

The Law Commission

(LAW COM. No. 27)

FOURTH ANNUAL REPORT
1968-1969

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

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

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FOURTH ANNUAL REPORT: 1968-1969

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THE LAW COMMISSION
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*To the Right Honourable the Lord Gardiner,
Lord High Chancellor of Great Britain*

My Lord,

We have the honour to present our Fourth Annual Report pursuant to section 3(3) of the Law Commissions Act 1965. The Report relates to the year ended 15 June 1969, the fourth anniversary of our establishment. In previous years we submitted our Annual Report as soon as possible after our anniversary; in the light of experience, however, we believe that our Report will be more helpful and informative if we delay its presentation until the end of the Parliamentary session in October, so that our annotations to the Report can show whether the Bills mentioned in it have passed into law or not.

INTRODUCTION

1. After four years of work on the problems of law reform the Commission is still at a pioneering stage; in view of the size and variety of these problems it would have been rash to have hoped for more. Nevertheless, certain features of policy and method are emerging. In the belief that these features should be exposed to continuous critical scrutiny, we propose in these introductory paragraphs to discuss them shortly and against the background of our duties under the Act of 1965.

2. So far we have submitted two law reform programmes, both of which have received your approval; between them they cover 20 topics. In addition, upon your request conveyed to us under section 3(1)(d) of the Act of 1965, we submitted to you a separate programme on consolidation and statute law revision, and this has also received your approval. Work on these three programmes absorbs most of our time. The programmes themselves represent a choice of priorities embracing a wide range of topics, some of which are very large while others are more limited. How are these topics chosen? Are we complying with our statutory duty to work towards "the systematic development and reform" of the law?

3. We appreciate that another set of men might have made a different choice of priorities. Where so much requires to be done, any choice is bound to meet with criticism. We are, however, encouraged by the fact that most of the law reform proposals that we receive relate to subjects which we are studying pursuant to our programmes. Once we have determined our own priorities, it seems to us that systematic development and reform will best be achieved by adhering closely to our published programmes. Progress will suffer if attention

is too often diverted from programme studies to other problems, urgent though some of them may seem to be.

4. Nevertheless, as Part II of this Report shows, we attach great importance to law reform outside the framework of our published programmes. This type of work arises in two ways: one is what, in the Introductory Note to our First Programme of Law Reform, we called "a rapid remedial response to defects exposed, by judicial comment or otherwise, in the course of the day-to-day operation of the law"; the other is the providing of advice and information, principally to government departments. The latter is one of our functions specifically mentioned in the Act of 1965 and we have always believed that the development of the advisory role of the Law Commissions could be of great importance to the systematic reform of the law. The requests we have been receiving from government departments have shown a welcome increase in numbers.

5. Inevitably our published work to date presents a somewhat piecemeal appearance. Yet the programmes themselves are the beginning of a coherent design of law reform intended to improve the presentation and accessibility of the law as well as its substance. The year under report has seen, in addition to progress with the consolidation and revision of the statute law, advances, necessarily of varying depth, towards the reform of the substantive and procedural laws relating to land, landlord and tenant, the family, contract and tort, and crime.

6. The method of law reform envisaged and established by the Act is legislation based upon the advice of the Commission, whose function it is to undertake the necessary research and consultation and then to prepare and submit reports, recommendations and, where appropriate, draft legislative clauses or Bills. Our working methods with their emphasis on wide consultation and the distribution of Working Papers are now well known. But it is not always appreciated that we are established to promote systematic law reform through legislation, and in this process to aim at modernising and simplifying the law and making it more accessible. The influence of the Act of 1965 can be illustrated by comparing some of its key phrases with current work.

"The codification of [such] law"

7. We have four major projects of codification in hand and to complete them will, inevitably, take considerable time. In each case much of the law requires to be reformed before it is ripe for codification. What we propose to do is to prepare the reforming legislation first and see it passed into law before we present the code in its final shape, which will be the statement of all the relevant law in a logical and coherent form. Thus in the case of family law and criminal law we envisage the enactment, in the course of the next few years, of a series of separate Bills. Although this is our general conception, it admits of certain variations in technique. In the case of contract we are proceeding on a somewhat different plan; although we are recommending legislation on certain aspects, e.g. exemption clauses, in the main we will try to lay down the general principles of a reformed contract law in one self-contained code. Again, in the cases of the law of landlord and tenant we are trying to follow an intermediate course; on the somewhat isolated topic of business tenancies we have already

issued a Report¹ with draft clauses,² but, apart from this, we propose to present a series of interim reports recommending reforms in substantial parts of the law of landlord and tenant as a preliminary to its ultimate codification.

“The repeal of obsolete and unnecessary enactments”

8. In our First Programme of Consolidation and Statute Law Revision, presented at your request in January 1966, we undertook to promote the removal from the statute book not only of provisions that have ceased to be in operation, but also of those which “cannot positively be shown to continue to perform a useful function.”³ In Law Com. No. 22 we have presented our First Report on Statute Law Revision and you introduced the Bill appended to that Report into the House of Lords on 15 May 1969.⁴ We hope to follow up this Bill with a series of somewhat shorter Bills in future, which, for the convenience of those whom we consult and of Parliament, will be arranged, so far as possible, so as to deal with statutes bearing on no more than a few subjects. Our short experience has shown that this work is extremely time-consuming. We are very conscious, however, of the importance of making further progress in advance of the publication of the new edition of Statutes in Force; it ought not to be burdened with antique material. This is, of course, of great interest to the historian; but he can find it without undue difficulty in other editions of the statutes. The new edition of the Statutes in Force, now to be produced under the direction of the Statute Law Committee, will be designed for the use of the practitioner, and we feel that he ought to be spared the trouble of looking through obscure and archaic provisions for fear lest he should overlook something that might still be relevant to the matter in hand.

“The reduction of the number of separate enactments”

9. Work on our consolidation programme proceeds as rapidly as the availability of draftsmen permits. In a year like the present one, when large consolidations are in the course of preparation, the current output is necessarily small and in no way reflects the progress in fact made.

“The elimination of anomalies”

10. This, of course, is the object that is being achieved in some measure by all systematic law reform. We are frequently urged, however, to take under review as a matter of priority some particular absurdities (or apparent absurdities) of the law. At times we experience some embarrassment when we feel obliged to conclude that we ought not to interrupt more systematic work in order to attend to minor repairs. So seldom does an apparently isolated anomaly admit of a remedy which does not carry unforeseen consequences in neighbouring areas—sometimes even in remote ones—of the law that we make it our practice first to ascertain that the point in question is not only anomalous but works grave injustice or hardship; only in this latter case do we allow it to “jump the queue.” We fear that occasionally our refusal to respond immediately might be interpreted as indifference by those who give us invaluable assistance by drawing our attention to anomalies. We should

¹ Law Com. No. 17.

² Which have now passed into law as part of the Law of Property Act 1969.

³ First Programme of Consolidation and Statute Law Revision, p. 9.

⁴ Now the Statute Law (Repeals) Act 1969.

like to assure them that their suggestions are always noted for reference and action as soon as an opportunity offers to deal with them in the context of a more general study.

11. Turning to the reports which have appeared during the year under review we are able to record the publication of a number of final reports with draft legislation attached. Our relatively high rate of production this year clearly owes much to the preparatory work done in previous years. In Appendix 1 we set out lists of the Commission's papers which have been (a) published by the Commission as Working Papers or (b) laid before or presented to Parliament.

12. We have had the satisfaction of seeing a considerable number of our recommendations translated into law. Legislative progress up to the present is summarised in Appendix 2, which sets out the Parliamentary answer given by the Attorney General on 16 June 1969 in reply to a question by Mr. Ben Whitaker, M.P.

