

# **The Law Commission**

(LAW COM. No. 206)

## **TWENTY-SIXTH ANNUAL REPORT 1991**

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

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*Ordered by The House of Commons to be printed  
11 March 1992*

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

The Commissioners are:

The Honourable Mr Justice Peter Gibson, *Chairman*

Mr Trevor M. Aldridge

Mr Jack Beatson

Mr Richard Buxton, QC

Professor Brenda Hoggett, QC

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

THE LAW COMMISSION

TWENTY-SIXTH ANNUAL REPORT: 1991

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# THE LAW COMMISSION

## TWENTY-SIXTH ANNUAL REPORT

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

We have the honour to present, pursuant to section 3(3) of the Law Commissions Act 1965, our Twenty-Sixth Annual Report for the year 1991.

### PART I

#### THE PAST YEAR IN OUTLINE

1.1 Since the publication of our last Annual Report we have submitted to you six reports recommending changes, some of them of considerable importance, in different areas of the law; and we have published four consultation papers, each of which represents an important step in a law reform project. Although this is by no means a record for the Law Commission, it is a substantial achievement in which we take pride. Full details of all these publications are given in Part II of this report.

1.2 But the productivity of the Law Commission is not being matched by actual reform of the law. We stated in our last Annual Report<sup>1</sup> that with the exception of 1983, a general election year, 1991 would probably be the first year since the Commission was set up when no law reform Bill based on its work would reach the statute book. We would have been glad to be proved wrong. Sadly, while of the 69 public general Acts which received the Royal Assent during 1991, six were consolidation Acts drafted at the Law Commission,<sup>2</sup> not one was a law reform measure based on our recommendations. Nor is this all: the Government's legislative programme at the beginning of the Parliamentary session 1991/92 likewise included not a single Law Commission law reform measure. Indeed, we would be obliged to forecast for 1992 the same unfortunate outcome, were it not for the possibility that two Bills introduced towards the end of 1991 might be enacted this year: the Access to Neighbouring Land Bill introduced by Lord Murton of Lindisfarne,<sup>3</sup> and the Carriage of Goods by Sea Bill introduced by Lord Goff of Chieveley.<sup>4</sup> We understand that both measures enjoy Government support; and we hope that the combination of a short session with the fact that neither measure is a Government Bill will not jeopardise their chances of enactment.

1.3 We know that you share our concern at the mounting number of law reform reports which remain unimplemented despite the fact that the Government have in the great majority of cases either expressed no opposition to our proposals, or have in fact actually accepted them. We know too that you are not alone in sharing this concern; by way of example only, we would cite the speech made by Lord Wilberforce in the debate on the Address<sup>5</sup> and the question put to the Attorney General by Mr John Fraser, the Opposition spokesman on legal affairs.<sup>6</sup> We are grateful for the consideration that is now being given to the possibility of procedural changes in the House of Lords which could shorten the time taken by law reform Bills on the floor of that House. In our view it is proper that recognition should be given by Parliament in its procedures to the fact that law reform Bills of the Law Commissions are produced by the independent bodies specifically designated by Parliament to promote the reform of the law, have been preceded by extensive consultation and explained in a detailed report, have been drafted by Parliamentary Counsel and have been published usually well in advance of their introduction. But, in the last resort, there is in our view no alternative to the inclusion by the Government of a number

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<sup>1</sup> Twenty-Fifth Annual Report 1990, (1991) Law Com. No. 195, para. 1.5.

<sup>2</sup> See para. 2.49 below.

<sup>3</sup> Based, though with amendments, on the draft Bill annexed to the Law Commission's Report on Rights of Access to Neighbouring Land, (1985) Law Com. No. 151, Cmnd. 9692.

<sup>4</sup> Taken from the draft Bill annexed to the Joint Report of the Law Commission and the Scottish Law Commission on Rights of Suit in Respect of Carriage of Goods by Sea, (1991) Law Com. No. 196, Scot. Law Com. No. 130.

<sup>5</sup> *Hansard* (H.L.), 6 November 1991, vol. 532, cols. 272-275.

<sup>6</sup> *Hansard* (H.C.), 2 December 1991, vol. 200, Written Answers, cols. 8 and 9.

of law reform Bills in every legislative programme if the list of unimplemented reports is not to grow ever longer, as it has done over each of the last four years.

1.4 Among the law reform projects which we describe in detail in Part II of this report are an examination of judicial review,<sup>7</sup> and an examination of the remedy of damages.<sup>8</sup> We mention these items specifically because we could not have embarked upon this work without your agreement in June 1991 to the Fifth Programme of Law Reform which we submitted to you for your approval under section 3(1)(b) of the Law Commissions Act on 15 May 1991. Our Fourth Programme of Law Reform,<sup>9</sup> which we submitted to you on 28 July 1989 and which consolidates and supplements our first three programmes of law reform, contains nine programme items. Judicial Review is accordingly numbered item 10, and Damages item 11.

1.5 A review of 1991 would be incomplete without a reference to the entry into force on 14 October of the Children Act 1989. Parts I, II, and IV of that Act are directly derived from the draft Bill annexed to the Law Commission's Review of Child Law: Guardianship and Custody.<sup>10</sup> Much of the public law element of the Act is derived from the recommendations of an inter-departmental working party of which Professor Hoggett was a member, and which was serviced in part by Law Commission legal staff. The Family Law team of the Law Commission was closely involved with the preparation and passage of the Bill for the Act, and with advice on the voluminous secondary legislation without which the Act could not operate. Every aspect of the law relating to children has been radically amended, and the Law Commission has been closely involved at almost every stage.

1.6 In our Twenty-Fourth Annual Report for 1989<sup>11</sup> we referred to the enactment of the Statute Law (Repeals) Act 1989, and tendered our particular thanks to Mr Frank Streeten and those who work with him on statute law revision. We were therefore delighted that Mr Streeten was awarded the CBE in the 1991 Birthday Honours. He has been working on statute law revision ever since he joined the Law Commission in 1967, and for the majority of that time he has been in charge of the statute law revision team, working with very little supervision from Commissioners. For eighteen months he successfully filled the post of Secretary during a gap between appointments. This is an honour which in our view is conspicuously well deserved.

1.7 If we single out Mr Streeten, this is not of course because he is alone in having given loyal and effective service to the Law Commission. Once again we should like to express our appreciation of the dedicated service we have received from lawyers in the Government legal service, from the research assistants, and from the administrative and supporting staff.

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<sup>7</sup> See para. 2.9 below.

<sup>8</sup> See para. 2.10 below.

<sup>9</sup> Law Com. No. 185, Cm. 800.

<sup>10</sup> (1988) Law Com. No. 172.

<sup>11</sup> (1990) Law Com. No. 190, para. 1.12.



## PART II

### THE YEAR UNDER REVIEW

#### REPORTS AND CONSULTATION PAPERS (OTHER THAN STATUTE LAW)

2.1 We list below the reports which we have submitted since our last Annual Report:

- (i) Rights of Suit in Respect of Carriage of Goods by Sea, Law Com. No. 196, Scot. Law Com. No. 130.
- (ii) Transfer of Land: Implied Covenants for Title, Law Com. No. 199.
- (iii) Transfer of Land: Obsolete Restrictive Covenants, Law Com. No. 201.
- (iv) Criminal Law: Corroboration of Evidence in Criminal Trials, Law Com. No. 202.
- (v) Transfer of Land: Land Mortgages, Law Com. No. 204.
- (vi) Criminal Law: Rape within Marriage, Law Com. No. 205.

2.2 Since our last Annual Report we have also published the following consultation papers:

- (i) The Law of Trusts: Delegation by Individual Trustees, Consultation Paper No. 118.
- (ii) Mentally Incapacitated Adults and Decision-Making: An Overview, Consultation Paper No. 119.
- (iii) Restitution of Payments Made Under a Mistake of Law, Consultation Paper No. 120.
- (iv) Privity of Contract: Contracts for the Benefit of Third Parties, Consultation Paper No. 121.

#### REPORT ON PROGRESS

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

#### Common Law Projects

2.4 Our Fifth Programme of Law Reform<sup>1</sup> was the outcome of the deliberations referred to in our last Annual Report<sup>2</sup> on the branches of law within the common law field currently most in need of examination. For the reasons mentioned in Part I,<sup>3</sup> we focused on the need to look again at the procedure and forms of relief available by way of judicial review, and to consider the principles relevant to and the efficacy of the remedy of damages in civil litigation. Several other items had been brought to our attention as meriting law reform consideration, but given the resources and time available to us, the two items chosen reflect our priorities.

2.5 Whilst we are of course unable to work on all the matters which could usefully be the subject of law reform, it is right that we record the other matters suggested to us so that the need for reform will not be overlooked.

2.6 In the area of contract law, there are a number of current developments which suggest the need for reform in the area of sale of goods, including but not confined to the Commissions' recommendations on Sale and Supply of Goods,<sup>4</sup> which have broadly been accepted in principle by Government.<sup>5</sup> We understand that consideration is being given to the topic of consumer guarantees by the Department of Trade and Industry. Furthermore, it appears to us that if the Government decides to ratify the Vienna Convention on the International Sale of Goods (which we support), consideration will need to be given to whether it would be desirable to change English law, for example, on firm offers, and on the right to reject goods on a minor breach of a statutorily implied term. There are also still outstanding the recommendations in Professor A. L. Diamond's Review of Security

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<sup>1</sup> (1991) Law Com. No. 200.

<sup>2</sup> Twenty-Fifth Annual Report 1990, (1991) Law Com. No. 195, para. 1.8.

<sup>3</sup> See para. 1.4 above.

<sup>4</sup> Joint Report: (1987) Law Com. No. 160, Scot. Law Com. No. 104, Cm. 137.

<sup>5</sup> *Hansard* (H.C.) 3 November 1988, vol. 139, Written Answers, col. 705. This stated the Government's acceptance of the Law Commissions' proposals subject to minor clarifying amendments, and their intention to seek an appropriate legislative opportunity to give effect to them.

Interests in Property<sup>6</sup> concerning the exceptions to the *nemo dat* rule. The law relating to illegal contracts is another area which has been suggested to us as meriting consideration under our programme item on contract.<sup>7</sup>

2.7 Secondly, we considered the implications of the decision of the House of Lords in *Murphy v. Brentwood District Council*.<sup>8</sup> The effect of this decision is to increase the situations in which loss will be regarded as economic loss and thus irrecoverable. There are important implications for the law on defective premises both residential and commercial, and relating to latent damage. We note that since our consideration of the matter the National Consumer Council has proposed that consumers should be enabled to recover the cost of remedying dangerous defects in dwelling houses.<sup>9</sup>

2.8 The methods by which Anton Piller orders are carried out have been likened to search warrants, and the execution of the order following an *ex parte* hearing, which may upset the defendant's home and close his business down, has been recognised as Draconian.<sup>10</sup> We gave consideration to whether the time had come for a review of the policy underlying the powers courts have to grant Anton Piller orders and Mareva injunctions, and the procedure for obtaining and executing both types of order. Following a resolution of the Judges' Council, a committee has been established to consider the practical operation of Anton Piller orders.<sup>11</sup>

#### *Administrative Law*

2.9 Our previous report on Remedies in Administrative Law<sup>12</sup> paved the way for the new procedure of judicial review which was introduced in 1977. Since then there has been considerable debate about a number of features of the new procedure (for example, the leave requirement and the time limits) and judicial developments since its introduction (such as the requirement that, as a general rule, only this procedure be used in public law cases). There has been a significant increase in the number of applications for judicial review and in the delay in determining such applications. Other developments include the introduction of the Crown Office list in 1981 and increasing awareness of the remedial implications in public law cases of membership of the European Communities. We will now review the operation of the new procedure and consider what further developments are needed in order to safeguard the continuing effectiveness of the remedy, and to accommodate the continuing judicial development of the substantive law in this field. We will also consider the related topic of the varying procedures governing rights conferred under various statutes to apply or appeal to the High Court from the decisions of inferior courts, tribunals and bodies on which we are being assisted by Mr R. J. F. Gordon. We plan to issue a consultation paper in 1992.

