

The Law Commission

(LAW COM. No. 169)

TWENTY-SECOND ANNUAL REPORT

1986–1987

INCLUDING

SECOND ANNUAL REPORT

OF THE CONVEYANCING STANDING COMMITTEE

*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.

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THE LAW COMMISSION
TWENTY-SECOND ANNUAL REPORT: 1986-1987

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THE LAW COMMISSION
TWENTY-SECOND ANNUAL REPORT

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

We have the honour to present our Twenty-Second Annual Report pursuant to section 3(3) of the Law Commissions Act 1965. It covers the period from 1 November 1986 to 31 October 1987, but for convenience we mention some developments since then.

PART I

THE PAST YEAR IN OUTLINE

1.1 Last year we referred to the way in which the Law Commission had been adapting to the changes in staffing structure introduced as a result of Staff Inspection Reports. In the pages which follow we believe there will be found sufficient justification for the view we then expressed that our method of working had been developing with some measure of success. Much of the credit for this success must go to the enthusiasm and ability of the small staff of lawyers from the public legal service at the Commission who have responsibility for producing the drafts of an increasing number of reports and papers and for ensuring that our research programmes are methodically and efficiently carried out.

1.2 During the year increasing concern has been expressed by several public departments at their inability to recruit for the public legal service a sufficient number of properly qualified lawyers. We have become aware of the difficulties to which this gives rise from the problems which we know your Department has had to face in trying to find replacements for the key members of our staff when they are deservedly promoted or when they leave to enter private legal practice.

1.3 Although the restructuring of the Commission staff has made possible a more efficient use of resources, it has on the other hand made the work of the Commission more vulnerable to loss of and delay in the replacement of the key staff. Even if replacements are found, time is needed for them to acquire the special experience and techniques required for law reform work, so that delay in replacement could have a marked effect in slowing down or limiting the work of the Commission.

1.4 From the account of the work we have undertaken and upon which we are currently engaged it will be seen that, in addition to work on items from our existing programmes, we have been able to make a contribution to a wider range of topics arising from contemporary problems by undertaking smaller projects and by commenting on the proposals of other bodies concerned with law reform.

1.5 The flexibility with which we are now able to work owes much to the efforts of John Gasson, who was Secretary of the Law Commission from 1 November 1982 until, on 15 September 1987, he left to take charge of your Policy and Legal Services Group. The period during which John Gasson was our Secretary was a particularly difficult one for the Law Commission. Major changes in the staff structure had to be implemented and modern management methods introduced to cope with financial constraints. The success with which these changes were effected is in large measure due to John Gasson's enthusiasm and ability. It would not be an exaggeration to say that he was responsible for modernising the administration of the Law Commission. We are extremely grateful for the outstanding contribution he has made to the Law Commission and we wish him every success in his new post.

1.6 In John Gasson's place we welcome the appointment of Michael Collon, who was previously Head of the Property and Family Law Division of your Legislation Group.

PART II
THE YEAR UNDER REVIEW

(a) REPORTS AND WORKING PAPERS PUBLISHED IN THE YEAR UNDER REVIEW (OTHER THAN STATUTE LAW)

2.1 We list below the reports (other than those relating to consolidation or repeal of statutes)¹ which we have submitted during the year since our last annual report:

- (i) Property Law: Third Report on Land Registration: Overriding Interests, Rectification and Indemnity, Minor Interests, Law Com. No. 158.
- (ii) Sale and Supply of Goods, Law Com. No. 160, Scot. Law Com. No. 104.
- (iii) Transfer of Land and Landlord and Tenant: Leasehold Conveyancing, Law Com. No. 161.
- (iv) Landlord and Tenant: Reform of the Law, Law Com. No. 162.
- (v) Transfer of Land: Deeds and Escrows, Law Com. No. 163.
- (vi) Transfer of Land: Formalities for Contracts for Sale etc. of Land, Law Com. No. 164.
- (vii) Family Law and Private International Law: Choice of Law Rules in Marriage, Law Com. No. 165, Scot. Law Com. No. 105.
- (viii) Transfer of Land: The Rule in *Bain v. Fothergill*, Law Com. No. 166.
- (ix) Private International Law: The Law of Domicile, Law Com. No. 168, Scot. Law Com. No. 107.

2.2 During the year we published the following working papers:

- (i) Family Law: Review of Child Care Law: Care, Supervision and Interim Orders in Custody Proceedings, Working Paper No. 100.
- (ii) Family Law: Review of Child Law: Wards of Court, Working Paper No. 101.
- (iii) Landlord and Tenant: Compensation for Tenants' Improvements, Working Paper No. 102.
- (iv) Criminal Law: Binding Over: The Issues, Working Paper No. 103.

(b) REPORT ON PROGRESS

2.3 A description of the substance of these reports and working papers together with a resumé of current and future work follows.

Contract Law

Sale and Supply of Goods

2.4 This has been a venture undertaken jointly with the Scottish Law Commission. In 1983 the two Law Commissions published a consultative document.² As noted in our previous annual report³ this project has occupied us for longer than we originally envisaged, since it proved more difficult than we expected to make discrete alterations to the Sale of Goods Act 1979 and to reconcile the different conceptual approaches of Scots and English law, without also making it necessary to propose widespread consequential amendments to the structure of the 1979 Act. However, a report and draft Bill were published on 28 May 1987.⁴ The Department of Trade and Industry are now carrying out a round of consultation on the proposals in the report.

2.5 The report covers the same ground as the consultative document, but the final recommendations which it contains are in some areas significantly different from the proposals in that document.

2.6 The two main recommendations concern the implied term as to quality and the remedies for breach of the implied term. The report recommends that the implied term as to quality should be reformulated so as to make it clear that it also applies to minor defects, and covers

¹See Statute Law section (para. 2.69 *et seq.*).

²(1983) Working Paper No. 85, Scottish Law Commission Consultative Memorandum No. 58.

³(1987) Law Com. No. 159, para. 2.4.

⁴(1987) Law Com. No. 160, Scot. Law Com. No. 104.

the durability of the goods. The word "merchantable" does not appear in the proposed reformulation; instead the word "acceptable" is used. The report proposes no change in the consumer buyer's right to reject non-conforming goods, but a minor restriction on the non-consumer's right is recommended. Similar changes are recommended for other contracts for the supply of goods.

2.7 For sale contracts, a right of partial rejection is recommended, as is clarification of some of the circumstances in which the right to reject is lost. However, no major change is proposed in the law concerning the right to reject goods.

2.8 The use of the terminology of conditions and warranties in the Sale of Goods Act 1979 is inappropriate for Scots law and changes are recommended to rectify this. The Scottish Law Commission also recommends that provision equivalent to Part I of the Supply of Goods and Services Act 1982 should be made for Scotland.

2.9 The report contains a draft Bill to give effect to its recommendations.

Title to goods in bulk

2.10 Commodity trade associations in England and in other countries raised with the Commission the question whether the English law relating to the title of goods in bulk is satisfactory. Under section 16 of the Sale of Goods Act 1979 a person who buys goods which form part of a bulk cannot become the owner of those goods until his portion of the bulk is appropriated to him. This means that his rights against third parties, who may have damaged the goods, are very limited and also that while the goods are still in bulk others may acquire, or claim to have acquired, an interest in the goods. The problem seems to arise principally, but not exclusively, in relation to the international carriage of goods by sea where merchants in some trades regularly buy bills of lading or delivery orders which relate to only a part of a larger bulk cargo.

2.11 A preliminary consultation exercise, by way of a questionnaire circulated to the main trade association, is currently being undertaken. It is concerned, in particular, to ascertain the extent of the problem. When it has concluded this examination, the Commission will decide what further step it can most usefully take in the matter.

Criminal Law

Criminal Code

2.12 During the past year a thorough analysis of the detailed comments on the draft Criminal Code Bill which was attached to the report of Professor J. C. Smith's team on Codification of the Criminal Law⁵ has been completed. This was done in the form of a series of planning papers, prepared by the Code team, which identified all the policy issues requiring to be settled by the Commission before the next stage of the project which, as we indicated in our last annual report,⁶ is the preparation of a revised and expanded draft Criminal Code. The team have since been preparing a further series of papers to assist the Commission in reaching decisions on the policy questions raised in the planning papers. Very substantial progress has been made and most of the policy issues arising on Part I of the Code (General Principles of Liability) have been settled. In the light of these decisions, the Code team began work in the summer on redrafting the clauses for Part I. It has also been decided that the revised and extended Part II of the Code should encompass the following groups of offences: offences against the person; sexual offences; theft, fraud and forgery; other offences against property; and offences against public peace and safety. In the case of the first two groups of offences, it is intended that the draft Code should, in broad terms, give effect to the relevant recommendations of the Criminal Law Revision Committee in recent reports.⁷

2.13 The present aim is to complete a report and draft Code Bill by about the end of 1988. This task could not be accomplished without the continued assistance of Professor Smith and the other two members of his team. Professor Ian Dennis, then a reader in law at University College, London, joined us in August 1986 to work full-time on this project during a sabbatical year and he has been responsible for analysing the comments on the Code, as well as preparing

⁵(1985) Law Com. No. 143.

⁶Twenty-First Annual Report 1985-1986 (1987), Law Com. No. 159, para. 2.10.

⁷i.e. Fourteenth Report, Offences against the Person (1980), Cmnd. 7844; Fifteenth Report, Sexual Offences (1984), Cmnd. 9213; Sixteenth Report, Prostitution in the Street (1984), Cmnd. 9329 (implemented in part by the Sexual Offences Act 1985); and Seventeenth Report, Prostitution: Off-Street Activities (1985), Cmnd. 9688.

many of the policy papers. His place here has been taken from September (on a part-time basis) by Professor Edward Griew. We are very fortunate in being able to count on the continued assistance of these three distinguished academic lawyers in their roles as both advisers and draftsmen.

Conspiracy to defraud

2.14 Following the recommendations of the Criminal Law Revision Committee in their Eighteenth Report,⁸ a provision in the Criminal Justice Act 1987 now enables a wider use of the charge of conspiracy to defraud than had been possible after the decision of the House of Lords in *R. v. Ayres*,⁹ in effect the law has been restored to what it was before the Criminal Law Act 1977. For some time we have been considering the possible longer-term reform of conspiracy to defraud. We published a working paper¹⁰ in December 1987 which identifies the objections in principle to the common law offence, as well as the procedural and other advantages of bringing a charge of the offence. The paper puts forward various options for reform of the law, including abolition and replacement of conspiracy to defraud by a general fraud offence which an individual might commit or by a series of narrower substantive offences. We are inviting comment (by 30 June 1988) on the suggested options without ourselves having expressed a view at this stage as to which option is provisionally preferred.

Binding over to Keep the Peace

2.15 We published a working paper¹¹ on this subject in September 1987 on which comments have been invited by 31 March 1988. The paper examines the powers of the courts to bind over to keep the peace under the Justices of the Peace Act 1361 and at common law, together with related legislation. A number of options for reform are presented. The paper does not express any preference as to the way forward nor does it consider the procedural details. It concentrates instead on the issues of principle involved because it is these which we believe must first be resolved before any proposals on detailed changes can be considered. We aim to consult widely amongst the judiciary and the magistracy and all other interested parties. We have invited the Chairmen of the circuit scrutiny groups which examined the Criminal Code Bill to consider reconvening those groups for the purpose of commenting on this paper. We are most grateful to Mr. Martin Wasik, senior lecturer in law at Manchester University, for preparing this paper in collaboration with us.

Computer-Related Crime

2.16 The completion of a preliminary study of aspects of computer misuse was suspended last year pending the results of an appeal by two defendants who had been convicted of forgery under the Forgery and Counterfeiting Act 1981 in respect of their obtaining unauthorised access to British Telecom's "Prestel" computers. The Court of Appeal quashed their convictions in July 1987,¹² holding that their conduct did not amount to forgery. A policy paper has since been prepared which discusses the question whether "hacking" ought to be a criminal offence in England and Wales.¹³ We shall be considering this and other matters concerning the applicability and effectiveness of our law in relation to the use and misuse of computers in a working paper which we hope to publish in 1988.

