

# The Law Commission

(LAW COM. No. 140)

## NINETEENTH ANNUAL REPORT 1983-1984

*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—

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**THE LAW COMMISSION  
NINETEENTH ANNUAL REPORT: 1983-1984**

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# THE LAW COMMISSION

## NINETEENTH ANNUAL REPORT: 1983-1984

*To the Right Honourable The Lord Hailsham of Saint Marylebone, C.H.,  
Lord High Chancellor of Great Britain*

We have the honour to present our Nineteenth Annual Report pursuant to section 3(3) of the Law Commissions Act 1965. It covers the period from 1 November 1983 to 31 October 1984, but for convenience we mention some developments since then.

### PART I

#### THE PAST YEAR IN OUTLINE

##### Introduction

1.1 The Law Commission was established by the Law Commissions Act 1965 to promote law reform. Under that Act, the Law Commission is required "to keep under review all the law . . . with a view to its systematic development and reform, including in particular the codification of such law, the elimination of anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernisation of the law . . .". For these purposes we receive and consider suggested reforms, prepare programmes of future work in law reform and formulate specific law reform proposals including legislation. Our responsibility includes the preparation of Bills for the repeal of obsolete statutory material and for the consolidation of statutes. Three substantial programmes of law reform were prepared between 1965 and 1973.<sup>1</sup> Much work has been done within those programmes but they have not yet been completed. Our progress on programme projects, and upon projects undertaken as a result of references, is dealt with in Part II. The Commission also acts as a clearing house for law reform proposals. Law reform proposals received by us, or noted in law reports and other published works, are considered and, as appropriate, are either taken into account in our current work, or referred to the relevant department or committee for consideration, or noted for possible future work. The overriding constraint on the publication of complete proposals for law reform is the limited number of lawyers available to do the work. The Commission's staff and cost are described in Appendix 1 and Appendix 5 respectively below.

##### Reports and Working Papers

1.2 We list below the reports (other than those relating to consolidation of statutes)<sup>2</sup> which we have submitted to you during the year since our last annual report<sup>3</sup> and we include one report which was completed just after the end of that period.

(i) Family Law: Declarations in Family Matters: Law Com. No. 132.

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<sup>1</sup>See Law Com. Nos. 1 (1965), 14 (1968) and 54 (1973).

<sup>2</sup>See paras. 2.65-2.74 below.

<sup>3</sup>*Eighteenth Annual Report 1982-1983* (1984) Law Com. No. 131.

- (ii) Law of Contract: Minors' Contracts: Law Com. No. 134.
- (iii) Private International Law: Recognition of Foreign Nullity Decrees and Related Matters: Law Com. No. 137.
- (iv) Custody of Children: Jurisdiction and Enforcement within the United Kingdom: Law Com. No. 138.

The main recommendations contained in these reports are described in Part II. The reports on foreign nullity decrees and on custody of children were prepared jointly with the Scottish Law Commission.

1.3 Shortly after the end of the year covered by this Annual Report there was completed and published a consultation paper, prepared jointly by the Scottish Law Commission and ourselves, on a topic in private international law: Choice of Law in Tort and Delict.<sup>4</sup> The proposals discussed in this paper are described in Part II.<sup>5</sup>

#### **Work on Family Law: Children in Care**

1.4 Following the Report of the Select Committee of the House of Commons on Social Services<sup>6</sup> in April this year, the Secretary of State for Social Services decided to set up an inter-departmental working party to review child care law.<sup>7</sup> This comprises officials from his Department, the Home Office and the Lord Chancellor's Department and Brenda Hoggett from the Law Commission. A team of lawyers from the Commission has been working with the Department of Health and Social Security in analysing the present law relating to children in care and the options for reform and in preparing papers for the Working Party.

1.5 This is an unusual method of working for the Commission but one which we welcome. We hope it may constitute a useful precedent for other law reform projects. There are subjects, such as this, which require detailed and technical study of both statute and common law but which also involve important issues of social policy and public administration. We see it as our task to ensure that the Working Party is as well-informed as possible about the present law and the proposals made for its reform but we recognise that any eventual recommendations will be the responsibility of Government.

#### **The Review of Civil Justice—Civil Procedure**

1.6 In November 1983, in response to the recommendation of the Benson Commission on Legal Services,<sup>8</sup> it was announced that, "[T]he Lord Chancellor intends to undertake a complete and systematic review of civil procedure" and that "[t]he first steps will be a thorough going factual and statistical study of the business management of work at all stages of civil litigation."<sup>9</sup> With the purpose of learning the views of lawyers, users and observers of our system of civil justice as to what should be done first and as

<sup>4</sup>(1984) Working Paper No. 87; Consultative Memorandum No. 62.

<sup>5</sup>See paras. 2.56–2.58 below.

<sup>6</sup>Session 1983–84, H.C. 360.

<sup>7</sup>*Hansard* (H.C.) 19 July 1984, vol. 64, Written Answers col. 326.

<sup>8</sup>The Royal Commission on Legal Services (1983) Cmnd. 7648.

<sup>9</sup>*The Government Response to the Report of the Royal Commission on Legal Services* (1983) Cmnd. 9077, p. 31.

to what should be the main aims of the review, the Law Commission, with your encouragement, convened a Seminar which was held in London on 26 and 27 September 1984. The Chairman of the Seminar was the Right Honourable Lord Templeman. The Seminar was attended by over 40 people. Their names are listed in Appendix 3 to this Report, together with the names of those who attended as observers. All those invited to participate in the Seminar were invited as individuals and not as representatives of any group or office. Papers were prepared and circulated to participants by the Law Commission before the Seminar; in addition your Department made available a discussion paper upon possible methods of conducting a review of the whole system of civil justice. Other papers were submitted by participants before and after the Seminar. Those who sent papers are shown in Appendix 3.

1.7 At the request of the Law Commission, Lord Templeman prepared a report of the proceedings of the Seminar which summarised the views of those attending and described the apparent consensus upon the issues raised for discussion. Copies of the report were sent to all participants. The conclusions set out in Lord Templeman's report are as follows:

#### *“Conclusions*

Those attending the Seminar were not agreed on all questions, and they cannot be regarded as fully representative of the lawyers, or of the users of legal services, in our society. They did, however, represent wide experience of the working of our system of civil justice and some general impressions were conveyed to me from hearing the whole discussion at the Seminar which seem worth recording for the assistance of those who must plan and conduct the work of the review of civil justice.

There seemed to me to be a general belief that the methods by which improvement in the system has been sought in the past are unlikely any longer to be useful. It seemed that among all present—the professional lawyers, the users of legal services and the observers of the working of the system—the need for radical change was accepted: i.e., that our ordinary and long standing methods of resolving disputes either by using the procedures for preparing for and conducting trials, or by reaching settlements in the light (or the shadow) of those procedures, cannot be regarded as immutable. Familiarity with and confidence in the effectiveness of those ordinary procedures and methods must not be allowed to stand in the way of finding other just methods of dispute resolution which are more economically practical for the various disputes in which the ordinary citizen may find himself or herself engaged.

There were reservations expressed as to the utility of employing general business consultants to examine organisations with which they are unfamiliar. It was thought by many that the work of consultants in this field would require detailed planning and direction and that in this work the advisory committee should be concerned. A mere statistical survey of costs and delays which, for reasons already well known, vary enormously in individual cases would be of limited value.



On the issue as to the resources required for the review, and as to how they should be controlled and directed, it seemed to me that in general the Seminar accepted and welcomed the involvement of the Lord Chancellor's Department. Everyone was concerned to secure a satisfactory review and sound recommendations which would enhance the quality of justice administered in all courts and tribunals. The problems involved are numerous and complex. The Seminar did not consider that these problems could be adequately explored by officials of the Lord Chancellor's Department with no assistance on a continuing basis other than that to be derived from a liaison committee of one judge, one barrister and one solicitor. The Seminar, in my view, was seeking a structure which would effectively combine the talents of the Lord Chancellor's Department with the independence, wide variety of skills and experience, and the continuing scholarly attention and learning, which could be provided by an advisory body or standing committee with a permanent or continuing component. I agree with the Seminar views."

1.8 The Law Commission is grateful to Lord Templeman for agreeing to preside and to all participants for their contributions.

#### **Administrative and Public Law**

1.9 There have been, in recent years, many developments in administrative law. In May 1969, the Law Commission proposed to the Lord Chancellor that an inquiry into administrative law was necessary.<sup>10</sup> Two grounds were given: the second, uncontroversial and unambitious, was that there were procedural and institutional aspects of administrative law which were in need of examination and which were beyond the powers of the courts to change. The first ground was both controversial and ambitious: it asserted the need for an inquiry into whether the courts would be assisted by a legislative framework of principles more systematic and comprehensive than had been evolved by case law. The Law Commission did not propose that it could itself carry out such a review. It was suggested that a Royal Commission be appointed to deal with so large a task. The large task was not approved: the time was "not ripe" for such a full-scale inquiry. The reference to the Law Commission in November 1970 was limited to a review of remedies and procedures within the existing law. The Law Commission report was delivered in December 1975.<sup>11</sup> The proposals were implemented by the new R.S.C. Order 53 of 1977. There was thus created "a uniform, flexible and comprehensive code of procedure for the exercise by the High Court of its supervisory jurisdiction . . . It eliminates procedural technicalities relating to the machinery of administrative law . . .".<sup>12</sup>

1.10 Fifteen years have passed since the Law Commission proposed an inquiry into the substantive law of judicial review of administrative action.

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<sup>10</sup>*Administrative Law* (1969) Law Com. No. 20.

<sup>11</sup>*Report on Remedies in Administrative Law* (1976) Law Com. No. 73.

<sup>12</sup>R.S.C. Order 53 rule 1(2) and s.31 of the Supreme Court Act 1981: *Supreme Court Practice* 1985 53/1-41/1; Ackner L.J. in *R. v. I.R.C., ex parte National Federation of Self-Employed and Small Businesses Ltd.* [1980] 2 W.L.R. 579, 593.

In that time there have been important and valuable advances in the substantive law achieved by judicial development of existing principles. There remain, however, rules and limitations in the law which cannot be changed by the courts and which are regarded by many lawyers as defects requiring examination. They include such questions as whether the grounds of review are sufficient in scope; whether a right to damages should be made available for unlawful administrative action;<sup>13</sup> whether special rules are required for dealing with contracts made by administrative agencies or for the liability in tort of such agencies; and whether the redress of grievances arising in some parts of the administration would be more effectively carried out at smaller public expense by the Parliamentary Commissioner, or Ombudsman, or by his office with wider and additional powers. Further, in other common law jurisdictions, after prolonged investigation by law reform agencies, there have been statutory changes in administrative law and the introduction of new institutions and courts. In the United States of America, the powers of the federal courts in administrative law have been laid down by statute since the Administrative Procedure Act of 1946. In 1977, Australia enacted a statutory codification of the grounds of judicial review for the federal courts which defines those administrative decisions which are subject to review by the courts and those which are not.<sup>14</sup> There is, accordingly, much information and experience available for comparative study and for assessment of the risk, which is believed by some lawyers to be real, that statutory codification of this part of administrative law would necessarily preclude or limit useful development by judicial decision without compensating benefits.

1.11 In 1978, because successive Governments had declined to take official action, an unofficial review committee was established by Justice and All Souls College, Oxford, with funds provided by private trusts and companies, under the chairmanship of Sir Patrick Neill, Q.C., Warden of All Souls. A consultative document was published by the committee in April 1981. The advisory panel to the Review Committee included distinguished judges and senior administrators from the Civil Service. We understand that the Report of the Review Committee will be published early in 1985 and we are sure that it will receive the interested attention of both Government and the legal profession. The Report will provide both stimulus and assistance to renewed consideration of the need for an official full-scale inquiry into all aspects of administrative law.

### **The Law Commission's work in Private International Law**

1.12 Since the departure of Dr. Peter North in September 1984<sup>15</sup> the Law Commission has had no Commissioner expert in private international law. It is appropriate to review at this date the work which has been done and which remains to be done in this field.

1.13 In the Preface to the tenth edition of Dicey and Morris, *Conflict of Laws*, the late Dr. Morris then the General Editor, expressed the view that

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<sup>13</sup>*F. Hoffman-La Roche v. Secretary of State for Trade* [1975] 1 A.C. 295, per Lord Wilberforce at pp. 358-359.

<sup>14</sup>Administrative Decisions (Judicial Review) Act 1977, in force October 1980.

<sup>15</sup>See para. 1.24 below.

the most significant recent change in the conflict of laws has been “the increasing tendency for statutes to replace the common law”.<sup>16</sup> This change has come about over the last 20 years or so and it has been effected in a large part by the work of the Law Commission, usually acting in close co-operation with the Scottish Law Commission. The two other main agencies whose law reform proposals in this field have been implemented or are currently under review are the Hague Conference on Private International Law and the E.E.C.; but even here the two Law Commissions have played a significant part in briefing or advising the relevant United Kingdom delegations. All major areas of our private international law, except the law of property, have in this way been subjected to systematic review. Legislation has resulted in some instances and other areas are the subject of current consideration.

1.14 Early in the life of the Law Commission, it was decided that the major review of family law should include its private international law aspect. The result has been reforming legislation on the jurisdiction of the courts to grant matrimonial relief,<sup>17</sup> including changes in the law relating to matrimonial relief in respect of polygamous marriages.<sup>18</sup> Proposals have also recently been made governing the jurisdiction of the court to grant both financial relief after a foreign divorce, annulment or legal separation which is recognised here as valid<sup>19</sup> and declarations in family matters.<sup>20</sup> The rules for the recognition of foreign divorces and legal separations were, as a result of a Hague Convention of 1970 and a Law Commission report thereon,<sup>21</sup> the subject of legislation in 1971.<sup>22</sup> A recent joint report of the two Commissions<sup>23</sup> proposes amendment of that legislation in the light of 10 years’ experience of its working, coupled with the extension of the amended legislation to the recognition of foreign nullity decrees. Choice of law rules relating to marriage are the subject of a current joint consultation paper in preparation by both Law Commissions.<sup>24</sup> Further aspects of the law relating to polygamous marriages will be the subject of a forthcoming joint report.<sup>25</sup> Finally, in the family law field, child custody issues have been subject to reviews. Legislation is expected in this Session of Parliament to implement international conventions agreed in the Council of Europe<sup>26</sup> and at the Hague Conference on Private International Law<sup>27</sup> to deal with the international aspects of child

<sup>16</sup>Dicey and Morris, *Conflict of Laws*, 10th ed. (1980) p. ix; and see Nott, “The Impact of Statutes on the Conflict of Laws”, (1984) 33 I.C.L.Q. 437.

<sup>17</sup>*Family Law: Report on Jurisdiction in Matrimonial Causes* (1971) Law Com. No. 48; Domicile and Matrimonial Proceedings Act 1973.

<sup>18</sup>*Family Law: Report on Polygamous Marriages* (1971) Law Com. No. 42 (1971); Matrimonial Causes Act 1973 section 47.

<sup>19</sup>*Family Law: Financial Relief after Foreign Divorce* (1982) Law Com. No. 117; Matrimonial and Family Proceedings Act 1984.

<sup>20</sup>(1984) Law Com. No. 132.

<sup>21</sup>(1970) Law Com. No. 34; Scot. Law Com. No. 16.

<sup>22</sup>Recognition of Divorces and Legal Separations Act 1971.

<sup>23</sup>*Private International Law: Recognition of Foreign Nullity Decrees and Related Matters* (1984) Law Com. No. 137; Scot. Law Com. No. 88.

<sup>24</sup>(1985) Working Paper No. 89; Consultative Memorandum No. 64.

<sup>25</sup>See (1982) Working Paper No. 83; Consultative Memorandum No. 56.

<sup>26</sup>Council of Europe Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (1981) Cmnd. 8155.

<sup>27</sup>The Hague Convention on the Civil Aspects of International Child Abduction (1981) Cmnd. 8281.

custody disputes: and the two Law Commissions have just submitted their report<sup>28</sup> recommending new jurisdictional rules for child custody cases and new rules for the intra-United Kingdom recognition and enforcement of child custody orders.

1.15 In the field of obligations there are recent law reform proposals under consideration in all three main areas of the law of obligations. So far as choice of law in contract is concerned, the two Law Commissions assisted the United Kingdom delegation taking part in negotiations within the E.E.C. which led to the E.E.C. Convention on the law applicable to contractual obligations, concluded in Rome in 1980 and signed by the United Kingdom in 1981. The law of trusts is the subject of a very recent Convention concluded by the Hague Conference on Private International Law in October 1984<sup>29</sup> and the two Law Commissions have just published a consultation paper on choice of law rules in tort.<sup>30</sup>

1.16 Membership of the E.E.C. has led to major reforms in the rules relating to the jurisdiction of the courts in civil and commercial matters and to the recognition of foreign judgments in such matters.<sup>31</sup> Another related reform has been the enactment of the State Immunity Act 1978, implementing the European Convention on State Immunity (1972).<sup>32</sup> More general issues which have been the subject of Law Commission review have been the rules relating to foreign money liabilities,<sup>33</sup> the issue of classification which arises in relation to periods of limitation or prescription<sup>34</sup> and most recently the law of domicile.<sup>35</sup>

1.17 As and when these law reform proposals reach fruition in terms of legislation, the private international law of this country will have been substantially codified in the sense of having been systematically analysed and placed on a statutory basis—an example of what has been described as “creeping codification”.<sup>36</sup> The one area of law in which there has been less reforming activity is the choice of law rules relating to property. Important reforms were contained in the Wills Act 1963, and proposals relating to assignment were formulated for the E.E.C. Convention on contractual obligations, and for the private international law aspects of the draft E.E.C. Bankruptcy Convention. The property choice of law rules do not appear to give serious practical cause for concern.

1.18 Much effort has, over the past two decades or more, been put into the re-examination and reform of our private international law rules. It is an area of law which may seem to be both difficult and technical, but it is of importance to a major trading nation and in a country where many people

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<sup>28</sup>*Family Law: Conflicts of Jurisdiction affecting the Custody of Children* (1985) Law Com. No. 138; Scot. Law Com. No. 91.

<sup>29</sup>The Convention on the Law Applicable to Trusts and on their Recognition.

<sup>30</sup>(1984) Working Paper No. 87; Consultative Memorandum No. 62.