#### *Damages in Civil Litigation*

2.10 The remedy of damages is fundamental to the system of civil justice. Litigation for damages arising out of personal injury accounts for a significant proportion of all civil litigation, and the awards made by courts are influential in the minds of insurers and advisers in considering the appropriate amount for which claims are settled. We consider that there is a particular need for further examination of the principles upon which damages are awarded, and the effectiveness of such awards in serving these principles. The law relating to damages in personal injury litigation is one which we have examined before.<sup>13</sup> The major focus of the new inquiry will again be on damages in personal injury cases, but the scope of the inquiry is not confined to such cases or, indeed, to tort. Legal research has now begun and we are planning empirical research into how awards of damages are used. Professor Hazel Genn of Queen Mary and Westfield College has been engaged as a consultant to manage and co-ordinate such empirical research. The topic is large, and it is foreseeable that we shall wish to issue a series of separate papers on topics such as structured settlements, non-pecuniary loss, medical and nursing expenses and non-compensatory damages, including punitive damages. We plan to issue the first of what may be several consultation papers in 1992. In October 1991 the Commission hosted a

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<sup>6</sup> HMSO (1989).

<sup>7</sup> Fourth Programme of Law Reform, (1989) Law Com. No. 185, Cm. 800, item 1.

<sup>8</sup> [1991] 1 A.C. 398.

<sup>9</sup> "Murphy's Law, Consumer Policy in the Courts", N.C.C., November 1991.

<sup>10</sup> *Columbia Picture Industries v. Robinson* [1987] Ch. 38.

<sup>11</sup> Lord Chancellor's Department Press Notice, 29 July 1991.

<sup>12</sup> (1976) Law Com. No. 73.

<sup>13</sup> Report on Personal Injury Litigation—Assessment of Damages, (1973) Law Com. No. 56.

seminar to assist the consultation process relevant to your recent proposals for compensation for road accidents.<sup>14</sup> The seminar debated the New Zealand no fault compensation scheme. It was addressed by Mr D. Rennie, a New Zealand practitioner, and at our invitation practitioners, academics and members of your Department participated.

#### *Fiduciary Duties and Regulatory Bodies*

2.11 We are continuing our investigation of the principles which should govern the effect of statutory and non-statutory controls on the fiduciary duties of professional and business activities, particularly in the field of financial services. We are being assisted by Professor D. D. Prentice of Pembroke College, Oxford and Caroline Bradley of the London School of Economics and Political Science. Our review of this issue has attracted much attention and interest, and was one of the topics covered at a colloquium organised by Norton Rose and the Oxford University Law Faculty in September 1991 in which the Commission participated. Following analysis of comments received in answer to our Issues Questionnaire published in November 1990 and consideration of changes in regulatory rules in the financial services context, we are planning to issue a consultation paper by mid-1992.

#### *Restitution*

2.12 We are examining the law relating to payments made but not lawfully due, and in particular the common law rule that payments made under a mistake of law are irrecoverable. Our study includes payments (whether mistaken or not) to and by public authorities. We have been assisted by Professor S. L. Arrowsmith of the University College of Wales, who is acting as our consultant on this project, and by the Society of Public Teachers of Law who provided a forum for discussion on this issue in September 1991. We issued a consultation paper in July 1991<sup>15</sup> and will shortly commence analysis of the comments received. We shall want to await the outcome of the pending appeal to the House of Lords in *Woolwich Equitable Building Society v. I.R.C. (No. 2)*<sup>16</sup> before considering our final recommendations, but subject to that factor we hope to produce a report during the course of 1992.

### **Contract Law**

#### *Carriage of Goods by Sea*

2.13 We were pleased to submit to you our joint report with the Scottish Law Commission on Rights of Suit in Respect of Carriage of Goods by Sea.<sup>17</sup> This concluded the part of our review concerned with carriage of goods by sea. Our main recommendation is that the holder of a bill of lading should be able to sue on the bill regardless of the passing of property in the goods to which the bill relates. We also recommend that reform should cover sea waybills, ship's delivery orders and transactions effected by electronic data interchange. The report was accompanied by a draft Bill and we were pleased to see the Government's co-operative and swift response to the call for urgent reform by those concerned with the problems of carriage of goods by sea, which has enabled this matter to be taken forward as a Private Peer's Bill in the current session.<sup>18</sup>

#### *Sale of Goods*

2.14 Work is now continuing on the second limb of the review that arose out of concern with bulk sales. This relates to reform of section 16 of the Sale of Goods Act 1979. In the light of the responses to consultation, it became apparent that further consideration should be given to the implications for insolvency law of the proposals for reform. A supplementary consultation paper was therefore issued in April 1991. The Scottish Law Commission have taken the lead on this aspect of the review, and we are most grateful to them.

#### *Contributory Negligence as a Defence in Contract*

2.15 We consulted in 1990<sup>19</sup> on the question whether a plaintiff's damages should be reduced where his loss has been caused partly by the defendant's breach of contract and partly by his own conduct. The Law Reform (Contributory Negligence) Act 1945 allows

<sup>14</sup> "Compensation for Road Accidents: A Consultation Paper", (May 1991) Lord Chancellor's Department.

<sup>15</sup> Restitution of Payments made under a Mistake of Law, Consultation Paper No. 120.

<sup>16</sup> [1991] 3 W.L.R. 790. We understand the appeal is likely to be heard in March 1992.

<sup>17</sup> Law Com. No. 196, Scot. Law Com. No. 130.

<sup>18</sup> Lord Goff of Chieveley introduced the Bill in the House of Lords on 19 December 1991: see para. 1.2 above.

<sup>19</sup> Working Paper No. 114.

a plaintiff's damages to be reduced on account of his contributory negligence in an action in tort, but its application to actions in contract is a matter of controversy. Following analysis of the responses to consultation further work was temporarily suspended in favour of other more pressing work, and we may not be able to report until 1993.

#### *Contracts for the Benefit of Third Parties*

2.16 We are examining the rule that non-parties may not bring claims on a contract made for their benefit, and that where a contract for the benefit of a third party has been broken the promisee cannot in general recover damages in respect of the loss suffered only by the third party. We issued a consultation paper on this topic in November 1991<sup>20</sup> and are inviting comments by June 1992.

### **Criminal Law**

#### *Criminal Code*

2.17 We explained in our last Annual Report<sup>21</sup> that in our view the implementation of the Criminal Code<sup>22</sup> could be furthered only by means of a series of reports recommending the reform or restatement of areas of specific crime along the lines envisaged by the Code Report, together with the reformulation in Code terms of general principles relevant to the offences in question. As a first step, we will publish a consultation paper, with a draft Bill attached, dealing with the reform of the law of offences against the person, and the rationalisation and reformulation of some general principles of criminal fault and defences. Offences against the person represents the last substantial part of the criminal law governed by the consolidating statutes of 1861. It has been recognised for many years that the law is badly in need of reform. We should stress that the consultation paper will ask for comments on a draft Bill; thus, we hope, enabling us to put a recommended Bill before you at an early date after the close of consultation. We are able to approach the matter in this way only because we can build upon the substantial work already done in the Code project.

2.18 The consultation paper would have been published in the course of 1991, had we not thought it right to delay it to take account of the important rulings of the House of Lords in the cases of *Savage* and *Parmenter*, which were heard in early July, the decisions eventually being delivered on 7 November.<sup>23</sup> Work on the project has now reached an advanced stage, and we expect to publish the consultation paper and draft Bill in the Spring of 1992. We regard this work as a major and substantial contribution to the longer term objective of the legislation of a complete Criminal Code. We are grateful to Professor Edward Griew, a member of the original Code team, for his assistance with this project.

#### *Rape within Marriage*

2.19 This was a joint project with the Family Law team. Our Working Paper on this subject was published on 6 November 1990.<sup>24</sup> Its provisional conclusion was that there should be abolished in its entirety the rule then thought to exist whereby, except in certain particular circumstances, a husband could be convicted of raping his wife. By the time the consultation period closed on 1 March 1991, more than 70 responses had been received from individuals and groups, dealing with a wide range of policy and practical issues raised in the Working Paper.

2.20 On 14 March 1991 the Court of Appeal gave judgment in the case of *R v. R*,<sup>25</sup> holding that the marital immunity no longer exists. For a number of reasons, we decided at that point that it was important for us to continue with the project, with a view to submitting a final report and draft Bill once the House of Lords had given its decision in any appeal in *R v. R*. First, our Working Paper had elicited considerable response on a number of policy and practical issues not easily dealt with in the context of a single case; and we took the view that Parliament and the public should be informed of that evidence, and of our conclusions on it. Secondly, whatever the decision on appeal, a number of ancillary questions would remain to be answered, including whether the wife should be a

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<sup>20</sup> Privity of Contract: Contracts for the Benefit of Third Parties, Consultation Paper No. 121.

<sup>21</sup> Twenty-Fifth Annual Report 1990, (1991) Law Com. No. 195, paras. 2.15 to 2.16.

<sup>22</sup> Criminal Law: A Criminal Code for England and Wales, (1989) Law Com. No. 177.

<sup>23</sup> [1991] 3 W.L.R. 914.

<sup>24</sup> Working Paper No. 116.

<sup>25</sup> [1991] 2 W.L.R. 1065.

compellable witness in proceedings against her husband for raping her, and whether there should be special provisions about identification of the husband. Thirdly, if the decision was upheld on appeal, it was very likely that any corresponding immunity in respect of the offences in sections 2 and 3 of the Sexual Offences Act 1956 should also be abolished. Finally, it would be highly desirable, if the decision was upheld, to remove from the text of the statutory definition of rape<sup>26</sup> the word "unlawful" which had been argued to be inconsistent with the decision of the Court of Appeal.

2.21 The House of Lords gave its decision in *R v. R* on 23 October 1991,<sup>27</sup> upholding the ruling of the Court of Appeal. Within a month of that decision we submitted to you our final report and draft Bill, and it was published on 14 January 1992.<sup>28</sup>

#### *Assisting and Encouraging Crime*

2.22 This is a large and complicated subject, of great importance, that has not previously received the close scrutiny and conceptual analysis that it requires and deserves. We expect to publish a consultation paper during 1992, which will deal not only with the traditional category of aiding and abetting, but also with cognate matters that cannot sensibly be isolated from complicity in the narrow sense, including the law of incitement and the principles of joint enterprise.

#### *Intoxication*

2.23 Our detailed scrutiny of the law of defences, in connection with our Code project, forced us to look again at the rules about the effect of intoxication (including intoxication by drugs as well as alcohol). We concluded that it would not be right to ask Parliament to enact the present rules in codified form, at least until those rules had been subjected to the discipline of a full Commission law reform project. The present rules are complex; without any firm grounding in legal theory or social policy; inconsistent with other established rules of law; and out of line with the law in many other common law countries. However, although the present law has many critics, any alternative solution has tended to encounter criticism in equal measure. It is our task to review the weight of material that this problem has generated, to see if there is any viable alternative to the present law. We expect to publish a consultation paper in 1992.

#### *Conspiracy to Defraud*

2.24 We are conscious that this problem has been in the hands of the Commission since as long ago as 1972. The problem is an intractable one, but we have determined that a final report on it must be completed. The need to devote resources to other projects has forced us to defer the target date for the publication of that report to the end of 1992.

#### *Binding Over*

2.25 This problem has been in the hands of the Commission since 1980. In recent years it has been difficult to maintain continuity on this project, owing to the inevitably rapid turnover amongst our temporary research assistants. It has been possible to analyse the responses to the supplementary consultation paper that we published in the latter half of 1990, but otherwise it has been necessary to defer the completion of our report in the face of more urgent pressures on staff time. It is not possible to give any firm indication of when the report may be completed.

