminars held by the Board.

(i) *Binding over in the Crown Court*

Following presentation of a paper on this topic at two seminars in 1987, a final version of the paper was prepared by the team for the Board.

(ii) *Challenges to, and discharge of, jurors*

Now that the right of peremptory challenge has been abolished,¹² challenges for cause and applications concerning the composition of juries may increase. There are no modern authorities which deal fully with the principles on which such powers should be exercised. At the Board's request, a paper is being prepared for presentation at a seminar in Spring 1989 which examines the old case law in the light of modern conditions.

Family Law

Review of Child Law: Guardianship and Custody

2.16 Following our Review of Child Law, during which we published Working Papers on *Guardianship*,¹³ *Custody*,¹⁴ *Care, Supervision and Interim Orders in Custody Proceedings*,¹⁵ and on *Wards of Court*,¹⁶ we published a Report¹⁷ to complete our planned series on the statutory provisions in the private law relating to the upbringing of children.

⁸(1985) Law Com. No. 147.

⁹Sect. 43 (not yet in force).

¹⁰*Hansard* (H.L.), 21 July 1988, Vol. 499, col. 1491.

¹¹Twenty-Second Annual Report 1986-1987, (1988) Law Com. No. 169, para. 2.19.

¹²Criminal Justice Act 1988, s.118(1), which came into force on 5 January 1989.

¹³(1985) Working Paper No. 91.

¹⁴(1986) Working Paper No. 96.

¹⁵(1987) Working Paper No. 100.

¹⁶(1987) Working Paper No. 101.

¹⁷(1987) Law Com. No. 172.

2.17 Among the main principles incorporated in the report and draft Bill, following a considerable level of support from those who responded to our working papers, were recommendations stressing that parents have the main responsibility for bringing up their children and that this responsibility does not cease on divorce. Courts should deal with the practical questions which need to be settled when parents part — where the children are to live and who they should visit or see — by means of a more flexible range of orders to replace the current powers to make custody and access orders. The new orders should be available either on application or in the course of all types of family litigation, and while parents (and some others) should be able to apply as of right for any order, other people (such as relatives) should be able to apply with the court's leave. We also sought to clarify the present rule that the welfare of the child is the court's first and paramount consideration and, to help all those concerned in the process of determining what is best for the child, we suggested a "checklist" of relevant factors. We also recommended that courts be required to set a timetable to resolve disputes without delay.

2.18 We decided to postpone making any substantial recommendations for the reform of the courts' inherent powers in wardship proceedings. The response to our working paper on Wards of Court indicated considerable support for some reform, but only once the statutory procedures in both private and public law had themselves been reformed. Our aim has been to incorporate the most valuable features of wardship into our recommendations for a new statutory system and in this way to reduce the need to resort to wardship save in the most unusual and complex cases.

2.19 Our work on child law comes under item XIX of our Second Programme of law reform, which requires us to undertake a comprehensive review of family law with a view to its systematic reform and eventual codification. We said at the outset that our aim was to bring as much of the law as possible into a single comprehensive code. This was almost unanimously favoured on consultation. We took the view that these aims could be fully achieved only if both private and public law were included. The provisions under which children may be compulsorily committed to (or retained in) local authority care are open to all the same criticisms as the private law. The Government,¹⁸ following the Review of Child Care Law,¹⁹ accepted, in particular, the recommendation that the grounds for and effects of compulsory committals to care in all civil proceedings should be the same, and proposed that it should be possible to make custody orders in favour of individuals in proceedings initiated by local authorities applying for care. These proposals made by the Government further improved the prospect of succeeding in our desired aim.

2.20 It was because our belief that the case for a combined and comprehensive approach was so strong that we departed from our normal practice in presenting our Report. In addition to draft clauses embodying our recommendations, we also included draft clauses which illustrated what might be achieved if a combined approach were adopted. We share your view that this is "an historic opportunity to reform the English law into a single rationalised system as it applies to the care and upbringing of children".²⁰ Our belief has proved to be well founded and we welcome the swift adoption of our recommendations both as to the private law and as to the combined approach in the Children Bill currently before Parliament. We feel that there has been a very great advantage in the close liaison and co-operation between the Commission and Government departments in preparing legislation on this important subject.

Review of Child Care Law

2.21 We continued to assist the Department of Health with its review of Child Care Law²¹ and the formulation of its proposals for changes in the public law, now also contained in the Children Bill currently before Parliament.

Ground for Divorce

2.22 We are pursuing our work on the ground for divorce and have continued to be greatly assisted by Mrs. Rhona Schuz, a lecturer in law at the London School of Economics and Political Science. In May we published a report entitled *Facing the Future — A Discussion*

¹⁸The Law on Child Care and Family Services, (1987) Cm. 62, para. 36.

¹⁹Review of Child Care Law: Report to Ministers of an Interdepartmental Working Party (1985).

²⁰"The Child and The Law: A View across the Tweed", Child and Co. lecture, 27 April 1988.

²¹The reasons for the Law Commission's involvement were explained in the Twentieth Annual Report 1984-1985, (1986) Law Com. No. 155, paras. 2.60-2.63.

*Paper on the Ground for Divorce.*²² The paper explains the background to the present law and procedure in divorce cases and discusses the many criticisms which may be made of it, in particular in the light of the original aims of the Divorce Reform Act 1969, which were to support those marriages which had a reasonable chance of survival while enabling those which had irretrievably broken down to be dissolved with as much fairness and as little bitterness, distress and humiliation as possible.²³ The general trends in divorce laws throughout the Western world are examined briefly. The paper then canvasses several possible models for reform and concludes that two possibilities are most realistic: either a fixed period of separation or a period of time to enable the parties to reflect and to resolve all the practical consequences of the breakdown of their marriage.

2.23 In order to encourage widespread comment we also distributed over a thousand copies of a shorter paper summarising the issues contained in our discussion paper. A separate paper on this topic was also published on the same day by the Scottish Law Commission.²⁴

2.24 The period for consultation closed on 31 October and we have been pleased by the substantial number of responses so far received. We are now examining those responses. We are also making further studies to assist our work in this area. We have conducted a study of court files at the Principal Registry of the Family Division and at several county courts across the whole country in order to discover more about the role of the courts in relation to the ground for divorce. We have also commissioned Public Attitudes Surveys to conduct a survey of public opinion on aspects of the present law and proposals for reform, alongside our survey on intestacy.²⁵

2.25 When all this work is complete we shall be able to report upon its results. We recognise that this is a subject upon which any proposals for reform can only be made following the fullest possible public debate and consultation.

Publicity and Children in Litigation

2.26 We are continuing to investigate the law and practice in different courts relating to the identification or publication of other information about children involved in litigation. We are most grateful to Helen Galas and to the Polytechnic of Central London, where she is a lecturer, for giving us her help with this project.

Rights of Occupation of the Matrimonial Home and Domestic Violence

2.27 We are continuing our review of the statutory jurisdictions relating to rights of occupation of the family home, domestic violence and other molestation, contained in the Matrimonial Homes Act 1983, the Domestic Violence and Matrimonial Proceedings Act 1976, and the Domestic Proceedings and Magistrates' Courts Act 1978, and of the courts' use of other legislation and their inherent powers in this field. We hope to publish a discussion paper in the first half of 1989.

Property Law

Land Registration

2.28 Our review of the Land Registration Acts culminated in the publication, in November 1988, of a draft Bill, accompanied by a short explanatory report, our Fourth Report on Land Registration.²⁶ Our work on land registration goes back to well before 1983, when our first report²⁷ was published. Our second and third reports²⁸ followed in 1985 and 1987.²⁹

²²(1988) Law Com. No. 170.

²³(1966) Law Com. No. 6, para. 120.

²⁴*The Ground for Divorce—Should the Law be Changed?* Discussion paper No. 76.

²⁵See para. 2.58 below.

²⁶(1988) Law Com. No. 173.

²⁷(1983) Law Com. No. 125, implemented by the Land Registration Act 1986.

²⁸(1985) Law Com. No. 148 and (1987) Law Com. No. 158 respectively.

²⁹A brief history of our work on land registration can be found in our previous annual reports: Eighteenth Annual Report 1982-1983, (1984) Law Com. No. 131, paras. 2.44.1-2.44.2; Nineteenth Annual Report 1983-1984, (1985) Law Com. No. 140, paras. 2.43-2.45; Twentieth Annual Report 1984-1985, (1986) Law Com. No. 155, paras. 2.35-2.37; Twenty-First Annual Report 1985-1986, (1987) Law Com. No. 159, paras. 2-42-2.43; Twenty-Second Annual Report 1986-1987, (1988) Law Com. No. 169, paras. 2.34-2.37.

2.29 In our second report³⁰ we recommended that the register of title should be open to public inspection. The Bill giving effect to that recommendation was introduced by Lord Templeman on 5 November 1987, and was enacted as the Land Registration Act 1988 on 15 March 1988. It has not however yet been brought into force.

2.30 The examination of the statutory implied covenants for title in registered land has been absorbed into the covenants for title project described below.³¹

Law of Property (Miscellaneous Provisions) Bill

2.31 On 14 December 1988 you introduced a Bill to give effect to the recommendations in our reports on Deeds and Escrows,³² Formalities for Contracts for Sale etc. of Land³³ and the Rule in *Bain v. Fothergill*.³⁴ It received its Second Reading on 24 January 1989.

Trusts of Land

2.32 Our report has been agreed and the substance of the Bill drafted. The report will be submitted as soon as work on the final detail of the draft Bill has been completed.

Overreaching

2.33 The important decision of *City of London Building Society v. Flegg*³⁵ led us to look at the topic of overreaching of equitable interests. A working paper³⁶ was published in February 1988 and the consultation period ended on 30 June 1988. We received a number of detailed and interesting comments, which have now been analysed. We have decided our policy and a report and draft Bill are being prepared with a view to publication in 1989.

Mortgages

2.34 Work continues on the report and draft Bill, which we hope to publish during the first half of 1989. We are most grateful to Alison Clarke, solicitor and lecturer in law, now at University College, London, for her continuing assistance with this project.

Implied Covenants for Title

2.35 Initial work in this area tended to confirm suggestions that the covenants are obscure, verbose and inadequate and, additionally, that there are certain unjustifiable distinctions where title is registered. In a working paper³⁷ published in June 1988, we suggested five possible courses of action and expressed a tentative preference for replacing the covenants with a contractual term as to title similar to that implied on the sale of goods. The consultation period ended on 30 November 1988 and we are now analysing the comments which we have received.

