

# The Law Commission

(LAW COM. No. 58)

## **EIGHTH ANNUAL REPORT 1972-1973**

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

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

The Honourable Mr. Justice Cooke, *Chairman*.

Mr. Claud Bicknell, O.B.E.

Mr. Aubrey L. Diamond.

Mr. Derek Hodgson, Q.C.

Mr. Norman S. Marsh, Q.C.

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**THE LAW COMMISSION**  
**EIGHTH ANNUAL REPORT: 1972-1973**

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# THE LAW COMMISSION

## EIGHTH ANNUAL REPORT : 1972-1973

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

We have the honour to present our Eighth Annual Report pursuant to section 3 (3) of the Law Commissions Act 1965. The Report deals with the whole period from 15 June 1972 up to 30 October 1973. In earlier years we took as the period under review the "Law Commission year", a period of twelve months beginning on 15 June, the date on which the Law Commission came into being in 1965. We dealt only in footnotes with matters between the end of the Law Commission year and the date of submission of the report. In future our reports will seek to deal with the period of a normal Parliamentary Session, that is to say a year starting about the beginning of November. The story of our law reform proposals and of our draft Bills for the improvement of the Statute Book is incomplete without an account of the resulting legislation. The normal Parliamentary Session is therefore the natural period to select as the basis of our Annual Reports.

### INTRODUCTION

1. In January 1973, on Sir Leslie Scarman's appointment as a Lord Justice of Appeal, Sir Samuel Cooke succeeded Sir Leslie as our chairman. Sir Leslie's achievements in the seven and a half years of his chairmanship form an outstanding chapter in the history of law reform. The debt which the Commission owes to him is incalculable. What will be remembered most dearly by those who have worked closely with him is his rare capacity for sympathetic understanding of other human beings and for inspiring them with his own buoyant optimism and zest.

2. The year has seen progress in our work over a wide range of subjects, though the vast amount still to be done leaves no ground for complacency. We select a few subjects for special mention in these introductory paragraphs. Advances have been made in the field of family law, where there will be further intensive work in the course of the coming year. In the field of tort, we have brought to a conclusion our work on the general aspects of damages for personal injury and death. Among the subjects with which we are currently occupied in the field of tort are injuries to unborn children and the liability of occupiers to trespassers. In the field of criminal law, the publication of our Working Paper on Inchoate Offences<sup>1</sup> marks a further step towards evolving the general part of a criminal code, while the *Report on Forgery and Counterfeit Currency*<sup>2</sup> seeks to deal systematically with a group of specific offences.

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<sup>1</sup> See para. 33 below.

<sup>2</sup> See para. 40 below.

3. In the field of contract, we have reviewed and reassessed the plan for producing a contract code. The code as originally envisaged was to be a uniform body of law applying throughout England and Scotland, and it was to embody amendments of the existing law in both countries. The production of such a code was to be a joint enterprise of the Scottish Law Commission and ourselves. The withdrawal from the enterprise of the Scottish Law Commission, as announced in paragraph 16 of their *Seventh Annual Report*<sup>3</sup>, has changed the character and scope of the operation. Several years' work would probably be needed before we were in a position to publish a draft contract code for England alone. We have therefore given further thought to our method of work on the general principles of the law of contract. Our method in dealing with most subjects is to publish a working paper containing provisional proposals for the reform of particular branches of the law, and so to obtain the benefit of informed public criticism before finalising our proposals in the form of a report. We have found that this method has the advantage of concentrating public discussion on particular problems. We think that the publication of a draft code, however fully annotated, is not the best way of directing public attention to particular aspects of the law of contract which may be in need of amendment or of promoting examination and discussion of those aspects in depth. We think, further, that the question whether the general principles of contract law require amendment, and if so in what way, is logically anterior to codification and should be disposed of first.

4. We have accordingly, with your approval, taken certain decisions which you announced to the House of Lords on 9 July 1973<sup>4</sup>. We have suspended work on the production of a contract code, and we now intend to publish a series of Working Papers on particular aspects of the English law of contract with a view to determining whether and if so what amendments of general principles are required. We expect to publish a number of such papers in the coming year, though the work as a whole will probably extend over several years. When it is complete, it is our intention to consider afresh the production of a contract code. Meanwhile special studies, such as that we are making of exemption clauses, will proceed as planned.

5. While this represents an important change of direction and method, we cannot too strongly emphasise that the work which has been done towards codification of the law of contract over the past few years will be of the greatest value in the task we now propose to undertake. We are and shall remain deeply indebted to the brilliant work of Mr. Harvey McGregor, whose initial drafts have explored the subject with vigour and lucidity

6. Our accession to the European Economic Community will bring the United Kingdom closer to various projects for the reform or codification of private international law which are going forward under the Community's auspices. It seemed desirable that the Law Commission should participate in this work, which closely affects many of our activities. It was for this reason that we submitted to you our *Third Programme of Law Reform*<sup>5</sup>,

<sup>3</sup> Scot. Law Com. No. 28; (1972-73) H.C. 136.

<sup>4</sup> *Hansard*, 9 July 1973, Vol. 344, Cols. 624-5.

<sup>5</sup> Law Com. No. 54; (1972-73) H.C. 293.

which received your approval on 3 May 1973. In co-operation with the Scottish Law Commission, we have already begun work under the Programme.

7. We remain, however, vitally concerned with those aspects of law reform which are of direct significance in the lives of ordinary people. It was because of this that we spoke in our last Annual Report of the importance which we attach to the social sciences. It remains our desire to make proper use of those sciences in the case of any project where they are able to make a contribution of substantial value to our work.

8. We welcome the appointment of the Royal Commission on Civil Liability and Compensation for Personal Injury under the chairmanship of Lord Pearson. Mr. Norman S. Marsh, Q.C., a Law Commissioner, is a member of the Royal Commission and we intend to co-ordinate our work with theirs in areas of common interest.



## PART I

### LAW REFORM PROGRAMMES : REPORT ON PROGRESS

9. Items I to XVII, mentioned below, derive from our *First Programme of Law Reform*, Items XVIII to XX from our Second and Item XXI from our Third. In the following Progress Report we omit items which have been merged in others and those on which work was completed before the beginning of the period under report.

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

10. In our work on the general principles of the law of contract, we propose to make changes of approach and of method which are dealt with in the introduction to this Report at paragraphs 3-5.

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

11. The Supply of Goods (Implied Terms) Act 1973, which became law on 19 May 1973, was largely based on our First Report on this topic<sup>6</sup>. The Act has amended those provisions of the Sale of Goods Act 1893 which defined the obligations of the seller in a contract for the sale of goods as to title, description, fitness and quality, and has restricted the right of the seller to contract out of those obligations; the Act has made corresponding amendments in the law relating to hire purchase and the redemption of trading stamps. The Law Commission are now engaged in preparing a Second Report which will deal with the exclusion of liability for negligence in contracts of all kinds and with other exemption clauses not covered by the Supply of Goods (Implied Terms) Act 1973.