<sup>31</sup>Civil Jurisdiction and Judgments Act 1982 and see R.S.C. Order 11 rule 1.

<sup>32</sup>Cmnd. 5081.

<sup>33</sup>(1983) Law Com. No. 124; and see (1981) Law Com. No. 109; Scot. Law Com. No. 66.

<sup>34</sup>(1982) Law Com. No. 114; Foreign Limitation Periods Act 1984.

<sup>35</sup>(1985) Working Paper No. 88; Consultative Memorandum No. 63.

<sup>36</sup>See Diamond, 10 *The Law Teacher* (1976) 11, 16.

have close ties with other parts of the world. However, when our current programme of work in this field is completed with the preparation of reports on choice of law in tort and in marriage, and on domicile, we believe that our systematic review of this area of the law can properly for a time be brought to a close.

### **Parliamentary Draftsmen and the Work of the Law Commission**

1.19 The two main areas of work of the Law Commission are, firstly, law reform projects and, secondly, consolidation and statute law revision. Proposals for law reform can be submitted without a Bill, or clauses, by which the proposals could be implemented, but, in most cases, it is better that such drafting be done. Drafting of Bills is done by Parliamentary Counsel who are seconded to the Commission for periods from the Office of Parliamentary Counsel in Whitehall. That Office contains the specialised draftsmen whose task it is to draft Government legislation. The work of refining the proposals in the light of comments by Parliamentary draftsmen adds to the clarity of the proposals themselves and helps in revealing any difficulties inherent in them. This work, however, requires considerable time for its completion after the initial work of writing the proposals for law reform has been completed.

1.20 The work of consolidation of separate existing statutory provisions also requires the work of Parliamentary draftsmen and consolidation of large sections of statute law, such as those relating to companies, capital transfer tax, housing and income and corporation tax, can only be done by skilled and experienced draftsmen with the assistance of lawyers and administrators from the Government Departments concerned. It follows that the progress of the work of the Law Commission in the two main areas is to an important extent controlled by the availability of Parliamentary Counsel having sufficient experience for the particular projects.

1.21 One of the recommendations of the Renton Committee on the Preparation of Legislation<sup>37</sup> was that the Law Commission's strength in Parliamentary draftsmen should be restored and, indeed, increased at the earliest possible moment.<sup>38</sup> In 1975 there were five Parliamentary draftsmen on the strength of the Law Commission. At 1 December 1984 there were five, of whom four are seconded from the number of full-time Parliamentary Counsel at 36 Whitehall and one is a draftsman employed by the Law Commission on a part-time basis. It has been agreed in principle that the number of full-time draftsmen seconded to the Law Commission should be increased from four to six and we understand that steps are being taken to recruit a sufficient number of additional Parliamentary Counsel.

1.22 Over the past year a large proportion of the time of the draftsmen at the Law Commission has been spent upon consolidation work, in particular upon the Capital Transfer Tax Act 1984 and upon Housing.<sup>39</sup> Both these consolidations were given high priority because the statutory provisions

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<sup>37</sup>(1975) Cmnd. 6053.

<sup>38</sup>Cmnd. 6053; para. 8.19.

<sup>39</sup>The CTT Act comprised about 200 pages of text. The Housing Consolidation Bill will comprise about 700 pages.

covered by them are of importance to many professional practitioners, lawyers and administrators in central and local Government, and members of the public. The decision to have different draftsmen at the Law Commission working upon these two consolidations during the same period of time is not regretted. The consequence of that decision, however, was that various law reform projects were delayed for want of a draftsman and, with reference to some other projects, it was decided, at least partly for that reason, to submit the reports to you without a draft Bill.<sup>40</sup> Our purpose on mentioning the matter is to emphasise that the progress of the work of the Law Commission has been delayed by lack of drafting resources and that we could improve that progress if more draftsmen could be employed here. As has been explained before in an annual report<sup>41</sup> the Law Commission, in order to carry out some of the more complex and larger projects of consolidation which require some years to complete, has been able to employ retired Parliamentary Counsel on contract. The supply of experienced draftsmen, however, who are willing to continue with this most exacting work after retirement, is unhappily very small. We are glad that the decision has been made to increase the drafting strength of the Law Commission.

## **Departure of Commissioners**

### **Family Law: Professor Stephen Cretney**

1.23 In October 1978, Stephen Cretney, a solicitor and then a Fellow of Exeter College, Oxford, came to the Law Commission. From that date until the end of 1983 Stephen Cretney was in charge of the Law Commission's work on family law. That work included the Report in 1980 on Orders for Sale of Property under the Matrimonial Causes Act 1973;<sup>42</sup> The Financial Consequences of Divorce: The Discussion Paper in 1980<sup>43</sup> and Response to the Discussion Paper, Recommendations on the Policy of the Law in 1981;<sup>44</sup> Time Restrictions on Presentation of Divorce and Nullity Petitions;<sup>45</sup> Financial Relief after Foreign Divorce;<sup>46</sup> and Illegitimacy,<sup>47</sup> all in 1982. In addition Stephen Cretney worked upon other reports concerned with family law, which have been published after he left the Commission, including those on Declarations in Family Matters;<sup>48</sup> Recognition of Foreign Nullity Decrees;<sup>49</sup> and Conflicts of Jurisdiction affecting Children.<sup>50</sup> The Reports on Orders for Sale of Property, Financial Consequences of Divorce, Time Restrictions and Financial Relief after Foreign Divorce, have all been implemented.<sup>51</sup> The other reports are still under consideration. Whether or not any further parts of his work are passed into law, it is clear that Stephen Cretney, during his time as a Law Commissioner, made a great and distinguished contribution

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<sup>40</sup>See paras. 2.49 and 2.54 below.

<sup>41</sup>*Eighteenth Annual Report 1982-1983* (1984) Law Com. No. 131, para. 2.79.

<sup>42</sup>Law Com. No. 99.

<sup>43</sup>Law Com. No. 103.

<sup>44</sup>Law Com. No. 112.

<sup>45</sup>Law Com. No. 116.

<sup>46</sup>Law Com. No. 117.

<sup>47</sup>Law Com. No. 118.

<sup>48</sup>Law Com. No. 132.

<sup>49</sup>(1984) Law Com. No. 137; Scot. Law Com. No. 88.

<sup>50</sup>(1985) Law Com. No. 138; Scot. Law Com. No. 91.

<sup>51</sup>Matrimonial Homes and Property Act 1981 and Matrimonial and Family Proceedings Act 1984.

to the reform and codification of family law. In addition he used his wide knowledge of property law to good effect in directing our work upon land registration and upon other projects, and in all of the work of the Law Commission his acuity and ability to draft were used to help his colleagues and to improve the work produced. He left the Law Commission to become Professor of Law at the University of Bristol.

### **Private International Law: Dr. Peter North**

1.24 In October 1976, Peter North, then a Fellow of Keble College, Oxford, came to the Law Commission and he remained a Commissioner until September 1984 when he left to become Principal of Jesus College, Oxford. Over that eight-year period Peter North was in charge of the Law Commission's work on private international law. The reports produced under his direction included those on the Council of Europe Conventions on Foreign Money Liabilities and on the Place of Payment of Money Liabilities (a joint report with the Scottish Law Commission);<sup>52</sup> the Classification of Limitation in Private International Law;<sup>53</sup> Foreign Money Liabilities;<sup>54</sup> Recognition of Foreign Nullity Decrees;<sup>55</sup> and Conflicts of Jurisdiction affecting Children.<sup>56</sup> In addition, before he left the Law Commission, Peter North directed our work in the preparation of consultation papers upon three major topics in private international law: Choice of Law Rules in Tort and Delict, the Choice of Law Rules relating to Marriage and the Law of Domicile. Work is also well advanced on a report to follow a consultation document on polygamous marriages, published in 1982.<sup>57</sup> All these projects are being conducted jointly with the Scottish Law Commission. Dr. North has continued to assist us in our work upon these topics since he left the Commission and he has, to our great satisfaction and relief, agreed to take part in the work of preparing the final reports. In his work at the Law Commission Peter North has made, as did Stephen Cretney, a large and distinguished contribution to the reform and codification of that branch of the law which for many years has been his special study. Peter North also had responsibility for much of the Law Commission's work in contract and tort: he directed the work of the Law Commission upon a number of reports including those on the Proposed E.E.C. Directive on the Law Relating to Commercial Agents;<sup>58</sup> Interest;<sup>59</sup> Implied Terms in Contracts for the Supply of Goods;<sup>60</sup> Non-Disclosure and Breach of Warranty in Insurance Law;<sup>61</sup> Breach of Confidence;<sup>62</sup> and on Minors' Contracts.<sup>63</sup> In addition, Peter North's extensive knowledge of private international law enabled the Law Commission, through him, to respond to many requests for advice and assistance by Government Departments on a wide variety of matters. For four years he

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<sup>52</sup>(1981) Law Com. No. 109; Scot. Law Com. No. 66.

<sup>53</sup>Law Com. No. 114.

<sup>54</sup>Law Com. No. 124.

<sup>55</sup>(1984) Law Com. No. 137; Scot. Law Com. No. 88.

<sup>56</sup>(1985) Law Com. No. 138; Scot. Law Com. No. 91.

<sup>57</sup>Working Paper No. 83; Consultative Memorandum No. 56.

<sup>58</sup>(1977) Law Com. No. 84.

<sup>59</sup>(1978) Law Com. No. 88.

<sup>60</sup>(1979) Law Com. No. 95.

<sup>61</sup>(1980) Law Com. No. 104.

<sup>62</sup>(1981) Law Com. No. 110.

<sup>63</sup>(1984) Law Com. No. 134.

directed the work of the negotiations of what became the E.E.C. Convention on the Law Applicable to Contractual Obligations as signed in Rome, 1980. He also led the Commission's role in the negotiating of the E.E.C. draft Non-Life Insurance Services Directive.<sup>64</sup>

1.25 The work of both Stephen Cretney and Peter North at the Law Commission is held in admiration by their colleagues here and was, we believe, of significant value in the public service. We miss their help and advice. We wish them well in the next period of their careers.

### **Senior Staff**

#### **Richard Oerton and Anthony Tuck**

1.26 In the past year these two senior members of the legal staff, who had worked for many years on the Law Commission's landlord and tenant and property work, left the Law Commission. Both had left private practice as solicitors in order to join the Government Legal Service in the Law Commission. Anthony Tuck came to the Law Commission in 1967 and was forced to retire because of ill health. Richard Oerton joined the Law Commission in 1972 and became an Assistant Solicitor in 1978. After reorganisation of the staff structure at the Law Commission Richard Oerton was transferred to the Office of the Treasury Solicitor. Both earned the respect and admiration of successive Commissioners and of all lawyers with whom they worked for their wide knowledge of property law, for their scrupulous standards of scholarship, and for their energetic devotion to the work of the Commission. Despite these qualities they did not enjoy the additional satisfaction of seeing early implementation of some recommendations for reform to which they contributed so much, for implementation is necessarily governed by wider considerations. In the view of all who worked with them, they were both highly successful in their work here, because they were generous of their own learning in their help to colleagues and because they helped to set and to maintain the high standard of work at which the Law Commission has always aimed.

### **New Commissioners**

1.27 Julian Farrand, a Professor of Law at Manchester University, was appointed to the Law Commission on 1 May 1984. Admitted as a solicitor in 1960, his main fields of work as an academic lawyer have been land law, conveyancing and taxation. He then was Vice-President of the Greater Manchester Rent Assessment Panel and still sits as a Chairman of Rent Assessment Committees and of Social Security Appeal Tribunals. He will be in general charge of the work of the Law Commission in property law other than landlord and tenant. Professor Farrand is also Chairman of the Conveyancing Committee.<sup>65</sup>

1.28 Brenda Hoggett was also appointed to the Law Commission on 1 May 1984. A Reader in Law at Manchester University, she was called to the Bar in 1969 and has made a particular study of family law and the law relating

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<sup>64</sup>See Appendix 4C below.

<sup>65</sup>See para. 3.15 below.



to social services. She was a member of the Council on Tribunals from 1980-1984 and sits as an Assistant Recorder. She is in charge of the family law work of the Law Commission.

1.29 Trevor Aldridge, who was admitted as a solicitor in 1960, and who was a partner in Messrs. Bower, Cotton & Bower, from 1962, was appointed to the Law Commission on 1 October 1984. In addition to his practice as a solicitor, Trevor Aldridge has written a number of practitioners' books and guides in various branches of the law and his main work has been in landlord and tenant law, in which field he will direct the work of the Law Commission.

**PART II**  
**LAW REFORM PROJECTS—REPORT ON PROGRESS**

**CONTRACT AND TORT**

**Minors' Contracts**

2.1 A report,<sup>1</sup> together with a draft Minors' Contracts Bill, was submitted to you and was published in June 1984. In this report we examined the law relating to contracts made by people under the age of 18 (minors). We were concerned that the law should provide minors with sufficient protection from their own immaturity and from unscrupulous adults but that it should not overprotect them so as to cause injustice to adults. At present the general principle is that minors who buy goods on credit are entitled to refuse to pay for them. There are certain limited exceptions to this, concerning contracts for the supply of goods considered necessary to the minor, contracts of employment and contracts involving certain lasting property rights or obligations, such as the taking of a lease of land. We concluded that the general principle that a minor's contract should be unenforceable against him was sound and that it should continue to be subject to the existing exceptions which cover contracts of a class likely to benefit minors. This recommendation is in line with the provisional conclusion expressed in our working paper<sup>2</sup> and which was generally supported on consultation.

2.2 In our working paper we had advanced two alternative proposals. The first was that the age at which minors become liable on their contracts should be brought down from 18 to 16. This proposal did not command general support on consultation. A majority of the older minors and those whose work brought them into contact with the relevant age-group were opposed to it on the ground that it gave insufficient protection to minors during the years in question. Accordingly we do not recommend it. The second proposal was the reformulation by statute of the (largely) judge-made present law. Such reformulation would amount to codification of this area of the law and would remove its anomalies, uncertainties and inconsistencies. However, the general view on consultation was that the present law, for all its defects, gave rise to few practical difficulties. It is apparent that minors can obtain credit only in very exceptional circumstances, unless at the same time an adult agrees to indemnify the creditor. We have concluded that the present law does not give rise to such practical difficulties as would justify the major legislative exercise involved in the comprehensive codification of the law governing minors' contracts. Our recommendations and the provisions of our draft Bill are confined to those aspects of the existing law which are likely, in practice, to cause difficulty or to lead to injustice.

2.3 The first recommendation is that the Infants Relief Act 1874 should be repealed. The obscure language of this Act has caused much trouble and remains a potential source of difficulty. It is now obsolete. Its repeal, together with that of section 5 of the Betting and Loans (Infants) Act 1892, will also

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<sup>1</sup>*Law of Contract: Minors' Contracts* (1984) Law Com. No. 134.

<sup>2</sup>*Minors' Contracts* (1982) Working Paper No. 81

ensure that a minor, on attaining his majority, can ratify a contract made by him during his minority. He is unable to do so under the present law. The second recommendation is that a guarantee given to support a loan or an advance of credit to a minor should be enforceable against the guarantor to the same extent as if the minor had, at the time, been adult. At present only an indemnity is enforceable in this situation. This change would be in the interest of both the minor, who may more easily be able to obtain a loan or credit, and the other party to the contract who would possess an enforceable guarantee. The third recommendation would remove a potential injustice. At present, when a minor acquires goods under a contract which is unenforceable against him because he is a minor and he refuses to pay, the adult has no remedy against him in the absence of fraud. This position can give rise to cases of unjust enrichment with the minor retaining goods for which he need not pay. It is recommended that in this situation the court may, if it is equitable and just to do so, require the minor to return the goods, or the proceeds from their sale, to the adult.

### **Parol Evidence Rule**

2.4 This topic involves an examination of the principles in accordance with which a court receives evidence extrinsic to a written contractual document, which evidence modifies what would otherwise be the legal effect of the document. It was considered to be a subject worthy of further work after the general contract codification project was suspended in 1972. During this year some further work has been done but we are at present not persuaded that statutory alteration of this area of the law is required. We hope to complete our work on this long-standing matter during the course of the forthcoming year.

### **Supply of Goods**

2.5 In October 1983 we published, with the Scottish Law Commission, a consultative document on the implied terms in contracts for the supply of goods. This<sup>3</sup> concerns the implied terms as to fitness and quality, the remedies for breach of the implied terms and the circumstances in which a buyer loses his right to reject the goods. It has evoked a large number of comments from the public, which have continued to come in throughout the year. Those who have responded have generally expressed support for the provisional conclusions of the Commissions which were set out in the consultative document. The many comments received on consultation have now been analysed and work has resumed, with the Scottish Law Commission, on the project. Although it is too early to make any firm forecast at this stage, our present hope is that we shall complete our report by the end of 1985 or early in 1986.

### **Supply of Services**

2.6 We have recently commenced preliminary work on the reference concerning the law on the supply of services.<sup>4</sup> Study papers are being prepared

<sup>3</sup>*Sale and Supply of Goods* (1983) Working Paper No. 85; Consultative Memorandum No. 58.

<sup>4</sup>Our terms of reference are set out in our *Seventeenth Annual Report 1981-1982* (1983) Law Com. No. 119, para. 2.5. We explained at the time the reference was made to us that we would not be able to start work on it until our other commitments in the contract field permitted: *ibid.*, para. 2.7.

analysing the existing law and identifying the issues which may need to be resolved. Work on the reference is only in its initial stages.

### **Earlier Reports: The Present Position**

#### *(i) Liability for Defective Products*

2.7 We are not aware of any steps having been taken to implement the proposals on this topic made jointly by us and the Scottish Law Commission in our report in 1977.<sup>5</sup> Further developments await the outcome of still continuing negotiations in Brussels on the draft E.E.C. Directive relating to liability for defective products.

#### *(ii) Trespassers: Civil Liability of Occupiers*

2.8 The Occupiers' Liability Act 1984 came into force in May 1984. It follows the recommendations made by the Law Commission in its Report of 1976 as to persons outside the scope of the Occupiers' Liability Act 1957.<sup>6</sup> The Act amends the law as to the civil liability of occupiers of premises for injury suffered by persons other than their visitors, and also amends the Unfair Contract Terms Act 1977 in relation to persons obtaining access to premises for recreational or educational purposes.