Passing of Risk from Vendor to Purchaser

2.36 Our working paper,³⁸ published in August 1988, examined the rule that in sales of land the risk of damage to or destruction of the property prior to the completion of the contract of sale passes to the purchaser from the date of the contract. This gives rise to duplication of insurance in that both purchaser and vendor maintain insurance between contract and conveyance. Our provisional recommendation was that the vendor should be obliged to convey the property in the same condition as it was in at the date of the contract. We are most grateful to Mr. Mark Thompson, lecturer in law at Leicester University, for his assistance in the preparation of the working paper.

Obsolete Restrictive Covenants

2.37 The problem of obsolete restrictive covenants was referred to us by the Conveyancing Standing Committee, following their general consultation on the issue. We prepared a second paper, outlining a scheme for reform, which was submitted for specialist consultation in

³⁰(1985) Law Com. No. 148.

³¹Para. 2.35.

³²(1987) Law Com. No. 163.

³³(1987) Law Com. No. 164.

³⁴(1987) Law Com. No. 166.

³⁵[1988] A.C. 54, [1987] 3 All E.R. 435.

³⁶(1988) Working Paper No. 106.

³⁷(1988) Working Paper No. 107.

³⁸(1988) Working Paper No. 109.

May 1988. Instructions to Counsel were prepared, and the first draft of a Bill to implement our proposed scheme has been drafted.

Title on Death

2.38 We published a working paper³⁹ in December 1987 on the problems of dealing with land following the death of the owner. We have now analysed the comments received on consultation, and have decided our policy. Instructions to Counsel are being prepared, with a view to publishing a final report and Bill in 1989.

Trusts Projects

2.39 Preliminary work was carried out on the projects described in the following three paragraphs, in the course of a review of the law of trusts as a subject for inclusion in a new programme of law reform. Work on all three topics has now been suspended pending a decision as to the programme generally or approval being given for work to continue on one or more of these topics.

Use of Powers of Attorney by Trustees

2.40 The extent to which trustees can delegate their powers by power of attorney, to whom they can be delegated and the appropriate form to use are all questions which have arisen recently.⁴⁰ The draft of a paper has been prepared which can readily be completed for publication and consultation in the ordinary way.

Beneficial Ownership

2.41 The beneficial ownership of property behind a trust gives rise to many difficulties, particularly where co-ownership is involved. For example, difficulties may arise as to whether the co-owners are joint tenants or tenants in common, and, if the former, what methods of severance are available. Again, preliminary work has been undertaken in preparing a paper with a view to publication and consultation.

Perpetuities

2.42 This area of law is notoriously complex, and it is not clear whether the original policy behind its existence can still be justified, or whether it can be justified on different grounds. David Gwynn Morgan of the University of Cork has drafted a working paper and we are grateful for his help.

Conveyancing Standing Committee

2.43 The Third Annual Report to the Law Commission of the Conveyancing Standing Committee is published with this report.

Landlord and Tenant Law

Landlord and Tenant: Reform of the Law

2.44 As noted in last year's annual report,⁴¹ our report⁴² on this subject reviewed the present state of the law and identified some of the rules in need of reform. The report did not contain any specific recommendations, but we invited views on the topics on which reform might usefully be considered and in what order of priority. The responses received on the report — aimed at guiding future landlord and tenant work — have been analysed.

2.45 Our report⁴³ drew attention to the complexity of the Rent Act and related legislation, and to the need to simplify and rationalise the law in this field. The responses which we received singled out this particular aspect of the law as the one most in need of reform. We are exploring the possibility of reform of this area of the law and how it could best be tackled.

³⁹(1987) Working Paper No. 105.

⁴⁰See *Walia v. Michael Naughton Ltd.* [1985] 1 W.L.R. 1115, [1985] 3 All E.R. 673, and s. 3(3) of the Enduring Powers of Attorney Act 1985; also *The Law Society's Gazette*, 18 May 1988, p.4.

⁴¹Twenty Second Annual Report 1986-1987, (1987) Law Com. No. 169, para. 2.52.

⁴²(1987) Law Com. No. 162.

⁴³*Ibid.*, paras. 4.12-4.14.

2.46 Our report also drew attention to the unsatisfactory state of the law relating to repairing obligations⁴⁴ and to notices to quit.⁴⁵ We have, in the light of the comments received, commenced preliminary work on these topics to ascertain how the law could usefully be reformed.

Privity of Contract and Estate

2.47 Our report⁴⁶ on this subject, with a draft Bill appended to give effect to our recommendations, was published on 30 November 1988. The report examines the extent, and duration, of liability undertaken by the parties to leases of land and their successors in title. It recommends that normally all the obligations created by leases should only bind the parties who for the time being are interested in the land. Those parties should cease to have any liability when they part with the property. The scheme works differently for tenants and for landlords. Tenants would automatically be released, unless the landlord's consent to a transfer was needed and he could show that it was reasonable that they should guarantee their immediate successor's liability. Landlords would have the opportunity to seek a release, but the tenant would be able to insist on their remaining liable if it was reasonable that they should be.

Distress for Rent

2.48 Following the preparation of a detailed analysis of comments received on our working paper,⁴⁷ we have re-assessed the policy options for reform, and given further consideration to the implications of the working paper's provisional proposal that distress for rent⁴⁸ should be abolished. Work is proceeding on the preparation of a report.

Forfeiture

2.49 We expect to have the opportunity during the coming year to draft a Bill to give effect to the scheme for landlord's termination orders, designed to replace the present law of forfeiture, recommended in our report on Forfeiture of Tenancies.⁴⁹ That report was published without a draft Bill. We intend to publish a further report to accompany a draft Bill incorporating the necessary provisions to implement the proposals.

Compensation for Tenants' Improvements

2.50 Tenants of business premises who improve their property in certain circumstances become entitled to compensation from their landlords under Part I of the Landlord and Tenant Act 1927, when they quit the premises. Our working paper,⁵⁰ reviewing this area of the law, is described in last year's annual report.⁵¹ The replies received on consultation have been analysed, and we have considered the policy for the report. A draft report and Bill are now being prepared, with a view to publishing a final report in 1989.

"Commonhold" Legislation

2.51 On 8 June 1988 you announced⁵² that the Government had arranged for legislation to be prepared at the Law Commission to give effect to the proposals in the report⁵³ of a Working Group under the chairmanship of Mr. T.M. Aldridge, and to the remainder of the proposals in the Law Commission's Report on the Law of Positive and Restrictive Covenants.⁵⁴ Instructions to Counsel on the commonhold scheme have been prepared and, in consultation with interested Government departments, work is progressing on the preparation of the draft legislation.

⁴⁴*Ibid.*, paras. 4.69-4.70. For example, at present it is possible for neither the landlord nor the tenant to have any duty to repair the premises. Further, not all defects have to be rectified by a tenant who agrees with his landlord that he will repair the property.

⁴⁵*Ibid.*, paras. 4.82-4.83. To bring a periodic tenancy to an end, notice to quit must be served to take effect precisely on the correct day. The calculation of the date on which a notice to quit will expire has become something of an art.

⁴⁶(1988) Law Com. No. 174.

⁴⁷(1986) Working Paper No. 97.

⁴⁸This remedy entitles a landlord whose tenant is in arrears with payment of rent to seize goods on the property, whether belonging to a tenant or a third party, and to sell them in order to satisfy the debt for the outstanding rent.

⁴⁹(1985) Law Com. No. 142.

⁵⁰(1987) Working Paper No. 102.

⁵¹Twenty-Second Annual Report 1986-1987, (1987) Law Com. No. 169, para. 2.55.

⁵²*Hansard* (H.L.) Vol. 497, Written Answers, col. 1486.

⁵³(1987) Commonhold: Freehold Flats and Freehold Ownership of other Interdependent Buildings, Cm. 179. The report recommends that a statutory scheme of "commonhold" ownership be introduced to enable people to buy flats (or subdivided parts of buildings put to other uses) on a permanent, freehold basis, with, co-operatively, ownership interests and responsibilities in relation to property and facilities used in common.

⁵⁴(1984) Law Com. No. 127.

Part II of the Landlord and Tenant Act 1954

2.52 Our working paper⁵⁵ on this subject was published on 1 November 1988, with a request for comments by 31 March 1989. In it, we make proposals for improving the working of Part II of the 1954 Act,⁵⁶ which gives business and professional tenants the right to renew their leases. In preparing this paper, we received valuable assistance from Mrs. Sandi Murdoch, Lecturer in Law at Reading University, for which we express our thanks.

Landlord and Tenant Act 1988

2.53 The draft bill appended to our report on Leasehold Conveyancing⁵⁷ has now been enacted as the Landlord and Tenant Act 1988.⁵⁸ As a result, landlords are under a statutory duty not to withhold consent unreasonably to a disposition where there is a covenant in the lease that the tenant may not assign etc. without consent.

Private International Law

Choice of Law in Tort and Delict

2.54 We published a consultation paper⁵⁹ on this subject jointly with the Scottish Law Commission in December 1984. The consultation paper was the work of a joint Working Party and was described in our Nineteenth Annual Report.⁶⁰ After analysis of this consultation, provisional agreement was reached on the basic policy issues, but a subsequent examination of the application of this policy to particular torts and delicts revealed several problems in both jurisdictions. As a result the provisional decisions have had to be reviewed over the past year. We now plan to reconstitute a joint Working Party so that the project may be completed as soon as possible.

Foreign Marriage (Amendment) Act 1988

2.55 Our report on Choice of Law Rules in Marriage,⁶¹ which we published jointly with the Scottish Law Commission, made recommendations for the reform of some provisions of the legislation (Foreign Marriage Act 1892) governing the celebration abroad of consular marriages and of marriages of members of British Forces. It also recommended the repeal of certain obsolete Acts (passed before 1892) relating to the validation of certain foreign marriages. These recommendations have now been implemented by the Foreign Marriage (Amendment) Act 1988.

Joint Team Projects

Matrimonial Property

2.56 We published a working paper in April 1985 on the law relating to transfer of money between spouses. Following consideration of our proposals in the light of the comments received we asked those who had responded for their comments on revised proposals. We have now published a report⁶² identifying three areas in need of reform: the Married Women's Property Act 1964; the presumption of advancement; and the ownership of household goods. We consider that the present law is unsatisfactory because its application may not result in co-ownership of property even when a married couple desire this. Actual ownership may be held to depend on factors which neither party considered significant at the time of acquisition. In its treatment of money allowances and gifts of property the law discriminates between husband and wife. Our approach has been to try to establish a principle which can distinguish between property which spouses would, if they applied their minds to the question, wish to be jointly owned, and property which they would wish to be the sole property of one of them.