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

12. Our report<sup>7</sup> on this subject, with a draft Bill annexed, was submitted to you on 15 June 1973. It also deals with a number of topics outstanding from Item XV (a), such as actions for loss of services and consortium and actions for the enticement, harbouring and seduction of a servant.

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

##### *The Landlord and Tenant Code*

13. The first stage in the preparation of the code is the settling of a series of propositions which constitute instructions to the draftsman<sup>8</sup>. This work has proceeded steadily during the year, and the second stage, the translation of these propositions into draft clauses in legislative form, has begun.

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<sup>6</sup> Law Com. No. 24; Scot. Law Com. No. 12; (1968-69) H.C. 403.

<sup>7</sup> Law Com. No. 56; (1972-73) H.C. 373.

<sup>8</sup> See *Seventh Annual Report*, Law Com. No. 50; (1972-73) H.C. 35, para. 11.

14. This work has now reached a stage when it has become unnecessary to hold regular meetings of the Landlord and Tenant Working Party<sup>9</sup>, but we are continuing to ask for advice from its members on specific problems as they arise.

#### *Interim reports*

15. In our *Seventh Annual Report*<sup>10</sup> we explained our intention of preparing three interim reports without draft clauses on the following subjects:

- (a) *Obligations of landlords and tenants;*
- (b) *Covenants against assignment, alterations and change of use; and*
- (c) *Termination of tenancies.*

When we had completed our consultations on the first of these subjects and considered a draft of a report, we were able to agree the policy of the draft. However, in spite of what we thought when our *Seventh Annual Report* was made, we decided that the report would be more effective if draft legislative clauses were added to it. We now see no need to wait until our work on the whole subject is completed before we make specific recommendations and we plan to deal with all three subjects by making reports with draft clauses. These three subjects together will cover a very large part of the reforms which we have been considering and will go a long way towards a code of landlord and tenant law.

16. These reports will be based on the Working Papers we have published, but our recommendations will be made with the help of the comments made to us on those papers, and the advice given to us by the Working Party and in special consultation.

17. In July 1973 you asked us to make our recommendations to you on the obligation of landlords to disclose their identity to tenants, without waiting until we could complete our work on obligations generally. We are responding by giving you an account of the present state of our work on this subject and we do not propose to submit a separate report upon it.

#### *Disclaimer of leases in bankruptcy*

18. We have now received the comments of the Chief Bankruptcy Registrar and of the Department of Trade and Industry on a set of proposals which we had settled in conjunction with the Working Party. We will be giving further consideration to this topic at a later stage of our work on the code but we think that it will be unnecessary to publish a Working Paper for general consultation.

#### *Fire insurance provisions in leases*

19. We have no present intention of preparing a Working Paper for special consultation on this subject, which can be dealt with as part of our general work on the code.

<sup>9</sup> The names of members are listed in Appendix 3 to our *Seventh Annual Report* (Law Com. No. 50; (1972-73) H.C. 35).

<sup>10</sup> *ibid.*, paras. 13 and 14.

*Variable service charges*

20. We have held further discussions with the Department of the Environment on this subject but we have not been asked to make any recommendations.

**Item IX. Transfer of Land**

*(a) Rights appurtenant to land*

21. We have completed our analysis of the comments on Working Paper No. 36; but much further work on this topic remains to be done. Our next step will be the preparation of a report recommending changes in the law relating to easements, covenants (both negative and positive) and prescription. We do not, however, expect to be able to submit that report for some time.

*(b) Land registration*

22. We published the third in our series of Working Papers (on identity and boundaries; and rectification and indemnity) on 7 July 1972. Work on other topics which have higher priority has caused us to suspend operations in this field but we hope to resume them next year.

*(c) Rentcharges*

23. Working Paper No. 49, our second on this subject, was published on 18 April 1973 and the process of consultation has not been completed.

*(d) Chancel repairs*

24. This subject is not urgent and we shall not revert to it until we have the necessary decisions from the Church authorities.

*(e) Local land charges*

25. Substantial progress has been made in preparing our report and we hope to be able to submit it to you in the near future. The draft Bill which will be appended to the report will consolidate the law as well as amend it.

*(f) Agreements for purchase and sale "subject to contract" ("gazumping")*

26. These agreements were the subject of a special reference by you on 7 December 1971. Our Working Paper<sup>11</sup> on such agreements was published on 6 August 1973.

*(g) Charging orders on land*

27. A Working Paper<sup>12</sup> was published on 12 December 1972 and we are now considering the comments received. The Paper did not purport to cover the subject as a whole but was, rather, a review of three aspects of the law relating to charging orders which had been presented to us as isolated defects giving rise to practical difficulties. On examination, we found that one of the points was closely connected with much wider issues of policy in the law relating to insolvency, and consultation has served to confirm this. We are considering the terms of our report in the light of this fact.

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<sup>11</sup> Working Paper No. 51.

<sup>12</sup> Working paper No. 46.

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

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

28. With the publication of our *Report on Personal Injury Litigation—Assessment of Damages*<sup>13</sup> we have completed work under this heading.

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

29. The position remains as stated in previous Annual Reports: pending a final decision by Ministers whether distress for rent should be abolished as recommended by the Payne Committee<sup>14</sup>, consideration of these subjects remains in abeyance. A decision to abolish distress for rent would probably make such an examination unnecessary.

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

30. *The Interim Report of the Joint Committee on Civil and Criminal Jurisdiction in Northern Ireland* was published in September 1973<sup>15</sup>. The work remaining to be done under this item can, in our view, best be accomplished by you and the Secretary of State.

**Item XVII. Interpretation of Statutes**

31. Our joint study with the Scottish Law Commission of the special problems connected with the interpretation of statutes giving effect to treaties has made no progress since our last Annual Report.

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

*(a) General principles of the criminal law*

32. Working Papers on the law of complicity and liability for the acts of another<sup>16</sup> and on the criminal liability of corporations<sup>17</sup> have been prepared with the help of the Working Party<sup>18</sup> which is giving us assistance with the general part of the criminal code. They were published in June 1972 and we have received a number of comments and suggestions which require consideration.

33. A Working Paper, also prepared with the assistance of the Working Party, on the inchoate offences of conspiracy, attempt and incitement<sup>19</sup> was published in July 1973. It asks for comments by the end of this year.

34. The Working Party has completed its preliminary study of certain general defences, including duress and necessity but excluding self-defence which comes exclusively within the Criminal Law Revision Committee's examination of offences against the person. A Working Paper will be published in the near future.

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<sup>13</sup> Law Com. No. 56; (1972-73) H.C. 373. See also para. 12 above.

<sup>14</sup> *Report of the Committee on the Enforcement of Judgment Debts*; (1969) Cmnd. 3909, para. 932 at page 239.