### **Evidence**

#### *Corroboration in Criminal Proceedings*

2.26 We submitted our final report on this subject on 26 September 1991.<sup>29</sup> Confirming the provisional conclusion of our Working Paper, published on 10 April 1990,<sup>30</sup> and the strong weight of opinion on consultation, the report recommends abolition of the current rules. It also explains extensively the reasons for our further recommendation that the corroboration rules should not be replaced. Given the overwhelming support, especially

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<sup>26</sup> s.1(1) of the Sexual Offences (Amendment) Act 1976.

<sup>27</sup> [1991] 3 W.L.R. 767.

<sup>28</sup> Criminal Law: Rape within Marriage, Law Com. No. 205.

<sup>29</sup> Criminal Law: Corroboration of Evidence in Criminal Trials, Law Com. No. 202, Cm. 1620.

<sup>30</sup> Working Paper No. 115.

among the judiciary, for abolition of the corroboration rules, we very much hope that an early opportunity can be found to implement the draft Bill which accompanies the report.

#### *The Hearsay Rule in Civil Proceedings*

2.27 We have been considering whether the exclusionary rule of evidence against hearsay should be abolished or further reformed. We issued a consultation paper in January 1991<sup>31</sup> canvassing options for reform and concerning the safeguards which might be required in circumstances where the evidence sought to be adduced is of a hearsay nature. We were pleased at the number of responses we received, particularly given the pressures of time faced by many of the consultants, judges and practitioners whose views were of particular significance in considering this topic. We plan to report in 1992.

### **Family Law**

#### *Review of Child Law*

2.28 We referred in Part I of this report<sup>32</sup> to the coming into force on 14 October 1991 of the Children Act 1989. The team has continued to provide assistance to your Department and to the Department of Health in connection with its implementation. Professor Hoggett, who is a member of the Civil and Family Committee of the Judicial Studies Board, has contributed to a number of training seminars for the judiciary.

2.29 Preliminary work has also been carried out on a review of the wardship jurisdiction. A working paper was published in 1987,<sup>33</sup> but further work was postponed until after the changes introduced by the Children Act 1989 could be assessed. We expect, therefore, to return to this topic as experience of the 1989 Act develops.

#### *The Ground for Divorce*

2.30 Our Report on The Ground for Divorce<sup>34</sup> was published on 1 November 1990, and we have been engaged, particularly in the early part of 1991, in responding to enquiries and comments about this.

#### *Domestic Violence and Occupation of the Family Home*

2.31 The preparation of our final report on this project has been a major task this year. The project reviews the various discretionary remedies which exist in family law to deal with two distinct but inseparable problems: providing protection for one member of a family against molestation or violence by another, and regulating the occupation of the family home where the relationship has broken down either temporarily or permanently. The present statutory jurisdictions are contained in the Matrimonial Homes Act 1983, the Domestic Violence and Matrimonial Proceedings Act 1976 and the Domestic Proceedings and Magistrates' Courts Act 1978, but other legislation can be relevant and the courts also have inherent powers in this field.

2.32 Respondents to our Working Paper<sup>35</sup> generally supported our provisional view that a single consistent set of remedies should be developed which would be available in all courts exercising this jurisdiction. Our basic aims in preparing our report have accordingly been the following: to remove the gaps, inconsistencies and anomalies in the existing law and to synthesise it into a comprehensive code; to maintain and in some respects improve the present levels of protection provided; and finally to avoid exacerbating hostilities between the adults involved, so far as this is consistent with providing proper and effective protection. We hope that the report, which will be accompanied by a draft Bill, will be published early in 1992.

#### *Adoption Law Review*

2.33 We have continued to participate in the interdepartmental review of the law and practice relating to adoption established by the Government as part of its rolling programme of family law reform. The Department of Health is chairing this review, but the Law Commission has been providing legal research and analysis and has been represented at

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<sup>31</sup> Consultation Paper No. 117.

<sup>32</sup> See para. 1.5 above.

<sup>33</sup> Working Paper No. 101.

<sup>34</sup> (1990) Law Com. No. 192.

<sup>35</sup> (1989) Working Paper No. 113.

all the working party meetings. Following the publication in 1990 of a discussion paper on the nature and effect of adoption and of two background papers entitled *International Perspectives* and *A Review of Research*, two further papers were published this year. These were a discussion paper on *Agreement to and Freeing for Adoption*, published in September 1991, and a discussion paper on *The Adoption Process* published in November. The series of discussion papers was completed by a paper on inter-country adoption published at the beginning of 1992. A member of the family law team has also provided assistance in connection with negotiations on the text of the draft Hague Convention on international co-operation and the protection of children in respect of inter-country adoption.

2.34 Once the consultation process is completed the team will continue to assist the review in formulating its proposals for the reform of the law.

#### *Access to and the Reporting of Family Proceedings*

2.35 As part of your Department's review of the family justice system, a sub-committee of the Family Law and Administration Working Party has been established to look into the law governing the privacy of family proceedings. The law in this area has grown up piecemeal, is uncertain, inconsistent and in considerable disorder. Professor Hoggett has been asked to advise this group, and the Family Law team has drafted preliminary papers covering the present law and the impact of the European Convention on Human Rights.

#### **Mentally Incapacitated Adults and Decision-Making**

2.36 This project covers a very wide field, encompassing a great diversity of problems and concerns. We published our first consultation paper, *Mentally Incapacitated Adults and Decision-Making: An Overview*,<sup>36</sup> on 30 April 1991. This paper aimed to provide a "bird's eye view" of the entire area in an attempt to gauge its magnitude and supply a basis for discussion about the way forward. The paper received a large number of responses from many different sources, and we are grateful to everyone who has written to us.

2.37 We are conscious that many of the problems experienced in this area are not exclusively legal problems and may not be susceptible to a legal solution. We felt that broad consultation with the fullest possible involvement of the many different interest groups was therefore essential to help us to reach practical and effective conclusions. To this end, we have secured the services of Dr Pamela Mason MB, BS, DPM, FRCPsych., formerly Senior Principal Medical Officer at the Department of Health and Social Security, to advise us upon issues of mental health policy and psychiatry. We also held a number of meetings in July 1991 during which we discussed issues raised in our paper with representatives from many different voluntary organisations and different branches of the medical, nursing, social work and other interested professions. We have also held meetings with a number of lawyers working in the mental health field, including the Mental Health Act Commission and the Mental Health Sub-Committee of the Law Society, and with representatives of Government Departments and bodies such as the Official Solicitor, the Court of Protection and the Public Trust Office. We are most grateful to everyone who participated in these meetings and gave us the benefit of their experience and advice. We expect to reconvene these groups from time to time as the project progresses and will also be consulting others who have offered their help in specialised areas, as the need arises.

2.38 Particular areas of concern identified include the need for improved crisis intervention measures, the problems encountered by mentally incapacitated people when giving evidence in court, and a demand for the development of advance directives relating to health care. The responses are at present being analysed and we hope shortly to begin the preparation of a policy paper suggesting future action in the early part of 1992.

#### **Property Law**

##### *Land Mortgages*

2.39 Our report on this subject, together with a draft Bill, was published in November 1991.<sup>37</sup> It recommends that all existing methods of consensually mortgaging or charging

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<sup>36</sup> Consultation Paper No. 119.

<sup>37</sup> Transfer of Land: Land Mortgages, Law Com. No. 204.

interests in land should be abolished and replaced by a new form of mortgage to be used for mortgaging any interest in land, whether legal or equitable. In the result, the present complex mortgage structure would be replaced by a new simplified structure. The report makes further recommendations about the rights and duties of the parties to the new mortgage, and about its regulation and enforcement. For a new class of "protected mortgages",<sup>38</sup> special safeguards are proposed for mortgagors.<sup>39</sup> Additionally, in all cases the court would be able to cancel or alter any term if the mortgagee breached the principles of fair dealing, and it would also be entitled to alter the interest rate payable under the mortgage if the mortgagee unreasonably varied or failed to vary that rate. We are most grateful to our former colleague, Dr Julian Farrand, and to Alison Clarke, Senior Lecturer in Laws at University College, London, for their extensive help with this project.

#### *Implied Covenants for Title*

2.40 Our report, together with a draft Bill, was published in June 1991.<sup>40</sup> It recommends the replacement of the covenants for title which are at present implied by statute and proposes changes to the circumstances in which they are implied. The aims are to make the covenants clearer, to strengthen the guarantees which they provide and to make them more easily enforceable.

#### *Obsolete Restrictive Covenants*

2.41 In our last Annual Report<sup>41</sup> we said that we did not expect our report on this subject to be ready for publication during 1991. However, after the publication of our Annual Report, we decided to give priority to the completion of this project. Our report,<sup>42</sup> which was published in July 1991, makes proposals to phase out most existing restrictive covenants after the introduction of the land obligations scheme envisaged in our Report on the Law of Positive and Restrictive Covenants.<sup>43</sup> The main proposal is that all restrictive covenants should lapse eighty years after they were first created, but anyone entitled to the benefit of a covenant which was not then obsolete would have the right to replace it with a land obligation to the like effect.

2.42 The need to give priority to this project and the projects on Land Mortgages<sup>44</sup> and Implied Covenants for Title<sup>45</sup> has meant that we have not been able to make the progress we had hoped for in some of our other projects.

#### *Repairing Obligations*

2.43 Following the completion of our Report on Land Mortgages,<sup>46</sup> we have resumed work on the preparation of a consultation paper on the repairing obligations between landlord and tenant. We aim to publish the consultation paper during 1992.

#### *Forfeiture of Tenancies*

2.44 Work has continued on the preparation of a draft Bill to give effect to the scheme for landlords' termination orders, designed to replace the present law of forfeiture, as recommended in our Report on Forfeiture of Tenancies.<sup>47</sup> A further revised draft of the Bill is being prepared. We hope that the draft Bill, together with a short explanatory report, will be ready for publication during 1992.

#### *Part II of the Landlord and Tenant Act 1954*

2.45 Work is well advanced on the completion of our report, which will make recommendations for improving the working of Part II of the Act, which gives business and professional tenants the right to renew their leases. We aim to submit our report, together with a draft Bill, during 1992.

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<sup>38</sup> Mortgages by an individual of property including a dwelling-house, with certain exceptions.

<sup>39</sup> e.g., the form and content of protected mortgages would be prescribed and the mortgagee would be obliged to provide the mortgagor with a copy; a mortgagee seeking to realise a security would be obliged to obtain the authority of a court order before exercising his power of sale.

<sup>40</sup> Transfer of Land: Implied Covenants for Title, Law Com. No. 199.

<sup>41</sup> Twenty-Fifth Annual Report 1990, (1991) Law Com. No. 195, para. 2.39.

<sup>42</sup> Transfer of Land: Obsolete Restrictive Covenants, Law Com. No. 201.

<sup>43</sup> (1984) Law Com. No. 127. Implementation at the same time as legislation introducing a commonhold scheme has been envisaged: Commonhold: a Consultation Paper, (1990) Cm. 1345, para. 2.7.

<sup>44</sup> See para. 2.39 above.

<sup>45</sup> See para. 2.40 above.

<sup>46</sup> See para. 2.39 above.

<sup>47</sup> (1985) Law Com. No. 142.



## Law of Trusts

### *Delegation by Individual Trustees*<sup>48</sup>

2.46 Our consultation paper on this subject was published in April 1991,<sup>49</sup> with a request for comments by the end of September 1991. The paper considers the circumstances in which a trustee should be entitled to delegate his powers and duties to an attorney, the procedure for implementing any delegation and the constraints which should be applied. The responses received on consultation have been analysed with a view to formulation of the policy for the final report.

### *Rule against Perpetuities*

2.47 With a view to elucidating some of the practical problems relating to this rule and the rule against excessive accumulations, we consulted some practitioners with a particular interest in this area of the law. Following further work, we intend to publish a consultation paper during the course of 1992.