13. Part I of this Report contains a detailed progress report on the Items in our law reform programmes; Part II gives an account of work done on law reform outside our programmes; Part III reviews the work done in the field of consolidation and statute law revision; and in Part IV we outline briefly the year's developments in the organisation and working methods of the Commission.

PART I

LAW REFORM PROGRAMMES: REPORT ON PROGRESS

14. Items I–XVII derive from our First Programme of Law Reform and Items XVIII–XX from our Second. In the progress report below, we omit Items that have been merged in others and those on which work has been completed.

Item I. Codification of the Law of Contract

15. Our first task during the present year was to complete preliminary drafts dealing with the formation of contracts and third party rights; these topics are an important part of the central core of the contract code, presenting as they do problems both of modernisation and of harmonising English and Scots law. In addition, we have made progress with preliminary drafts on further topics; notably on the contents and the termination of contracts. We hope shortly to discuss this material with the Advisory Panel.⁵ The advice of the Panel will greatly assist us in planning the remaining stages of our work under this Item.

Item II. Exemption Clauses in Contracts

16. Last year we published, jointly with the Scottish Law Commission, a Working Paper on proposed amendments to sections 12–15 of the Sale of Goods Act 1893 and on possible restrictions upon the right to contract out of the conditions and warranties implied by those sections. Our consultations on the Working Paper yielded a large number of helpful comments from many quarters. After consideration of these comments and discussions between the two Law Commissions, a First Report on Exemption Clauses in Contracts is in course of completion and is expected to be submitted to Ministers in the very near future.⁶

17. The Joint Working Party⁷ of the Law Commissions is now dealing with one subsidiary question relating to Sale of Goods, namely clauses excluding or limiting liability for the negligence of the seller, and will then consider exemption clauses of all types in other contracts, such as those for the supply of services. This will be followed by the preparation of, and consultation on, a further Joint Working Paper of the two Law Commissions.

Item IV. Civil Liability for Dangerous Things and Activities

18. We have made substantial progress in work on this Item. At the end of 1968 a paper outlining some possible approaches to reform was circulated among a few experts who agreed to assist the Commission. The comments

⁵ The constitution of this Panel is described in para. 31 and Appendix II of our Second Annual Report.

⁶ This Report (Law Com. No. 24; Scot. Law Com. No. 12) was submitted to Ministers in July and published on 18 September 1969.

⁷ Its composition is set out in Appendix B of the First Report on Exemption Clauses.

received were most helpful and enabled us to proceed with the task of preparing a Working Paper.

19. This Working Paper will describe the extent to which under the existing law strict liability is imposed at common law by reference to the dangerous quality of a thing or activity and the difficulties to which the latter concept gives rise in practice. It will consider whether there is a role for strict liability to play in the award of compensation for accidents, and if so what tests might be applied for the imposition of such liability, its incidents where imposed and its impact on the existing categories of strict and negligence liability. The Working Paper will also deal with the lesser form of strict liability involved in those cases where an employer is liable for the tortious acts and omissions of an independent contractor.

20. A seminar on Civil Liability for Dangerous Things and Activities is to be held at All Souls College, Oxford, at the end of September.⁸ This will provide an excellent opportunity for discussing the problems involved, not only with practising and academic lawyers but also with representatives of the industries and authorities which might be affected by changes in this branch of the law. The seminar should, therefore, provide a useful preface to the many and far-reaching consultations which will be needed before we are able to formulate our views on this complex subject.

Item V. Civil Liability for Animals

21. As we stated in our Third Annual Report,⁹ our Report¹⁰ on this subject was laid before Parliament on 19th December 1967. It contained a review of the existing law and recommendations for reform, together with a draft Bill. Our recommendations have not yet been implemented.

Item VI. Personal Injury Litigation

(a) Jurisdiction and procedure

22. Certain recommendations in the Winn Committee's Report¹¹ will be implemented if the Administration of Justice Bill receives the Royal Assent.¹² The Committee's proposal to increase the jurisdictional limits¹³ of the county court to £1,000 and of county court registrars to £100 will be partially implemented by the new limits (which can be further increased by Order in Council) of £750 and £75 respectively; and rules of court can be made to authorise¹⁴ orders for interim payments and orders for the inspection, preservation and custody of any property as to which any question may arise in subsequent proceedings.

⁸ This took place on 29/30 September 1969.

⁹ See paras. 15-16.

¹⁰ Law Com. No. 13.

¹¹ *Report of the Committee on Personal Injuries Litigation* (1968); Cmnd. 3691.

¹² Now the Administration of Justice Act 1969.

¹³ Recommended by paras. 464-467.

¹⁴ As recommended by paras. 71-110 and 182.

(b) Assessment of damages

23. We have now completed our preliminary consultations and propose to publish a comprehensive Working Paper on this subject by the end of 1969.¹⁵

Item VII. Civil Liability of Vendors and Lessors for Defective Premises

24. In our last report we indicated that our work on this subject had reached its final stages. We have, however, encountered certain problems in relation to the form and extent of the necessary legislation which have not yet been solved.

Item VIII. Codification of the Law of Landlord and Tenant

(a) Obligations of landlords and tenants

(b) Termination of tenancies

25. Consultation on each of these topics has been completed and we are now formulating our final recommendations. We think it will be useful if we submit these recommendations in the form of interim reports without draft clauses. These will propose substantial reforms in the law to help pave the way to its ultimate codification. We expect to submit these reports during the year 1969-70.

(c) Covenants against assignment, alterations and change of user

26. The Working Party has completed its study of this subject and has prepared some provisional proposals. We shall publish these proposals, with our own observations on them, in the form of a Working Paper.

(d) Landlord and Tenant Act 1954, Part II

27. Our Report was submitted on 29 November 1968.¹⁶ The clauses, attached to the Report, were accompanied by explanatory notes and by Part II of the 1954 Act, as proposed to be amended by these clauses. The clauses, with certain additions and amendments, form Part I of the Law of Property Bill¹⁷ which is now before Parliament.

(e) Other topics considered by the Working Party

28. During the year the Working Party has considered a number of other subjects, namely:

- fire insurance;
- disclaimer of leases in bankruptcy and liquidation;
- provisions for variable rents;
- the content and effect of repairing obligations;
- options for renewal and purchase contained in leases.

In due course we expect to publish Working Papers on these topics.

¹⁵ In July 1969 you requested us to prepare, as a matter of high priority, an Interim Report dealing with two subjects: first, any changes that may be thought to be necessary in the existing principles and practice relating to the itemisation of awards; and secondly, the use of standard actuarial tables as an aid to the assessment of pecuniary loss. In order to comply with this request, we are preparing a short Working Paper on which we propose to seek the views of the Bar Council, The Law Society, the British Insurance Association and the Institute and Faculty of Actuaries. The preparation, following these consultations, of the Interim Report may occasion some delay in the publication of the comprehensive Working Paper.

¹⁶ Law Com. No. 17.

¹⁷ Now the Law of Property Act 1969.

(f) Long leases of residential property

29. In view of mounting evidence of disquiet among the public and the legal profession, we considered two problems in the law relating to long leases of residential property of which the rateable value is such as to attract the provisions of the Rent Act 1968:

- (i) First, there was doubt whether "service charges" should be considered as rent in determining for the purposes of section 2(1)(a) of the Rent Act 1968 what constitutes a rent of less than two-thirds of the rateable value. It was thought that they probably should; but, if so, this was regarded as a trap since a rise in the service charge to meet increased costs might take the rent above the relevant figure.
- (ii) Secondly, there was dissatisfaction with the situation resulting from section 39(1)(a) of the Leasehold Reform Act 1967,¹⁸ which, in effect, prohibited the charging of a premium on the grant or assignment of a long lease where the rent exceeds two-thirds of the rateable value. Modern ground rents frequently exceed that figure, while still remaining well below the rack rent, and it was said that this prohibition put an unjustifiable restriction on dispositions of long leases which possess a substantial capital value.