<sup>15</sup> Cmnd. 5431.

<sup>16</sup> Working Paper No. 43.

<sup>17</sup> Working Paper No. 44.

<sup>18</sup> See Appendix 3 for membership.

<sup>19</sup> Working Paper No. 50.

35. The preparation of our report on the territorial extent of the criminal law, together with draft clauses which would implement its recommendations, has reached an advanced stage.

36. In our study of the general principles of the criminal law, Working Papers have now been published on the delimitation of the field of enquiry<sup>20</sup>, the mental element in crime<sup>21</sup>, complicity and liability for the acts of another<sup>22</sup>, criminal liability of corporations<sup>23</sup>, and inchoate offences<sup>24</sup>. With the publication of a Working Paper on general defences there will, apart from the law relating to mentally abnormal offenders now being studied by the Home Office Committee under the chairmanship of Lord Butler, be little more of substance to be examined in the general part of the code. The effect of drugs and drink on criminal responsibility in so far as it is not dealt with in the report of the Butler Committee will be perhaps the most important outstanding matter. Our next task will be to form final conclusions on the assembled material and, thereafter, to consider in what form we can recommend legislation. We shall have to make decisions, as to the structure of the criminal code and as to the extent to which, if at all, we can recommend legislation on the general principles in advance of the whole code.

37. During the year Messrs. Blackwell of Oxford published an occasional paper entitled "*The Hospital Order in London Magistrates' Courts*" for the Oxford University Penal Research Unit. We were part sponsors of this research project and we welcome the appearance of this interesting paper.

(b) *Certain specific offences*

38. In the Working Paper<sup>25</sup> on inchoate offences, the Working Party has provisionally proposed that the offence of conspiracy should be confined to cases where the object of the conspiracy is a criminal offence. With this proposal we provisionally agree. As the Working Paper points out, restriction of conspiracy in the manner proposed may leave certain gaps in the law which it is desirable to fill by the creation of new substantive offences. Whilst recognising that the area covered by conspiracy to do "unlawful" but not criminal acts is a somewhat nebulous one capable of classification or definition in different ways, the Working Party, for convenience of examination, divided the field into six parts:—

- (i) conspiracies to defraud;
- (ii) conspiracies to defeat the course of justice;
- (iii) conspiracies relating to morals and decency;
- (iv) conspiracies to commit a civil wrong;
- (v) conspiracies to injure; and
- (vi) conspiracies with a "public element".

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<sup>20</sup> Working Paper No. 17.

<sup>21</sup> Working Paper No. 31.

<sup>22</sup> Working Paper No. 43.

<sup>23</sup> Working Paper No. 44.

<sup>24</sup> Working Paper No. 50.

<sup>25</sup> Working Paper No. 50.

We intend to publish Working Papers on each of these six areas of the law. We have done much preparatory work on a Working Paper dealing with the offences of fraud which may have to be created to fill any gaps that would be left by the proposed restriction. We are also well advanced in our examination of conspiracies relating to morals and decency. An examination of conspiracies to defeat or pervert the course of justice will fall naturally within our examination of perjury and of other offences against the course of justice which we shall resume as soon as the report of the Phillimore Committee on contempt of court is published.

39. We had gone some way to the preparation of a Working Paper on offences of forcible entry and detainer when the House of Lords decided in *D.P.P. v. Kamara*<sup>26</sup> the circumstances in which a conspiracy to trespass is a criminal offence. We thought that an enquiry restricted to offences of forcible entry and detainer would be of very limited usefulness, and we asked you to widen our terms of reference. Yesterday you accordingly asked us—

“to examine the Statutes of Forcible Entry 1381–1623 and relevant common law offences, and to consider in what circumstances entering or remaining upon property should constitute a criminal offence or offences and in what form any such offence or offences should be cast”.

40. Our *Report on Forgery and Counterfeit Currency*<sup>27</sup> was published on 18 July 1973.

41. In our *Second Programme of Law Reform*<sup>28</sup>, bigamy and offences against the marriage law were among the specific offences allotted to the Law Commission for examination. We have now submitted to you our *Report on the Solemnisation of Marriage in England and Wales*<sup>29</sup>, to which was annexed a report of a Working Party appointed by the Registrar General and ourselves. The Working Party's report proposed that, when the time comes to prepare legislation to give effect to its recommendations, we should participate in the formulation of offences against the marriage laws. We accept that proposal and, in so far as there are or should be any offences in connection with marriage which are not dealt with in that way, it will remain for us to consider them.

## Item XIX. Family Law

### *Family property*

42. Our “*First Report on Family Property: A New Approach*”<sup>30</sup> was published on 22 May 1973. It contained no draft legislation but set out the general conclusions to which we came after studying the comments received on our Working Paper No. 42 on this subject published in October 1971 and the report on matrimonial property prepared for us by the Social Survey Division of the Office of Population Censuses and Surveys<sup>31</sup>.

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<sup>26</sup> [1973] 3 W.L.R. 198.

<sup>27</sup> Law Com. No. 55; (1972–73) H.C. 320.

<sup>28</sup> Law Com. No. 14.

<sup>29</sup> Law Com. No. 53; H.C. 250 published on 9 May 1973, see para. 45 below.

<sup>30</sup> Law Com. No. 52; (1972–73) H.C. 274.

<sup>31</sup> *Matrimonial Property*, by J. E. Todd and L. M. Jones (H.M.S.O., SBN 11 700129 5).

43. Our principal recommendations were:—

- (a) that in the absence of agreement to the contrary the matrimonial home should be shared equally between husband and wife;
- (b) that the claim of a surviving spouse on the family assets should be at least equal to that of a divorced spouse and that the court's powers to order provision for a surviving spouse should be widened to correspond with its powers to order financial provision on divorce;
- (c) that it is not necessary nor desirable to introduce into the law a principle under which the surviving spouse would have a legal right to inherit part of the estate of the deceased spouse; and
- (d) that it is not necessary to introduce a system of deferred community under which estates would be shared by husband and wife on fixed principles at the end of the marriage.

44. Work is proceeding on the preparation of further reports dealing with family provision (from the estate of a deceased person) and the matrimonial home. We have already prepared a preliminary draft of the report on family provision but it is doubtful whether that report can or should be settled in its final form in advance of the report on the matrimonial home, with which it is closely linked. In August 1972 we set up a Working Party to consider the conveyancing and other legal problems to which the adoption of the principle of joint ownership of the matrimonial home would give rise; and also problems associated with rights to occupy the home. The Working Party has now completed its task and we wish to express our particular gratitude to the two co-opted members, Mr. P. J. Millett, Q.C., and Mr. R. N. Sax of Messrs. Rubinstein, Nash and Co.<sup>32</sup>

#### *Solemnisation of marriage*

45. Our *Report on Solemnisation of Marriage in England and Wales*<sup>33</sup> was published on 8 May 1973. It consisted of a short report by the Law Commission and a long appendix containing the Report of the Working Party set up by the Registrar General and ourselves in December 1969. Both the Working Party and we ourselves were convinced that a new and comprehensive Marriage Act is needed and that uniform civil preliminaries should be compulsory in the case of all marriages.

