

The Law Commission

(LAW COM. No. 195)

TWENTY-FIFTH ANNUAL REPORT

1990

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

*Ordered by The House of Commons to be printed
13 March 1991*

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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, Q.C.

Professor Brenda Hoggett, Q.C.

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-FIFTH ANNUAL REPORT: 1990

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THE LAW COMMISSION

TWENTY-FIFTH 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-Fifth Annual Report for the year 1990.

PART I

THE PAST YEAR IN OUTLINE

1.1 The Law Commissions Act received the Royal Assent on 15 June 1965, and came into force the same day. Therefore 1990 has seen the silver jubilee of the Law Commission, and to mark that occasion on 25 June we gave a reception in Lincoln's Inn Old Hall, with the kind permission of the Benchers of that Inn. We were honoured to have you among our guests on that occasion, and most grateful to you for proposing the toast of "The Law Commissions". In summing up the achievements of our predecessors you voiced your thanks to the many former Commissioners, members of the staff, Parliamentary Counsel, consultants and others who had contributed to the success of the two Commissions. On behalf of this Commission, we would like to echo those thanks, and to express the hope that our efforts and those of our successors may also contribute to the development, reform, simplification and modernisation of the law.

1.2 Until relatively recently it had been the practice of this Commission and the Scottish Law Commission to hold joint annual meetings. Our Twenty-Second Annual Report¹ refers to the joint meeting held with the Scottish Law Commission in London on 28 and 29 April 1987, but there had been no such meetings since that date. We therefore took the opportunity, on the day when we celebrated our joint silver jubilee, of inviting our Scottish colleagues again to a meeting in London. The prior exchange of papers, and the discussion at the meeting of the many topics of mutual interest, proved most valuable. Active co-operation on projects in which we have a joint interest is highly desirable, especially in those fields where the law in the two jurisdictions is at present identical or similar, or where this would be advantageous. Particular examples are the fields of private international law, and amendment of statutes which apply to the whole of the United Kingdom. We feel that joint meetings of the two Commissions can materially assist in furthering such projects, and we hope that they may lead to identical, if not joint, recommendations.

1.3 As you will know better than most from your experience as a Scottish Law Commissioner, the number of law reform projects completed varies from year to year. It would be helpful, both to us and, we imagine, to you and your Department, if we were able accurately to predict in advance the time which a particular law reform project would take, and likewise if we were able so to plan our work that we would submit to you each year roughly the same number of reports. That however seems to be impossible of attainment. (Eighteen years ago our predecessors found the same difficulty, and noted "It is . . . a necessary incident of sound law reform that the flow of law reform proposals will vary from a flood . . . to a trickle"²). Thus, while in our last annual report we were able to point to the submission to you in 1989 of eight reports making recommendations for substantive law reform,³ in 1990 we submitted only four such reports, and of these only three recommend legislative action.

1.4 A list of those reports appear in paragraph 2.1 of this report, and all are described in detail in Part II of this report. It is however right that we should draw particular attention to

¹ Twenty-Second Annual Report 1986-1987, (1988) Law Com. No. 169, para. 3.8.

² Seventh Annual Report 1971-1972, (1972) Law Com. No. 50, para. 1.

³ Twenty-Fourth Annual Report 1989, (1990) Law Com. No. 190, para. 2.1. The nine reports there listed include the Fourth Programme of Law Reform, Law Com. No. 185.

our report on *The Ground for Divorce*.⁴ The first major law reform report of this Commission was on the same topic,⁵ and was submitted to Lord Gardiner in October 1966, little over a year after the Commission was set up. It is proof, if any were needed, both of the importance of this controversial topic, and of the changes, both legal and social, which have taken place over the last quarter of a century, that we have found it both desirable and necessary to submit to you a report recommending that the system proposed by our predecessors and enacted in the Divorce Reform Act 1969⁶ should be radically overhauled. The generally favourable reception which has been accorded to our proposals shows, we think, the value of the extremely thorough consultation which we undertook before reaching any final conclusions.

1.5 However well received our reports may be, the ultimate proof of the value of our work comes only when Parliament decides to give legislative effect to our recommendations. In practice this means that they must find favour with the Government, and that either a Bill must be included in the Government's legislative programme, or that a Private Member who is successful in the ballot for Private Members' Bills decides to introduce a Bill giving effect to the recommendations in one of our reports. It cannot therefore fail to be a cause of concern to us that, for the second Parliamentary session running, the Government's legislative programme includes no Bills implementing Law Commission reports. Moreover, while in the session 1989–90 Mr Michael Colvin MP introduced a Bill based on our report on *Computer Misuse*,⁷ no Private Member successful in the ballot this session has introduced a Bill giving effect to one of our reports. The regrettable probability is therefore that, with the exception of 1983 (when there was a general election), 1991 will be the first year since the Commission was set up when no law reform Bill based on its work will reach the statute book.

1.6 Figures for the proportion of reports implemented vary considerably as between different areas of law.⁸ If one leaves aside consolidation and statute law revision reports, the record on the implementation of Commission reports recommending law reform which were published up to the end of 1984 is reasonably good: of 71 such reports, 59 were implemented in whole or in part. But the record in respect of reports published subsequently gives us greater concern. Of 33 such reports only 11 have been implemented in whole or in part. If the reports published in 1990 are omitted as being too recent to be implemented yet, and one looks at those published in 1988 and 1989, only 2 out of 12 have been implemented.⁹ At the time the Commission was established the fear was often expressed that Parliament would not find time for law reform legislation emanating from the Commissions. In 1971 our predecessors were able to say that such fear had proved ill-founded, because the managers of the Government's legislative business had been generous with time, notwithstanding the other urgent calls on it, and Private Members had shown themselves very ready to advance the work of law reform.¹⁰ Unhappily attitudes appear to have changed in more recent years.

1.7 We know that you yourself share our enthusiasm for law reform. We welcome the setting up, within your Department's Legislation Group, of a division one of whose tasks is to promote your interest in law reform and, in doing so, to undertake liaison both with the Commission and with other parties who have an interest in law reform. We hope that this may assist in a rapid reversal of the unfortunate trend to which we have drawn attention.

⁴ Law Com. No. 192: see paras. 2.27 and 2.28 below.

⁵ *Reform of the Grounds of Divorce: The Field of Choice* (Law Com. No. 6, Cmnd. 3123).

⁶ Now consolidated in the *Matrimonial Causes Act 1973*.

⁷ *Criminal Law: Computer Misuse* (Law Com. No. 186, Cm. 819). See para. 2.17 below.

⁸ Thus, we acknowledge that in the field of family law only the following few reports submitted before the year under review remain completely unimplemented: *Report on Solemnisation of Marriage in England and Wales* (1973) Law Com. No. 53; *Report on the Capacity to Contract a Polygamous Marriage and Related Issues* (1985) Joint Report—Law Com. No. 146, Scot. Law Com. No. 96 (which can in any event be classified as a report on Private International Law); *Report on Matrimonial Property* (1988) Law Com. No. 175; and *Report on Distribution on Intestacy* (1989) Law Com. No. 187.

⁹ For the second of these, see footnote 7 above. The first was the report *Family Law: Review of Child Law: Guardianship and Custody* (Law Com. No. 172), to which effect was given by the *Children Act 1989*.

¹⁰ *Sixth Annual Report 1970–1971*, (1971) Law Com. No. 47, para. 5.

1.8 We mentioned in our last annual report¹¹ that Mr Beatson's appointment came too late for any items of work in the common law field to be included in our Fourth Programme of Law Reform.¹² We have now had discussions with officials of your Department on items in this field which would be appropriate for inclusion in a fresh programme under section 3(1)(b) of the Law Commissions Act, and we hope to submit such a programme to you in the near future.

1.9 In the case of a few projects described in detail in Part II of this report, reference to the corresponding passage in our last annual report will show that we had hoped to submit the report in 1990, but this hope has not been fulfilled. In most cases it is now our hope to submit the report in 1991. The delay may stem from a variety of causes. Thus every acceptance of a new reference or project necessitates a re-assessment of priorities. Moreover in two cases at least the legal problems thrown up are such that the work can only be carried forward by a senior member of the staff who has previously been associated with the project. To ask one of our research assistants who will be staying for only one year to learn a difficult subject from scratch can constitute an unjustifiable investment in learning. This is a particular example of the disruption caused by the departure in the middle of each year of half our lawyers working on law reform. We draw attention to this further in paragraph 3.3 below.

1.10 These remarks are not however in any way intended to detract from our appreciation of the hard work of the lawyers from the Government legal service, of the research assistants, and of the administrative and supporting staff, on which we so much rely. Again we express our thanks to them.

¹¹ Twenty-Fourth Annual Report 1989, (1990) Law Com. No. 190, para. 1.5.

¹² (1989) Law Com. No. 185.

PART II

THE YEAR UNDER REVIEW

REPORTS AND WORKING PAPERS (OTHER THAN STATUTE LAW)

2.1 We list below the reports which we have submitted since our last annual report:

- (i) Transfer of Land: Risk of Damage after Contract for Sale, Law Com. No. 191.
- (ii) Family Law: The Ground for Divorce, Law Com. No. 192.
- (iii) Private International Law: Choice of Law in Tort and Delict, Law Com. No. 193, Scot. Law Com. No. 129.
- (iv) Landlord and Tenant: Distress for Rent, Law Com. No. 194.

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

- (i) Corroboration of Evidence in Criminal Trials, Working Paper No. 115.
- (ii) Rape within Marriage, Working Paper No. 116.
- (iii) The Hearsay Rule in Civil Proceedings, Consultation Paper No. 117.