After consultation with The Law Society, the Ministry of Housing and Local Government and other interested bodies, such as the Building Societies Association, insurance interests and the Association of Municipal Corporations, we told the Minister that in our view legislation should be introduced to deal with both these problems.¹⁹

Item IX. Transfer of Land

30. Our Report on Land Charges²⁰ was submitted on 31 January 1969. The draft clauses which were attached to that Report are included in Part III of the Law of Property Bill²¹ now before Parliament. Part III of the Bill also implements our earlier Report on Root of Title.²² Part IV makes certain amendments to section 84 of the Law of Property Act 1925 which implement, in relation to restrictive covenants, propositions 9(a), 10(b) and 11 of our Report on that subject.²³

31. On rights appurtenant to land we have held a further series of meetings with our consultative group²⁴ and have obtained their views on the main points which would need to be covered in a code of obligations affecting landowners. This is a complicated and extensive subject and the preparation of a Working Paper has necessarily taken a great deal of time. Considerable progress has, however, been made and we hope to publish a Paper before long.

¹⁸ Now incorporated in section 2, Rent Act 1968.

¹⁹ We subsequently considered with the Minister the form which such legislation should take. It is now contained in sections 80 and 81 of the Housing Act 1969.

²⁰ Law Com. No. 18.

²¹ Now the Law of Property Act 1969.

²² Law Com. No. 9.

²³ Law Com. No. 11.

²⁴ For membership of this group see Appendix II to our Third Annual Report.

32. On rentcharges,²⁵ after conducting further consultation, we have reached some provisional conclusions which we are about to publish as a Working Paper.²⁶ In brief, we provisionally propose that legal rentcharges should no longer be capable of creation and that existing legal rentcharges should, if possible, be extinguished. Extinguishment of existing rentcharges presents practical difficulties which will be discussed in the Paper.

Land Registration

33. Progress in our review of the basic principles of the law relating to Land Registration has inevitably been slow, because of the amount of time which members of the team have had to devote to other items in the Commission's Programmes. The preparation of Reports, Law Com. Nos. 17 and 18 and subsequent work in connection with the Law of Property Bill have, in particular, made considerable demands on the team's resources. Nevertheless, researches have been carried further into some of the matters with which we will be dealing in Working Papers on Land Registration. During the year, members of the team participated in a series of valuable evening seminars on land registration organised by Professor F. R. Crane of Queen Mary College, University of London, and conducted by Professor David C. Jackson of Monash University, Australia.

Item XIV. Common law misdemeanours: crime of conspiracy

34. The Criminal Law Revision Committee is continuing its examination of these topics.

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

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

35. We saw a case for further consultation on this subject and for that purpose circulated Working Paper No. 19. Most of the bodies consulted have now submitted their comments on the Working Paper, and we are studying these. Meanwhile, the law of seduction and enticement in relation to the family (its most important aspect today) will be dealt with in our forthcoming Report on Financial Provision in Matrimonial Proceedings.²⁷

(b) Breach of promise of marriage

36. We have now reached final conclusions on the subject of breach of promise of marriage and expect to submit our Report in the near future.²⁸

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

37. Consideration of these matters remains in abeyance. If it is decided that distress for rent should be abolished in accordance with the recommendations of the Payne Committee,²⁹ it may be that no action is required.

²⁵ i.e. Annual sums normally payable out of freeholds, known in some areas as "Chiefs" or "Ground Rents."

²⁶ Working Paper No. 24 published on 4 September 1969.

²⁷ Law Com. No. 25, para. 101.

²⁸ Law Com. No. 26: submitted on 25 August and published on 14 October 1969.

²⁹ *Report of the Committee on the Enforcement of Judgment Debts* (1969); Cmnd. 3909.

Item XVI. Judicature Act (Northern Ireland)

38. Lord MacDermott's Committee has completed its study of this subject and is preparing its Report.

Item XVII. Interpretation of Statutes

39. We have completed, jointly with the Scottish Law Commission, the major part of our study of this topic. Its results have been set out in a Joint Report,³⁰ with draft clauses attached, of both Law Commissions laid before Parliament on 9 June 1969.

40. Now that the United Nations Conference on the Law of Treaties has completed the preparation of the Vienna Convention on that subject,³¹ we shall consider its implications for our law governing the interpretation of treaties in so far as their provisions have been enacted or given effect to by statute or form part of the context of the statute.

Item XVIII. Codification of the Criminal Law

(a) General principles of the criminal law

41. The reception given to the Working Paper³² published in May 1968 has encouraged us to prepare our work on the General Part of the Code in accordance with the broad lines foreshadowed in that Paper. It is hoped shortly to publish a further Working Paper containing the Working Party's tentative conclusions on the basic principles relating to the mental element in crime.

42. The discussions which took place at the two seminars on codification of the criminal law anticipated in our Third Annual Report³³ have been of the greatest assistance to us and to the Working Party.

43. As some of the topics relevant to the General Part of the Code call for examination by experts other than lawyers, we have set up an Advisory Panel of social scientists.³⁴ Professor Fitzgerald and Dr. T. B. Hadden, of the University of Kent, are engaged in research on our behalf into offences of strict liability under the Factories Act 1961.

(b) Certain specific offences

44. Whilst our Working Party is assisting us in our study of the general principles of the criminal law, the Law Commission's team has been considering specific offences. It has been strengthened by the participation of Mr. T. R. Fitzwalter Butler whose great experience of the criminal law as judge of quarter sessions, practitioner and author has been drawn on heavily.

³⁰ Law Com. No. 21: Scot. Law Com. No. 11.

³¹ *Vienna Convention on the Law of Treaties*, (1969); Cmnd. 4140.

³² Working Paper No. 17. For the composition of the Working Party, see Third Annual Report, Appendix II(i) but with the substitution of Mr. J. H. Walker of the Home Office for Mr. A. J. E. Brennan.

³³ para. 46.

³⁴ For its composition, see Appendix 3.

- (i) We have recently published a Working Paper on Malicious Damage.³⁵ We have already received a number of comments, which lead us to hope that the proposals that we have made will command a wide measure of agreement. A Working Paper on Forgery is nearly ready. A Paper on Bigamy and offences against the marriage laws is being prepared. We have begun our study of Perjury.
- (ii) The reference to the Criminal Law Revision Committee of the law relating to sexual offences and the law relating to offences against the person (including homicide) has been delayed owing to its other commitments.
- (iii) In view of the complexity and technical nature of the subject of extra-territorial jurisdiction in criminal offences, we prepared a study paper which we circulated in September 1968 to a limited number of persons and bodies having special knowledge of the problems involved. We are now preparing a Working Paper which takes account of their suggestions.
- (iv) We understand that the Home Office are considering publishing a White Paper on the subject of drug offences which will include proposals based on their consultations with us.³⁶

Item XIX. Family Law

45. In accordance with the plan explained in our Third Annual Report, we are continuing to concentrate on preparing reforms of the law which must precede its systematic restatement.

Divorce

46. The Divorce Reform Bill introduced by Mr. William Wilson, M.P. in December 1967 completed its Committee stage, but there was insufficient time for its Report stage during the Parliamentary session in which it was introduced. Accordingly, the Bill lapsed.