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

46. The Domicile and Matrimonial Proceedings Bill was introduced into the House of Commons by Mr. I. MacArthur, M.P. in November and received the Royal Assent on 25 July 1973. The Act, which comes into force on 1 January 1974, implements the proposals contained in our *Report on Jurisdiction in Matrimonial Causes*<sup>34</sup> and the corresponding Report of the Scottish Law Commission<sup>35</sup>. It also implements the recommendations of the departmental committee referred to in paragraph 59 below—

- (a) by abolishing the rule under which a married woman has the same domicile as that of her husband,

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<sup>32</sup> A full list of members of the Working Party will be found in Appendix 1 to our *First Report on Family Property* (Law Com. No. 52).

<sup>33</sup> Law Com. No. 53; (1972-73) H.C. 250.

<sup>34</sup> Law Com. No. 48; (1971-72) H.C. 464.

<sup>35</sup> Scot. Law Com. No. 25; (1971-72) H.C. 488.

- (b) by providing for persons of 16 and over to have an independent domicile, and
- (c) by amending the rules for ascertaining the domicile of dependent minors.

The Act amends the Recognition of Divorces and Legal Separations Act 1971 and extends it to Northern Ireland. It also withdraws recognition from non-judicial divorces obtained in the United Kingdom and, in certain circumstances, obtained elsewhere.

#### *Matrimonial law in magistrates' courts*

47. In August, our Working Paper<sup>36</sup> on this topic was sent to H.M. Stationery Office for publication. Its purpose is to seek public comment on a considerable number of changes proposed in the matrimonial law administered by magistrates' courts.

#### *Declarations as to status*

48. Working Paper No. 48 on Declarations in Family Matters was published on 17 April 1973 and we have good hopes of producing next year a final report with clauses appended.

#### *Conflict of laws: miscellaneous problems*

49. Work on outstanding problems in conflict of laws in connection with matrimonial matters has been suspended. We, and the Scottish Law Commission with whom we are collaborating, are convinced that satisfactory reform in this field can only be achieved with international agreement. We hope that The Hague International Law Conference will put on its agenda the law concerning the recognition of foreign marriages and of decrees of nullity.

#### *Family courts*

50. The preparation of a Working Paper for general consultation continues<sup>37</sup>.

#### *Conflicts of jurisdiction affecting children*

51. The Working Party<sup>38</sup> set up by the Law Commission and the Scottish Law Commission in May 1972 continues its work. The subject has wide international implications and it is likely to be a long time before we can issue a Working Paper.

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

52. The Law Reform Committee, to whom we recommended that this subject be referred, published their *Report on Interpretation of Wills* in May 1973<sup>39</sup>.

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<sup>36</sup> Working Paper No. 53.

<sup>37</sup> For present membership of the Working Party see Appendix 3.

<sup>38</sup> For present membership see Appendix 3.

<sup>39</sup> Cmnd. 5301.



**Item XXI. Private International Law**

53. In pursuance of our *Third Programme of Law Reform*<sup>40</sup> we are considering proposals for the preparation of conventions harmonising the rules of private international law of the member states of the European Economic Community—

- (a) in the field of obligations and
- (b) in the field of property.

Joint Working Groups, set up by the Scottish Law Commission and ourselves to include representatives of government departments and outside experts, have started examining these proposals; members of the Commission's legal staff have attended meetings of the body set up by the E.E.C. for the consideration of the proposals. The membership of the Working Groups is set out in Appendix 3 to this Report.

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<sup>40</sup> Law Com. No. 54; H.C. 292 published on 12 June 1973.

## PART II

### LAW REFORM OUTSIDE THE PROGRAMMES

#### Administrative Law

54. Further comments have been received on our Working Paper No. 40 which contains provisional proposals for the improvement of existing remedies in administrative law. In particular, the comments of officials in Government Departments, co-ordinated into one document, were submitted to us on 21 March 1973. We do not, however, propose to proceed immediately with the preparation of a final report. Since the beginning of 1973 a group of academic lawyers under the joint direction of Mr. L. J. Blom-Cooper, Q.C. and Mr. Gavin Drewry has, with the support of the Social Science Research Council, been engaged in a research project concerning the work of the Queen's Bench Divisional Court in administrative law, which may yield important evidence regarding the strengths and weaknesses of the existing system of administrative remedies. The group is giving priority to matters which have a bearing on the issues raised in our Working Paper and it would be premature to draft our final report until their findings have been made known to us.

#### Agency (Incapacitated Principal)

55. In paragraph 27 of our *Report on Powers of Attorney*<sup>41</sup>, published in September 1970, we recommended that a review of the present procedure for dealing with the property of persons suffering from mental disorder should be put in hand. On 16 March 1973, you asked us to undertake a rather narrower review ourselves in the following terms:—

“To consider the law and practice governing powers of attorney and other forms of agency in relation to mental incapacity of the principal and to make recommendations”.

Work on this subject is only in its initial stages.

#### Breach of Confidence

56. Accepting recommendations made in the Younger Report<sup>42</sup>, you asked the Law Commission on 16 March 1973:—

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

A Working Paper is in course of preparation.

<sup>41</sup> Law Com. No. 30; (1970) Cmnd. 4474. See also paras. 72 and 73 of our *Sixth Annual Report* (Law Com. No. 47; (1971-72) H.C. 32) and para. 53 of our *Seventh Annual Report* (Law Com. No. 50; (1972-73) H.C.35).

<sup>42</sup> *Report of the Committee on Privacy*; (1972) Cmnd. 5012.

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

57. As we pointed out in our *Seventh Annual Report*<sup>43</sup>, the Local Government Act 1972 has dealt with the most complicated part of the jungle of statutory burial law but it will not solve all the problems. We examined some of the more important residual topics and, in particular, the law relating to the redevelopment of old cemeteries and the maintenance of private cemeteries. We concluded that, although the present law on these topics needs reform, the nature of the reform depends on fundamental issues of social and environmental policy which would be more appropriately considered by the Department of the Environment than by us. We have informed the Department that we have decided that we should not make any recommendations for the further reform of the burial law. Our work on this subject has therefore terminated.

### **Contribution between Separate Contractors**

58. We are preparing a Working Paper.

### **Domicile**

59. The Domicile and Matrimonial Proceedings Act 1973 has given effect to the recommendations of the departmental committee mentioned in paragraph 54 of our *Seventh Annual Report*<sup>44</sup>.

### **Foreign Money Liabilities**

60. The interdepartmental Working Party mentioned in paragraph 56 of our *Seventh Annual Report*<sup>45</sup> has commissioned a preliminary study which is now nearing completion.