2.3 As will be seen from the title of the last of these papers, we have decided as from this year to replace the term "working paper" with the term "consultation paper" which more accurately describes the purpose for which these documents are prepared and issued. We intend however to preserve the numbering of the working paper series.

REPORT ON PROGRESS

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

Common Law Projects

2.5 We are continuing with the task of identifying which branches of the law within the broad area covered by our common law remit are currently most in need of examination. We have accepted references on two new projects: one from the Department of Trade and Industry, to examine the effect of statutory and non-statutory regulation on the fiduciary duties of professional and business activities; and one from yourself, to examine the law relating to payments made but not lawfully due and in particular the position of payments made under a mistake of law.¹ Other topics are under consideration. You decided not, at this stage at least, to refer to the Commission the topic of class actions. The need for reform which can enable numerous litigants with a common grievance to pursue remedies through the courts raises a variety of issues, some of law reform, others essentially economic. We have indicated our willingness to help on the law reform issues which this complex problem raises. It is our view that work in this field requires co-ordinated effort involving the judiciary, practitioners, the Law Commission and Government departments.

Fiduciary Duties and Regulatory Bodies

2.6 In April 1990 the Minister for Corporate Affairs at the Department of Trade and Industry asked us to consider the principles which should govern the effect of statutory and non-statutory controls on the fiduciary duties of professional and business activities, particularly in relation to financial services. We are being assisted in the project by Professor D. D. Prentice of Pembroke College, Oxford. We have also been helped by The Law Society's Company Law Committee and by the Securities and Investments Board, and we hope that interested groups will continue to be of assistance as the project progresses. In November 1990 we circulated an Issues Questionnaire designed to elicit information about market practices so that the Commission can assess the scale of the problem.² We are hoping to publish a consultation paper later in 1991.

Payments made under a Mistake of Law

2.7 In April 1990 you asked us to examine 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. Save in the case of payments to and by public authorities, we have, at

¹ See below, paras. 2.6 and 2.7.

² Fiduciary Duties and Regulatory Rules: Issues Questionnaire.

this stage, restricted our inquiry to payments made under a mistake of law. In the case of payments to and by public authorities we have been considering all *ultra vires* payments. We have supplied material on the public law aspects of this project to the Scottish Law Commission, who are engaged on a similar project,³ and will continue to liaise with them. We have been greatly assisted by Dr Sue Arrowsmith of the University College of Wales who has acted as our consultant on this project. We are preparing a consultation paper, which we hope to publish during 1991.

Common Law Reform Proposals Received

2.8 During the course of the year, we have considered⁴ several proposals for law reform sent to us from your Department including bereavement damages, allocation of work between the High Court and county courts, and defamation; from the Department of Trade and Industry on the review of the Trade Descriptions Act and on the Consumer Guarantees Bill introduced by Mr Martyn Jones MP; from the Office of Fair Trading on trading malpractices; and proposals for law reform from other review bodies⁵ and from the judiciary.

2.9 Sir Nicolas Browne-Wilkinson V-C referred us to his call in two recent cases⁶ for urgent legislative reform so as further to restrict the privilege against self-incrimination in certain civil proceedings subject to safeguards, on the lines of section 31 of the Theft Act 1968 and section 72 of the Supreme Court Act 1981. The Vice-Chancellor had expressed concern that without legislation the effectiveness of civil remedies designed to redress fraud would be seriously impaired. In response we submitted to your Department a paper in which we said that we shared that concern, and we made certain suggestions for legislative reform to meet the immediate problem in civil fraud cases. We also suggested a fuller review of the diverse statutory provisions affecting the privilege with a view to a wider reform to introduce a rule applicable to all civil proceedings, coupled with proper safeguards.

2.10 The Civil Justice Review recommended⁷ that for limitation purposes an action should be deemed to be brought when process was served rather than, as now, when proceedings are issued. There had been no prior consultation on this proposal, nor was there any subsequent consultation before effect was sought to be given to it by a clause in the Courts and Legal Services Bill.⁸ The clause did however provide for rules of court to implement the details of this change, and the Law Commission was one of the bodies consulted in May 1990 on the rule changes. In giving our view on these, we took the opportunity to question the wisdom of the main change recommended by the Civil Justice Review. Among other things, we pointed out that the matter had been fully considered by the Law Reform Committee in 1977,⁹ and that they had recommended no change in the existing law. A number of other persons and bodies agreed with our views, and as a result you accepted that an amendment should be tabled to the Bill, then passing through the House of Commons, deleting this clause.¹⁰

Contract Law

Carriage of Goods by Sea

2.11 Following the meeting and the seminar referred to in our last Annual Report,¹¹ we decided to widen the scope of the project¹² by including sea waybills, ship's delivery orders, false statements in bills of lading and also the problems which had arisen as a result of the decision in *The Delfini*.¹³ We also decided to look separately at:

³ Twenty-Fifth Annual Report of the Scottish Law Commission 1989-90 (1990) Scot. Law Com. No. 128, para. 1.5.

⁴ Under section 3(1)(a) of the Law Commissions Act 1965.

⁵ *Professional Liability—Report of the Study Teams*, Chairman, Prof. A. Likierman (1989) H.M.S.O.; *Banking Services: Law and Practice* (1989) Cm. 622.

⁶ *Sociedade Nacional de Combustiveis de Angola U.E.E. v. Lundqvist* [1991] 2 W.L.R. 280; *Tate Access Floors Inc. v. Boswell* [1991] 2 W.L.R. 304.

⁷ Report of the Review Body on Civil Justice, Cm. 394, para. 204 and recommendation 17(ii).

⁸ Clause 75 in the Bill as introduced in the House of Lords on 6 December 1989.

⁹ Final Report on Limitation of Actions, Cmnd. 6923, paras. 2.72 to 2.81.

¹⁰ By then, as a result of other amendments to the Bill, the relevant clause had become clause 92.

¹¹ Twenty-Fourth Annual Report 1989, (1990) Law Com. No. 190, para. 2.6.

¹² In previous annual reports the more limited project was called "Rights to Goods in Bulk", and this was also the title of Working Paper No. 112, published in June 1989.

¹³ *Enichem Anic S.p.A. v. Ampelos Shipping Co. Ltd. (The Delfini)* [1990] 1 Lloyd's Rep. 252.

- (a) the above issues relating to the entitlement to sue of those who are parties to, or otherwise interested in, contracts for the carriage of goods by sea; and
- (b) the question of reform of section 16 of the Sale of Goods Act 1979.

2.12 A final report on the carriage of goods by sea part of the project is at an advanced stage of preparation together with a draft Bill incorporating the necessary amendments to the Bills of Lading Act 1855. We have been assisted on this project by a large number of interested persons and bodies, and we have in particular co-operated with the Scottish Law Commission. On 16 January 1991 the Chairman, Mr Beatson and one of the lawyers working on this project visited Edinburgh to discuss outstanding issues with our Scottish counterparts. We plan to submit a report on this element of the project first, we hope early in 1991. Work will thereafter continue on the second limb of the project relating to section 16 of the Sale of Goods Act 1979.

Contributory Negligence as a Defence in Contract

2.13 We published a working paper¹⁴ on 19 January 1990 inviting responses by 31 July 1990. During the consultation period we were in contact with various interested groups, including the contract law sub-committee of the Society of Public Teachers of Law. Again, we gratefully acknowledge Sir Wilfrid Bourne's help in analysing the responses to consultation, and we have convened a working party¹⁵ to help us to give further consideration to some of the issues which have been raised.

Contracts for the Benefit of Third Parties

2.14 We are examining the rules 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 a loss suffered only by a third party. The paper which we are preparing will examine the meaning, development and rationale of the privity rule, together with an examination of the exceptions to it and the hardship it works in practice. It will also look at proposals for reform which have been canvassed over the years, and will include an examination of the law in various other jurisdictions, from which it is hoped that lessons may be deduced as to how English law may successfully be reformed. We hope to publish a consultation paper on this topic later this year.

Criminal Law

Criminal Code

2.15 Our final report on the Criminal Code was published in April 1989.¹⁶ In January 1990 we held, in conjunction with the Society for the Reform of the Criminal Law, a two-day seminar in Cambridge devoted to assessing the prospects for eventual codification. There was very strong support for the objective but, at the same time, appreciation of the legislative difficulties which the introduction of a Bill as large and wide-ranging as the draft Code would involve. Our commitment to codification in the interests not only of justice but also of efficiency remains as strong as ever, and we have now agreed that work on the Code could best be furthered by means of a series of reports recommending the reform or restatement of areas of specific crime along the lines envisaged in the Code Report, together with the reformulation in "Code" terms of general principles relevant to the offences in question.

2.16 The area that we have chosen for the first such report is that of offences against the person, where the present very unsatisfactory state of the law should greatly benefit from a "Code" approach. Work commenced late in the summer of 1990. We have been greatly assisted by Professor Edward Griew, Emeritus Professor of Law in the University of Nottingham and a member of the original Code team, who is acting as special consultant on the project. This will take an unusual course, in that it is intended that the initial consultation paper should be accompanied by a draft Bill to demonstrate how the proposals made in the paper would be implemented in practice. We expect the consultation paper and the Bill to be ready for publication by the middle of this year.

¹⁴ (1990) Working Paper No. 114.

¹⁵ The members of the working party are the Honourable Mr Justice Steyn, Professor G. H. Treitel and Professor P. N. Capper.

¹⁶ Criminal Law: A Criminal Code for England and Wales, (1989) Law Com. No. 177.

