

The Law Commission

(LAW COM. No. 92)

THIRTEENTH ANNUAL REPORT 1977-1978

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

*Ordered by The House of Commons to be printed
12th December 1978*

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CORRECTION

Title Page and Page i,

Date ordered to be printed should read "13th December 1978".

December 1978

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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 Kerr, *Chairman*.

Mr. Stephen M. Cretney.

Mr. Stephen Edell.

Mr. W. A. B. Forbes, Q.C.

Dr. Peter M. North.

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

**THE LAW COMMISSION
THIRTEENTH ANNUAL REPORT: 1977-1978**

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THE LAW COMMISSION

THIRTEENTH ANNUAL REPORT: 1977-1978

*To the Right Honourable the Lord Elwyn-Jones, C.H.,
Lord High Chancellor of Great Britain*

We have the honour to present our Thirteenth Annual Report pursuant to section 3(3) of the Law Commissions Act 1965. The Report deals with the period 2 November 1977 to 31 October 1978.

Arrangement of this Report

In the arrangement of this Report we have abandoned the tabulation of our work by reference to the Items in our original Programmes of Law Reform, as well as the distinction between work done under these Items and under special references falling under section 3(1)(e) of our Act. Many of the Programme Items have been completed or have changed in character, and a much greater proportion of our work now comes from special references. We think that it is more convenient to summarise the past year's activities under wider subject headings which comprise both categories. This is done in Part II of the Report. Part I deals with the year in outline, and Part III with general matters. As in the past, the appendices contain a comprehensive list of our publications, a summary in tabular form of our legislative proposals which have been implemented and the membership of advisory bodies. In Appendix 4 we give the names of Commissioners and "team leaders" concerned with particular fields of our work.

We are conscious of the fact that this Report is considerably longer than most of its predecessors. The reason is that we thought it helpful on this occasion to give a more descriptive account of our work over the past year, and to describe some of the difficulties with which we have been faced. The present Report may also serve as a useful reference point for future years in relation to the work with which it deals.

PART I

THE PAST YEAR IN OUTLINE

Commissioners

1.1. The death on 12 April 1978 of the Hon. Mr. Justice (Sam) Cooke, the Chairman for over five years, was a tragic event and a grievous loss to the Commission and the judiciary. During his time a great deal of work of lasting value was achieved which owed much to his inspiration and scholarly industry. All who worked with him will remember him for his charm and unflinching courtesy. The Hon. Mr. Justice Kerr, a judge of the Queen's Bench Division and Commercial Court, succeeded him as Chairman on 8 May.

1.2. Mr. Norman S. Marsh, CBE, QC, retired as a Law Commissioner at the end of September. He was the only remaining "founder" Commissioner. The

Commission owes him a great debt for all he has done since its establishment over thirteen years ago. His learning, enthusiasm and versatility have been of inestimable value. We congratulate him on his election as an Honorary Fellow of Pembroke College, Oxford, and are glad that he will continue to work with us on a part-time basis during the coming year. In his place we welcome Mr. Stephen Cretney, a Solicitor and Fellow of Exeter College, Oxford.

Secretary

1.3. Mr. J. M. Cartwright Sharp, Secretary since 1968, retired in September. We are much indebted to Mr. Cartwright Sharp for his dedicated service in every sphere of the Commission's work. He was succeeded by Mr. J. C. R. Fieldsend, who was a High Court judge in Southern Rhodesia before he came to the Law Commission ten years ago, where he has been the leader of the Criminal Law Team for several years.

Main Reports Issued

1.4. There are three matters on which we have reported during the year which merit particular mention.

Family Property

Our *Third Report on Family Property*¹ proposes substantial measures of reform concerning the ownership and right of use of the matrimonial assets as between husband and wife. Each part of the report is important, but the most far-reaching is Book I—Co-ownership of the Matrimonial Home. We believe that it is generally right that husbands and wives should own their homes equally but that it is necessary to provide for special cases where co-ownership will not apply, particularly where they agree on some other arrangement. The draft Bill attached to our report is appropriate to achieve this: it is designed to make equal co-ownership the norm for matrimonial property.

The report also proposes detailed improvements to the law relating to rights of occupation under the Matrimonial Homes Act 1967 and other legislation; and suggests that a husband or wife should have a right to apply to the Court for an order giving him or her the *use* of any household goods, including the family car, even though the goods may be owned by the other party.

The Mental Element in Crime

Our *Report on the Mental Element in Crime*² is of significance as an essential step towards the goal of a criminal code. Up to now our reports and those of the Criminal Law Revision Committee on the codification of the criminal law have been concerned either with specific classes of offences or specific defences. This report covers a much broader field. It seeks in the main to provide definitions of the words "intention", "knowledge" and "recklessness" when these are used to indicate the necessary mental element in the commission of criminal offences. We hope that for the future these words will be used in the definition of offences whenever appropriate, thus

¹ Law Com. No. 86, see para. 2.24, below.

² Law Com. No. 89, see para. 2.12, below.

leading to a standard vocabulary in offence-creating provisions. The report also recommends that whenever there is no express statutory provision for strict liability or for a particular state of mind or degree of fault, the terms intention, knowledge or recklessness, as defined and appropriate, should be the required mental elements.

Interest

Our *Report on Interest*³ proposes the introduction of a scheme of "statutory interest" applicable to almost all contractual debts where there is no express provision for the payment of interest. It recommends that the debtor should be under an obligation to pay interest, at a fixed rate by reference to the average Minimum Lending Rate for the past three months, either from the date fixed for payment of the debt or, if no date was fixed, a date 28 days after there had been a demand for payment.

International Law Reform Activities

1.5. In our last annual report⁴ we gave some examples of various draft conventions and other proposals from international bodies which we had considered. Any account of the past year's work would be distorted if it did not emphasise the increasing burden which proposals coming from these sources place upon us. A wide variety of international agencies is constantly making proposals for law reform, and we are increasingly invited to spare Commissioners or members of our staff as members of United Kingdom delegations to meetings, which are often held abroad, to examine such proposals, to assist in the briefing of United Kingdom delegations, or to comment on draft proposals from the various international bodies. However, the demands on our resources in formulating proposals for the reform of English law are such that we cannot respond positively to all requests of this kind; we have to be selective, and it always takes time and effort to examine such proposals in order to decide what should be done, even if in the end we have to conclude that we cannot assist. When comments are made they often have to be formulated by individual Commissioners under pressure of time and not by the Commission as a whole. In deciding whether or not to assist, a variety of factors are taken into account, such as the intrinsic importance of the subject, the extent to which it has been examined by other bodies, the significance of the proposals for the structure or reform of our own law, and whether any of us can claim any particular expertise in the matter in question. In some cases we concluded that the international initiative was potentially so important for our law that we asked you to refer the matter formally to us under section 3(1)(e) of the Law Commissions Act 1965.⁵ In most of the other cases we were able to deal with them informally.

In order to give some idea of the volume and variety of work which falls into this category we set out below the proposals for law reform originating from international agencies which we have considered in the course of the last year.

(i) *European Economic Community*

(a) *Draft E.E.C. Convention on the Law applicable to Contractual Obligations*

³ Law Com. No. 88, see para. 2.3, below.

⁴ *Twelfth Annual Report 1976-77* (Law Com. No. 85), para. 6.

⁵ See, e.g. our *Report on the Proposed E.E.C. Directive on the Law relating to Commercial Agents* (Law Com. No. 84) and our present work on insurance contract law in the light of the draft E.E.C. Directive on the Harmonisation of Insurance Contract Law, see para. 2.8, below.

Our work in relation to this draft Convention is discussed more fully elsewhere.⁶ It continues to call on a substantial proportion of our resources in the field of private international law.

(b) *Draft E.E.C. Directive on the Harmonisation of Insurance Contract Law*

Aspects of this Directive are being considered in our examination of the reform of insurance law.⁷

(c) *Draft E.E.C. Directive on the Provision of Insurance Services*

You referred the choice of law rules in this Directive to us and they are being examined⁸ in the context of the choice of law rules in the draft E.E.C. Obligations Convention mentioned under (a) above.

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

We sent comments on this draft to your Department and to the Department of Trade.

(e) *Draft E.E.C. Directive on Contracts Negotiated away from Business Premises ("Doorstep Selling")*

We sent comments on this draft to your Department.

(ii) **Council of Europe**

(a) *Convention on Foreign Money Liabilities (1967)*
and

Convention on the Place of Payment of Money Liabilities (1972)

They are both being considered in the context of our work on foreign money liabilities.⁹

(b) *Resolution relating to Penal Clauses in Civil Law*

This was adopted in January 1978. A member of our staff participated in its formulation as one of the United Kingdom members of the Committee of Experts.

(c) *Draft Convention relating to Custody of Children*

We have assisted in the formulation of the United Kingdom views put forward in meetings of the Committee of Experts.¹⁰

(iii) **International Institute for the Unification of Private Law (Unidroit)**

Draft Convention on International Agency in the Sale of Goods

This draft Convention is to be considered at a Diplomatic Conference to be held in Bucharest towards the middle of next year. We have had to indicate that, despite the significant part played in the Commission in earlier work on this draft Convention,¹¹ we will be unable to participate in further work on this topic to the same extent.

⁶ See para. 2.37, below.

⁷ See para. 2.8, below.

⁸ See para. 2.39, below.

⁹ See para. 2.38, below.

¹⁰ See generally our work on custody conflicts, para. 2.25, below.

¹¹ See *Sixth Annual Report 1970-71* (Law Com. No. 47), para. 67; *Seventh Annual Report 1971-72* (Law Com. No. 50), para. 57.

(iv) **Hague Conference on Private International Law**

(a) *Convention on the International Administration of the Estates of Deceased Persons (1972)*

Our work in this field¹² includes consideration of this Convention.

(b) *Child Kidnapping*

This topic is on the agenda for the 1980 Hague Conference and will be relevant to our work on custody conflicts.¹³

(v) **Commonwealth Secretariat**

Custody of Children

We have had discussions with the Legal Division of the Commonwealth Secretariat which is proposing to prepare a study of problems of custody conflicts within the Commonwealth. This is also being considered in the context of our general work on custody conflicts.¹⁴

(vi) **United Nations Committee on International Trade Law (UNCITRAL)**

Draft Conventions on the International Sale of Goods and on the Formation of Contracts for the International Sale of Goods

We sent comments on the private international law aspects of both these draft Conventions to the Department of Trade.

A variety of other matters originating from international agencies has been referred to us during the course of the year but we have been unable to spare resources to comment on them. They include an E.E.C. Working Paper and Questionnaire on the law relating to security interests in movables and, from the Council of Europe, a draft Resolution on the provision of adequate after-sales service and the work of the Committee of Experts on the legal protection of consumers. In the case of Unidroit, we have not found it possible to comment on the draft Uniform Laws on the interpretation and formation of contracts in the field of international trade law, the preliminary report on quality control in the international sale of goods or the work of the committee of experts preparing a draft convention on the hotelkeeper's contract.

Statute Law

1.6. (a) *Consolidation*

We are very grateful to the members of the Parliamentary Counsel Office in Whitehall for their help in the preparation of the consolidation Acts passed during the year and for the work which they have undertaken in connection with future consolidation Bills.

We also wish to place on record our gratitude for the assistance in consolidation which we have always received from the various Government departments responsible for different branches of the law. Proposals for consolidation sometimes come from departments, and we are always glad to receive them. We are also grateful for the sympathetic consideration which has been given by them to our own proposals and for the great help which we have received in drafting.