### *Trusts of Land*

2.48 We have recently agreed that our Property Law team should assist your Department in considering alternative forms for legislation to enact the recommendations in our report, *Transfer of Land: Trusts of Land*.<sup>50</sup> This work is due to start in the Spring. Some re-assessment will be needed of the other work in which that team is engaged, and this is likely to result in the postponement of some of the target completion dates quoted in this report.

## Statute Law

### *Consolidation*

2.49 By the end of July 1991 there had been enacted the five Bills comprising the consolidation of the water legislation, namely the Water Resources Act 1991, the Water Industry Act 1991, the Statutory Water Companies Act 1991, the Land Drainage Act 1991 and the Water Consolidation (Consequential Provisions) Act 1991, and also the Deer Act 1991 consolidating the legislation on deer. These Acts embody amendments giving effect to recommendations of the Law Commission.<sup>51</sup>

2.50 The three Bills consolidating for Great Britain the social security legislation, namely the Social Security Contribution and Benefits Bill, the Social Security Management Bill and the Social Security (Consequential Provisions) Bill, have been introduced and considered by the Joint Committee. They are expected to complete their passage through Parliament by about the end of February 1992. These Bills embody amendments giving effect to recommendations of the Law Commission and the Scottish Law Commission.<sup>52</sup>

2.51 Other consolidation Bills have been introduced: the Taxation of Chargeable Gains Bill, the Tribunals and Inquiries Bill, the Radioactive Substances Bill, the Protection of Badgers Bill and the Trade Union and Labour Relations (Consolidation) Bill. They are to be followed later in 1992 by a Clean Air Bill incorporating amendments giving effect to recommendations of the Law Commission and the Scottish Law Commission.

2.52 Further work has been done on the Bill to consolidate the Education Acts but has had to be suspended while three Bills about education<sup>53</sup> proceed through Parliament.

2.53 There have been a number of calls for consolidation of the law relating to stamp duties.<sup>54</sup> We are glad to say that work on this is already in hand, although the date of introduction will depend on factors outside our control. Work has also begun on the

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<sup>48</sup> In previous annual reports the project was called "Use of Powers of Attorney by Trustees".

<sup>49</sup> Consultation Paper No. 118.

<sup>50</sup> (1989) Law Com. No. 181.

<sup>51</sup> In, respectively, the Report on the Consolidation of the Legislation Relating to Water, (1991) Law Com. No. 198, and the Report on the Consolidation of Certain Enactments Relating to Deer, (1991) Law Com. No. 197.

<sup>52</sup> In the Report on the Consolidation of the Legislation Relating to Social Security, (1991) Law Com. No. 203, Scot. Law Com. No. 132.

<sup>53</sup> The Further and Higher Education Bill, the Education (Schools) Bill and the Education (School Premises) Bill.

<sup>54</sup> See, e.g., Lord Mishcon's plea in the course of the second reading of the Taxation of Chargeable Gains Bill, *Hansard* (H.L.), 14 January 1992, vol. 534, col. 118.

consolidation of the legislation relating to the armed forces, and work is progressing on the consolidation of the legislation about merchant shipping.

#### *Statute Law Revision*

2.54 During the past year a Statute Law Revision (Isle of Man) Bill was introduced and became law on 25 July 1991. The legislation, which stemmed from an initiative by the Isle of Man authorities with the support of the Home Office, was drafted at the Law Commission in conjunction with the Office of the Attorney General for the Isle of Man. It removed an unnecessary anomaly whereby a large body of obsolete Westminster statutes continued to form part of the law of the Isle of Man although repealed for the United Kingdom. The anomaly arose largely because the series of Statute Law Revision Acts passed before 1973 provided no machinery for extending repeals to the Island following local consultation.

2.55 Work is in progress on a joint report by the two Law Commissions recommending a draft Statute Law (Repeals) Bill. This will be our fourteenth report on statute law revision. The draft Bill is expected to be ready for introduction by the middle of 1992 and will contain repeals and consequential amendments covering a wide spectrum of topics. It will include proposals to facilitate the consolidation of the law of allotments and of the Parliamentary Costs Acts 1847 to 1879.

2.56 Reasoned repeal proposals by the statute law revision team have been incorporated in the High Court and County Courts Jurisdiction Order 1991,<sup>55</sup> in the water and land drainage consolidations,<sup>56</sup> and in the Transport and Works Bill now before Parliament. Contributions are being made to the consolidation of the law on stamp duties.<sup>57</sup> A proposal to repeal the Therapeutic Substances Act 1956, so far as still in force, is expected to be implemented by an order under the Medicines Act 1968.

2.57 In the field of local legislation, proposals to rationalise the local legislation of Bedfordshire, Warwickshire and the county and city of Nottingham are being incorporated in the draft Statute Law (Repeals) Bill.<sup>58</sup> The project to rationalise the accumulated local legislation of Greater Manchester is also well advanced. Ten individual repeal schedules have been completed, and Mr J. S. Phipps (Chief Executive of Leicester City Council 1973-1982) is undertaking the further research needed on statutory undertakers' legislation. Work will start shortly on the preparation of a consolidated repeal schedule covering all ten Greater Manchester metropolitan districts, and on consultation with the local authorities and statutory undertakers concerned.

#### *Chronological Table of Local Legislation*

2.58 The first stage of the project (2 vols., 781pp.), covering the research period 1925-1973, was published in 1985. The next stage will cover all the available information on primary legislation in the series of local Acts which begins in 1797.

2.59 In the course of 1991 the local and private Acts passed between 1797 and 1835 (approximately 6,350 Acts) and the public general Acts passed between 1797 and 1850 have been examined and their legislative effects recorded. The research has continued to be done mainly by law students in their Summer vacation. Work has also continued on the preparation of the second stage text which now covers the period 1797-1965 and comprises some 2,650 pages.

2.60 The publication of the table will be an important addition to the infrastructure of the statutory system, providing the information needed to determine accurately how far particular legislation continues to form part of the law of the land. The Law Commission continues to receive regular inquiries regarding particular Acts from both lawyers and librarians. In the past year copies of the first stage of the table have been supplied at their request to the Thames Region of the National Rivers Authority, to a firm of solicitors, and to parliamentary agents.

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<sup>55</sup> S.I. No. 724.

<sup>56</sup> See para. 2.49 above.

<sup>57</sup> See para. 2.53 above.

<sup>58</sup> See para. 2.55 above.

## PART III

### GENERAL

#### Responsibilities for Commission Projects

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

#### Lawyers

3.2 The Commission began last year with 15 posts for civil service lawyers from the Government legal service, though one of these posts was filled by two lawyers working on a part-time basis. In June 1991 we received permission from your Department to have an additional legal post, which would allow the Criminal Law team, like the other law reform teams, to have three civil service lawyers. Sadly, so far we have been unable to find a suitable lawyer to fill that post. Moreover, as a result of one resignation and two transfers only 13 of our 16 posts are now filled: each of the Criminal Law, Family Law and Property Law teams has a vacancy. We hope soon to remedy this situation by finding appropriate recruits but, until we do, the work of these teams will be considerably disrupted. As before, our legal staff are supplemented by research assistants. All those working here in the first part of the year left after only one year, as is usually the case. The 16 research assistants now working at the Commission joined us in September, but we have hopes that some at least of them will stay for more than one year, avoiding the disruption in our work which their departure would inevitably cause.

3.3 At the end of 1991 we had only three draftsmen serving on secondment from the Office of the Parliamentary Counsel, but a fourth arrived at the beginning of 1992. We have moreover been fortunate in securing the services of Sir Henry de Waal, KCB, QC, who retired as First Parliamentary Counsel at the end of August 1991 but is working full-time for the Commission.

#### Consultants

3.4 During 1991, in addition to those consultants to whom we have already referred, Miss Lesley Furlonger, formerly a deputy Parliamentary Counsel, drafted the Taxation of Chargeable Gains Bill consolidating the law on capital gains, which was introduced in December 1991; and Sir Wilfrid Bourne, KCB, QC, formerly Permanent Secretary of your Department, as so often in previous years gave valuable help to the Commission. We are most grateful for the help of all these consultants.

#### Library

3.5 The conversion of the Library catalogue system is now complete, and the catalogues of our Library and of your Department's Headquarters Library are available on a single database accessible on computer. We are grateful to many libraries for loans and copies of items not available in our own Library and, in particular, to the Institute of Advanced Legal Studies which continues to allow our legal staff and research assistants access and photocopying facilities in the Institute Library.

3.6 Our Library continues to be responsible for the publication of *Law Under Review*, a bulletin giving details of Government or Government-sponsored law reform projects which is now beginning its sixth year of publication, and continues to attract favourable comment and to have a wide circulation, not merely in the United Kingdom but also in Australia, Canada, New Zealand and the United States of America.

#### Information Technology

3.7 After careful consideration it was decided that a replacement was necessary for our Fortune computer system and, on the advice of your Department, we are changing to a system of stand-alone personal computers and printers. We are now more than half way through this conversion which, we hope, will be completed by the middle of March 1992.

### Meetings

3.8 The Commission and the Scottish Law Commission continue to work in close co-operation. The Joint Report on Rights of Suit in Respect of Carriage of Goods by Sea<sup>1</sup> was signed within a month of the visit to Edinburgh by the Chairman and Mr Beatson.<sup>2</sup> Mr Beatson again visited Edinburgh in September 1991 to discuss our work on section 16 of the Sale of Goods Act 1979.<sup>3</sup> We also continue to liaise with the Law Reform Advisory Committee for Northern Ireland on projects of mutual interest, and this included a visit from the Chairman, the Hon. Mr Justice Carswell.

3.9 We were invited on 7 October 1991 to a meeting with the President, Vice-President and members of the Council of The Law Society at which we discussed a number of topics of mutual interest, and The Law Society suggested to us areas of the law which in their view might be in need of reform. We were pleased to have resumed what will, we hope, be a series of annual meetings. We also had our annual meetings with the Society of Public Teachers of Law on 14 June 1991, and with the Law Reform Committee of the General Council of the Bar on 31 October 1991. Additionally, we had an interesting discussion with members of the Holborn Law Society who visited us on 8 July 1991. We have enjoyed meeting a number of visitors from overseas; a list can be found in Appendix 2.

### Overseas Visits

3.10 On 15 November 1991 the Chairman, while in Dublin, took the opportunity to visit the Irish Law Reform Commission. In May Mr Beatson accepted an invitation from the Singapore Academy of Law, and addressed its members on current aspects of breach of contract and restitution. Our senior Parliamentary Counsel, Stephen Mason, attended the annual conference of the Statute Law Society from 27 to 29 September 1991 at Fontevraud, where the central topic of discussion was the preparation of and access to the written law in France.

3.11 Mr Buxton delivered a paper on written constitutions and the legal protection of human rights to the Indo-British Legal Forum held in New Delhi from 29 December 1990 to 4 January 1991. The British delegation attended under the joint auspices of your Department and the British Council. Additionally, arising out of the Commission's work on computer misuse,<sup>4</sup> Mr Buxton attended meetings of the OECD Committee of Experts on Guidelines for the Security of Information Systems in Paris from 17 to 18 January 1991 and from 15 to 17 January 1992.

(Signed) PETER GIBSON, *Chairman*  
TREVOR M. ALDRIDGE  
JACK BEATSON  
RICHARD BUXTON  
BRENDA HOGGETT

MICHAEL COLLON, *Secretary*  
31 January 1992

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<sup>1</sup> See para. 2.13 above.

<sup>2</sup> See Twenty-Fifth Annual Report 1990, (1991) Law Com. No. 195, para. 2.13.

<sup>3</sup> See para. 2.14 above.

<sup>4</sup> Criminal Law: Computer Misuse, (1989) Law Com. No. 186, Cm. 819, implemented by the Computer Misuse Act 1990.