47. In December 1968, Mr. Alec Jones, M.P., introduced a fresh Bill in almost exactly the same form as that which had emerged from the Committee stage in the previous session. This Bill completed its passage through the House of Commons on 13 June 1969.³⁷ We have given our assistance, as we did before, to ensure that the Bill would accord with the understanding reached between the Archbishop's Group and the Law Commission.³⁸

Financial Provision

48. Our Report on Financial Provision in Matrimonial Proceedings is almost complete.³⁹ It will not cover the whole field of the financial rights and obligations arising out of marriage and its termination, as did our Working

³⁵ Working Paper No. 23.

³⁶ See Third Annual Report, para. 69(iii).

³⁷ It subsequently passed all stages in the House of Lords and received the Royal Assent on 22 October.

³⁸ See Third Annual Report, Appendix III.

³⁹ The Report was submitted on 23 July and published on 23 September 1969 as Law Com. No. 25.

Paper No. 9, but will be confined to those financial provisions which we are satisfied require immediate revision. It will deal also with damages for adultery, the action for enticement of a spouse, the seduction of a daughter and the wife's agency of necessity.

49. Recent cases, notably *Pettitt v. Pettitt*⁴⁰ have emphasised the urgent need for legislation on the question of the rights of spouses in property to which both have contributed during the marriage. Although our Report will not attempt to deal with the whole question of family property we shall make some interim proposals on this aspect of it.

Family Property

50. Our examination of the law of family property is continuing. The problem is a wide and complex one. While we appreciate that the pressure of public opinion for reform is growing, as evidenced by expressions of sympathy with the aims of the Matrimonial Property Bill introduced by Mr. E. S. Bishop, M.P., in January 1969, no comprehensive solution can be found without detailed research and preparation of the ground, followed by full consultation. We hope to produce a working paper on the subject during the year 1969-70. In the meantime implementation of the proposals in our forthcoming Report on Financial Provision will remove many of the major inequities of the present law.

Marriage and Nullity

51. Our Working Paper No. 20 on Nullity has produced many helpful comments. We are at present working on a Report which will contain our recommendations together with draft clauses to give effect to them. The publication in May of the Kilbrandon Report on the marriage law of Scotland⁴¹ has placed us in a position to initiate a reform of the corresponding provisions in English law. We shall put this study in hand in the near future.

Polygamous marriages

52. We have published a Working Paper No. 21, based upon Dr. J. H. C. Morris' thorough survey of the legal consequences of polygamous marriages. Our provisional proposals have provoked some most thoughtful comment. We are now working on the Report which will embody our final recommendations.

Recognition of foreign matrimonial etc., decrees

53. The Working Party set up to advise Her Majesty's Government on the draft Convention on Recognition of Foreign Divorces and Legal Separations continued to assist the United Kingdom delegates during the consideration of the Convention by the Hague Conference. In October 1968, the Conference settled the Convention to be submitted to the Governments of the countries participating.

⁴⁰ [1969] 2 W.L.R. 966 H.L.

⁴¹ (1969); Cmnd. 4011.

54. Ratification by H. M. Government would involve legislation, and we are continuing our examination of its content.

Jurisdiction of English Courts to grant divorces, etc.

55. We have settled our main proposals for the reform of the rules governing the jurisdiction of the English Courts to grant matrimonial decrees and our Working Paper should soon be ready for publication.

Restitution of Conjugal Rights

56. In the course of our consideration of financial provisions, we formed the view that the remedy of restitution of conjugal rights was out-dated and no longer served any useful purpose. We circulated a short Working Paper, No. 22, setting out the arguments for and against retention of this remedy. As comment was almost wholly in favour of our view that it should be abolished, we are preparing a Report recommending legislation to that effect.⁴²

Family Law affecting children

57. Our Report on Blood Tests and the Proof of Paternity in Civil Proceedings⁴³ was published in October 1968. The recommendations we made were included in the Family Law Reform Bill.

58. The comments we have received on Working Paper No. 15, based upon Mr. J. C. Hall's invaluable study of the operation of section 33 of the Matrimonial Causes Act 1965 have been most helpful. We are recommending certain amendments to the section in our Report on Financial Provision in Matrimonial Proceedings,⁴⁴ and on other matters of detail and procedure we shall be making suggestions to the rule-making authority.

59. The Family Law Sub-Committee of the Society of Public Teachers of Law has completed its study on The Illegitimate Child in English Law.⁴⁵ We have not yet had time to consider it in detail, but the research contained in it will be of great assistance.

Courts having jurisdiction in family matters

60. A valuable discussion on the reform of the courts exercising jurisdiction in family matters took place at All Souls College, Oxford in December 1968. The discussion was in general terms but it emerged clearly that there was a need for the re-organisation of the courts dealing with the varied aspects of family matters at all levels. In April 1969 we received copies of a most thoughtful paper on Domestic Courts prepared by the Sub-Committee of the Magistrates' Association under the chairmanship of Professor R. M. Jackson and approved by their Council. The suggestions for reform in this paper are clearly of importance and will have to be studied with great care when the time comes to consider trial of domestic proceedings in magistrates' courts. Pending the Report of the Royal Commission on Assizes and Quarter Sessions, which is

⁴² Law Com. No. 23 laid before Parliament on 24 July and published on 26 August 1969.

⁴³ Law Com. No. 16. The Family Law Reform Bill received the Royal Assent on 25 July 1969.

⁴⁴ See para. 48 above.

⁴⁵ See Third Annual Report, para. 63.

expected shortly,⁴⁶ we have felt unable to make further progress towards a solution of the problem of providing a rational system of courts exercising jurisdiction in family matters. However, we welcome your recent proposal⁴⁷ for the setting up of a Family Division of the High Court as an essential first step towards the re-organisation of its present structure.

Item XX. Interpretation of Wills

61. In November 1967, in our Second Programme of Law Reform,⁴⁸ we recommended that the rules governing the interpretation of wills should be examined by the Law Reform Committee with a view to reform of the law.

62. In October 1968, you requested the Law Reform Committee to undertake a review of certain aspects of this subject, and the Law Reform Committee accordingly established a Sub-Committee under the chairmanship of Mr. Justice Megarry to consider:

“Whether in relation to the interpretation of wills it is desirable—

- (a) to amend the law relating to the admissibility of extrinsic evidence; and
- (b) to confer upon the court any powers of rectification.”

⁴⁶ Published on 29 September 1969 as Cmnd. 4153.

⁴⁷ See Press Notice dated 19 June 1969, “Proposals for Reconstitution of the Divisions of the High Court.”

⁴⁸ Law Com. No. 14.

PART II

LAW REFORM OUTSIDE THE PROGRAMMES

63. In paragraph 67 of our Third Annual Report we undertook to explore ways and means of including in our annual reports meaningful information on the nature and volume of law reform proposals received from H. M. Judges, the legal profession, the press and the general public, on subjects other than those which are included in our published Programmes. Regretfully we have come to the conclusion that no statistics or short summaries could give a sufficiently helpful account of these proposals. The best help that we can give is to report on our "miscellaneous" activities under appropriate subject headings, arranged in alphabetical order.

Administration Bonds

64. We have followed up the review mentioned in paragraph 71(g) of the last Annual Report by seeking to limit the requirement for the giving of administration bonds, thereby simplifying the law and saving expense. We hope to submit our report, with legislative clauses, during the course of the coming year.

Administrative Law

65. We completed our study of the comments received in response to our exploratory Working Paper on this subject.⁴⁹ In the light of those comments⁵⁰ and of the views expressed in recent years in legal and political literature and at conferences at which the Commission have been represented, we submitted Advice to you which you presented to Parliament in May 1969.⁵¹ Our Advice was to the effect that an inquiry into administrative law was both necessary and of some urgency. We recommended the appointment of a Royal Commission or a body of similar status (with a broad and not exclusively legal membership) to carry out a comprehensive review of the principles and procedures of this important branch of the law, which governs the relations of the citizen with public authorities, central, regional and local. We also suggested that the reviewing body might well issue one or more interim reports in the light of the work of a legal sub-committee on procedural matters in advance of a comprehensive report.