The Fraud Problem — Crimes with a Foreign Element

2.17 In 1986 the Fraud Trials Committee drew attention to jurisdictional problems which beset the prosecution of frauds committed across national boundaries and it recommended¹⁴ that those problems be examined in the course of any review of the substantive offences of fraud by the Law Commission or other appropriate body. The Criminal Law team has been looking at the problems and has provisionally concluded that our present jurisdictional rules appear to be inconsistent in operation and inadequate to deal with the sophisticated machinations of modern fraudsters. The team has prepared a consultation document which considers ways in which the rules, at least in relation to fraud offences, might be reformed.

⁸Conspiracy to Defraud (1986), Cmnd. 9873.

⁹[1984] A.C. 447. See now Criminal Justice Act 1987, S.12.

¹⁰Conspiracy to Defraud (1987), Working Paper No. 104.

¹¹(1987) Working Paper No. 103.

¹²*R. v. Gold and Schifreen* [1987] 3 W.L.R. 803, [1987] 3 All E.R. 618. Leave to appeal to the House of Lords has been granted [1987] 1 W.L.R. 1727.

¹³The Scottish Law Commission recently recommended the creation of offences relating to the obtaining of unauthorised access to a program or to data stored in a computer: see *Computer Crime* (1987), Scot. Law Com. No. 106.

¹⁴Report of the Fraud Trials Committee (1986), para. 3.17.

Power of the Court of Appeal (Criminal Division) to order a retrial

2.18 In March 1987 the Home Office issued a consultation paper to which was appended a discussion paper prepared by the Criminal Law team of the Commission on the subject of an extension of the power of the Court of Appeal (Criminal Division) to order a retrial. It had seemed to the team that the arguments in favour of extending the power were overwhelming, especially because the appellate courts in Scotland and Northern Ireland have in recent years been given powers to order a retrial substantially wider than those available to the Court of Appeal in England and Wales. In the event there was general agreement that the Court of Appeal should be able to order a retrial where the interests of justice so required. During the Committee stage of the second Criminal Justice Bill in the House of Lords, the Government moved an amendment to give effect to this extension which was approved without a vote being taken.¹⁵

Judicial Studies Board

2.19 The Criminal Law team has, at the request of the Judicial Studies Board, prepared two papers which have been presented and discussed at judicial seminars held by the Board. These papers have been on:

(i) *Ascertainment of Facts for the Purpose of Sentence.*

There have, in recent years, been over 75 appeals to the Court of Appeal (Criminal Division) on this subject which has not yet been adequately considered by any textbook and which, it seemed to the team, required both some clarification of the principles involved and some suggestions for the procedure to be followed. At the Board's request, this paper was revised by the team to include references to cases reported up to 31 July 1987.

(ii) *Binding over in the Crown Court.*

Some of the problems relating to binding over by magistrates do not arise in the Crown Court, whereas the latter (but not the former) is concerned with binding over to come up for judgment. Following the seminars, a final version of the paper is being prepared.

Family Law

Second Report on Illegitimacy

2.20 Subject to some minor amendments, the draft Bill attached to our Second Report on Illegitimacy¹⁶ has been enacted as the Family Law Reform Act 1987.

Review of Child Law

2.21 We have continued with our Review of Child Law, publishing Working Papers on Care, Supervision and Interim Orders in Custody Proceedings¹⁷ and on Wards of Court.¹⁸ These two papers complete our planned series on the private law relating to the upbringing of children,¹⁹ although more informal consultation on points of detail may still be required. We are now preparing a draft Bill and Report for publication during 1988, dealing with all the statutory procedures involved. Any proposals on wardship will be made in the light of our conclusions on the statutory procedures and of the Government's proposals on the law relating to child care and family services.²⁰

Care, Supervision and Interim Orders in Custody Proceedings

2.22 The Working Paper on Care, Supervision and Interim Orders in Custody Proceedings²¹ was the third in our series about the law relating to the upbringing of children. It examines the power of courts in custody proceedings to commit a child to local authority care, to place him under supervision, and to make orders for interim custody and access. The discussion of committals to care in family proceedings follows from the recommendation in the Review of Child Care Law²² that the grounds and effects of such committals should be assimilated with those of orders made in care proceedings. That recommendation has since been accepted by the

¹⁵See *Hansard* (H.L.), 26 October 1987, Vol. 489, cols. 380-390.

¹⁶(1986) Law Com. No. 157.

¹⁷(1987) Working Paper No. 100.

¹⁸(1987) Working Paper No. 101.

¹⁹Previous papers dealt with *Guardianship*, (1985) Working Paper No. 91, and *Custody*, (1986) Working Paper No. 96; see also *Custody Law in Practice in the Divorce and Domestic Courts* by J. A. Priest and J. C. Whybrow, (1986) Supplement to Working Paper No. 96.

²⁰See para. 2.29 below.

²¹(1987) Working Paper No. 100.

²²*Review of Child Care Law: Report to Ministers of an Interdepartmental Working Party* (1985).

Government.²³ The working paper's provisional proposals are designed to ensure that the procedural safeguards and rights of participation recommended for care proceedings are also applicable to family proceedings, so that parents and children receive the same protections under both systems.

2.23 The Review of Child Care Law also made proposals for the reform of supervision orders made in care proceedings and recommended that certain aspects of supervision orders made in family proceedings be given further consideration. These were the circumstances in which supervision may be ordered; the powers of the court on ordering supervision; whether the court should state the purpose of supervision when an order is made; the powers and duties of the supervisor; and the duration of the order. The working paper examines these and related issues. It recognises that supervision orders in family proceedings are sometimes made for child protection purposes and sometimes to help the family over problems such as access. Hence its provisional recommendations would bring some supervision orders in family proceedings closer to those made in care proceedings but would not wholly assimilate the two.

2.24 Finally, the working paper suggests a uniform scheme for interim orders for custody and access across all the custody jurisdictions. It also makes recommendations designed to discourage delay in hearing these cases, since children may be harmed by leaving matters in the hands of the adult parties. It is provisionally proposed to oblige courts to set a fixed date for a further hearing or trial of the issue, and to prescribe a certain maximum time period of, say, three months, within which the case should be heard, with only a limited provision for extensions. Pending the hearing the court would be able to make such orders as to custody, care and control or access as it thinks are in the child's best interests.

Wards of Court

2.25 The Working Paper on Wards of Court²⁴ was the fourth and final in the series on child law. We are grateful to Mr. Duncan Gordon, a former member of the Family Law team at the Commission, for his valuable work on this project and to all those who helped him with his enquiries. After the working paper was published, we held a seminar in May 1987, in order to give those interested an early opportunity to react to the matters discussed in the paper. We would like to thank the speakers, Sir John Arnold (then President of the Family Division), Professor J. M. Thomson (University of Strathclyde), Mrs. Susan Maidment (Barrister) and Mr. Peter Jones (Solicitor), and all who attended for their contributions.

2.26 The working paper examines the ancient jurisdiction under which children become wards of court and discusses the effect upon its present uses of proposals to reform the statutory procedures relating to children in public and private law. Although in theory wardship is universally available to protect children and safeguard their welfare, and so may be invoked by local authorities when their statutory powers are insufficient, the courts will not allow it to be used so as to conflict with the statutory responsibilities of local authorities and this can cause confusion and injustice to the families involved. Other problems may result from duplication and conflicts with other jurisdictions, from expense and from delay.

2.27 The paper puts forward three basic approaches to reform. One would retain wardship as a separate jurisdiction, while making some specific reforms aimed at eliminating possible sources of injustice. The second would seek to make wardship a genuinely residual jurisdiction, confined to cases where no other remedy is suitable or available. The third would abolish wardship as a separate jurisdiction, while incorporating its most valuable features into the statutory procedures.

2.28 There has been increasing interest in the wardship jurisdiction during 1987, including several decisions of the European Court of Human Rights in the field of child care²⁵ and the decision of the House of Lords in *Re B. (A Minor) (Wardship: Sterilisation)*.²⁶ We are keeping these developments under review and hope to examine the question of delays in more detail before making any final recommendations for reform.

²³*The Law on Child Care and Family Services* (1987) Cm. 62.

²⁴(1987) Working Paper No. 101.

²⁵*O. v. United Kingdom*, 2/1986/100/148; *H. v. United Kingdom*, 3/1986/101/149; *W. v. United Kingdom*, 4/1986/102/150; *B. v. United Kingdom*, 5/1986/103/151; *R. v. United Kingdom*, 6/1986/104/152; all 8 July 1987.

²⁶[1987] 2 W.L.R. 1213, [1987] 2 All E.R. 206.

Review of Child Care Law

2.29 Following the publication of the White Paper on the Law of Child Care and Family Services²⁷ we have continued to assist the Department of Health and Social Security with its review of Child Care Law²⁸ and the formulation of proposals for changes in the law.

Ground for Divorce

2.30 We are pursuing our work on ground for divorce and have continued to be greatly assisted by Mrs. Rhona Schuz, a lecturer in law at the London School of Economics and Political Science. Work is now well advanced on a discussion document which we hope to publish during 1988.

Publicity and Children in Litigation

2.31 We are investigating the law and practice in different courts relating to the identification of or publication of other information about children involved in litigation. We are most grateful to Helen Galas and to the Polytechnic of Central London, where she is a lecturer, for giving us her help with this project.

Rights of Occupation of the Matrimonial Home and Domestic Violence

2.32 We have begun a 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. We hope to publish a discussion paper in 1988.

Conciliation

2.33 The Family Law team has responded to the consultation paper issued by the Conciliation Project Unit at the University of Newcastle-upon-Tyne which was established by the Lord Chancellor in 1985 to research this area.

Property Law

Land Registration

2.34 We published our Third Report on Land Registration²⁹ in April 1987. It deals with Overriding Interests, Rectification and Indemnity and Minor Interests.

2.35 Work continues on the new land registration legislation; comments from H.M. Land Registry and elsewhere have been obtained and incorporated into a Bill which Counsel has now completed drafting. The Bill will be submitted in the course of 1988 together with a short explanatory report.

2.36 The examination of the statutory implied covenants for title in registered land continues.

2.37 A Bill to give effect to the "open register" report³⁰ was introduced by Lord Templeman on 5 November 1987. It received an unopposed Second Reading on 25 November. Some technical amendments were made at the Committee Stage on 16 December.

Formalities for Contracts for Sale etc. of Land

2.38 Our working paper³¹ was published in September 1985, and we published a report³² on 30 June 1987. In it we recommend that it should no longer be possible to make a valid oral contract for the sale or other disposition of land, but that all such contracts should be made in writing, signed by all the parties to the contract. The report contains a draft Bill to this effect.

²⁷(1987) Cm. 62.

²⁸The reasons for the Law Commission's involvement were explained in the Twentieth Annual Report 1984-1985 (1986), Law Com. No. 155, paras. 2.60-2.63.

²⁹(1987) Law Com. No. 158.

³⁰Second Report on Land Registration: Inspection of the Register, (1985) Law Com. No. 148.

³¹(1985) Working Paper No. 92.

³²(1987) Law Com. No. 164.

Formalities for Deed and Escrows

2.39 As in the case of Formalities for Contracts for Sale etc. of Land, our Report on Formalities for Deeds and Escrows³³ was published on 30 June 1987 and took account of comments on the working paper³⁴ we published in September 1985. In the report we recommend that the formalities for execution of a deed by an individual should be changed from signature, sealing and delivery, to a signature in front of a witness, delivery and a requirement that it be clear on the face of the document that it is intended to be a deed. This latter requirement is to apply to deeds executed by corporations, but otherwise they are unaffected. We do not recommend any change to the law of escrows but instead propose that it should no longer be necessary to use a deed to confer authority upon an agent to deliver a deed, and that in certain conveyancing transactions purchasers should be entitled to assume that a conveyancer has authority to deliver a deed on behalf of his client. The report contains a draft Bill to implement these recommendations.

The Rule in Bain v. Fothergill

2.40 The rule in *Bain v. Fothergill*³⁵ restricts the damages recoverable by a purchaser of land for breaches of contract by the vendor occasioned by defects in his title. A working paper³⁶ was published in August 1986, which suggested abolishing the rule, and the Court of Appeal³⁷ expressed approval of this proposal. A report³⁸ recommending abolition, with a draft Bill attached, was published on 30 July 1987.