## APPENDIX 1

### RESPONSIBILITIES FOR COMMISSION PROJECTS

#### **Common Law**

Mr J. Beatson, Mrs M. Hodgson, Mrs R. Innes, Ms U. Cheer, Mr N.C. Bamforth, Ms A. Hillman, Mr S.C. McMaster, Mr R.J. Viney.

#### **Criminal Law**

Mr R.J. Buxton QC, Mr R. Zackon, Mr A. Cope, Miss M. Bhagat, Mr. B.J.A. Fitzpatrick, Mr E.W. Paton.

#### **Family Law and Mentally Incapacitated Adults**

Professor B.M. Hoggett QC, Mrs S. Hutcheson, Mrs J.M. Jenkins, Mrs J. Brown,<sup>1</sup> Mrs K. Holding,<sup>2</sup> Mr P.D. Bates, Mr M.J.E. Horton, Miss M.H. Kaye.

#### **Property Law**

Mr T.M. Aldridge, Mr A. Akbar, Mrs S.A. Jones, Mr T.H.M. Strouts,<sup>3</sup> Mr M. Garvin, Mr J.F. Holmes, Mr A.C.J. Watson.

#### **Statute Law**

*Consolidation*: Chairman, Mr J.S. Mason CB, Mr G.B. Sellers CB, Miss C.E. Johnston, Sir Henry de Waal KCB, QC, Mr N.J. Parpworth.

*Statute Law Revision (including Local Legislation)*: Chairman, Mr R.H. Streeten CBE, Mr R.D. Maitland, Mr A.M. Rowland, Mrs T.G. Orange, Ms G.C. Seabourne.

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<sup>1</sup> Until November 1991.

<sup>2</sup> Until September 1991.

<sup>3</sup> Until November 1991.

## APPENDIX 2

### VISITORS FROM OVERSEAS

Among the visitors to the Law Commission during 1991 were:

*Delegation from the Bureau of Legislative Affairs of the State Council of the People's Republic of China*

Mr Wanzhong Sun (Director)  
Mr Zhicheng Zhang (Deputy Director)  
Mr Xiugan Hu (Director, General Office)  
Mr Jidong Zhou (Chief of Division, General Office)  
Mr Yongqing Wang (Deputy Chief of Division, Department of Research)  
Mr Shishi Li (Chief of Division, Department of Regulations on Finance, Trade and Foreign Affairs)

Dr Kharisu S. Chukkol (Commissioner, Nigerian Law Reform Commission)  
The Hon. Peter Collins (Attorney General, New South Wales)  
Professor D. Friedmann (College of Management, Tel Aviv)  
Professor Norio Higuchi (Professor of Law, Gakushuin University, Tokyo)  
Sir Kenneth Keith (President, New Zealand Law Commission)  
Professor E.M. Kitch (University of Virginia Law School)  
Professor Dr Dagmar Koester-Waltjen (Institute for International Law, University of Munich)  
Mrs Veronika Maddock (Deputy Chief Parliamentary Draftsman, Office of Parliamentary Counsel, Tasmania)  
Ms Tamar Morag (Legal Director, National Council for the Child and Director of the Council's Centre for the Child and the Law, Jerusalem)  
The Hon. Dr Olakunle Orojo (Chairman, Nigerian Law Reform Commission)  
Mr Justice Smellie (New Zealand High Court)  
Ms Sharya de Soysa (Faculty of Law, University of Colombo, Sri Lanka)  
Penelope Stevenson (Senior Legal Research Officer, New Zealand Law Commission)  
Mr Tan Boon Tiek (Attorney-General, Singapore; Chairman of Law Reform, Committee of Singapore Academy of Law)  
Professor Tan Sook Yee (National University of Singapore)

## APPENDIX 3

### List of the Law Commission's Publications

#### A. Papers issued for consultation

<i>Working Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
<b>1966</b>		
1	Transfer of Land: Root of Title to Freehold Land	Law Com. No. 9.
2	Draft Proposals on Powers of the Court of Appeal to Sit in Private and Restrictions upon Publicity in Legitimacy Proceedings	Law Com. No. 8.
3	Restrictive Covenants	Law Com. No. 11.
4	Should English Wills be Registrable?	
5	Liability of Trade Vendors of New Dwelling Houses to First and Subsequent Purchasers (First Paper)	Law Com. No. 40.
6	Liability of Vendors and Lessors for Defective Premises (Second Paper)	Law Com. No. 40.
<b>1967</b>		
7	Provisional Proposals for Amendments to the Landlord and Tenant Act 1954, Part II (Business Tenancies)	Law Com. No. 17.
8	Provisional Proposals Relating to Obligations of Landlords and Tenants	Law Com. No. 67.
9	Family Law: Matrimonial and Related Proceedings—Financial Relief	Law Com. No. 25.
10	Proposals for Changes in the Law Relating to Land Charges affecting Unregistered Land and to Local Land Charges	Law Com. Nos. 18 and 62.
11	Powers of Attorney	Law Com. No. 30.
12	Proof of Paternity in Civil Proceedings	Law Com. No. 16.
13	Exploratory Working Paper on Administrative Law	Law Com. No. 20.
14	Interpretation of Statutes (Joint Working Paper—Scottish Law Commission Memorandum No. 6)	Law Com. No. 21.
<b>1968</b>		
15	Family Law: Arrangements for the Care and Upbringing of Children	
16	Provisional Proposals Relating to Termination of Tenancies	Law Com. No. 142.
17	Codification of the Criminal Law: General Principles. The Field of Enquiry (See Law Com. No. 143)	Law Com. No. 177.
18	Provisional Proposals Relating to Amendments to sections 12-15 of the Sale of Goods Act 1893 and Contracting Out of the Conditions and Warranties implied by those sections (Joint Working Paper—Scottish Law Commission Memorandum No. 7)	Law Com. No. 24.
19	Loss of Services	Law Com. Nos. 25 and 56.
20	Nullity of Marriage	Law Com. No. 33.
21	Polygamous Marriages	Law Com. No. 42.
<b>1969</b>		
22	Restitution of Conjugal Rights	Law Com. No. 23.
23	Malicious Damage to Property	Law Com. No. 29.
24	Transfer of Land: Rentscharges (See also Working Paper No. 49)	Law Com. No. 68.

<i>Working Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
<b>1970</b>		
25	The Law of Landlord and Tenant: Working Party's Provisional Proposals Relating to Covenants Restricting Dispositions, Parting with Possession, Change of User and Alterations	Law Com. No. 141.
26	Criminal Law: Forgery	Law Com. No. 55.
27	Personal Injury Litigation: Assessment of Damages, Itemisation of Pecuniary Loss and the use of Actuarial Tables as an Aid to Assessment	Law Com. No. 56.
28	Family Law: Jurisdiction in Matrimonial Causes (other than Nullity)	Law Com. No. 48.
29	Codification of the Criminal Law: Subject III. Territorial and Extra-Territorial Extent of the Criminal Law	Law Com. No. 91.
30	Codification of the Criminal Law; Strict Liability and the Enforcement of the Factories Act 1961	
31	Codification of the Criminal Law: General Principles. The Mental Element in Crime	Law Com. No. 89.
32	Transfer of Land: Land Registration (First Paper)	Law Com. No. 125.
33	Criminal Law: Perjury and Kindred Offences	Law Com. No. 96.
<b>1971</b>		
34	Family Law: Jactitation of Marriage (See also Working Paper No. 48)	Law Com. No. 132.
35	Family Law: Solemnisation of Marriage	Law Com. No. 53.
36	Transfer of Land: Appurtenant Rights	Law Com. No. 127.
37	Transfer of Land: Land Registration (Second Paper)	Law Com. No. 125.
38	Family Law: Jurisdiction in Suits for Nullity of Marriage	Law Com. No. 48.
39	Exemption Clauses in Contracts for Services (Joint Working Paper—Scottish Law Commission Memorandum No. 15)	Law Com. No. 69.
40	Administrative Law	Law Com. No. 73.
41	Personal Injury Litigation: Assessment of Damages	Law Com. No. 56.
42	Family Law: Family Property Law	Law Com. Nos. 52, 61 and 86.
<b>1972</b>		
43	Codification of the Criminal Law: General Principles. Parties, Complicity and Liability for the Acts of Another (See Law Com. No. 143)	Law Com. No. 177.
44	Codification of the Criminal Law: General Principles. Criminal Liability of Corporations (See Law Com. No. 143)	Law Com. No. 177.
45	Transfer of Land: Land Registration (Third Paper)	Law Com. No. 125.
46	Charging Orders on Land	Law Com. No. 74.
<b>1973</b>		
47	Injuries to Unborn Children	Law Com. No. 60.
48	Family Law: Declarations in Family Matters	Law Com. No. 132.
49	Transfer of Land: Rentcharges	Law Com. No. 68.
50	Codification of the Criminal Law: General Principles. Inchoate Offences: Conspiracy, Attempt and Incitement	Law Com. Nos. 76 and 102.



<i>Working Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
51	Transfer of Land: "Subject to Contract" Agreements	Law Com. No. 65.
52	Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability	Law Com. No. 75.
53	Family Law: Matrimonial Proceedings in Magistrates' Courts	Law Com. No. 77.
<b>1974</b>		
54	Criminal Law: Offences of Entering and Remaining on Property	Law Com. No. 76.
55	Codification of the Criminal Law: General Principles. Defences of General Application	Law Com. No. 83.
56	Criminal Law: Conspiracy to Defraud	
57	Codification of the Criminal Law: Conspiracies Relating to Morals and Decency	Law Com. No. 76.
58	Breach of Confidence	Law Com. No. 110.
<b>1975</b>		
59	Contribution	Law Com. No. 79.
60	Firm Offers	
61	Penalty Clauses and Forfeiture of Monies Paid	
62	Criminal Law: Offences Relating to the Administration of Justice	Law Com. No. 96.
63	Codification of the Criminal Law: Conspiracies to Effect a Public Mischief and to Commit a Civil Wrong	Law Com. No. 76.
64	Liability for Defective Products (Joint Working Paper—Scottish Law Commission Memorandum No. 20)	Law Com. No. 82.
65	Law of Contract: Pecuniary Restitution on Breach of Contract	Law Com. No. 121.
<b>1976</b>		
66	Interest	Law Com. No. 88.
67	Transfer of Land: Land Registration (Fourth Paper)	
68	Custody of Children: Jurisdiction and Enforcement within the United Kingdom (Joint Working Paper—Scottish Law Commission Memorandum No. 23)	Law Com. No. 138.
69	The Incapacitated Principal	Law Com. No. 122.
70	Law of Contract: The Parol Evidence Rule	Law Com. No. 154.
<b>1977</b>		
71	Law of Contract: Implied Terms in Contracts for the Supply of Goods	Law Com. No. 95.
72	Codification of the Criminal Law: Treason, Sedition and Allied Offences	
<b>1979</b>		
73	Insurance Law: Non-Disclosure and Breach of Warranty	Law Com. No. 104.
74	Family Law: Illegitimacy	Law Com. Nos. 118 and 157.

<i>Working Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
<b>1980</b>		
75	Classification of Limitation in Private International Law	Law Com. No. 114.
76	Time Restrictions on Presentation of Divorce and Nullity Petitions	Law Com. No. 116.
77	Family Law: Financial Relief after Foreign Divorce	Law Com. No. 117.
78	Rights of Access to Neighbouring Land	Law Com. No. 151.
<b>1981</b>		
79	Offences against Religion and Public Worship	Law Com. No. 145.
80	Private International Law: Foreign Money Liabilities	Law Com. No. 124.
<b>1982</b>		
81	Minors' Contracts	Law Com. No. 134.
82	Offences against Public Order	Law Com. No. 123.
83	Polygamous Marriages: Capacity to Contract a Polygamous Marriage and the Concept of the Potentially Polygamous Marriage (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 56)	Law Com. No. 146.
84	Criminal Libel	Law Com. Nos. 147 and 149.
<b>1983</b>		
85	Sale and Supply of Goods (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 58)	Law Com. No. 160.
86	Transfer of Land: Liability for Chancel Repairs	Law Com. No. 152.
<b>1984</b>		
87	Private International Law: Choice of Law in Tort and Delict (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 62)	Law Com. No. 193.
<b>1985</b>		
88	Private International Law: The Law of Domicile (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 63)	Law Com. No. 168.
89	Private International Law: Choice of Law Rules in Marriage (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 64)	Law Com. No. 165.
90	Transfer of Money between Spouses: the Married Women's Property Act 1964	Law Com. No. 175.
91	Family Law: Review of Child Law: Guardianship	Law Com. No. 172.
92	Transfer of Land: Formalities for Contracts for Sale etc. of Land	Law Com. No. 164.
93	Transfer of Land: Formalities for Deeds and Escrows	Law Com. No. 163.
94	Trusts of Land	Law Com. No. 181.
<b>1986</b>		
95	Landlord and Tenant: Privity of Contract and Estate: Duration of Liability of Parties to Leases	Law Com. No. 174.