Civil Judicial Statistics

66. The Report of the Adams Committee,⁵² the appointment of which was noted in our Second Annual Report,⁵³ was presented to Parliament in July 1968 and their recommendations have already led to certain improvements.

Foreign Torts Committee

67. Following representations that we made to you about the unsatisfactory state of the existing rules governing the choice of law in proceedings based on

⁴⁹ See para. 70(ii) of our Third Annual Report.

⁵⁰ The comments are summarised in Appendix C of Law Com. No. 20.

⁵¹ Law Com. No. 20, Cmnd. 4059.

⁵² *Report of the Committee on Civil Judicial Statistics*, (1968); Cmnd. 3684.

⁵³ para. 98(g); see also Third Annual Report, para. 71(d).

foreign torts,⁵⁴ you and the Secretary of State for Scotland set up a Committee under the chairmanship of Lord Diplock to study this subject generally as well as with particular reference to a number of international conventions which are under preparation. We welcome the appointment of this Committee and Mr. Michael Parkington, a member of our staff, has been appointed Secretary.

Insurable Interests

68. In November 1968 we were formally requested by the Board of Trade to advise the President on the validation of group insurance policies, treating this question for the time being as severable from the wider problem of insurable interests generally. In February 1969 we circulated a short paper containing provisional proposals and are now considering the comments received from the organisations representing the interests concerned.

Interest on Arrears of Annuities

69. We have been considering the suggested abrogation of the rule that arrears of an annuity given by will do not carry interest.⁵⁵ As so frequently happens, a comparatively minor and seemingly uncontroversial proposal for law reform turns out, on investigation, not only to be controversial but to raise a number of difficult problems in its application to all the cases which can occur. A full study of this proposal has, therefore, taken some time and progress during the period covered by this Report was limited.⁵⁶

International Agency

70. In paragraph 69(i) of our Third Annual Report we looked ahead to the submission at an early date of a joint report by ourselves and the Scottish Law Commission on the two draft Laws of International Agency prepared by the International Institute for the Unification of Private Law. The Joint Report, submitted to your Lordship and to the Lord Advocate in July 1968, adopted in substance the recommendations made by the Joint Working Party which had been set up by our two Commissions. A further international conference on this subject is due to be held early next year.

Judgments Extension Acts

71. The Scottish Law Commission memorandum on this subject is near completion. We are in general agreement with Scottish proposals designed to facilitate the enforcement throughout the United Kingdom of judgments given in any of its constituent parts.

Limitation of Actions

(i) Limitation of actions against deceaseds' estates

72. We have completed our study of this subject⁵⁷ and submitted our Report

⁵⁴ See *Boys v. Chaplin* [1969] 2 All E.R. 1085, H.L.

⁵⁵ The suggestion was made by Cross, J. in *Re Berkeley dec'd.* [1968] Ch. 154 at p. 166.

⁵⁶ A paper was subsequently circulated for comment and criticism.

⁵⁷ para. 71(e) (i) of the Third Annual Report.

on Proceedings against Estates⁵⁸ in April. The Report is accompanied by draft clauses primarily designed:

- (a) to abolish the rule that proceedings in tort may not be begun more than six months after the grant of representation to the estate of a deceased tortfeasor, and
- (b) to obviate difficulties that now arise when a proposed defendant has died.

(ii) *Limitation provisions affecting actions in tort by persons under disability*

73. In paragraph 71(e)(ii) of our last Annual Report we stated that we were in the process of consulting upon the question whether the expression “not in the custody of a parent”⁵⁹ provides a satisfactory test for determining the expiration of the limitation period in personal injuries actions where the plaintiff is or has been under the disability of infancy. Our consultations have revealed that the finding of a solution would require a far-reaching enquiry into the law, which, in the light of our commitments, we cannot now undertake.⁶⁰

Magistrates’ Courts Rules 1968

74. We welcome the coming into force of these Rules in which Rules 13 and 14 deal with the order of evidence and speeches on informations and complaints. They give the parties a general right to a second speech with the leave of the court. These changes are in line with suggestions made by us at the invitation of the Home Office.

Powers of Attorney⁶¹

75. During the year we have held consultations with The Law Society, the Public Trustee and the Master of the Court of Protection with particular reference to the possibility of providing a special form of power of attorney which would remain in operation despite the subsequent incapacity of the donor. This has proved a difficult and controversial matter, further consideration of which may have to await a more general review of the law governing the property of estates of mentally disordered persons. We have, however, made progress towards the preparation of a report on other aspects of the law relating to powers of attorney, e.g., the requirements whereby, in many cases, a power must be filed at the Central Office, and the provisions under which a trustee may delegate his discretions. We shall also suggest ways in which some of the other obscure statutory provisions relating to this subject might be clarified.

Privacy

76. In our Third Annual Report⁶² we stated that we had considered whether certain aspects of the law relating to privacy should be proposed for examina-

⁵⁸ Law Com. No. 19, Cmnd. 4010.

⁵⁹ S.22 of the Limitation Act 1939 as amended.

⁶⁰ The decision of the Court of Appeal in *Hewer v. Bryant* [1969] 3 W.L.R. 425 C.A. has helped to clarify the existing law.

⁶¹ Third Annual Report, para. 71(b).

⁶² Para. 70(i).

tion with a view to reform but that we had taken no further action since we understood that there was a possibility of the subject being referred to a Parliamentary Select Committee. No such reference has been made. During the year under review, there were a number of published allegations that industrial espionage is spreading and that invasions of privacy are on the increase.⁶³ We are more than ever convinced that early comprehensive examination of this subject by a widely based commission or committee is essential.

Resealing of Probates, etc.

77. The Working Party⁶⁴ under Mr. Registrar Kenworthy has now reported in favour of the abolition of the present time-consuming requirements arising whenever effect has to be given to a probate or confirmation in the other part of Great Britain. We hope that legislation will not be delayed.

Safety, Health and Welfare Legislation

78. We have held further discussions with the Department of Employment and Productivity on their request for advice concerning a review of the form and scope of the Factories Act 1961 and the Offices, Shops and Railway Premises Act 1963. In November 1968 we sent the Department our advice, which dealt, among other things, with the scope and structure of the legislation, the nature and terms of the criminal and civil liability to which it would give rise and the nature and terms of the defences which would be available in respect of either category of liability.

Tax Law

79. In April 1969 the two Law Commissions announced the setting up of a consultative group⁶⁵ under the chairmanship of Professor J. M. Halliday of the Scottish Law Commission to study the tax laws dealing with income and gains from land. This is a limited experimental study to see whether it is practicable, without impinging on fiscal policy, to simplify and improve the form and arrangement of tax legislation. If the study proves successful we hope that other aspects of tax law may be examined in the same way.

Tribunals of Inquiry—Contempt

80. At their request we submitted a memorandum to the Salmon Committee.

Uncertainty in relation to trusts and powers

81. It has been suggested that the law relating to the avoidance of trusts and powers, because of the uncertainty of their objects, is unsatisfactory and should be reviewed.⁶⁶ At our request the General Council of the Bar and the Council of The Law Society have agreed to study the matter and make recommendations.

⁶³ Recent differences between a national newspaper and the Press Council have focussed attention on the urgent need for review.

⁶⁴ Third Annual Report, para. 68(iii).

⁶⁵ The membership is set out in Appendix 3.