#### *(iii) Insurance Law*

2.9 In 1980 we reported on non-disclosure and breach of warranty in insurance law.<sup>7</sup> The Department of Trade subsequently issued a consultative document and has had discussions with various organisations on reform in this field. The Government has embarked on discussions with the insurance industry and has announced its intention<sup>8</sup> to review whether legislation is appropriate and feasible in the light of whatever changes may be agreed.

#### *(iv) Breach of Confidence*

2.10 In 1981 we published a report, with a draft Bill attached.<sup>9</sup> If implemented it would amend the law as to civil liability for the disclosure or use of information, and in certain circumstances would impose obligations of confidence on persons acquiring information, giving rise to liability in tort. We understand that consultations are proceeding.

#### *(v) Pecuniary Restitution on Breach of Contract*

2.11 The recommendations (by a majority) in our report,<sup>10</sup> published in 1983, were rejected, as you informed us, on the grounds that the present law does not cause unnecessary hardship or injustice and that the introduction of a complex set of rules would lead to increased litigation without any substantial corresponding benefit.

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<sup>5</sup>*Liability for Defective Products: Report by the two Commissions* (1977) Law Com. No. 82; Scot. Law Com. No. 45.

<sup>6</sup>*Report on Liability for Damage or Injury to Trespassers* (1976) Law Com. No. 75.

<sup>7</sup>*Insurance Law: Non-Disclosure and Breach of Warranty* (1980) Law Com. No. 104.

<sup>8</sup>*Hansard* (H.L.) 1984, vol. 458, Written Answers col. 762.

<sup>9</sup>*Breach of Confidence* (1981) Law Com. No. 110.

<sup>10</sup>*Law of Contract: Pecuniary Restitution on Breach of Contract* (1983) Law Com. No. 121.

## CRIMINAL LAW

### **Criminal Code: The General Part**

2.12 Previous annual reports have mentioned the work of a group of distinguished academic lawyers,<sup>11</sup> headed by Professor J. C. Smith, C.B.E., Q.C., which at our request has been studying and drafting the principles upon which the General Part of a Criminal Code should be based. In November 1984 we received from Professor Smith the report and draft clauses prepared by his group. Our present intention is to publish these as soon as possible for discussion. We reserve until publication any extended comment on the work of Professor Smith and his colleagues but we wish now to record the enormous debt which the Law Commission owes to his group. Its members gave freely of their spare time over a period of more than three years and jointly took a sabbatical term from their respective universities for the purpose of completing their task. Such an investment of time and resources on behalf of the Commission is a measure of their devotion to the cause of law reform and codification and, at the same time, a stimulus to the Commission's own commitment to these objectives. The high standards which they set themselves and which they have achieved will be apparent when their report and clauses are published. We hope that their work will receive the wide public acknowledgment that it deserves.

### **Conspiracy to Defraud**

2.13 Developments in the law during the past year have given impetus to our work on the substantive law relating to conspiracy to defraud. The decision of The House of Lords in *R. v. Ayres*,<sup>12</sup> as explained by the decision of the Court of Appeal in *R. v. Tonner*<sup>13</sup> made it clear that, where a conspiracy involves the commission of any substantive offence, the effect of section 5 of the Criminal Law Act 1977 is that the conspiracy may only be charged as a statutory conspiracy under section 1 of that Act: conspiracy to defraud at common law may not be charged even if the agreement is so diverse and complex that the bringing of one all embracing charge at common law might more readily demonstrate the real position to the jury than a series of charges of statutory conspiracy to commit substantive offences set out in different counts but arising out of the same circumstances.

2.14 Whether, and if so how far, the effect of the law made plain by these decisions will in practice hamper the prosecution of complex fraud cases is a matter which will need to be ascertained. In any event, the decisions come at a time when we are re-examining the scope and character of the offences which would be needed in the area of conspiracy to defraud in order to permit the repeal of section 5(2) of the Criminal Law Act 1977 (preserving conspiracy to defraud at common law). In particular we are considering whether new offences in this area should take the form of a wide offence of fraud or of narrower, discrete offences designed to fill the particular gaps in the law which

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<sup>11</sup>The members are Professor Smith (Nottingham University) (Chairman), Professor Edward Griew (Leicester University) and Mr. Ian Dennis (University College, London). Mr. Peter Glazebrook (Jesus College, Cambridge) was a member until his resignation in January 1984.

<sup>12</sup>[1984] 2 W.L.R. 257.

<sup>13</sup>[1984] Crim. L.R. 618.

would become apparent if the common law offence were abolished. This study will in due course lead to the publication of a new working paper which would follow our earlier papers in this field.

2.15 This working paper will in substance form the first part of our renewed study of the law of fraud. In parallel with it, we have in the past year continued our consultations with a view to drawing up a plan of work in the area of fraud in addition to that concerned with the immediate topic of the offences to be recommended in replacement of the common law. Among the topics which we are considering is the extent to which the law might need reform in the light of the use of computers and other electronic equipment. This topic covers not only the illicit use of computers for personal gain but also the more general question of unauthorised access.

### **Binding Over to Keep the Peace**

2.16 In our last annual report<sup>14</sup> we referred to the research upon this subject commenced in 1983 with the assistance of your Department and with the co-operation of the Magistrates' Association, the Justices' Clerks' Society and the Society of Magisterial Officers. That research was concluded in May 1984 and in June we received from the Department a full analysis of the results. As mentioned in our last report, the first stage of the research involved the sending of copies of a simple questionnaire to all magistrates' courts for the purposes of entering on them details of all cases where binding over orders were made as they arose during the course of a specified calendar month. Based upon the results of this questionnaire there were sent, early in 1984, to a representative sample of magistrates' courts, copies of a more detailed questionnaire in order for the process to be repeated during a second, specified calendar month. Co-operation in this research was good: some 94% of magistrates' courts responded to the first stage of research, returning over 2,800 completed forms, while 56 out of 60 sample courts in the second stage returned over 700 forms. This has produced a quantity of material of a kind not hitherto recorded in any systematic fashion.

2.17 This material will be valuable to us in our current work on this subject. It has helped in the drafting of a policy paper which will be considered by the Commission early in 1985. This paper will form the basis of a working paper which we hope to publish in the course of next year. We hope that with this working paper there will be prepared three research papers which together will document a subject which hitherto has not received attention to the same degree as some other areas of the criminal law. It is intended that the research papers will cover, first, the details of our statistical research conducted earlier this year together with some statistical material from other sources; secondly, the historical development of the law; and thirdly a survey of the law in other countries indicating how the problems of "preventive" justice are handled in other jurisdictions. We regard this background material as useful to a proper understanding of this subject and to assist others in assessing the provisional proposals for reform of the law to be made in the working paper.

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<sup>14</sup>*Eighteenth Annual Report 1982-1983* (1984) Law Com. No. 131, para. 2.23.

### **“Poison-pen” Letters**

2.18 Our study of the problem of “poison-pen” letters had its origin in our work on criminal libel. That common law offence has sometimes been used<sup>15</sup> to penalise those sending letters of this character even though the essence of the “poison-pen” letter is, in our view, its purpose to cause anxiety and distress in the recipient rather than to disseminate defamatory material. The difference in character between these two types of publications has led to our separate treatment of them for the purpose of reporting to you. With the support of a substantial number of those commenting on our working paper of Criminal Libel,<sup>16</sup> we intend to submit to you a report recommending the creation of an offence specifically directed at the sending of “poison-pen” letters.

2.19 During the course of 1984 the Commission has considered a draft report with appended draft Bill on this subject and discussions have continued with the object of determining to what extent the Bill should deal, not only with communications in the form of letters, but also with objectionable material such as excrement delivered through private letter boxes and communications made by electronic or other means. We have had much valuable assistance from the Parliamentary Counsel engaged in drafting the Bill.

### **Offences against Religion and Public Worship**

2.20 A policy paper on this subject was considered by the Commission in 1983 and provisional conclusions were reached upon which a final report should be prepared. Since then three new commissioners have been appointed and it has become necessary for the policy relating to these offences to be considered again. A final report should be completed in the course of 1985.

### **Criminal Libel**

2.21 Early this year we completed a draft report and instruction to Parliamentary Counsel following the Commission’s decision<sup>17</sup> to recommend a new statutory offence in place of the present common law offence. This would penalise the publication of matter in the nature of “character assassination”. Progress was delayed because of other demands upon the time of Parliamentary Counsel. Work was resumed on the topic late in 1984.

## **FAMILY LAW**

### **Conflicts of Jurisdiction Affecting Children**

2.22 Early in November 1984, together with the Scottish Law Commission, we submitted to you and to the Secretary of State for Scotland and the Lord Advocate a report on Custody of Children—Jurisdiction and Enforcement within the United Kingdom.<sup>18</sup> This report, which includes a

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<sup>15</sup>(1984) Law Com. No. 131, paras. 2.19–2.20.

<sup>16</sup>(1982) Working Paper No. 84.

<sup>17</sup>(1984) Law Com. No. 131, para. 2.21.

<sup>18</sup>(1984) Law Com. No. 138; Scot. Law Com. No. 91.

draft Bill, recommends common rules of custody jurisdiction, and rules of the mutual recognition and enforcement of custody orders, throughout the United Kingdom. These jurisdictional rules would cover virtually all custody disputes in the United Kingdom including those involving children habitually resident abroad, and would have the effect of confining jurisdiction to the appropriate United Kingdom country and thus restricting the possibility of conflicting decisions and the opportunities for "forum-shopping". A custody order made in one United Kingdom country in accordance with these rules would be recognised in the other countries and, if registered in another such country, would be enforceable there by the High Court or Court of Session as if it were its own order. The report also recommends improvements (additional to the new criminal sanctions created by the Child Abduction Act 1984) in the machinery for the enforcement of custody orders: for example, all courts with custody jurisdiction would have power to make orders restricting a child's removal which would be binding throughout the United Kingdom, and orders for the return of a child, the disclosure of his whereabouts and the surrender of his passport.

2.23 Implementation of the report's recommendations would go far towards providing an orderly and effective system for dealing with "cross-border" custody disputes. The need for such a system is particularly urgent now that legislation on the international aspects of child abduction and the custody of children is to be introduced.<sup>19</sup> It would, for example, be difficult to accept a situation in which a custody order made in the United Kingdom and enforceable abroad would not be enforceable throughout the United Kingdom itself, or in which a foreign custody order would be enforceable in, say, England and Wales and a Scottish order (perhaps affecting the same child) would not. We hope, therefore, that early action will be possible to implement the report and to integrate its recommendations with the international legislation to which we have referred.

2.24 The recommendations in the report are made in the context of complicated systems of substantive law and inevitably reflect these complications. We hope, however, that reforms in the field of child law resulting from the separate review referred to in paragraph 2.28 below will pave the way for further resolution of the problems arising from custody conflicts.

### **Declarations in Family Matters**

2.25 Our report on this subject, with a draft Bill appended to give effect to our recommendations, was submitted to you in January 1984.<sup>20</sup> The report puts forward proposals for reform relating to the remedy known to English family law as "the declaration". A person's status may be in doubt and he may wish to know, for example, whether his foreign marriage or divorce will be recognised in England; or the question may be whether he is legitimate or has become legitimated or whether he has been validly adopted abroad.

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<sup>19</sup>This was announced in the Queen's Speech (*Hansard* (H.L.) 7 November 1984, vol. 457, col. 3). The legislation is expected to provide implementation of the Council of Europe Convention on the Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (1981) Cmnd. 8155, and of the Hague Convention on the Civil Aspects of International Child Abduction (1981) Cmnd. 8281.

<sup>20</sup>(1984) Law Com. No. 132.



The purpose of a declaration is to resolve such doubts once and for all by establishing a person's existing status, but without granting any further relief, such as orders for financial relief or for custody of the children of the family. Such declarations as to family status<sup>21</sup> are at present obtainable under section 45 of the Matrimonial Causes Act 1973 and under the inherent jurisdiction of the High Court as regulated by the Rules of the Supreme Court (Order 15, rule 16).

2.26 The report asserts that section 45 of the Matrimonial Causes Act 1973 is outdated,<sup>22</sup> is restricted in scope, is complex and has failed to provide a satisfactory code of relief; and that there is uncertainty as to the relationships between the statutory and inherent powers to grant declaratory relief. Our main recommendation is that section 45 of the 1973 Act should be repealed and replaced by new statutory provisions which would set out the declaratory relief available in matters of matrimonial status, legitimacy,<sup>23</sup> legitimation and adoption. If our recommendations are accepted and implemented, such declarations would not be available under the court's inherent jurisdiction but only under the new statutory regime.<sup>24</sup> The report also recommends the abolition of the ancient and very rarely used remedy of jactitation of marriage. This is a remedy against unjustified assertions that a marriage exists.

## Children in Care

2.27 Since the beginning of the summer the family law team has been engaged in preparing papers for the Working Party to review child care law which was set up by the Department of Health and Social Security<sup>25</sup> following the Report of the Select Committee of the House of Commons on Social Services.<sup>26</sup> We have, in a number of earlier annual reports,<sup>27</sup> commented on the need to simplify and rationalise the law relating to the circumstances in which a child is received or taken into care. This view was shared by the Social Services Committee in their report and we are glad to be involved in the Working Party. The terms of reference of the Working Party are: in the light of the Report of the Social Services Committee on Children in Care and of evidence given to the Committee and other relevant material to make proposals and set out options for codification and amendment of child care

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<sup>21</sup>A person's status may, of course, be determined as an incidental issue in the course of other proceedings, e.g. in an inheritance case; and a finding made in proceedings will be binding on the parties and those claiming under them. Our report, however, is concerned with "bare" declarations as to family status in proceedings which are brought for that purpose alone.

<sup>22</sup>Notwithstanding its modern setting, s.45 of the 1973 Act does little more than re-enact the substance of statutory provisions dating back to 1858.

<sup>23</sup>We indicated in the report that, if declarations of parentage are introduced (as proposed in our earlier *Report on Illegitimacy* (1982) Law Com. No. 118), it might be necessary to consider whether or not it would be appropriate to dispense entirely with separate declarations of legitimacy and legitimation.

<sup>24</sup>The report also makes detailed proposals as to the rules which should apply to the declarations under the proposed statutory scheme, e.g. as to who should be able to apply for a declaration and as to jurisdictional rules and procedural safeguards.

<sup>25</sup>*Hansard* (H.C.) 19 July 1984, vol. 64, Written Answers col. 326.

<sup>26</sup>Session 1983-84, H.C. 360.

<sup>27</sup>*Fourteenth Annual Report 1978-1979* (1979) Law Com. No. 97, para. 2.30; *Fifteenth Annual Report 1979-1980* (1981) Law Com. No. 107, para. 2.28; *Sixteenth Annual Report 1980-1981* (1982) Law Com. No. 113, para. 2.53 and *Eighteenth Annual Report 1982-1983* (1984) Law Com. No. 131, para 1.5.

law. It is intended that the Working Party put forward proposals as soon as possible on which wide consultation can be based.<sup>28</sup> The Working Party has been given one year in which to complete its task and we therefore foresee that the family law team will be devoting most of its time to this project until the summer of 1985.

### **Review of Child Law**

2.28 In addition to our work in relation to children in care we have initiated a review of the private law relating to the upbringing of children. In our last annual report, we described the law of custody and guardianship as unsatisfactory and agreed that priority should be given to reform in this area.<sup>29</sup> A number of problems arise in considering any such reform, ranging from whether it is possible or desirable to identify the rights and duties of parents or guardians, or how best the effect of custody and other orders might be clarified, to much broader issues concerning any changes in the substantive law needed to safeguard and promote the welfare of children, who are today experiencing an increasing diversity of family relationships. We sought to identify some of these difficulties in a discussion paper which was circulated to a number of academic lawyers specialising in the subject, who were also invited to a seminar held on 24 October 1984. The purpose of this was to canvass opinions to help the family law team decide upon the scope and content of the review. We were encouraged by the response to the seminar and have found the views expressed helpful in identifying the issues of major concern. The involvement of experts at an early stage in the planning of our work is a most useful practice which we hope to continue.

2.29 At some points this review is linked to our work on child care law and we hope that some harmonisation of the public and private law might ultimately be achieved. However, the two exercises are quite separate and, as we have already explained, are being conducted in different ways.

### **The Ground for Divorce**

2.30 Although we are giving priority to our work on child law, we have continued to take note of developments relevant to the reform of the ground for divorce. We await with interest the Report of the Matrimonial Causes Procedure Committee under the chairmanship of Mrs. Justice Booth. When that Report is available and reactions to it are known, we shall be in a position to complete our work upon a consultation paper.

### **Married Women's Property Act 1964**

2.31 This Act is concerned with the ownership of money and property derived from housekeeping allowances made by husbands to wives. In the course of the year the Scottish Law Commission<sup>30</sup> recommended certain amendments to the Act as it applies in Scotland.<sup>31</sup> This caused us to review

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<sup>28</sup>*Hansard* (H.C.) 19 July 1984, vol. 64, Written Answers col. 326.

<sup>29</sup>*Eighteenth Annual Report 1982-1983* (1984) Law Com. No. 131, paras. 1.5 and 2.43.

<sup>30</sup>(1984) Scot. Law Com. No. 86, para. 4.16.

<sup>31</sup>Clause 26 of the Family Law (Scotland) Bill (H.L.) 1984 gives effect to these recommendations.

the Act as it applies in England and Wales and we intend to publish a working paper on the subject.

### **Earlier Reports: The Present Position**

(i) *Financial Consequences of Divorce, Time Restrictions on the Presentation of Divorce and Nullity Petitions, and Financial Relief After Foreign Divorce.*

2.32 During the course of the year the substance of the recommendations contained in each of our reports<sup>32</sup> on these matters has been enacted in the Matrimonial and Family Proceedings Act 1984 and the sections relating to the first two are now in force.

(ii) *Illegitimacy*

2.33 The recommendations in our Report on Illegitimacy<sup>33</sup> have been accepted by the Government<sup>34</sup> and we hope that it will be possible for these to be implemented soon.