### **Injuries to Unborn Children**

61. On 29 November 1972, you asked us to advise you in accordance with section 3(1)(e) of the Law Commissions Act 1965 what the law should be in relation to civil liability for ante-natal personal injury. On 19 January 1973, we issued Working Paper No. 47 for general consultation.

62. The British Medical Association and the Royal Society of Medicine advised us how to ensure that consultation with the medical profession should be as comprehensive as possible. With this end in view a colloquium was held on our behalf on 19 March 1973 at the Royal Society of Medicine as a means of supplementing our consultation on the Working Paper. We are most grateful to the Royal Society of Medicine and to Sir Hedley Atkins, K.B.E., its President, for organising this meeting<sup>46</sup>. We are also most grateful to Professor S. G. Clayton, M.D., M.S., F.R.C.S., F.R.C.O.G., President of the Royal College of Obstetricians and Gynaecologists, who sponsored a meeting at the Royal College on 25 July 1973. Our Working Paper No. 47 was further considered there by representatives of leading medical organisations, from whom we have received every assistance. He has subsequently discussed these proceedings with us.

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<sup>43</sup> Law Com. No. 50, para. 51.

<sup>44</sup> Law Com. No. 50; (1972-73) H.C. 35. See also para. 46 above.

<sup>45</sup> *ibid.* For present membership see Appendix 3.

<sup>46</sup> A list of those who took part is at Appendix 4.

63. We are now studying the comments received on Working Paper No. 47. The Royal Commission on Civil Liability share our interest in this subject and we are in close touch with them upon it.

#### **International Administration of the (Movable) Estate of Deceased Persons**

64. As recorded in paragraph 58 of our *Seventh Annual Report*<sup>47</sup> we submitted our report on 8 June 1972 on the draft convention dealing with the subject. The draft convention was then further considered at the Twelfth Session of The Hague International Law Conference in October 1972. We advised that the resulting convention was acceptable so far as England and Wales are concerned. H.M. Government signed the convention as soon as it was open for signature on 2 October 1973. We have now been asked to advise what legislation will be needed to give effect to the convention in the law of England and Wales and are consulting those most closely concerned with its operation in the future.

#### **Products Liability**

65. We have discussed our future activities in this field with Lord Pearson, the chairman of the Royal Commission on Civil Liability, and arrangements have been made to co-ordinate our work with that of the Royal Commission. Preliminary studies for consideration by the Working Party mentioned in paragraph 60 of our *Seventh Annual Report*<sup>48</sup> have not yet been completed.

#### **Tax Law**

66. The Consultative Group set up to examine certain proposed changes in estate duty law to pave the way for a consolidation of the statute law on that subject has informed the Scottish Law Commission and ourselves that it is about to submit its report to us.

#### **Trespassers—Civil Liability of Occupiers**

67. Working Paper No. 52 which puts forward provisional proposals for the reform of the law on this subject was published on 7 September 1973.

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

68. The Working Party of members of the Bar and solicitors which was set up, as recorded in paragraph 76 of our *Sixth Annual Report*<sup>49</sup>, by the General Council of the Bar and the Council of The Law Society has concluded that the final outcome of the litigation in the Baden cases<sup>50</sup> "leaves the law in a reasonably satisfactory state". We agree and we do not propose to recommend any reform.

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<sup>47</sup> Law Com. No. 50; (1972-73) H.C. 35.

<sup>48</sup> *ibid.* For present membership see Appendix 3.

<sup>49</sup> Law Com. No. 47; (1971-72) H.C. 232.

<sup>50</sup> *In re Baden's Deed Trusts* [1971] A.C. 424; *In re Baden's Deed Trusts* (No. 2) [1973] Ch. 9 (C.A.).

### PART III

## CONSOLIDATION AND STATUTE LAW REVISION

### Consolidation

69. The following consolidation Acts have been passed by Parliament during the period covered by this Report<sup>51</sup>:—

- Contracts of Employment Act 1972,
- Land Charges Act 1972,
- National Debt Act 1972,
- Poisons Act 1972,
- Costs in Criminal Cases Act 1973,
- Independent Broadcasting Authority Act 1973,
- Matrimonial Causes Act 1973<sup>52</sup>,
- Powers of Criminal Courts Act 1973<sup>53</sup>.

70. Bills on the following topics, prepared over the last year, should be ready for introduction in the first half of the new session:—

- Friendly Societies,
- Legal Aid,
- Insurance Companies,
- Slaughterhouses and Slaughter of Animals,
- Supply Powers.

71. Work is in progress on the consolidation of the enactments relating to the following subjects:—

- Social Security,
- Juries,
- Solicitors,
- Land Drainage.

Some work has been done on Fatal Accidents but completion of this task depends on the outcome of the proposals for legislation contained in our *Report on Personal Injury Litigation—Assessment of Damages*<sup>54</sup>.

72. A major consolidation of housing legislation, amounting to more than 353 clauses and 23 schedules, was in an advanced stage of preparation for introduction next session. Work however has had to be suspended because heavy legislation on this subject is expected next session and the Bill

<sup>51</sup> Consolidation Acts relating to Scotland only are not listed here.

<sup>52</sup> Incorporating amendments to give effect to recommendations made by the Law Commission in a report (Law Com. No. 51; (1972) Cmnd. 5167).

<sup>53</sup> Referred to in paragraph 69 of our *Seventh Annual Report* under the title: "Treatment of Offenders".

<sup>54</sup> Law Com. No. 56; (1972-73) H.C. 373.

cannot be introduced before the autumn of 1974. The prospect of amending legislation caused work to be suspended on Bills to consolidate the enactments relating to Lotteries and Amusements with Prizes and the enactments relating to Ancient Monuments. For the same reason it has not been possible to resume work on the consolidation of the Clean Air legislation.

### **Statute Law Revision**

73. The Statute Law (Repeals) Act 1973, which received the Royal Assent on 18 July, wholly repealed 114 Acts of Parliament and 4 Church Assembly Measures and partially repealed 139 Acts and 1 Measure. A draft Statute Law (Repeals) Bill has been prepared for introduction during the 1973-74 Parliamentary Session. It would repeal 55 Acts of Parliament entirely and 332 in part.

## PART IV

### MISCELLANEOUS

#### **Staff**

74. Our full time staff numbers 47: the Secretary, 4 draftsmen, 17 other lawyers and 25 non-legal staff. We are seeking to recruit young lawyers of high quality on a permanent or temporary basis.

#### **Library**

75. The library, which now houses approximately 15,000 items, is able to satisfy most of our day to day requirements. We cannot, however, have as comprehensive a collection as we would like and we are again grateful to the Institute of Advanced Legal Studies and to other libraries whose resources we occasionally have to call on.