¹² See para. 2.40, below.

¹³ See para. 2.25, below.

¹⁴ *ibid.*

Although it is often desirable to improve the law in the process of consolidating it, our main problem has again¹⁵ been that under the present parliamentary procedures it may not be possible to do so. We refer to this in paragraph 2.42 below.

(b) Statute Law Revision

The importance of this work is not always realised. Research into the relevance and practical utility of statutory provisions is an essential part of the modernisation and simplification of the existing body of statute law. A detailed internal study paper examining the work done and to be done has been prepared to enable us to plan the way ahead,¹⁶ and we are also in the process of reviewing our work concerning Local and Personal Acts.¹⁷

General

1.7. One of our main and almost daily preoccupations is the pressure of work currently in progress against the perspective of what further work should be taken under consideration. This forms part of the aspects of our work which do not result in the publication of working papers or reports and which do not become generally known. We are also often called upon to assist those concerned with introducing Bills to implement our proposals during their passage through Parliament,¹⁸ which may involve work under great pressure of time. A considerable amount of time has to be spent on the examination of fields of law in which reform might be required. We have already mentioned the demands in the international law sphere on which we have to be selective; we also have to bear in mind our other duties to keep under review the law as a whole and to receive and consider any law reform proposals made to us. We appreciate that under section 3(1)(b) of the Law Commissions Act 1965 we may make recommendations that an examination of a particular area of the law should be undertaken by another agency; but before we can do this, considerable work has to be done to assess the nature and size of each problem to determine whether a full examination is required, and, if so, which agency would be best fitted to carry it out. This frequently involves informal discussions with Government departments and bodies such as the Law Reform Committee and the Criminal Law Revision Committee. In addition during the last year we have spent some time in advising the Royal Commission on Legal Services on law reform suggestions which were made to them.

It is also not always appreciated that, although the preparation of working papers and reports is under the immediate control of a Commissioner heading the team which concentrates on a particular subject, no working paper or report is published without full consideration of it by every Commissioner.

Apart from frequently being asked to address professional and student associations and other bodies on topics with which we are concerned, individual Commissioners have, as in previous years, been called upon to serve on other law reform bodies. Mr. Marsh continued to serve as a member of the Royal Commission on Civil Liability and Compensation for Personal Injury which reported in March 1978, and Mr. Forbes is serving on the Royal Commission

¹⁵ See our last annual report, para. 9.

¹⁶ See para. 2.44, below.

¹⁷ See para. 2.45, below.

¹⁸ As occurred with the Civil Liability (Contribution) Bill; see para. 2.2, below.

on Criminal Procedure. The Chairman has for some time chaired the Lord Chancellor's Working Party on Foreign Judgments which has advised Ministers on the E.E.C. Judgments Convention of 1968, to which the United Kingdom recently acceded after the negotiation of substantial amendments over a period of years. This work will continue in connection with the legislation to implement the Convention and its impact on other parts of the law.

PART II

LAW REFORM PROJECTS—REPORT ON PROGRESS

CONTRACT AND TORT

Liability for Defective Products

2.1. We were pleased to observe that following the publication¹⁹ of our joint report with the Scottish Law Commission on *Liability for Defective Products*,²⁰ in which we recommended the introduction of a system of strict liability, the Royal Commission on Civil Liability and Compensation for Personal Injury in its report²¹ substantially endorsed our recommendations.

Contribution

2.2. The Civil Liability (Contribution) Bill, which received the Royal Assent on 31 July 1978, was introduced into Parliament by Mr. Geoffrey Pattie, M.P. This Bill was based, with minor modifications, on the recommendations in our *Report on Contribution*.²² The Act enlarges the jurisdiction of the court under the Law Reform (Married Women and Tortfeasors) Act 1935 (which is now repealed) to award contribution between wrongdoers. The position under the 1935 Act was that a person liable in tort could claim contribution from another person also liable in tort in respect of the same damage. Under the 1978 Act the right of contribution may be claimed even if one or both of those concerned is liable to the plaintiff otherwise than in tort.

Interest

2.3. Our *Report on Interest*,²³ with a draft Bill appended to give effect to our recommendations, was submitted to you on 7 April 1978. Publication of the report followed on 29 June 1978 on which date a press conference was held to give publicity to our recommendations. Our recommendations provide a statutory right to interest, which may be excluded by agreement, at a rate to be fixed by reference to Minimum Lending Rate in respect of most types of unpaid contract debts for the period that they have been withheld, as if the right had been provided by contract. The report also recommends minor modifications to section 3 of the Law Reform (Miscellaneous Provisions) Act 1934 and suggests that other statutory rates of interest, particularly in relation to judgment debts, should be reconsidered.

Our proposals were generally well received, though some anxiety was shown with regard to gas and electricity bills, suggesting that our proposals would lead to more people having their supplies disconnected. This is a misunderstanding. We do not propose that a creditor is to be compelled to claim statutory interest, merely that he should have a right to do so. The public

¹⁹ On 15 June 1977.

²⁰ Law Com. No. 82; Scot. Law Com. No. 45, (1977) Cmnd. 6831.

²¹ (1978) Cmnd. 7054.

²² Law Com. No. 79.

²³ Law Com. No. 88.

utilities already have schemes to assist those who have genuine difficulty in paying their bills. Nothing in our proposals would require them to alter these or to charge interest. They would, however, have the statutory right to charge interest in the case of those who deliberately pay late, thus putting up the cost to everyone else.

Implied Terms

2.4. Our report on implied terms in contracts for the supply of goods is in draft, as is the Bill to accompany it. Work on this topic has centred round two main questions. The first has been whether it is desirable to imply into contracts for the supply of goods, other than sale and hire-purchase, terms similar to those implied by the Sale of Goods Act 1893 and the Supply of Goods (Implied Terms) Act 1973. The other main question has been whether a new statutory obligation, to which we referred in our working paper²⁴ as an obligation as to the durability of goods supplied, should be imposed on the supplier of goods. This has raised a number of questions as to the possible nature, scope and effect of such an obligation. We have had to consider how such an obligation and indeed any statutory obligations to be imposed on the supplier of goods under a contract, other than one of sale or hire-purchase, might be woven into the complex pattern of legislation already in existence in relation to supply of goods. Our work on this topic is now approaching completion and we hope to be able to submit our report and draft Bill in the near future.

Pecuniary Restitution and Penalty Clauses

2.5. We have been unable to date to make any further progress towards the preparation of reports on pecuniary restitution on breach of contracts²⁵ and penalty clauses and forfeiture of moneys paid.²⁶

The Parol Evidence Rule

2.6. In our working paper²⁷ on *The Parol Evidence Rule* we provisionally recommended its abolition so that the only test for the admissibility of evidence to prove the terms of a contract would be its relevance. The majority of those who commented on our working paper agreed with this recommendation, although some referred to the possible injustice that might result in some cases to assignees if the rule were abolished. We are paying close attention to these comments in our work on this subject and a report, to which draft clauses will be annexed, is in the course of preparation.

Minors' Contracts

2.7. Work on minors' contracts is now well advanced and we plan to publish a working paper in the coming year. It seems to be generally accepted that the existing law is badly in need of reform. In formulating our proposals for reform we face the difficult problem of giving the minor the protection he needs while at the same time ensuring fair treatment for the adult who deals with him. Our work is being assisted by statistical surveys on the expenditure of sixteen and seventeen-year-olds which are being prepared for us by the Social Survey Division of the Office of Population Censuses and Surveys.

²⁴ Working Paper No. 71.

²⁵ The subject of Working Paper No. 65.

²⁶ The subject of Working Paper No. 61.

²⁷ Working Paper No. 70.

Insurance Law Reform

2.8. On 17 May 1978 you asked us, under section 3(1)(e) of the Law Commissions Act 1965, to consider *inter alia* the effect on the liability of an insurer of non-disclosure, misrepresentation and breach of "warranty" by the insured, particularly in the light of the Fifth Report of the Law Reform Committee²⁸ and the draft E.E.C. Directive on the co-ordination of laws, regulations and administrative provisions relating to insurance contracts,²⁹ and to make recommendations. This is a subject of far-reaching importance on which we expect to publish a working paper by the end of this year as a basis for extensive consultations. Depending on the speed of the responses we hope to be in a position to submit our report to you by May or June of next year.

Consideration and Misrepresentation

2.9. Our work on consideration (in which our work on firm offers has now been included) and on misrepresentation has been interrupted for two consecutive years by the need to devote our limited resources to the important topics of commercial agents³⁰ and insurance law reform.³¹ However, we hope to be able in the near future to resume our work on at least one of these fundamental matters.

Breach of Confidence

2.10. As a preliminary to the drafting of a final report, an internal policy paper re-appraising the situation in some detail was prepared. The paper was necessary for several reasons. First, although the weight of comment on our working paper³² strongly favoured legislative reform of the law in principle, the consultation as a whole showed up the need to make major modifications to simplify the structure of the proposed new tort. Secondly, we have had to consider the impact on the provisional proposals of subsequent decisions of the courts³³ and in particular the significance of the public interest in an action for breach of confidence. Thirdly, it was necessary to consider the extent to which the proposed new tort should apply to information of a confidential nature which has been obtained under statutory powers. This is an increasingly important sector of confidential information and the civil consequences of its unauthorised use or disclosure to third parties have attracted little attention in the past. The conclusions reached following discussion of the policy paper form the basis of the final report which is now being drafted.

CRIMINAL LAW

General

2.11. Our report to date and in the course of preparation on the criminal law are all designed as steps towards the eventual production of a criminal code. The reports deal, on the one hand, with principles of general application, to form the

²⁸ *Fifth Report (Conditions and Exceptions in Insurance Policies)*, (1957) Cmnd. 62.

²⁹ We have also prepared a consultative document on the draft second E.E.C. Directive on the co-ordination of insurance laws and the provision of services: see para. 2.39, below.

³⁰ See our *Report on the Proposed E.E.C. Directive on the Law Relating to Commercial Agents* (Law Com. No. 84).

³¹ See para. 2.8, above.

³² Working Paper No. 58.

³³ Especially *Attorney General v. Jonathan Cape Ltd.* [1976] Q.B. 752 (the Crossman Diaries case).

first and general part of the projected code, and, on the other, with certain specific offences. It is important to note, however, that in accordance with the recommendations of our *Second Programme of Law Reform*,³⁴ some other specific offences to which we refer below are being examined by the Criminal Law Revision Committee with a view to reform.

The Mental Element in Crime

2.12. Our *Report on the Mental Element in Crime*³⁵ was submitted to you on 12 April 1978. This report is a major step in the codification of the general part of the criminal law. It provides standard tests for determining the questions of intention, knowledge and recklessness in criminal proceedings to be applicable not only where those words are used in offence-creating provisions, but also where the legislation is silent as to whether liability for an offence depends on fault or is strict.

The Territorial and Extraterritorial Extent of the Criminal Law

2.13. Our *Report on the Territorial and Extraterritorial Extent of the Criminal Law*³⁶ was submitted to you on 10 August 1978, and represents another step in the codification of the general part of the criminal law. We recommend the replacement by statute of the common law jurisdiction of the courts and also of the concurrent Admiralty criminal jurisdiction. The report provides the geographical limit within which commission of an offence is to be regarded as occurring in England and Wales, and also recommends provisions for special cases such as offences on British ships outside territorial limits and in other specific locations adjacent to the territory. A simple method is also recommended for determining in particular cases the point from which territorial waters begin. The report reviews the way in which the criminal law operates outside England and Wales, and recommends new provisions penalising the hijacking of ships and offences by Crown servants abroad. But the report does not, as did the provisional proposals set out in our Working Paper No. 29, contain any recommendations for general guidelines governing whether crimes wholly or partly committed abroad are justiciable here. This is an area where there has been considerable recent case law and, for a variety of reasons, we have decided to consider the extraterritorial ambit of each offence, whether substantive or inchoate, as and when it comes under specific review.