(iii) *Adoption and Fatal Accidents Act Damages*

2.34 The Adoption Agencies Regulations 1983,<sup>35</sup> the Adoption Rules<sup>36</sup> and the Magistrates' Courts (Adoption) Rules 1984<sup>37</sup> implement a recommendation made in our Fourteenth Annual Report.<sup>38</sup> Where an application is made to adopt an orphaned child the court must now be informed, not only of any rights to or interest in property which the child stands to retain or lose if adopted, but also of any claim to damages under the Fatal Accidents Act 1976 or otherwise.<sup>39</sup> This should also be considered by an adoption agency in placing such a child.<sup>40</sup>

### **Other Family Law Work**

2.35 Attention is being given to problems relating to family property and in particular to the ownership and occupation of the family home. With regard to ownership issues between married or unmarried partners, we have already referred<sup>41</sup> to the decision of the Court of Appeal in *Burns v. Burns*.<sup>42</sup> In that case the plaintiff had lived with the defendant for 19 years as man and wife but at the end of their relationship had no rights in respect of their common home. As Lord Justice Fox observed, "the unfairness of that is not a matter which the courts can control. It is a matter for Parliament".<sup>43</sup>

<sup>32</sup>*The Response to the Law Commission's Discussion Paper and Recommendations on the Policy of the Law* (1981) Law Com. No. 112; (1982) Law Com. No. 116; (1982) Law Com. No. 117.

<sup>33</sup>(1982) Law Com. No. 118.

<sup>34</sup>*Hansard* (H.C.) 5 July 1983, vol. 63, Written Answers col. 227.

<sup>35</sup>S.I. 1983 No. 1964.

<sup>36</sup>S.I. 1984 No. 265.

<sup>37</sup>S.I. 1984 No. 611 (L.5).

<sup>38</sup>(1980) Law Com. No. 97, para. 2.31.

<sup>39</sup>S.I. 1984 No. 265, sched. 2, para. 1(n); S.I. 1984 No. 611 (L.5), sched. 2, para. 1(n).

<sup>40</sup>S.I. 1983 No. 1964, sched., Pt. 1, para. 13.

<sup>41</sup>*Eighteenth Annual Report 1982-1983* (1984) Law Com. No. 131, para. 2.42.

<sup>42</sup>[1984] 2 W.L.R. 582.

<sup>43</sup>[1984] 2 W.L.R. 582, 595.

With regard to the courts' powers to adjust the parties' respective rights of occupation, we have noted the observation of Lord Scarman in *Richards v. Richards*<sup>44</sup> that "[t]he sooner the range, scope, and effect of these powers are rationalised into a coherent and comprehensive body of statute law, the better". At the same time, we see that the current Family Law (Scotland) Bill implements the Report of the Scottish Law Commission on Matrimonial Property,<sup>45</sup> which recommended against any scheme for automatic co-ownership of the matrimonial home. Hence it now appears unlikely that the scheme which we recommended, both in our Third Report on Family Property<sup>46</sup> and in our report on the implications of *Williams & Glyn's Bank Ltd. v. Boland*,<sup>47</sup> will be put into effect in the foreseeable future. The family and property law teams therefore hope to give further thought to all these matters in order to see what alternative improvements in the law might be possible.

## PROPERTY LAW (APART FROM LANDLORD AND TENANT)

### General

2.36 The First Programme of Law Reform Item IX Transfer of Land was extended to the simplification and modernisation of "the whole law relating to transfer of both registered and unregistered land" in our First Annual Report.<sup>48</sup> We have now embarked upon an examination of the following topics:

#### (i) *Formalities of contract for sale, etc. of land*

2.37 A contract for the sale or other disposition of any interest in land will in general be unenforceable by action unless all of its terms are evidenced in some writing which has been signed by the defendant or his agent. These formalities, derived from the Statute of Frauds 1677 but re-enacted in 1925, appear to have been relied on very often in practice, not to prevent fraud, but to defeat what would otherwise be entirely valid contracts. In addition, the operation of the statutory provisions where clients have reached informal oral agreements has given rise to unacceptable complications and has caused excessive concern to practitioners with regard to inadvertent memoranda. Beyond this, it may be contended that land, especially the family home, constitutes such an important asset that any transaction if it is to be binding and enforceable should involve use of a prescribed form of contract.

#### (ii) *Execution of deeds*

2.38 In order to be effective a deed must not only be signed but also sealed and delivered. The requirement of sealing has long been stigmatised as an archaic formality ripe for removal or replacement by some meaningful requirement. The requirement of delivery has occasioned difficulties in

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<sup>44</sup>[1984] 1 A.C. 174, 207.

<sup>45</sup>(1984) Scot. Law Com. 86.

<sup>46</sup>(1978) Law Com. No. 86.

<sup>47</sup>*Property Law: The Implications of Williams & Glyn's Bank Ltd. v. Boland* (1982) Law Com. No. 115.

<sup>48</sup>(1966) Law Com. No. 4, para. 70.

various cases in connection with *escrows*: i.e., the delivery of a document to be a deed only when and if certain conditions are satisfied. The difficulties have mostly related to three aspects: (i) escrows are irrevocable; (ii) conditions of escrows do not have to be expressed or even communicated; and (iii) on satisfaction of the conditions, the deed takes effect retrospectively.

(iii) *Title on death*

2.39 Various aspects of dealing with land following a death have given rise to particular problems, for example the differences as to powers between administrators and executors, the chain of representation, and the efficacy of assents, especially implied assents. A general re-examination of the topic appears called for.

2.40 These are all legal topics which various persons and bodies, The Law Society in particular, have frequently suggested should be examined by us as occasioning undue difficulties or complexities in the practice of conveyancing. They are regarded as comparatively small self-contained topics upon which it should be possible to consult and reach conclusions within the foreseeable future. Accordingly, we are in course of preparing documents assessing the situation in relation to each and setting-out provisional conclusions. It is intended that these documents should be issued for specialist and general consultation during the first quarter of next year.

(iv) *Other topics*

2.41 In addition, we have begun to direct our attention towards the subject of trusts of land following numerous suggestions over the years that the existing regime, stemming from the 1925 property legislation, of strict settlements and trusts for sale causes unnecessary confusion for conveyancers and their clients. It appears generally recognised that the technicalities involved in these two distinct sorts of trust have become inappropriate to modern forms of land holding, especially in cases of beneficial co-ownership, and also that the powers of trustees in relation to land require considerable clarification. Connected difficulties are caused by the possibility of bare trusts subsisting outside the statutory regime. Accordingly, we have begun actively to consider the issues and the implications with the intention of having a general consultation paper ready by the middle of next year.

2.42 Further, in our Fifteenth Annual Report,<sup>49</sup> expressing our views on certain proposals of the Royal Commission on Legal Services for the improvement and simplification of conveyancing law and procedure, we observed:

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

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<sup>49</sup>*Fifteenth Annual Report 1979–1980* (1981) Law Com. No. 107, Appendix 1, para. 15.

It is our expectation that we shall be able to begin such a review of the whole law of mortgages before the end of next year and certain preparatory work has already been undertaken in anticipation of this.

### **Land Registration**

2.43 During this year the fresh consultations mentioned in our last annual report<sup>50</sup> on the question of inspection of the Register were undertaken. This involved the publication of a pamphlet and its dissemination to the public through public libraries and the offices of a leading building society. Some 46,000 copies were distributed and produced approximately 400 replies. Although the great majority of those who replied favoured an "open" register of title (ratio 6 : 1), an initial impression must be that the general public is not greatly concerned about the question. However, a full analysis of the response to the pamphlet, including reasons given and reservations expressed, will be carried out for the purpose of preparing our Report on Inspection which should be published early in 1985.

2.44 Professor Farrand also drew up in the course of this year a provisional report on overriding interests, rectification of the Register and indemnity. This provisional report has been circulated to a limited number of specialists and other persons interested. It was felt that a fresh, brief consultation should take place because some of the proposals in the provisional report were quite different from what had been discussed in the two working papers.<sup>51</sup> Indeed, treating overriding interests and rectification and indemnity as interconnected topics was, of itself, a novel approach. We have deliberately asked for responses to the provisional report to be submitted within a very short period and we hope to publish a final report on this subject early next year at the same time as our Report on Inspection.

2.45 The only other area of the land registration system still receiving our consideration is that of the Protection and Priority of Minor Interests. A report in draft form on this subject has been drawn up but it will require alteration in the light of what we propose with regard to overriding interests. We expect this report to be published contemporaneously with our other reports early in 1985.

### **Chancel Repairs**

2.46 Our working paper<sup>52</sup> published in 1983 considered the unsatisfactory aspects of this ancient liability for chancel repairs which attaches to some land. The present law was seen as uncertain and anomalous as well as involving dangers for those purchasing land affected by the liability. The working paper provisionally concluded that the liability should be phased out, without compensation, over a period of 20 years. Throughout this year we have been receiving comments on the working paper and these continue to come in. After analysis of this response we shall submit to you a report containing our final recommendations.

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<sup>50</sup>*Eighteenth Annual Report 1982-1983* (1984) Law Com. No. 131, para. 2.44.2.

<sup>51</sup>*Transfer of Land* (1971) Working Paper No. 37; (1983) Law Com. No. 125; *Transfer of Land* (1972) Working Paper No. 45; (1983) Law Com. No. 125.

<sup>52</sup>*Transfer of Land: Liability for Chancel Repairs* (1983) Working Paper No. 86.

## **Rights Appurtenant to Land**

2.47 As we recorded in our last annual report,<sup>53</sup> we submitted to you in November 1983 our first report on the subject of appurtenant rights, *The Law of Positive and Restrictive Covenants*.<sup>54</sup> This report identifies defects in the existing law of positive and restrictive covenants and proposes the creation of a new legal interest in land to be known as a "land obligation". The report was published in January 1984 and the proposals have been favourably received by commentators. We understand that your department is carrying out consultation on a number of matters connected with the report before final decisions as to its implementation are taken.

## **Rights of Access to Neighbouring Land**

2.48 We have now prepared a draft report with the principal recommendation that a person should be able to obtain a right of access to neighbouring land for the purpose of carrying out work to his own land. The right of access should arise only at the discretion of the county court. The access scheme is a simplified version of that envisaged in the working paper<sup>55</sup> since it seemed to us that the original scheme would be too complicated to cater satisfactorily for normal access requirements. We shall submit the report to you once draft clauses have been prepared.

# LANDLORD AND TENANT

## **Landlord and Tenant—Earlier Work of the Commission**

2.49 The work of the Law Commission upon landlord and tenant law over a period of about ten years has made slow and unsatisfactory progress, despite the devoted and highly competent work of those engaged upon it. We have described in earlier reports the course of the work and the reasons why from time to time work was suspended.<sup>56</sup> We shall in the near future be submitting to you the two reports which were first completed in draft form some years ago for consultation purposes. They are the *Report on Covenants Restricting Dispositions, Alterations and Changes of User* ("The Covenants Report") and the *Report on Termination of Tenancies* ("The Termination Report"). We had decided that the Covenants Report and that part of the Termination Report dealing with the proposed new scheme for tenants' termination orders, would be prepared for publication without draft clauses for implementing the proposals, but that clauses would be drafted for implementing the proposal for reform of the law of forfeiture, the new scheme for landlords' termination orders.<sup>57</sup> We will, in the event, be submitting no clauses in either report. It seemed to us that any further delay would be

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<sup>53</sup>*Eighteenth Annual Report 1982-1983* (1984) Law Com. No. 131, para. 2.47.

<sup>54</sup>(1984) Law Com. No. 127.

<sup>55</sup>*Rights of Access to Neighbouring Land* (1980) Working Paper No. 78.

<sup>56</sup>*Thirteenth Annual Report 1977-1978* (1978) Law Com. No. 92, para. 2.34; *Fourteenth Annual Report 1978-1979* (1979) Law Com. No. 97, paras. 2.28-2.40; *Fifteenth Annual Report 1979-1980* (1980) Law Com. No. 107, paras. 2.34-2.37; *Sixteenth Annual Report 1980-1981* (1981) Law Com. No. 113, paras. 2.63-2.66; *Seventeenth Annual Report 1981-1982* (1982) Law Com. No. 119, paras. 2.65-2.66; *Eighteenth Annual Report 1982-1983* (1983) Law Com. No. 131, paras. 2.53-2.56.

<sup>57</sup>*Eighteenth Annual Report 1982-1983* (1983) Law Com. No. 131, para. 2.54.

intolerable and that, having regard to the delay in other projects caused by the lack of available time of draftsmen, we were not confident that the further expenditure of drafting resources on either of these projects would be justified.

2.50 The Law Commission's work in landlord and tenant law began with Item VIII of the First Programme: "An examination . . . of the basic law of landlord and tenant with a view to its modernisation and simplification and the codification of such parts as may be appropriate". That programme was approved in 1965. The first work completed under it was the Report on Obligations of Landlords and Tenants.<sup>58</sup> That report has not been implemented. The Law Commission was unwilling to commit resources to the completion of further work on other parts of the basic law of landlord and tenant if there was no prospect of implementation of the reforms. Government was, of course, unable to decide upon the utility and upon the prospects of implementation until proposals in sufficiently detailed form were available for consideration and consultation. The two reports shortly to be submitted to you are, we hope, in sufficient detail, although submitted without clauses, for effective consultation to be carried out.

2.51 It is clear that the basic law of landlord and tenant, which forms the common foundation for the various special parts of the law, such as those relating to agricultural holdings, business and industrial properties, and housing in the public and private sectors, is a field of particular difficulty for major law reform projects. Proposals to remove complicated, outdated and technical rules which add to the expense and delay in proceedings, without serving any apparently useful purpose, may be controversial if they appear to facilitate (even in proper cases) the eviction of tenants from holdings. It may be argued that other methods of reform should be devised which, while reducing expense etc., will secure some countervailing and additional security for tenants. Since the law contributes to the control of the balance of negotiating power between landlords and tenants of varying degrees of economic strength, there are few, if any, proposals for reform which are incapable of producing sharp controversy. We hope and believe that the proposals contained in the two reports would not, if implemented, significantly interfere with or disappoint the reasonable expectations of landlords or tenants or make any change in the point of balance between them which would be regarded as unfair or unwelcome by very many. We realise that we may be wrong in this assessment of the proposals. If the proposed reforms are regarded in principle as useful and desirable then the further work of drafting clauses, and of consultation upon a draft Bill, would be justified.

#### **Landlord and Tenant—Future Work of the Commission**

2.52 We have been giving consideration to the direction of our future work on landlord and tenant law which will be under the direction of Trevor Aldridge. It is probable that work will concentrate on more limited projects which offer the prospect of useful reforms without requiring the extensive commitment of both time and resources which wide-ranging projects necessarily demand. We would hope to obtain the co-operation and assistance of the Departments concerned and of representatives of those directly affected

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<sup>58</sup>(1975) Law Com. No. 67.



and their professional advisers by means of working parties. Two projects are under immediate consideration. The first is the rule which makes the original parties to a lease responsible for the performance of their covenants even after they have parted with all interest in the property. This has recently resulted in ex-tenants facing substantial bills for rent left unpaid by their successors.<sup>59</sup> The second topic is the ancient remedy of distress for rent, on which the Commission published an interim report in 1966.<sup>60</sup> That recommended that no further action be taken for the time being, because at that time the Payne Committee<sup>61</sup> had not reported. The law on this topic is widely regarded as antiquated and obscure.

## PRIVATE INTERNATIONAL LAW

### Polygamous Marriages

2.53 Our work in this field concerns the rule that in certain circumstances (though not in every case) a marriage entered into in polygamous form by a person domiciled in this country is regarded as void in this country, even if the marriage is in fact monogamous. We explained in our last annual report<sup>62</sup> that work had commenced on the preparation of a joint report with the Scottish Law Commission, which was to be accompanied by draft legislation for the purpose of resolving the difficulties and anomalies that arise under the present law; and we pointed out that careful consideration would need to be given to the question of the extent to which our recommendations should be given retrospective effect.

2.54 The various policy issues were resolved and a draft report prepared during the first half of 1984, but the preparation of draft legislation was then delayed because until recently every draftsman at the Law Commission has been engaged in the preparation of legislation in other areas of the law with which the Commission was concerned. However, work has now commenced on the preparation of a draft Bill, and we expect to submit a joint report with the Scottish Law Commission, accompanied with a draft Bill and explanatory notes, during the first half of 1985.

### Choice of Law Rules in Marriage

2.55 In February 1984 we and the Scottish Law Commission set up a working party to assist us in our review of the choice of law rules relating to marriage. The members of the Joint Working Party are listed in Appendix 2, and we are very grateful for the advice they had given us. We expect that the consultation paper, which we are preparing jointly with the Scottish Law Commission, will be published early in 1985.

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<sup>59</sup>*Centrovincial Estates p.l.c. v. Bulk Storage Ltd.* (1983) 268 E.G. 59; *Allied London Investments Ltd. v. Hambro Life Assurance Ltd.* (1984) 269 E.G. 41; *Selous Street Properties Ltd. v. Oronel Fabrics Ltd.* (1984) 270 E.G. 643.

<sup>60</sup>*Interim Report on Distress for Rent* (1966) Law Com. No. 5.

<sup>61</sup>(1969) Cmnd. 3909.

<sup>62</sup>*Eighteenth Annual Report 1982-1983* (1984) Law Com. No. 131, para. 2.60.

## Choice of Law in Tort and Delict

2.56 A consultation paper on this subject has been completed and was published jointly by ourselves and the Scottish Law Commission in December 1984. The consultation paper is the work of the Joint Working Party on Private International Law which was set up by ourselves and the Scottish Law Commission.<sup>63</sup> The members of the Joint Working Party are listed in Appendix 2 below. We are grateful to them for the work which they have done, and also to the Office of Law Reform in Northern Ireland for their assistance on Northern Ireland Law. We have invited comments by 16 July 1985 upon the views expressed in the consultation paper. We are grateful to our former colleague Dr. Peter North for continuing to take an active part in this exercise. The consultation paper deals with a vexed question: what law should be applied by a court in the United Kingdom in an action based upon a tort or delict committed abroad or in another part of the United Kingdom, or which involves some other foreign element? Although such cases have hitherto arisen only infrequently, it is possible that with the coming into force of the Civil Jurisdiction and Judgments Act 1982 the number of such cases will rise; the increased mobility of people and products also makes such cases ever more likely. At present, the basic rule in Scotland,<sup>64</sup> in England and Wales,<sup>65</sup> and probably also in Northern Ireland, results in the action being governed by a combination of the law of the place where the tort occurred (the "*lex loci delicti*") and the law of the place where the court sits (the "*lex fori*"). The plaintiff will succeed in his action only to the extent that *both* systems of the law would permit him to do so. The plaintiff's claim will therefore fail if one of these two systems of law would deny him relief, even though he could succeed under the other system if it were applied by itself. In England and Wales, and probably also in Northern Ireland, this general rule is qualified by the exception created in *Boys v. Chaplin*,<sup>66</sup> which may permit the plaintiff to succeed even though his claim would fail under the law of the place where the tort occurred, and perhaps in other circumstances as well. The exact effect of the *Boys v. Chaplin* exception is highly uncertain, and it has not yet been adopted in Scotland.