⁵⁵(1988) Working Paper No. 111.

⁵⁶Among the topics examined are: the effect of time limits for applications for a new tenancy, which mean that in many cases tenants have to take legal proceedings which go no further than the initial step; the stalemate created by lease clauses requiring the tenant to surrender the property back to the landlord before assigning, as a result of which the contract created by accepting the offer is void but the tenant is nevertheless not authorised to assign; and the lack of sanction to support the statutory obligation to provide necessary information.

⁵⁷(1987) Law Com. No. 161.

⁵⁸The Act came into force on 29 September 1988.

⁵⁹(1984) Working Paper No. 87, Consultative Memorandum No. 62.

⁶⁰(1985) Law Com. No. 140, paras. 2.56-2.58.

⁶¹(1987) Law Com. No. 165, Scot. Law Com. No. 105.

⁶²(1988) Law Com. No. 175.

2.57 We recommended that in future the purchase of property (with some exclusions) by one or both spouses for their joint use or benefit should give rise to joint ownership of that property subject to a contrary intention on the part of the purchasing spouse known to the other spouse. The same should apply to transfers of property from one to the other or to both. Where, however, property is bought or transferred for the sole use or benefit of one of them, it should belong to that one alone.

Distribution of Property on Intestacy

2.58 We are continuing the investigation which your Department asked us to undertake of the provisions governing the share of the estate which the surviving spouse receives when the deceased dies intestate. At present the spouse receives a lump sum and a life interest in half the residue if there are surviving issue, or a larger lump sum and half the residue if there are no surviving issue but other specified relatives. One particular problem is that although the amounts of the lump sums are raised periodically, they are not always enough for the spouse to retain the matrimonial home, especially if the deceased was the sole owner. We made a preliminary study of the area and decided to undertake a project which covers distribution of property on intestacy generally. We are grateful to Professor J.G. Miller of the University of East Anglia who greatly assisted in the preparation of the working paper⁶³ which we published on 15 July 1988. We have also commissioned Public Attitudes Surveys to conduct a survey of public opinion on the distribution of property.

Relationship Breakdown Working Party

2.59 The Law Commission is participating in the Working Party set up by the Department of the Environment to advise Ministers on the options for reform to deal with the difficulties which occur in the public housing sector when family units break down.

Statute Law

The Statute Book

2.60 Last year⁶⁴ we drew attention to the opportunity presented by the advent of modern information technology to keep the edition of Statutes in Force regularly and speedily updated. In 1988 word processing equipment was made available to the Statutory Publications Office for use in providing up-to-date supplements to the edition which, in spite of the efforts of its publishers, had in some cases fallen seriously into arrears. The Commission welcomes this development which it is believed from initial experience with the new equipment will, within two years, enable all volumes to have cumulative supplements not more than twelve months in arrears. Although the policy of updating by cumulative supplement can only be a temporary expedient, it should at least mean that the basis for further improvement will be established and the Commission's long-held⁶⁵ aspirations for an up-to-date easily accessible Statute Book will be realised.

2.61 The Commission is represented on the Statute Law Committee Secretariat Database Group which is currently considering the feasibility of creating a Statute Law Database containing all United Kingdom public legislation. For such a database an up-to-date edition of Statutes in Force would provide a useful springboard.

Consolidation

2.62 Consolidation has been dominated by the Income and Corporation Taxes Act 1988 (c.1). The other major consolidation Acts of the year were the Road Traffic Act 1988 (c.52), the Road Traffic Offenders Act 1988 (c.53) and the Road Traffic (Consequential Provisions) Act 1988 (c.54). There was one other consolidation, the Coroners Act 1988 (c.13).

2.63 Looking ahead, it is hoped that Bills consolidating social security legislation will be ready for introduction in 1989. The consolidation of the Acts relating to town and country planning, the reconsolidation of the Tribunals and Inquiries Act 1971 and the consolidation of the statutory provisions relating to capital allowances, all of which were mentioned in last year's annual report,⁶⁶ are well under way. We also hope shortly to have ready for introduction a Bill consolidating the enactments relating to opticians.

⁶³(1988) Working Paper No. 108.

⁶⁴Twenty-Second Annual Report 1986-1987, (1988) Law Com. No. 169, para. 2.69.

⁶⁵Second Annual Report 1966-1967, (1967) Law Com. No. 12, paras. 124-125; Third Annual Report 1967-1968, (1968) Law Com. No. 15, para. 56.

⁶⁶(1988) Law Com. No. 169, para. 2.74.

2.64 Work has begun on a consolidation of the Education Acts.

Statute Law Revision

2.65 Work is almost complete on a Statute Law (Repeals) Bill, for introduction this session, and a joint report of the Law Commission and the Scottish Law Commission. It is in essence an amalgamation of two Bills: one containing proposals covering a wide range of general legislation, and the other implementing a project to rationalise the substantial body of local legislation (reaching back to the early nineteenth century) which has been inherited by the successor authorities of the former metropolitan county council of South Yorkshire.

2.66 Work has been proceeding separately on proposals for inclusion in future Statute Law (Repeals) Bills, including projects to rationalise the local legislation of Greater Manchester, the City of Nottingham, Bedfordshire and Warwickshire. Work on the Greater Manchester project is being undertaken by the Statute Law Research Unit of Manchester Polytechnic, who have prepared draft repeal schedules covering five of the ten districts concerned. Draft repeal schedules covering the Nottingham project have been completed and will be the subject of consultation with the local authorities and statutory undertakers concerned.

Local Legislation Working Party

2.67 The Local Legislation Working Party,⁶⁷ which reports to the Statute Law Committee, gave consideration in 1987 to proposals for improving the local statutory instruments system with a view to making this form of legislation more accessible to practitioners and the public. With one exception, its recommendations for practical improvements to the system of listing and indexing local statutory instruments are now being implemented.

Chronological Table of Local Legislation

2.68 The first stage of the project, which covered the research period 1925-1973, was published in 1985.⁶⁸ Further progress has been made towards completing the second stage. This covers the research period 1850-1925 but will be in the form of an amalgamated text including a complete list of all local Acts passed since 1797, the information contained in the first stage and in Section 4 of the *Chronological Table of the Statutes* (which covers the period 1974 onwards) and results gained from examination of the principal collection of permanent and important *local* statutory instruments. The second stage will, therefore, be an important work of reference from which to determine accurately how much of this vast body of statute law continues to form part of the law of the land.

2.69 In the period under review the local and private Acts passed between 1865 and 1880 (approximately 3,600 Acts) have been examined and their legislative effects recorded. Work on the amalgamated text for the period 1797-1860 has been completed and is currently in progress on the period after 1860. A list of repeals and amendments made to Acts in the public general series by local legislation has been sent to the Statutory Publications Office for incorporation in the *Chronological Table of the Statutes*.

2.70 The value of the table as a basic research tool and a source of information on the state of the law is increasingly being recognised. For example, copies of the first-stage text have recently been supplied at their request to British Telecom, Clifford Chance and Farrer & Co., and lawyers from water authorities have visited the Law Commission to obtain unpublished information retrieved for the second-stage text. In Northern Ireland, the librarian of the Assembly Library at Stormont, who receives a large number of enquiries about nineteenth century local legislation, has welcomed the coverage of Irish Acts.

⁶⁷The present membership is listed in Appendix 2.

⁶⁸*Chronological Table of Local Legislation* (1985), 2 vols., 781 pp.

PART III

GENERAL

Responsibilities for Commission Projects

3.1 The responsibilities for projects falling within particular fields of law are shown in Appendix 1, which reflects the position on 31 December 1988.

Lawyers

3.2 The Commission has a small permanent core of thirteen civil service lawyers. It is augmented by five draftsmen serving on secondment from the Office of the Parliamentary Counsel.

3.3 At present we have thirteen research assistants who have joined us for periods of a year or more. The Commission greatly benefits from their work, and many of them have found this a useful preliminary to their professional careers.

Consultants

3.4 During the year the work of the Commission has been greatly assisted by Alison Clarke (University College, London), Helen Galas (Polytechnic of Central London), Professor J.G. Miller (University of East Anglia), Mr. David Gwynn Morgan (University of Cork), Mrs. Sandi Murdoch (University of Reading), Mr. Edward Phillips (University of Buckingham), Mrs. Rhona Schuz (London School of Economics and Political Science), Mr. Mark Thompson (Leicester University), and the members of the Code Group of the Society of Public Teachers of Law (Professor J.C. Smith, C.B.E., Q.C., Professor Edward Griew and Professor Ian Dennis). The Commission has also received valuable help from Sir Wilfrid Bourne, K.C.B., Q.C., formerly Permanent Secretary of your Department, from Mr. J.S. Phipps, a retired Chief Executive of Leicester City Council and from two former research assistants, Mr. Peter de Val and Miss Sally Hatfield.

Law Under Review

3.5 This quarterly bulletin, giving details of Government law reform projects, has continued to be published regularly and has attracted much favourable comment. In addition to a wide circulation around Whitehall, we have over 100 subscriptions from academic libraries and firms of solicitors.

Library

3.6 The Librarian and her staff, in addition to their routine duties, are responsible for the production of *Law Under Review*, and they continue to provide valuable assistance to the Commissioners and legal staff both in current research and in bringing new and relevant material to their attention. A database of Commonwealth law reform projects has been built up using the library microcomputer. They have co-operated with the Department's Headquarters Library in plans for the introduction of a computerised system for all departmental libraries.

3.7 We are grateful to many libraries for loans and photocopies of items not available in Conquest House, and in particular to the Institute of Advanced Legal Studies who allow our legal staff access to their own library.

Computerisation

3.8 The Commission is continuing to make full use of computers and information technology. Computerisation has not only enabled us to make substantial savings in printing costs in recent years, but has also provided the means of stretching scarce legal resources. Solutions to our special software requirements are being jointly developed with the Office of Parliamentary Counsel, the Lord Advocate's Department and Her Majesty's Stationery Office. We are especially grateful to Miss Sandra Burns, C.B., now on secondment to us from the Office of Parliamentary Counsel, and to Mr. Douglas Duncan and Mr. Donald Macrae of the Lord Advocate's Department, for their work on computerised printing programs.

Meetings

3.9 The Commission continues to work in close co-operation with the Scottish Law Com-

mission, although we held no joint meeting in 1988. We had our annual meeting with the Society of Public Teachers of Law on 13 June 1988, and a meeting the following day with members of the Law Reform Committee of the General Council of the Bar. The Commission has also had meetings with other legal bodies in order to benefit from mutual exchange of views, and there have been useful meetings between individual Commissioners and representatives of the Bar and Law Society.