Computer Misuse

2.17 Our report on this subject¹⁷ was published on 10 October 1989. On 20 December 1989 Mr Michael Colvin MP introduced a Bill to give effect to our recommendations which was enacted as the Computer Misuse Act 1990. The Act received the Royal Assent on 29 June 1990 and came into force two months later. It diverges in only two, comparatively minor, respects from the recommendations made by the Commission: (i) the maximum penalty for the basic hacking offence has been raised from three to six months' imprisonment; (ii) in the matter of enforcement, on which we made no recommendations in our report, a power has been included to permit search for evidence of the commission of the basic offence upon application to a circuit judge.

Binding Over to Keep the Peace

2.18 In our last annual report¹⁸ we said that we hoped to be able to submit our final report during the course of 1990. However we have since issued a further, unpublished, discussion paper to some of those who replied to our working paper¹⁹ published in September 1987, seeking views on whether alternative methods of disposing of criminal cases without the recording of a conviction could be developed in place of the present use of binding over for that purpose. This project has been particularly affected by the discontinuities in staffing, and the need to give priority to matters of more immediate urgency, to which we referred earlier in this report.²⁰ It would now be unrealistic for us to say that the final report will be submitted to you before 1992, a state of affairs which we much regret.

Conspiracy to Defraud

2.19 On this subject also we said in our last annual report²¹ that we hoped to submit our report during the course of 1990. Further intensive study has, however, demonstrated the intractable nature of the difficulties involved. In an attempt to elucidate some of those difficulties we have thought it right to arrange further meetings with the Serious Fraud Office, the Crown Prosecution Service and academics with a particular interest in fraud, to test some of the proposals that were put forward in consultation. The difficulties of this project mean that it has to be handled by one of the two only permanent members of staff that the Commission is currently able to assign to criminal law. Further early progress will depend on that staff time not being required for other topics.

Assisting and Encouraging Crime

2.20 Although we have not been able, as we had hoped, to publish a working paper in 1990, good progress has been made in the work on this very large subject, which has not in the past had the amount of theoretical treatment that its difficulties and importance merit. We now hope to be able to publish a consultation paper during the summer of 1991.

Rape within Marriage

2.21 This is a joint project between the Criminal Law and Family Law teams. Work commenced in April 1990, and the working paper was completed in September and published on 6 November.²² In the paper we review the long-standing rule that a man is immune from prosecution for raping his wife, and seek views on our provisional conclusion, that the immunity should be abolished by legislation. As recently as 1984 the Criminal Law Revision Committee,²³ though unanimously of the view that the immunity should not apply where the husband and wife are living apart, were divided on its total abolition. The majority, who opposed the complete abolition of the immunity, suggested that the issue should be considered by those experienced in family and domestic cases before the matter was taken further. In this working paper we have considered those issues in depth.

2.22 The decision to select this subject as one of particular current importance has been

¹⁷ Criminal Law: Computer Misuse, (1989) Law Com. No. 186, Cm. 819.

¹⁸ Twenty-Fourth Annual Report 1989, (1990) Law Com. No. 190, para. 2.13.

¹⁹ Binding Over: The Issues (1987) Working Paper No. 103.

²⁰ See para. 1.8 above.

²¹ Twenty-Fourth Annual Report 1989, (1990) Law Com. No. 190, para. 2.14.

²² Rape within Marriage, (1990) Working Paper No. 116.

²³ Fifteenth Report of the Criminal Law Revision Committee, Cmnd. 9213.

borne out by the raising in a number of recent cases, at the present time only at first instance, of the question whether the immunity is, or should be, still part of the common law. There have so far been conflicting decisions on the point.²⁴ While we only comment on such developments with great hesitation, we do feel obliged to say two things. First, the immunity has been recognised as part of the common law for some two hundred years, that fact being demonstrated by its having been incorporated in virtually all of the codes and common law systems, based on English law, that were adopted in Commonwealth countries in the nineteenth century. We doubt whether such a longstanding rule in favour of the accused should be altered other than by legislation. Second, as the experience of the Criminal Law Revision Committee shows, the marital immunity involves many questions of legal and social policy on which many differing views are held. It is difficult for such issues to be properly reviewed within the confines of criminal litigation. Therefore, even if the point were to be decided at appellate level, there might be continuing dissatisfaction that public opinion had not been fully canvassed on the policy issues involved.

2.23 For these reasons we consider that it is not only worthwhile but essential to continue with our work on this project, with a view to recommending to you whether any and if so what legislation should be proposed to alter the present rule. Our report, which we hope to submit by the end of this year, will be based on the comments we receive on the wide range of issues set out in our working paper.

Evidence

Corroboration in Criminal Proceedings

2.24 Our working paper on this subject²⁵ was published on 10 April 1990 and was widely circulated amongst the judiciary and practitioners. It was also of great value to us to be able to discuss the paper at three of the regular seminars for experienced judges and Recorders organised by the Judicial Studies Board. The strong weight of opinion in response was in favour of abolishing the present rules, but there was less agreement on what, if anything, should replace them. We are now considering, in the light of replies to the consultation, the terms of our final recommendations. We expect to submit our report during this year.

The Hearsay Rule in Civil Proceedings

2.25 In 1989 you asked us to undertake a review of the hearsay rule in civil proceedings. This work has been undertaken by the Common Law team with the assistance of the Family Law team. We have been considering whether the exclusionary rule, as modified by the Civil Evidence Acts, should be retained, and whether any and if so what additional procedures are necessary in circumstances where the evidence sought to be adduced is of a hearsay nature. We have very recently published a consultation paper on this topic.²⁶ We are inviting views, in particular on two options: abolition of the exclusionary rule, or reform of the rules under the Civil Evidence Act 1968.

Family Law

Review of Child Law

2.26 The Children Act, which was in part based on recommendations made in our Report on Guardianship and Custody,²⁷ received the Royal Assent in November 1989. Throughout the past year we have continued to provide assistance to your Department and the Department of Health in connection with its implementation, which is due to take place in October 1991. Professor Hoggett is a member of the Judicial Studies Board's Children Act steering group and has contributed to a number of one-day seminars for the judiciary. She has recently been appointed to the Civil and Family Committee of the Board. At the request of the Department of Health, guidelines on the use of the private law remedies under the Children Act are being drawn up for the assistance of local authorities. Other continuing work includes considering the various consultation papers issued on the Children Act, and a review of the wardship jurisdiction.

²⁴ *R v. C.* per Simon Brown J., *The Independent*, 19 October 1990; *R v. J.* per Rougier J., (1990) *The Independent*, 3 January 1991.

²⁵ Corroboration of Evidence in Criminal Trials, (1990) Working Paper No. 115.

²⁶ (1991) Consultation Paper No. 117.

²⁷ (1988) Law Com. No. 172.

The Ground for Divorce

2.27 The completion and publication of our final report on *The Ground for Divorce*²⁸ has been a major task during the past year. The report was published on 1 November 1990. It represented the outcome of consultation invited in May 1988 following the publication of our discussion document *Facing the Future—A Discussion Paper on the Ground for Divorce*,²⁹ together with the results of our own Court Record Study, and a public opinion survey on aspects of the present law and proposals for reform, carried out by Public Attitude Surveys. In the report we made radical recommendations for reform which would eliminate the concept of fault from the ground for divorce. Irretrievable breakdown would continue to be the sole ground for divorce, but it would be proved by the passage of a twelve month period of time which would both provide solid and objective evidence of the breakdown and enable the parties to resolve its practical consequences before the divorce itself was granted. The report was accompanied by a draft Bill which would implement these proposals.

2.28 A televised press conference was held to launch the report. Our recommendations received considerable attention from the press and media, and Commissioners were interviewed about the report on national television and radio news programmes. A shorter paper, summarising the issues discussed and recommendations made in the report, has been prepared and distributed to the media and the many members of the public from whom we have received enquiries.

Domestic Violence and Occupation of the Family Home

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

2.30 We received a large number of helpful and informative responses to our working paper on Domestic Violence and Occupation of the Family Home.³⁰ We are also grateful to the Council of Her Majesty's Circuit Judges whose representatives kindly spared the time to meet us and discuss the subject. There was widespread agreement with the approach to reform suggested in the working paper of establishing a single consistent set of remedies which would be available in all courts exercising this jurisdiction. A detailed analysis of the responses has been undertaken, and work is now being done on the formulation of policy for the final report which we hope will be published towards the end of this year.

Adoption Law Review

2.31 We have continued to assist with 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 taking the lead in this review, but we have been heavily involved in legal research and analysis, and in the preparation of a discussion paper on the nature and effect of adoption and of a background paper on international perspectives, which were published in September 1990. Other papers in the series on freeing for and agreement to adoption, and on the legal process, are nearing completion. We are grateful to Mrs Ellen France of the New Zealand Department of Justice, who joined us as a consultant for six months, for the substantial help she gave us with the international aspects and for the benefit of her extensive experience of law reform in this area.

2.32 A member of the Family Law team attended a conference on the private international law aspects of inter-country adoption organised by The Hague Conference on Private International Law in June 1990. This subject has recently received a higher profile as a consequence of public awareness of the plight of children in Romanian orphanages. Work is continuing on the preparation of a paper on inter-country adoption.

Mentally Incapacitated Adults and Decision-making

2.33 In 1989 you approved the recommendation in our Fourth Programme of Law

²⁸ (1990) Law Com. No. 192.

²⁹ (1988) Law Com. No. 170.

³⁰ (1989) Working Paper No. 113.