#### **Seminar on "The Future of Law Reform"**

76. A seminar on this subject was held for us at All Souls College, Oxford, on 29 and 30 September 1972. This is one of many occasions on which we have been greatly indebted to the Warden and Fellows of All Souls for their hospitality. The seminar was attended by yourself, Lord Gardiner, other representatives of the judiciary, Members of Parliament, civil servants, practising and academic lawyers, social scientists and others interested in law reform. We were particularly glad to have with us, not only representatives of Scotland and Northern Ireland, but also Mr. Justice Hartt and Mr. Justice Lamer, chairman and vice-chairman respectively of the Law Reform Commission of Canada. The seminar discussed ways in which the machinery of law reform could be strengthened. The principal positive conclusion of the seminar was that some improvement might be made in the use of the social sciences in the service of law reform.

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

77. We have maintained close contact with the Scottish Law Commission in work done on Exemption Clauses. We are working in co-operation with them in other fields of commercial law and (under our *Third Programmes of Law Reform*) in the field of private international law. Our exchanges of ideas on other topics are, and will remain, often daily events and it is a most unusual week in which we have not been in touch with each other. We are grateful to the Treasurer and Benchers of the Middle Temple for enabling us to use their hall for the entertainment of the Scottish Law Commission and our other guests at a dinner on 17 April.

78. Mr. W. A. Leitch, C.B., formerly First Parliamentary Draftsman at Stormont, has retired and become Law Reform Consultant there. We greatly welcome this appointment and look forward to having his assistance in the future, as in the past.

79. We have to thank the Bar Council, The Law Society and the Society of Public Teachers of Law for their continuing help on many aspects of our work. As in previous years we held meetings with each of them. In our work on Working Paper No. 47, Injuries to Unborn Children, we were given great assistance by the Law Reform Committee of the Bar Council. In preparing Working Paper No. 51, Transfer of Land: "Subject to Contract" Agreements, we had continuous help from The Law Society who studied in great detail various suggestions that were made. The Society of Public Teachers of Law have held conferences on two of our Working Papers on the General Principles of the Criminal Law. The Society very kindly invited Mr. Hodgson, Mr. Marsh and members of our staff to both conferences. At Leicester University on 4 and 5 January the subject was Working Paper No. 43, Complicity and Liability for the Acts of Another, and at Leeds University on 24 and 25 September Working Paper No. 50, Inchoate Offences. We are most grateful to the Society for asking us to take part in these conferences which were of great assistance to us. In addition to the help we have had from the Bar Council, The Law Society and the Society of Public Teachers of Law we have had invaluable help from lawyers in all branches of the profession on many aspects of our work.

#### **Relations with Lawyers Overseas**

80. It remains the policy of the Law Commission to keep in touch with lawyers in Europe, the Commonwealth and elsewhere. In pursuance of this policy, individual Commissioners have in the course of the year attended and addressed conferences of lawyers in Europe. Members of the staff have attended meetings under the auspices of the European Economic Community and of the Council of Europe.

81. Among the numerous visitors to the Law Commission from overseas were:

- Professor F. R. Kennedy (University of Michigan Law School, U.S.A.)
- Professor G. W. Hinde (University of Auckland, New Zealand)
- Professor Russell Decker (Bowling Green State University, U.S.A.)
- Dr. Agnes Kelemen (Supreme Court, Hungary)
- Judge M. A. Chekaibe (Lebanon)
- Judge J. Jreissati (Lebanon)
- Professor Werner von Simson (Freiburg University, Germany)
- Mr. Justice Odunlami (Nigeria)
- Professor J. J. Cremona (Chief Justice of Malta)
- Dean-Emeritus Cecil Morgan (Tulane Law School, U.S.A.)
- Professor Takuji Sunada (Senshu University, Tokyo, Japan)
- Dr. Z. Vekey (Ministry of Justice, Hungary)
- Dr. Bereket-Ab Hapte Selassie (Vice-Minister of the Interior, Ethiopia)



Professor Spiros Simitis (International Civil Status Commission and University of Frankfurt)  
Mr. B. W. M. Downey (Hong Kong University)  
M. d'Harcourt (Conseil d'Etat, France)  
Mr. T. B. Smith (Department of Justice, Canada)  
Mr. K. J. Keith (Director, New Zealand Institute of International Affairs)  
Mlle. Mauricette Craffe (Centre National de la Recherche Scientifique, France)  
Professor Charles Donahue, Jr. (University of Michigan, U.S.A.)  
Herr P. Gummer (German Federal Republic)  
Mr. R. Watson, Q.C. (Sydney University Family Law Reform Committee, Australia)  
Mr. Craigie (Sydney University Family Law Reform Committee, Australia)  
Mrs. V. Ostrovsky-Kohn (Israel)  
Professor Tore Modeen (Abo Akademi, Finland)  
Mr. W. E. Knox (Attorney General and Minister for Justice, Queensland)  
Professor Homer Kripke (New York University)  
Professor Dr. W. Frhr. von Marschall (University of Frankfurt)  
Mr. and Mrs. J. Matson (University of Canterbury, Christchurch, New Zealand)  
Mr. B. W. Rowland (Law Reform Commission of Western Australia)  
Mr. Toohey (President, Law Society of Western Australia)  
Dr. Zaki Mustafa (Attorney-General, Sudan)  
Mr. W. H. Hurlburt, Q.C. (Institute of Law Research and Reform, Alberta, Canada)  
Dr. Lateef Adegbite (Attorney-General, West Nigeria)  
Mr. Lars Gunnar Flemstrom (Federation of Swedish Industries)  
M. Hubert Grandval (Judge of the Administrative Court, Strasbourg, France)

(Signed) SAMUEL COOKE, *Chairman.*  
CLAUD BICKNELL.  
AUBREY L. DIAMOND.  
DEREK HODGSON.  
NORMAN S. MARSH.

J. M. CARTWRIGHT SHARP, *Secretary.*  
30 October 1973.

## APPENDIX 1

### LIST OF THE LAW COMMISSION'S PUBLICATIONS

up to and including Eighth Annual Report

(a) Working Papers published:

- 1966 No. 1. Transfer of Land: root of title to freehold land (this is the subject of Law Com. No. 9).
- No. 2. Draft proposals on powers of the Court of Appeal to sit in private and restrictions upon publicity in legitimacy proceedings (this subject was covered by Law Com. No. 8).
- No. 3. Restrictive covenants (this is the subject of Law Com. No. 11).
- No. 4. Should English wills be registrable?
- No. 5. Liability of trade vendors of new dwelling houses to first and subsequent purchasers (First paper) (this is the subject of Law Com. No. 40).
- No. 6. Liability of vendors and lessors for defective premises (Second paper) (this is the subject of Law Com. No. 40).
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- 1967 No. 7. Provisional proposals for amendments to the Landlord and Tenant Act 1954, Part II (Business tenancies) (this is the subject of Law Com. No. 17).
- No. 8. Provisional proposals relating to obligations of landlords and tenants.
- No. 9. Family Law: matrimonial and related proceedings. Financial relief (this is the subject of Law Com. No. 25).
- No. 10. Proposals for changes in the law relating to land charges affecting unregistered land and to local land charges (partly covered by Law Com. No. 18).
- No. 11. Powers of attorney (this is the subject of Law Com. No. 30).
- No. 12. Proof of paternity in civil proceedings (this is the subject of Law Com. No. 16).
- No. 13. Exploratory working paper on administrative law (this is the subject of Law Com. No. 20).
- No. 14. Interpretation of statutes (Joint Working Paper—Scottish Law Commission Memorandum No. 6) (this is the subject of Law Com. No. 21).
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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) (this is the subject of Law Com. No. 24).
- No. 19. Loss of services (this subject was covered by Law Coms. Nos. 25 and 56).
- No. 20. Nullity of marriage (this is the subject of Law Com. No. 33).
- No. 21. Polygamous marriages (this is the subject of Law Com. No. 42).