Visitors from Overseas

3.10 A list of visitors from overseas during the period under review can be found in Appendix 3. Among these visitors was Mr. Nathaniel Issa, the Secretary of the Law Reform Commission of Tanzania, who came to us on secondment for the month of July 1988 to study the working methods and procedures of this Commission.

Overseas Visits

3.11 In April 1988 Professor Hoggett and Professor Farrand went to Tokyo for the Sixth World Conference of the International Society on Family Law on the subject of The Law and the Elderly. Professor Hoggett addressed the Conference on Procedures for Civil Commitment and Guardianship of the Elderly Mentally Infirm, and Professor Farrand on Enduring Powers of Attorney.

3.12 In December 1988 the Chairman, in the course of a visit to New Zealand, visited the New Zealand Law Commission and the Ministry of Justice.

(Signed) ROY BELDAM, *Chairman*
TREVOR M. ALDRIDGE
RICHARD BUXTON
BRENDA HOGGETT

MICHAEL COLLON, *Secretary*
3 February 1989

APPENDIX 1

RESPONSIBILITIES FOR COMMISSION PROJECTS

Contract Law

Mr. B.J. Davenport, Q.C., Mr. J.J. Cooper.

Criminal Law

Chairman, Mr. B.J. Davenport, Q.C., Mr. M.N. Farmer, Mr. A Cope, Miss L.E. Miller, Mr. C.N. Southorn.

Family Law

Professor B.M. Hoggett, Mrs. M. Hodgson, Mrs. J.M. Jenkins, Miss T. Cockrell, Mr. M.A. Nicholson, Miss E.M. Reynolds, Miss M.M. Silver.

Property Law

Professor J.T. Farrand, Miss J.A. Nicholson, Miss C.A. Lonsdale, Miss J.L. Illingworth, Miss J. Lamb.

Landlord and Tenant Law

Mr. T.M. Aldridge, Mr. A. Akbar, Mr. J.M. Davis, Mrs. F.M. Clift, Miss S.J. Wallcraft.

Private International Law

Mr. B.J. Davenport, Q.C., Mr. J.J. Cooper.

Statute Law

Consolidation: Chairman, Mr. J.D.M. Rennie, C.B., Miss S.P. Burns, C.B., Mrs. M. Leates, Mr. J.R. Jones, Miss S.C. Grundy, Miss L.E. Nodder.

Statute Law Revision (including Local Legislation): Chairman, Mr. R.H. Streeten, Mr. R.D. Maitland, Mr. A.M. Rowland, Miss D. Beecher, Miss S. Redmayne.

APPENDIX 2

MEMBERSHIP OF LOCAL LEGISLATION WORKING PARTY

The Hon. Mr. Justice Beldam, <i>Chairman</i>	Law Commission
The Hon. Lord Davidson	Scottish Law Commission
Mr. B.J. Davenport, Q.C.	Law Commission
Mr. H.W. Gamon, C.B.E., M.C.	Society of Parliamentary Agents
Mr. J.G.S. Maclean (as alternate for Lord Davidson)	Scottish Law Commission
Mr. R.J.B. Morris	Chief Executive and Town Clerk, Northampton Borough Council
Mr. D. Rippengal, C.B., Q.C.	Counsel to Chairman of Committees
Mr. R.H. Streeten	Law Commission
Mr. M.J. Ware, C.B., Q.C.	Solicitor, Department of the Environment
Mr. A.M. Rowland, <i>Secretary</i>	Law Commission

APPENDIX 3

VISITORS FROM OVERSEAS

Among the visitors to the Law Commission from overseas in the period 1 November 1987 to 31 December 1988 were:

The Hon. Sir Dormer Andrews (Chief Justice of Queensland, Australia)
Professor S.R. Cohn (University of Florida)
Professor J. Crawford (Challis Professor of International Law, University of Sydney)
Professor R.D. Eagleson (University of Sydney)
M. Roger Errera (Judge, Conseil d'Etat, France)
Professor John Goldring (Commissioner, Law Reform Commission of Australia)
The Hon. Mr. K.T. Griffin (Shadow Attorney-General, South Australian State Parliament)
Mr. N. Issa (Secretary, Law Reform Commission of Tanzania)
Sir Kenneth Keith (Deputy Chairman, New Zealand Law Commission)
Professor R. Lahti (Professor of Criminal Law, University of Helsinki, and Member of the Committee for the Revision of the Criminal Law in Finland)
Miss J. Modeste (Librarian, Law Reform Commission of Trinidad and Tobago)
Professor S.V. Polenina (The Institute of State and Law of the Academy of Sciences of the USSR)
Ms. M. Richardson (Legal Research Officer, New Zealand Law Commission)
His Excellency Sayyid Said Bin Hilal Bin Muhammad Al Bu Saidi (President of the Penal Court of Oman)
Dr. D.A. Schmeiser, Q.C. (Chairman, Law Reform Commission of Saskatchewan 1982-87)
Professor J. Svestka (Deputy Head of the Department of Civil and Family Law, Charles University, Prague)
Miss A. Tuet (Librarian, Supreme Court, Hong Kong)
Ms. J. Wallace (Commissioner, Law Reform Commission of Victoria)
Mr. R. Wilkins (Acting Deputy Director, New South Wales Cabinet Office)

In addition, the following attended as members of a delegation from the French Confédération Nationale des Administrateurs de Biens:

M. P. Bazin (Chairman)
M. J-M Levet (Vice-Chairman)
M. J-P Lambert (Secretary-General)
M. P. Rousselet (Délégué Général: Head of Permanent staff)
M. J-P Pleunés (Public Relations Consultant)

APPENDIX 4

List of the Law Commission's Publications

A. Working Papers

<i>Working Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
1966		
1	Transfer of Land: Root of Title to Freehold Land	Law Com. No. 9.
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.
3	Restrictive Covenants	Law Com. No. 11.
4	Should English Wills be Registrable?	
5	Liability of Trade Vendors of New Dwelling Houses to First and Subsequent Purchasers (First Paper)	Law Com. No.40.
6	Liability of Vendors and Lessors for Defective Premises (Second Paper)	Law Com. No. 40.
1967		
7	Provisional Proposals for Amendments to the Landlord and Tenant Act 1954, Part II (Business Tenancies)	Law Com. No. 17.
8	Provisional Proposals Relating to Obligations of Landlords and Tenants	Law Com. No. 67
9	Family Law: Matrimonial and Related Proceedings—Financial Relief	Law Com. No. 25.
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.
11	Powers of Attorney	Law Com. No. 30.
12	Proof of Paternity in Civil Proceedings	Law Com. No. 16.
13	Exploratory Working Paper on Administrative Law	Law Com. No. 20.
14	Interpretation of Statutes (Joint Working Paper-Scottish Law Commission Memorandum No.6)	Law Com. No. 21.
1968		
15	Family Law: Arrangements for the Care and Upbringing of Children	
16	Provisional Proposals Relating to Termination of Tenancies	Law Com. No. 142.
17	Codification of the Criminal Law: General Principles.The Field of Enquiry (See Law Com. No. 143)	
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.
19	Loss of Services	Law Com. Nos. 25 and 56.
20	Nullity of Marriage	Law Com. No. 33.
21	Polygamous Marriages	Law Com. No. 42.
1969		
22	Restitution of Conjugal Rights	Law Com. No. 23.
23	Malicious Damage to Property	Law Com. No. 29.
24	Transfer of Land: Rentcharges (See also Working Paper No. 49)	Law Com. No. 68.
1970		
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	Law Com. No. 141.

<i>Working Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
26	Criminal Law: Forgery	Law Com. No. 55.
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.
28	Family Law: Jurisdiction in Matrimonial Causes (other than Nullity)	Law Com. No. 48.
29	Codification of the Criminal Law: Subject III. Territorial and Extra-Territorial Extent of the Criminal Law	Law Com. No. 91.
30	Codification of the Criminal Law; Strict Liability and the Enforcement of the Factories Act 1961	
31	Codification of the Criminal Law: General Principles. The Mental Element in Crime	Law Com. No. 89.
32	Transfer of Land: Land Registration (First Paper)	Law Com. No. 125.
33	Criminal Law: Perjury and Kindred Offences	Law Com. No. 96.
1971		
34	Family Law: Jactitation of Marriage (See also Working Paper No. 48)	Law Com. No. 132.
35	Family Law: Solemnisation of Marriage	Law Com. No. 53.
36	Transfer of Land: Appurtenant Rights	Law Com. No. 127.
37	Transfer of Land: Land Registration (Second Paper)	Law Com. No. 125.
38	Family Law: Jurisdiction in Suits for Nullity of Marriage	Law Com. No. 48
39	Exemption Clauses in Contracts for Services (Joint Working Paper-Scottish Law Commission Memorandum No. 15)	Law Com. No. 69.
40	Administrative Law	Law Com. No. 73.
41	Personal Injury Litigation: Assessment of Damages	Law Com. No. 56.
42	Family Law: Family Property Law	Law Com. Nos. 52, 61 and 86.
1972		
43	Codification of the Criminal Law: General Principles. Parties, Complicity and Liability for the Acts of Another (See Law Com. No. 143)	
44	Codification of the Criminal Law: General Principles. Criminal Liability of Corporations (See Law Com. No. 143)	
45	Transfer of Land: Land Registration (Third Paper)	Law Com. No. 125.
46	Charging Orders on Land	Law Com. No. 74.
1973		
47	Injuries to Unborn Children	Law Com. No. 60.
48	Family Law: Declarations in Family Matters	Law Com. No. 132.
49	Transfer of Land: Rentcharges	Law Com. No. 68.
50	Codification of the Criminal Law: General Principles. Inchoate Offences: Conspiracy, Attempt and Incitement	Law Com. Nos. 76 and 102.
51	Transfer of Land. "Subject to Contract" Agreements	Law Com. No. 65.
52	Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability	Law Com. No. 75.
53	Family Law: Matrimonial Proceedings in Magistrates' Courts	Law Com. No. 77.
1974		
54	Criminal Law: Offences of Entering and Remaining on Property	Law Com. No. 76.
55	Codification of the Criminal Law: General Principles. Defences of General Application	Law Com. No. 83.
56	Criminal Law: Conspiracy to Defraud	
57	Codification of the Criminal Law: Conspiracies Relating to Morals and Decency	Law Com. No. 76.