Offences relating to the Administration of Justice

2.14. A draft report with clauses has been prepared on offences relating to the administration of justice which aims to codify this area of the law. It covers perjury, perverting the course of justice and related statutory and common law offences, but not contempt of court which was dealt with in the Phillimore Report³⁷ and a further consultative document issued by the Government in March 1978.³⁸ In considering offences which have as their aim perverting the course of justice in criminal and civil judicial proceedings, we have at a late stage encountered problems in defining the scope of "judicial proceedings" in this context. We have therefore felt it necessary to consult further on this issue, and in consequence this report will not be ready for submission in 1978.

³⁴ Law Com. No. 14, Item XVIII.

³⁵ Law Com. No. 89.

³⁶ Law Com. No. 91.

³⁷ (1974) Cmnd. 5794.

³⁸ (1978) Cmnd. 7145.

Conspiracy to Defraud

2.15. Work is continuing on the preparation of a report on the codification of the law relating to conspiracy to defraud. This work stems from the recommendations in our report on *Conspiracy and Criminal Law Reform*³⁹ that there should be a statutory offence of conspiracy which could be charged only if the object of the conspiracy was a crime. We recognised that further work would have to be done in relation to conspiracy to defraud before conspiracy at common law could be abolished, in order to identify the conduct in this field which would have to be made the subject of new, statutory offences. Accordingly, the Criminal Law Act 1977, which gave effect to many of our recommendations, retained conspiracy to defraud as a common law offence. Detailed consideration of a scheme of new offences has been undertaken but, before work on this can be completed, we have to take into account the changes in the law effected by the Theft Act 1978⁴⁰ and also to examine further the difficult question of the extent to which the law should penalise non-economic fraud.

Inchoate Offences

2.16. A draft report on attempt and incitement is almost ready. This report will also examine certain problems common to all three inchoate offences, including in particular the question whether a person can attempt, incite another or conspire with another to commit a crime which unknown to him it is impossible to commit. In this connection we are giving special consideration to the House of Lords' decisions in *Haughton v. Smith*,⁴¹ and *R. v. Nock and another*.⁴²

Treason

2.17. We have received the majority of the comments we expect on the provisional proposals in our working paper on *Treason, Sedition and Allied Offences*.⁴³ While we have made a preliminary analysis of these comments, we do not intend to commence work on a report until those which remain outstanding have been received.

Blasphemy

2.18. We have begun a review of the law relating to blasphemy and offences against religion. A preliminary draft of a working paper on the subject has been completed, but we are awaiting the decision of the House of Lords in the appeal of *Lemon v. R.*⁴⁴ before deciding on its final form.

Criminal Libel

2.19. We have also started preliminary work on the law of criminal libel, analysing the state of the existing law and its defects.⁴⁵ Further consideration will however have to be given to the subject before we publish a working paper setting out provisional proposals for reform.

³⁹ Law Com. No. 76.

⁴⁰ This is based on the recommendations of the Thirteenth Report of the Criminal Law Revision Committee on section 16(2)(a) of the Theft Act 1968, (1977) Cmnd. 6733, and repeals and replaces that provision. Section 16(2)(b) and (c) fall within the scope of our review of fraud offences.

⁴¹ [1975] A.C. 476.

⁴² [1978] 3 W.L.R. 57.

⁴³ Working Paper No. 72.

⁴⁴ [1978] 3 W.L.R. 404 (C.A.).

⁴⁵ Some consideration was given to this subject in the wider context of defamation in the report of the Faulks Committee on Defamation, (1975) Cmnd. 5909.

Complicity, Vicarious Liability and the Criminal Liability of Corporations

2.20. Two of the working papers produced by the Working Party which assisted the Law Commission in the examination of the general principles of the criminal law dealt with complicity and vicarious liability⁴⁶ and with the criminal liability of corporations.⁴⁷ Preliminary drafts of reports on these subjects have been completed, but we do not expect to consider them further until we have finished our work on inchoate offences.

Offences against the Person

2.21. Offences against the person are one of the two groups of offences examination of which we recommended in our *Second Programme of Law Reform*⁴⁸ should be undertaken by the Criminal Law Revision Committee. Their *Working Paper on Offences against the Person* was published in 1976, and the Committee are currently continuing with the preparation of their report on the subject.

Sexual Offences

2.22. Sexual offences form the second group of offences for review by the Criminal Law Revision Committee. They have started preliminary consideration of the subject with a view to producing a working paper for consultation.

FAMILY LAW

Matrimonial Proceedings in Magistrates' Courts

2.23. The recommendations made in our *Report on Matrimonial Proceedings in Magistrates' Courts*⁴⁹ were, with some amendments, implemented by the Domestic Proceedings and Magistrates' Courts Act 1978.

Family Property

2.24. Our *Third Report on Family Property: the Matrimonial Home (Co-ownership and Occupation Rights) and Household Goods*⁵⁰ was submitted to you on 23 February 1978. It makes proposals for co-ownership of the matrimonial home, detailed improvements to the Matrimonial Homes Act 1967 and other legislation, and for a use and enjoyment order in relation to household goods. As forecast in last year's annual report, the report was divided into three separate parts, each with a draft Bill annexed. We chose that format despite the obvious connections between the topics covered because it seemed to us that the topics were severable and that you might find it convenient to present them separately to Parliament. The report concludes our major survey of family property law which began with Working Paper No. 42.

Conflicts of Jurisdiction Affecting Children

2.25. We spent the early part of the year considering the comments which we had received on the working paper,⁵¹ issued in collaboration with the Scottish

⁴⁶ Working Paper No. 43, *Parties, Complicity and Liability for the Acts of Another*.

⁴⁷ Working Paper No. 44, *Criminal Liability of Corporations*.

⁴⁸ Law Com. No. 14, Item XVIII.

⁴⁹ Law Com. No. 77.

⁵⁰ Law Com. No. 86.

⁵¹ Working Paper No. 68; Memorandum No. 23.

Law Commission, dealing with the courts' jurisdiction to make custody (and wardship) orders and the mutual enforcement of such orders made in England and Wales, Scotland and Northern Ireland. These comments (and in particular the views expressed by members of the judiciary in England and Northern Ireland) have caused us to reconsider our approach on the proposed common grounds of jurisdiction, and we have prepared an alternative scheme. That alternative is at present under consideration by our colleagues in Scotland and we hope that joint discussions on it will take place shortly.

Conflicts over the custody of children—"kidnapping" cases—are, or soon will be, the subject of debate on a wider international plane. We have been concerned (in an advisory role) with a draft Convention in preparation by a Committee of Experts for the Council of Europe; we have promised to assist the Commonwealth Secretariat in a forthcoming study of the subject (following an initiative taken by the Commonwealth Law Ministers at their meeting at Winnipeg last year); and the topic will be further discussed at the 1980 Hague Conference on Private International Law. In the circumstances we do not think any useful purpose would be served by our now preparing a working paper on the enforcement of custody orders made outside the United Kingdom.

Affiliation Proceedings and the Law relating to Illegitimate Children

2.26. In 1976 we set up a Working Party⁶² to consider, in particular, the law relating to affiliation proceedings and to assist us in preparing a working paper. The draft paper is now under discussion by the working party. It is hoped to publish it early in the new year. Although some important, albeit detailed, reforms of the affiliation procedure have already been effected by the Domestic Proceedings and Magistrates' Courts Act 1978⁶³ the working paper will consider wider issues of considerable social and legal importance (and complexity) arising from the legal concept of illegitimacy. These include the rights and duties of both parents of an illegitimate child, succession rights, nationality and citizenship and the problems of establishing paternity (including the special problems which arise where the child has been conceived as a result of artificial insemination). In view of the importance of the issues involved (which go beyond narrow problems of purely legal technique) we are hoping to organise a Seminar to discuss this topic to be held in the new year.

Declarations as to Status

2.27. Problems which arise in relation to declarations of legitimacy will (as we said in last year's annual report)⁶⁴ be dealt with in our working paper on affiliation orders and illegitimacy. We expect to resume work in the near future on the other topics covered in our Working Paper No. 48 on *Declarations in Family Matters*, such as declarations as to the validity of a marriage.

LAND LAW (APART FROM LANDLORD AND TENANT)

General

2.28. Our work on land law and related subjects has been primarily concerned during most of the period covered by this Report with completing the

⁶² For the present membership see Appendix 3.

⁶³ See para. 2.23, above.

⁶⁴ Para. 34.

report on family property⁵⁵ and with work on landlord and tenant law.⁵⁶ We have not therefore been able to make as much progress on other subjects as we would have liked.

Rentcharges

2.29. In last year's annual report⁵⁷ we recorded the enactment of the Rentcharges Act 1977 (based on our report on the subject⁵⁸) and mentioned that its substantive provisions came into effect on 23 August 1977. The provisions relating to apportionment and redemption of rentcharges were to come into effect at a later date: they have now been brought into force by the Rentcharges Act 1977 (Commencement) Order 1978⁵⁹ with effect from 1 February 1978.

Rights Appurtenant to Land

2.30. This project covers a great deal of important ground. It is therefore a source of particular regret that, for the reasons mentioned in paragraph 2.28 above, we have been unable to resume work on it so far. We hope to do so before long. We intend to turn first to the reform of the law of positive and restrictive covenants. One of the reasons why many purchasers and lenders regard freehold flats and maisonettes as unattractive is that the owner of such a property has no method of enforcing repairing and other positive covenants against successors of the original owners of adjoining property. Another problem is the difficulty of creating a régime to cover the future of a block of flats or maisonettes at the end of its useful life. As a result most flats and maisonettes are sold leasehold and those who would like to acquire such a property freehold may find one both difficult to acquire and hard to sell. Another drawback of the existing law of positive covenants is that it is one of the reasons for the exclusion of flats and maisonettes from enfranchisement under the Leasehold Reform Act 1967. The law of restrictive covenants is unnecessarily technical and complicated. Both positive and restrictive covenants have already been the subject of reports recommending reform.⁶⁰

Rights of Access to Neighbouring Land

2.31. On 3 August 1978 we received from you a reference under section 3(1)(e) of the Law Commissions Act 1965 in the following terms:

“To examine the legal difficulties of those who, lacking the legal right to do so, need to enter upon another's land in order to inspect or do work upon their own, to consider whether these difficulties can be remedied by legislation and to make recommendations.”

This reference arose out of practical difficulties suffered by individuals, which have been brought to the attention of your Department on a number of occasions. We shall start work on this subject as soon as our other commitments allow. We cannot yet judge whether it will prove more appropriate to deal with it as a separate topic or to include it as part of our work on appurtenant rights.⁶¹

⁵⁵ Para. 2.24, above.

⁵⁶ Paras. 2.35 to 2.37, below.

⁵⁷ Para. 22.

⁵⁸ Law Com. No. 68.

⁵⁹ S.I. 1978 No. 15.