Trusts of Land

2.41 Following publication of the working paper³⁹ we have received a number of interesting and detailed comments. We have now analysed these comments and have decided our policy. A report and Bill are being prepared. We will also be looking at two additional areas not covered in the working paper. The important decision of *City of London Building Society v. Flegg*⁴⁰ has led us to look at the topic of overreaching of equitable interests. We will publish a working paper on this shortly. We have also considered the impact of the Recognition of Trusts Act 1987 on the choice of law for trusts of land, but have decided no further action is needed now.

Title on Death

2.42 Professor Alan Prichard of Nottingham University prepared a draft working paper for us on the problems of dealing with land following the death of the owner. We are most grateful to Nottingham University for enabling him to spend a sabbatical term working on this. The draft was discussed by Commissioners and published⁴¹ in December 1987.

Mortgages

2.43 A working paper on the law of land mortgages⁴² was published in October 1986. The paper covers all aspects of land mortgages from the formalities for creating them to protection of borrowers. We are most grateful to Alison Clarke, solicitor and then lecturer in law at Southampton University, who has prepared and written the paper while on secondment to us. We have received comments from a wide range of people and organisations and have held a seminar at which interests were broadly represented. The comments have been analysed and a policy meeting held. Instructions to Counsel and a draft report are now being drafted, with a view to publishing a final report in 1989.

Covenants for Title in Unregistered Land

2.44 It has been suggested that the implied covenants for title in the Law of Property Act 1925 involve considerable technical difficulties and are drafted in an incomprehensible and outdated style. Accordingly, we have begun considering this aspect of conveyancing and hope to publish a working paper during 1988.

³³(1987) Law Com. No. 163.

³⁴(1985) Working Paper No. 93.

³⁵(1874) L.R. 7 H.L. 158.

³⁶(1986) Working Paper No. 98.

³⁷*Sharneyford Supplies Ltd. v. Edge* [1987] 2 W.L.R. 363, [1987] 1 All E.R. 588.

³⁸(1987) Law Com. No. 166.

³⁹(1985) Working Paper No. 94.

⁴⁰[1987] 2 W.L.R. 1266, H.L., [1987] 3 All E.R. 435.

⁴¹(1987) Working Paper No. 105.

⁴²(1986) Working Paper No. 99.

Passing of Risk from Vendor to Purchaser

2.45 Once a contract for the sale of land is made, the purchaser becomes subject to the risk that the land (including buildings) may suffer damage through fire or otherwise, even though legal ownership and the right to take possession do not pass until completion. He is, therefore, usually advised to insure the property straightaway. However, the vendor generally continues to insure the property also until completion, so that the same risks are insured twice. This seems to be an unnecessary duplication of expense. Incurred in many thousands of transactions each year it adds greatly to the overall cost of conveyancing. Consideration of this particular issue has led us to believe that it is worth examining generally the position of vendor and purchaser between contract and completion. We have asked Mark Thompson, lecturer in law at Leicester University, to prepare a draft working paper for approval, which we hope will be published in early 1988.

Obsolete Restrictive Covenants

2.46 Following the consultation carried out by the Conveyancing Standing Committee on the problems caused by obsolete restrictive covenants and some possible solutions, the Commission has analysed the comments and decided its policy. A draft report and instructions to Counsel are now being prepared, with a view to publishing a final report in 1989.

Use of Powers of Attorney by Trustees

2.47 The extent to which trustees can delegate their powers by power of attorney, to whom they can be delegated and the appropriate form to use are all questions which have arisen recently.⁴³ A working paper is being prepared for publication during 1988.

Beneficial Ownership

2.48 The beneficial ownership of property behind a trust gives rise to many difficulties, particularly where co-ownership is involved. For example, difficulties may arise as to whether the co-owners are joint tenants or tenants in common, and, if the former, what methods of severance are available. We are undertaking a preliminary study of this area. Alison Real, lecturer in law on secondment to us from Brunel University, is preparing a paper and we are grateful for her help.

Housing Cases

2.49 During the year, a response was sent to the consultation paper on Housing Cases, sent to us by your Department as part of the Civil Justice Review. We are grateful to Alison Clarke who played a large part in preparing the response.

Security over Property other than Land

2.50 During the year the Commission responded to the consultation paper on security over movable property published by the Department of Trade and Industry. The paper is part of Professor Aubrey Diamond's review of the law regulating the rights and liability of lenders, borrowers and interested third parties in credit transactions on the security of property other than land. We were particularly interested in the relationship between this review and our own work on land mortgages. We look forward to seeing the results of Professor Diamond's review in due course.

Conveyancing Standing Committee

2.51 The Second Annual Report of the Conveyancing Standing Committee to the Law Commission is published with this report.

Landlord and Tenant Law

Landlord and Tenant: Reform of the Law

2.52 This report,⁴⁴ published on 29 May 1987, reviews the present state of the law and identifies some of the rules in need of reform. Being a preliminary survey, the report contains no detailed recommendations for reform. Its aim is to draw attention to those matters which now seem to cause inconvenience or injustice so as to enable informed decisions to be taken about the importance, urgency and relative priorities of the tasks and who should undertake

⁴³See *Walia v. Michael Naughton Ltd.* [1985] 1 W.L.R. 1115, [1985] 3 All E.R. 673, and s.3(3) of the Enduring Powers of Attorney Act 1985.

⁴⁴(1987) Law Com. No. 162.

them. Responses to the report—aimed at guiding future landlord and tenant work—are being received.

Privity of Contract and Estate

2.53 Our working paper,⁴⁵ published in June 1986, provisionally concluded that the privity of contract rule⁴⁶ should be abrogated so that covenants in leases would bind the parties for only as long as they had an interest in the property. The response received on consultation has been analysed and we have considered the policy for the report. Work is proceeding with a view to completion of the report in 1988.

Distress for Rent

2.54 Our working paper,⁴⁷ published in August 1986, reviewed the law relating to the ancient remedy of distress for rent⁴⁸ and considered the possible directions for reform. Our provisional conclusion was that distress for rent should be abolished. Following the preparation of a detailed analysis of the comments received on consultation, we are re-assessing the policy options for reform. We expect to submit our report in 1988. Members of the Commission responded to your Department's consultation on revisions to the Distress for Rent Rules.

Compensation for Tenants' Improvements

2.55 Under Part I of the Landlord and Tenant Act 1927 tenants of business premises who improve the property can, in certain circumstances, obtain compensation from their landlords when they quit the premises. Residential tenants have no such compensation rights. Our working paper⁴⁹ reviewing this area of the law was published in May 1987 with a request for comments by the end of September 1987. We provisionally recommended that: (a) business tenants should retain their compensation rights but the statutory scheme should be simplified and improved; and (b) there should be no similar statutory rights for residential tenants to claim compensation from their landlords.⁵⁰ We are now analysing the replies received on consultation, and hope to publish our report during 1988.

"Commonhold" Legislation Working Group

2.56 As explained in our last annual report,⁵¹ in May 1986 a Working Group composed of members of various Government Departments was established under the chairmanship of Trevor Aldridge "to put forward a scheme to regulate relations between the owners of separate properties which lie in close proximity to each other and are interdependent." The Working Group's report⁵² was published on 22 July 1987. It recommends that a statutory scheme of "commonhold" ownership⁵³ be introduced to enable people to buy flats⁵⁴ on a permanent, freehold basis, with, co-operatively, ownership interests and responsibilities in relation to property and facilities used in common. Mrs. Angela Sydenham, solicitor and senior lecturer in law at the Polytechnic of North London, was seconded to us to act as secretary of the Working Group.

Business Tenancies

2.57 Part II of the Landlord and Tenant Act 1954⁵⁵ gives security of tenure to business and professional tenants by providing for the continuation and renewal of such tenancies subject to certain conditions. In our last annual report,⁵⁶ we indicated that we had commenced preliminary work to ascertain whether, and if so how, the provisions of Part II of the 1954 Act could usefully be reformed without undermining the basic balance of landlord and tenant

⁴⁵(1986) Working Paper No. 95.

⁴⁶i.e. the rule that the original parties to a lease remain liable to perform their respective obligations throughout the period for which the lease was granted, even after they have parted with all interest in the property.

⁴⁷(1986) Working Paper No. 97.

⁴⁸In brief, this remedy entitles a landlord whose tenant is in arrears with payment of rent to seize goods on the property, whether belonging to the tenant or a third party, and to sell them in order to satisfy the debt for outstanding rent.

⁴⁹(1987) Working Paper No. 102.

⁵⁰The working paper is not concerned with the compensation provisions of the Agricultural Holdings Act 1986.

⁵¹Twenty-First Annual Report 1985-1986 (1987), Law Com. No. 159, para. 2.49.

⁵²(1987) Commonhold: Freehold Flats and Freehold Ownership of other Interdependent Buildings, Cm. 179.

⁵³This is an adaptation for England and Wales of the American condominium system, also known in Australia as "strata titles".

⁵⁴Or subdivided parts of a building put to other uses.

⁵⁵This Act was amended by Part I of the Law of Property Act 1969 which implemented the recommendations contained in our report on the Landlord and Tenant Act 1954 Part II; (1969) Law Com. No. 17.

⁵⁶Twenty-First Annual Report 1985-1986 (1987), Law Com. No. 159, para. 2.50.

interests enshrined in the legislation. Since then we have considered a policy paper as to the scope of the exercise. We intend to publish a working paper during the course of 1988.

Leasehold Conveyancing

2.58 A Bill has been prepared, together with a short report which implements the recommendation in our earlier report on Covenants against Dispositions⁵⁷ that landlords should be under a duty not to withhold consent unreasonably to a disposition where there is a covenant in the lease that the tenant may not assign etc. without consent. We published our report⁵⁸ on 19 May 1987. On 7 December 1987 Lord Coleraine introduced in the House of Lords a Bill based on the one in our report. It was given a Second Reading on 16 December 1987.

Private International Law

Choice of Law in Tort and Delict

2.59 We published a consultation paper⁵⁹ on this subject jointly with the Scottish Law Commission in December 1984. The consultation paper was the work of a joint Working Party and was described in our Nineteenth Annual Report.⁶⁰ Some provisional decisions of principle on the main issues were taken at the 1986 Annual Joint Meeting with the Scottish Law Commission. Further decisions were provisionally reached at a joint team meeting in July 1987. In view of the complexity and implications of any reform and the fact that several controversial matters still remain open, a comprehensive review of decisions taken hitherto is being made.

Choice of Law Rules in Marriage

2.60 We published a report⁶¹ on this subject jointly with the Scottish Law Commission on 2 July 1987. The report concludes that it would not be desirable at the present time to introduce major legislative reform, and a comprehensive restatement, of the marriage choice of law rules. The report, however, makes recommendations for the reform of some provisions of the legislation (Foreign Marriage Act 1892) governing the celebration abroad of consular marriages and of marriages of members of British Forces. It also recommends the repeal of certain obsolete Acts (passed before 1892) relating to the validation of certain foreign marriages. A draft Bill accompanies the report to give effect to the appropriate recommendations.

Domicile

2.61 In September 1987 we published, jointly with the Scottish Law Commission, a report⁶² on this subject with a draft Bill appended to give effect to our recommendations. The essential purpose of domicile is to connect a person with the law of the country in which he has his home permanently or indefinitely. The report concludes that domicile should be retained as a connecting factor in all parts of the United Kingdom and should not be replaced by a different factor, such as nationality or habitual residence; but that the present complex, technical and often artificial rules relating to the acquisition and loss of a domicile should be substantially reformed. In particular, the report recommends that: (a) a person under 16 should be domiciled in the country with which he is most closely connected at the time when his domicile has to be determined; rebuttable presumptions should be introduced to assist in determining the country of closest connection; (b) an adult, i.e. a person aged 16 or over, should be able to establish a new domicile by going to a new country and showing an intention to settle in that country for an indefinite period; (c) an adult's domicile should continue until a new domicile is acquired; and (d) an adult who lacks mental capacity to acquire a domicile should be domiciled in the country with which he is for the time being most closely connected.