<i>Working Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
58	Breach of Confidence	Law Com. No. 110.
1975		
59	Contribution	Law Com. No. 79.
60	Firm Offers	
61	Penalty Clauses and Forfeiture of Monies Paid	
62	Criminal Law: Offences Relating to the Administration of Justice	Law Com. No. 96.
63	Codification of the Criminal Law: Conspiracies to Effect a Public Mischief and to Commit a Civil Wrong	Law Com. No. 76.
64	Liability for Defective Products (Joint Working Paper-Scottish Law Commission Memorandum No. 20)	Law Com. No. 82.
65	Law of Contract: Pecuniary Restitution on Breach of Contract	Law Com. No. 121.
1976		
66	Interest	Law Com. No. 88.
67	Transfer of Land: Land Registration (Fourth Paper)	
68	Custody of Children: Jurisdiction and Enforcement within the United Kingdom (Joint Working Paper-Scottish Law Commission Memorandum No. 23)	Law Com. No. 138.
69	The Incapacitated Principal	Law Com. No. 122.
70	Law of Contract: The Parol Evidence Rule	Law Com. No. 154.
1977		
71	Law of Contract: Implied Terms in Contracts for the Supply of Goods	Law Com. No. 95.
72	Codification of the Criminal Law: Treason, Sedition and Allied Offences	
1979		
73	Insurance Law: Non-Disclosure and Breach of Warranty	Law Com. No. 104.
74	Family Law: Illegitimacy	Law Com. No. 118.
1980		
75	Classification of Limitation in Private International Law	Law Com. No. 114.
76	Time Restrictions on Presentation of Divorce and Nullity Petitions	Law Com. No. 116.
77	Family Law: Financial Relief after Foreign Divorce	Law Com. No. 117.
78	Rights of Access to Neighbouring Land	Law Com. No. 151.
1981		
79	Offences against Religion and Public Worship	Law Com. No. 145.
80	Private International Law: Foreign Money Liabilities	Law Com. No. 124.
1982		
81	Minors' Contracts	Law Com. No. 134.
82	Offences against Public Order	Law Com. No. 123.
83	Polygamous Marriages: Capacity to Contract a Polygamous Marriage and the Concept of the Potentially Polygamous Marriage (Joint Working Paper-Scottish Law Commission Consultative Memorandum No. 56)	Law Com. No. 146.
84	Criminal Libel	Law Com. Nos. 147 and 149.
1983		
85	Sale and Supply of Goods (Joint Working Paper-Scottish Law Commission Consultative Memorandum No. 58)	Law Com. No. 160.
86	Transfer of Land: Liability for Chancel Repairs	Law Com. No. 152.

<i>Working Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
1984		
87	Private International Law: Choice of Law in Tort and Delict (Joint Working Paper-Scottish Law Commission Consultative Memorandum No. 62)	
1985		
88	Private International Law: The Law of Domicile (Joint Working Paper-Scottish Law Commission Consultative Memorandum No. 63)	Law Com. No. 168.
89	Private International Law: Choice of Law Rules in Marriage (Joint Working Paper-Scottish Law Commission Consultative Memorandum No. 64)	Law Com. No. 165.
90	Transfer of Money between Spouses: the Married Women's Property Act 1964	Law Com. No. 175.
91	Family Law: Review of Child Law: Guardianship	Law Com. No. 172.
92	Transfer of Land: Formalities for Contracts for Sale etc. of Land	Law Com. No. 164.
93	Transfer of Land: Formalities for Deeds and Escrows	Law Com. No. 163.
94	Trusts of Land	
1986		
95	Landlord and Tenant: Privity of Contract and Estate: Duration of Liability of Parties to Leases	Law Com. No. 174.
96	Family Law: Review of Child Law: Custody (Supplement) Custody Law in Practice in the Divorce and Domestic Courts	Law Com. No. 172.
97	Distress for Rent	
98	Transfer of Land: The Rule in <i>Bain v. Fothergill</i>	Law Com. No. 166.
99	Land Mortgages	
1987		
100	Family Law: Review of Child Law: Care, Supervision and Interim Orders in Custody Proceedings	Law Com. No. 172.
101	Family Law: Review of Child Law: Wards of Court	
102	Compensation for Tenants' Improvements	
103	Criminal Law: Binding Over: The Issues	
104	Criminal Law: Conspiracy to Defraud	
105	Transfer of Land: Title on Death	
1988		
106	Trusts of Land: Overreaching	
107	Transfer of Land: Implied Covenants for Title	
108	Distribution on Intestacy	
109	Transfer of Land: Passing of Risk from Vendor to Purchaser	
110	Computer Misuse	
111	Part II of the Landlord and Tenant Act 1954	