Reform, that an investigation be carried out into the adequacy of legal and other procedures for the making of decisions on behalf of mentally incapacitated adults.³¹ We have, in consultation with interested departments, organisations and individuals, been planning the first stages of our inquiry. We were assisted in this by an inter-disciplinary seminar on guardianship laws, organised by the Faculty of Law at Southampton University, which took place at the King's Fund Centre on 26 March 1990.

2.34 This project covers a wide area, encompassing a great diversity of problems and concerns. These include everyday living arrangements, consent to the administration of different kinds of medical treatment, protection from neglect or abuse, financial matters and many other issues. Additionally, a wide range of people may suffer from some degree of mental incapacity, whether because of old age, congenital learning difficulties, accident or mental illness. Although all these groups will share some needs, many individual requirements will differ. We have therefore decided to begin our project by drafting an overview discussion paper which aims to present an overall picture or "map" of the subject and to draw the differing threads together. We hope to publish this as a consultation paper in the spring, and then to undertake an extensive public consultation with different interest groups, the outcome of which will dictate the future course of the project.

Private International Law

Choice of Law in Tort and Delict

2.35 We were pleased to bring our work on this item to a conclusion in December 1990 when, together with the Scottish Law Commission, we submitted our report³² to you. In it we jointly recommend that in tort and delict cases involving a foreign element, the claimant should no longer have to show actionability under both the *lex fori* and the *lex loci delicti*. Instead, we provide specific new rules dealing with personal injury, death, and damage to property, subject to a rule of displacement where it would be substantially more appropriate for another law to apply, and a general rule covering all other cases. We also recommend that in the case of torts and delicts committed in the United Kingdom, the applicable law should be that of the relevant part of the United Kingdom.

Property Law

Land Mortgages

2.36 During the course of the year we have made substantial progress with our work on this large topic, which covers all aspects of land mortgages from the formalities for creating them to the protection of borrowers. A draft of the report, together with draft legislation, has been considered by Commissioners and it is hoped that, following revisions, the report will be ready for publication during 1991. We are grateful to our former colleague, Dr Julian Farrand, and to Alison Clarke, Lecturer in Law at University College, London, who, despite other pressing commitments, have continued to provide extensive and valuable assistance with this project.

Implied Covenants for Title

2.37 Work is well advanced on the completion of our report, which will make recommendations for reform of the covenants implied by statute upon the sale or other disposition of property. We expect to submit our report, together with a draft Bill, during the first half of 1991.

Risk of Damage after Contract for Sale

2.38 Our report on this subject was published in April 1990.³³ It concludes that the risk of physical damage to real property should pass to the purchaser when the contract is completed, rather than when it is made, unless the parties agree otherwise. However, in the light of a recent change in the Conditions of Sale, commonly used in conveyancing transactions, which aim to achieve this result, the report makes no recommendation for legislation.

³¹ (1989) Law Com. No. 185, item 9.

³² Law Com. No. 193; Scot. Law Com. No. 129.

³³ (1990) Law Com. No. 191. In previous annual reports the project was called "Passing of Risk from Vendor to Purchaser", and this was also the title of Working Paper No. 109, published in August 1988.

Obsolete Restrictive Covenants

2.39 Some aspects of the proposed policy for dealing with obsolete restrictive covenants have been reconsidered by the team dealing with this project. However, progress has been limited because of the need to give priority to the completion of other projects. We intend to proceed with the preparation of a report on this subject in due course, but we do not expect this to be ready for publication during 1991.

Repairing Obligations

2.40 We have made considerable progress with our review of the law relating to repairing obligations between landlord and tenant. Following the preparation of a consultation paper in draft, the policy options for reform were re-assessed by the Commission. We expect that the consultation paper will be ready for publication during the first half of 1991. We are grateful to Mr P. F. Smith, Lecturer in Law at Reading University, for his assistance with this project.

Distress for Rent

2.41 Our report on this subject, together with a draft Bill, was submitted to you in December 1990 and published on 5 February 1991.³⁴ In brief, distress for rent is a remedy which entitles a landlord whose tenant is in arrears with payment of rent to seize goods on the property (whether belonging to the tenant or to a third party) and to sell them in order to satisfy the debt for outstanding rent. It provides an extra-judicial debt enforcement remedy in circumstances which appear to us to be unjust to the debtor, to other creditors and to third parties. The report concludes that distress for rent is wrong in principle and should be abolished. However, we suggest that this recommendation should be implemented when the improvements to the court system make the landlord's other remedies for recovery of rent effective alternatives to distress for rent. A further recommendation is that a landlord claiming rent arrears should be able to claim any further arrears which accrue between the date of commencement of the proceedings and the date of judgment. The report includes a draft clause to give effect to this recommendation and suggests that its implementation need not depend on the prior implementation of the principal recommendation to abolish distress for rent.

Forfeiture of Tenancies

2.42 Following detailed consideration of a first draft of the Bill, a revised draft has been prepared to give effect to the scheme for landlord's termination orders, designed to replace the present law of forfeiture, as recommended in our Report on Forfeiture of Tenancies.³⁵ Once the draft Bill has been settled, we intend to publish it together with a short explanatory report during the course of 1991.

Commonhold Legislation

2.43 Work has been completed on the preparation, at your request, of a draft Bill³⁶ to implement the commonhold proposals³⁷ for the freehold ownership and communal management of flats and other interdependent buildings. The draft Bill is included in the consultation paper published by your Department in November 1990.³⁸

Part II of the Landlord and Tenant Act 1954

2.44 Work continues on this project for improving the working of Part II of the 1954 Act, which gives business and professional tenants the right to renew their leases. Substantial progress has been made with the preparation of draft legislation to give effect to our proposals for reform and work is proceeding on the preparation of a report. We hope to publish our report during the course of this year.

³⁴ (1991) Law Com. No. 194.

³⁵ (1985) Law Com. No. 142. This report was published without a draft Bill.

³⁶ Although the draft Bill contains the principal legislative proposals which would be required, certain matters of detail were left outstanding.

³⁷ These proposals are contained in the report of a Working Group under the chairmanship of Mr. T. M. Aldridge—Commonhold: Freehold Flats and Freehold Ownership of other Interdependent Buildings, (1987) Cm. 179.

³⁸ Commonhold: A Consultation Paper, Cm. 1345. The paper invites comments on the draft Bill and also on certain important policy issues, in particular whether provision should be made enabling the conversion to commonhold of residential long leasehold flats and other developments against the wishes of the landlord. The consultation paper is also available in a version without the draft Bill appended: Cm. 1346.

Law of Trusts

Use of Powers of Attorney by Trustees

2.45 Work has been substantially completed on the preparation of a consultation paper which will consider the extent to which individual trustees should be able to delegate their powers and to whom they can be delegated. We expect that the paper will be ready for publication by the summer.

Rule against Perpetuities

2.46 We have made some progress towards the preparation of a consultation paper on this notoriously complex area of the law, but the progress has been limited owing to the need to give priority to other projects in the Property Law field. We are grateful to Mr David Gwynn Morgan, Statutory Lecturer in Law at the University of Cork, who has prepared a preliminary draft of a consultation paper examining the need for, and direction of, any reform. We are now re-assessing the options for reform and, following further work on this project, we intend to publish a consultation paper during 1991.

Statute Law

Consolidation

2.47 Early in the year the Bill for the Capital Allowances Act 1990 was enacted.³⁹ This was followed by the enactment of the four Bills for the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Planning (Consequential Provisions) Act 1990. These four Acts embody amendments giving effect to recommendations of the Law Commission.⁴⁰

2.48 The consolidation of the social security legislation has been delayed by the need to take account of the Social Security Act 1990. It will also be necessary to accommodate the provisions of the Statutory Sick Pay Act 1991 and of a Bill now before Parliament which, if enacted, will create new disability allowances.⁴¹

2.49 Work on another important consolidation comprising five Bills consolidating the legislation about water resources, the water industry and land drainage is well advanced. Work is also progressing on the very large Bill to consolidate the Education Acts.

2.50 Work is being done on a number of other consolidations, including consolidations of the legislation about clean air, radioactive substances, merchant shipping and, as part of our continuing consolidation of revenue legislation, capital gains.

Statute Law Revision

2.51 Following the enactment of the Statute Law (Repeals) Act 1989, work is in progress on the preparation of a further draft Bill recommended by the two Law Commissions. It is expected to contain repeals covering a wide spectrum of topics, including the administration of justice, allotments, ecclesiastical law, finance, local government, land acquisition, transport and the local legislation of Bedfordshire, Warwickshire and the county and city of Nottingham.

2.52 The Joint Select Committee on Consolidation Bills recommended in 1989 that, whenever it is convenient to do so, proposals for the repeal of redundant statutory provisions should be incorporated in legislation dealing with the topic concerned. Reasoned proposals by our statute law revision team have been incorporated in the Courts and Legal Services Act 1990 and in the Acts which consolidated the planning legislation,⁴² and contributions are being made to the water and land drainage consolidations.⁴³ At the request of the Department of Transport, detailed research has been undertaken on repeal proposals which would facilitate the consolidation of the Merchant Shipping Acts. Work is also being done on proposals which would facilitate the consolidation of the archaic Parliamentary Costs Acts 1847 to 1879.

³⁹ See Twenty-Fourth Annual Report 1989, (1990) Law Com. No. 190, para. 2.51.

⁴⁰ Report on the Consolidation of Certain Enactments Relating to Town and Country Planning, (1990) Law Com. No. 189, referred to in our Twenty-Fourth Annual Report 1989, (1990) Law Com. No. 190, para. 2.52.

⁴¹ Disability Living Allowance and Disability Working Allowance Bill.

⁴² See para. 2.47 above.