2.57 The consultation paper concludes that the uncertainty of the *Boys v. Chaplin* exception is unsatisfactory. It also concludes that the general rule itself is outdated and unnecessary in its heavy reliance upon the law of the forum and unjust in that the plaintiff is at a disadvantage, since he must show he has a good case under two systems of law, and not just one. The general rule is therefore favourable to defendants, who may escape liability if they can raise a defence under either of two systems of law.

2.58 The consultation paper examines eight options for reform and provisionally concludes that only two would be acceptable:

- (i) that subject to certain exceptions, the applicable law in actions in the United Kingdom on a foreign tort or delict should be that of the country where the tort or delict occurred. There would be

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<sup>63</sup>See our *Fourteenth Annual Report 1978-1979* (1980) Law Com. No. 97, para. 2.42.

<sup>64</sup>*McElroy v. McAllister* 1949 S.C. 110.

<sup>65</sup>*Phillips v. Eyre* (1870) L.R. 6 Q.B.1.

<sup>66</sup>[1971] A.C. 356.

presumptions which would indicate the applicable law for the most commonly occurring torts, such as personal injury and damage to property;

- (ii) that the "proper law" should apply—that is, the law of the country with which the occurrence and the parties had the closest and most real connection. Again, there would be presumptions which would indicate the applicable law for the most commonly occurring torts.

The questions raised are numerous and very intricate indeed. For example, economic torts and the tort of defamation raise many difficult questions, as does the area of products liability.

### **Domicile**

2.59 The concept of domicile has been developed to provide a link, in certain circumstances, between a person and a particular legal system. The function of such a link or connecting factor is to provide a means of establishing under which system of laws and within the jurisdiction of which country's courts, questions relating to a person's civil status (such as marriage, divorce, and legitimacy) and some aspects of their property (such as the devolution of moveable property on their intestacy) fall to be determined. This is especially important now that increasing numbers of people move about the world from one country to another. The essential feature of domicile is that it attempts to connect a person, so far as it is possible, with the country in which he has his permanent home or intends to live indefinitely. Although domicile is used as the fundamental connecting factor in the United Kingdom, the United States, and many other countries, especially those in the Commonwealth, different connecting factors, in particular nationality and habitual residence, are preferred by some other countries.

2.60 The growing dissatisfaction with the concept of domicile as a connecting factor and the problems with the present law were noted in our last annual report.<sup>67</sup> In brief, the main defect is that the rules for acquiring a new domicile are too inflexible for an increasingly mobile society, with the result that people can find themselves treated as domiciled in law in a country with which they have no real connection.

2.61 Following the consultations to which we referred in our last annual report,<sup>68</sup> we and the Scottish Law Commission set up a joint working party in January 1984 to examine the law of domicile and various proposals for reform. The members of the Working Party are listed in Appendix 2 and we are grateful to them for all the assistance which they gave us. The Working Party completed its work in May 1984 and the team have, thereafter, been involved in the preparation of a joint consultative document, embodying the two Law Commissions' provisional views, which we expect will be published early in 1985.

2.62 The purpose of the consultative paper is to consider whether any of the connecting factors other than domicile would be sufficient and appropri-

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<sup>67</sup>*Eighteenth Annual Report 1982-1983* (1984) Law Com. No. 131, paras. 2.68-2.69.

<sup>68</sup>*Ibid.*

ate to determine with which legal system an individual should be generally connected. The paper will express the view that neither nationality nor habitual residence could replace domicile. The paper then analyses the defects in the existing law and concludes by proposing a new, simplified and more flexible set of rules for determining a person's domicile which, it is hoped, will more closely reflect the reality of a person's connections with a particular system of law.

### **Classification of Limitation of Actions**

2.63 The report,<sup>69</sup> submitted to you in 1982, has now been implemented (with a minor modification) by the passing of the Foreign Limitation Periods Act, which received the Royal Assent in May 1984. Whereas previously, in cases with a foreign element, the limitation period was governed by English law as the law of the place of trial, the law of the country governing the claim will now determine the limitation period. There is also a clause enabling the English court to refrain from applying the foreign rules if to do so would be contrary to English public policy in the particular circumstances.

### **Recognition of Foreign Nullity Decrees and Related Matters**

2.64 This report,<sup>70</sup> prepared jointly with the Scottish Law Commission, deals with the recognition of foreign nullity decrees, an issue upon which there is uncertainty and where international efforts to reach agreement have failed. We have recommended the repeal of the Recognition of Divorces and Legal Separations Act 1977 and the enactment of a new, less complex and more comprehensive statute containing all the law relating to the recognition of foreign divorces, annulments and legal separations. The report contains a draft Bill which would give effect to our recommendations.

## **STATUTE LAW**

### **Consolidation**

2.65 The following consolidations (other than consolidations relating to Scotland only) were passed during the period from 1 November 1983 to 31 October 1984, when the 1983-84 Session of Parliament ended:—

Building Act 1984

Capital Transfer Tax Act 1984

County Courts Act 1984

Dentists Act 1984

Food Act 1984

Public Health (Control of Disease) Act 1984

Registered Homes Act 1984

Road Traffic Regulation Act 1984.

2.66 The Public Health (Control of Disease) Act 1984 and the Registered

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<sup>69</sup>(1982) Law Com. No. 114.

<sup>70</sup>(1984) Law Com. No. 137.

Homes Act 1984 incorporated amendments recommended by the Law Commission.<sup>71</sup> The Dentists Act 1984 and the Road Traffic Regulation Act 1984 incorporated amendments recommended by the Law Commission and the Scottish Law Commission jointly.<sup>72</sup>

2.67 In addition, the Building Act 1984 and the Capital Transfer Tax Act 1984 reflected changes in the law made specifically for the purpose of facilitating consolidation. In the case of the Building Act, the changes were effected in the Housing and Building Control Act 1984; in the case of the Capital Transfer Tax Act, they were contained partly in the Finance Act 1983 and partly in the Finance Act 1984. This procedure, under which obstacles to consolidation are cleared away by Bills in the Government's main programme, is of great value to the cause of consolidation. But it is, of course, only available where an appropriate programme Bill is going through Parliament ahead of the consolidation Bill and where the amendments needed are uncontroversial and do not threaten the progress of the amending Bill.

2.68 The aggregate number of pages of consolidation Acts passed in 1984 (including purely Scottish Acts) is greater than in any year since the Law Commission was established. Whether enough consolidation is carried out is, of course, another matter, but the proportion of Parliament's annual legislative output that is represented by consolidation Acts is perhaps greater than is generally realised. The following table gives a summary of the position for the years since 1965.

<i>Year</i>	<i>Consolidation Acts</i> (number of pages <sup>73</sup> )	<i>Other public general Acts</i> (number of pages <sup>73</sup> )
1965	683	1,107
1966	196	870
1967	510	1,629
1968	564	1,840
1969	87	1,629
1970	805	697
1971	724	1,382
1972	703	1,807
1973	203	2,073
1974	319	1,576
1975	867	1,926
1976	388	1,742
1977	375	937
1978	438	1,072

<sup>71</sup>Law Com. Nos. 130 and 128.

<sup>72</sup>Law Com. Nos. 129 and 133.

<sup>73</sup>In the Queen's printer's copies of Acts. The figures include Acts extending only to Scotland or Northern Ireland.

1979	707	719
1980	1,068	1,797
1981	692	1,584
1982	405	1,656
1983	592	810
1984 (to November)	1,082	1,774

Over the whole period, consolidation Acts account for 28.5 per cent. of the total.

2.69 As for our current activities, consolidation Bills have been or are being prepared on the following topics:—

- Agricultural holdings
- Business names
- Cinema licensing
- Clean air
- Companies
- Fisheries
- Housing
- Income and corporation taxes
- Opticians
- Reserve forces (protection of civil interests)
- Sewerage
- Weights and measures.

2.70 The lists given above of Bills passed or in preparation account, with one exception, for all the Bills mentioned in our last annual report as being in preparation at the end of October 1983.<sup>74</sup> The exception is the Road Traffic Bill, which had been intended to follow the Road Traffic Regulation Consolidation enacted in June 1984. We have, however, had to postpone work on that Bill because of the inability of the Department of Transport to service it. The Department's heavy workload includes a number of matters to which it has had to give higher priority, including legislation in the current Session of Parliament. As a result, the Department has been unable to assign to the consolidation either the administrative or the legal staff needed to assist the draftsmen in a task of this kind.

2.71 We said in our last annual report<sup>75</sup> that the Bills consolidating company law would be available for introduction early in 1984. It became apparent in the spring that they would not be ready in time for enactment in the 1983–84 Session; introduction was therefore deferred until the beginning of the 1984–85 Session and they have now been introduced.

<sup>74</sup>*Eighteenth Annual Report 1982–1983* (1984) Law Com. No. 131, para. 2.73.

<sup>75</sup>*Eighteenth Annual Report 1982–1983* (1984) Law Com. No. 131, Para. 2.74.

2.72 On 25 June 1984 a report<sup>76</sup> containing further amendments on the Companies Acts 1948–1983 recommended by the Law Commission and the Scottish Law Commission was submitted to you and to the Lord Advocate. This report was made for the purposes of section 116 of the Companies Act 1981 which permitted such amendments to this legislation to be made by Order in Council on the recommendation of the two Commissions as were desirable to enable a satisfactory consolidation to be produced. In November 1983 we had submitted our first report on this subject.<sup>77</sup> The amendments recommended in both reports are now law and will take effect when the consolidating legislation comes into effect.

2.73 Work on the consolidation of the Housing Acts is on schedule, though the difficulties of the subject are considerable. We still hope that will be possible for a Bill to be introduced in the spring of 1985.

2.74 Our other major current project, the consolidation of income and corporation tax, is also proceeding well. Our present intention is that a Bill should be ready for introduction before the end of 1987. The consolidation will, of course, take account of intervening Finance Acts, and for that reason this is a topic where plans for the future are particularly vulnerable.

### Statute Law Revision

2.75 A report<sup>78</sup> was published in May 1984 recommending the repeal of a number of provisions in the Companies Act 1948 which research and consultation have shown to be obsolete, unnecessary or otherwise not of practical utility. The main provisions relate to a statutory winding-up jurisdiction which passed to the Truro County Court on 1 January 1897, when the Court of the Vice-Warden of the Stannaries was abolished.<sup>79</sup> This jurisdiction originated at a time when the Vice-Warden's Court was responsible for the regulation of cost-book companies and when the major mines in Cornwall, such as Dolcoath, were worked on the cost-book principle. Cost-book companies were reformed during the 19th century to resemble joint stock companies but their basic principle of unlimited liability made them unattractive to investors and the cost-book era finally came to an end in 1920.<sup>80</sup> Inquiries show that the jurisdiction has been a dead letter since at least 1928 when the High Court was given the power<sup>81</sup> to wind up any company in England. The Truro County Court has a separate winding-up jurisdiction as a county court and it would not be sensible to wind up a modern company under the pre-1897 law relating to cost-book companies.

2.76 The provisions concerned were included in the Companies (Consoli-

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<sup>76</sup>*Further Amendments of the Companies Acts 1948–1983: Report under section 116 of the Companies Act 1981* (1984) Law Com. No. 136; Scot. Law Com. No. 87.

<sup>77</sup>*Amendment of the Companies Acts 1948–1983: Report under section 116 of the Companies Act 1981* (1983) Law Com. No. 126; Scot. Law Com. No. 83.

<sup>78</sup>*Statute Law Revision: Eleventh Report: Obsolete Provisions in the Companies Act 1948* (1984) Law Com. No. 135.

<sup>79</sup>Stannaries Court (Abolition) Act 1896. The business of the court had been in decline for 20 years.

<sup>80</sup>Dolcoath was converted to limited liability in 1895. Levant Tin Mines Ltd. took over from the last of the old cost-book companies on 1 January 1920.

<sup>81</sup>Companies Act 1928, s.56.

dation) Act 1908, when several of the 19th century cost-book companies still existed, and were carried over from there into the subsequent consolidations of 1929 and 1948. They are ultimately derived from the Companies Act 1862 and the Stannaries Acts 1869 and 1887 and their substantive effect was last examined by Parliament in 1887. Before preparing a report, we invited comments on a consultative paper<sup>82</sup> explaining our provisional proposals, from a representative spectrum of local interests in Cornwall. The consultation showed that there is a general agreement that the provisions are obsolete and unnecessary. Their repeal is provided for by clause 28 of the Companies Consolidation (Consequential Provisions) Bill, now before Parliament.

2.77 During the course of the year work was completed on a proposal to repeal the Colonial and Other Territories (Divorce Jurisdiction) Act 1926 to 1950. These Acts, originally passed to enable courts in India to exercise divorce jurisdiction in respect of British subjects who were resident in India but domiciled in Great Britain, have long outlived their usefulness. They now apply only in Hong Kong and inquiries have shown that they are neither used nor needed in that jurisdiction. A proposal has similarly been formulated for the repeal of the Matrimonial Causes (War Marriages) Act 1944, which implemented an elaborate scheme for the exercise of divorce jurisdiction on a reciprocal basis during a limited period following the Second World War. The proposals are explained in detail in our recent report on the recognition of foreign nullity decrees.<sup>83</sup> The draft Bill appended to the report provides for the repeal of the legislation concerned and for the continued recognition of divorces and annulments granted under it in the past.

2.78 A draft Statute Law (Repeals) Bill is in an advanced stage of preparation. It will implement other proposals for the repeal of obsolete and unnecessary law and will form the basis of a further joint report on statute law revision by the Law Commission and the Scottish Law Commission. The work includes several research projects associated with recent or projected consolidations of the law relating to medical practitioners, dentists, county courts, building, pilotage and fisheries.

2.79 Statute Law (Repeals) Acts repeal for the United Kingdom many enactments which, by virtue of their own terms, also form part of the law of the Channel Islands, the Isle of Man and other dependencies. The Statute Law Repeals (Isle of Man) Order 1984,<sup>84</sup> which came into operation on 30 November 1984, extended to the Isle of Man<sup>85</sup> specified repeals made by Statute Law (Repeals) Acts passed between 1973 and 1981.

### **Local Legislation Working Party**

2.80 A Local Legislation Working Party was set up by the Statute Law Committee on 2 December 1983. The membership of the Working Party is

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<sup>82</sup>*Consolidation of the Companies Acts: Provisional Proposals relating to Cost-Book Companies in the Stannaries* (1983).

<sup>83</sup>*Private International Law: Recognition of Foreign Nullity Decrees and Related Matters* (1984) Law Com. No. 137; Scot. Law Com. No. 88, paras. 6.44–6.48.

<sup>84</sup>S.I. 1984 No. 1692.

<sup>85</sup>For the United Kingdom enactments which extend to the Isle of Man, see G.V.C. Young, *Subject Guide to and Chronological Table of the Acts extending or relating to the Isle of Man 1350–1975* (1978).



set out in Appendix 2. Its terms of reference are: "To examine the problems of the local statute law in England and Wales and in Scotland, to report on the options for advancing the process of rationalising and reforming it and to make recommendations for consideration by the Statute Law Committee."

2.81 The Working Party has concentrated its attention initially on problems which have arisen in regard to the schemes<sup>86</sup> for simplifying and rationalising local authority legislation in Great Britain which were initiated by section 262(9) of the Local Government Act 1972 and section 225(6) of the Local Government (Scotland) Act 1973. The schemes, which form one of the most important projects ever undertaken to rationalise local statute law, are being implemented by a series of reforming Bills (or, in Scotland, Provisional Orders confirmed by Bills) promoted by local authorities. The schemes are based on general statutory cessers which apply to a large number of local statutory provisions passed before 1 April 1974, (or, as respects Scotland, before 16 May 1975), but rely on later legislation to identify, by the making of express repeals and modifications, the provisions which are subject to the general cessers. If this is not done, one form of uncertainty is substituted for another and a serious trap is created for users of the statute law, including local authorities themselves.

2.82 Most of the reforming Bills promoted by local authorities contain comprehensive repeal schedules which properly identify the provisions on which the general cessers operate, but recently a practice has developed of merely identifying the provisions superseded by the re-enactments in the reforming Bill. This practice is positively misleading to users<sup>87</sup> and in any event it is not a practical proposition to work out, and still less to record, the effects of the cessers without access to detailed information which is not generally available. The Working Party has submitted a report<sup>88</sup> to the Statute Law Committee making recommendations for dealing with these problems.

2.83 The main recommendations of the Working Party are that:—

- (i) future legislation promoted by local authorities to implement the schemes should include comprehensive repeal schedules and that, as a further aid to users, these schedules should be divided to distinguish clearly between repeals which are consequential on the re-enactments in the Bill and those which are made for other reasons;
- (ii) steps should be taken to formulate and enact comprehensive repeal schedules relating to the local legislation of Greater Manchester and South Yorkshire;<sup>89</sup>

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<sup>86</sup>The scheme for England and Wales is set out in Department of the Environment Circular 14/74 as read with a circular letter dated 10 May 1974, that for Scotland in Scottish Development Department Circulars 42/74 and 6/83.

<sup>87</sup>For instance, the Greater Manchester Act 1981 (which came into operation on 29 June 1981) repealed 14 sections of the Manchester Police Regulation Act 1844 without indicating that the whole of the 1844 Act (282 sections) ceased to have effect on 30 June 1981.

<sup>88</sup>*Local Legislation Working Party: First Report* (1984).

<sup>89</sup>General cessers have so far only come into operation in metropolitan counties and these are the only metropolitan counties which have not promoted comprehensive repeal schedules. The abolition of the authorities would not remove the problem because by virtue of clause 16 of the Local Government Bill existing statutory functions would be inherited by each district in the county.