<i>Working Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
96	Family Law: Review of Child Law: Custody (Supplement) Custody Law in Practice in the Divorce and Domestic Courts	Law Com. No. 172.
97	Distress for Rent	Law Com. No. 194.
98	Transfer of Land: The Rule in <i>Bain v. Fothergill</i>	Law Com. No. 166.
99	Land Mortgages	Law Com. No. 204.

**1987**

100	Family Law: Review of Child Law: Care, Supervision and Interim Orders in Custody Proceedings	Law Com. No. 172.
101	Family Law: Review of Child Law: Wards of Court	
102	Compensation for Tenants' Improvements	Law Com. No. 178.
103	Criminal Law: Binding Over: The Issues	
104	Criminal Law: Conspiracy to Defraud	
105	Transfer of Land: Title on Death	Law Com. No. 184.

**1988**

106	Trusts of Land: Overreaching	Law Com. No. 188.
107	Transfer of Land: Implied Covenants for Title	Law Com. No. 199.
108	Distribution on Intestacy	Law Com. No. 187.
109	Transfer of Land: Passing of Risk from Vendor to Purchaser	Law Com. No. 191.
110	Computer Misuse	Law Com. No. 186.
111	Part II of the Landlord and Tenant Act 1954	

**1989**

112	Rights to Goods in Bulk	Law Com. No. 196.
113	Domestic Violence and Occupation of the Family Home	

**1990**

114	Contributory Negligence as a Defence in Contract	
115	Corroboration of Evidence in Criminal Trials	Law Com. No. 202.
116	Rape within Marriage	Law Com. No. 205.

**1991**

<i>Consultation Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
117	The Hearsay Rule in Civil Proceedings	
118	The Law of Trusts: Delegation by Individual Trustees	
119	Mentally Incapacitated Adults and Decision-Making: An Overview	
120	Restitution of Payments Made Under a Mistake of Law	
121	Privity of Contract: Contracts for the Benefit of Third Parties	

## B. Reports and Programmes

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

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
<b>1965</b>		
1	First Programme of the Law Commission	--
<b>1966</b>		
2	First Programme on Consolidation and Statute Law Revision	--
3*	Proposals to Abolish Certain Ancient Criminal Offences	Criminal Law Act 1967 (c.58).
4	First Annual Report 1965-1966	--
5	Landlord and Tenant: Interim Report on Distress for Rent	--
6+	Reform of the Grounds of Divorce: The Field of Choice (Cmnd.3123)	Divorce Reform Act 1969 (c.55), now Matrimonial Causes Act 1973 (c.18).
7*	Proposals for Reform of the Law Relating to Maintenance and Champerty	Criminal Law Act 1967 (c.58).
8+*	Report on the Powers of Appeal Courts to Sit in Private and the Restrictions upon Publicity in Domestic Proceedings (Cmnd.3149)	Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (c.63).
<b>1967</b>		
9*	Transfer of Land: Interim Report on Root of Title to Freehold Land	Law of Property Act 1969 (c.59).
10*	Imputed Criminal Intent ( <i>Director of Public Prosecutions v. Smith</i> )	In part by s.8 of the Criminal Justice Act 1967 (c.80).
11	Transfer of Land: Report on Restrictive Covenants	In part by Law of Property Act 1969 (c.59).
11A	Sea Fisheries (Shellfish) Bill: Report by the two Commissions on the Consolidation of certain Enactments relating to Shellfish Fisheries and Shellfish (Scot. Law Com. No. 6A) (Cmnd.3267)	Sea Fisheries (Shellfish) Act 1967 (c.83)
12	Second Annual Report 1966-1967	--
13	Civil Liability for Animals	Animals Act 1971 (c.22).
<b>1968</b>		
14	Second Programme of Law Reform	--
15	Third Annual Report 1967-1968 (H.C.312)	--
16*	Blood Tests and the Proof of Paternity in Civil Proceedings (H.C.2)	Family Law Reform Act 1969 (c.46).
<b>1969</b>		
17*	Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II (H.C.38)	Law of Property Act 1969 (c.59).
18*	Transfer of Land: Report on Land Charges Affecting Unregistered Land (H.C.125)	Law of Property Act 1969 (c.59).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
18A	Trustee Savings Bank Bill: Report by the two Commissions on the Consolidation of the Trustee Savings Bank Acts 1954 to 1968 (Scot. Law Com. No. 10) (Cmnd.4004)	Trustee Savings Bank Act 1969 (c.50).
19+*	Proceedings against Estates (Cmnd.4010)	Proceedings against Estates Act 1970 (c.17)
20+	Administrative Law (Cmnd.4059)	See Law Com. No. 73.
21*	Interpretation of Statutes: Report by the two Commissions (Scot. Law Com. No. 11) (H.C.256)	None.
22*	Statute Law Revision: First Report (Cmnd.4052)	Statute Law (Repeals) Act 1969 (c.52).
23*	Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights (H.C.369)	Matrimonial Proceedings and Property Act 1970 (c.45).
24*	Exemption Clauses in Contracts. First Report: Amendments to the Sale of Goods Act 1893: Report by the two Commissions (Scot. Law Com. No. 12) (H.C.403)	Supply of Goods (Implied Terms) Act 1973 (c.13).
25*	Family Law: Report on Financial Provision in Matrimonial Proceedings (H.C.448)	Matrimonial Proceedings and Property Act 1970 (c.45), now largely Matrimonial Causes Act 1973 (c.18); Law Reform (Miscellaneous Provisions) Act 1970 (c.33)
26*	Breach of Promise of Marriage (H.C.453)	Law Reform (Miscellaneous Provisions) Act 1970 (c.33).
27	Fourth Annual Report 1968-1969 (H.C.27)	--
<b>1970</b>		
28*	Statute Law Revision: Second Report. Draft Wild Creatures and Forest Laws Bill (Cmnd.4433)	Wild Creatures and Forest Laws Act 1971 (c.47).
29*	Criminal Law: Report on Offences of Damage to Property (H.C.91)	Criminal Damage Act 1971 (c.48).
30+*	Powers of Attorney (Cmnd.4473)	Powers of Attorney Act 1971 (c.27).
31+*	Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters (Cmnd.4497)	Administration of Estates Act 1971 (c.25)
32	Civil Liability for Dangerous Things and Activities	--
33*	Family Law: Report on Nullity of Marriage (H.C.164)	Nullity of Marriage Act 1971 (c.44), now Matrimonial Causes Act 1973 (c.18).
34+*	Hague Convention on Recognition of Divorces and Legal Separations: Report by the two Commissions (Scot. Law Com. No. 16) (Cmnd.4542)	Recognition of Divorces and Legal Separations Act 1971 (c.53), now Part II of Family Law Act 1986 (c.55).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
35+	Limitation Act 1963 (Cmnd.4532)	Law Reform (Miscellaneous Provisions) Act 1971 (c.43).
36	Fifth Annual Report 1969-1970 (H.C.170)	--
37*	Statute Law Revision: Third Report (Cmnd.4546)	Statute Law (Repeals) Act 1971 (c.52).
38	Coinage Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relat- ing to Coinage (Scot. Law Com. No. 18) (Cmnd.4544)	Coinage Act 1971 (c.24)
39	Vehicles (Excise) Bill: Report by the two Com- missions on the Consolidation of Certain Enact- ments 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).
40*	Civil Liability of Vendors and Lessors for Defec- tive Premises (H.C.184)	Defective Premises Act 1972 (c.35).
<b>1971</b>		
41	National Savings Bank Bill: Report by the two Commissions on the Consolidation of Enact- ments Relating to the National Savings Bank (Scot. Law Com. No. 20) (Cmnd.4574)	National Savings Bank Act 1971 (c.29).
42*	Family Law: Report on Polygamous Marriages (H.C.227)	Matrimonial Proceedings (Polygamous Marriages) Act 1972 (c.38), now Matrimonial Causes Act 1973 (c.18).
43+	Taxation of Income and Gains Derived from Land: Report by the two Commissions (Scot. Law Com. No. 21) (Cmnd.4654)	In part by s.82 of the Finance Act 1972 (c.41).
44	Second Programme of Consolidation and Statute Law Revision (H.C.338)	--
45	Town and Country Planning Bill: Report on the Consolidation of Certain Enactments Relating to Town and Country Planning (Cmnd.4684)	Town and Country Planning Act 1971 (c.78); see Law Com. No. 189.
46	Road Traffic Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Road Traffic (Scot. Law Com. No. 22) (Cmnd.4731)	Road Traffic Act 1972 (c.20).
47	Sixth Annual Report 1970-1971 (H.C.32)	--
<b>1972</b>		
48*	Family Law: Report on Jurisdiction in Matrimonial Causes (H.C.464)	Domicile and Matrimonial Proceedings Act 1973 (c.45).
49*	Statute Law Revision: Fourth Report by the two Commissions (Scot. Law Com. No. 26) (Cmnd.5108)	Statute Law (Repeals) Act 1973 (c.39).
50	Seventh Annual Report 1971-1972 (H.C.35)	--