Joint Team Projects

Matrimonial Property

2.62 We published a working paper⁶³ in April 1985 on the law relating to transfer of money between spouses. Following consideration of our proposals in the light of the comments received, we asked those who had responded for their comments on revised proposals. We hope to submit our report early in 1988.

⁵⁷(1985) Law Com. No. 141.

⁵⁸(1987) Law Com. No. 161.

⁵⁹(1984) Working Paper No. 87, Consultative Memorandum No. 62

⁶⁰(1985) Law Com. No. 140, paras. 2.56-2.58.

⁶¹(1987) Law Com. No. 165, Scot. Law Com. No. 105.

⁶²(1987) Law Com. No. 168, Scot. Law Com. No. 107.

⁶³(1985) Working Paper No. 90.

Distribution of Property on Intestacy

2.63 Your Department asked us to undertake an examination of the provisions governing the share of the estate which the surviving spouse receives when the deceased dies intestate. At present the spouse receives a lump sum and a life interest in half the residue if there are surviving issue, or a larger lump sum and half the residue if there are no surviving issue but other specified relatives. One particular problem is that although the amounts of the lump sums are raised periodically, they are not always enough for the spouse to retain the matrimonial home, especially if the deceased was the sole owner. We have made a preliminary study of the area and decided to undertake a project which covers distribution of property on intestacy generally. We hope to publish a working paper in early 1988.

Relationship Breakdown Working Party

2.64 The Law Commission is participating in the Working Party set up by the Department of the Environment to advise Ministers on the options for reform to deal with the difficulties which occur in the public housing sector when family units break down.

Video Evidence in Cases of Alleged Child Abuse

2.65 The Family Law and Criminal Law teams have responded to the Home Office's consultation paper on "The Use of Video Technology at Trials of Alleged Child Abusers".

Warnock Report

2.66 In 1986, the Government published a consultation paper⁶⁴ on certain of the proposals of the Committee of Inquiry into Human Fertilisation and Embryology.⁶⁵ The Family and Property Law teams have provided your Department with an options paper dealing with the implications for status and property law of births resulting from artificial reproductive techniques. That paper formed the basis of the Department's policy consideration. The Government's proposals have now been published in a White Paper.⁶⁶

Treasure Trove

2.67 In recent years we have received a number of requests to consider how the law of treasure trove could be made more effective in protecting articles of historical and archaeological interest; in response we prepared a paper, published in September 1987, in which we considered the law reform issues involved.

2.68 Our conclusion was that in a number of respects the law needed changing but that it was inappropriate to make any proposals until underlying questions of policy and resources were decided. Accordingly we recommended that an interdepartmental committee should consider those questions and offered to assist with advice on reform of any aspects of the law involved.

Statute Law

The Statute Book

2.69 The state of the Statute Book was one of the most intractable problems the Law Commission had to face in its earliest days.⁶⁷ Largely as a result of the efforts of our first Chairman, Lord Scarman, the Statute Law Committee decided to authorise a new official edition of the statutes to be known as Statutes in Force. The aim of the new edition was to produce an official version of statutes continuously and speedily up-dated. Lord Scarman was appointed the first Chairman of the Editorial Board in 1968 and presided over practically all the seventy-six meetings of the Board until he retired on 10 December 1987. It is appropriate, we feel, to record his outstanding efforts to improve the presentation and accessibility of the Statute Book. Largely because the increased resources necessary to achieve the aims of the Edition in full have not been available, it is still the case that a significant portion of Statutes in Force is not up-to-date. The advent of modern information technology, however, presents a unique opportunity to overcome previous difficulties. If it is grasped, Statutes in Force could form an important base from which to work.

⁶⁴*Legislation on Human Infertility Services and Embryo Research*, A Consultation Paper (1986) Cm. 46.

⁶⁵(1984) Cmnd. 9314.

⁶⁶(1987) Cm. 259.

⁶⁷First Annual Report 1965-1966 (1966), Law Com. No. 4, paras. 135, 139; Second Annual Report 1966-1967 (1967), Law Com. No. 12, paras. 123, 124.

Consolidation

2.70 For the first time for many years we have had a blank year for enacted consolidations (other than consolidations relating only to Scotland). One consolidation (the Conveyancing Services Bill) was introduced in the Session 1986/87 but it fell with the calling of the general election.

2.71 Despite appearances, the consolidation programme is still thriving. The regular cycle of Bills ready for introduction was disrupted by a combination of a shortage of draftsmen, exacerbated by two unexpected retirements, and the recent spate of enormous consolidations — which includes the Companies Act 1985 and related enactments, the Housing Act 1985 and related enactments, and the Insolvency Act 1986. However, there are a number of large consolidations in the pipeline.

2.72 The Coroners Bill, which consolidates the Coroners Acts and related enactments,⁶⁸ has now been introduced, as has the Income and Corporation Taxes Bill which, at 1041 pages, is the longest consolidation produced by the Commission, and the longest Bill ever introduced.⁶⁹

2.73 Other consolidation Bills which are likely to be introduced in this, or the following, Session are:

- Charitable Appeals and Collections
- Conveyancing Services
- Three Road Traffic Bills
- Sea Fisheries
- Three Social Security Bills.

2.74 Work has begun on a large consolidation of the Acts relating to town and country planning and on a reconsolidation of the Tribunals and Inquiries Act 1971. It is our intention to start on a consolidation of the statutory provisions relating to capital allowances in 1988.

2.75 Although the number of pages of consolidations enacted in this and the following Session will almost certainly be substantial, it must be expected that the pace of consolidation will slow significantly if the Commission continues to be short of draftsmen.

Statute Law Revision

2.76 Following the enactment of the Statute Law (Repeals) Act 1986, work has been in progress, in collaboration with the Scottish Law Commission, on the preparation of a further joint report and draft Statute Law (Repeals) Bill. The Bill will implement a project to rationalise the local legislation of the former metropolitan county of South Yorkshire, as it applies to successor authorities, and projects covering a wide field of general legislation, including the administration of justice. The Bill is expected to be ready later this Session.

2.77 Work is also proceeding on projects to rationalise the local legislation of Greater Manchester and of the City and County of Nottingham. Work on the Greater Manchester project is being undertaken by the Statute Law Research Unit of Manchester Polytechnic. These projects are expected to result in a substantial body of repeal proposals which will form the nucleus of a later Bill.

2.78 Whenever it is convenient to do so, proposals for the repeal of redundant statutory provisions are incorporated in Bills dealing with the topic concerned. Currently contributions have been made to the Criminal Justice Bill, the Coroners Bill, the Copyright, Designs and Patents Bill and a draft Foreign Marriage (Amendment) Bill. The Department of Health and Social Security has accepted our suggestion that section 4 of the Emergency Laws (Re-enactments and Repeals) Act 1964, which enables provision to be made for the supply of welfare foods, should be located within the social security legislative framework.⁷⁰ The provision was originally introduced by Defence Regulations, but its location in emergency legislation is inappropriate and indeed misleading.

2.79 During the year under review the statute law revision team made a preliminary study of the statute law governing criminal procedure in England and Wales in order to assess the practicability of preparing a comprehensive consolidation. The law is widely dispersed, its

⁶⁸See (1987) Law Com. No. 167.

⁶⁹The Income and Corporation Taxes Act 1988 received the Royal Assent on 9 February 1988.

⁷⁰See Social Security Bill, clause 12 and Schedule 5.

arrangement is unhelpful and a consolidation would be most useful to all concerned with the criminal process. The drafting resources which would be needed to undertake this major project are not at present available, but the work which has been done has identified several possibilities for smaller consolidations in areas where the law is particularly in need of being brought together in a coherent manner.

Local Legislation Working Party

2.80 The Local Legislation Working Party,⁷¹ which reports to the Statute Law Committee, met in July 1987 to consider proposals for improving the local statutory instruments system. The system has remained largely unchanged since 1890, and it creates formidable difficulties, even to specialists, in obtaining access to areas of permanent law amending or replacing Acts of Parliament. With the agreement of the Statutory Publications Office, recommendations for improvements which could be made immediately are being submitted to the Statute Law Committee. Proposals of a more far-reaching nature to change the system of classifying statutory instruments will be the subject of wider consultation. The Working Party also discussed proposals aimed at phasing out the use of the Companies Clauses Acts 1845 to 1888 in local legislation. This adoptive code was originally introduced as a measure to shorten and simplify the statute law on companies, but it has itself become a source of legislative bulk and complexity, it has not been kept up to date and it complicates the process of implementing EC Directives on companies. The Department of Trade and Industry sees no objection and much advantage in the principle of phasing out the code. Further consideration is therefore being given to the means by which this might be done.

Chronological Table of Local Legislation

2.81 The detailed text of the first stage of the project was distributed⁷² in 1985 to those particularly concerned with the preparation of legislation, or the operation of local statute law, and to selected libraries and record offices. In response to replies received during consultation the main collection of permanent and important local statutory instruments was examined in 1986. In the past year local Acts passed between 1880 and 1925⁷³ have been examined and their effects have been recorded.

2.82 Work is well advanced on the second stage of the project which will be an amalgamation of the information in the first stage, and the results of recent research, with that contained in section 4 of the *Chronological Table of the Statutes*, which covers a later research period. The amalgamated text will include a complete list of local Acts passed since 1797 and will record the detailed effects of all legislation passed in the twentieth century and of much of the nineteenth century legislation. The text for the period 1797-1850 has been completed, and work on that for the period after 1850 has begun.

⁷¹The present membership is listed in Appendix 2. Its terms of reference are: To examine the problems of the local statute law in England and Wales and in Scotland, to report on the options for advancing the process of rationalising and reforming it and to make recommendations for consideration by the Statute Law Committee.

⁷²*Chronological Table of Local Legislation* (1985), 2 vols., 781 pp.

⁷³The first stage of the project covers the effects of legislation passed during the period 1925-1973.

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 on 31 December 1987.

Lawyers

3.2 The Commission has a small permanent core of twelve civil service lawyers. It is augmented by three draftsmen serving on secondment from the Office of the Parliamentary Counsel, and we have also been fortunate to have the services of a visiting Australian draftsman. One lawyer from H.M. Land Registry served on secondment until the end of 1987.

3.3 In addition three lawyers¹ from universities have been serving on secondment, we have had the services of four sandwich students and thirteen research assistants have been recruited for terms of up to three years from universities, polytechnics and the profession.

Consultants

3.4 During the year the work of the Commission has been greatly assisted by Helen Galas (Polytechnic of Central London), Dr. Peter North (Jesus College, Oxford), Professor Alan Prichard (Nottingham University), Dr. F. M. B. Reynolds (Worcester College, Oxford), Mrs. Rhona Schuz (London School of Economics), Mr. R. J. Smith (Magdalen College, Oxford), Mrs. Angela Sydenham (Polytechnic of North London), Mr. V.W. Taylor, F.R.I.C.S., Mr. Mark Thompson (Leicester University), Mr. M. Wasik (Manchester University) and the members of the Code Group of the Society of Public Teachers of Law (Professor J. C. Smith, Professor Ian Dennis and Professor Edward Griew). The Commission has also received valuable help from two retired civil servants: Sir Wilfrid Bourne, K.C.B., Q.C. and Mr. D. S. Gordon; from Mr. J. S. Phipps, a retired Chief Executive of Leicester City Council; and from two former research assistants, Mr. Peter de Val and Miss Sally Hatfield.

Law Under Review

3.5 In our Twenty-First Annual Report² we expressed a desire to promote greater co-ordination among departments and others engaged in law reform projects. The possibility of the Commission publishing information on Government law reform projects was raised. As a result, we have for the past year been producing *Law Under Review*. This is a quarterly bulletin which gives up-to-date summaries of Government law reform projects, with details of progress made, consultation, and contacts for further information. Although primarily intended for circulation to Government Departments, *Law Under Review* is also available to private subscribers.

Library

3.6 The Librarian and her staff, in addition to their routine duties, are responsible for the production of *Law Under Review*, and they continue to provide valuable assistance to the Commissioners and legal staff both in current research and in bringing new and relevant material to their attention. The library has acquired a micro-computer on which it is intended to build up a data base of information on law reform publications.

3.7 We are grateful to many libraries, in particular that of the Institute of Advanced Legal Studies, for loans and photocopies of items not available in Conquest House. We also assist many other libraries in this way.