- (iii) other local authorities which have not included comprehensive repeal schedules in their reforming legislation, or which do not intend to promote such legislation, should be asked to supply the Working Party with the detailed information needed to work out the effects of the statutory cessers in their areas.

The Statute Law Committee adopted these recommendations at its meeting on 7 December 1984.

2.84 The Working Party has also made a preliminary examination of the options available to rationalise the legislation of statutory undertakings and other categories of local legislation. The local legislation of water and sewerage authorities is in particular need of reform; in the area of one water authority alone over 400 separate Acts and Orders are thought to be in operation. The Working Party intends to report on the available options when it has examined their relative merits more fully.

### **Chronological Table of Local Legislation**

2.85 As explained in our last annual report,<sup>90</sup> the Chronological Table of Local Legislation is a much needed legislative working tool and its completion is an essential part of the work of simplifying the statute law and making it accessible. The first stage of the project, which covers the effects of legislation passed during the period 1925–1973,<sup>91</sup> has been completed and during the course of the year good progress has been made on the next phase which covers the effects of legislation passed since 1900.

2.86 The Statute Law Committee has authorised the publication of the work, as it is completed, and copies of the detailed text at present available are being distributed to those particularly concerned with the preparation of legislation or with the operation of local statute law. It is hoped that specialist recipients will be able to contribute further information on the operation of particular Acts which can be incorporated in the text.

## **OTHER MATTERS**

### **The Incapacitated Principal**

2.87 In 1983 our report<sup>92</sup> on this topic, together with a draft Enduring Powers of Attorney Bill, was submitted to you. The principal recommendation of the report was that the law should be altered so as to permit the creation of a special type of power of attorney—the enduring power—which would continue to be operable despite the supervening mental incapacity of the donor. The Enduring Powers of Attorney Bill, which gives effect to that recommendation, has been introduced into the House of Lords.

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<sup>90</sup>*Eighteenth Annual Report 1982–1983* (1984) Law Com. No. 131, paras. 2.82–2.87.

<sup>91</sup>Section 4 of the *Chronological Table of the Statutes 1235–1982* (2 vols.) H.M.S.O. records the effects of local and personal legislation passed from 1974 onwards.

<sup>92</sup>*The Incapacitated Principal* (1983) Law Com. No. 122.

## Advice to Government Departments, etc.

2.88 We have, where possible, continued to provide advice when requested. The following are two examples of such assistance.

(i) *E.E.C. Convention on Contractual Obligations*

The E.E.C. Convention on the law applicable to Contractual Obligations which was concluded in 1980 has not yet been brought into force. Discussions have proceeded during the year on the accession of Greece to this convention and we have, on request, provided advice on the draft Accession Convention. Greece has now signed, but to date only France has ratified.

(ii) *Draft E.E.C. Regulations in the European Economic Interest Grouping*

Negotiations have been proceeding in Brussels for some time on the drafting of a regulation to govern the formation and structure of European economic interest groupings. On request from the relevant Government Departments, we have provided advice on a number of choice of law issues which have arisen in the course of the negotiations.

## Law Reform Committee

2.89 The Twenty-fourth Report of the Law Reform Committee, on Latent Damage,<sup>93</sup> was published on 29 November 1984. Having examined the law of limitation in negligence cases involving latent defects, excluding cases of personal injury,<sup>94</sup> in the light of responses to their consultation paper<sup>95</sup> and the decision of the House of Lords in *Pirelli General Cable Works Ltd. v. Oscar Faber and Partners*,<sup>96</sup> the Committee have made recommendations for reform. The main recommendations of the Committee are that the ordinary period of limitation of six years in cases of this nature should be extended to allow the plaintiff three years from the date on which he discovered or could reasonably have discovered that he had suffered significant damage and, secondly, that there should be a "long stop" which would bar all negligence claims involving latent defects or damage which are brought more than 15 years from the date of the defendant's breach of duty. We have noted that proposals were made to the Law Reform Committee that there should be a system of compulsory insurance against latent damage during the period of a contractor's liability and that this should be taken into account in the price paid by the purchaser. The Committee found these proposals interesting but far outside their terms of reference. They expressed the view that these proposals for compulsory insurance should be considered by an appropriately qualified body at some future date.<sup>97</sup>

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<sup>93</sup>(1984) Cmnd. 9390.

<sup>94</sup>The Committee originally considered the problems of latent damage in their Twenty-first Report (*Final Report on Limitation of Actions* (1977) Cmnd. 6923) which dealt with the law of limitation generally. The Committee have reconsidered their conclusions on the law of limitation in cases of latent defects (other than in cases of personal injury) in the light of a number of significant developments in the law since then.

<sup>95</sup>Latent Damage (July 1981).

<sup>96</sup>[1983] 2 A.C. 1.

<sup>97</sup>Twenty-fourth Report (1984) Cmnd. 9390.

### **Bingham Committee**

2.90 The work of the Committee under the chairmanship of Mr. Justice Bingham, which was set up in 1982 to examine the duty owed by a party to proceedings or his solicitor not to use documents disclosed to him for any purpose unconnected with those proceedings and to consider whether any changes would be desirable, has been suspended. The Committee was established following the decision of the House of Lords in the *Harman* case.<sup>98</sup> After the Committee had been set up, Ms. Harman made an application to the European Commission of Human Rights claiming that the United Kingdom was in breach of the European Convention on Human Rights. In May 1984, the Commission ruled that the application was admissible and, failing a friendly settlement, the Commission thereupon became obliged to rule on the merits of the application. Pending the outcome of the Commission's ruling, the Lord Chancellor requested the Chairman to suspend the Committee's proceedings.<sup>99</sup>

### **Criminal Law Revision Committee**

2.91 The Criminal Law Revision Committee has published two reports in the last year, the Fifteenth Report, *Sexual Offences*<sup>100</sup> and the Sixteenth Report, *Prostitution in the Street*.<sup>101</sup> The latter deals with the nuisance of kerb-crawling, recommending the creation of three new statutory offences in that area. It was published in advance of the Committee's full report on offences relating to prostitution upon which work is continuing.

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<sup>98</sup>*Harman v. Secretary of State for the Home Department* [1982] 2 W.L.R. 338.

<sup>99</sup>See *Hansard* (H.L.) 25 October 1984, vol. 456 col. 271.

<sup>100</sup>(1984) Cmnd. 9213.

<sup>101</sup>(1984) Cmnd. 9329.

## PART III

### GENERAL

#### **Responsibilities of Commissioners and Legal Staff**

3.1 The responsibilities of Commissioners and legal staff for law reform projects falling within particular fields of law are shown in Appendix 1. The Appendix reflects the position at the date of this Report.

3.2 Professor G. H. Treitel (Vinerian Professor of English Law, Oxford University) and Mr. F. M. B. Reynolds (Fellow of Worcester College, Oxford and Reader in Law, Oxford University) continue to assist us as consultants on particular projects to reform the law of contract. We are very grateful for their help.

3.3 Sir Wilfred Bourne, K.C.B., Q.C., has continued to work for the Law Commission on a voluntary basis. His help has been of great value to us and has enabled progress to be maintained on some topics which would otherwise have been in abeyance. Topics on which he has worked include supply of goods, rights of access to neighbouring land and land registration.

#### **Staff**

3.4 Our full-time staff at present numbers 24: the Secretary, four Parliamentary Counsel and 19 other lawyers. We also have 29 full-time non-legal staff. In addition one Parliamentary Counsel assists us part-time and two are employed on specific tasks on a contract basis.

3.5 Arrangements have been made in the course of this year to enable us to draw our staff from the professions and the universities either on secondment or on term appointments as research assistants. Young and exceptionally able law graduates with or without professional qualifications can be taken as research assistants for terms of up to three years. They work as members of our law reform teams and their contribution is substantial. These posts afford an opportunity to participate in the process of law reform and to gain experience of important aspects of the law before going on to practice, academic work or the public service.

3.6 It is also possible for us to take established practitioners and academics with appropriate expertise in areas covered by Commission projects to work with us as members of our law reform teams on sabbaticals or secondment. It is necessary to match availability to items in the Commission's programmes and arrangements have to be made well in advance. We are always interested to hear from those who would like to work with us so that we can take account of their availability in planning our projects.

#### **Library**

3.7 In addition to the care of the library itself the work of the Librarian and her staff provides valuable assistance to Commissioners and legal staff both in current research work and in the noting of material, publication and references relevant to the work of the Commission. We now have access

to the computer assisted information retrieval system LEXIS through the terminal in the Supreme Court Library and considerable use has been made of this facility.

3.8 Liaison is maintained with other law libraries and we are grateful especially to the library of the Institute of Advanced Legal Studies for loans and photocopies not available from our own stock. We have also been able to meet a number of requests for loans from other libraries.

### **Co-operation with the Scottish Law Commission**

3.9 Our Joint Annual Meeting was held in Edinburgh on 11 and 12 June 1984 when we discussed aspects of our work including joint projects relating to conflicts of jurisdiction affecting the custody of children,<sup>1</sup> the law on domicile<sup>2</sup> and choice of law rules relating to marriage.<sup>3</sup> We have also worked on joint projects relating to supply of goods,<sup>4</sup> recognition of foreign nullity decrees,<sup>5</sup> polygamous marriages,<sup>6</sup> choice of law in tort and delict,<sup>7</sup> consolidation<sup>8</sup> and statute law revision.<sup>9</sup> The Scottish Law Commission is also represented on the Working Party on Local Legislation<sup>10</sup> and Dr. Clive and Miss McLeod attended the seminar held by the family law team in October.

### **Co-operation with Other Lawyers**

3.10 We have had meetings during the course of the year with representatives of the Law Reform Committee of the Senate of the Inns of Court and the Bar, The Law Society, The Society of Public Teachers of Law and The Oxford Centre for Socio-Legal Studies. We attach great importance to our relations with these organisations.

3.11 On 26 May 1984 we held an "open day" on criminal law. With a particular emphasis upon junior members of the law faculties of universities in England and Wales, we invited law teachers specialising in the subject to hear details of the work being undertaken in this field presented by members of the team and parliamentary counsel. We are very grateful to Professor J. C. Smith for joining us to discuss work on codification. This meeting was valuable to us as a means of maintaining contacts with academic lawyers and of learning their views.

3.12 A seminar was held by the family law team on 24 October 1984.<sup>11</sup> It was arranged in co-operation with Professor H. K. Bevan, convenor of the

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<sup>1</sup>(1985) Law Com. No. 138; Scot. Law Com. No. 91; and see paras. 2.22-2.24 above.

<sup>2</sup>(1985) Working Paper No. 88; Consultative Memorandum No. 63; and see paras. 2.59-2.62 above.

<sup>3</sup>(1985) Working Paper No. 89; Consultative Memorandum No. 64; and see para. 2.55 above.

<sup>4</sup>(1983) Working Paper No. 85; Consultative Memorandum No. 58; and see para. 2.5 above.

<sup>5</sup>(1984) Law Com. No. 137; Scot. Law Com. No. 88; and see para. 2.64 above.

<sup>6</sup>(1982) Working Paper No. 83; Consultative Memorandum No. 56; and see paras. 2.53-2.54 above.

<sup>7</sup>(1984) Working Paper No. 87; Consultative Memorandum No. 62; and see paras. 2.56-2.58 above.

<sup>8</sup>See paras. 2.65-2.74 above.

<sup>9</sup>See paras. 2.75-2.79 above.

<sup>10</sup>See Appendix 2.

<sup>11</sup>See paras. 2.28-2.29 above.

S.P.T.L. family law group, and Mrs. S. Maidment, General Secretary of the International Society on Family Law, to seek the views of academic lawyers specialising in the law relating to children upon the scope and content of our forthcoming review of that subject. We are most grateful for all the help which we received, and in particular to Professor Bevan, Mrs. Maidment, Professor Cretney and Ms. J. Burgoyne, who led our discussions.

3.13 In addition, Brenda Hoggett met The Law Society's Standing Committee on Family Law in July and addressed the President's Conference for Circuit Judges in October.

### **Exchange of Staff with Other Commissions**

3.14 At the Seventh Commonwealth Law Conference<sup>12</sup> held in Hong Kong in September 1983 it was suggested, during the Forum on Law Reform, that as well as ideas and information, staff might be exchanged to the mutual benefit of those participating. During the course of 1985 the Law Commission will be taking, on a temporary basis, a member of the Kenyan Law Reform Commission staff. We believe that this visit will be useful both to the Commission and for our visitor and we will be glad to consider further proposals for such visits.

### **Conveyancing Committee**

3.15 As soon as Professor Farrand took up appointment as a Law Commissioner at the beginning of May 1984, he was also appointed to the Chairmanship of the Conveyancing Committee established earlier in the year. This latter appointment was entirely independent of the Law Commission and was undertaken by Professor Farrand in addition to his work as a Commissioner. The Committee reported on the first limb of its terms of reference in September 1984 ("Non-Solicitor Conveyancers—Competence and Consumer Protection") and is due to report on its second limb early in 1985. This second limb may prove of indirect significance for the future work of the Commission since it calls for a consideration of "the scope for simplifying conveyancing practice and procedure". It is probable that the Committee will not have available the time or expertise to consider properly, as to details and implications, any proposals involving legislative changes to the substantive law affecting conveyancing. Accordingly, it is anticipated that the Committee may recommend that a number of specific references of legal questions should be made to the Commission. Such references will have to be scrutinised by us, if and when made, in the light of our existing work and resources. However, it must be appreciated that the whole subject of simplifying conveyancing is already comprehended by Item IX of our First Programme, dating from 1965, and that an examination of certain aspects has begun.<sup>13</sup> The eventual contents of the Committee's Report as to these aspects, being derived from a wide consultation, should be regarded as potentially of great assistance to us in reaching early conclusions.

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<sup>12</sup>See *Eighteenth Annual Report 1982-1983* (1984) Law Com. No. 131, para. 3.10.

<sup>13</sup>See paras. 2.36-2.42 above.

### Visitors from Overseas

3.16 Among the visitors to the Law Commission from overseas in the past year were:

Mr. Stephen Musalia Mwenesi (United Nations Development Programme Fellow, Kenya)

Professor J. Svestka (Czechoslovakia)

Mr. Geoffrey Feltoe (Senior Lecturer, University of Zimbabwe)

Dr. Alla Yakushēva (Sverdlovsk Law Institute, U.S.S.R.)

Dr. Luis Maria Argana (President of the Supreme Court, Paraguay)

Hon. K. T. Griffin (Shadow Attorney-General, South Australia)

Professor Michael Chesterman (Law Reform Commission, Australia)

Mr. Jean Côté (Secretary of the Law Reform Commission of Canada)

Mr. Pius Msekwa (Principal Secretary of the Prime Minister's Office, Tanzania)

Dr. David Geddis (Chairman, National Advisory Committee on Prevention of Child Abuse, New Zealand).

*(Signed)* RALPH GIBSON, *Chairman.*  
TREVOR M. ALDRIDGE.  
BRIAN DAVENPORT.  
JULIAN FARRAND.  
BRENDA HOGGETT.

JOHN GASSON, *Secretary.*  
17 January 1985.

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## APPENDIX 1

### RESPONSIBILITIES OF COMMISSIONERS AND LEGAL STAFF

#### CONTRACT AND TORT

*Supply of Services:* Mr. T. M. Aldridge, Mr. A. Akbar, Mr. A. Cope, Mr. P. De Val and Miss K. M. Reid (until January 1985).

*Supply of Goods:* Mr. B. J. Davenport, Q.C., Mr. A. Akbar, Mr. R. J. Dormer and Mr. O. J. Parker.

#### CRIMINAL LAW

Mr. B. J. Davenport, Q.C., Chairman, Mr. C. W. Dymont and Miss I. Gurney.

#### FAMILY LAW

Mrs. B. M. Hoggett, Mr. D. S. Gordon with Mr. R. L. Jones\*, Mr. P. G. Harris, Miss J. C. Hern and Mr. J. C. Whybrow.

#### PROPERTY LAW (INCLUDING LANDLORD AND TENANT)

Professor J. T. Farrand, Mr. T. M. Aldridge, Mr. J. D. Saunders, Mr. M. Wear, Mrs. C. Hand and Miss D. B. Hughes.

#### PRIVATE INTERNATIONAL LAW

Mr. A. Akbar, Mr. A. Cope, Mr. R. J. Dormer, Mr. P. G. Harris, Miss J. C. Hern and Miss A. L. Morris.

#### STATUTE LAW

*Consolidation:* Chairman, Mr. J. C. Jenkins, Mr. G. B. Sellers, Miss C. E. Johnston, Miss M. Peto and Miss M. S. Christie\*.

*Statute Law Revision:* Chairman, Mr. R. H. Streeten with Mr. A. M. Rowland and Miss M. I. MacDonald\*\* (until January 1985).

*The Chronological Table:* Chairman, Mr. R. H. Streeten with Mr. A. M. Rowland.

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\*Part-time members of the legal staff.

\*\*Non-legal member of the staff.