⁶⁰ See the *Report of the Committee on Positive Covenants affecting Land* (Wilberforce Committee), (1965) Cmnd. 2719, and Law Com. No. 11, *Report on Restrictive Covenants*.

⁶¹ See para. 2.30, above.

Land Registration

2.32. Between 1970 and 1976 we published four working papers dealing with aspects of land registration which seemed in need of reform. The topics discussed included whether the register should be opened to public inspection, the problems of identity and boundaries, the registration of leases, the protection and priority of interests such as mortgages in registered land, rectification and indemnity, and overriding interests (a topic of particular importance since these interests bind a purchaser who may be unaware of them because they are not disclosed on the Register):

We received many valuable comments on these topics, which we have now analysed. Since the publication of our working papers, there have also been a number of important judicial decisions, some raising major issues of policy.⁶² These decisions have been the subject of a good deal of comment in the academic and professional press of which we shall take full account in the preparation of our report. As we said last year,⁶³ the reforms which we consider to be necessary are extensive; preparation of the report will therefore take a considerable time.

Provisions for Reverter

2.33. This is a new though not a major topic. During the nineteenth century Parliament passed several statutes facilitating and encouraging the grant by landowners of small parcels of land to trustees for certain charitable purposes, notably for the provision of schools and churches (and connected residential accommodation). These statutes include a provision under which the ownership of the land reverts if the land ceases to be used for the purposes specified in the grant. In recent years a number of schools etc. have become redundant and it is expected that more will become so in the foreseeable future. Unhappily, the statutes in question are so drafted that the rights and liabilities of the trustees (both before and especially after the cesser of the specified use) are often a matter of considerable doubt; and the matter is not helped by the fact that the titles to these properties do not fit at all comfortably into the structure of the law established by the Law of Property and Settled Land Acts 1925.

Representations were made to us about this in October 1977 by the Churches Main Committee and others and we accepted that this small topic was worth examining with a view at least to clarifying the law. Our commitments would not allow of our conducting that examination ourselves in the immediate future; but it seemed to us that the substance of the work could be carried out by a working party formed under our aegis which would in due course report to us after conducting appropriate consultation. We accordingly invited you to remit this topic to us on the footing that the work would be carried forward in that way with minimum reliance on our own resources. You agreed; the working party was established in June 1978;⁶⁴ and its examination of these statutory provisions for reverter has started.

⁶² Such as *Peffer v. Rigg* [1977] 1 W.L.R. 285 on the relationship between registered and unregistered conveyancing concepts; *Orakpo v. Manson Investments Ltd.* [1977] 1 W.L.R. 347 and *Freer v. Unwins Ltd.* [1976] Ch. 288 on rectification of the register.

⁶³ See our last annual report, para. 21.

⁶⁴ For membership see Appendix 3.

LANDLORD AND TENANT

General

2.34. We have found it necessary to review the project of codification on which we are engaged in the light of recent events. We think it convenient first to restate the position as it was at the time of our last annual report.

Item VIII in our first programme proposed that an examination be made of the basic law of landlord and tenant with a view, among other things, to the codification of such parts of it as might appear appropriate. We thereafter started detailed preparatory work on a code of the whole of this basic law, namely the law concerned with fundamental matters such as the formation, material incidents, and termination of the relationship.⁶⁵ We later made it clear⁶⁶ that we intended to give priority to three interim reports relating respectively to obligations of landlords and tenants, termination of tenancies, and covenants against dispositions, alterations and change of use. The first of these three reports⁶⁷ was published on 11 June 1975: the other two were (and still are) in course of preparation.⁶⁸

The first factor which has caused us to review the project of codification is the experience which we have gained in working on the draft code. It is now clear to us that the task of preparing a complete code of the basic law of landlord and tenant is immense and cannot be completed for a long time unless resources are devoted to it on a scale which is at present impossible. We have therefore decided that it is not realistic to try to embody in one report, with clauses, all the material which would be required for a comprehensive code, apart from that in the sections to be covered by the three reports referred to above. Such a report would be too large for us to produce as a single exercise: we also think that pressures on Parliamentary time would make it extremely unlikely that a Bill of the required length would be enacted.

We shall of course complete and publish the two remaining interim reports. Quite apart from the contributions to an eventual codification which they may make, they will propose important reforms.

When these two interim reports have been completed we shall again review our commitment to the codification project. At present we think that the only practicable method of carrying on with work on the code would be to deal with it in sections and to make each separate section the subject of a separate report. We would decide on the priority of one section as against another on the basis of the number and importance of the reforms likely to be included in it. In this way we would hope to build up the code section by section over what we emphasise would be a long period of years. We still think that a code of the basic law of landlord and tenant is desirable in principle. However, we have not been encouraged by our experience with the first report on obligations of landlords and tenants since it was published more than three years ago. Discussions between your Department and the Department of the Environment, in which we participated, resulted in agreement being reached on a number of minor changes to be made in the draft Bill appended to

⁶⁵ "Special" legislation such as the Rent Act 1977, the Landlord and Tenant Act 1954 and the Agricultural Holdings Act 1948 were never intended to be part of the code.

⁶⁶ *Eighth Annual Report 1972-73* (Law Com. No. 58), para. 15; *Ninth Annual Report 1973-74* (Law Com. No. 64), para. 9.

⁶⁷ *Report on Obligations of Landlords and Tenants* (Law Com. No. 67).

⁶⁸ See paras. 2.35 and 2.36, below.

our report. Nevertheless, no steps were taken to implement the report and in March you told us that, in the light of these discussions, there were no prospects for the introduction of the Bill during the current Parliament.

We have therefore decided to postpone a final decision about the future of the full code until we see the Parliamentary and other reactions to all three interim reports. If (as we hope) they are accepted by Parliament we shall be encouraged to continue with the work in this area: but if not we shall have to consider whether the resources now devoted to the code could be better used in other ways. Even if we finally decide against continuing with the codification it does not follow that we shall abandon work in this area. There may well be specific topics which merit examination with a view to reform.

Termination of Tenancies

2.35. We have made substantial progress on this large topic. It is however too early to forecast the final form of our recommendations.

Covenants against Dispositions, Alterations and Change of Use

2.36. Here again we have made substantial progress. The team involved has reached certain preliminary conclusions about the extent to which covenants of these types should be subject to an implied provision that the relevant act may be done with the landlord's consent which is not to be unreasonably withheld. They have also formed the preliminary view that the law should be changed so that a landlord who is not permitted to withhold his consent unreasonably should be liable in damages if he in fact does so. The main objective of this is to eliminate unreasonable delay by landlords.

PRIVATE INTERNATIONAL LAW

Obligations

2.37. The Joint Working Group on Private International Law⁶⁹ set up by the Scottish Law Commission and ourselves continues to assist the United Kingdom delegation⁷⁰ to the Brussels Group of Experts⁷¹ which is considering the E.E.C. draft Convention on the Law applicable to Contractual Obligations. In the year under review the Joint Working Group has prepared a number of memoranda and re-drafts of the various Articles of the draft Convention for submission to the Brussels Group. The Brussels Group held meetings in December, March, June and September and will meet again in November 1978 and February 1979.

Arbitration agreements and agreements conferring jurisdiction on courts are excluded from the scope of the draft Convention. The Brussels Group, after completing its deliberations on the present draft Convention, will undertake further studies as to the appropriate choice of law rules for such agreements and whether they should be included within the scope of the Convention. These studies will be given priority over the further examination of non-contractual obligations as mentioned below.

The original scope of the draft Convention covered contractual obligations as well as non-contractual obligations, such as tortious and quasi-contractual

⁶⁹ The membership of the Joint Working Group is shown in Appendix 3.

⁷⁰ The United Kingdom delegates are the Honourable Lord Maxwell, Mr. K. M. Newman, Professor A. L. Diamond, Mr. A. Akbar (a member of our legal staff) and, recently, Dr. P. M. North.

⁷¹ This Group was set up by the E.E.C. Commission and comprises representatives from all nine Member States.

obligations. However, at the March meeting of the Brussels Group, it was decided, pursuant to a proposal by the U.K. delegation, that the draft Convention should be limited to contractual obligations. It was however agreed that negotiations should be resumed on non-contractual obligations at a later date with a view to preparing a separate convention on the subject.

It has now been decided that choice of law rules for insurance contracts should be included within the scope of the draft Convention and a sub-committee of the Brussels Group met in September to consider the special rules necessary for such contracts.

Foreign Money Liabilities

2.38. The Joint Working Party,⁷² set up by the Scottish Law Commission and ourselves to examine the problems which may arise when money is due in a currency other than that of the place of payment or the place where payment is sought, has not met during the year under review. A study of the Council of Europe Convention on Foreign Money Liabilities is being prepared for the Working Party. The principles relating to foreign money liabilities laid down by the House of Lords in 1976⁷³ have been extended and modified by a series of later decisions.⁷⁴ We intend to undertake consultations on this topic in due course but thought it inappropriate to do so while the law was still undergoing significant judicial development.

Insurance Services Directive—E.E.C. Draft

2.39. On 17 May 1978 you asked us to consider and advise on “the implications of the draft second E.E.C. Directive on the Co-ordination of Insurance Laws and the Provision of Services (the Services Directive) in relation to choice of law rules both current and proposed under the draft E.E.C. Convention on Contractual Obligations”. The Lord Advocate made a similar request to the Scottish Law Commission. The two Commissions referred this matter to the Joint Working Group which has been advising the U.K. delegation to the Brussels Group of Experts considering the draft E.E.C. Convention on Contractual Obligations.⁷⁵ In August, a consultative document prepared by the Joint Working Group was given a limited circulation to professional, academic and other expert and interested bodies. Negotiations on the draft Services Directive are still continuing in Brussels. In order to meet the timetable of these negotiations, the Joint Working Group intends, in the light of comments received on the consultative document, to submit interim advice before the end of the year.⁷⁶

International Administration of the Estates of Deceased Persons

2.40. This matter is concerned with the implementation of the Hague Convention on this topic signed by the United Kingdom. We have made further progress and have remained in close touch with the Scottish Law Commission, but pressure of other work has prevented us from completing our report.

⁷² The membership is shown in Appendix 3 of our last annual report.

⁷³ *Miliangos v. George Frank (Textiles) Ltd.* [1976] A.C. 443.

⁷⁴ Culminating in the decision of the House of Lords in *The Despina R* and *The Folias*, *The Times* 20 October 1978.

⁷⁵ See para. 2.38, above.

⁷⁶ We are also concerned with the reform of the substantive law relating to insurance contracts: see para. 2.8, above.

STATUTE LAW

Consolidation

2.41. The following consolidation Acts (other than consolidation Acts relating to Scotland only) have been passed:—

Commonwealth Development Corporation Act 1978
Employment Protection (Consolidation) Act 1978
Export Guarantees and Overseas Investment Act 1978
Interpretation Act 1978⁷⁷
Northern Ireland (Emergency Provisions) Act 1978
Oaths Act 1978
Refuse Disposal (Amenity) Act 1978⁷⁸

Bills are in preparation on the following topics:—

Acquisition of Land (Authorisation Procedure)
Agricultural Statistics
Alcoholic Liquor Duties
Capital Gains Tax
Child Care
Cinema Performances⁷⁹
Civil Aviation
Clean Air
Countryside
County Courts
Customs and Excise Duties (General Reliefs)
Customs and Excise Management
Exchange Equalisation Account
Excise Duties (Surcharge or Rebates)
Foster Children
Highways
Hydrocarbon Oil Duties
International Monetary Fund
Judicial Pensions
Justices of the Peace
Magistrates' Courts
Matches and Mechanical Lighters Duties
New Towns
Prices and Charges⁸⁰
Prosecution of Offences
Public Health (Control of Disease)
Representation of the People
Reserve Forces⁸¹
Tobacco Products Duty
Trade Unions and Employers' Associations

⁷⁷ Incorporating amendments to give effect to recommendations in a report (Law Com. No. 90; Scot. Law Com. No. 53) made by the Law Commission and the Scottish Law Commission.

