

The Law Commission

(LAW COM. No. 54)

THIRD PROGRAMME OF LAW REFORM

*Laid before Parliament by the Lord High Chancellor
pursuant to section 3 (2) of the Law Commissions Act 1965*

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

The Honourable Mr. Justice Cooke, *Chairman*.

Mr. Claud Bicknell, O.B.E.

Mr. Aubrey L. Diamond.

Mr. Derek Hodgson, Q.C.

Mr. N. S. Marsh, Q.C.

The Secretary of the Commission is Mr. J. M. Cartwright Sharp, and its offices are at Conquest House, 37-38 John Street, Theobald's Road, London, WC1N 2BQ.

NOTE BY THE COMMISSIONERS

In September 1967 the Benelux countries invited the Commission of the European Community to undertake the unification of the private international law of the States who were then members, leading to the codification of their rules of conflict of laws. The Commission, while thinking that the unification of so much of the law would be too ambitious and lengthy an undertaking, agreed that at any rate in some sectors of private international law the harmonisation of the conflict rules of Member States would facilitate the working of the Common Market and would bring greater benefits in future as international legal (especially economic) relationships multiplied. Accordingly in January 1970 the six Member States charged the Working Group on Private International Law in Brussels with the task of preparing a series of Conventions designed to harmonise their private international law on certain subjects. In the summer of 1972 the Group settled the text of a preliminary draft of a Convention on the Law Applicable to Obligations, both contractual and non-contractual. Moreover work has been started on the preparation of a Convention on the Law Applicable to Corporeal and Incorporeal Property.

In this situation, and in the light of the enlargement of the E.E.C., the Lord Chancellor asked the Law Commission in December 1972 to consider how this series of draft Conventions could best be subjected to a thorough examination. The Scottish Law Commission received a similar request from the Lord Advocate.

In the light of those requests the Law Commission has submitted a Third Programme of Law Reform to the Lord Chancellor.

19 April 1973.

THIRD PROGRAMME

Item No. **XXI***

PRIVATE INTERNATIONAL LAW

The uncertainty of this branch of the law and the difficulty of applying it are notorious in relation to such topics as foreign torts, the recognition of foreign marriages and decrees of nullity and cases in which the doctrine of renvoi has to be applied. These and other aspects of our conflict of laws rules stand in need of reform, preferably on an agreed international basis. We note in this context that Conventions have been produced and are to be produced by the European Commission's Working Group on Private International Law and also by The Hague Conference on Private International Law.

Law reform designed to minimise conflicts between the domestic systems of individual states can operate in a number of ways: for example by operating on the choice of court or the applicable law or, in certain cases, simply by bringing about a closer approximation of divergent legal systems.

Recommended: that, in co-operation with the Scottish Law Commission, the Law Commission take under review when considered appropriate rules of private international law relating to obligations, property, family relationships and to any other matter which may be the subject of negotiations or agreements between Member States of the European Economic Community or of The Hague Conference on Private International Law.

Examining agency: the Law Commission, in co-operation with the Scottish Law Commission, acting through a joint Working Party.

* The items in the Law Commission's First Programme were numbered I to XVII and in the Second Programme XVIII to XX.