## APPENDIX 2

### MEMBERSHIP OF WORKING PARTIES

#### Local Legislation Working Party

The Hon. Mr. Justice Ralph Gibson, <i>Chairman</i>	Law Commission
The Hon. Lord Maxwell	Scottish Law Commission
Mr. B. J. Davenport, Q.C.	Law Commission
Mr. H. W. Gamon, C.B.E., M.C.	Society of Parliamentary Agents
Mr. J. G. S. Maclean (as alternate for Lord Maxwell)	Scottish Law Commission
Mr. D. Rippengal, C.B., Q.C.	Counsel to Chairman of Committees
Mr. R. H. Streeten	Law Commission
Mr. M. J. Ware	Solicitor, Department of the Environment
Mr. A. M. Rowland, <i>Secretary</i>	Law Commission

#### Joint Working Party on Private International Law

Professor A. L. Diamond, <i>Chairman</i>	Institute of Advanced Legal Studies
Mr. A. E. Anton, C.B.E., F.B.A.	Consultant, Scottish Law Commission
Mr. R. D. D. Bertram, W.S.	Scottish Law Commission
Mr. L. A. Collins	Messrs. Herbert Smith & Co., London
Mr. B. J. Davenport, Q.C.	Law Commission
The Hon. Lord Maxwell	Scottish Law Commission
Mr. C. G. J. Morse	King's College, London
Dr. P. M. North	Law Commission
Mr. R. J. Dormer, <i>Secretary</i>	Law Commission

#### Joint Working Party on The Law of Domicile

Dr. P. M. North	} <i>Joint</i>	Law Commission
Dr. E. M. Clive		} <i>Chairmen</i>
Professor A. E. Anton, C.B.E.		Consultant, Scottish Law Commission
Mr. R. Bland		Scottish Courts Administration
Mr. P. G. Harris		Law Commission
Mr. P. M. Harris		Lord Chancellor's Department
Mr. J. Hill		Foreign and Commonwealth Office
Professor J. D. McClean		University of Sheffield
Mr. J. V. Ribbins		General Register Office
Miss J. C. Hern, <i>Secretary</i>		Law Commission

**Joint Working Party on Choice of Law Rules in Marriage**

Dr. P. M. North	} <i>Joint</i>	Law Commission
Dr. E. M. Clive		} <i>Chairmen</i>
Mr. A. Akbar		Law Commission
Miss S. M. J. Brooks		Foreign and Commonwealth Office
Mr. M. Carpenter		Lord Chancellor's Department
Mr. I. G. Dewar		General Register Office, Scotland
Mr. G. Duke		Solicitor's Office, Scotland
Mr. J. V. Ribbins		General Register Office
Miss J. C. Hern, <i>Secretary</i>		Law Commission

## APPENDIX 3

### CIVIL PROCEDURE SEMINAR

Mr. T. M. Aldridge*	Solicitor, Messrs. Bower Cotton & Bower
Mr. Donald Allen, C.M.G.	Deputy Parliamentary Commissioner for Administration
Major General J. G. R. Allen, C.B.	The Lay Observer, and Member of the Legal Aid Advisory Committee
Master J. R. Bickford-Smith***	Queen's Remembrancer and Senior Master of the Supreme Court, Queen's Bench Division
His Honour Judge Michael Birks*	Formerly member of the County Court Rules Committee
Mr. Louis Blom-Cooper, Q.C.**	Chairman, Howard League for Penal Reform
Mr. Charles G. Blake	Solicitor, Senior Lecturer in Law, Ealing College of Higher Education
Sir Gordon Borrie	Director General of Fair Trading
Mr. R. H. Brignull	Claims Manager, Royal Insurance (U.K.) Ltd.
Mr. R. A. A. Brockington**	Director of Administration, City of Newcastle-upon-Tyne
Mr. Bradley D. Brown**	Solicitor, Chairman Courts Procedure Sub. Committee, Society for Computers and Law
Mr. Michael Cronin	Group Solicitor, Forward Trust Group
Mr. Brian Davenport, Q.C.	Law Commissioner
Mr. John Gasson	Secretary of the Law Commission
The Hon. Mr. Justice Ralph Gibson	Chairman of the Law Commission
Mr. Cyril Glasser	Solicitor, Messrs. Bernard Sheridan & Co.; former Special Consultant to the Legal Aid Advisory Committee
Mr. Gerald Godfrey, Q.C.	Past Chairman of the Law Reform Committee of the Senate of the Inns of Court and the Bar
Professor Desmond Greer	Professor of Law, the Queen's University of Belfast
Dr. John Griffiths	Administrative Review Council, Canberra, Australia
Mr. A. C. Heywood	Head of Legal Department of the Union of Shop, Distributive and Allied Workers; Member of the Council on Tribunals; former member of the Legal Aid Advisory Committee
Mr. Robin Holmes	Lord Chancellor's Department
Sir Jack Jacob, Q.C.*	Formerly Queen's Remembrancer and Senior Master of the Supreme Court, Queen's Division

Professor J. A. Jolowicz***	Professor of Comparative Law, University of Cambridge
The Rt. Hon. Lord Justice Kerr	Chairman of the Supreme Court Procedure Committee
Mr. J. D. Keir, Q.C.	Formerly Joint Secretary of Unilever p.l.c and Unilever N.V.
Mr. M. Kron	Lord Chancellor's Department
Mr. Stephen Merrett	Underwriting Member of Lloyd's
Mr. John Murray, Q.C.*	Scottish Law Commission
Sir Patrick Neill, Q.C.	Warden All Souls College, Oxford; Chairman of the Council for Securities Industry; formerly Chairman of the Press Council
Sheriff C. G. B. Nicholson, Q.C.*	Scottish Law Commission
Mr. Ian Oddy*	St. Quintin, Chartered Surveyors
Mr. Michael O'Dwyer	Solicitor, Law Centres Federation
Mr. William Park**	Solicitor, Messrs. Linklaters & Paines; President of the London Solicitors Litigation Association
Professor I. R. Scott***	Barber Professor of Law, University of Birmingham; former Director of the Institute of Judicial Administration
Mr. Andrew Smith	Barrister; Member of the County Court Rules Committee
Ms. Barbara Stow	Special Services Officer, National Citizens Advice Bureau
Mr. Ian R. Taylor	Solicitor, Messrs. Parrott and Coales, Aylesbury
The Rt. Hon. Lord Templeman, M.B.E. ( <i>Chairman</i> )	Lord of Appeal in Ordinary
Mr. Richard Thomas	Legal Officer, National Consumer Council
Master Stanley Waldman**	Master of the Supreme Court, Queen's Bench Division
Mr. Richard White	Lord Chancellor's Department
Professor D. G. T. Williams	Rouse Ball Professor of English Law and President of Wolfson College, University of Cambridge; former Member of the Council on Tribunals
Sir Max Williams*	Solicitor, Messrs. Clifford-Turner; Past President of the Law Society
Professor G. P. Wilson*	Professor of Law, University of Warwick
Professor Michael Zander	Professor of Law, London School of Economics

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\* Contributor of paper before seminar.

\*\* Contributor of paper after seminar.

\*\*\* Contributor of papers before and after seminar.

**OBSERVERS ATTENDING THE CIVIL PROCEDURE SEMINAR**

R. C. H. Briggs  
Ms. Frances Gibb  
Mr. B. Glass  
Mrs. Celia Hampton  
Ms. J. Levin  
Mr. Terence Shaw

Miss Carol Tullo  
Mr. P. J. Vorster  
Mr. J. W. Wilson  
Mr. Joshua Rozenberg  
Mr. Walter Merricks

## APPENDIX 4

### LIST OF THE LAW COMMISSION'S PUBLICATIONS

#### A. Working Papers

<i>Working Paper</i>	<i>Title</i>	<i>Resulting Report</i>
<b>1966</b>		
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.
<b>1967</b>		
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.
<b>1968</b>		
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	

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|--------|--|--------------------------|
| No. 18 | Provisional Proposals Relating to Amendments to sections 12–15 of the Sale of Goods Act 1893 and Contracting Out of the Conditions and Warranties implied by those sections (Joint Working Paper—Scottish Law Commission Memorandum No. 7) | Law Com. No. 24.         |
| No. 19 | Loss of Services   | Law Com. Nos. 25 and 56. |
| No. 20 | Nullity of Marriage  | Law Com. No. 33.         |
| No. 21 | Polygamous Marriages   | Law Com. No. 42.         |

### 1969

- |        |   |                  |
|--------|---|------------------|
| No. 22 | Restitution of Conjugal Rights  | Law Com. No. 23. |
| No. 23 | Malicious Damage to Property  | Law Com. No. 29. |
| No. 24 | Transfer of Land: Rentcharges (the subject of a further Working Paper No. 49) |                  |

### 1970

- |        |  |                  |
|--------|--|------------------|
| No. 25 | The Law of Landlord and Tenant: Working Party's Provisional Proposals Relating to Covenant's Restricting Dispositions, Parting with Possession, Change of User and Alterations |                  |
| No. 26 | Criminal Law: Forgery  | Law Com. No. 55. |
| No. 27 | Personal Injury Litigation: Assessment of Damages, Itemisation of Pecuniary Loss and the Use of Actuarial Tables as an Aid to Assessment                                       |                  |
| 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)  | Law Com. No. 32. |
| No. 33 | Criminal Law: Perjury and Kindred Offences   | Law Com. No. 96. |

### 1971

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|--------|---|-------------------|
| No. 34 | Family Law: Jactitation of Marriage (the subject of a further Working Paper No. 48) | Law Com. No. 132  |
| No. 35 | Family Law: Solemnisation of Marriage   | Law Com. No. 53.  |
| No. 36 | Transfer of Land: Appurtenant Rights  | Law Com. No. 127. |
| No. 37 | Transfer of Land: Land Registration (Second Paper)                                  | Law Com. No. 125. |



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|--------|---|---------------------------------|
| 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,<br>61 and 86. |

#### 1972

- |        |   |                   |
|--------|---|-------------------|
| No. 43 | Codification of the Criminal Law: General Principles. Parties, Complicity and Liability for the Acts of Another |                   |
| No. 44 | Codification of the Criminal Law: General Principles. Criminal Liability of Corporations                        |                   |
| No. 45 | Transfer of Land: Land Registration (Third Paper)   | Law Com. No. 125. |
| No. 46 | Charging Orders on Land   | Law Com. No. 74.  |

#### 1973

- |        |   |                             |
|--------|---|-----------------------------|
| No. 47 | Injuries to Unborn Children   | Law Com. No. 60.            |
| No. 48 | Family Law: Declarations in Family Matters  | Law Com. No. 132.           |
| 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. Nos. 76<br>and 102 |
| 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.            |

#### 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 of the Law Applicable to Contractual and Non-Contractual Obligations (prepared jointly with the Scottish Law Commission)

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\*\*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.

- No. 57 Codification of the Criminal Law: Conspiracies Relating to Morals and Decency Law Com. No. 76.  
 No. 58 Breach of Confidence Law Com. No. 110.

**1975**

- No. 59 Contribution Law Com. No. 79.  
 No. 60 Firm Offers  
 No. 61 Penalty Clauses and Forfeiture of Monies Paid  
 No. 62 Criminal Law: Offences Relating to the Administration of Justice Law Com. No. 96.  
 No. 63 Codification of the Criminal Law: Conspiracies to Effect a Public Mischief and to Commit a Civil Wrong Law Com. No. 76.  
 No. 64 Liability for Defective Products (Joint Working Party —Scottish Law Commission Memorandum No. 20) Law Com. No. 82.  
 No. 65 Law of Contract: Pecuniary Restitution on Breach of Contract Law Com. No. 121.

**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) Law Com. No. 138.  
 No. 69 The Incapacitated Principal Law Com. No. 122.  
 No. 70 Law of Contract: The Parol Evidence Rule

**1977**

- No. 71 Law of Contract: Implied Terms in Contracts for the Supply of Goods Law Com. No. 95.  
 No. 72 Codification of the Criminal Law: Treason, Sedition and Allied Offences

**1979**

- No. 73 Insurance Law: Non-Disclosure and Breach of Warranty Law Com. No. 104.  
 No. 74 Family Law: Illegitimacy Law Com. No. 118.

**1980**

- No. 75 Classification of Limitation in Private International Law Law Com. No. 114.  
No. 76 Time Restrictions on Presentation of Divorce and Nullity Petitions Law Com. No. 116.  
No. 77 Family Law: Financial Relief after Foreign Divorce Law Com. No. 117.  
No. 78 Rights of Access to Neighbouring Land

**1981**

- No. 79 Offences against Religion and Public Worship  
No. 80 Private International Law: Foreign Money Liabilities Law Com. No. 124.

**1982**

- No. 81 Minors' Contracts Law Com. No. 134.  
No. 82 Offences against Public Order Law Com. No. 123.  
No. 83 Polygamous Marriages: Capacity to Contract a Polygamous Marriage and the Concept of the Potentially Polygamous Marriage (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 56)  
No. 84 Criminal Libel

**1983**

- No. 85 Sale and Supply of Goods (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 58)  
No. 86 Transfer of Land: Liability for Chancel Repairs

**1984**

- No. 87 Private International Law: Choice of Law in Tort and Delict (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 62)

*Law Commission Working Papers Nos. 58, and 60 to 86 are on sale at H.M. Stationery Office and may be ordered through booksellers.*

*An unabridged reprint of Law Commission Working Papers Nos. 1-84, bound in eleven volumes, is published by Professional Books, Milton Trading Estate, Abingdon, Oxon. OX14 4SY. Vols. 1-9 (1-76) are available at £195, Vol. 10 (Nos. 77-80) and Vol. 11 (Nos. 81-84) are available separately at £33 each.*

### B. Reports and Programmes

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

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
<b>1965</b>		
Law Com. No. 1	First Programme of Law Reform	*
<b>1966</b>		
Law Com. No. 2	First Programme of Consolidation and Statute Law Revision	*
**Law Com. No. 3	Proposals to Abolish Certain Ancient Criminal Offences	Criminal Law Act 1967 (c. 58).
Law Com. No. 4	First Annual Report 1965-1966	*
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	Criminal Law Act 1967 (c. 58).
**Law Com. No. 8	Report on the Powers of Appeal Courts to Sit in Private and the Restrictions upon Publicity in Domestic Proceedings (Cmnd. 3149)	Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (c. 63).
<b>1967</b>		
**Law Com. No. 9	Transfer of Land: Interim Report on Root of Title to Freehold Land	Law of Property Act 1969 (c. 59).
**Law Com. No. 10	Imputed Criminal Intent ( <i>Director of Public Prosecutions v. Smith</i> )	In part by section 8 of the Criminal Justice Act 1967 (c. 80).
Law Com. No. 11	Transfer of Land: Report on Restrictive Covenants	In part by Law of Property Act 1969 (c. 59).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
Law Com. No. 11A	Sea Fisheries (Shellfish) Bill: Report by the two Commissions on the Consolidation of Certain Enactments relating to Shellfish Fisheries and Shellfish (Scot. Law Com. No. 6A) (Cmnd. 3267)	Sea Fisheries (Shellfish) Act 1967 (c. 83).
Law Com. No. 12	Second Annual Report 1966-1967	*
**Law Com. No. 13	Civil Liability for Animals	Animals Act 1971 (c. 22).
<b>1968</b>		
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)	Family Law Reform Act 1969 (c. 46).
<b>1969</b>		
**Law Com. No. 17	Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II (H.C. 38)	Law of Property Act 1969 (c. 59).
**Law Com. No. 18	Transfer of Land: Report on Land Charges Affecting Unregistered Land (H.C. 125)	Law of Property Act 1969 (c. 59).
Law Com. No. 18A	Trustee Savings Banks Bill: Report by the two Commissions on the Consolidation of the Trustee Savings Banks Acts 1954 to 1968 (Scot. Law Com. No. 10) (Cmnd. 4004)	Trustee Savings Banks Act 1969 (c. 50).
**Law Com. No. 19	Proceedings against Estates (Cmnd. 4010)	Proceedings Against Estates Act 1970 (c. 17).
Law Com. No. 20	Administrative Law (Cmnd. 4059)	*
**Law Com. No. 21	Interpretation of Statutes: Report by the two Commissions (Scot. Law Com. No. 11) (H.C. 256)	No
**Law Com. No. 22	Statute Law Revision: First Report (Cmnd. 4052)	Statute Law (Repeals) Act 1969 (c. 52).
**Law Com. No. 23	Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights (H.C. 369)	Matrimonial Proceedings and Property Act 1970 (c. 45).
**Law Com. No. 24	Exemption Clauses in Contracts: First Report. Amendments to the Sale of Goods Act 1893; Report by the two Commissions (Scot. Law Com. No. 12) (H.C. 403)	Supply of Goods (Implied Terms) Act 1973 (c. 13).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
**Law Com. No. 25	Family Law: Report on Financial Provision in Matrimonial Proceedings (H.C. 448)	Matrimonial Proceedings and Property Act 1970 (c. 45); Law Reform (Miscellaneous Provisions) Act 1970 (c. 33).
**Law Com. No. 26	Breach of Promise of Marriage (H.C. 453)	Law Reform (Miscellaneous Provisions) Act 1970 (c. 33).
Law Com. No. 27	Fourth Annual Report 1968–1969 (H.C. 27)	*