Annual Meetings

3.8 The Commission continues to work in close co-operation with the Scottish Law Commission, and we held our joint annual meeting in London on 28 and 29 April 1987. The Commission has also had meetings with other legal bodies in order to benefit from mutual exchange of views, and there have been useful meetings between individual Commissioners and representatives of the Bar and The Law Society.

¹See paras. 2.13, 2.43 and 2.48 above.

²(1987) Law Com. No. 159, paras. 1.9-1.12.

Law Reform Commission of Canada

3.9 On 30 July 1987 we were fortunate to have a meeting with the Law Reform Commission of Canada when they visited this country. The names of those who attended are shown in Appendix 3. A member of the Scottish Law Commission, Sheriff Gordon Nicholson, Q.C., also attended the meeting.

Visitors from Overseas

3.10 A list of visitors from overseas during the year can be found in Appendix 3.

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

MICHAEL COLLON, *Secretary*
28 January 1988

APPENDIX 1

RESPONSIBILITIES FOR COMMISSION PROJECTS

Contract Law

Mr. B. J. Davenport, Q.C., Mr. J. Cooper.

Criminal Law

Chairman, Mr. B. J. Davenport, Q.C., Mr. M. N. Farmer, Mr. A. Cope, Professor E. J. Griew, Mr. J. P. Chapman, Miss B. Palmer.

Family Law

Professor B. M. Hoggett, Mr. P. G. Harris, Miss L. Mulcahy, Miss M. Silver, Miss R. Swales, Miss S. A. Weston.

Property Law

Professor J. T. Farrand, Mrs. C. M. Hand, Mr. M. Wear, Miss C. A. Lonsdale, Alison Clarke, Miss A. Real, Miss S. Gilding, Miss J. Lamb, Miss S. Pemberton.

Landlord and Tenant Law

Mr. T. M. Aldridge, Mr. A. Akbar, Miss D. Oxtoby, Mr. T. Fox.

Private International Law

Mr. B. J. Davenport, Q.C., Professor B. M. Hoggett, Mr. A. Akbar, Mr. J. Cooper.

Statute Law

Consolidation: Chairman, Mr. E. G. Caldwell, Mrs. M. Leates, Mr. J. R. Sarvaas,¹ Mr. E. R. Sutherland, Miss R. Crossman.

Statute Law Revision (including Local Legislation): Chairman, Mr. R. H. Streeten, Mr. R. Maitland, Mr. A. M. Rowland, Mr. M. Bratton, Mr. P. Kohler.

¹A visiting Australian draftsman. See para. 3.3 above.

APPENDIX 2

MEMBERSHIP OF WORKING PARTIES

Local Legislation Working Party

The Hon. Mr. Justice Beldam, <i>Chairman</i>	Law Commission
The Hon. Lord Maxwell	Scottish Law Commission
Mr. B. J. Davenport, Q.C.	Law Commission
Mr. H. W. Gamon, C.B.E., M.C.	Society of Parliamentary Agents
Mr. J. G. S. Maclean (as alternate for Lord Maxwell)	Scottish Law Commission
Mr. R. J. B. Morris (from June 1987)	Chief Executive and Town Clerk, Northampton Borough Council
Mr. D. Rippengal, C.B., Q.C.	Counsel to Chairman of Committees
Mr. R. H. Streeten	Law Commission
Mr. M. J. Ware, C.B.	Solicitor, Department of the Environment
Mr. A. M. Rowland, <i>Secretary</i>	Law Commission

Commonhold/Land Obligations Working Group

Members

Mr. T. M. Aldridge, <i>Chairman</i>	Law Commission
Mr. J. Cane	Department of the Environment
Mr. A. Hermon	Lord Chancellor's Department
Mr. I. Lewis	Treasury Solicitor's Department
Miss J. Liesching	Department of Trade and Industry
Mr. J. Walker	Department of Trade and Industry
Mr. M. Wood	H.M. Land Registry

Secretariat

Mrs. A. Sydenham, <i>Secretary</i>	Law Commission
Miss S. Weston	Law Commission

APPENDIX 3

VISITORS FROM OVERSEAS

Among the visitors to the Law Commission from overseas in the period 1 November 1986 to 31 October 1987 were:

- Mr. W. G. Briscoe (Research Director, Law Reform Commission of Tasmania)
- Mr. B. Chamberlain (Shadow Attorney-General, Victoria, Australia)
- Mr. S. Cohen (Project Co-Ordinator, Law Reform Commission of Canada)
- Mr. J. Frecker (Commissioner, Law Reform Commission of Canada)
- Mr. F. Handfield (Project Co-Ordinator, Law Reform Commission of Canada)
- The Hon. Mr. H. B. Jallow (Attorney-General and Minister of Justice, The Gambia)
- Mr. R. Keane (President, Law Reform Commission of Ireland)
- Mr. G. Letourneau (Vice-President, Law Reform Commission of Canada)
- Professor A. M. Linden (President, Law Reform Commission of Canada)
- Mr. J. Maingot (Commissioner, Law Reform Commission of Canada)
- Ms. M. Rayner (Commissioner, Law Reform Commission of Western Australia)
- Mr. G. Shubert (Director, Institute for Civil Justice, California, U.S.A.)
- Mr. J. L. Spier (Administrator, Ministry of Economic Affairs, Netherlands)
- The Hon. Mr. Justice Woodhouse (Chairman, Law Commission of New Zealand)

APPENDIX 4

List of the Law Commission's Publications

A. Working Papers

<i>Working Paper</i>	<i>Title</i>	<i>Resulting Report</i>
1966		
No. 1	Transfer of Land: Root of Title to Freehold Land	Law Com. No. 9.
No. 2	Draft Proposals on Powers of the Court of Appeal to Sit in Private and Restrictions upon Publicity in Legitimacy Proceedings	Law Com. No. 8.
No. 3	Restrictive Covenants	Law Com. No. 11.
No. 4	Should English Wills be Registrable?	
No. 5	Liability of Trade Vendors of New Dwelling Houses to First and Subsequent Purchasers (First Paper)	Law Com. No. 40.
No. 6	Liability of Vendors and Lessors for Defective Premises (Second Paper)	Law Com. No. 40.
1967		
No. 7	Provisional Proposals for Amendments to the Landlord and Tenant Act 1954, Part II (Business Tenancies)	Law Com. No. 17.
No. 8	Provisional Proposals Relating to Obligations of Landlords and Tenants	Law Com. No. 67.
No. 9	Family Law: Matrimonial and Related Proceedings—Financial Relief	Law Com. No. 25.
No. 10	Proposals for Changes in the Law Relating to Land Charges affecting Unregistered Land and to Local Land Charges	Law Com. Nos. 18 and 62.
No. 11	Powers of Attorney	Law Com. No. 30.
No. 12	Proof of Paternity in Civil Proceedings	Law Com. No. 16.
No. 13	Exploratory Working Paper on Administrative Law	Law Com. No. 20.
No. 14	Interpretation of Statutes (Joint Working Paper—Scottish Law Commission Memorandum No. 6)	Law Com. No. 21.
1968		
No. 15	Family Law: Arrangements for the Care and Upbringing of Children	
No. 16	Provisional Proposals Relating to Termination of Tenancies	Law Com. No. 142.
No. 17	Codification of the Criminal Law: General Principles. The Field of Enquiry (See Law Com. No. 143)	
No. 18	Provisional Proposals Relating to Amendments to sections 12–15 of the Sale of Goods Act 1893 and Contracting Out of the Conditions and Warranties implied by those sections (Joint Working Paper—Scottish Law Commission Memorandum No. 7)	Law Com. No. 24.
No. 19	Loss of Services	Law Com. Nos. 25 and 56.
No. 20	Nullity of Marriage	Law Com. No. 33.
No. 21	Polygamous Marriages	Law Com. No. 42.
1969		
No. 22	Restitution of Conjugal Rights	Law Com. No. 23.
No. 23	Malicious Damage to Property	Law Com. No. 29.
No. 24	Transfer of Land: Rentcharges (See also Working Paper No. 49)	Law Com. No. 68.
1970		
No. 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.
No. 26	Criminal Law: Forgery	Law Com. No. 55.

<i>Working Paper</i>	<i>Title</i>	<i>Resulting Report</i>
No. 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.
No. 28	Family Law: Jurisdiction in Matrimonial Causes (other than Nullity)	Law Com. No. 48.
No. 29	Codification of the Criminal Law: Subject III. Territorial and Extra-Territorial Extent of the Criminal Law	Law Com. No. 91.
No. 30	Codification of the Criminal Law: Strict Liability and the Enforcement of the Factories Act 1961	
No. 31	Codification of the Criminal Law: General Principles. The Mental Element in Crime	Law Com. No. 89.
No. 32	Transfer of Land: Land Registration (First Paper)	Law Com. No. 125.
No. 33	Criminal Law: Perjury and Kindred Offences	Law Com. No. 96.
1971		
No. 34	Family Law: Jactitation of Marriage (See also Working Paper No. 48)	Law Com. No. 132.
No. 35	Family Law: Solemnisation of Marriage	Law Com. No. 53.
No. 36	Transfer of Land. Appurtenant Rights	Law Com. No. 127.
No. 37	Transfer of Land: Land Registration (Second Paper)	Law Com. No. 125.
No. 38	Family Law: Jurisdiction in Suits for Nullity of Marriage	Law Com. No. 48.
No. 39	Exemption Clauses in Contracts for Services (Joint Working Paper-Scottish Law Commission Memorandum No. 15)	Law Com. No. 69.
No. 40	Administrative Law	Law Com. No. 73.
No. 41	Personal Injury Litigation: Assessment of Damages	Law Com. No. 56.
No. 42	Family Law: Family Property Law	Law Com. Nos. 52, 61 and 86.
1972		
No. 43	Codification of the Criminal Law: General Principles. Parties, Complicity and Liability for the Acts of Another (See Law Com. No. 143)	
No. 44	Codification of the Criminal Law: General Principles. Criminal Liability of Corporations (See Law Com. No. 143)	
No. 45	Transfer of Land: Land Registration (Third Paper)	Law Com. No. 125.
No. 46	Charging Orders on Land	Law Com. No. 74.
1973		
No. 47	Injuries to Unborn Children	Law Com. No. 60.
No. 48	Family Law: Declarations in Family Matters	Law Com. No. 132.
No. 49	Transfer of Land: Rentcharges	Law Com. No. 68.
No. 50	Codification of the Criminal Law: General Principles. Inchoate Offences: Conspiracy, Attempt and Incitement	Law Com. Nos. 76 and 102.
No. 51	Transfer of Land: "Subject to Contract" Agreements	Law Com. No. 65.
No. 52	Liability for Damage or Injury to Trespassers and Related Questions of Occupiers' Liability	Law Com. No. 75.
No. 53	Family Law: Matrimonial Proceedings in Magistrates' Courts	Law Com. No. 77.
1974		
No. 54	Criminal Law: Offences of Entering and Remaining on Property	Law Com. No. 76.
No. 55	Codification of the Criminal Law: General Principles. Defences of General Application	Law Com. No. 83.
No. 56	Criminal Law: Conspiracy to Defraud	

<i>Working Paper</i>	<i>Title</i>	<i>Resulting Report</i>
**	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)	
No. 57	Codification of the Criminal Law: Conspiracies Relating to Morals and Decency	Law Com. No. 76.
No. 58	Breach of Confidence	Law Com. No. 110.
1975		
No. 59	Contribution	Law Com. No. 79.
No. 60	Firm Offers	
No. 61	Penalty Clauses and Forfeiture of Monies Paid	
No. 62	Criminal Law: Offences Relating to the Administration of Justice	Law Com. No. 96.
No. 63	Codification of the Criminal Law: Conspiracies to Effect a Public Mischief and to Commit a Civil Wrong	Law Com. No. 76.
No. 64	Liability for Defective Products (Joint Working Paper-Scottish Law Commission Memorandum No. 20)	Law Com. No. 82.
No. 65	Law of Contract: Pecuniary Restitution on Breach of Contract	Law Com. No. 121.
1976		
No. 66	Interest	Law Com. No. 88.
No. 67	Transfer of Land: Land Registration (Fourth Paper)	
No. 68	Custody of Children: Jurisdiction and Enforcement within the United Kingdom (Joint Working Paper-Scottish Law Commission Memorandum No. 23)	Law Com. No. 138.
No. 69	The Incapacitated Principal	Law Com. No. 122.
No. 70	Law of Contract: The Parol Evidence Rule	Law Com. No. 154.
1977		
No. 71	Law of Contract: Implied Terms in Contracts for the Supply of Goods	Law Com. No. 95.
No. 72	Codification of the Criminal Law: Treason, Sedition and Allied Offences	
1979		
No. 73	Insurance Law: Non-Disclosure and Breach of Warranty	Law Com. No. 104.
No. 74	Family Law: Illegitimacy	Law Com. No. 118.
1980		
No. 75	Classification of Limitation in Private International Law	Law Com. No. 114.
No. 76	Time Restrictions on Presentation of Divorce and Nullity Petitions	Law Com. No. 116.
No. 77	Family Law: Financial Relief after Foreign Divorce	Law Com. No. 117.
No. 78	Rights of Access to Neighbouring Land	Law Com. No. 151.
1981		
No. 79	Offences against Religion and Public Worship	Law Com. No. 145.
No. 80	Private International Law: Foreign Money Liabilities	Law Com. No. 124.
1982		
No. 81	Minors' Contracts	Law Com. No. 134.
No. 82	Offences against Public Order	Law Com. No. 123.
No. 83	Polygamous Marriages: Capacity to Contract a Polygamous Marriage and the Concept of the Potentially Polygamous Marriage (Joint Working Paper-Scottish Law Commission Consultative Memorandum No. 56)	Law Com. No. 146.