B. Reports and Programmes

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

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
1965		
1	First Programme of the Law Commission	--
1966		
2	First Programme on Consolidation and Statute Law Revision	--
3*	Proposals to Abolish Certain Ancient Criminal Offences	Criminal Law Act 1967 (c.58).
4	First Annual Report 1965-66	--
5	Landlord and Tenant: Interim Report on Distress for Rent	--
6+	Reform of the Grounds of Divorce: The Field of Choice (Cmnd.3123)	Divorce Reform Act 1969 (c.55), now Matrimonial Causes Act 1973 (c.18).
7*	Proposals for Reform of the Law Relating to Maintenance and Champerty	Criminal Law Act 1967 (c.58).
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		
9*	Transfer of Land: Interim Report on Root of Title to Freehold Land	Law of Property Act 1969 (c.59).
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).
11	Transfer of Land: Report on Restrictive Covenants	In part by Law of Property Act 1969 (c.59).
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 1969 (c.83).
12	Second Annual Report 1966-1967	--
13	Civil Liability for Animals	Animals Act 1971(c.22).
1968		
14	Second Programme of Law Reform	--
15	Third Annual Report 1967-1968 (H.C.312)	--
16*	Blood Tests and the Proof of Paternity in Civil Proceedings (H.C.2)	Family Law Reform Act 1969 (c.46).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
1969		
17*	Landlord and tenant: Report on the Landlord and Tenant Act 1954, Part II (H.C.38)	Law of Property Act 1969 (c.59).
18*	Transfer of Land: Report on Land Charges Affecting Unregistered Land (H.C.125)	Law of Property Act 1969 (c.59).
18A	Trustee Savings Bank Bill: Report by the two Commissions on the Consolidation of the Trustee Savings Bank Acts 1954 to 1968 (Scot. Law Com. No. 10)(Cmnd.4004)	Trustee Savings Bank Act 1969 (c.50).
19+*	Proceedings Against Estates (Cmnd.4010)	Proceedings against Estates Act 1970 (c.17).
20+	Administrative Law (Cmnd.4059)	See Law Com. No. 73.
21*	Interpretation of Statutes: Report by the Two Commissions (Scot. Law Com. No. 11)(H.C.256)	None.
22*	Statute Law Revision: First Report (Cmnd.4052)	Statute Law (Repeals) Act 1969 (c.52).
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).
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).
25*	Family Law: Report on Financial Provision in Matrimonial Proceedings (H.C.448)	Matrimonial Proceedings and Property Act 1970 (c.45), now largely Matrimonial Causes Act 1973 (c.18); Law Reform (Miscellaneous Provisions) Act 1970 (c.33).
26*	Breach of Promise of Marriage (H.C.453)	Law Reform (Miscellaneous Provisions) Act 1970 (c.33).
27	Fourth Annual Report 1968-1969 (H.C.27)	--
1970		
28*	Statute Law Revision: Second Report. Draft Wild Creatures and Forest Laws Bill (Cmnd.4433)	Wild Creatures and Forest Laws Act 1971 (c.47).
29*	Criminal Law: Report on Offences of Damage to Property (H.C.91)	Criminal Damage Act 1971 (c.48).
30+*	Powers of Attorney (Cmnd.4473)	Powers of Attorney Act 1971 (c.27).
31+*	Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters (Cmnd.4497)	Administration of Estates Act 1971 (c.25).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
32	Civil Liability for Dangerous Things and Activities (H.C. 142)	--
33*	Family Law: Report on Nullity of Marriage (H.C.164)	Nullity of Marriage Act 1971 (c.44), now Matrimonial Causes Act 1973 (c.18).
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), now Part II of Family Law Act 1986 (c.55).
35+	Limitation Act 1963 (Cmnd.4532)	Law Reform (Miscellaneous Provisions) Act 1971 (c.43).
36	Fifth Annual Report 1969-1970 (H.C.170)	--
37*	Statute Law Revision: Third Report (Cmnd.4546)	Statute Law (Repeals) Act 1971 (c.52).
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).
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 such Vehicles (Scot. Law Com. No. 19)(Cmnd.4547)	Vehicles (Excise) Act 1971 (c.10).
40*	Civil Liability of Vendors and Lessors for Defective Premises (H.C.184)	Defective Premises Act 1972 (c.35).
1971		
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).
42*	Family Law: Report on Polygamous Marriages (H.C.227)	Matrimonial Proceedings (Polygamous Marriages) Act 1972 (c.38), now Matrimonial Causes Act 1973 (c.18).
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).
44	Second Programme of Consolidation and Statute Law Revision (H.C.338)	--
45	Town and Country Planning Bill: Report on the Consolidation of Certain Enactments Relating to Town and Country Planning (Cmnd.4684)	Town and Country Act 1971 (c.78).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
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).
47	Sixth Annual Report 1970-1971 (H.C.32)	--
1972		
48*	Family Law: Report on Jurisdiction in Matrimonial Causes (H.C.464)	Domicile and Matrimonial Proceedings Act 1973 (c.45).
49*	Statute Law Revision: Fourth Report by the two Commissions (Scot. Law Com. No. 26) (Cmnd.5108)	Statute Law (Repeals) Act 1973 (c.39).
50	Seventh Annual Report 1971-1972 (H.C.35)	--
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		
52	Family Law: First Report on Family Property. A new Approach (H.C.274)	--
53	Family Law: Report on Solemnisation of Marriage in England and Wales (H.C.250)	None.
54	Third Programme of Law Reform (H.C.293)	--
55*	Criminal Law: Report on Forgery and Counterfeit Currency (H.C.320)	Forgery and Counterfeiting Act 1981 (c.45)
56*	Report on Personal Injury Litigation— Assessment of Damages (H.C.373)	Administration of Justice Act 1982 (c.53).
57*	Statute Law Revision: Fifth Report by the two Commissions (Scot.Law Com. No.32) (Cmnd. 5493)	Statute Law (Repeals) Act 1974 (c.22).
58	Eighth Annual Report 1972-1973 (H.C.34)	--
1974		
59	Friendly Societies Bill: Report by the two Commissions on the Consolidation of the Friendly Societies Act 1896 to 1971 and Certain Other Enactments Relating to the Societies to which those Acts apply (Scot. Law Com.No.35) (Cmnd. 5634)	Friendly Societies Act 1974 (c.46).
60+*	Report on Injuries to Unborn Children (Cmnd. 5709)	Congenital Disabilities (Civil Liability) Act 1976 (c.28).
61*	Family Law: Second Report on Family Property. Family Provision on Death (H.C.324)	Inheritance (Provision for Family and Dependants) Act 1975 (c.63).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
62*	Transfer of Land: Report on Local Land Charges (H.C.71)	Local Land Charges Act 1975 (c.76).
63*	Statute Law Revision: Sixth Report by the two Commissions (Scot.Law Com.No.36) (Cmnd. 5792)	Statute Law (Repeals) Act 1975 (c.10).
64	Ninth Annual Report 1973-1974 (H.C.40)	--
1975		
65	Transfer of Land: Report on "Subject to Contract" Agreements (H.C.119)	--
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).
67*	Codification of the Law of Landlord and Tenant: Report on Obligations of Landlords and Tenants (H.C.377)	None.
68*	Transfer of Land: Report on Rentcharges (H.C.602)	Rentcharges Act 1977 (c.30)
69*	Exemption Clauses: Second Report by the two Commissions (Scot.Law Com. No.39) (H.C.605)	Unfair Contract Terms Act 1977 (c.50).
70*	Statute Law Revision: Seventh Report by the two Commissions (Scot.Law Com. No.40) (Cmnd. 6303)	Statute Law (Repeals) Act 1976 (c.16)
71	Tenth Annual Report 1974-1975 (H.C.51)	--
1976		
72*	Jurisdiction of Certain Ancient Courts (Cmnd. 6385)	Administration of Justice Act 1977 (c.38).
73+*	Report on Remedies in Administrative Law (Cmnd.6407)	Rules of Supreme Court (Amendment No.3) 1977; Supreme Court Act 1981 (c.54).
74+*	Charging Orders (Cmnd. 6412)	Charging Orders Act 1979 (c.53).
75+*	Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability (Cmnd.6428)	Occupiers' Liability Act 1984 (c.3).
76*	Criminal Law: Report on Conspiracy and Criminal Law Reform (H.C.176)	In part by Criminal Law Act 1977 (c.45)
77*	Family Law: Report on Matrimonial Proceedings in Magistrates' Courts (H.C.637)	Domestic Proceedings and Magistrates' Courts Act 1978 (c.22).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
1977		
78	Eleventh Annual Report 1975-1976 (H.C.94)	--
79*	Law of Contract: Report on Contribution (H.C.181)	Civil Liability (Contribution) Act 1978 (c.47).
80*	Statute Law Revision: Eighth Report by the two Commissions (Scot.Law Com. No.44)(Cmnd. 6719)	Statute Law (Repeals) Act 1977 (c.18).
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).
82+	Liability for Defective Products: Report by the two Commissions (Scot.Law Com. No.45) (Cmnd.6831)	Consumer Protection Act 1987 (c.43).
83*	Criminal Law: Report on Defences of General Application (H.C.566)	None.
84+	Law of Contract: Report on the Proposed E.E.C. Directive on the Law Relating to Commercial Agents (Cmnd. 6948)	--
85	Twelfth Annual Report 1976-1977 (H.C.96)	--
1978		
86*	Family Law: Third Report on Family Property. The Matrimonial Home (Co-Ownership and Occupation Rights) and Household Goods (H.C. 450)	Housing Act 1980 (c.51); Matrimonial Homes and Property Act 1981 (c.24).
87*	Statute Law Revision: Ninth Report by the two Commissions (Scot.Law Com.No.48) (Cmnd. 7189)	Statute Law (Repeals) Act 1978 (c.45).
88+*	Law of Contract: Report on Interest (Cmnd.7229)	In part by Administration of Justice Act 1982 (c.53); Rules of the Supreme Court (Amendment No.2)1980
89*	Criminal Law: Report on the Mental Element in Crime (H.C.499)	None.
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).
91*	Criminal Law: Report on the Territorial and Extra-Territorial Extent of the Criminal Law (H.C.75)	In part by Territorial Sea Act 1987 (c.49).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
92	Thirteenth Annual Report 1977-1978 (H.C.87)	--
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		
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).
95*	Law of Contract: Implied Terms in Contracts for the Supply of Goods (H.C.142)	Supply of Goods and Services Act 1982 (c.29).
96*	Criminal Law: Offences Relating to Interference with the Course of Justice (H.C.213)	None.
97	Fourteenth Annual Report 1978-1979 (H.C.322)	--
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		
99*	Family Law: Orders for Sale of Property under the Matrimonial Causes Act 1973 (H.C.369)	Matrimonial Homes and Property Act 1981 (c.24).
100	Highways Bill: Report on the Consolidation of the Highways Acts 1959 to 1971 and Related Enactments (Cmnd.7828)	Highways Act 1980 (c.66).
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).
102*	Criminal Law: Attempt, and Impossibility in Relation to Attempt, Conspiracy and Incitement (H.C.646)	Criminal Attempts Act 1981 (c.47).
103+	Family Law: The Financial Consequences of Divorce: The Basic Policy. A Discussion Paper (Cmnd.8041)	See Law Com.No.112.
104+*	Insurance Law: Non-Disclosure and Breach of Warranty (Cmnd. 8064)	None.
105	Judicial Pensions Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Pensions and Other Benefits payable in respect of service in Judicial Office (Scot.Law Com.No.62)(Cmnd.8097)	Judicial Pensions Act 1981 (c.20).
106*	Statute Law Revision: Tenth Report by the two Commissions (Scot.Law Com.No.63)(Cmnd. 8089)	Statute Law (Repeals) Act 1981 (c.19); Supreme Court Act 1981 (c.54); British Telecommunications Act 1981 (c.38).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
1981		
107	Fifteenth Annual Report 1979-1980 (H.C.161)	--
108	Trustee Savings Banks Bill: Report by the two Commissions on the Consolidation of the Trustee Savings Banks Acts 1969 to 1978 (Scot.Law Com. No.65)(Cmnd.8257)	Trustee Savings Banks Act 1981 (c.65).
109+	Private International Law: Council of Europe Conventions on Foreign Money Liabilities (1967) and on the Place of Payment of Money Liabilities (1972) (Joint Report-Scot.Law Com.No.66) (Cmnd. 8318)	--
110+*	Breach of Confidence (Cmnd.8388)	Recommendations have been accepted, but legislation has not been given priority (see <i>Hansard</i> (H.C.), 2 February 1987, Vol. 109, Written Answers, col.513).
111+	Property Law: Rights of Reverter (Cmnd.8410)	Reverter of Sites Act 1987 (c.15).
112	Family Law: The Financial Consequences of Divorce. The Response to the Law Commission's Discussion Paper, and Recommendations on the Policy of the Law (H.C.68)	Matrimonial and Family Proceedings Act 1984 (c.42).
1982		
113	Sixteenth Annual Report 1980-1981 (H.C.161)	--
114+*	Classification of Limitation in Private International Law (Cmnd.8570)	Foreign Limitation Periods Act 1984 (c.16).
115+	Property Law: The Implications of <i>Williams and Glyn's Bank Ltd v. Boland</i> (Cmnd.8636)	None.
116*	Family Law: Time Restrictions on Presentation of Divorce and Nullity Petitions (H.C.513)	Matrimonial and Family Proceedings Act 1984 (c.42).
117*	Family Law: Financial Relief after Foreign Divorce (H.C.514)	Matrimonial and Family Act 1984 (c.42).
118*	Family Law: Illegitimacy (H.C.98)	Family Law Reform Act 1987 (c.42).
1983		
119	Seventeenth Annual Report 1981-1982 (H.C.203)	--
120	Medical Bill: Report by the two Commissions on the Consolidation of the Medical Acts 1956 to 1978 and Certain Related Provisions (Scot.Law Com.No.77)(Cmnd.8839)	Medical Act 1983 (c.54).
121*	Law of Contract: Pecuniary Restitution on Breach of Contract (H.C.34)	None.

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
122+*	The Incapacitated Principal (Cmnd.8977)	Enduring Powers of Attorney Act 1985 (c.29).
123*	Criminal Law: Offences Relating to Public Order (H.C.85)	Public Order Act 1986 (c.64).
124+*	Private International Law: Foreign Money Liabilities (Cmnd.9064)	None.
125*	Property Law: Land Registration (H.C.86)	Land Registration Act 1986 (c.26).
126	Amendment of the Companies Acts 1948-1983: Report by the two Commissions under section 116 of the Companies Act 1981 (Scot.Law Com. No.83)(Cmnd.9114)	Companies Consolidation (Consequential Provisions) Act 1985 (c.9).
1984		
127*	Transfer of Land: The Law of Positive and Restrictive Covenants (H.C.201)	None.
128	Registered Homes Bill: Report on the Consolidation of Certain Enactments Relating to Residential Care Homes and Nursing Homes and Registered Homes Tribunals (Cmnd.9115)	Registered Homes Act 1984 (c.23).
129	Dentists Bill: Report by the two Commissions on the Consolidation of the Dentists Acts 1957 to 1983 (Scot.Law Com.No.84)(Cmnd.9119)	Dentists Act 1984 (c.24).
130	Public Health (Control of Disease) Bill: Report on the Consolidation of Certain Enactments Relating to the Control of Disease (Cmnd.9128)	Public Health (Control of Disease) Act 1984 (c.22).
131	Eighteenth Annual Report 1982-1983 (H.C.266)	--
132*	Family Law: Declarations in Family Matters (H.C.263)	Family Law Act 1986 (c.55), Part III.
133	Road Traffic Regulation Bill (Joint Report-Scot. Law.Com.85)(Cmnd.9162)	Road Traffic Regulation Act 1984 (c.27).
134*	Law of Contract: Minors' Contracts (H.C.494)	Minors' Contracts Act 1987 (c.13).
135	Statute Law Revision: Eleventh Report: Obsolete Provisions in the Companies Act 1948 (Cmnd. 9236)	Companies Consolidation (Consequential Provisions) Act 1985 (c.9).
136	Further Amendments to the Companies Acts 1948-1983: Report by the two Commissions under section 116 of the Companies Act 1981 (Scot.Law Com.No.87)(Cmnd.9272)	Companies Consolidation (Consequential Provisions) Act 1985 (c.9).
137*	Private International Law: Recognition of Foreign Nullity Decrees and Related Matters (Joint Report-Scot. Law Com.No.88)(Cmnd.9347)	Family Law Act 1986 (c.55), Part II.