⁶⁶ The law was criticised by Sachs, L. J. in *Re Leek dec'd.* [1969] 1 Ch. 563 at 586 and by Russell, L. J. in *Re Baden's Deed Trusts* [1969] 1 All E.R. 1016 at 1022, Lord Reid in *Re Gulbenkian's Settlements* [1968] 3 W.L.R. 1127 at 1132, as well as the Master of the Rolls and Winn, L. J. in the same case in the Court of Appeal [1968] Ch. 126 at 133-138.

PART III

CONSOLIDATION AND STATUTE LAW REVISION

Consolidation: First Programme

82. Good progress has been made during the year with the first of the major topics in the Commission's First Programme, the consolidation of tax legislation. It is the intention that the Income and Corporation Taxes Bill and the Taxes Management Bill should be introduced and passed before the introduction of the Finance Bill in 1970. This is a considerable undertaking which has been pushed forward by the draftsmen and the Board of Inland Revenue in the face of many difficulties with a determination which we much appreciate. Work has been resumed on the consolidation of estate duty legislation and much progress has been made. A number of amendments of the law is desirable to produce a satisfactory consolidation and these are under active consideration.

83. The year has produced a light harvest of consolidations for the statute book: the Customs Duties (Dumping and Subsidies) Bill, the Trustee Savings Banks Bill, the Late Night Refreshment Houses Bill and the Sea Fish Industry Bill⁶⁷ (which included the Sea Fish Industry (Grants and Subsidies) Bill, of which mention was made in paragraph 79 of our Third Annual Report). The main reasons for the lightness of the harvest are that two of our draftsmen were engaged on the mammoth task of tax consolidation and much of the time of the others was taken up with law reform.

84. The Trustee Savings Banks Bill incorporated amendments to give effect to recommendations made by the Scottish Law Commission and ourselves, being the second Bill to do so. We are reassured to observe that Parliament is willing to deal with Bills of this sort in, broadly speaking, the same way as Bills introduced under the Consolidation of Enactments (Procedure) Act 1949.

85. Work on the consolidation of the Local Government Acts has been suspended because any implementation of the recommendations of the Redcliffe-Maud Report⁶⁸ would involve a considerable re-writing of these Acts. If a Bill to implement these recommendations were passed, consolidation would become more urgent. Another Bill overtaken by events is the consolidation of the National Health Service Acts; on the one hand, the Government has published proposals for unifying administration of the health services in the near future, which will probably supersede Parts II and IV of the National Health Service Act 1946 and, on the other hand, the Seebohm Committee on personal social services⁶⁹ has made recommendations, the implementation of

⁶⁷ Now the Customs Duties (Dumping and Subsidies) Act 1969, the Trustee Savings Banks Act 1969, the Late Night Refreshment Houses Act 1969. The Sea Fish Industry Bill was introduced into Parliament last summer but failed to pass because the Joint Select Committee on Consolidation was prevented by other work from considering it. This Bill will be re-introduced at the beginning of the new Session.

⁶⁸ *Report of the Royal Commission on Local Government in England*: Cmnd. 4040.

⁶⁹ Cmnd. 3703.

which will affect the function of local authorities under Part III of that Act.⁷⁰ The Friendly Societies consolidation, which has progressed some distance, has unfortunately run into difficulties which may need further legislation to cure. The Monopolies and Restrictive Practices Bill has not been proceeded with because of other commitments of the draftsmen, though it is hoped to resume work as soon as time can be found.

86. There is other work in progress in addition to the tax legislation mentioned in paragraph 81. A further instalment of Road Traffic consolidation is in draft. The first in the series was the Road Traffic Regulation Act 1967 and another two Bills are contemplated, one at least of which it is hoped to introduce next session. At the same time the opportunity is being taken to consolidate the Vehicles (Excise) legislation, which has been substantially amended since the Vehicles (Excise) Act 1962.

87. In place of the Local Government and National Health Service consolidations, mentioned in paragraph 85 above, it may be possible to undertake consolidation of legislation relating to (a) magistrates' courts and (b) town and country planning, both codes being in need of consolidation. Work is about to start on a much needed consolidation of the Guardianship of Infants Acts.

88. It happens very occasionally that a draftsman in the Office of the Parliamentary Counsel can find time in the intervals of current legislation to undertake a small consolidation on a topic with which he has become familiar. The Customs Duties (Dumping and Subsidies) Bill mentioned in paragraph 83 above is one example of this. Another is the consolidation, on which work has started, of the enactments relating to hydrocarbon oil duties.

Statute Law Revision: First Programme

89. In our Third Annual Report we recorded the publication on 25 March 1968 of a draft Statute Law Revision Bill for the repeal either wholly or in part of some 155 enactments on the ground that they are no longer of practical utility.

90. After consideration had been given to all the comments we received on the draft,⁷¹ it eventually took shape as the draft Statute Law (Repeals) Bill prepared under section 3(1)(d) of the Law Commissions Act 1965. This draft Bill, which proposed the repeal either wholly or in part of 206 enactments, was appended to our First Report on Statute Law Revision.⁷²

⁷⁰ On 24 July 1969, the Secretary of State for Social Services stated: "The Government have always made it clear that it would be necessary to examine further the report of the Seebohm Committee and the form of administrative reorganisation of the health services together in the light of the recommendations of the Royal Commission on Local Government in England. The Royal Commission's Report was not however available until early June, and those concerned require some further time to assimilate it. We shall therefore aim to conclude our consultations in the autumn and to announce, to the House, the decisions on the Seebohm Committee's recommendations and on certain matters affecting the health services, and later in the year to issue a revised Green Paper on the administrative structure of the health services." (*Hansard*, 24 July 1969 col. 435-6).

⁷¹ Third Annual Report, para. 82.

⁷² Law Com. No. 22.

91. The Bill was presented by your Lordship in the House of Lords and read for the first time on 15 May 1969.⁷³ It was decided with your approval that the short title of the Bill should be “Statute Law (Repeals) Bill” instead of the more usual “Statute Law Revision Bill” because, although it included many proposals which could well have been included in earlier Statute Law Revision Bills, it is wider in scope than Bills which have been enacted in the past. The purpose of the Bill is described in its long title as being “to promote the reform of the statute law by the repeal, in accordance with recommendations of the Law Commission, of certain enactments which (except in so far as their effect is preserved) are no longer of practical utility, and by making other provision in connection with the repeal of those enactments.” Both Houses of Parliament resolved to extend the terms of reference of the Joint Committee on Consolidation Bills to cover Bills having this purpose which had been prepared by one or both of the Law Commissions.

92. Although our chronological review of the Statute Book is far from complete, we already have sufficient material for a further Bill or Bills, including certain proposals which were omitted from the first Bill in some cases because they would or might have been subject to the Standing Orders relating to Private Bills. It is our intention to include these proposals in a Bill to be introduced in a later session.

93. In September 1968 we had occasion to make representations to the Board of Trade about the lamentable state of hallmarking legislation which could neither be satisfactorily consolidated nor safely repealed to any substantial extent by our Statute Law (Repeals) Bills. We were very pleased, therefore, to learn subsequently that the President of the Board of Trade has put in hand a general review of this branch of the law which may be expected to result in the law being put into a clear and modern form.

A new official edition of the Statutes

94. You have appointed an Editorial Board, headed by our Chairman, to supervise the production of the new edition of the Public General Statutes in Force. The main decisions have now been taken and work is proceeding on the text. We shall continue to collaborate closely with the Editorial Board in its work.

⁷³ Now the Statute Law (Repeals) Act 1969.

PART IV

ORGANISATION AND WORKING METHODS

Staff

95. Apart from the Commissioners and Special Consultant, the staff now numbers 47—the Secretary, 4 draftsmen, 16 other lawyers and 26 non-legal staff. In addition we have the part-time services of 2 draftsmen and 4 other lawyers. Moreover, we have been able to commission research work by other lawyers as occasion required.