⁷⁸ Referred to in paragraph 51 of our last annual report as "Refuse Disposal".

⁷⁹ Referred to in paragraph 51 of our last annual report as "Films".

⁸⁰ This will include the provisions which we had originally contemplated consolidating in a separate Bill about the Price Commission: see paragraph 51 of our last annual report.

⁸¹ Referred to in paragraph 51 of our last annual report as "Reserve and Auxiliary Forces".

Trustee Savings Banks
Value Added Tax
Wages Councils

Pre-Consolidation Amendments

2.42. We were grateful for the opportunity of including amendments relating to Customs and Excise in this year's Finance Acts.⁸² We regret that it was not also possible to include amendments in preparation for the Capital Gains Tax Bill. With the help of the Inland Revenue, we drafted some eight brief amendments which, we are satisfied, were minor and uncontroversial and would have improved the law by removing inconsistencies and obscurities of a sort which for practical purposes can probably only be removed from tax law on the occasion of a consolidation. The Government, though sympathetic, were unable to accept our proposals, because in the circumstances nothing could be regarded as wholly uncontroversial. We think that this ought to be put on record, for it seems something of a reproach to our legislative system.

Customs and Excise Consolidation

2.43. The Customs and Excise Act 1952 and subsequent connected legislation will be consolidated in seven Bills. Although it is desirable to bring related enactments together, a bulky Act may be less satisfactory than a number of smaller consolidations. We have no doubt that the division of the Customs and Excise legislation into a number of short consolidation Acts, each of a fairly limited scope,⁸³ will be more convenient for the public than adherence to the 1952 scheme of a single Act covering everything. Those concerned with this legislation are normally interested in particular provisions relevant to their own trade or business, and not in the legislation as a whole.

Statute Law Revision

2.44. With the passing of the Statute Law (Repeals) Act 1978, ten reports⁸⁴ on statute law revision prepared by the Law Commissions in pursuance of their statutory duty⁸⁵ have been implemented by Parliament.

There are two distinct aspects of this work. One is to facilitate the production of revised editions of the statutes of general application by simplifying the form of those statutes. The other is to further the objectives of statute law reform generally by putting forward specific proposals aimed at reducing the bulk, uncertainty and complexity of the existing body of statute law. The guiding principle of both aspects of the work is, in one word, simplification.

Apart from its direct and visible effects, the work is an important ingredient in other law reform work, such as consolidation, where research into detailed statutory provisions is necessary in order to establish their relevance or practical utility. Until this research has been done, the process of modernising the existing body of statute law cannot in practice be carried out on the substantial scale that is needed.

⁸² Finance Act 1978 Sch. 12.

⁸³ Thus the legislation on the duties on hydrocarbon oils, tobacco and alcohol (to take but three examples) will be in separate consolidations.

⁸⁴ Including *Jurisdiction of Certain Ancient Courts* (Law Com. No. 72) which was implemented by the Administration of Justice Act 1977.

⁸⁵ Law Commissions Act 1965, s.3(1)(d).

After ten years the time has arrived to take stock. A detailed internal working paper has accordingly been prepared to evaluate the work that has been done and to indicate the potentialities for the future. The paper will be considered in the months ahead with a view to determining the lines along which the work should develop in the future.

Chronological Table of Local and Personal Acts

2.45. The Local Acts, together with the Personal and Private Acts, (for convenience often referred to as the Private Acts) are an important and particularly bulky body of law covering a wide spectrum of topics which are also the subject of public general legislation. They are poorly indexed, and when public general legislation touches on a field affected by these Acts the necessary statutory provision for reconciling the two systems frequently has to be made in broad and uninformative terms, because detailed and reliable information is simply not available.

An important step in the process of rationalising this body of law is the preparation of an authoritative Chronological Table, i.e. a specialised historical index showing the extent to which individual Acts are or may be in force and which records the effect on them of subsequent legislation of all types, including public general legislation and statutory instruments.⁸⁶ An index of this type is a basic tool for anyone concerned with the preparation of legislation.

The Statute Law Committee under the Chairmanship of the then Lord Chancellor recognised the need for a Chronological Table of the Local and Personal Acts in 1974, and welcomed the Law Commission's willingness to undertake this mammoth task. The size of the project can be judged from the fact that the legislation to be covered starts in 1539 and includes approximately 37,000 individual Acts. Work on it has been proceeding since 1974⁸⁷ but progress has necessarily been slow because for most of the time the task of scanning the legislation concerned and retrieving the information needed has had to be undertaken by a single member of the staff without clerical assistance. The Acts must be scanned in reverse chronological order, since later legislation obviously affects earlier. For the purposes of publication it is proposed to handle the work in stages, the first being planned to cover approximately the last 50 years before 1974.⁸⁸

OTHER MATTERS

Administrative Law

2.46. The recommendations made in our *Report on Remedies in Administrative Law*⁸⁹ were implemented in large part by a new Order 53 of the Rules of the Supreme Court.⁹⁰

The Incapacitated Principal

2.47. The report, which we now hope to publish in the coming year, will be concerned with the practical problems encountered at present when a power of

⁸⁶ Another important step, which emphasises the need for a better system of indexing was the enactment of section 262 of the Local Government Act 1972.

⁸⁷ *Ninth Annual Report 1973-74* (Law Com. No. 64), para. 59.

⁸⁸ From 1974 onwards the effect of current legislation on Private Acts is recorded in a table appended to the annual *Chronological Table of the Statutes* published by H.M. Stationery Office.

⁸⁹ Law Com. No. 73.

⁹⁰ Rules of the Supreme Court (Amendment No. 3) 1977, (S.I. 1977 No. 1955).

attorney is revoked by supervening mental incapacity of the donor. Under the present law revocation takes place even if the donor executed the power in order to ensure that his affairs were looked after by the donee in the event of the donor's incapacity. It would obviously be desirable in many cases to permit the power to continue in these circumstances without undue formality: but it is necessary to ensure as far as possible that donors (and particularly the elderly) are not exploited by unscrupulous donees once they have become incapable. We hope to devise a scheme which will achieve the necessary balance between excessive formality on the one hand and too few safeguards on the other.

The Making and Revocation of Wills

2.48. We have been aware for some time that parts of the law about the making and revocation of wills were in need of review, and we were pleased when this subject was selected for consideration by the Law Reform Committee. We had put it forward as one of several which they might like to examine, and we passed on to them the results of some preliminary work which we ourselves had done on certain aspects of it. The Law Reform Committee published a Consultative Document in November 1977, which dealt with the following main topics:

- the formalities required for the valid execution of a will;
- the rule prohibiting witnesses from taking any benefit under a will;
- the revocation of wills by marriage (and the possibility of their revocation by divorce), and in other ways, including the doctrine of dependant relative revocation; and
- the revival of wills.

We understand that the Sub-Committee concerned is now considering the very full response which it has received to the Consultative Document, and that the Committee are not yet in a position to say when a final report may be completed.

The Powers and Duties of Trustees

2.49. We also agreed with the Law Reform Committee that there were some aspects of the present law about the powers of trustees that could usefully be considered, and we are glad that you decided to refer to them the general subject of the powers and duties of trustees, including personal representatives. A number of suggestions for reforms have been made to us from time to time, and we have of course made these available to the Committee. In February 1978 they published a Consultative Document dealing with the following main topics:

- powers and duties of investment;
- conversion of investments, and apportionment;
- delegation;
- standard of conduct;
- remuneration of professional trustees;
- powers of insurance; and
- particular powers of trustees, and of tenants for life, of settled land.

The Sub-Committee concerned asked for evidence to be submitted by the end of September 1978, but, since additional time to prepare evidence was required by a number of individuals and organisations, the Sub-Committee has not, during the period under report, been able to start on its further consideration of the subject.

PART III

GENERAL

Staff

3.1. Our full-time staff numbers 47; the Secretary, 6 draftsmen, 18 other lawyers⁹¹ and 22 non-legal staff. In addition 5 lawyers and 2 others assist us part-time.

Library

3.2. The library continues to expand to meet our growing needs. The Librarian has compiled extensive reading lists on Wills and on Trusts for the Law Reform Committee.

We are grateful to the Institute of Advanced Legal Studies, the Supreme Court Library, the libraries of the Inns of Court and all the other libraries and librarians on whom we have called during the past year.

Co-operation with the Scottish Law Commission

3.3. The Annual Joint Meeting with the Scottish Law Commission was held in Edinburgh on 18 and 19 April. We discussed the progress we were making in our joint activities and the impact on the work of each Commission of what we were doing separately. We are continuing to work together on conflicts of jurisdiction affecting children and on other aspects of matters of private international law which affect us both.

Relations with Other Lawyers in the United Kingdom

3.4. We have had useful consultations with those in Northern Ireland responsible for law reform, particularly in matters concerned with statute law. We would in this connection like to place on record our gratitude to Mr. W. A. Leitch, C.B., who has helped us for many years with a wide variety of questions, and to wish him well in his retirement.

3.5. We have again been most fortunate in the help we have received from the Senate of the Inns of Court, The Law Society, and the Society of Public Teachers of Law. Apart from the useful annual meetings which we have with each of these bodies, we know that we can always rely on them for their careful consideration of our formal and informal requests for views, and for their suggestions of matters for consideration by us.

3.6. We should also like to place on record our gratitude for the valuable assistance given to us from time to time during the current year by individual academic lawyers. In this connection we should mention in particular the assistance given to us in our work on minors' contracts⁹² by members of the Contract Law Reform Sub-Committee of the Society of Public Teachers of Law who both commented on a draft working paper and attended a most useful meeting to discuss the draft and the comments on it. Mr. J. R. Birds of the

⁹¹ The legal staff are listed in *The Bar List of the United Kingdom 1978*, Stevens, p. 44.

⁹² See para. 2.7, above.

University of Sheffield has been providing us with much assistance in our work on insurance contract law,⁹³ and Mr. J. R. Spencer of Selwyn College, Cambridge, has given us help with the law on criminal libel.⁹⁴

Relations with Lawyers Overseas

3.7. We continue to maintain contacts with law reform agencies in both Commonwealth and other countries. The exchange of working papers and reports with these bodies is most helpful in keeping us in touch with trends in other jurisdictions. We again had a number of visitors from overseas with whom we exchanged views.