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
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>		
52	Family Law: First Report on Family Property. A New Approach (H.C.274)	--
53	Family Law: Report on Solemnisation of Marriage in England and Wales (H.C.250)	None.
54	Third Programme of Law Reform (H.C.293)	--
55*	Criminal Law: Report on Forgery and Counterfeit Currency (H.C.320)	Forgery and Counterfeiting Act 1981 (c.45).
56*	Report on Personal Injury Litigation—Assessment of Damages (H.C.373)	Administration of Justice Act 1982 (c.53).
57*	Statute Law Revision: Fifth Report by the two Commissions (Scot. Law Com. No. 32) (Cmnd.5493)	Statute Law (Repeals) Act 1974 (c.22).
58	Eighth Annual Report 1972–1973 (H.C.34)	--
<b>1974</b>		
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).
60+*	Report on Injuries to Unborn Children (Cmnd.5709)	Congenital Disabilities (Civil Liability) Act 1976 (c.28).
61*	Family Law: Second Report on Family Property. Family Provision on Death (H.C.324)	Inheritance (Provision for Family and Dependents) Act 1975 (c.63).
62*	Transfer of Land: Report on Local Land Charges (H.C.71)	Local Land Charges Act 1975 (c.76).
63*	Statute Law Revision: Sixth Report by the two Commissions (Scot. Law Com. No. 36) (Cmnd.5792)	Statute Law (Repeals) Act 1975 (c.10).
64	Ninth Annual Report (1973–1974) (H.C.40)	--
<b>1975</b>		
65	Transfer of Land: Report on “Subject to Contract” Agreements (H.C.119)	--
66	Supply Powers Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Supply Powers (Scot. Law Com. No. 38) (Cmnd.5850)	Supply Powers Act 1975 (c.9).
67*	Codification of the Law of Landlord and Tenant: Report on Obligations of Landlords and Tenants (H.C.377)	None.
68*	Transfer of Land: Report on Rentcharges (H.C.602)	Rentcharges Act 1977 (c.30).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
69*	Exemption Clauses: Second Report by the two Commissions (Scot. Law Com. No. 39) (H.C.605)	Unfair Contract Terms Act 1977 (c.50).
70*	Statute Law Revision: Seventh Report by the two Commissions (Scot. Law Com. No. 40) (Cmnd.6303)	Statute Law (Repeals) Act 1976 (c.16).
71	Tenth Annual Report 1974-1975 (H.C.51)	--
<b>1976</b>		
72*	Jurisdiction of Certain Ancient Courts (Cmnd.6385)	Administration of Justice Act 1977 (c.38).
73+*	Report on Remedies in Administrative Law (Cmnd.6407)	Rules of Supreme Court (Amendment No. 3) 1977; Supreme Court Act 1981 (c.54).
74+*	Charging Orders (Cmnd.6412)	Charging Orders Act 1979 (c.53).
75+*	Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability (Cmnd.6428)	Occupiers' Liability Act 1984 (c.3).
76*	Criminal Law: Report on Conspiracy and Criminal Law Reform (H.C.176)	In part by Criminal Law Act 1977 (c.45).
77*	Family Law: Report on Matrimonial Proceedings in Magistrates' Courts (H.C.637)	Domestic Proceedings and Magistrates' Courts Act 1978 (c.22).
<b>1977</b>		
78	Eleventh Annual Report 1975-1976 (H.C.94)	--
79*	Law of Contract: Report on Contribution (H.C.181)	Civil Liability (Contribution) Act 1978 (c.47).
80*	Statute Law Revision: Eighth Report by the two Commissions (Scot. Law Com. No. 44) (Cmnd.6719)	Statute Law (Repeals) Act 1977 (c.18).
81	Rent Bill: Report on the Consolidation of the Rent Act 1968, Parts III, IV and VIII of the Housing Finance Act 1972, the Rent Act 1974, sections 7 to 10 of the Housing Rents and Subsidies Act 1975 and Certain Related Enactments (Cmnd.6751)	Rent Act 1977 (c.42)
82+	Liability for Defective Products: Report by the two Commissions (Scot. Law Com. No. 45) (Cmnd.6831)	Consumer Protection Act 1987 (c.43)
83*	Criminal Law: Report on Defences of General Application (H.C.566)	None.
84+	Law of Contract: Report on the Proposed E.E.C. Directive on the Law Relating to Commercial Agents (Cmnd.6948)	--
85	Twelfth Annual Report 1976-1977 (H.C.96)	--
<b>1978</b>		
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).



<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
87*	Statute Law Revision: Ninth Report by the two Commissions (Scot. Law Com. No. 48) (Cmnd.7189)	Statute Law (Repeals) Act 1978 (c.45).
88+*	Law of Contract: Report on Interest (Cmnd.7229)	In part by Administration of Justice Act 1982 (c.53); Rules of the Supreme Court (Amendment No. 2) 1980.
89*	Criminal Law: Report on the Mental Element in Crime (H.C.499)	None.
90	Interpretation Bill: Report by the two Commissions on the Interpretation Act 1889 and Certain Other Enactments Relating to the Construction and Operation of Acts of Parliament and Other Instruments (Scot. Law Com. No. 53) (Cmnd.7235)	Interpretation Act 1978 (c.30).
91*	Criminal Law: Report on the Territorial and Extra-Territorial Extent of the Criminal Law (H.C.75)	In part by Territorial Sea Act 1987 (c.49).
92	Thirteenth Annual Report 1977-1978 (H.C.87)	--
93	Customs and Excise Management Bill: Report by the two Commissions on the Consolidation of the Enactments Relating to the Collection and Management of the Revenues of Customs and Excise (Scot. Law Com. No. 54) (Cmnd.7418)	Customs and Excise Management Act 1979 (c.2).
<b>1979</b>		
94	Justices of the Peace Bill: Report on the Consolidation of Certain Enactments Relating to Justices of the Peace (including Stipendiary Magistrates), Justices' Clerks and the Administrative and Financial Arrangements for Magistrates' Courts and to Matters connected therewith (Cmnd.7583)	Justices of the Peace Act 1979 (c.55).
95*	Law of Contract: Implied Terms in Contracts for the Supply of Goods (H.C.142)	Supply of Goods and Services Act 1982 (c.29).
96*	Criminal Law: Offences Relating to Interference with the Course of Justice (H.C.213)	None.
97	Fourteenth Annual Report 1978-1979 (H.C.322)	--
98	Reserve Forces Bill: Report on the Consolidation of Certain Enactments Relating to the Reserve and Auxiliary Forces (Cmnd.7757)	Reserve Forces Act 1980 (c.9).
<b>1980</b>		
99*	Family Law: Orders for Sale of Property under the Matrimonial Causes Act 1973 (H.C.369)	Matrimonial Homes and Property Act 1981 (c.24).
100	Highways Bill: Report on the Consolidation of the Highways Acts 1959 to 1971 and Related Enactments (Cmnd. 7828)	Highways Act 1980 (c.66).
101	Magistrates' Courts Bill: Report on the Consolidation of Certain Enactments Relating to the Jurisdiction of, and the Practice and Procedure before, Magistrates' Courts and the Functions of Justices' Clerks, and to Matters connected therewith (Cmnd.7887)	Magistrates' Courts Act 1980 (c.43).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
102*	Criminal Law: Attempt, and Impossibility in Relation to Attempt, Conspiracy and Incitement (H.C.646)	Criminal Attempts Act 1981 (c.47).
103+	Family Law: The Financial Consequences of Divorce: The Basic Policy. A Discussion Paper (Cmnd.8041)	See Law Com. No. 112.
104+*	Insurance Law: Non-Disclosure and Breach of Warranty (Cmnd.8064)	None.
105	Judicial Pensions Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Pensions and Other Benefits payable in respect of service in Judicial Office (Scot. Law Com. No. 62) (Cmnd.8097)	Judicial Pensions Act 1981 (c.20).
106*	Statute Law Revision: Tenth Report by the two Commissions (Scot. Law Com. No. 63) (Cmnd.8089)	Statute Law (Repeals) Act 1981 (c.19); Supreme Court Act 1981 (c.54); British Telecommunications Act 1981 (c.38).
<b>1981</b>		
107	Fifteenth Annual Report 1979-1980 (H.C.161)	--
108	Trustee Savings Banks Bill: Report by the two Commissions on the Consolidation of the Trustee Savings Banks Acts 1969 to 1978 (Scot. Law Com. No. 65) (Cmnd.8257)	Trustee Savings Banks Act 1981 (c.65).
109+	Private International Law: Council of Europe Conventions on Foreign Money Liabilities (1967) and on the Place of Payment of Money Liabilities (1972) (Joint Report—Scot. Law Com. No. 66) (Cmnd.8318)	--
110+*	Breach of Confidence (Cmnd.8388)	None.
111+	Property Law: Rights of Reverter (Cmnd.8410)	Reverter of Sites Act 1987 (c.15).
112	Family Law: The Financial Consequences of Divorce. The Response to the Law Commission's Discussion Paper, and Recommendations on the Policy of the Law (H.C.68)	Matrimonial and Family Proceedings Act 1984 (c.42).
<b>1982</b>		
113	Sixteenth Annual Report 1980-1981 (H.C.161)	--
114+*	Classification of Limitation in Private International Law (Cmnd.8570)	Foreign Limitation Periods Act 1984 (c.16).
115+	Property Law: The Implications of <i>Williams and Glyn's Bank Ltd. v. Boland</i> (Cmnd.8636)	None.
116*	Family Law: Time Restrictions on Presentation of Divorce and Nullity Petitions (H.C.513)	Matrimonial and Family Proceedings Act 1984 (c.42).
117*	Family Law: Financial Relief after Foreign Divorce (H.C.514)	Matrimonial and Family Proceedings Act 1984 (c.42).
118*	Family Law: Illegitimacy (H.C.98)	Family Law Reform Act 1987 (c.42).
<b>1983</b>		
119	Seventeenth Annual Report 1981-1982 (H.C.203)	--

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
120	Medical Bill: Report by the two Commissions on the Consolidation of the Medical Acts 1956 to 1978 and Certain Related Provisions (Scot. Law Com. No. 77) (Cmnd.8839)	Medical Act 1983 (c.54).
121*	Law of Contract: Pecuniary Restitution on Breach of Contract (H.C.34)	None.
122+*	The Incapacitated Principal (Cmnd.8977)	Enduring Powers of Attorney Act 1985 (c.29).
123*	Criminal Law: Offences Relating to Public Order (H.C.85)	Public Order Act 1986 (c.64).
124+*	Private International Law: Foreign Money Liabilities (Cmnd.9064)	None.
125*	Property Law: Land Registration (H.C.86)	Land Registration Act 1986 (c.26).
126	Amendment of the Companies Acts 1948-1983: Report by the two Commissions under section 116 of the Companies Act 1981 (Scot. Law Com. No. 83) (Cmnd.9114)	Companies Consolidation (Consequential Provisions) Act 1985 (c.9).
<b>1984</b>		
127*	Transfer of Land: The Law of Positive and Restrictive Covenants (H.C.201)	None.
128	Registered Homes Bill: Report on the Consolidation of Certain Enactments Relating to Residential Care Homes and Nursing Homes and Registered Homes Tribunals (Cmnd.9115)	Registered Homes Act 1984 (c.23).
129	Dentists Bill: Report by the two Commissions on the Consolidation of the Dentists Acts 1957 to 1983 (Scot. Law Com. No. 84) (Cmnd.9119)	Dentists Act 1984 (c.24).
130	Public Health (Control of Disease) Bill: Report on the Consolidation of Certain Enactments Relating to the Control of Disease (Cmnd.9128)	Public Health (Control of Disease) Act 1984 (c.22).
131	Eighteenth Annual Report 1982-1983 (H.C.266)	--
132*	Family Law: Declarations in Family Matters (H.C.263)	Family Law Act 1986 (c.55), Part III.
133	Road Traffic Regulation Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Road Traffic Regulation (Scot. Law Com. No. 85) (Cmnd.9162)	Road Traffic Regulation Act 1984 (c.27).
134*	Law of Contract: Minors' Contracts (H.C.494)	Minors' Contracts Act 1987 (c.13).
135	Statute Law Revision: Eleventh Report: Obsolete Provisions in the Companies Act 1948 (Cmnd.9236)	Companies Consolidation (Consequential Provisions) Act 1985 (c.9).
136	Further Amendments to the Companies Acts 1948-1983: Report by the two Commissions under section 116 of the Companies Act 1981 (Scot. Law Com. No. 87) (Cmnd.9272)	Companies Consolidation (Consequential Provisions) Act 1985 (c.9).
137*	Private International Law: Recognition of Foreign Nullity Decrees and Related Matters (Joint Report—Scot. Law Com. No. 88) (Cmnd.9347)	Family Law Act 1986 (c.55), Part II.