### 1970

**Law Com. No. 28	Statute Law Revision: Second Report. Draft Wild Creatures and Forest Laws Bill (Cmnd. 4433)	Wild Creatures and Forest Laws Act 1971 (c. 47).
**Law Com. No. 29	Criminal Law: Report on Offences of Damage to Property (H.C. 91)	Criminal Damage Act 1971 (c. 48).
**Law Com. No. 30	Powers of Attorney (Cmnd. 4473)	Powers of Attorney Act 1971 (c. 27).
**Law Com. No. 31	Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters (Cmnd. 4497)	Administration of Estates Act 1971 (c. 25).
Law Com. No. 32	Civil Liability for Dangerous Things and Activities (H.C. 142)	*
**Law Com. No. 33	Family Law: Report on Nullity of Marriage (H.C. 164)	Nullity of Marriage Act 1971 (c. 44).
**Law Com. No. 34	Hague Convention on Recognition of Divorces and Legal Separations: Report by the two Commissions (Scot. Law Com. No. 16) (Cmnd. 4542)	Recognition of Divorces and Legal Separations Act 1971 (c. 53).
Law Com. No. 35	Limitation Act 1963 (Cmnd. 4532)	Law Reform (Miscellaneous Provisions) Act 1971 (c. 43).
Law Com. No. 36	Fifth Annual Report 1969–1970 (H.C. 170)	*
**Law Com. No. 37	Statute Law Revision: Third Report (Cmnd. 4546)	Statute Law (Repeals) Act 1971 (c. 52).
Law Com. No. 38	Coinage Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Coinage (Scot. Law Com. No. 18) (Cmnd. 4544)	Coinage Act 1971 (c. 24).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
Law Com. No. 39	Vehicles (Excise) Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Excise Duties on Mechanically Propelled Vehicles, and to the Licensing and Registration of such Vehicles (Scot. Law Com. No. 19) (Cmnd. 4547)	Vehicles (Excise) Act 1971 (c. 10).
**Law Com. No. 40	Civil Liability of Vendors and Lessors for Defective Premises (H.C. 184)	Defective Premises Act 1972 (c. 35).
<b>1971</b>		
Law Com. No. 41	National Savings Bank Bill: Report by the two Commissions on the Consolidation of Enactments Relating to the National Savings Bank (Scot. Law Com. No. 20) (Cmnd. 4574)	National Savings Bank Act 1971 (c. 29).
**Law Com. No. 42	Family Law: Report on Polygamous Marriages (H.C. 227)	Matrimonial Proceedings (Polygamous Marriages) Act 1972 (c. 38).
Law Com. No. 43	Taxation of Income and Gains Derived from Land: Report by the two Commissions (Scot. Law Com. No. 21) (Cmnd. 4654)	In part by section 82 of the Finance Act 1972 (c. 41).
Law Com. No. 44	Second Programme of Consolidation and Statute Law Revision (H.C. 338)	*
Law Com. No. 45	Town and Country Planning Bill: Report on the Consolidation of Certain Enactments Relating to Town and Country Planning (Cmnd. 4684)	Town and Country Planning Act 1971 (c. 78).
Law Com. No. 46	Road Traffic Bill: Report by the two Commissions of the Consolidation of Certain Enactments Relating to Road Traffic (Scot. Law Com. No. 22) (Cmnd. 4731)	Road Traffic Act 1972 (c. 20).
Law Com. No. 47	Sixth Annual Report 1970-1971 (H.C. 32)	*
**Law Com. No. 48	Family Law: Report on Jurisdiction in Matrimonial Causes (H.C. 464)	Domicile and Matrimonial Proceedings Act 1973 (c. 45).
**Law Com. No. 49	Statute Law Revision: Fourth Report by the two Commissions (Scot. Law Com. No. 26) (Cmnd. 5108)	Statute Law (Repeals) Act 1973 (c. 39).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
<b>1972</b>		
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)	Matrimonial Causes Act 1973 (c. 18).
<b>1973</b>		
Law Com. No. 52	Family Law: First Report on Family Property. A New Approach (H.C. 274)	Legislative proposals deferred until later reports.
Law Com. No. 53	Family Law: Report on Solemnisation of Marriage in England and Wales (H.C. 250)	No
Law Com. No. 54	Third Programme of Law Reform (H.C. 293)	*
**Law Com. No. 55	Criminal Law: Report on Forgery and Counterfeit Currency (H.C. 320)	Forgery and Counterfeiting Act 1981 (c. 45).
**Law Com. No. 56	Report on Personal Injury Litigation—Assessment of Damages (H.C. 373)	Administration of Justice Act 1982 (c. 53).
**Law Com. No. 57	Statute Law Revision: Fifth Report by the two Commissions (Scot. Law Com. No. 32) (Cmnd. 5493)	Statute Law (Repeals) Act 1974 (c. 22).
Law Com. No. 58	Eighth Annual Report 1972–1973 (H.C. 34)	*
<b>1974</b>		
Law Com. No. 59	Friendly Societies Bill: Report by the two Commissions on the Consolidation of the Friendly Societies Acts 1896 to 1971 and Certain Other Enactments Relating to the Societies to which those Acts Apply (Scot. Law Com. No. 35) (Cmnd. 5634)	Friendly Societies Act 1974 (c. 46).
**Law Com. No. 60	Report on Injuries to Unborn Children (Cmnd. 5709)	Congenital Disabilities (Civil Liability) Act 1976 (c. 28).
**Law Com. No. 61	Family Law: Second Report on Family Property, Family Provision on Death (H.C. 324)	Inheritance (Provision for Family and Dependents) Act 1975 (c. 63).



<i>Report</i>	<i>Title</i>	<i>Implementation</i>
**Law Com. No. 62	Transfer of Land: Report on Local Land Charges (H.C. 71)	Local Land Charges Act 1975 (c. 76).
**Law Com. No. 63	Statute Law Revision: Sixth Report by the two Commissions (Scot. Law Com. No. 36) (Cmnd. 5792)	Statute Law (Repeals) Act 1975 (c. 10).
Law Com. No. 64	Ninth Annual Report 1973–1974 (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 by the two Commissions on the Consolidation of Certain Enactments Relating to Supply Powers (Scot. Law Com. No. 38) (Cmnd. 5850)	Supply Powers Act 1975 (c. 9).
**Law Com. No. 67	Codification of the Law of Landlord and Tenant: Report on Obligations of Landlords and Tenants (H.C. 377)	No
**Law Com. No. 68	Transfer of Land: Report on Rentcharges (H.C. 602)	Rentcharges Act 1977 (c. 30).
**Law Com. No. 69	Exemption Clauses: Second Report by the two Commissions (Scot. Law Com. No. 39) (H.C. 605)	Unfair Contract Terms Act 1977 (c. 50).
**Law Com. No. 70	Statute Law Revision: Seventh Report by the two Commissions (Scot. Law Com. No. 40) (Cmnd. 6303)	Statute Law (Repeals) Act 1976 (c. 16).
Law Com. No. 71	Tenth Annual Report 1974–1975 (H.C. 51)	*

### 1976

**Law Com. No. 72	Jurisdiction of Certain Ancient Courts (Cmnd. 6385)	Administration of Justice Act 1977 (c. 38).
**Law Com. No. 73	Report on Remedies in Administrative Law (Cmnd. 6407)	Rules of Supreme Court (Amendment No. 3) 1977; Supreme Court Act 1981 (c. 54).
**Law Com. No. 74	Charging Orders (Cmnd. 6412)	Charging Orders Act 1979 (c. 53).
**Law Com. No. 75	Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers’ Liability (Cmnd. 6428)	Occupiers’ Liability Act 1984 (c.3).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
**Law Com. No. 76	Criminal Law: Report on Conspiracy and Criminal Law Reform (H.C. 176)	In part by Criminal Law Act 1977 (c. 45).
**Law Com. No. 77	Family Law: Report on Matrimonial Proceedings in Magistrates' Courts (H.C. 637)	Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22).
Law Com. No. 78	Eleventh Annual Report 1975-1976 (H.C. 94)	*

### 1977

**Law Com. No. 79	Law of Contract: Report on Contribution (H.C. 181)	Civil Liability (Contribution) Act 1978 (c. 47).
**Law Com. No. 80	Statute Law Revision: Eighth Report by the two Commissions (Scot. Law Com. No. 44) (Cmnd. 6719)	Statute Law (Repeals) Act 1977 (c. 18).
Law Com. No. 81	Rent Bill: Report on the Consolidation of the Rent Act 1968, Parts III, IV and VIII of the Housing Finance Act 1972, the Rent Act 1974, sections 7 to 10 of the Housing Rents and Subsidies Act 1975 and Certain Related Enactments (Cmnd. 6751)	Rent Act 1977 (c. 42).
Law Com. No. 82	Liability for Defective Products: Report by the two Commissions (Scot. Law Com. No. 45) (Cmnd. 6831)	*
**Law Com. No. 83	Criminal Law: Report on Defences of General Application (H.C. 556)	No
Law Com. No. 84	Law of Contract: Report on the Proposed E.E.C. Directive on the Law Relating to Commercial Agents (Cmnd. 6948)	*
Law Com. No. 85	Twelfth Annual Report 1976-1977 (H.C. 96)	*

### 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)	Housing Act 1980 (c. 51); Matrimonial Homes and Property Act 1981 (c. 24).
**Law Com. No. 87	Statute Law Revision: Ninth Report by the two Commissions (Scot. Law Com. No. 48) (Cmnd. 7189)	Statute Law (Repeals) Act 1978 (c. 45).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
**Law Com. No. 88	Law of Contract: Report on Interest (Cmnd. 7229)	In part: Administration of Justice Act 1982 (c. 53); Rules of the Supreme Court (Amendment No. 2) 1980.
**Law Com. No. 89	Criminal Law: Report on the Mental Element in Crime (H.C. 499)	No
Law Com. No. 90	Interpretation Bill: Report by the two Commissions on the Interpretation Act 1889 and Certain Other Enactments relating to the Construction and Operation of Acts of Parliament and Other Instruments (Scot. Law Com. No. 53) (Cmnd. 7235)	Interpretation Act 1978 (c. 30).
**Law Com. No. 91	Criminal Law: Report on the Territorial and Extra-territorial Extent of the Criminal Law (H.C. 75)	No
Law Com. No. 92	Thirteenth Annual Report 1977-1978 (H.C. 87)	*
Law Com. No. 93	Customs and Excise Management Bill: Report by the two Commissions on the Consolidation of the Enactments relating to the Collection and Management of the Revenues of Customs and Excise (Scot. Law Com. No. 54) (Cmnd. 7418)	Customs and Excise Management Act 1979 (c. 2).

### 1979

Law Com. No. 94	Justices of the Peace Bill: Report on the Consolidation of Certain Enactments relating to Justices of the Peace (including Stipendiary Magistrates), Justices' Clerks and the Administrative and Financial Arrangements for Magistrates' Courts and to Matters connected therewith (Cmnd. 7583)	Justices of the Peace Act 1979 (c. 55).
**Law Com. No. 95	Law of Contract: Implied Terms in Contracts for the Supply of Goods (H.C. 142)	Supply of Goods and Services Act 1982 (c. 29).
**Law Com. No. 96	Criminal Law: Offences relating to Interference with the Course of Justice (H.C. 213)	No
Law Com. No. 97	Fourteenth Annual Report 1978-1979 (H.C. 322)	*
Law Com. No. 98	Reserve Forces Bill: Report on the Consolidation of Certain Enactments relating to the Reserve and Auxiliary Forces (Cmnd. 7757)	Reserve Forces Act 1980 (c. 9).

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
<b>1980</b>		
**Law Com. No. 99	Family Law: Orders for Sale of Property under the Matrimonial Causes Act 1973 (H.C. 369)	Matrimonial Homes and Property Act 1981 (c. 24).
Law Com. No. 100	Highways Bill: Report on the Consolidation of the Highways Acts 1959 to 1971 and Related Enactments (Cmnd. 7828)	Highways Act 1980 (c. 66).
Law Com. No. 101	Magistrates' Courts Bill: Report on the Consolidation of Certain Enactments relating to the Jurisdiction of, and the Practice and Procedure before, Magistrates' Courts and the Functions of Justices' Clerks, and to Matters connected therewith (Cmnd. 7887)	Magistrates Courts Act 1980 (c. 43).
**Law Com. No. 102	Criminal Law: Attempt, and Impossibility in relation to Attempt, Conspiracy and Incitement (H.C. 646)	Criminal Attempts Act 1981 (c. 47).
Law Com. No. 103	Family Law: The Financial Consequences of Divorce: The Basic Policy. A Discussion Paper (Cmnd. 8041)	*
**Law Com. No. 104	Insurance Law: Non-Disclosure and Breach of Warranty (Cmnd. 8064)	No
Law Com. No. 105	Judicial Pensions Bill: Report by the two Commissions on the Consolidation of Certain Enactments relating to Pensions and Other Benefits payable in respect of service in Judicial Office (Scot. Law Com. No. 62) (Cmnd. 8097)	Judicial Pensions Act 1981 (c. 20).
**Law Com. No. 106	Statute Law Revision: Tenth Report by the two Commissions (Scot. Law Com. No. 63) (Cmnd. 8089)	Statute Law (Repeals) Act 1981 (c. 19); Supreme Court Act 1981 (c. 54); British Telecommunications Act 1981 (c. 38).

**1981**

Law Com. No. 107	Fifteenth Annual Report 1979-1980 (H.C. 161)	*
Law Com. No. 108	Trustee Savings Banks Bill: Report by the two Commissions on the Consolidation of the Trustee Savings Banks Acts 1969 to 1978 (Scot. Law Com. No. 65) (Cmnd. 8257)	Trustee Savings Banks Act 1981 (c. 65).
Law Com. No. 109	Private International Law: Council of Europe Conventions on Foreign Money Liabilities (1967) and on the Place of Payment of Money Liabilities (1972) (Joint Report—Scot. Law Com. No. 66) (Cmnd. 8318)	*

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
**Law Com. No. 110	Breach of Confidence (Cmnd. 8388)	No
Law Com. No. 111	Property Law: Rights of Reverter (Cmnd. 8410)	No
Law Com. No. 112	Family Law: The Financial Consequences of Divorce. The Reponse to the Law Commission's Discussion Paper, and Recommendations on the Policy of the Law (H.C. 68)	Matrimonial and Family Proceedings Act 1984 (c. 42).

### 1982

Law Com. No. 113	Sixteenth Annual Report 1980-1981 (H.C. 161)	*
**Law Com. No. 114	Classification of Limitation in Private International Law (Cmnd. 8570)	Foreign Limitation Periods Act 1984 (c. 16).
Law Com. No. 115	Property Law: The Implications of <i>Williams &amp; Glyn's Bank Ltd. v. Boland</i> (Cmnd. 8636)	No
**Law Com. No. 116	Family Law: Time Restrictions on Presentation of Divorce and Nullity Petitions (H.C. 513)	Matrimonial and Family Proceedings Act 1984 (c. 42).
**Law Com. No. 117	Family Law: Financial Relief after Foreign Divorce (H.C. 514)	Matrimonial and Family Proceedings Act 1984 (c. 42).
**Law Com. No. 118	Family Law: Illegitimacy (H.C. 98)	No

### 1983

Law Com. No. 119	Seventeenth Annual Report 1981-1982 (H.C. 203)	*
Law Com. No. 120	Medical Bill: Report by the two Commissions on the Consolidation of the Medical Acts 1956 to 1978 and Certain Related Provisions (Scot. Law Com. No. 77) (Cmnd. 8839)	Medical Act 1983 (c. 54).
**Law Com. No. 121	Law of Contract: Pecuniary Restitution on Breach of Contract (H.C. 34)	No
**Law Com. No. 122	The Incapacitated Principal (Cmnd. 8977)	[Enduring Powers of Attorney Bill].
**Law Com. No. 123	Criminal Law: Offences relating to Public Order (H.C. 85)	No
**Law Com. No. 124	Private International Law: Foreign Money Liabilities (Cmnd. 9064)	No

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
**Law Com. No. 125	Property Law: Land Registration (H.C. 86)	No
Law Com. No. 126	Amendment of the Companies Acts 1948–1983: Report by the two Commissions under section 116 of the Companies Act 1981 (Cmnd. 9114)	The Companies Acts (Pre-Consolidation Amendments) Order 1984.
<b>1984</b>		
**Law Com. No. 127	Property Law: The Law of Positive and Restrictive Covenants (H.C. 201)	No
Law Com. No. 128	Registered Homes Bill: Report on the Consolidation of Certain Enactments Relating to Residential Care Homes and Nursing Homes and Registered Homes Tribunals (Cmnd. 9115)	Registered Homes Act 1984 (c. 23).
Law Com. No. 129	Dentists Bill: Report by the two Commissions on the Consolidation of the Dentists Acts 1957 to 1983 (Scot. Law Com. No. 84) (Cmnd. 9119)	Dentists Act 1984 (c. 24).
Law Com. No. 130	Public Health (Control of Disease) Bill: Report on the Consolidation of Certain Enactments relating to the Control of Disease (Cmnd. 9128)	Public Health (Control of Disease) Act 1984 (c. 22).
Law Com. No. 131	Eighteenth Annual Report 1982–1983 (H.C. 266)	*
**Law Com. No. 132	Family Law: Declarations in Family Matters (H.C. 263)	No
Law Com. No. 133	Road Traffic Regulation Bill (Joint Report—Scot. Law Com. No. 85) (Cmnd. 9162)	Road Traffic Regulation Act 1984 (c. 27).
**Law Com. No. 134	Law of Contract: Minors' Contracts (H.C. 494)	No
Law Com. No. 135	Statute Law Revision: Eleventh Report: Obsolete Provisions in the Companies Act 1948 (Cmnd. 9236)	[Companies Consolidation (Consequential Amendments) Bill].
Law Com. No. 136	Further Amendments of the Companies Acts 1948–1983: Report by the two Commissions under section 116 of the Companies Act 1981 (Scot. Law Com. No. 87) (Cmnd. 9272)	The Companies Acts (Pre-Consolidation Amendments) (No. 2) Order 1984.
**Law Com. No. 137	Private International Law: Recognition of Foreign Nullity Decrees and Related Matters (Joint Report—Scot. Law Com. No. 88) (Cmnd. 9347)	No

<i>Report</i>	<i>Title</i>	<i>Implementation</i>
<b>1985</b>		
**Law Com. No. 138	Family Law: Conflicts of Jurisdiction affecting the Custody of Children (Joint Report—Scot. Law Com. No. 91) (Cmnd. 9419)	No
Law Com. No. 139	Cinemas Bill (Cmnd. 9425)	[Cinemas Bill].
Law Com. No. 140	Nineteenth Annual Report 1983–1984	*

#### **C. Joint Working Group Report**

11 April 1979

Private International Law: Report on the choice of law rules in the Draft Non-Life Insurance Services Directive by a Joint Working Group of the Law Commission and Scottish Law Commission.

#### **D. Other Publications**

Land Registration: "Who Owns That House?"

Statute Law Revision: Chronological Table of Local Legislation—Local and Personal Acts 1797–1908 (Joint Consultative Document with the Scottish Law Commission).

*An unabridged reprint of Law Commission Reports Nos. 1–120, bound in thirteen volumes, is published by Professional Books, Milton Trading Estate, Abingdon, Oxon. OX14 4SY. Vols. 1–10 (1–95) are available at £275. Vol. 11 (92–107), Vol. 12 (108–115) and Vol. 13 (116–120) are available separately at £36 each.*

## APPENDIX 5

### THE COST OF THE COMMISSION

For the period 1 November 1983 to 31 October 1984  
(Last year's figures appear in brackets)

	£	£
Travel and Subsistence . . . . .	9,200	(4,900)
Entertainment . . . . .	400	(300)
Telephone/Postage . . . . .	16,800	(16,600)
Accommodation Charges . . . . .	340,500	(308,200)
Printing of Bills, Working Papers and Consultative Documents, Supply of office equipment and books . . . . .	272,490	(339,900)
Commissioners' Salaries (including ERNIC and superannuation) . . . . .	203,100	(221,500)
Draftsmen, Legal Staff and Consultants (including ERNIC) . . . . .	533,000	(518,900)
Non-Legal Staff Salaries (including ERNIC) . . . . .	245,300	(203,500)
Superannuation . . . . .	201,500	(140,900)
Miscellaneous . . . . .	2,610	(700)
Headquarters' overheads . . . . .	64,900	(64,200)
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