These included:

- M. Jean-Marie Woehrling (Administrative Tribunal, Strasbourg)
- M. Eric Charles André (Conseil d'Etat, Paris)
- Dr. Pierre de Mot (Substitut Procureur du Roi, Belgium)
- Mr. S. E. K. Hulme, Q.C. (Victoria Bar, Australia)
- Mr. David K. Malcolm (Member, Western Australia Law Reform Commission)
- Dr. S. Frankowski (Deputy Director, Institute of Penal Law, Warsaw, Poland)
- Mr. Barry Brill } (Members of Parliament, New Zealand)
- Mr. William Birch }
- Mr. Martin Glass (Deputy Attorney General (Legislation), Israel)
- Professor Curtis Reitz (Pennsylvania Law School, U.S.A.)
- Mr. Antonio Marchini-Camia (Legal Service, Commission of the European Communities)
- Professor Masao Arai (Chuo University, Tokyo, Director, Institute of Comparative Law, Japan)
- Professor Allan Philip (Copenhagen)
- Professor Peter Barton (Faculty of Law, University of Western Ontario, Canada)
- Ms. Janet Debicka (Professor, Faculty of Law, University of Manitoba, Canada)
- Professor Ken Lysyk (Dean, Faculty of Law, University of British Columbia, Canada)
- Ms. Anne McLellan (Assistant Professor, Faculty of Law, University of New Brunswick, Canada)
- Professor Claude Samson (Faculté de Droit, Université Laval, Canada)
- Mr. Philip Pillai (University of Singapore)
- Professor H. A. Finlay (Monash University, Victoria, Australia)
- Mr. Thomas E. Stanton, Jr. (Member, California Law Revision Commission, U.S.A.)
- Sir John Minogue (Law Reform Commissioner, Victoria, Australia)

⁹³ See para. 2.8, above.

⁹⁴ See para. 2.19, above.

Professor Naharajah (Law Commission, Sri Lanka)

Professor Bhadra Ranchod (Dean, Faculty of Law, University of Durban-
Westville, South Africa)

(Signed) MICHAEL KERR, *Chairman.*

STEPHEN M. CRETNEY.

STEPHEN EDELL.

W. A. B. FORBES.

PETER M. NORTH.

J. C. R. FIELDSEND, *Secretary.*

3 November 1978.

APPENDIX I

LIST OF THE LAW COMMISSION'S PUBLICATIONS up to and including Thirteenth Annual Report

(a) Working Papers published (where a report has resulted its reference number is given in brackets).

- 1966** No. 1. Transfer of Land: Root of Title to Freehold Land (Law Com. No. 9).
No. 2. Draft Proposals on Powers of the Court of Appeal to Sit in Private and Restrictions upon Publicity in Legitimacy Proceedings (Law Com. No. 8).
No. 3. Restrictive Covenants (Law Com. No. 11).
No. 4. Should English Wills be Registrable?
No. 5. Liability of Trade Vendors of New Dwelling Houses to First and Subsequent Purchasers (First Paper) (Law Com. No. 40).
No. 6. Liability of Vendors and Lessors for Defective Premises (Second Paper) (Law Com. No. 40).
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- 1967** No. 7. Provisional Proposals for Amendments to the Landlord and Tenant Act 1954, Part II (Business Tenancies) (Law Com. No. 17).
No. 8. Provisional Proposals Relating to Obligations of Landlords and Tenants (Law Com. No. 67).
No. 9. Family Law: Matrimonial and Related Proceedings. Financial Relief (Law Com. No. 25).
No. 10. Proposals for Changes in the Law Relating to Land Charges affecting Unregistered Land and to Local Land Charges (Law Com. Nos. 18 and 62).
No. 11. Powers of Attorney (Law Com. No. 30).
No. 12. Proof of Paternity in Civil Proceedings (Law Com. No. 16).
No. 13. Exploratory Working Paper on Administrative Law (Law Com. No. 20).
No. 14. Interpretation of Statutes (Joint Working Paper—Scottish Law Commission Memorandum No. 6) (Law Com. No. 21).
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- 1968** No. 15. Family Law: Arrangements for the Care and Upbringing of Children.
No. 16. Provisional Proposals Relating to Termination of Tenancies.
No. 17. Codification of the Criminal Law: General Principles. The Field of Enquiry.
No. 18. Provisional Proposals Relating to Amendments to sections 12–15 of the Sale of Goods Act 1893 and Contracting Out of the Conditions and Warranties implied by those sections (Joint Working Paper—Scottish Law Commission Memorandum No. 7) (Law Com. No. 24).
No. 19. Loss of Services (Law Com. Nos. 25 and 56).
No. 20. Nullity of Marriage (Law Com. No. 33).
No. 21. Polygamous Marriages (Law Com. No. 42).
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- 1969** No. 22. Restitution of Conjugal Rights (Law Com. No. 23).
No. 23. Malicious Damage to Property (Law Com. No. 29).
No. 24. Transfer of Land: Rentcharges (the subject of a further Working Paper No. 49).

- 1970 No. 25. The Law of Landlord and Tenant: Working Party's Provisional Proposals Relating to Covenants Restricting Dispositions, Parting with Possession, Change of User and Alterations.
- No. 26. Criminal Law: Forgery (Law Com. No. 55).
- No. 27. Personal Injury Litigation: Assessment of Damages, Itemization of Pecuniary Loss and the Use of Actuarial Tables as an Aid to Assessment (Law Com. No. 56).
- No. 28. Family Law: Jurisdiction in Matrimonial Causes (other than Nullity) (Law Com. No. 48).
- No. 29. Codification of the Criminal Law: Subject III. Territorial and Extra-Territorial Extent of the Criminal Law (Law Com. No. 91).
- No. 30. Codification of the Criminal Law: Strict Liability and the Enforcement of the Factories Act 1961.
- No. 31. Codification of the Criminal Law: General Principles. The Mental Element in Crime (Law Com. No. 89).
- No. 32. Transfer of Land: Land Registration (First Paper).
- No. 33. Criminal Law: Perjury and Kindred Offences.

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- 1971 No. 34. Family Law: Jactitation of Marriage (the subject of a further Working Paper No. 48).
- No. 35. Family Law: Solemnisation of Marriage (Law Com. No. 53).
- No. 36. Transfer of Land: Appurtenant Rights.
- No. 37. Transfer of Land: Land Registration (Second Paper).
- No. 38. Family Law: Jurisdiction in Suits for Nullity of Marriage (Law Com. No. 48).
- *No. 39. Exemption Clauses in Contracts for Services (Joint Working Paper—Scottish Law Commission Memorandum No. 15) (Law Com. No. 69).
- No. 40. Administrative Law (Law Com. No. 73).
- No. 41. Personal Injury Litigation: Assessment of Damages (Law Com. No. 56).
- No. 42. Family Law: Family Property Law (Law Com. Nos. 52, 61 and 86).

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- 1972 No. 43. Codification of the Criminal Law: General Principles. Parties, Complicity and Liability for the Acts of Another.
- No. 44. Codification of the Criminal Law: General Principles. Criminal Liability of Corporations.
- No. 45. Transfer of Land: Land Registration (Third Paper).
- No. 46. Charging Orders on Land (Law Com. No. 74).

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- 1973 No. 47. Injuries to Unborn Children (Law Com. No. 60).
- No. 48. Family Law: Declarations in Family Matters.
- No. 49. Transfer of Land: Rentcharges (Law Com. No. 68).
- *No. 50. Codification of the Criminal Law: General Principles. Inchoate Offences: Conspiracy, Attempt and Incitement (Law Com. No. 76).

* on sale at H.M. Stationery Office.

- *No. 51. Transfer of Land: "Subject to Contract" Agreements (Law Com. No. 65).
- *No. 52. Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability (Law Com. No. 75).
- *No. 53. Family Law: Matrimonial Proceedings in Magistrates' Courts (Law Com. No. 77).
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- 1974 *No. 54. Criminal Law: Offences of Entering and Remaining on Property (Law Com. No. 76).
- *No. 55. Codification of the Criminal Law: General Principles. Defences of General Application (Law Com. No. 83).
- *No. 56. Criminal Law: Conspiracy to Defraud.
 † Private International Law: E.E.C. Preliminary Draft Convention on the Law Applicable to Contractual and Non-Contractual Obligations (prepared jointly with the Scottish Law Commission).
- *No. 57. Codification of the Criminal Law: Conspiracies Relating to Morals and Decency (Law Com. No. 76).
- *No. 58. Breach of Confidence.
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- 1975 *No. 59. Contribution (Law Com. No. 79).
- *No. 60. Firm Offers.
- *No. 61. Penalty Clauses and Forfeiture of Monies Paid.
- *No. 62. Criminal Law: Offences Relating to the Administration of Justice.
- *No. 63. Codification of the Criminal Law: Conspiracies to Effect a Public Mischief and to Commit a Civil Wrong (Law Com. No. 76).
- *No. 64. Liability for Defective Products (Joint Working Paper—Scottish Law Commission Memorandum No. 20) (Law Com. No. 82).
- *No. 65. Pecuniary Restitution on Breach of Contract.
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- 1976 *No. 66. Interest (Law Com. No. 88).
- *No. 67. Transfer of Land: Land Registration (Fourth Paper).
- *No. 68. Custody of Children—Jurisdiction and Enforcement within the United Kingdom (Joint Working Paper—Scottish Law Commission Memorandum No. 23).
- *No. 69. The Incapacitated Principal.
- *No. 70. Law of Contract: the Parol Evidence Rule.
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- 1977 *No. 71. Law of Contract: Implied Terms in Contracts for the Supply of Goods.
- *No. 72. Codification of the Criminal Law: Treason, Sedition and Allied Offences.
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An unabridged reprint of Working Papers 1–64, bound in seven volumes with a preface by the Chairman, has been published by Professional Books, Milton Trading Estate, Abingdon, Oxon OX14 4SY at £95 net.

* on sale at H.M. Stationery Office.

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

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

- 1965 Law Com. No. 1. First Programme of the Law Commission.
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- 1966 Law Com. No. 2. Law Commission's First Programme on Consolidation and Statute Law Revision.
Law Com. No. 3. Proposals to Abolish Certain Ancient Criminal Offences.
Law Com. No. 4. First Annual Report 1965-1966.
Law Com. No. 5. Landlord and Tenant: Interim Report on Distress for Rent.
Law Com. No. 6. Reform of the Grounds of Divorce: the Field of Choice (Cmnd. 3123).
Law Com. No. 7. Proposals for Reform of the Law Relating to Maintenance and Champerty.
Law Com. No. 8. Report on the Powers of Appeal Courts to Sit in Private and the Restrictions upon Publicity in Domestic Proceedings (Cmnd. 3149).
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- 1967 Law Com. No. 9. Transfer of Land: Interim Report on Root of Title to Freehold Land.
Law Com. No. 10. Inputed Criminal Intent (*Director of Public Prosecutions v. Smith*).
Law Com. No. 11. Transfer of Land: Report on Restrictive Covenants.
Law Com. No. 11A. Sea Fisheries (Shellfish) Bill: Report by the Law Commission and the Scottish Law Commission on the Consolidation of Certain Enactments Relating to Shellfish Fisheries and Shellfish (Scot. Law Com. No. 6A) (Cmnd. 3267).
Law Com. No. 12. Second Annual Report 1966-1967.
Law Com. No. 13. Civil Liability for Animals.
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- 1968 Law Com. No. 14. Second Programme of Law Reform.
Law Com. No. 15. Third Annual Report 1967-1968 (H.C. 312).
Law Com. No. 16. Blood Tests and the Proof of Paternity in Civil Proceedings (H.C. 2).
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- 1969 Law Com. No. 17. Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II (H.C. 38).
Law Com. No. 18. Transfer of Land: Report on Land Charges Affecting Unregistered Land (H.C. 125).
Law Com. No. 18A. Trustee Savings Banks Bill: Report by the Law Commission and the Scottish Law Commission on the Consolidation of the Trustee Savings Banks Acts 1954 to 1968 (Scot. Law Com. No. 10) (Cmnd. 4004).
Law Com. No. 19. Proceedings against Estates (Cmnd. 4010).
Law Com. No. 20. Administrative Law (Cmnd. 4059).
Law Com. No. 21. Interpretation of Statutes: Report by the Law Commission and the Scottish Law Commission (Scot. Law Com. No. 11) (H.C. 256).