⁴³ See para. 2.49 above.

2.53 In the field of local legislation, work is continuing on the project, which was recommended by the Local Legislation Working Party, to rationalise the accumulated local legislation of Greater Manchester. Of the ten repeal schedules involved, six have been prepared by Manchester Polytechnic and one by Mr J. S. Phipps (Chief Executive of Leicester City Council 1973–82) who is undertaking the work on the remaining three schedules. Reasoned comments have been submitted by the statute law revision team to the Department of Transport on two questions arising from the proposals in a recent consultation document canvassing new procedures for authorising transport works:⁴⁴ the accessibility of orders to be made under the new procedure and the use of orders to repeal redundant statutory provisions.

Chronological Table of Local Legislation

2.54 The first stage of the project (2 vols., 781 pp.), covering the research period 1925–1973, was published in 1985. The next stage was to have covered the research period 1850–1925, but having regard to the progress made and the need to make the most economical use of the available resources, it will now cover the entire period from 1797 onwards. It will take the form of an amalgamated text covering all the available information on primary legislation in the series of local Acts which begins in 1797.

2.55 In the course of 1990 the local and private Acts passed between 1835 and 1849 (approximately 2,800 Acts) and the printed general and local Statutory Rules and Orders made between 1890 and 1925 have been examined and their legislative effects recorded. This research is done mainly by law students in their summer vacation. Work has also been proceeding on the preparation of the amalgamated text which now covers the period 1797–1930, and comprises some 2,300 pages.

2.56 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 problems posed by local legislation for librarians were discussed at a one-day course at the Law Commission in May 1990,⁴⁵ and the Law Commission continues to receive a regular flow of inquiries regarding particular Acts from both lawyers and librarians.

⁴⁴ *Private Bills and New Procedures: The Government Response to the Report of the Joint Committee on Private Bill Procedure*, (1990) Cm. 1110.

⁴⁵ See para. 3.8 below.

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, as last year, at present has 16 civil service lawyers from the Government legal service, two of them working on a part-time basis. Unlike last year we now unfortunately have only four draftsmen serving on secondment from the Office of the Parliamentary Counsel. This reduction in the number of Counsel made available to us threatens the adequate performance by us of our statutory duties, not least by reducing the Commission's capacity to prepare consolidation Bills. We endeavour to make up for the insufficiency of Counsel by employing former Parliamentary Counsel on contract.

3.3 We continue to rely for much of our legal work on research assistants working with us on a temporary basis. We at present have 15 of them, and vigorous and time-consuming efforts are made each year to try to recruit young lawyers of an appropriate standard. But almost invariably they leave after one year to take up their careers in other areas of the law. The departure in the middle of each year of half the lawyers working on law reform projects inevitably causes considerable disruption to our work, and we are examining with your Department whether changes can be made which would lessen this disruption, even though it would not wholly be extinguished.

Consultants

3.4 During 1990 the work of the Commission has been greatly assisted by Dr Sue Arrowsmith (University College of Wales, Aberystwyth), Alison Clarke (University College, London), our former colleagues Brian Davenport Q.C. and Dr Julian Farrand, Mrs Ellen France (New Zealand Department of Justice), Mr David Gwynn Morgan (University of Cork), Professor D. D. Prentice (Pembroke College, Oxford), Mr Peter F. Smith (Reading University), and the members of the Code Group of the Society of Public Teachers of Law: Professor J. C. Smith, C.B.E., Q.C., Professor Edward Griew and Professor Ian Dennis. In the consolidation of statute law we have had the assistance of Miss Lesley Furlonger, formerly a deputy Parliamentary Counsel, who drafted the Bill for the Capital Allowances Act 1990 and is now drafting a Bill on capital gains. As so often in previous years, the Commission has again received valuable help from Sir Wilfrid Bourne, K.C.B., Q.C., formerly Permanent Secretary of your Department, and from Mr J. S. Phipps, formerly Chief Executive of Leicester City Council.

Law Under Review

3.5 This quarterly bulletin giving details of Government or Government-sponsored law reform projects has now been published for four full years, and continues to attract much favourable comment. In addition to a wide circulation around Whitehall, we currently have subscribers which include academic libraries, firms of solicitors, and libraries in Australia, Canada, New Zealand, and the United States of America.

Library

3.6 We continue to rely on the Library staff to help us and the legal staff with current research, and to bring new and relevant material to our attention. We referred in our last annual report to the co-operation with your Department's Headquarters Library in the introduction of a computerised cataloguing and acquisitions system for all departmental libraries. The conversion of the Library catalogue to the system is now virtually complete; when it is, the catalogues of our Library, of your Department's Headquarters Library and of the Supreme Court Library will be available on a single database accessible either on computer or on microfiche.

3.7 We are grateful to many libraries for loans and copies of items not available in our own Library. In particular, we continue to have an arrangement with the Institute of Advanced Legal Studies which allows our legal staff and research assistants access and photocopying facilities in the Institute library.

Course on Local Legislation

3.8 On 23 May 1990 a course on local legislation was held at the Law Commission under the auspices of the British and Irish Association of Law Librarians, of which the Law Commission is a corporate member. At the course, which our librarian helped to organise, the topics (and speakers) were: the promotion of private Acts, their procedure in Parliament and their current importance (Mr D. Rippengal, C.B., Q.C.); the history, practicalities and problems of local legislation (Mr J. S. Phipps); and the Law Commissions' work on local legislation and the problems of numbering, classifying and finding local Acts (Mr A. M. Rowland). A final session was devoted to giving assistance on specific practical problems raised by participants. The course was fully attended and attracted great interest amongst legal librarians, for whom local legislation poses particular problems.

Meetings

3.9 The Commission continues to work in close co-operation with the Scottish Law Commission; we have already referred to our joint meeting on 25 June 1990.¹ We have completed our joint law reform project on the Choice of Law in Tort and Delict.² While we have no outstanding law reform projects which will require joint reports of the two Commissions, we are co-operating closely with the Scottish Law Commission on both aspects of the Carriage of Goods by Sea project.³

3.10 We had our annual meetings with the Society of Public Teachers of Law on 15 June 1990, and with the Law Reform Committee of the General Council of the Bar on 1 November 1990. Although to our regret the Commission has again had no formal meeting with The Law Society, individual Commissioners have had meetings with representatives of that body. There have also been useful meetings with visitors from overseas, a list of whom can be found in Appendix 2.

Overseas Visits

3.11 In April 1990 the Chairman went to New Zealand for a meeting of the Commonwealth Law Reform Agencies which was held during the Commonwealth Law Conference. He had valuable contacts with the New Zealand Law Commission who were generous hosts of the meeting, and with representatives of the many other agencies who attended. Additionally, in September Mr Beatson, while on a visit to New Zealand, spent two days with the New Zealand Law Commission. During his visit he had useful exchanges covering in particular statutory reform of the law of contract, and participated in a seminar on hearsay arranged by the New Zealand Law Commission which is also working on this topic.

3.12 Arising out of the Commission's work on Computer Misuse,⁴ Mr Buxton read papers to the Forum on the International Legal Vulnerability of Financial Information, held in Toronto from 26-28 February 1990; and to the meeting of the OECD Committee of Experts on Information Security, held in Paris from 5-6 March 1990.

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

MICHAEL COLLON, *Secretary*
31 January 1991

¹ See para. 1.2 above.

² See para. 2.35 above.

³ See paras. 2.11 and 2.12 above.

⁴ See para. 2.17 above.

APPENDIX 1

RESPONSIBILITIES FOR COMMISSION PROJECTS

Common Law, Hearsay and Private International Law

Mr J. Beatson, Mrs M. Hodgson, Mr J.J. Cooper, Mrs R. Innes, Miss J.M. Black,¹ Miss S.J. Cooke, Mr D.A. Harris, Miss T.M. MacDermott, Mr C.M. Smyth.

Criminal Law

Mr R.J. Buxton, Q.C., Mr R. Zackon, Mr A. Cope, Miss J.C. Bridgeman, Mr J.D. Cox, Miss A.F. Quinn.

Family Law and Mentally Incapacitated Adults

Professor B.M. Hoggett, Q.C., Mrs S. Hutcheson, Mrs J.M. Jenkins, Mrs J. Brown, Mrs K. Holding, Miss C.E. Andrews, Miss G.E. Hughes, Miss C. Lydon.

Property Law

Mr T.M. Aldridge, Mr A. Akbar, Mrs S.A. Jones, Mr T. Strouts, Mr D.S. Cowan, Miss C.J. Fisher.

Statute Law

Consolidation: Chairman, Mr J.S. Mason, C.B., Mr S.C. Laws, Miss C.E. Johnston, Mr J.R. Jones, Mr A. Bruce.

Statute Law Revision (including Local Legislation): Chairman, Mr R.H. Streeten, Mr R.D. Maitland, Mr A.M. Rowland, Miss T. Chacko, Miss S.J. Welsh.