Library

96. The library now consists of about 8,300 volumes. Although satisfying most of our day-to-day needs, the collection is weak in American and Commonwealth source material and some older British reports and commentaries. Lack of room to house these in any substantial numbers has been one of the reasons contributing to this weakness. We are grateful to those libraries whose resources we have frequently had to call on and to those individuals and organisations at home and abroad who again have sent us generous gifts of books and other documents.

Relations with lawyers in the United Kingdom

97. We had a number of joint meetings with the Scottish Law Commission and were very glad to see them here as our guests on 19 and 20 February.

98. Last autumn our land law team paid a visit to Northern Ireland and had fruitful conversations with colleagues there working upon the reform of land law. We were happy to welcome the Lord Chief Justice here this summer. We have kept in close touch with the Director of Law Reform, Northern Ireland.

99. During the winter we held, as is our custom, three important meetings: with representatives of the Bar Council, The Law Society and the Society of Public Teachers of Law. We are greatly indebted to all three bodies for the continuing practical assistance we have received from them and for the spontaneous assistance given by individual members.

100. During the year we ourselves promoted two seminars at universities: the first was held in September 1968 at Nottingham University and dealt with the general principles of the criminal law; and the second in December at All Souls College, Oxford on the subject of "Family Courts". The latter was attended by you and the President of the Probate, Divorce and Admiralty Division. Many other discussions and conferences were attended by commissioners and staff but we would like to single out two which were particularly helpful to our work: the conference organised by the Department of Criminology at Cambridge on the codification of the criminal law; and the conference on tax legislation held at the London School of Economics which led to the setting up of the consultative group mentioned in paragraph 79 above.

Relations with lawyers overseas

101. We were glad to see here a considerable number of lawyers and legislators from abroad during the year. We have exchanged views and information with many law reform agencies—particularly those within the Commonwealth. We have received much valuable assistance from practising and academic lawyers throughout the world and we are grateful to them.

102. One of our number attended a meeting in Berlin to give evidence to the German Federal Republic's Commission on Marriage and Divorce Law, another of us visited Ceylon to discuss problems likely to arise from the establishment of the Law Commission there and Ghanaian Ministers came to see us about the corresponding problems in their country.

103. In Appendix 4 we give a list of law reform agencies (other than Ministries of Justice) in the Commonwealth and in other countries with some common law tradition. The list, based on information which has been sent to us, is not exhaustive but is sufficiently long to show that some form of Law Commission, even if only on a part-time and voluntary basis, is coming to be considered a necessary part of the machinery of government.

(Signed) LESLIE SCARMAN, *Chairman.*
L. C. B. GOWER.
NEIL LAWSON.
NORMAN S. MARSH.
ANDREW MARTIN.

J. M. CARTWRIGHT SHARP, *Secretary.*

27 October 1969.

APPENDIX 1

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

(1) Working Papers published

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

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

- Law Com. No. 1. First Programme of the Law Commission
- Law Com. No. 2. Law Commission's First Programme on Consolidation and Statute Law Revision
- Law Com. No. 3. Proposals to abolish Certain Ancient Criminal Offences
- Law Com. No. 4. First Annual Report 1965-66
- Law Com. No. 5. Landlord and Tenant: Interim Report on Distress for Rent
- Law Com. No. 6. Reform of the Grounds of Divorce: The Field of Choice (Cmnd. 3123)
- Law Com. No. 7. Proposals for Reform of the Law Relating to Maintenance and Champerty
- Law Com. No. 8. Report on the Powers of Appeal Courts to Sit in Private and the Restrictions upon Publicity in Domestic Proceedings (Cmnd. 3149)
- Law Com. No. 9. Transfer of Land: Interim Report on Root of Title to Freehold Land
- Law Com. No. 10. Imputed Criminal Intent (*Director of Public Prosecutions v. Smith*)
- Law Com. No. 11. Transfer of Land: Report on Restrictive Covenants
- Law Com. No. 11A. Sea Fisheries (Shellfish) Bill. Report by the Law Commission and the Scottish Law Commission on the Consolidation of Certain Enactments Relating to Shellfish Fisheries and Shellfish (Cmnd. 3267)
- Law Com. No. 12. Second Annual Report 1966-67
- Law Com. No. 13. Civil Liability for Animals
- Law Com. No. 14. Second Programme of Law Reform
- Law Com. No. 15. Third Annual Report 1967-68
- Law Com. No. 16. Blood Tests and the Proof of Paternity in Civil Proceedings
- Law Com. No. 17. Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II
- Law Com. No. 18. Transfer of Land: Report on Land Charges Affecting Unregistered Land
- Law Com. No. 18A. Trustee Savings Banks Bill. Report by the Law Commission and the Scottish Law Commission on the Consolidation of the Trustee Savings Banks Acts 1954 to 1968 (Cmnd. 4004)
- Law Com. No. 19. Proceedings Against Estates (Cmnd. 4010)
- Law Com. No. 20. Administrative Law (Cmnd. 4059)
- Law Com. No. 21. Interpretation of Statutes. Report by the Law Commission and the Scottish Law Commission: Scot. Law Com. No. 11.
- Law Com. No. 22. Statute Law Revision: Frist Report (Cmnd. 4052)
- Law Com. No. 23. Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights
- Law Com. No. 24. Exemption Clauses in Contracts. First Report: Amendments to the Sale of Goods Act 1893. Report by the Law Commission and the Scottish Law Commission: Scot. Law Com. No. 12
- Law Com. No. 25. Family Law. Report on Financial Provision in Matrimonial Proceedings
- Law Com. No. 26. Breach of Promise of Marriage
- Law Com. No. 27. Fourth Annual Report 1968-69

APPENDIX 2

IMPLEMENTATION OF THE LAW COMMISSION'S PROPOSALS

[Attorney General's reply to written question given on 16th June 1969. Since this reply was given, the 3 Bills referred to in the footnotes have received the Royal Assent.]

“The following is a list of the Law Commission's reports containing proposals for law reform. As will be seen, there are only three in respect of which Bills have not yet been brought before Parliament. Those on proceedings against estates and interpretation of statutes are recent reports, which the Government are considering. A Bill on Civil Liability for Animals will be introduced as soon as there is an opportunity to do so.

<i>Titles of relevant Reports</i>	<i>Date of Publication</i>	<i>Whether implemented</i>
Proposals to abolish certain ancient criminal offences (Law Com. No. 3)	22.6.66	Criminal Law Act 1967
Proposals for reform of the law relating to maintenance and champerty (Law Com. No. 7)	22.11.66	Criminal Law Act 1967
Report on the powers of appeal courts to sit in private and the restrictions upon publicity in domestic proceedings (Law Com. No. 8: Cmnd. 3149)	23.11.66	Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968
Transfer of Land: Interim report on root of title to freehold land (Law Com. No. 9)	14.2.67	See (1) below
Imputed criminal intent (<i>Director of Public Prosecutions v. Smith</i>), (Law Com. No. 10)	28.2.67	In part by section 8 of the Criminal Justice Act 1967
Transfer of Land: Report on restrictive covenants (Law Com. No. 11)	22.3.67	See (1) below
Civil Liability for animals (Law Com. No. 13)	21.12.67	No
Blood tests and the proof of paternity in civil proceedings (Law Com. No. 16)	31.10.68	See (2) below
Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II (Law Com. No. 17)	22.1.69	See (1) below
Transfer of Land: Report on land charges affecting unregistered land (Law Com. No. 18)	22.3.69	See (1) below
Proceedings against estates (Law Com. No. 19)	2.5.69	No
Interpretation of Statutes (Joint Report with Scottish Law Commission) (Law Com. No. 21)	11.6.69	No
Statute Law Revision: First Report (Law Com. No. 22)	Laid 14.5.69	See (3) below

(1) The Law of Property Bill now before Parliament, if passed, will give effect to the proposals in Law Com. Nos. 9, 17, 18 and, in part, 11.