- 1969 No. 22. Restitution of conjugal rights (this is the subject of Law Com. No. 23).  
No. 23. Malicious damage to property (this is the subject of Law Com. No. 29).  
No. 24. Transfer of Land: rentcharges (this is the subject of a further Working Paper No. 49).
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- 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 (this is the subject of 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 (this subject is covered by Law Com. No. 56).  
No. 28. Family Law: jurisdiction in matrimonial causes (other than nullity) (this subject is covered by Law Com. No. 48).  
No. 29. Codification of the Criminal Law: subject III. Territorial and extra-territorial extent of the criminal law.  
No. 30. Codification of the Criminal Law: strict liability and the enforcement of the Factories Act 1961.  
No. 31. Codification of the Criminal Law: general principles. The mental element in crime.  
No. 32. Transfer of Land: land registration (First paper).  
No. 33. Criminal Law: perjury and kindred offences.
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- 1971 No. 34. Family Law: jactitation of marriage (this is the subject of a further Working Paper No. 48).  
No. 35. Family Law: solemnisation of marriage (this is the subject of 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 (this subject is covered by Law Com. No. 48).  
No. 39. Exemption clauses in contracts for services (Joint Working Paper—Scottish Law Commission Memorandum No. 15).  
No. 40. Administrative Law.  
No. 41. Personal injury litigation: assessment of damages (this is the subject of Law Com. No. 56).  
No. 42. Family Law: family property law (this is the subject of Law Com. No. 52).
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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.
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- 1973** No. 47. Injuries to unborn children.  
No. 48. Family Law: declarations in family matters.  
No. 49. Transfer of Land: rentcharges.  
No. 50. Codification of the Criminal Law: general principles. Inchoate offences: conspiracy, attempt and incitement.  
No. 51. Transfer of Land: "subject to contract" agreements.  
No. 52. Liability for damage or injury to trespassers and related questions of occupiers' liability.

(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 1965-66.  
Law Com. No. 5. Landlord and Tenant: interim report on distress for rent.  
Law Com. No. 6. Reform of the grounds of divorce: the field of choice (Cmnd. 3123).  
Law Com. No. 7. Proposals for reform of the law relating to maintenance and champerty.  
Law Com. No. 8. Report on the powers of appeal courts to sit in private and the restrictions upon publicity in domestic proceedings (Cmnd. 3149).
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- 1967** Law Com. No. 9. Transfer of Land: interim report on root of title to freehold land.  
Law Com. No. 10. Imputed criminal intent (*Director of Public Prosecutions v. Smith*).  
Law Com. No. 11. Transfer of Land: report on restrictive covenants.  
Law Com. No. 11A. Sea Fisheries (Shellfish) Bill: report by the Law Commission and the Scottish Law Commission on the consolidation of certain enactments relating to shellfish fisheries and shellfish (Cmnd. 3267).  
Law Com. No. 12. Second Annual Report 1966-67.  
Law Com. No. 13. Civil liability for animals.
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- 1968** Law Com. No. 14. Second Programme of Law Reform.  
Law Com. No. 15. Third Annual Report 1967-68 (H.C. 312).  
Law Com. No. 16. Blood tests and the proof of paternity in civil proceedings (H.C. 2).
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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 (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 1968-69 (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. 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 1969-70 (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 1970-71 (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 1971-72 (H.C. 35).
- Law Com. No. 51. Matrimonial Causes Bill: report on the consolidation of certain enactments relating to matrimonial proceedings, maintenance agreements, and declarations of legitimacy, validity of marriage and British nationality (Cmnd. 5167).
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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).
- Law Com. No. 58. Eighth Annual Report 1972-73.

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)
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 1969 (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)
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)



<i>Titles of relevant reports</i>	<i>Date of publication</i>	<i>Implemented</i>
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)
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)

<i>Titles of relevant reports</i>	<i>Date of publication</i>	<i>Implemented</i>
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 proposal 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

APPENDIX 3

MEMBERSHIP OF ADVISORY BODIES

(1) Working Party on General Principles of the Criminal Law (paragraph 32).

- Joint Chairmen: { Mr. Derek Hodgson, Q.C.  
Mr. Norman S. Marsh, Q.C.
- Law Commission member: The Hon. Mr. Justice Cooke
- Members, other than  
representatives of  
the Law Commission { \*The Right Hon. Lord Justice Edmund Davies  
Mr. T. R. Fitzwalter Butler  
Mr. J. H. Buzzard  
Mr. A. E. Cox  
Mr. R. du Cann  
Mr. J. N. Martin, O.B.E.  
\*Professor Glanville L. Williams, Q.C.  
Mr. F. L. T. Graham-Harrison, C.B. (Home Office)  
alternate  
Mr. J. H. Walker (Home Office)  
\*Sir Kenneth Jones, C.B.E. (Home Office)  
alternate  
†Mr. J. Nursaw (Home Office)
- Secretary: Mr. J. C. R. Fieldsend (Law Commission)
- Assistant Secretary: Mr. C. W. Dymont (Law Commission)
- \* Also Members of the Criminal Law Revision Committee  
† Secretary of the Criminal Law Revision Committee

(2) Family Courts Working Party (paragraph 50).

- Chairman: The Hon. Mr. Justice Cooke (Law Commission)  
Her Honour Judge Graham Hall  
Mr. J. W. Bourne (Lord Chancellor's Office)  
Mr. H. Homfray Cooper (Home Office)  
Mrs. V. M. Demmery (Department of Health and  
Social Security)  
Lady Johnston (Law Commission)  
Mr. R. L. Jones (Home Office)  
Mr. A. D. M. Oulton (Lord Chancellor's Office)  
Mr. H. W. Wollaston (Home Office)
- Joint Secretaries: { Mr. A. Akbar (Law Commission)  
Mr. P. C. Edwards (Home Office)

(3) Working Party on Conflicts of Jurisdiction Affecting Children (paragraph 51).