APPENDIX 2

VISITORS FROM OVERSEAS

Among the visitors to the Law Commission during 1990 were:

Professor Peter Butt (University of Sydney)
Mr John Dowd (Attorney-General, New South Wales)
Mr Mark Duckworth (Law Reform Commission of Victoria)
Mr Paul Clayton East (MP, Shadow Attorney-General and Opposition Spokesman on Justice, Wellington, New Zealand)
Professor Helen Gamble (Professor of Law, Wollongong University, and past Chairman of the New South Wales Law Reform Commission)
Professor Masao Horibe (Faculty of Law, Hitotsubashi University, Japan)
Mr Kinya Imazu (Senior Manager, Centre for Financial Information Systems, Tokyo)
Sir Kenneth Keith (Deputy President, New Zealand Law Commission)
Ms Eva Learner (Manager, Training and Development Branch, New South Wales Department of Family and Community Services)
The Hon. Professor Mphanza Patrick Mvunga (Solicitor-General, Zambia)
Ms Genevieve Overell (Solicitor, former President of the Young Lawyers' Section, Law Institute of Victoria)
The Hon. S.W. Tapley Seaton (Attorney-General, St Kitts and Nevis)
Ms Margaret Shone (Counsel, Alberta Law Reform Institute)
Mr Bernard Starkman (Senior Counsel, Department of Justice, Ottawa)
Professor Susan Sterett (Assistant Professor, Department of Political Science, State University of New York at Binghamton)
Professor Michael F. Sturley (University of Texas at Austin)
Mr Justice Wallace (Member, New Zealand Law Commission)
Sir Owen Woodhouse (President, New Zealand Law Commission)
Professor Kiyoshi Yasutomi (Faculty of Law, Keio University, Japan)

¹ From May until July 1990.

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

<i>Working Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
1970		
25	The Law of Landlord and Tenant: Working Party's Provisional Proposals Relating to Covenants Restricting Dispositions, Parting with Possession, Change of User and Alterations	Law Com. No. 141.
26	Criminal Law: Forgery	Law Com. No. 55.
27	Personal Injury Litigation: Assessment of Damages, Itemisation of Pecuniary Loss and the Use of Actuarial Tables as an Aid to Assessment	Law Com. No. 56.
28	Family Law: Jurisdiction in Matrimonial Causes (other than Nullity)	Law Com. No. 48.
29	Codification of the Criminal Law: Subject III. Territorial and Extra-Territorial Extent of the Criminal Law	Law Com. No. 91.
30	Codification of the Criminal Law; Strict Liability and the Enforcement of the Factories Act 1961	
31	Codification of the Criminal Law: General Principles. The Mental Element in Crime	Law Com. No. 89.
32	Transfer of Land: Land Registration (First Paper)	Law Com. No. 125.
33	Criminal Law: Perjury and Kindred Offences	Law Com. No. 96.
1971		
34	Family Law: Jactitation of Marriage (See also Working Paper No. 48)	Law Com. No. 132.
35	Family Law: Solemnisation of Marriage	Law Com. No. 53.
36	Transfer of Land: Appurtenant Rights	Law Com. No. 127.
37	Transfer of Land: Land Registration (Second Paper)	Law Com. No. 125.
38	Family Law: Jurisdiction in Suits for Nullity of Marriage	Law Com. No. 48.
39	Exemption Clauses in Contracts for Services (Joint Working Paper—Scottish Law Commission Memorandum No. 15)	Law Com. No. 69.
40	Administrative Law	Law Com. No. 73.
41	Personal Injury Litigation: Assessment of Damages	Law Com. No. 56.
42	Family Law: Family Property Law	Law Com. Nos. 52, 61 and 86.
1972		
43	Codification of the Criminal Law: General Principles, Parties, Complicity and Liability for the Acts of Another (See Law Com. No. 143)	
44	Codification of the Criminal Law: General Principles. Criminal Liability of Corporations (See Law Com. No. 143)	
45	Transfer of Land: Land Registration (Third Paper)	Law Com. No. 125.
46	Charging Orders on Land	Law Com. No. 74.
1973		
47	Injuries to Unborn Children	Law Com. No. 60.
48	Family Law: Declarations in Family Matters	Law Com. No. 132.
49	Transfer of Land: Rentcharges	Law Com. No. 68.
50	Codification of the Criminal Law: General Principles. Inchoate Offences: Conspiracy, Attempt and Incitement	Law Com. Nos. 76 and 102.
51	Transfer of Land: "Subject to Contract" Agreements	Law Com. No. 65.
52	Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability	Law Com. No. 75.
53	Family Law: Matrimonial Proceedings in Magistrates' Courts	Law Com. No. 77.

<i>Working Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
1974		
54	Criminal Law: Offences of Entering and Remaining on Property	Law Com. No. 76.
55	Codification of the Criminal Law: General Principles. Defences of General Application	Law Com. No. 83.
56	Criminal Law: Conspiracy to Defraud	
57	Codification of the Criminal Law: Conspiracies Relating to Morals and Decency	Law Com. No. 76.
58	Breach of Confidence	Law Com. No. 110.
1975		
59	Contribution	Law Com. No. 79.
60	Firm Offers	
61	Penalty Clauses and Forfeiture Of Monies Paid	
62	Criminal Law: Offences Relating to the Administration of Justice	Law Com. No. 96.
63	Codification of the Criminal Law: Conspiracies to Effect a Public Mischief and to Commit a Civil Wrong	Law Com. No. 76.
64	Liability for Defective Products (Joint Working Paper—Scottish Law Commission Memorandum No. 20)	Law Com. No. 82.
65	Law of Contract: Pecuniary Restitution on Breach of Contract	Law Com. No. 121.
1976		
66	Interest	Law Com. No. 88.
67	Transfer of Land: Land Registration (Fourth Paper)	
68	Custody of Children: Jurisdiction and Enforcement within the United Kingdom (Joint Working Paper—Scottish Law Commission Memorandum No. 23)	Law Com. No. 138.
69	The Incapacitated Principal	Law Com. No. 122.
70	Law of Contract: The Parol Evidence Rule	Law Com. No. 154.
1977		
71	Law of Contract: Implied Terms in Contracts for the Supply of Goods	Law Com. No. 95.
72	Codification of the Criminal Law: Treason, Sedition and Allied Offences	
1979		
73	Insurance Law: Non-Disclosure and Breach of Warranty	Law Com. No. 104.
74	Family Law: Illegitimacy	Law Com. No. 118.
1980		
75	Classification of Limitation in Private International Law	Law Com. No. 114.
76	Time Restrictions on Presentation of Divorce and Nullity Petitions	Law Com. No. 116.
77	Family Law: Financial Relief after Foreign Divorce	Law Com. No. 117.
78	Rights of Access to Neighbouring Land	Law Com. No. 151.
1981		
79	Offences against Religion and Public Worship	Law Com. No. 145.
80	Private International Law: Foreign Money Liabilities	Law Com. No. 124.
1982		
81	Minors' Contracts	Law Com. No. 134.
82	Offences against Public Order	Law Com. No. 123.

<i>Working Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
83	Polygamous Marriages: Capacity to Contract a Polygamous Marriage and the Concept of the Potentially Polygamous Marriage (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 56)	Law Com. No. 146.
84	Criminal Libel	Law Com. Nos. 147 and 149.
1983		
85	Sale and Supply of Goods (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 58)	Law Com. No. 160.
86	Transfer of Land: Liability for Chancel Repairs	Law Com. No. 152.
1984		
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.
1985		
88	Private International Law: The Law of Domicile (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 63)	Law Com. No. 168.
89	Private International Law: Choice of Law Rules in Marriage (Joint Working Paper—Scottish Law Commission Consultative Memorandum No. 64)	Law Com. No. 165.
90	Transfer of Money between Spouses: the Married Women's Property Act 1964	Law Com. No. 175.
91	Family Law: Review of Child Law: Guardianship	Law Com. No. 172.
92	Transfer of Land: Formalities for Contracts for Sale etc. of Land	Law Com. No. 164.
93	Transfer of Land: Formalities for Deeds and Escrows	Law Com. No. 163.
94	Trusts of Land	Law Com. No. 181.
1986		
95	Landlord and Tenant: Privity of Contract and Estate: Duration of Liability of Parties to Leases	Law Com. No. 174.
96	Family Law: Review of Child Law: Custody (Supplement) Custody Law in Practice in the Divorce and Domestic Courts	Law Com. No. 172.
97	Distress for Rent	Law Com. No. 194.
98	Transfer of Land: The Rule in <i>Bain v. Fothergill</i>	Law Com. No. 166.
99	Land Mortgages	
1987		
100	Family Law: Review of Child Law: Care, Supervision and Interim Orders in Custody Proceedings	Law Com. No. 172.
101	Family Law: Review of Child Law: Wards of Court	
102	Compensation for Tenants' Improvements	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.
106	Trusts of Land: Overreaching	Law Com. No. 188.
1988		
107	Transfer of Land: Implied Covenants for Title	
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	

<i>Working Paper No.</i>	<i>Title</i>	<i>Resulting Report</i>
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1989

112	Rights to Goods in Bulk	
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	
116	Rape within Marriage	

1991

Consultation Paper No.