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
1985		
138+*	Family Law: Conflicts of Jurisdiction Affecting the Custody of Children (Joint Report-Scot.Law Com.No.91)(Cmnd.9419)	Family Law Act 1986 (c.55), Part I.
139	Cinemas Bill: Report on the consolidation of the Cinematograph Acts 1909 to 1982 and Related Enactments (Cmnd.9425)	Cinemas Act 1985 (c.13).
140	Nineteenth Annual Report 1983-1984 (H.C.214)	--
141	Codification of the Law of Landlord and Tenant: Covenants Restricting Dispositions, Alterations and Change of User (H.C.278)	None.
142	Codification of the Law of Landlord and Tenant: Forfeiture of Tenancies (H.C.279)	None.
143	Criminal Law: Codification of the Criminal Law: A Report to the Law Commission (H.C.270)	--
144	Housing Bill, Housing Associations Bill, Landlord and Tenant Bill (Joint Report-Scot.Law Com.No.94)(Cmnd.9515)	Housing Act 1985 (c.68); Housing Associations Act 1985 (c.69); Landlord and Tenant Act 1985 (c.70); Housing (Consequential Provisions) Act 1985 (c.71).
145*	Criminal Law: Offences against Religion and Public Worship (H.C.442)	None.
146*	Private International Law: Polygamous Marriages. Capacity to Contract a Polygamous Marriage and Related Issues (Joint Report-Scot.Law Com.No. 96)(Cmnd.9595)	None.
147*	Criminal Law: Report on Poison-Pen Letters (H.C.519)	Malicious Communications Act 1988 (c.27)
148*	Property Law: Second Report on Land Registration: Inspection of the Register	Land Registration Act 1988 (c.3).
149*	Criminal Law: Report on Criminal Libel (Cmnd. 9618)	None.
150	Statute Law Revision: Twelfth Report (Joint Report-Scot.Law Com.No.99)(Cmnd.9648)	Statute Law (Repeals) Act 1986 (c.12); Patents, Designs and Marks Act 1986 (c.39).
151+*	Rights of Access to Neighbouring Land (Cmnd. 9692)	None.
152*	Property Law: Liability for Chancel Repairs (H.C.39)	None.
153	Agricultural Holdings Bill: Report on the Consolidation of Certain Enactments Relating to Agricultural Holdings (Cmnd.9665)	Agricultural Holdings Act 1986 (c.5).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
1986		
154	Law of Contract: The Parol Evidence Rule (Cmnd.9700)	--
155	Twentieth Annual Report 1984-1985 (H.C.247)	--
156+	Law of Contract: Implied Terms in Contracts for the Supply of Services (Cmnd.9773)	--
157*	Family Law: Illegitimacy (Second Report) (Cmnd. 9913)	Family Law Reform Act 1987 (c.42).
1987		
158	Property Law: Third Report on Land Registration. A. Overriding Interests. B. Rectification and Indemnity: C. Minor Interests (H.C.269)	--
159	Twenty-First Annual Report 1985-1986 (H.C.342)	--
160+*	Sale and Supply of Goods (Joint Report-Scot. Law Com.No.104)(Cm.137)	Recommendations accepted; Government will seek opportunity for legislation (see <i>Hansard</i> (H.C.) 3 November 1988, vol. 139, Written Answers, col. 705).
161*	Leasehold Conveyancing (H.C.360)	Landlord and Tenant Act 1988 (c.26).
162	Landlord and Tenant: Reform of the Law (Cm.145)	--
163*	Deeds and Escrows (H.C.1)	Law of Property (Miscellaneous Provisions) Bill.
164*	Transfer of Land: Formalities for Contracts for Sale etc. of Land (H.C.2)	Law of Property (Miscellaneous Provisions) Bill.
165*	Private International Law: Choice of Law Rules in Marriage (Joint Report-Scot.Law Com.No.105) (H.C.3)	Foreign Marriage (Amendment) Act 1988 (c.44).
166	Transfer of Land: The Rule in <i>Bain v. Fothergill</i> (Cm.192)	Law of Property (Miscellaneous Provisions) Bill.
167	Coroners Bill: Report on the Consolidation of the Coroners Acts 1887 to 1980 and Certain Related Enactments (Cm.178)	Coroners Act 1988 (c.13).
168*	Private International Law: The Law of Domicile (Joint Report-Scot.Law Com.No.107)(Cm.200)	None.
1988		
169	Twenty-Second Annual Report 1986-1987 (H.C.319)	--
170	Facing the Future: A Discussion Paper on the Ground for Divorce (H.C.479)	--

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
171	Road Traffic Bill; Road Traffic Offenders Bill; Road Traffic (Consequential Provisions) Bill: Report on the Consolidation of Certain Enactments Relating to Road Traffic (Joint Report-Scot.Law Com.No.113)(Cm.390)	Road Traffic Act 1988 (c.52); Road Traffic Offenders Act 1988 (c.53); Road Traffic (Consequential Provisions) Act 1988 (c.54).
172*	Family Law: Review of Child Law: Guardianship and Custody (H.C.594)	Children Bill
173*	Property Law: Fourth Report on Land Registration (H.C.680)	None.
174*	Landlord and Tenant Law: Privity of Contract and Estate (H.C.8)	None.
175*	Family Law: Matrimonial Property (H.C.9)	None.
1989		
176	Twenty-Third Annual Report 1987-1988 (H.C.227)	--

C. Joint Working Group Report

11 April 1979 Private International Law: Report on the Choice of Law Rules in the Draft Non-Life Insurance Services Directive by a Joint Working Group of the Law Commission and Scottish Law Commission.

D. Periodicals

Law Under Review: A Quarterly Bulletin of Law Reform Projects (Nos. 1 to 8).

E. Other Publications

Private International Law: E.E.C. Preliminary Draft Convention on the Law Applicable to Contractual and Non-Contractual Obligations (prepared jointly with the Scottish Law Commission) (August 1974)**.

Commonhold: Freehold Flats and Freehold Ownership of Other Interdependent Buildings: Report of a Working Group, Cm.179, July 1987.

Treasure Trove: Law Reform Issues (September 1987).

Jurisdiction over Fraud Offences with a Foreign Element: A Consultation Paper prepared by the Criminal Law Team of the Law Commission (December 1987).

The Third Annual Report of the Conveyancing Standing Committee, which is published with this report, includes a list of that Committee's publications.

Bound volumes of unabridged reprints of Law Commission working papers and reports are published by Professional Books, Milton Trading Estate, Abingdon, Oxon., OX14 4SY.

A list of Law Commission publications is available free of charge from the Law Commission Registry.

** The E.E.C. Convention on the Law Applicable to Contractual Obligations was opened for signature in Rome on 19 June 1980 but is not yet in force for the United Kingdom.

APPENDIX 5

THE COST OF THE COMMISSION

The Commission's resources are made available through the Lord Chancellor's Department in accordance with section 5 of the Law Commissions Act 1965. The figures given below represent its cost, not its budget. The cost of most items (in particular accommodation, salaries, superannuation and headquarters overheads) is not determined by the Commission.

An Appendix showing the cost of the Commission has appeared in each of the Eighteenth and subsequent Annual Reports with, from the Nineteenth Annual Report, the figures for the preceding twelve months by way of comparison. In each case the figures have been those for the period covered by the report, i.e. the twelve months up to 31 October of the previous year.

For the reasons given in paragraph 1.16, this report covers the period of fourteen months from 1 November 1987 to 31 December 1988. There are accordingly set out below the figures for three periods, each of twelve months; but since none of these is a financial year, the figures cannot be related to those in Supply Estimates and Appropriation Accounts.

These periods are:

- A: 1 January 1988 to 31 December 1988;
- B: 1 November 1987 to 31 October 1988; and
- C: 1 November 1986 to 31 October 1987.

	A	B	C
	<i>1988</i>	<i>1987-88</i>	<i>1986-87</i>
	<i>£000</i>	<i>£000</i>	<i>£000</i>
Accommodation charges	354.7	344.0	343.0
Headquarters overheads ¹	145.7	140.6	141.1
Printing and publishing; supply of information technology, office equipment and books	114.3	107.6	270.1
Salaries of Commissioners (including ERNIC)	225.2	223.2	213.6
Salaries of draftsmen, legal staff, secondees and consultants (including ERNIC)	756.9	712.9	635.3
Salaries of non-legal staff (including ERNIC)	298.4	295.4	284.2
Superannuation	196.0	177.9	148.6
Telephone/Postage	19.2	18.6	14.4
Travel and subsistence	8.5	9.5	7.6
Entertainment	0.2	0.5	0.2
Miscellaneous	4.4	4.4	4.2
	<u>2,123.5</u>	<u>2,034.6</u>	<u>2,062.3</u>

¹ Portion of headquarters overheads attributed to the Commission by the Lord Chancellor's Department.

CONVEYANCING STANDING COMMITTEE

THIRD ANNUAL REPORT

1988

MEMBERSHIP¹
(as at 1 January 1989)

Trevor Aldridge, M.A., <i>Chairman</i>	Law Commissioner
Iain Cheyne, B.A.	General Manager Strategic Planning Lloyds Bank Plc.
Sir William Goodhart, Q.C. Tamara Goriely	National Consumer Council
Jayne Herbert	Solicitor, Heald Nickinson
Hugh Jones	Partner, Pannone Blackburn, solicitors
Chris Jowett	Solicitor to Halifax Building Society
Peter North	Solicitor, Brecher & Co.
Anthony Sacker	Partner, Kingsley Napley, solicitors; President, City of Westminster Law Society 1987-8
John Thomas, J.P., F.R.I.C.S., F.R.S.A.	Chairman, Nationwide Anglia Estate Agents; Director, Nationwide Anglia Building Society; Consultant to Baxter, Payne and Lepper; Member of H.M. Land Registry Rule Committee
David Yearsley	Licensed Conveyancer; Fellow of the Institute of Legal Executives
Liaison Officer from H.M. Land Registry: ² Michael Croker	
<i>Secretary:</i> ³ Caroline Lonsdale	

¹ Professor Julian Farrand was Chairman of the Committee until December 1988.
Tod Raven-Hill, Carolyn Owen and Kate Foss served on the Committee until January, March and May 1988
respectively.

² Martin Wood was the liaison officer from H.M. Land Registry until May 1988.