**This consultative document received a wide circulation but was not put on sale at H.M.S.O. and was not given a number in the series. The E.E.C. Convention on the Law Applicable to Contractual Obligations was opened for signature in Rome on 19 June 1980 but is not yet in force for the United Kingdom.

<i>Working Paper</i>	<i>Title</i>	<i>Resulting Report</i>
No. 84	Criminal Libel	Law Com. Nos. 147 and 149.
1983		
No. 85	Sale and Supply of Goods (Joint Working Paper-Scottish Law Commission Consultative Memorandum No. 58)	Law Com. No. 160.
No. 86	Transfer of Land: Liability for Chancel Repairs	Law Com. No. 152.
1984		
No. 87	Private International Law: Choice of Law in Tort and Delict (Joint Working Paper-Scottish Law Commission Consultative Memorandum No. 62)	
1985		
No. 88	Private International Law: The Law of Domicile (Joint Working Paper-Scottish Law Commission Consultative Memorandum No. 63)	Law Com. No. 168.
No. 89	Private International Law: Choice of Law Rules in Marriage (Joint Working Paper-Scottish Law Commission Consultative Memorandum No. 64)	Law Com. No. 165.
No. 90	Transfer of Money between Spouses: the Married Women's Property Act 1964	
No. 91	Family Law: Review of Child Law: Guardianship	
No. 92	Transfer of Land: Formalities for Contracts for Sale etc. of Land	Law Com. No. 164.
No. 93	Transfer of Land: Formalities for Deeds and Escrows	Law Com. No. 163.
No. 94	Trusts of Land	
1986		
No. 95	Landlord and Tenant: Privity of Contract and Estate: Duration of Liability of Parties to Leases	
No. 96	Family Law: Review of Child Law: Custody (Supplement) Custody Law in Practice in the Divorce and Domestic Courts	
No. 97	Distress for Rent	
No. 98	Transfer of Land: The Rule in <i>Bain v. Fothergill</i>	Law Com. No. 166.
No. 99	Land Mortgages	
1987		
No. 100	Family Law: Review of Child Law: Care, Supervision and Interim Orders in Custody Proceedings	
No. 101	Family Law: Review of Child Law: Wards of Court	
No. 102	Compensation for Tenants' Improvements	
No. 103	Criminal Law: Binding Over: The Issues	
No. 104	Criminal Law: Conspiracy to Defraud	
No. 105	Transfer of Land: Title on Death	

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</i>	<i>Title</i>	<i>Related Legislation</i>
1965		
Law Com. No. 1	First Programme of the Law Commission	—
1966		
Law Com. No. 2	First Programme on Consolidation and Statute Law Revision	—

<i>Report</i>	<i>Title</i>	<i>Related Legislation</i>
Law Com. No. 3*	Proposals to Abolish Certain Ancient Criminal Offences	Criminal Law Act 1967 (c. 58).
Law Com. No. 4	First Annual Report 1965–66	—
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)	Divorce Reform Act 1969 (c. 55), now Matrimonial Causes Act 1973 (c. 18).
Law Com. No. 7*	Proposals for Reform of the Law Relating to Maintenance and Champerty	Criminal Law Act 1967 (c. 58).
Law Com. No. 8+*	Report on the Powers of Appeal Courts to Sit in Private and the Restrictions upon Publicity in Domestic Proceedings (Cmnd. 3149)	Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968 (c. 63).
1967		
Law Com. No. 9*	Transfer of Land: Interim Report on Root of Title to Freehold Land	Law of Property Act 1969 (c. 59).
Law Com. No. 10*	Imputed Criminal Intent (<i>Director of Public Prosecutions v. Smith</i>)	In part by section 8 of the Criminal Justice Act 1967 (c. 80).
Law Com. No. 11	Transfer of Land: Report on Restrictive Covenants	In part by Law of Property Act 1969 (c. 59).
Law Com. No. 11A	Sea Fisheries (Shellfish) Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Shellfish Fisheries and Shellfish (Scot. Law Com. No. 6A) (Cmnd. 3267)	Sea Fisheries (Shellfish) Act 1967 (c. 83).
Law Com. No. 12	Second Annual Report 1966–68	—
Law Com. No. 13	Civil Liability for Animals	Animals Act 1971 (c. 22).
1968		
Law Com. No. 14	Second Programme of Law Reform	—
Law Com. No. 15	Third Annual Report 1967–1968 (H.C. 312)	—
Law Com. No. 16*	Blood Tests and the Proof of Paternity in Civil Proceedings (H.C. 2)	Family Law Reform Act 1969 (c. 46).
1969		
Law Com. No. 17*	Landlord and Tenant: Report on the Landlord and Tenant Act 1954, Part II (H.C. 38)	Law of Property Act 1969 (c. 59).
Law Com. No. 18*	Transfer of Land: Report on Land Charges Affecting Unregistered Land (H.C. 125)	Law of Property Act 1969 (c. 59).
Law Com. No. 18A	Trustee Savings 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).
Law Com. No. 19+*	Proceedings Against Estates (Cmnd. 4010)	Proceedings against Estates Act 1970 (c. 17).
Law Com. No. 20+	Administrative Law (Cmnd. 4059)	See Law Com. No. 73.
Law Com. No. 21*	Interpretation of Statutes: Report by the two Commissions (Scot. Law Com. No. 11) (H.C. 256)	None.
Law Com. No. 22*	Statute Law Revision: First Report (Cmnd. 4052)	Statute Law (Repeals) Act 1969 (c. 52).
Law Com. No. 23*	Proposal for the Abolition of the Matrimonial Remedy of Restitution of Conjugal Rights (H.C. 369)	Matrimonial Proceedings and Property Act 1970 (c. 45).

<i>Report</i>	<i>Title</i>	<i>Related Legislation</i>
Law Com. No. 24*	Exemption Clauses in Contracts. First Report: Amendments to the Sale of Goods Act 1893: Report by the two Commissions (Scot. Law Com. No. 12) (H.C. 403)	Supply of Goods (Implied Terms) Act 1973 (c. 13).
Law Com. No. 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).
Law Com. No. 26*	Breach of Promise of Marriage (H.C. 453)	Law Reform (Miscellaneous Provisions) Act 1970 (c. 33).
Law Com. No. 27	Fourth Annual Report 1968–1969 (H.C. 27)	—
1970		
Law Com. No. 28*	Statute Law Revision: Second Report. Draft Wild Creatures and Forest Laws Bill (Cmnd. 4433)	Wild Creatures and Forest Laws Act 1971 (c. 47).
Law Com. No. 29*	Criminal Law: Report on Offences of Damage to Property (H.C. 91)	Criminal Damage Act 1971 (c. 48).
Law Com. No. 30+*	Powers of Attorney (Cmnd. 4473)	Powers of Attorney Act 1971 (c. 27).
Law Com. No. 31+*	Administration Bonds, Personal Representatives' Rights of Retainer and Preference and Related Matters (Cmnd. 4497)	Administration of Estates Act 1971 (c. 25).
Law Com. No. 32	Civil Liability for Dangerous Things and Activities	—
Law Com. No. 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).
Law Com. No. 34+*	Hague Convention on Recognition of Divorces and Legal Separations: Report by the two Commissions (Scot. Law Com. No. 16) (Cmnd. 4542)	Recognition of Divorces and Legal Separations Act 1971 (c. 53).
Law Com. No. 35+	Limitation Act 1963 (Cmnd. 4532)	Law Reform (Miscellaneous Provisions) Act 1971 (c. 43).
Law Com. No. 36	Fifth Annual Report 1969–1970 (H.C. 170)	—
Law Com. No. 37*	Statute Law Revision: Third Report (Cmnd. 4546)	Statute Law (Repeals) Act 1971 (c. 52).
Law Com. No. 38	Coinage Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Coinage (Scot. Law Com. No. 18) (Cmnd. 4544)	Coinage Act 1971 (c. 24).
Law Com. No. 39	Vehicles (Excise) Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Excise Duties on Mechanically Propelled Vehicles, and to the Licensing and Registration of such Vehicles (Scot. Law Com. No. 19) (Cmnd. 4547)	Vehicles (Excise) Act 1971 (c. 10).
Law Com. No. 40*	Civil Liability of Vendors and Lessors for Defective Premises (H.C. 184)	Defective Premises Act 1972 (c. 35).

<i>Report</i>	<i>Title</i>	<i>Related Legislation</i>
	1971	
Law Com. No. 41	National Savings Bank Bill: Report by the two Commissions on the Consolidation of Enactments Relating to the National Savings Bank (Scot. Law Com. No. 20) (Cmnd. 4574)	National Savings Bank Act 1971 (c. 29).
Law Com. No. 42*	Family Law: Report on Polygamous Marriages (H.C. 227)	Matrimonial Proceedings (Polygamous Marriages) Act 1972 (c. 38), now Matrimonial Causes Act 1973 (c. 18).
Law Com. No. 43 +	Taxation of Income and Gains Derived from Land: Report by the two Commissions (Scot. Law Com. No. 21) (Cmnd. 4654)	In part by section 82 of the Finance Act 1972 (c. 41).
Law Com. No. 44	Second Programme of Consolidation and Statute Law Revision (H.C. 338)	—
Law Com. No. 45	Town and Country Planning Bill: Report on the Consolidation of Certain Enactments Relating to Town and Country Planning (Cmnd. 4684)	Town and Country Act 1971 (c. 78).
Law Com. No. 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).
Law Com. No. 47	Sixth Annual Report 1970–1971 (H.C. 32)	—
	1972	
Law Com. No. 48*	Family Law: Report on Jurisdiction in Matrimonial Causes (H.C. 464)	Domicile and Matrimonial Proceedings Act 1973 (c. 45).
Law Com. No. 49*	Statute Law Revision: Fourth Report by the two Commissions (Scot. Law Com. No. 26) (Cmnd. 5108)	Statute Law (Repeals) Act 1973 (c. 39).
Law Com. No. 50	Seventh Annual Report 1971–1972 (H.C. 35)	—
Law Com. No. 51	Matrimonial Causes Bill: Report on the Consolidation of Certain Enactments Relating to Matrimonial Proceedings, Maintenance Agreements, and Declarations of Legitimacy, Validity of Marriage and British Nationality (Cmnd. 5167)	Matrimonial Causes Act 1973 (c. 18).
	1973	
Law Com. No. 52	Family Law: First Report on Family Property. A New Approach (H.C. 274)	—
Law Com. No. 53	Family Law: Report on Solemnisation of Marriage in England and Wales (H.C. 250)	None.
Law Com. No. 54	Third Programme of Law Reform (H.C. 293)	—
Law Com. No. 55*	Criminal Law: Report on Forgery and Counterfeit Currency (H.C. 320)	Forgery and Counterfeiting Act 1981 (c. 45).
Law Com. No. 56*	Report on Personal Injury Litigation— Assessment of Damages (H.C. 373)	Administration of Justice Act 1982 (c. 53).
Law Com. No. 57*	Statute Law Revision: Fifth Report by the two Commissions (Scot. Law Com. No. 32) (Cmnd. 5493)	Statute Law (Repeals) Act 1974 (c. 22)
Law Com. No. 58	Eighth Annual Report 1972–1973 (H.C. 34)	—