117	The Hearsay Rule in Civil Proceedings	
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B. Reports and Programmes

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

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
1965		
1	First Programme of the Law Commission	--
1966		
2	First Programme on Consolidation and Statute Law Revision	--
3*	Proposals to Abolish Certain Ancient Criminal Offences	Criminal Law Act 1967 (c.58).
4	First Annual Report 1965-66	--
5	Landlord and Tenant: Interim Report on Distress for Rent	--
6+	Reform of the Grounds of Divorce: The Field of Choice (Cmnd.3123)	Divorce Reform Act 1969 (c.55), now Matrimonial Causes Act 1973 (c.18).
7*	Proposals for Reform of the Law Relating to Maintenance and Champerty	Criminal Law Act 1967 (c.58).
8+*	Report on the Powers of Appeal Courts to Sit in Private and the Restrictions upon Publicity in Domestic Proceedings (Cmnd.3149)	Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (c.63).
1967		
9*	Transfer of Land: Interim Report on Root of Title to Freehold Land	Law of Property Act 1969 (c.59).
10*	Imputed Criminal Intent (<i>Director of Public Prosecutions v. Smith</i>)	In part by section 8 of the Criminal Justice Act 1967 (c.80).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
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).
1968		
14	Second Programme of Law Reform	--
15	Third Annual Report 1967–1968 (H.C.312)	--
16*	Blood Tests and the Proof of Paternity in Civil Proceedings (H.C.2).	Family Law Reform Act 1969 (c.46).
1969		
17*	Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II (H.C.38)	Law of Property Act 1969 (c.59).
18*	Transfer of Land: Report on Land Charges Affecting Unregistered Land (H.C.125).	Law of Property Act 1969 (c.59).
18A	Trustee Savings Bank Bill: Report by the two Commissions on the Consolidation of the Trustee Savings Bank Acts 1954 to 1968 (Scot. Law Com. No. 10) (Cmnd.4004)	Trustee Savings Bank Act 1969 (c.50).
19+*	Proceedings Against Estates (Cmnd.4010)	Proceedings Against Estates Act 1970 (c.17).
20+	Administrative Law (Cmnd.4059)	See Law Com. No. 73.
21*	Interpretation of Statutes: Report by the two Commissions (Scot. Law Com. No. 11) (H.C.256)	None.
22*	Statute Law Revision: First Report (Cmnd.4052)	Statute Law (Repeals) Act 1969 (c.52).
23*	Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights (H.C.369)	Matrimonial Proceedings and Property Act 1970 (c.45).
24*	Exemption Clauses in Contracts. First Report: Amendments to the Sale of Goods Act 1893: Report by the two Commissions (Scot. Law Com. No. 12) (H.C.403)	Supply of Goods (Implied Terms) Act 1973 (c.13).
25*	Family Law: Report on Financial Provision in Matrimonial Proceedings (H.C.448)	Matrimonial Proceedings and Property Act 1970 (c.45), now largely Matrimonial Causes Act 1973 (c.18); Law Reform (Miscellaneous Provisions) Act 1970 (c.33).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
26*	Breach of Promise of Marriage (H.C.453)	Law Reform (Miscellaneous Provisions) Act 1970 (c.33).
27	Fourth Annual Report 1968–1969 (H.C.27)	--
1970		
28*	Statute Law Revision: Second Report. Draft Wild Creatures and Forest Laws Bill (Cmnd.4433)	Wild Creatures and Forest Laws Act 1971 (c.47)
29*	Criminal Law: Report on Offences of Damage to Property (H.C.91)	Criminal Damage Act 1971 (c.48).
30+*	Powers of Attorney (Cmnd.4473)	Powers of Attorney Act 1971 (c.27)
31+*	Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters (Cmnd.4497)	Administration of Estates Act 1971 (c.25).
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).
35+	Limitation Act 1963 (Cmnd.4532)	Law Reform (Miscellaneous Provisions) Act 1971 (c.43).
36	Fifth Annual Report 1969–1970 (H.C.170)	--
37*	Statute Law Revision: Third Report (Cmnd.4546)	Statute Law (Repeals) Act 1971 (c.52).
38	Coinage Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Coinage (Scot. Law Com. No. 18) (Cmnd.4544)	Coinage Act 1971 (c.24)
39	Vehicles (Excise) Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Excise Duties on Mechanically Propelled Vehicles, and to the Licensing and Registration of such Vehicles (Scot. Law Com. No. 19) (Cmnd.4547)	Vehicles (Excise) Act 1971 (c.10).
40*	Civil Liability of Vendors and Lessors for Defective Premises (H.C.184)	Defective Premises Act 1972 (c.35).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
1971		
41	National Savings Bank Bill: Report by the two Commissions on the Consolidation of Enactments Relating to the National Savings Bank (Scot. Law Com. No. 20) (Cmnd.4574)	National Savings Bank Act 1971 (c.29).
42*	Family Law: Report on Polygamous Marriages (H.C.227)	Matrimonial Proceedings (Polygamous Marriages) Act 1972 (c.38), now Matrimonial Causes Act 1973 (c.18).
43+	Taxation of Income and Gains Derived from Land: Report by the two Commissions (Scot. Law Com. No. 21) (Cmnd.4654)	In part by section 82 of the Finance Act 1972 (c.41).
44	Second Programme of Consolidation and Statute Law Revision (H.C.338)	--
45	Town and Country Planning Bill: Report on the Consolidation of Certain Enactments Relating to Town and Country Planning (Cmnd.4684)	Town and Country Planning Act 1971 (c.78).
46	Road Traffic Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Road Traffic (Scot. Law Com. No. 22) (Cmnd.4731)	Road Traffic Act 1972 (c.20)
47	Sixth Annual Report 1970-1971 (H.C.32)	--
1972		
48*	Family Law: Report on Jurisdiction in Matrimonial Causes (H.C.464)	Domicile and Matrimonial Proceedings Act 1973 (c.45).
49*	Statute Law Revision: Fourth Report by the two Commissions (Scot. Law Com. No. 26) (Cmnd.5108)	Statute Law (Repeals) Act 1973 (c.39).
50	Seventh Annual Report 1971-1972 (H.C.35)	--
51	Matrimonial Causes Bill: Report on the consolidation of Certain Enactments Relating to Matrimonial Proceedings, Maintenance Agreements, and Declarations of Legitimacy, Validity of Marriage and British Nationality (Cmnd.5167)	Matrimonial Causes Act 1973 (c.18).
1973		
52	Family Law: First Report on Family Property. A New Approach (H.C.274)	--
53	Family Law: Report on Solemnisation of Marriage in England and Wales (H.C.250)	None.
54	Third Programme of Law Reform (H.C.293)	--
55*	Criminal Law: Report on Forgery and Counterfeit Currency (H.C.320)	Forgery and Counterfeiting Act 1981 (c.45).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
56*	Report on Personal Injury Litigation—Assessment of Damages (H.C.373)	Administration of Justice Act 1982 (c.53).
57*	Statute Law Revision: Fifth Report by the two Commissions (Scot. Law Com. No. 32) (Cmnd.5493)	Statute Law (Repeals) Act 1974 (c.22).
58	Eighth Annual Report 1972–1973 (H.C.34)	--
1974		
59	Friendly Societies Bill: Report by the two Commissions on the Consolidation of the Friendly Societies 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 Dependants) 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)	--
1975		
65	Transfer of Land: Report on “Subject to Contract” Agreements (H.C.119)	--
66	Supply Powers Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Supply Powers (Scot. Law Com. No. 38) (Cmnd.5850)	Supply Powers Act 1975 (c.9).
67*	Codification of the Law of Landlord and Tenant: Report on Obligations of Landlords and Tenants (H.C.377)	None.
68*	Transfer of Land: Report on Rentcharges (H.C.602)	Rentcharges Act 1977 (c.30).
69*	Exemption Clauses: Second Report by the two Commissions (Scot. Law Com. No. 39) (H.C.605)	Unfair Contract Terms Act 1977 (c.50).
70*	Statute Law Revision: Seventh Report by the two Commissions (Scot. Law Com. No. 40) (Cmnd.6303)	Statute Law (Repeals) Act 1976 (c.16).
71	Tenth Annual Report 1974–1975	--

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
1976		
72*	Jurisdiction of Certain Ancient Courts (Cmnd.6385)	Administration of Justice Act 1977 (c.38).
73+*	Report on Remedies in Administrative Law (Cmnd.6407)	Rules of Supreme Court (Amendment No. 3) 1977; Supreme Court Act 1981 (c.54).
74+*	Charging Orders (Cmnd.6412)	Charging Orders Act 1979 (c.53).
75+*	Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability (Cmnd.6428)	Occupiers' Liability Act 1984 (c.3).
76*	Criminal Law: Report on Conspiracy and Criminal Law Reform (H.C.176)	In part by Criminal Law Act 1977 (c.45).
77*	Family Law: Report on Matrimonial Proceedings in Magistrates' Courts (H.C.176)	Domestic Proceedings and Magistrates' Courts Act 1978 (c.22).
1977		
78	Eleventh Annual Report 1975-1976 (H.C.94)	--
79*	Law of Contract: Report on Contribution (H.C.181)	Civil Liability (Contribution) Act 1978 (c.47).
80*	Statute Law Revision: Eighth Report by the two Commissions (Scot. Law Com. No. 44) (Cmnd.6719)	Statute Law (Repeals) Act 1977 (c.18)
81	Rent Bill: Report on the Consolidation of the Rent Act 1968, Parts III, IV and VIII of the Housing Finance Act 1972, the Rent Act 1974, sections 7 to 10 of the Housing Rents and Subsidies Act 1975 and Certain Related Enactments (Cmnd.6751)	Rent Act 1977 (c.42).
82+	Liability for Defective Products: Report by the two Commissions (Scot. Law Com. No. 45) (Cmnd.6831)	Consumer Protection Act 1987 (c.43).
83*	Criminal Law: Report on Defences of General Application (H.C.566)	None.
84+	Law of Contract: Report on the Proposed E.E.C. Directive on the Law Relating to Commercial Agents (Cmnd.6948)	--
85	Twelfth Annual Report 1976-1977 (H.C.96)	--
1978		
86*	Family Law: Third Report on Family Property. The Matrimonial Home (Co-Ownership and Occupation Rights) and Household Goods (H.C.450)	Housing Act 1980 (c.51); Matrimonial Homes and Property Act 1981 (c.24).