- Law Com. No. 22. Statute Law Revision: First Report (Cmnd. 4052).
- Law Com. No. 23. Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights (H.C. 369).
- Law Com. No. 24. Exemption Clauses in Contracts: First Report. Amendments to the Sale of Goods Act 1893: Report by the Law Commission and the Scottish Law Commission (Scot. Law Com. No. 12) (H.C. 403).
- Law Com. No. 25. Family Law: Report on Financial Provision in Matrimonial Proceedings (H.C. 448).
- Law Com. No. 26. Breach of Promise of Marriage (H.C. 453).
- Law Com. No. 27. Fourth Annual Report 1968-1969 (H.C. 27).
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- 1970** Law Com. No. 28. Statute Law Revision: Second Report. Draft Wild Creatures and Forest Laws Bill (Cmnd. 4433).
- Law Com. No. 29. Criminal Law: Report on Offences of Damage to Property (H.C. 91).
- Law Com. No. 30. Powers of Attorney (Cmnd. 4473).
- Law Com. No. 31. Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters (Cmnd. 4497).
- Law Com. No. 32. Civil Liability for Dangerous Things and Activities (H.C. 142).
- Law Com. No. 33. Family Law: Report on Nullity of Marriage (H.C. 164).
- Law Com. No. 34. Hague Convention on Recognition of Divorces and Legal Separations: Report by the Law Commission and the Scottish Law Commission (Scot. Law Com. No. 16) (Cmnd. 4542).
- Law Com. No. 35. Limitation Act 1963 (Cmnd. 4532).
- Law Com. No. 36. Fifth Annual Report 1969-1970 (H.C. 170).
- Law Com. No. 37. Statute Law Revision: Third Report (Cmnd. 4546).
- Law Com. No. 38. Coinage Bill: Report by the Law Commission and the Scottish Law Commission on the Consolidation of Certain Enactments Relating to Coinage (Scot. Law Com. No. 18) (Cmnd. 4544).
- Law Com. No. 39. Vehicles (Excise) Bill: Report by the Law Commission and the Scottish Law Commission on the Consolidation of Certain Enactments Relating to Excise Duties on Mechanically Propelled Vehicles, and to the Licensing and Registration of such Vehicles (Scot. Law Com. No. 19) (Cmnd. 4547).
- Law Com. No. 40. Civil Liability of Vendors and Lessors for Defective Premises (H.C. 184).
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- 1971** Law Com. No. 41. National Savings Bank Bill: Report by the Law Commission and the Scottish Law Commission on the Consolidation of Enactments Relating to the National Savings Bank (Scot. Law Com. No. 20) (Cmnd. 4574).
- Law Com. No. 42. Family Law: Report on Polygamous Marriages (H.C. 227)
- Law Com. No. 43. Taxation of Income and Gains Derived from Land: Report by the Law Commission and the Scottish Law Commission (Scot. Law Com. No. 21) (Cmnd. 4654).

- Law Com. No. 44. Law Commission's Second Programme on Consolidation and Statute Law Revision (H.C. 338).
- Law Com. No. 45. Town and Country Planning Bill: Report on the Consolidation of Certain Enactments Relating to Town and Country Planning (Cmnd. 4684).
- Law Com. No. 46. Road Traffic Bill: Report by the Law Commission and the Scottish Law Commission on the Consolidation of Certain Enactments Relating to Road Traffic (Scot. Law Com. No. 22) (Cmnd. 4731).
- Law Com. No. 47. Sixth Annual Report 1970-1971 (H.C. 32).
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- 1972 Law Com. No. 48. Family Law: Report on Jurisdiction in Matrimonial Causes (H.C. 464).
- Law Com. No. 49. Statute Law Revision: Fourth Report by the Law Commission and the Scottish Law Commission (Scot. Law Com. No. 26) (Cmnd. 5108).
- Law Com. No. 50. Seventh Annual Report 1971-1972 (H.C. 35).
- Law Com. No. 51. Matrimonial Causes Bill: Report on the Consolidation of Certain Enactments Relating to Matrimonial Proceedings, Maintenance Agreements, and Declarations of Legitimacy, Validity of Marriage and British Nationality (Cmnd. 5167).
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- 1973 Law Com. No. 52. Family Law: First Report on Family Property. A New Approach (H.C. 274).
- Law Com. No. 53. Family Law: Report on Solemnisation of Marriage in England and Wales (H.C. 250).
- Law Com. No. 54. Third Programme of Law Reform (H.C. 293).
- Law Com. No. 55. Criminal Law: Report on Forgery and Counterfeit Currency (H.C. 320).
- Law Com. No. 56. Report on Personal Injury Litigation—Assessment of Damages (H.C. 373).
- Law Com. No. 57. Statute Law Revision: Fifth Report by the Law Commission and the Scottish Law Commission (Scot. Law Com. No. 32) (Cmnd. 5493).
- Law Com. No. 58. Eighth Annual Report 1972-1973 (H.C. 34).
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- 1974 Law Com. No. 59. Friendly Societies Bill: Report on the Consolidation of the Friendly Societies Acts 1896 to 1971 and Certain Other Enactments Relating to the Societies to which these Acts Apply (Scot. Law Com. No. 35) (Cmnd. 5634).
- Law Com. No. 60. Report on Injuries to Unborn Children (Cmnd. 5709).
- Law Com. No. 61. Family Law: Second Report on Family Property. Family Provision on Death (H.C. 324).
- Law Com. No. 62. Transfer of Land: Report on Local Land Charges (H.C. 71).
- Law Com. No. 63. Statute Law Revision: Sixth Report by the Law Commission and the Scottish Law Commission (Scot. Law Com. No. 36) (Cmnd. 5792).
- Law Com. No. 64. Ninth Annual Report 1973-1974 (H.C. 40).

- 1975** Law Com. No. 65. Transfer of Land: Report on "Subject to Contract" Agreements (H.C. 119).
- Law Com. No. 66. Supply Powers Bill: Report on the Consolidation of Certain Enactments Relating to Supply Powers (Scot. Law Com. No. 38) (Cmnd. 5850).
- Law Com. No. 67. Codification of the Law of Landlord and Tenant: Report on Obligations of Landlords and Tenants (H.C. 377).
- Law Com. No. 68. Transfer of Land: Report on Rentcharges (H.C. 602).
- Law Com. No. 69. Exemption Clauses: Second Report (Scot. Law Com. No. 39) (H.C. 605).
- Law Com. No. 70. Statute Law Revision: Seventh Report by the Law Commission and the Scottish Law Commission (Scot. Law Com. No. 40) (Cmnd. 6303).
- Law Com. No. 71. Tenth Annual Report 1974-1975 (H.C. 51).
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- 1976** Law Com. No. 72. Jurisdiction of Certain Ancient Courts (Cmnd. 6385).
- Law Com. No. 73. Report on Remedies in Administrative Law (Cmnd. 6407).
- Law Com. No. 74. Charging Orders (Cmnd. 6412).
- Law Com. No. 75. Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability (Cmnd. 6428).
- Law Com. No. 76. Criminal Law: Report on Conspiracy and Criminal Law Reform (H.C. 176).
- Law Com. No. 77. Matrimonial Proceedings in Magistrates' Courts (H.C. 637).
- Law Com. No. 78. Eleventh Annual Report 1975-1976 (H.C. 94).
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- 1977** Law Com. No. 79. Law of Contract: Report on Contribution (H.C. 181).
- Law Com. No. 80. Statute Law Revision: Eighth Report by the Law Commission and the Scottish Law Commission (Scot. Law Com. No. 44) (Cmnd. 6719).
- Law Com. No. 81. Rent Bill: Report on the Consolidation of the Rent Act 1968, Parts III, IV and VIII of the Housing Finance Act 1972, the Rent Act 1974, sections 7 to 10 of the Housing Rents and Subsidies Act 1975 and Certain Related Enactments (Cmnd. 6751).
- Law Com. No. 82. Liability for Defective Products (Scot. Law Com. No. 45) (Cmnd. 6831).
- Law Com. No. 83. Criminal Law: Report on Defences of General Application (H.C. 556).
- Law Com. No. 84. Law of Contract: Report on the Proposed E.E.C. Directive on the Law Relating to Commercial Agents (Cmnd. 6948).
- Law Com. No. 85. Twelfth Annual Report 1976-1977 (H.C. 96).
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- 1978** Law Com. No. 86. Family Law: Third Report on Family Property. The Matrimonial Home (Co-ownership and Occupation Rights) and Household Goods (H.C. 450).
- Law Com. No. 87. Statute Law Revision: Ninth Report by the Law Commission and the Scottish Law Commission (Scot. Law Com. No. 48) (Cmnd. 7189).

- Law Com. No. 88. Law of Contract: Report on Interest (Cmnd. 7229).
- Law Com. No. 89. Criminal Law: Report on the Mental Element in Crime (H.C. 499).
- Law Com. No. 90. Interpretation Bill: Report by the Law Commission and the Scottish Law Commission 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).
- Law Com. No. 91. Codification of the Criminal Law: Territorial and Extraterritorial Extent of the Criminal Law.
- Law Com. No. 92. Thirteenth Annual Report 1977-1978.

APPENDIX 2

IMPLEMENTATION OF THE LAW COMMISSION'S
LEGISLATIVE PROPOSALS

<i>Titles of relevant reports</i>	<i>Date of publication</i>	<i>Implemented</i>
Proposals to Abolish Certain Ancient Criminal Offences (Law Com. No. 3)	22.6.66	Criminal Law Act 1967 (c. 58)
Landlord and Tenant: Interim Report on Distress for Rent (Law Com. No. 5)	6.10.66	No
Proposals for Reform of the Law Relating to Maintenance and Champerty (Law Com. No. 7)	22.11.66	Criminal Law Act 1967 (c. 58)
The Powers of Appeal Courts to Sit in Private and the Restrictions upon Publicity in Domestic Proceedings (Law Com. No. 8)	23.11.66	Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (c. 63)
Transfer of Land: Interim Report on Root of Title to Freehold Land (Law Com. No. 9)	14.2.67	Law of Property Act 1969 (c. 59)
Imputed Criminal Intent (<i>Director of Public Prosecutions v. Smith</i>) (Law Com. No. 10)	28.2.67	In part by section 8 of the Criminal Justice Act 1967 (c. 80)
Transfer of Land: Report on Restrictive Covenants (Law Com. No. 11)	22.3.67	In part by Law of Property Act 1969 (c. 59)
Sea Fisheries (Shellfish) Bill (Joint report with Scottish Law Commission) (Law Com. No. 11a)	11.5.67	Sea Fish (Conservation) Act 1967 (c. 84)
Civil Liability for Animals (Law Com. No. 13)	21.12.67	Animals Act 1971 (c. 22)
Blood Tests and the Proof of Paternity in Civil Proceedings (Law Com. No. 16)	31.10.68	Family Law Reform Act 1969 (c. 46)
Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II (Law Com. No. 17)	22.1.69	Law of Property Act 1969 (c. 59)
Transfer of Land: Report on Land Charges Affecting Unregistered Land (Law Com. No. 18)	20.3.69	Law of Property Act 1969 (c. 59)
Trustee Savings Banks Bill (Joint report with Scottish Law Commission) (Law Com. No. 18A)	17.4.69	Trustee Savings Banks Act 1969 (c. 50)
Proceedings against Estates (Law Com. No. 19)	2.5.69	Proceedings Against Estates Act 1970 (c. 17)
Interpretation of Statutes (Joint report with Scottish Law Commission) (Law Com. No. 21)	11.6.69	No
Statute Law Revision: First Report (Law Com. No. 22)	8.7.69	Statute Law (Repeals) Act 1969 (c. 52)
Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights (Law Com. No. 23)	26.8.69	Matrimonial Proceedings and Property Act 1970 (c. 45)