<i>Report</i>	<i>Title</i>	<i>Related Legislation</i>
	1974	
Law Com. No. 59	Friendly Societies Bill: Report by the two Commissions on the Consolidation of the Friendly Societies Acts 1896 to 1971 and Certain Other Enactments Relating to the Societies to which those Acts apply (Scot. Law Com. No. 35) (Cmnd. 5634)	Friendly Societies Act 1974 (c. 46).
Law Com. No. 60+*	Report on Injuries to Unborn Children (Cmnd. 5709)	Congenital Disabilities (Civil Liability) Act 1976 (c. 28)
Law Com. No. 61*	Family Law: Second Report on Family Property. Family Provision on Death (H.C. 324)	Inheritance (Provision for Family and Dependants) Act 1975 (c. 63).
Law Com. No. 62*	Transfer of Land: Report on Local Land Charges (H.C. 71)	Local Land Charges Act 1975 (c. 76)
Law Com. No. 63*	Statute Law Revision: Sixth Report by the two Commissions (Scot. Law Com. No. 36) (Cmnd. 5792)	Statute Law (Repeals) Act 1975 (c. 10).
Law Com. No. 64	Ninth Annual Report 1973–1974 (H.C. 40)	—
	1975	
Law Com. No. 65	Transfer of Land: Report on “Subject to Contract” Agreements (H.C. 119)	—
Law Com. No. 66	Supply Powers Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Supply Powers (Scot. Law Com. No. 38) (Cmnd. 5850)	Supply Powers Act 1975 (c. 9).
Law Com. No. 67*	Codification of the Law of Landlord and Tenant: Report on Obligations of Landlords and Tenants (H.C. 377)	None.
Law Com. No. 68*	Transfer of Land: Report on Rentcharges (H.C. 602)	Rentcharges Act 1977 (c. 30).
Law Com. No. 69*	Exemption Clauses: Second Report by the two Commissions (Scot. Law Com. No. 39) (H.C. 605)	Unfair Contract Terms Act 1977 (c. 50).
Law Com. No. 70*	Statute Law Revision: Seventh Report by the two Commissions (Scot. Law Com. No. 40) (Cmnd. 6303)	Statute Law (Repeals) Act 1976 (c. 16).
Law Com. No. 71	Tenth Annual Report 1974–1975	—
	1976	
Law Com. No. 72*	Jurisdiction of Certain Ancient Courts (Cmnd. 6385)	Administration of Justice Act 1977 (c. 38).
Law Com. No. 73+*	Report on Remedies in Administrative Law (Cmnd. 6407)	Rules of Supreme Court (Amendment No. 3) 1977; Supreme Court Act 1981 (c. 54).
Law Com. No. 74+*	Charging Orders (Cmnd. 6412)	Charging Orders Act 1979 (c. 53).
Law Com. No. 75+*	Report on Liability for Damage or Injury to Trespassers and Related Questions of Occupiers’ Liability (Cmnd. 6428)	Occupiers’ Liability Act 1984 (c. 3).
Law Com. No. 76*	Criminal Law: Report on Conspiracy and Criminal Law Reform (H.C. 176)	In part by Criminal Law Act 1977 (c. 45).
Law Com. No. 77*	Family Law: Report on Matrimonial Proceedings in Magistrates’ Court (H.C. 637)	Domestic Proceedings and Magistrates’ Courts Act 1978 (c. 22).

<i>Report</i>	<i>Title</i>	<i>Related Legislation</i>
	1977	
Law Com. No. 78	Eleventh Annual Report 1975-1976 (H.C. 94)	—
Law Com. No. 79*	Law of Contract: Report on Contribution (H.C. 181)	Civil Liability (Contribution) Act 1978 (c. 47).
Law Com. No. 80*	Statute Law Revision: Eighth Report by the two Commissions (Scot. Law Com. No. 44) (Cmnd. 6719)	Statute Law (Repeals) Act 1977 (c. 18).
Law Com. No. 81	Rent Bill: Report on the Consolidation of the Rent Act 1968, Parts III, IV and VIII of the Housing Finance Act 1972, the Rent Act 1974, sections 7 to 10 of the Housing Rents and Subsidies Act 1975 and Certain Related Enactments (Cmnd. 6751)	Rent Act 1977 (c. 42).
Law Com. No. 82 +	Liability for Defective Products: Report by the two Commissions (Scot. Law Com. No. 45) (Cmnd. 6831)	Consumer Protection Act 1987 (c. 43).
Law Com. No. 83*	Criminal Law: Report on Defences of General Application (H.C. 566)	None.
Law Com. No. 84 +	Law of Contract: Report on the Proposed E.E.C. Directive on the Law Relating to Commercial Agents (Cmnd. 6948)	—
Law Com. No. 85	Twelfth Annual Report 1976-1977 (H.C. 96)	—
	1978	
Law Com. No. 86*	Family Law: Third Report on Family Property. The Matrimonial Home (Co- Ownership and Occupation Rights) and Household Goods (H.C. 450)	Housing Act 1980 (c. 51); Matrimonial Homes and Property Act 1981 (c. 24).
Law Com. No. 87*	Statute Law Revision: Ninth Report by the two Commissions (Scot. Law Com. No. 48) (Cmnd. 7189)	Statute Law (Repeals) Act 1978 (c. 45).
Law Com. No. 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. None.
Law Com. No. 89*	Criminal Law: Report on the Mental Element in Crime (H.C. 499)	
Law Com. No. 90	Interpretation Bill: Report by the two Commissions on the Interpretation Act 1889 and Certain Other Enactments Relating to the Construction and Operation of Acts of Parliament and Other Instruments (Scot. Law Com. No. 53) (Cmnd. 7235)	Interpretation Act 1978 (c. 30).
Law Com. No. 91*	Criminal Law: Report on the Territorial and Extra-Territorial Extent of the Criminal Law (H.C. 75)	In part by Territorial Sea Act 1987 (c. 49).
Law Com. No. 92	Thirteenth Annual Report 1977-1978	—
Law Com. No. 93	Custom 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).

<i>Report</i>	<i>Title</i>	<i>Related Legislation</i>
	1979	
Law Com. No. 94	Justices of the Peace Bill: Report on the Consolidation of Certain Enactments Relating to Justices of the Peace (including Stipendiary Magistrates), Justices' Clerks and the Administrative and Financial Arrangements for Magistrates' Courts and to Matters connected therewith (Cmnd. 7583)	Justices of the Peace Act 1979 (c. 55).
Law Com. No. 95*	Law of Contract: Implied Terms in Contracts for the Supply of Goods (H.C. 142)	Supply of Goods and Services Act 1982 (c. 29).
Law Com. No. 96*	Criminal Law: Offences Relating to Interference with the Course of Justice (H.C. 213)	None.
Law Com. No. 97	Fourteenth Annual Report 1978-1979 (H.C. 322)	—
Law Com. No. 98	Reserve Forces Bill: Report on the Consolidation of Certain Enactments Relating to the Reserve and Auxiliary Forces (Cmnd. 7757)	Reserve Forces Act 1980 (c. 9).
	1980	
Law Com. No. 99*	Family Law: Orders for Sale of Property under the Matrimonial Causes Act 1973 (H.C. 369)	Matrimonial Homes and Property Act 1981 (c. 24).
Law Com. No. 100	Highways Bill: Report on the Consolidation of the Highways Acts 1959 to 1971 and Related Enactments (Cmnd. 7828)	Highways Act 1980 (c. 66).
Law Com. No. 101	Magistrates' Courts Bill: Report on the Consolidation of Certain Enactments Relating to the Jurisdiction of, and the Practice and Procedure before, Magistrates' Courts and the Functions of Justices' Clerks, and to Matters connected therewith (Cmnd. 7887)	Magistrates' Courts Act 1980 (c. 43).
Law Com. No. 102*	Criminal Law: Attempt, and Impossibility in Relation to Attempt, Conspiracy and Incitement (H.C. 646)	Criminal Attempts Act 1981 (c. 47).
Law Com. No. 103 +	Family Law: The Financial Consequences of Divorce: The Basic Policy. A Discussion Paper (Cmnd. 8041)	See Law Com. No. 112.
Law Com. No. 104 + *	Insurance Law: Non-Disclosure and Breach of Warranty (Cmnd. 8064)	None.
Law Com. No. 105	Judicial Pensions Bill: Report by the two Commissions on the Consolidation of Certain Enactments Relating to Pensions and Other Benefits payable in respect of service in Judicial Office (Scot. Law Com. No. 62) (Cmnd. 8097)	Judicial Pensions Act 1981 (c. 20).
Law Com. No. 106*	Statute Law Revision: Tenth Report by the two Commissions (Scot. Law Com. No. 63) (Cmnd. 8089)	Statute Law (Repeals) Act 1981 (c. 19); Supreme Court Act 1981 (c. 54); British Telecommunications Act 1981 (c. 38).
	1981	
Law Com. No. 107	Fifteenth Annual Report 1979-1980	—
Law Com. No. 108	Trustee Savings Banks Bill: Report by the two Commissions on the Consolidation of the Trustee Savings Banks Acts 1969 to 1978 (Scot. Law Com. No. 65) (Cmnd. 8257)	Trustee Savings Banks Act 1981 (c. 65).

<i>Report</i>	<i>Title</i>	<i>Related Legislation</i>
Law Com. No. 109 +	Private International Law: Council of Europe Conventions on Foreign Money Liabilities (1967) and on the Place of Payment of Money Liabilities (1972) (Joint Report-Scot. Law Com. No. 66) (Cmnd. 8318)	—
Law Com. No. 110 + *	Breach of Confidence (Cmnd. 8388)	Recommendations have been accepted, but legislation has not been given priority (see <i>Hansard</i> (H.C.), 2 February 1987, vol. 109, Written Answers, col. 513).
Law Com. No. 111 +	Property Law: Rights of Reverter (Cmnd. 8410)	Reverter of Sites Act 1987 (c. 15).
Law Com. No. 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		
Law Com. No. 113	Sixteenth Annual Report 1980-1981 (H.C. 161)	—
Law Com. No. 114 + *	Classification of Limitation in Private International Law (Cmnd. 8570)	Foreign Limitation Periods Act 1984 (c. 16).
Law Com. No. 115 +	Property Law: The Implications of <i>Williams and Glyn's Bank Ltd. v. Boland</i> (Cmnd. 8636)	None.
Law Com. No. 116 *	Family Law: Time Restrictions on Presentation of Divorce and Nullity Petitions (H.C. 513)	Matrimonial and Family Proceedings Act 1984 (c. 42).
Law Com. No. 117 *	Family Law: Financial Relief after Foreign Divorce (H.C. 514)	Matrimonial and Family Proceedings Act 1984 (c. 42).
Law Com. No. 118 *	Family Law: Illegitimacy (H.C. 98)	Family Law Reform Act 1987 (c. 42).
1983		
Law Com. No. 119	Seventeenth Annual Report 1981-1982 (H.C. 203)	—
Law Com. No. 120	Medical Bill: Report by the two Commissions on the Consolidation of the Medical Acts 1956 to 1978 and Certain Related Provisions (Scot. Law Com. No. 77) (Cmnd. 8839)	Medical Act 1983 (c. 54).
Law Com. No. 121 *	Law of Contract: Pecuniary Restitution on Breach of Contract (H.C. 34)	None.
Law Com. No. 122 + *	The Incapacitated Principal (Cmnd. 8977)	Enduring Powers of Attorney Act 1985 (c. 29).
Law Com. No. 123 *	Criminal Law: Offences Relating to Public Order (H.C. 85)	Public Order Act 1986 (c. 64).
Law Com. No. 124 + *	Private International Law: Foreign Money Liabilities (Cmnd. 9064)	None.
Law Com. No. 125 *	Property Law: Land Registration (H.C. 86)	Land Registration Act 1986 (c. 26).
Law Com. No. 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).