³ Sally Gilding was assistant secretary to the Committee until December 1988.

CONVEYANCING STANDING COMMITTEE

THIRD ANNUAL REPORT: 1988

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CONVEYANCING STANDING COMMITTEE

THIRD ANNUAL REPORT: 1988

Part I: Introduction

1.1 We are pleased to present to the Commission our Third Annual Report, in which we give an account of our work during the period from 1 January to 31 December 1988.

1.2 The Committee has continued its policy of pursuing conveyancing reform by concentrating on individual parts of the established procedure which do not seem to be functioning satisfactorily, and proposing improvements, rather than by devising an entirely new and untried land transfer process. In our view, evolutionary rather than revolutionary reform has major advantages: the public and those who advise them are accustomed to the conveyancing system which we have, our familiarity with it makes it easier for us to identify the difficulties which are encountered and it is fundamentally sound, offering its users considerable valuable protection. We are not complacent about the way conveyancing works at present — as our various consultation documents and reform proposals show — but it would be quite wrong to condemn it as wholly unsatisfactory.

1.3 Necessarily, with a piecemeal reform policy it takes time to assemble a portfolio of suggestions and the different proposals show varying degrees of success. We are happy to note that mortgage certificates, a proposal to which the Committee gave early support, are now widely available. We have evidence that support for our proposals to limit preliminary enquiries is growing. Our recommendation that the Law Commission should press their proposal for an effective sanction against landlords who unreasonably delay lease transfers by withholding consent has resulted in a new statutory provision. On the other hand, despite lively initial interest, the preliminary deposit agreements which we recommended do not seem to be much used. There is continuing interest in the possibility of using the Scottish way to contract to buy houses in England and Wales, and the debate is better informed following the publication of our report about it.

1.4 Conveyancing reform, if it is not to be imposed by legislation, depends heavily and crucially on its being implemented by those who are engaged professionally in the house transfer process. This means the wide range of people involved, whether they are concerned with finding and selling properties, inspecting them, making mortgage loans and providing other finance, insuring properties or transferring and recording ownership of them. Members of the public may welcome new suggestions and wish to adopt them, but they only move house infrequently, and even when they do they may find it difficult to persuade their advisers to use unfamiliar methods. We understand the reluctance of many professionals to change their established ways. They feel that they have successfully coped with the difficulties and delays of the present procedure over many years, and they see less need for change than those who come freshly to it. But we see change as inevitable, because the public for whose benefit the conveyancing system operates are not satisfied with what it offers them; we believe that their discontent is justified. However, the most satisfactory reforms will be those made gradually, although not sluggishly, and with the ready co-operation of the professionals working in this field. We invite them to be more positive in implementing our recommendations for the benefit of the public.

Membership

1.5 At the end of the year, Professor Julian Farrand resigned as Chairman of the Committee on taking up his appointment as Insurance Ombudsman. We are glad of this opportunity to record our gratitude to him for the enthusiasm, learning and expertise with which he led the Committee. He both enriched and enlivened the movement for better conveyancing. He carries with him our best wishes in his new appointment.

1.6 Trevor Aldridge, who has hitherto been a member of the Committee, has been appointed Chairman.

1.7 During the year there were a number of other changes in the membership of the Committee. The appointments of Kate Foss, Tod Raven-Hill and Carolyn Owen came to an end, and we are extremely grateful to them for their valuable assistance. We welcomed the appointment of five new members during the year: Hugh Jones, partner in the firm of solicitors Pannone Blackburn and a member of The Law Society's Young Solicitors National

Committee; Peter North, the then Borough Solicitor of Waltham Forest; David Yearsley, licensed conveyancer and Fellow of the Institute of Legal Executives; Jayne Herbert, who was at the time an estate agent with Carleton Smith & Co.; and Tamara Goriely of the National Consumer Council.

1.8 Michael Croker replaced Martin Wood as liaison officer from H.M. Land Registry; we are grateful to the Land Registry for their continuing advice and assistance. Finally, we would like to record our thanks to Sally Gilding for her invaluable support as assistant secretary throughout the past two years, and we wish her well in her new career.

Part II: Work in Progress

2.1 We met as a Committee on six occasions during the year. We seek to keep in touch with all developments in the conveyancing field, and welcome contact with interested bodies and individuals. Both in the course of our principal projects, and in considering other possibilities for reform, we have during the year pursued such contacts in a number of meetings and by correspondence, and this has proved valuable. We give below a brief account of the major items of our work. A list of the Committee's publications appears in Part IV of this Report.

Local authority searches and enquiries

2.2 In December 1987 we published a consultation paper¹ examining the problems resulting from the delays by some local authorities in providing the replies to enquiries submitted to them. These have frequently been a cause for complaint by conveyancers, and have been identified in some areas of the country as a major impediment to the prompt exchange of contracts. In the consultation paper we sought information about the present system and views on a number of "options for action". We received some seventy-five responses from organisations and individuals. After careful consideration of all the evidence we received, we published our proposals for a co-ordinated programme for action to reduce the delays.² Our recommendations were based on a four-phase plan:

Immediately: Vendors' searches — vendors to submit the form of enquiries and to pass on the information to the purchaser.

In a few months: A short form of enquiries for use in the case of certain types of property — namely, a purpose-built house or flat to be occupied by one family.

In the medium term: Increased computerisation of records where it would be useful.

When Parliamentary time is available: Legislation for penalties — enquiries to be put on a statutory footing, and local authorities to be under a statutory duty to reply within ten working days. If no reply is received within the specified period, the purchaser can proceed and the local authority will be liable to pay compensation for loss resulting from information that should have been disclosed.

We included as an appendix to our recommendations a recommended short form of enquiry, and we urged The Law Society and the local authority associations to decide to introduce the new form no later than 1 June 1989. We hope this will prove possible. We believe that, taken as a package, our recommendations would, if adopted, reduce delays where they exist at present, whilst leaving the efficient authorities to operate their present systems satisfactorily.

Deposits

2.3 Work continues on the subject of the practice of taking deposits on exchange of contracts. In March we and The Law Society published a joint consultation paper.³ Comments were invited by the end of July. A sub-committee, with representatives from this Committee and The Law Society, is currently considering the responses to the consultation

¹ "Local Authority Enquiries: How Can We Eliminate Delays?" (1987).

² "Local Authority Enquiries: Defeating Delays" (1988), available free from the Law Commission.

³ "Deposits on Exchange of Contracts in Residential Conveyancing — Time for a Change?" (1988)

paper, with a view to preparing final recommendations. We hope these will be ready for publication by mid-1989.

The Transfer of Money on Completion

2.4 The problems that can occur in connection with the transfer of money along “chains” of conveyancing transactions on the day of completion were referred to us by Lord Jacques. The difficulties are often most acute on Fridays, when many buyers and sellers want to complete before the weekend, causing a phenomenon commonly referred to as the “Friday afternoon completion problem”. Delays in money transfers concentrated into a limited period can result in some house purchasers being denied access to their new properties. We are currently examining the feasibility of a system of undertakings between conveyancers as one means of solving the problem, and work will continue on this project during the coming year.

Duty of Disclosure by Vendors

2.5 The general rule, which is reflected in current conveyancing procedure, is that a purchaser takes a property subject to whatever drawbacks – physical or legal – affect it. The onus is therefore on him to discover any defects in advance of contracting to buy. There is no general duty on the seller to disclose material information about the property. We consider that the time has now come, as part of the current conveyancing debate, to re-examine this general rule. We believe that if greater openness could be introduced into the house selling process, a more co-operative, rather than adversarial, climate might result.

2.6 In November we published two consultation papers, one entitled “Caveat Emptor in Sales of Land” designed for lawyers and other professionals concerned, and the other entitled “Honesty or Suspicion in Conveyancing?”, a briefer version for laymen.⁴ We made a provisional proposal that a vendor of land should be under a positive duty to disclose all material facts about the property he is selling, provided he is or ought reasonably to be aware of them. Nevertheless, the papers canvass a range of options, on which we invited comment by 31 March 1989.

Inter-Professional Working Party on the Transfer of Residential Property

2.7 In April the Royal Institution of Chartered Surveyors set up an Inter-Professional Working Party on the Transfer of Residential Property, with terms of reference

“to consider in the light of the problems concerning the marketing, sale and conveyancing of residential property,

- (a) how the house transfer process might be improved; and
- (b) to report, with recommendations, on how these improvements might be implemented, either with or without legislation.”

We were asked to nominate representatives and our Chairman and Secretary were appointed members. We understand that the Working Party is proposing to publish its report during the coming year.

Part III: Reform of Conveyancing Law

Law Commission working papers and reports

3.1 During the year we considered and responded to the following working papers published by the Commission:

Trusts of Land – Overreaching.⁵

Transfer of Land – Implied Covenants for Title.⁶

Transfer of Land – Passing of Risk from Vendor to Purchaser.⁷

⁴ Both available free from the Law Commission.

⁵ (1988) Working Paper No. 106.

⁶ (1988) Working Paper No. 107.

⁷ (1988) Working Paper No. 109.

3.2 In our annual report last year we recorded that the Bill to give effect to the Commission's recommendation that landlords should be under a duty to respond within a reasonable time to a request for permission to assign or sublet a lease, and to give consent unless it was reasonable to refuse, had been introduced. The Bill received the Royal Assent on 29 July 1988, and the Landlord and Tenant Act 1988 came into force on 29 September 1988.

3.3 Similarly, the Land Registration Bill, opening the register of title to public inspection, which was introduced as a Private Member's Bill in the House of Lords last year, received the Royal Assent on 15 March 1988, although it has yet to be brought into force.

Part IV: List of Publications by the Conveyancing Standing Committee

1988

- 22 March 1988 Deposits on Exchange of Contracts in Residential Conveyancing—
Time for a Change?—A Consultation Paper.
- 15 November 1988 Caveat Emptor in Sales of Land—A Consultation Paper. (Summary—
Honesty or Suspicion in Conveyancing?)
- 16 December 1988 Local Authority Enquiries: Defeating Delays—Recommendations.

Earlier Publications

- 24 April 1986 What Should We Do About Old Restrictive Covenants?—A
Consultation Paper.
- 14 January 1987 Pre-Contract Deposits—A Practice Recommendation.
- 25 March 1987 Preliminary Enquiries: House Purchase—A Practice
Recommendation.
- 15 September 1987 House Selling the Scottish Way for England and Wales—An Explana-
tory Guide.
- 11 December 1987 Local Authority Enquiries: How Can We Eliminate Delays?—A
Consultation Paper.

December 1988

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