(2) The Family Law Reform Bill now before Parliament will, if passed, carry out the proposals contained in Law Com. No. 16.

(3) The Statute Law (Repeals) Bill now before Parliament will, if passed, carry out the proposals contained in Law Com. No. 22.”

APPENDIX 3

MEMBERSHIP OF ADVISORY BODIES SET UP DURING THE YEAR

(1) Advisory panel of social scientists (see paragraph 43)

Members, other than representatives of the Law Commission:

Mr. F. L. T. Graham-Harrison, C.B.
(Home Office)

Mr. T. S. Lodge, C.B.E. (Home Office)

Mr. J. E. Hall Williams
(London School of Economics)

Mr. F. H. McClintock
(Institute of Criminology, Cambridge University)

Dr. Terence Morris
(London School of Economics)

Dr. N. Walker (Oxford University)

Professor J. C. Wood (Sheffield University)

(2) Consultative group on tax legislation (see paragraph 78)

Chairman: Professor J. M. Halliday
(Scottish Law Commission)

Members:

Mr. H. M. Begg
(Institute of Chartered Accountants, Scotland)

Mr. E. I. Goulding, Q.C.

Mr. J. P. Lawton (Law Society)

Mr. E. S. McNairn, C.B.
(Board of Inland Revenue)

Mr. D. S. Morpeth
(Institute of Chartered Accountants,
England and Wales)

Secretary: Mr. R. H. Widdows (Law Commission)

Assistant Secretary: Mr. J. T. P. Roberts (Law Commission)

APPENDIX 4

OVERSEAS LAW REFORM AGENCIES⁷⁴

Agencies concerned with Law Reform in general which have been or are being established in the Commonwealth, United States and other countries with some common law tradition

<i>Name</i>	<i>Date of establishment</i>	<i>Address</i>
COMMONWEALTH		
<i>Australia</i>		
Standing Committee of Commonwealth and State Attorneys General	1959	c/o Parliamentary Draftsman's Office, 459 Lonsdale Street, Melbourne, Victoria
New South Wales Law Reform Commission	1 January 1966	Park House, 187-191 Macquarie Street, Sydney
Queensland Law Reform Commission	1 March 1969	Box 312, North Quay, Brisbane, Queensland, 4000
Law Reform Committee of South Australia	19 September 1968	c/o Adelaide Magistrates' Court Department, Adelaide, South Australia, 5000
Chief Justice's Law Reform Committee of Victoria	31 August 1944	Law School, University of Melbourne, Parkville, Victoria 3052
Law Reform Committee of Western Australia	15 January 1968	Cecil Building, 6 Sherwood Court, Perth, Western Australia 6000
<i>Bahamas</i>		
Law Revision Committee	December 1968	Attorney General's Chambers, P.O. Box 7, Nassau
<i>Bermuda</i>		
Law Reform Committee	13 May 1969	c/o Secretary to Executive Council, Post Office Building, Church Street, Hamilton
<i>Botswana</i>		
Law Reform Committee	1967/8	Private Bag 9, Gaborones
<i>Canada</i>		
Conference of Commissioners on Uniformity of Legislation in Canada	2 September 1918	J. W. Ryan, Q.C., Secretary to Conference, Room 426, Justice Building, Ottawa
Institute of Law Research and Reform, University of Alberta	1 January 1968	University of Alberta, Edmonton 7
British Columbia Law Reform Commission	2 April 1969	c/o Hon. E. Davie Fulton, P.C., Q.C., Cummings & Bird, Barristers, 900 West Hastings

⁷⁴ See para. 103.

<i>Name</i>	<i>Date of establishment</i>	<i>Address</i>
Manitoba Law Reform Committee	—	c/o Department of Attorney General, Legislative Building, Winnipeg 1
Legal Research Institute of the University of Manitoba	May 1968	c/o Faculty of Law, Law Courts Building, Winnipeg 1
Nova Scotia Law Reform Advisory Commission	Not yet set up, legislation passed in 1967	Enquiries to— The Attorney General for Nova Scotia, Halifax, Nova Scotia
Ontario Law Reform Commission	8 May 1964	18 King Street East, Toronto 1, Ontario
Quebec Civil Code Revision Office	10 February 1955	360 rue McGill, Chambre 402, Montreal 125, P.Q.
<i>Ceylon</i>		
Law Commission	16 January 1969	Ministry of Justice, Colombo 12
<i>Ghana</i>		
Law Reform Commission	1 October 1968	P.O. Box M 60, Accra
<i>Hong Kong</i>		
Law Reform Committee	16 March 1956	Attorney General's Chambers, Hong Kong
<i>India</i>		
Law Commission of India	September 1955	5 Jorbagh, New Delhi, 3
<i>Jamaica</i>		
Law Reform Committee	16 May 1964	Attorney General's Department, Public Buildings (East), King Street, Kingston
<i>Malaysia</i>		
Commissioner of Law Revision	1 January 1969	Office of the Commissioner of Law Revision, Attorney General's Chambers, Kuala Lumpur
Law Revision Committee	January 1969	Federal Court, Kuala Lumpur
<i>Malta</i>		
Standing Commission	1 July 1968	49 Stella Maris Street, Sliema
Commission to Revise the Criminal Code	1 July 1968	49 Stella Maris Street, Sliema
<i>New Zealand</i>		
Law Revision Commission	1 December 1965	Department of Justice, P.O. Box 8020, Wellington
<i>Pakistan</i>		
Law Reform Commission	27 May 1967	High Court Building, Lahore, West Pakistan

<i>Name</i>	<i>Date of establishment</i>	<i>Address</i>
<i>Trinidad and Tobago</i>		A committee is investigating the possibility of establishing a commission.
UNITED STATES American Law Institute	24 February 1923	101 North 33rd Street, Philadelphia, Pennsylvania 19104
National Conference of Commissioners on Uniform State Laws	1892	National Office of the Conference of Commissioners on Uniform State Laws, 1155 East 60th Street, Chicago, Illinois, 60637
California Law Revision Commission	1953	School of Law, Stanford University, Stanford, California 94305
Colorado Law Revision Center	August 1968	University of Colorado School of Law, Boulder, Colorado 80302
Florida Law Revision Commission	1 June 1968	College of Law, University of Florida, Gainesville, Florida 32601
Louisiana State Law Institute	April 1938	1300 Beck Building, Shreveport, Louisiana
Michigan Law Revision Commission	1965	University of Michigan Law School, Hutchins Hall, Ann Arbor, Michigan 48104
New Jersey Law Revision and Legislative Services Commission	1954	State Capitol, Trenton, N.J.
New York Law Revision Commission	1934	Myron Taylor Hall, Ithaca, N.Y.
Oregon Law Improvement Committee	1963	410 State Capitol, Salem, Oregon 97310
Tennessee Law Revision Committee	1963	1107 Sudekum Building, Nashville, Tennessee 37219
OTHER COUNTRIES		
<i>Nepal</i> Law Commission	January 1963	Singh Durbar, Kathmandu
<i>South Africa</i> Law Revision Committee	1949	Department of Justice, Veritas Building, Private Bag 81, Pretoria
<i>Sudan</i> Law Revision Commission	January 1969	His Honour Judge M. A. Abu Rannat, Law Revision Commission, Law Faculty, Khartoum University, Khartoum

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