<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).
1979		
94	Justices of the Peace Bill: Report on the Consolidation of Certain Enactments Relating to Justices of the Peace (including Stipendiary Magistrates), Justices' Clerks and the Administrative and Financial Arrangements for Magistrates' Courts and to matters connected therewith (Cmnd.7583)	Justices of the Peace Act 1979 (c.55).
95*	Law of Contract: Implied Terms in Contracts for the Supply of Goods (H.C.142)	Supply of Goods and Services Act 1982 (c.29).
96*	Criminal Law: Offences Relating to Interference with the Course of Justice (H.C.213)	None.
97	Fourteenth Annual Report 1978-1979 (H.C.322)	--
98	Reserve Forces Bill: Report on the Consolidation of Certain Enactments Relating to the Reserve and Auxiliary Forces (Cmnd.7757)	Reserve Forces Act 1980 (c.9).
1980		
99*	Family Law: Orders for Sale of Property under the Matrimonial Causes Act 1973 (H.C.369)	Matrimonial Homes and Property Act 1981 (c.24).
100	Highways Bill: Report on the Consolidation of the Highways Acts 1959 to 1971 and Related Enactments (Cmnd.7828)	Highways Act 1980 (c.66).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
101	Magistrates' Courts Bill: Report on the Consolidation of Certain Enactments Relating to the Jurisdiction of, and the Practice and Procedure before, Magistrates' Courts and the Functions of Justices' Clerks, and to Matters connected therewith (Cmnd.7887)	Magistrates' Courts Act 1980 (c.43).
102*	Criminal Law: Attempt, and Impossibility in Relation to Attempt, Conspiracy and Incitement (H.C.646)	Criminal Attempts Act 1981 (c.47).
103+	Family Law: The Financial Consequences of Divorce: The Basic Policy. A Discussion Paper (Cmnd.8041)	See Law Com. No. 112.
104+*	Insurance Law: Non-Disclosure and Breach of Warranty (Cmnd.8064)	None.
105	Judicial Pensions Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Pensions and Other Benefits payable in respect of service in Judicial Office (Scot. Law Com. No. 62) (Cmnd.8097)	Judicial Pensions Act 1981 (c.20).
106*	Statute Law Revision: Tenth Report by the two Commissions (Scot. Law Com. No. 63) (Cmnd.8089)	Statute Law (Repeals) Act 1981 (c.19); Supreme Court Act 1981 (c.54); British Telecommunications Act 1981 (c.38).
1981		
107	Fifteenth Annual Report 1979-1980	--
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).
1982		
113	Sixteenth Annual Report 1980-1981 (H.C.161)	--
114+*	Classification of Limitation in Private International Law (Cmnd.8570)	Foreign Limitation Periods Act 1984 (c.16)

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
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).
1983		
119	Seventeenth Annual Report 1981-1982 (H.C.203)	--
120	Medical Bill: Report by the two Commissions on the Consolidation of the Medical Acts 1956 to 1978 and Certain Related Provisions (Scot. Law Com. No. 77) (Cmnd.8839)	Medical Act 1983 (c.54).
121*	Law of Contract: Pecuniary Restitution on Breach of Contract (H.C.34)	None.
122+*	The Incapacitated Principal (Cmnd.8977)	Enduring Powers of Attorney Act 1985 (c.29).
123*	Criminal Law: Offences Relating to Public Order (H.C.85)	Public Order Act 1986 (c.64).
124+*	Private International Law: Foreign Money Liabilities (Cmnd.9064)	None.
125*	Property Law: Land Registration (H.C.86)	Land Registration Act 1986 (c.26).
126	Amendment of the Companies Acts 1948-1983; Report by the two Commissions under section 116 of the Companies Act 1981 (Scot. Law Com. No. 83) (Cmnd.9114)	Companies Consolidation (Consequential Provisions) Act 1985 (c.9).
1984		
127*	Transfer of Land: The Law of Positive and Restrictive Covenants (H.C.201)	None.
128	Registered Homes Bill: Report on the Consolidation of Certain Enactments Relating to Residential Care Homes and Nursing Homes and Registered Homes Tribunals (Cmnd.9115)	Registered Homes Act 1984 (c.23).
129	Dentists Bill: Report by the two Commissions on the Consolidation of the Dentists Acts 1957 to 1983 (Scot. Law Com. No. 84) (Cmnd.9119)	Dentists Act 1984 (c.24)
130	Public Health (Control of Disease) Bill: Report on the Consolidation of Certain Enactments Relating to the Control of Disease (Cmnd.9128)	Public Health (Control of Disease) Act 1984 (c.22).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
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.
1985		
138+*	Family Law: Conflicts of Jurisdiction Affecting the Custody of Children (Joint Report—Scot. Law Com. No. 91) (Cmnd.9419)	Family Law Act 1986 (c.55), Part I.
139	Cinemas Bill: Report on the Consolidation of the Cinematograph Acts 1909 to 1982 and Related Enactments (Cmnd.9425)	Cinemas Act 1985 (c.13).
140	Nineteenth Annual Report 1983–1984 (H.C.214)	--
141	Codification of the Law of Landlord and Tenant: Covenants Restricting Dispositions, Alterations and Change of User (H.C.278)	None.
142	Codification of the Law of Landlord and Tenant: Forfeiture of Tenancies (H.C.279)	None.
143	Criminal Law: Codification of the Criminal Law: A Report to the Law Commission (H.C.270)	--
144	Housing Bill, Housing Associations Bill, Landlord and Tenant Bill (Joint Report—Scot. Law Com. No. 94) (Cmnd.9515)	Housing Act 1985 (c.68); Housing Associations Act 1985 (c.69); Landlord and Tenant Act 1985 (c.70); Housing (Consequential Provisions) Act 1985 (c.71).
145*	Criminal Law: Offences against Religion and Public Worship (H.C.442)	None.
146*	Private International Law: Polygamous Marriages. Capacity to Contract a Polygamous Marriage and Related Issues (Joint Report—Scot. Law Com. No. 96) (Cmnd.9595)	None.
147*	Criminal Law: Report on Poison-Pen Letters (H.C.519)	Malicious Communications Act 1988 (c.27).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
148*	Property Law: Second Report on Land Registration: Inspection of the Register	Land Registration Act 1988 (c.3).
149*	Criminal Law: Report on Criminal Libel (Cmnd.9618)	None.
150*	Statute Law Revision: Twelfth Report (Joint Report—Scot. Law Com. No. 99) (Cmnd.9648)	Statute Law (Repeals) Act 1986 (c.12); Patents, Designs and Marks Act 1986 (c.39).
151+*	Rights of Access to Neighbouring Land (Cmnd.9692)	None.
152*	Property Law: Liability for Chancel Repairs (H.C.39)	None.
153	Agricultural Holdings Bill: Report on the Consolidation of Certain Enactments Relating to Agricultural Holdings (Cmnd.9665)	Agricultural Holdings Act 1986 (c.5).
1986		
154	Law of Contract: The Parol Evidence Rule (Cmnd.9700)	--
155	Twentieth Annual Report 1984–1985 (H.C.247)	--
156+	Law of Contract: Implied Terms in Contracts for the Supply of Services (Cmnd.9773)	--
157*	Family Law: Illegitimacy (Second Report) (Cmnd.9913)	Family Law Reform Act 1987 (c.42).
1987		
158	Property Law: Third Report on Land Registration. A. Overriding Interests: B. Rectification and Indemnity: C. Minor Interests (H.C.269)	--
159	Twenty-First Annual Report 1985–1986 (H.C.342)	--
160+*	Sale and Supply of Goods (Joint Report—Scot. Law Com. No. 104) (Cm.137)	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).

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
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.
1988		
169	Twenty-Second Annual Report 1986–1987 (H.C.319)	--
170	Facing the Future: A Discussion Paper on the Ground for Divorce (H.C.479)	--
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.
174*	Landlord and Tenant Law: Privity of Contract and Estate (H.C.8)	None.
175*	Family Law: Matrimonial Property (H.C.9)	None.
1989		
176	Twenty-Third Annual Report 1987–1988 (H.C.227)	--
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.

<i>Report Law Com. No.</i>	<i>Title</i>	<i>Related Legislation</i>
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.
1990		
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.
1991		
194*	Landlord and Tenant: Distress for Rent (H.C.138)	None.
195	Twenty-Fifth Annual Report 1990 (H.C.249)	--

C. Joint Working Group Report

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

D. Periodicals

Law Under Review: A Quarterly Bulletin of Law Reform Projects (Nos. 1 to 16).

E. Other Publications

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

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

Treasure Trove: Law Reform Issues (September 1987).

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

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

** The E.E.C. Convention on the Law Applicable to Contractual Obligations was opened for signature in Rome on 19 June 1980. It is scheduled to the Contracts (Applicable Law) Act 1990 (c.36), which received the Royal Assent on 26 July 1990. The United Kingdom has deposited its instrument of ratification and the Convention, pursuant to Article 29, will enter into force 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>1989</i>	<i>1988</i>
	<i>£000</i>	<i>£000</i>
Accommodation charges ¹	377.8	355.2
Headquarters overheads ²	205.1	168.5
Printing and publishing; supply of information technology, office equipment and books	139.6	137.3
Salaries of Commissioners (including ERNIC) ³	250.7	204.5
Salaries of draftsmen, legal staff, secondees and consultants (including ERNIC)	989.5	826.9
Salaries of non-legal staff (including ERNIC)	345.6	316.5
Superannuation	245.8	213.5
Telephone/postage	24.6	17.7
Travel and subsistence	6.5	4.5
Entertainment	1.0	0.3
Miscellaneous	5.7	3.3
	<u>2,591.9</u>	<u>2,248.2</u>

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

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

³ There was a vacancy during the first half of 1989.

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