- Chairman: The Right Hon. Lord Justice Scarman, O.B.E.  
The Hon. Mr. Justice Cooke (Law Commission)  
Mr. A. E. Anton, C.B.E. (Scottish Law Commission)  
Mr. G. P. H. Aitken (Scottish Courts Administration)  
Mr. R. K. Batstone (Foreign and Commonwealth  
Office)  
Mr. D. A. Bennet (Scottish Office)  
Mr. M. C. Blair (Lord Chancellor's Office)  
Mr. A. Cope (Law Commission)  
Mr. R. L. Jones (Home Office)  
Miss V. Plowman (Lord Chancellor's Office)  
Mr. N. R. Whitty (Scottish Law Commission)  
Mr. J. W. Wilson (Assistant Secretary to Supreme  
Court of Northern Ireland)
- Secretary: Mr. A. Akbar (Law Commission)

(4) Steering Group on Private International Law (paragraph 53).

- Joint Chairmen: { The Hon. Mr. Justice Cooke (Law Commission)  
The Hon. Lord Hunter (Scottish Law Commission)  
Mr. A. E. Anton, C.B.E. (Scottish Law Commission)  
Mr. Aubrey L. Diamond (Law Commission)
- Joint Secretaries: { Mr. J. B. Allan (Scottish Law Commission)  
Mr. J. M. Cartwright Sharp (Law Commission)

(5) Working Group on Private International Law (Corporeal and Incorporeal Property) (paragraph 53).

- Joint Chairmen: { The Hon. Mr. Justice Cooke (Law Commission)  
The Hon. Lord Hunter (Scottish Law Commission)  
Mr. A. E. Anton, C.B.E. (Scottish Law Commission)  
Miss F. Carmichael (Representative of Scottish  
Departments)  
Mr. J. A. E. Davies (Law Commission)  
Mr. Aubrey L. Diamond (Law Commission)  
Mr. H. S. A. Hart (Department of Trade and  
Industry)  
Mr. T. S. Legg (Lord Chancellor's Office)  
Dr. F. A. Mann (Messrs. Herbert Smith & Co.)  
Mr. I. K. Mathers (Foreign and Commonwealth  
Office)  
Mr. H. S. Trembath (Messrs. Richards Butler & Co.)
- Secretary: Miss J. Richardson (Law Commission)

(6) Working Group on Private International Law (Obligations) (paragraph 53).

- Joint Chairmen: { The Hon. Mr. Justice Cooke (Law Commission)  
The Hon. Lord Hunter (Scottish Law Commission)  
Mr. A. E. Anton, C.B.E. (Scottish Law Commission)  
Miss F. Carmichael (Representative of Scottish  
Departments)  
Mr. J. A. E. Davies (Law Commission)  
Mr. Aubrey L. Diamond (Law Commission)  
Dr. F. A. Mann (Messrs. Herbert Smith & Co.)  
Mr. I. K. Mathers (Foreign and Commonwealth  
Office)  
Mr. K. M. H. Newman (Lord Chancellor's Office)  
Mr. W. J. Sandars (Messrs. Linklaters & Paines)  
Mr. L. V. Wellard (Department of Trade and  
Industry)
- Secretary: Miss J. Richardson (Law Commission)

(7) Foreign Money Liabilities Working Party (paragraph 60).

- Chairman: Mr. Aubrey L. Diamond (Law Commission)  
Mr. A. E. Anton, C.B.E. (Scottish Law Commission)  
Mr. R. K. Batstone (Foreign and Commonwealth  
Office)  
Mr. R. Cassels (The Royal Bank of Scotland)  
Mr. J. A. E. Davies (Law Commission)  
Mr. L. Gretton (Department of Trade and Industry)  
Mr. R. J. Holmes (Lord Chancellor's Office)  
Mr. M. W. Parkington (Law Commission)
- Secretary: Miss J. Richardson (Law Commission)

**(8) Products Liability Working Party (paragraph 65).**

**Chairman:** Mr. Aubrey L. Diamond (Law Commission)  
The Hon. Lord Hunter (Scottish Law Commission)  
Mr. J. A. E. Davies (Law Commission)  
Mr. P. N. Legh-Jones (Barrister)  
Mr. H. Macdonald (Scottish Law Commission)  
Mr. M. W. Parkington (Law Commission)  
Mr. T. N. Risk (Solicitor, Glasgow)  
Mr. M. J. Rogers (Chief Executive, Common Market  
Secretariat, Lloyds)

**Secretary:** Miss J. Richardson (Law Commission)

APPENDIX 4

PARTICIPANTS IN THE COLLOQUIUM ON INJURIES  
TO UNBORN CHILDREN

(Paragraph 62)

*Legal participants*

	The Right Hon. The Lord Widgery, O.B.E. The Right Hon. Sir George Baker, O.B.E. The Hon. Mrs. Justice Lane, D.B.E.
Bar Council Law Reform Committee:	{ Mr. C. M. Clothier, Q.C. Mr. J. D. Stocker, Q.C.
Law Commission:	The Hon. Mr. Justice Cooke Mr. Claud Bicknell, O.B.E. Mr. Aubrey L. Diamond *Mr. Derek Hodgson, Q.C. Mr. Norman S. Marsh, Q.C. Mr. J. Churchill Mr. J. L. Yelland
Scottish Law Commission:	Professor T. B. Smith, Q.C., F.B.A.

*Medical participants*

Royal Society of Medicine:	Sir Hedley Atkins, K.B.E., M.Ch.
Anatomy:	Professor Ruth Bowden, D.Sc. Professor W. J. Hamilton, M.D., F.R.C.O.G.
Endocrinology:	Dr. G. I. M. Swyer, D. Phil., D.M., F.R.C.P.
General Practice:	Dr. J. Woodall, F.R.C.G.P.
Genetics:	Professor Cyril A. Clarke, C.B.E., F.R.C.P., F.R.S.
Obstetrics and Gynaecology:	Miss J. Barnes, F.R.C.O.G. Mr. I. Jackson, F.R.C.O.G. Professor Sir John Stallworthy, F.R.C.O.G.
Odontology:	Professor G. R. Seward, M.D.S., F.D.S., M.B., B.S.
Paediatrics:	Professor L. B. Strang, M.D., F.R.C.P. Professor A. W. Wilkinson, Ch.M., F.R.C.S.E., F.R.C.S.
Pharmacology:	Dr. G. Edward Paget, M.D. Professor Owen L. Wade, M.D., F.R.C.P., F.R.C.P.I. (Hon.) Dr. Miles Weatherall, M.A., D.M., D.Sc., F.I.Biol.
Psychiatry:	Professor D. A. Pond, M.D., F.R.C.P.
Radiology:	Dr. J. Hillyer Smitham, D.M.R.E., F.F.R.

\* Mr. Hodgson was Chairman of the Colloquium.

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