<i>Titles of relevant reports</i>	<i>Date of publication</i>	<i>Implemented</i>
Exemption Clauses in Contracts: First Report. Amendments to the Sale of Goods Act 1893 (Joint report with Scottish Law Commission) (Law Com. No. 24)	18.9.69	Supply of Goods (Implied Terms) Act 1973 (c. 13)
Financial Provision in Matrimonial Proceedings (Law Com. No. 25)	23.9.69	Matrimonial Proceedings and Property Act 1970 (c. 45); Law Reform (Miscellaneous Provisions) Act 1970 (c. 33)
Breach of Promise of Marriage (Law Com. No. 26)	15.10.69	Law Reform (Miscellaneous Provisions) Act 1970 (c. 33)
Statute Law Revision: Second Report. Draft Wild Creatures and Forest Laws Bill (Law Com. No. 28)	4.8.70	Wild Creatures and Forest Laws Act 1971 (c. 47)
Criminal Law: Offences of Damage to Property (Law Com. No. 29)	16.9.70	Criminal Damage Act 1971 (c. 48)
Powers of Attorney (Law Com. No. 30)	23.9.70	Powers of Attorney Act 1971 (c. 27)
Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters (Law Com. No. 31)	15.10.70	Administration of Estates Act 1971 (c. 25)
Nullity of Marriage (Law Com. No. 33)	4.12.70	Nullity of Marriage Act 1971 (c. 44)
Hague Convention on Recognition of Divorces and Legal Separations (Joint report with Scottish Law Commission) (Law Com. No. 34)	1.12.70	Recognition of Divorces and Legal Separations Act 1971 (c. 53)
Limitation Act 1963 (Law Com. No. 35)	25.11.70	Law Reform (Miscellaneous Provisions) Act 1971 (c. 43)
Statute Law Revision: Third Report. Draft Statute Law (Repeals) Bill (Law Com. No. 37)	15.12.70	Statute Law (Repeals) Act 1971 (c. 52)
Coinage Bill (Joint report with Scottish Law Commission) (Law Com. No. 38)	26.11.70	Coinage Act 1971 (c. 24)
Vehicles (Excise) Bill (Joint report with Scottish Law Commission) (Law Com. No. 39)	2.12.70	Vehicles (Excise) Act 1971 (c. 10)
Civil Liability of Vendors and Lessors for Defective Premises (Law Com. No. 40)	16.12.70	Defective Premises Act 1972 (c. 35)
National Savings Bank Bill (Joint report with Scottish Law Commission) (Law Com. No. 41)	13.1.71	National Savings Bank Act 1971 (c. 29)

<i>Titles of relevant reports</i>	<i>Date of publication</i>	<i>Implemented</i>
Polygamous Marriages (Law Com. No. 42)	3.2.71	Matrimonial Proceedings (Polygamous Marriages) Act 1972 (c. 38)
Taxation of Income and Gains Derived from Land (Joint report with Scottish Law Commission) (Law Com. No. 43)	28.4.71	In part by section 82 of the Finance Act 1972 (c. 41)
Town and Country Planning Bill (Law Com. No. 45)	10.6.71	Town and Country Planning Act 1971 (c. 78)
Road Traffic Bill (Joint report with Scottish Law Commission) (Law Com. No. 46)	26.7.71	Road Traffic Act 1972 (c. 20)
Jurisdiction in Matrimonial Causes (Law Com. No. 48)	14.9.72	Domicile and Matrimonial Proceedings Act 1973 (c. 45)
Statute Law Revision: Fourth Report. Draft Statute Law (Repeals) Bill (Joint report with Scottish Law Commission) (Law Com. No. 49)	28.9.72	Statute Law (Repeals) Act 1973 (c. 39)
Matrimonial Causes Bill (Law Com. No. 51)	18.12.72	Matrimonial Causes Act 1973 (c. 18)
First Report on Family Property: a New Approach (Law Com. No. 52)	6.6.73	Legislative proposals deferred until later reports
Solemnisation of Marriage in England and Wales (Law Com. No. 53)	9.5.73	No
Criminal Law: Forgery and Counterfeit Currency (Law Com. No. 55)	18.7.73	No
Personal Injury Litigation—Assessment of Damages (Law Com. No. 56)	25.7.73	No
Statute Law Revision: Fifth Report. Draft Statute Law (Repeals) Bill (Joint report with Scottish Law Commission) (Law Com. No. 57)	6.12.73	Statute Law (Repeals) Act 1974 (c. 22)
Friendly Societies Bill (Joint report with Scottish Law Commission) (Law Com. No. 59)	24.6.74	Friendly Societies Act 1974 (c. 46)
Report on Injuries to Unborn Children (Law Com. No. 60)	22.8.74	Congenital Disabilities (Civil Liability) Act 1976 (c. 28)
Family Provision on Death (Law Com. No. 61)	30.10.74	Inheritance (Provision for Family and Dependants) Act 1975 (c. 63)
Local Land Charges (Law Com. No. 62)	18.12.74	Local Land Charges Act 1975 (c. 76)

<i>Titles of relevant reports</i>	<i>Date of publication</i>	<i>Implemented</i>
Statute Law Revision: Sixth Report. Draft Statute Law (Repeals) Bill (Joint report with Scottish Law Commission) (Law Com. No. 63)	5.12.74	Statute Law (Repeals) Act 1975 (c. 10)
Supply Powers Bill (Joint Report with Scottish Law Commission) (Law Com. No. 66)	8.1.75	Supply Powers Act 1975 (c. 9)
Codification of the Law of Landlord and Tenant: Obligations of Landlords and Tenants (Law Com. No. 67)	17.6.75	No
Transfer of Land: Report on Rentcharges (Law Com. No. 68)	9.10.75	Rentcharges Act 1977 (c. 30)
Exemption Clauses: Second Report (Joint report with Scottish Law Commission) (Law Com. No. 69)	2.10.75	Unfair Contract Terms Act 1977 (c. 50)
Statute Law Revision: Seventh Report. Draft Statute Law (Repeals) Bill (Joint report with Scottish Law Commission) (Law Com. No. 70)	5.12.75	Statute Law (Repeals) Act 1976 (c. 16)
Jurisdiction of Certain Ancient Courts (Law Com. No. 72)	4.2.76	Administration of Justice Act 1977 (c. 38)
Report on Remedies in Administrative Law (Law Com. No. 73)	25.3.76	Rules of Supreme Court (Amendment No. 3) 1977, (S.I. 1977/1955)
Charging Orders (Law Com. No. 74)	26.3.76	No
Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability (Law Com. No. 75)	31.3.76	No
Criminal Law: Report on Conspiracy and Criminal Law Reform (Law Com. No. 76)	23.3.76	In part by Criminal Law Act 1977 (c. 45)
Matrimonial Proceedings in Magistrates' Courts (Law Com. No. 77)	20.10.76	Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)
Law of Contract: Report on Contribution (Law Com. No. 79)	10.3.77	Civil Liability (Contribution) Act 1978 (c. 47)
Statute Law Revision: Eighth Report. Draft Statute Law (Repeals) Bill (Joint report with Scottish Law Commission) (Law Com. No. 80)	27.1.77	Statute Law (Repeals) Act 1977 (c. 18)
Rent Bill: Report on the Consolidation of the Rent Act 1968, etc. (Law Com. No. 81)	19.4.77	Rent Act 1977 (c. 42)
Liability for Defective Products (Joint report with Scottish Law Commission) (Law Com. No. 82)	15.6.77	No
Criminal Law: Report on Defences of General Application (Law Com. No. 83)	29.9.77	No
Law of Contract: Report on the Proposed E.E.C. Directive on the Law Relating to Commercial Agents (Law Com. No. 84)	12.10.77	No

<i>Titles of relevant reports</i>	<i>Date of publication</i>	<i>Implemented</i>
Third Report on Family Property: the Matrimonial Home (Co-ownership and Occupation Rights) and Household Goods (Law Com. No. 86)	14.6.78	No
Statute Law Revision: Ninth Report. Draft Statute Law (Repeals) Bill (Joint report with Scottish Law Commission) (Law Com. No. 87)	11.5.78	Statute Law (Repeals) Act 1978 (c. 45)
Law of Contract: Report on Interest (Law Com. No. 88)	29.6.78	No
Criminal Law: Report on the Mental Element in Crime (Law Com. No. 89)	22.6.78	No
Interpretation Bill (Joint report with Scottish Law Commission) (Law Com. No. 90)	8.6.78	Interpretation Act 1978 (c. 30)
Codification of the Criminal Law: Territorial and Extraterritorial Extent of the Criminal Law (Law Com. No. 91)	14.12.78	No

APPENDIX 3

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(From October 1978)

(1) Working Party on Affiliation Proceedings and the Law relating to Illegitimacy (paragraph 2.26).

Chairman: Mr. S. M. Cretney (Law Commission)
Mr. A. Akbar (Law Commission)
Professor H. K. Bevan (University of Hull)
Mr. Brian O'Brien (Law Commission)
Mr. F. Gonning (Home Office)
Mr. Duncan Gordon (Lord Chancellor's Department)
Mr. P. G. Harris (Lord Chancellor's Department)
Lady Johnston (Law Commission)
Mr. R. L. Jones (Home Office)
Mrs. J. Reisz (Home Office)
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Mr. C. C. Snow (Supplementary Benefits Commission)
Mr. J. W. White (Supplementary Benefits Commission)

Secretary: Mr. T. L. Rees (Law Commission)

(2) Working Party on Reverter (paragraph 2.33)

Chairman: Mr. Brian O'Brien (Law Commission)
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Mr. B. L. Thorne (former partner in Messrs. Lee Bolton & Lee)
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(3) Joint Working Group on Private International Law (paragraph 2.37).

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Dr. P. M. North (Law Commission)

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APPENDIX 4

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AND SENIOR STAFF**

CONTRACT AND TORT

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

CRIMINAL LAW

Generally: Chairman, Mr. W. A. B. Forbes, Mr. R. H. Streeten

FAMILY LAW

Generally: Mr. S. M. Cretney, Mr. Brian O'Brien
Family Property: Mr. Stephen Edell, Mr. R. T. Oerton

LAND LAW (APART FROM LANDLORD AND TENANT)

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Land Registration: Mr. S. M. Cretney, Mr. Brian O'Brien
Reverter: Mr. Brian O'Brien

LANDLORD AND TENANT

Generally: Mr. Stephen Edell, Mr. R. T. Oerton

PRIVATE INTERNATIONAL LAW

Generally: Chairman, Dr. P. M. North, Mr. C. W. Dymont
E.E.C. Draft Convention on Obligations: Dr. P. M. North, Mr. A. Akbar
International Administration of Estates: Mr. Stephen Edell, Mr. R. T. Oerton

STATUTE LAW

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Statute Law Revision: Chairman, Mr. R. H. Streeten

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