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
<b>1985</b>		
138+*	Family Law: Conflicts of Jurisdiction Affecting the Custody of Children (Joint Report—Scot. Law Com. No. 91) (Cmnd.9419)	Family Law Act 1986 (c.55), Part I.
139	Cinemas Bill: Report on the Consolidation of the Cinematograph Acts 1909 to 1982 and Related Enactments (Cmnd.9425)	Cinemas Act 1985 (c.13).
140	Nineteenth Annual Report 1983–1984 (H.C.214)	--
141	Codification of the Law of Landlord and Tenant: Covenants Restricting Dispositions, Alterations and Change of User (H.C.278)	In part by Landlord and Tenant Act 1988 (c.26).
142	Codification of the Law of Landlord and Tenant: Forfeiture of Tenancies (H.C.279)	None.
143	Criminal Law: Codification of the Criminal Law: A Report to the Law Commission (H.C.270)	See Law Com. No. 177.
144	Housing Bill, Housing Associations Bill, Landlord and Tenant Bill (Joint Report—Scot. Law Com. No. 94) (Cmnd.9515)	Housing Act 1985 (c.68); Housing Associations Act 1985 (c.69); Landlord and Tenant Act 1985 (c.70); Housing (Consequential Provisions) Act 1985 (c.71).
145*	Criminal Law: Offences against Religion and Public Worship (H.C.442)	None.
146*	Private International Law: Polygamous Marriages. Capacity to Contract a Polygamous Marriage and Related Issues (Joint Report—Scot. Law Com. No. 96) (Cmnd.9595)	None.
147*	Criminal Law: Report on Poison-Pen Letters (H.C.519)	Malicious Communications Act 1988 (c.27).
148*	Property Law: Second Report on Land Registration: Inspection of the Register	Land Registration Act 1988 (c.3).
149*	Criminal Law: Report on Criminal Libel (Cmnd.9618)	None.
150*	Statute Law Revision: Twelfth Report (Joint Report—Scot. Law Com. No. 99) (Cmnd.9648)	Statute Law (Repeals) Act 1986 (c.12); Patents, Designs and Marks Act 1986 (c.39).
151+*	Rights of Access to Neighbouring Land (Cmnd.9692)	Access to Neighbouring Land Bill.
152*	Property Law: Liability for Chancel Repairs (H.C.39)	None.
153	Agricultural Holdings Bill: Report on the Consolidation of Certain Enactments Relating to Agricultural Holdings (Cmnd.9665)	Agricultural Holdings Act 1986 (c.5).
<b>1986</b>		
154	Law of Contract: The Parol Evidence Rule (Cmnd.9700)	--
155	Twentieth Annual Report 1984–1985 (H.C.247)	--

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
156+	Law of Contract: Implied Terms in Contracts for the Supply of Services (Cmnd.9773)	--
157*	Family Law: Illegitimacy (Second Report) (Cmnd.9913)	Family Law Reform Act 1987 (c.42).
<b>1987</b>		
158	Property Law: Third Report on Land Registration. A. Overriding Interests: B. Rectification and Indemnity: C. Minor Interests (H.C.269)	--
159	Twenty-First Annual Report 1985-1986 (H.C.342)	--
160+*	Sale and Supply of Goods (Joint Report—Scot. Law Com. No. 104) (Cm.137)	None.
161*	Leasehold Conveyancing (H.C.360)	Landlord and Tenant Act 1988 (c.26).
162	Landlord and Tenant: Reform of the Law (Cm.145)	--
163*	Deeds and Escrows (H.C.1)	Law of Property (Miscellaneous Provisions) Act 1989 (c.34).
164*	Transfer of Land: Formalities for Contracts for Sale etc. of Land (H.C.2)	Law of Property (Miscellaneous Provisions) Act 1989 (c.34).
165*	Private International Law: Choice of Law Rules in Marriage (Joint Report—Scot. Law Com. No. 105) (H.C.3)	Foreign Marriage (Amendment) Act 1988 (c.44).
166*	Transfer of Land: The Rule in <i>Bain v. Fothergill</i> (Cm.192)	Law of Property (Miscellaneous Provisions) Act 1989 (c.34).
167	Coroners Bill: Report on the Consolidation of the Coroners Acts 1887 to 1980 and Certain Related Enactments (Cm.178)	Coroners Act 1988 (c.13).
168*	Private International Law: The Law of Domicile (Joint Report—Scot. Law Com. No. 107) (Cm.200)	None.
<b>1988</b>		
169	Twenty-Second Annual Report 1986-1987 (H.C.319)	--
170	Facing the Future: A Discussion Paper on the Ground for Divorce (H.C.479)	See Law Com. No. 192.
171	Road Traffic Bill; Road Traffic Offenders Bill; Road Traffic (Consequential Provisions) Bill: Report on the Consolidation of Certain Enactments Relating to Road Traffic (Joint Report—Scot. Law Com. No. 113) (Cm.390)	Road Traffic Act 1988 (c.52); Road Traffic Offenders Act 1988 (c.53); Road Traffic (Consequential Provisions) Act 1988 (c.54).
172*	Family Law: Review of Child Law: Guardianship and Custody (H.C.594)	Children Act 1989 (c.41).
173*	Property Law: Fourth Report on Land Registration (H.C.680)	None.

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
174*	Landlord and Tenant Law: Privity of Contract and Estate (H.C.8)	None.
175*	Family Law: Matrimonial Property (H.C.9)	None.
<b>1989</b>		
176	Twenty-Third Annual Report 1987-1988 (H.C.227)	--
177*	Criminal Law: A Criminal Code for England and Wales (Two Volumes) (H.C.299)	None.
178*	Landlord and Tenant Law: Compensation for Tenants' Improvements (H.C.291)	None.
179*	Statute Law Revision: Thirteenth Report (Joint Report—Scot. Law Com. No. 117) (Cm.671)	Statute Law (Repeals) Act 1989 (c.43).
180*	Criminal Law: Jurisdiction over Offences of Fraud and Dishonesty with a Foreign Element (H.C.318)	None.
181*	Transfer of Land: Trusts of Land (H.C.391)	None.
182	Extradition Bill: Report on the Consolidation of Legislation Relating to Extradition (Joint Report—Scot. Law Com. No. 119) (Cm.712)	Extradition Act 1989 (c.33).
183	Opticians Bill: Report on the Consolidation of Legislation Relating to Opticians (Joint Report—Scot. Law Com. No. 121) (Cm.738)	Opticians Act 1989 (c.44).
184*	Property Law: Title on Death (Cm.777)	None.
185	Fourth Programme of Law Reform (Cm.800)	--
186	Criminal Law: Computer Misuse (Cm.819)	Computer Misuse Act 1990 (c.18).
187*	Family Law: Distribution on Intestacy (H.C.60)	None.
188*	Transfer of Land: Overreaching: Beneficiaries in Occupation (H.C.61)	None.
<b>1990</b>		
189	Town and Country Planning Bill; Planning (Listed Buildings and Conservation Areas) Bill; Planning (Hazardous Substances) Bill; Planning (Consequential Provisions) Bill: Report on the Consolidation of Certain Enactments Relating to Town and Country Planning (Cm.958)	Town and Country Planning Act 1990 (c.8); Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9); Planning (Hazardous Substances) Act 1990 (c.10); Planning (Consequential Provisions) Act 1990 (c.11).
190	Twenty-Fourth Annual Report 1989 (H.C.215)	--
191	Transfer of Land: Risk of Damage after Contract for Sale (H.C.323)	--
192*	Family Law: The Ground for Divorce (H.C.636)	None.
193*	Private International Law: Choice of Law in Tort and Delict (Joint Report—Scot. Law Com. No. 129) (H.C.65)	None.

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
<b>1991</b>		
194*	Landlord and Tenant: Distress for Rent (H.C.138)	None.
195	Twenty-Fifth Annual Report 1990 (H.C.249)	--
196*	Rights of Suit in Respect of Carriage of Goods by Sea (Joint Report—Scot. Law Com. No. 130) (H.C.250)	Carriage of Goods by Sea Bill.
197	Deer Bill: Report on the Consolidation of Certain Enactments Relating to Deer (Cm.1476)	Deer Act 1991 (c.54).
198	Water Resources Bill; Water Industry Bill; Statutory Water Companies Bill; Land Drainage Bill; Water Consolidation (Consequential Provisions) Bill: Report on the Consolidation of the Legislation Relating to Water (Cm.1483)	Water Resources Act 1991 (c.57); Water Industry Act 1991 (c.56); Statutory Water Companies Act 1991 (c.58); Land Drainage Act 1991 (c.59); Water Consolidation (Consequential Provisions) Act 1991 (c.60).
199*	Transfer of Land: Implied Covenants for Title (H.C.437)	None.
200	Fifth Programme of Law Reform (Cm.1556)	--
201	Transfer of Land: Obsolete Restrictive Covenants (H.C.546)	None.
202+*	Criminal Law: Corroboration of Evidence in Criminal Trials (Cm.1620)	None.
203	Social Security Contributions and Benefits Bill; Social Security Administration Bill; Social Security (Consequential Provisions) Bill: Report on the Consolidation of the Legislation Relating to Social Security (Joint Report—Scot. Law Com. No. 132) (Cm.1726)	Social Security Contributions and Benefits Act 1992 (c.4); Social Security Administration Act 1992 (c.5); Social Security (Consequential Provisions) Act 1992 (c.6).
204*	Transfer of Land: Land Mortgages (H.C.5)	None.
<b>1992</b>		
205*	Criminal Law: Rape within Marriage (H.C.167)	None.
206	Twenty-Sixth Annual Report 1991 (H.C.280)	--

### **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. Publications by the Conveyancing Standing Committee**

What Should We Do About Old Restrictive Covenants?—A Consultation Paper (1986)

Pre-Contract Deposits—A Practice Recommendation (1987)

Preliminary Enquiries: House Purchase—A Practice Recommendation (1987)

House Selling the Scottish Way for England and Wales—An Explanatory Guide (1987)

Local Authority Enquiries: How Can We Eliminate Delays?—A Consultation Paper (1987)

Deposits on Exchange of Contracts in Residential Conveyancing: Time for a Change?—A Consultation Paper (1988)

Caveat Emptor in Sales of Land—A Consultation Paper (1988)

Local Authority Enquiries: Defeating Delays—Recommendations (1988)

Conveyancing Chains: One Way to Throw Them Off (1989)

Deposits on Exchange of Contracts in Residential Conveyancing: No Time for a Change—Joint Report with The Law Society (1989)

Getting the Money to Move: Avoiding Competition Delays (1989)

Let the Buyer Be Well Informed (1990)

#### **E. Periodicals**

Law Under Review: A Quarterly Bulletin of Law Reform Projects (Nos. 1 to 20).

#### **F. Other Publications**

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

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

Treasure Trove: Law Reform Issues (September 1987).

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

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

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\*\* The E.E.C. Convention on the Law Applicable to Contractual Obligations is scheduled to the Contracts (Applicable Law) Act 1990 (c.36). The Convention entered into force in the United Kingdom on 1 April 1991.



## APPENDIX 4

### THE COST OF THE COMMISSION

The Commission's resources are made available through the Lord Chancellor's Department in accordance with section 5 of the Law Commissions Act 1965. The figures given below represent its cost, not its budget. The cost of most items (in particular accommodation, salaries, superannuation and Headquarters' overheads) is not determined by the Commission. The figures given are those for a calendar year and cannot be related to those in Supply Estimates and Appropriation Accounts.

	<i>1991</i>	<i>1990</i>
	£000	£000
Accommodation charges <sup>1</sup>	460.1	377.8
Headquarters' overheads <sup>2</sup>	228.0	205.1
Printing and publishing; supply of information technology; office equipment and books <sup>3</sup>	243.1	139.6
Salaries of Commissioners (including ERNIC)	276.2	250.7
Salaries of draftsmen, legal staff, secondees, and consultants (including ERNIC)	1,058.3	989.5
Salaries of non-legal staff (including ERNIC)	372.4	345.6
Superannuation	265.8	245.8
Telephone/postage <sup>4</sup>	35.9	24.6
Travel and subsistence	5.5	6.5
Entertainment	0.6	1.0
Miscellaneous	11.9	5.7
	2,957.8	2,591.9

<sup>1</sup> Component relating to ground rent, rates, and major works supplied by the Lord Chancellor's Department.

<sup>2</sup> Portion of the total cost of the Lord Chancellor's Department headquarters attributed to the Law Commission.

<sup>3</sup> The conversion of the computer system referred to in para. 3.7 above is likely, when completed, to have cost some £120,000, of which some £90,000 is included in the figure for office equipment in 1991.

<sup>4</sup> The figure for 1991 includes some £9,000 spent on the conversion of the telephone network to a system of direct dialling in.





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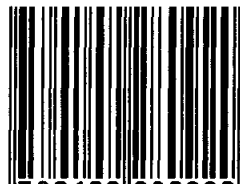
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