<i>Report</i>	<i>Title</i>	<i>Related Legislation</i>
	1984	
Law Com. No. 127*	Transfer of Land: The Law of Positive and Restrictive Covenants (H.C. 201)	None.
Law Com. No. 128	Registered Homes Bill: Report on the Consolidation of Certain Enactments Relating to Residential Care Homes and Nursing Homes and Registered Homes Tribunals (Cmnd. 9115)	Registered Homes Act 1984 (c. 23).
Law Com. No. 129	Dentists Bill: Report by the two Commissions on the Consolidation of the Dentists Acts 1957 to 1983 (Scot. Law Com. No. 84) (Cmnd. 9119)	Dentists Act 1984 (c. 24).
Law Com. No. 130	Public Health (Control of Disease) Bill: Report on the Consolidation of Certain Enactments Relating to the Control of Disease (Cmnd. 9128)	Public Health (Control of Disease) Act 1984 (c. 22).
Law Com. No. 131	Eighteenth Annual Report 1982-1983 (H.C. 266)	—
Law Com. No. 132*	Family Law: Declarations in Family Matters (H.C. 263)	Family Law Act 1986 (c. 55).
Law Com. No. 133	Road Traffic Regulation Bill (Joint Report-Scot. Law Com. No. 85) (Cmnd. 9162)	Road Traffic Regulation Act 1984 (c. 27).
Law Com. No. 134*	Law of Contract: Minors' Contracts (H.C. 494)	Minors' Contracts Act 1987 (c. 13).
Law Com. No. 135	Statute Law Revision: Eleventh Report. Obsolete Provisions in the Companies Act 1948 (Cmnd. 9236)	Companies Consolidation (Consequential Provisions) Act 1985 (c. 9).
Law Com. No. 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).
Law Com. No. 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).
	1985	
Law Com. No. 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).
Law Com. No. 139	Cinemas Bill (Cmnd. 9425)	Cinemas Act 1985 (c. 13).
Law Com. No. 140	Nineteenth Annual Report 1983-1984 (H.C. 214)	—
Law Com. No. 141	Codification of the Law of Landlord and Tenant: Covenants Restricting Dispositions, Alterations and Change of User (H.C. 278)	None.
Law Com. No. 142	Codification of the Law of Landlord and Tenant: Forfeiture of Tenancies (H.C. 279)	None.
Law Com. No. 143	Criminal Law: Codification of the Criminal Law: A Report to the Law Commission (H.C. 270)	—
Law Com. No. 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).
Law Com. No. 145*	Criminal Law: Offences against Religion and Public Worship (H.C. 442)	None.

<i>Report</i>	<i>Title</i>	<i>Related Legislation</i>
Law Com. No. 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.
Law Com. No. 147*	Criminal Law: Report on Poison-Pen Letters (H.C. 519)	Malicious Communications Bill.
Law Com. No. 148*	Property Law: Second Report on Land Registration: Inspection of the Register	Land Registration Bill.
Law Com. No. 149*	Criminal Law: Report on Criminal Libel (Cmnd. 9618)	None.
Law Com. No. 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).
Law Com. No. 151 + *	Rights of Access to Neighbouring Land (Cmnd. 9692)	None.
Law Com. No. 152*	Property Law: Liability for Chancel Repairs (H.C. 39).	None.
Law Com. No. 153	Agricultural Holdings Bill: Report on the Consolidation of Certain Enactments Relating to Agricultural Holdings (Cmnd. 9665)	Agricultural Holdings Act 1986 (c. 5).
1986		
Law Com. No. 154	Law of Contract: The Parol Evidence Rule (Cmnd. 9700)	—
Law Com. No. 155	Twentieth Annual Report 1984–1985 (H.C. 247)	—
Law Com. No. 156 +	Law of Contract: Implied Terms in Contracts for the Supply of Services (Cmnd. 9773)	—
Law Com. No. 157*	Family Law: Illegitimacy (Second Report) (Cmnd. 9913)	Family Law Reform Act 1987 (c. 42).
1987		
Law Com. No. 158	Property Law: Third Report on Land Registration. A. Over-riding Interests: B. Rectification and Indemnity: C. Minor Interests (H.C. 269)	—
Law Com. No. 159	Twenty-First Annual Report 1985–1986 (H.C. 342)	—
Law Com. No. 160 + *	Sale and Supply of Goods (Joint Report-Scot. Law Com. No. 104) (Cm. 137)	None.
Law Com. No. 161*	Leasehold Conveyancing (H.C. 360)	Landlord and Tenant Bill.
Law Com. No. 162	Landlord and Tenant: Reform of the Law (Cm. 145)	—
Law Com. No. 163*	Deeds and Escrows (H.C. 1)	None.
Law Com. No. 164*	Transfer of Land: Formalities for Contracts for Sale etc. of Land (H.C. 2)	None.
Law Com. No. 165*	Private International Law: Choice of Law Rules in Marriage (Joint Report-Scot. Law Com. No. 105) (H.C. 3)	None.
Law Com. No. 166*	Transfer of Land: The Rule in <i>Bain v. Fothergill</i> (Cm. 192)	None.
Law Com. No. 167	Coroners Bill: Report on the Consolidation of the Coroners Acts 1887 to 1980 and Certain Related Enactments (Cm. 178)	Coroners Bill.
Law Com. No. 168*	Private International Law: The Law of Domicile (Joint Report-Scot. Law Com. No. 107) (Cm. 200)	None.

<i>Report</i>	<i>Title</i>	<i>Related Legislation</i>
	1988	
Law Com. No. 169	Twenty-Second Annual Report 1986–1987 (H.C. 319)	—

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 4).

E. Other Publications

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).

Jurisdiction over Fraud Offences with a Foreign Element: A Consultation Paper prepared by the Criminal Law Team of the Law Commission (December 1987).

The Second Annual Report of the Conveyancing Standing Committee, which is published with this report, includes a list of that Committee's publications.

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

APPENDIX 5

THE COST OF THE COMMISSION

For the period 1 November 1986 to 31 October 1987¹

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 (accommodation, salaries, superannuation and headquarters overheads) is not determined by the Commission.

	1986-7	1985-86
	£000	£000
Accommodation charges	343.0	364.2
Headquarters overheads ²	141.1	133.3
Printing of Bills, Reports, Working Papers and consultative documents, supply of information technology, office equipment and books	270.1	190.6
Salaries of Commissioners (including ERNIC)	213.6	203.7
Salaries of draftsmen, legal staff, secondees and consultants (including ERNIC)	635.3	623.1
Salaries of non-legal staff (including ERNIC)	284.2	276.0
Superannuation	148.6	171.3
Telephone/Postage	14.4	12.4
Travel and subsistence	7.6	10.4
Entertainment	0.2	0.2
Miscellaneous	4.2	1.4
	<u>2,062.3</u>	<u>1,986.6</u>

(Source: Lord Chancellor's Department³)

¹This is a 'parliamentary year', and figures cannot be related to those in Supply Estimates and Appropriation Accounts.

²Portion of headquarters overheads attributed to the Commission by L.C.D.

³The figures for salaries for 1986-87, other than those of Commissioners, are derived from the Commission's own records and have not been confirmed by the Department.

CONVEYANCING STANDING COMMITTEE

SECOND ANNUAL REPORT

1987

MEMBERSHIP*

Professor Julian Farrand, LL.D., <i>Chairman</i>	Law Commissioner
Trevor Aldridge, M.A.	Law Commissioner
Iain Cheyne, B.A.	General Manager, Corporate Communications Division, Lloyds Bank Plc
Kate Foss	Chairman, Council of the Insurance Ombudsman Bureau; Member of the Council for Licensed Conveyancers
William Goodhart, Q.C.	
Chris Jowett	Solicitor to Halifax Building Society
Carolyn Owen, B.A.	Dencora plc
Tod Raven-Hill, M.B.E., F.Inst.L.Ex., M.B.I.M.	Legal Executive
Anthony Sacker	Managing Partner, Egerton Sandler, solicitors; President, City of Westminster Law Society
John Thomas, J.P., F.R.I.C.S., F.R.S.A.	Chairman, Nationwide Anglia Estate Agents; Director, Nationwide Anglia Building Society; Consultant to Baxter, Payne and Lepper; Member of H.M. Land Registry Rule Committee
Liaison Officer from H.M. Land Registry: Martin Wood	
<i>Secretariat:</i> Caroline Lonsdale Sally Gilding	

*Roger Humber, Director of the House-Builders Federation, served on the Committee until December 1986.
John Pegg, National Westminster Home Loans Ltd., served on the Committee until January 1987.
Mary Dent, then with the London Borough of Camden, served on the Committee until April 1987.
James Bolton, solicitor, William Taylor, Q.C., and Geoffrey Osbaldeston, Assistant General Manager, Abbey
National Building Society, served on the Committee until October 1987.
Philip Leigh, F.N.A.E., served on the Committee until his death in October 1987.

CONVEYANCING STANDING COMMITTEE

SECOND ANNUAL REPORT: 1987

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CONVEYANCING STANDING COMMITTEE

SECOND ANNUAL REPORT: 1987

Part I: Introduction

1.1 In our First Annual Report, published last year, we recorded the establishment of the Conveyancing Standing Committee, our terms of reference and the projects on which we had begun work. We now present our Second Annual Report to the Commission in which we give an account of our work during the period from 1 January to 31 December 1987.

Membership

1.2 During the year there have been a number of changes in the membership of the Committee. Roger Humber, Mary Dent and John Pegg resigned for reasons connected with their work. In their place we were pleased to welcome Carolyn Owen, of Dencora plc, and Iain Cheyne, General Manager of the Corporate Communications Division of Lloyds Bank Plc. We were also pleased to appoint Anthony Sacker, Managing Partner of the firm of solicitors Egerton Sandler, as the Committee's new "computer expert".

1.3 In October the initial two year appointments to the Committee came to an end. We are extremely grateful to James Bolton, Geoffrey Osbaldeston and William Taylor, Q.C. for their valuable contributions during the last two years. In their place we welcomed William Goodhart, Q.C. and Chris Jowett of the Halifax Building Society.

1.4 It was with great sadness that we learnt of the death in October of Philip Leigh. He made an invaluable contribution to the Committee's work from its inception and his unique qualities will be difficult to replace.

1.5 Following the issue of the first licences by the Council for Licensed Conveyancers, we are in the process of appointing a licensed conveyancer to the Committee.

Part II: Work in Progress

2.1 During the past year we met as a Committee on seven occasions. We continued to focus our attention on areas of practice and procedure where we considered improvements could be made for the benefit of ordinary house buyers and sellers. A brief account of our work on specific projects is given below, together with a list of the Committee's publications.

Pre-contract deposits

2.2 In last year's annual report we referred to a proposal for a pre-contract deposit agreement to try to alleviate some of the problems caused by the delay between a buyer and seller reaching agreement "subject to contract" and exchange of contracts. In January we launched the publication of our practice recommendation on pre-contract deposits¹ at a press conference. The practice recommendation contains a form of agreement together with guidance notes explaining how the scheme works.

2.3 We received extensive coverage in the media and interest from the public resulted in the distribution of some 3,000 copies of the booklet. The immediate reaction from the professional bodies was, however, not encouraging. The difficulties we face are bringing the benefits of the scheme to the attention of individual professional advisers, particularly solicitors, and enlisting their co-operation to use and recommend it. At the request of the National Association of Estate Agents, the Chairman attended a meeting in Manchester to discuss the scheme with local estate agents and a number of local solicitors. A pilot scheme has been operating through a firm of chartered surveyors in the London Borough of Bromley over the last six months. Although use of the pre-contract deposit agreement has not been extensive, we are aware of a number of cases, which have received local publicity, where it has been used successfully.

Preliminary enquiries

2.4 In March we published a practice recommendation on preliminary enquiries.² Following an examination of some 75 sets of standard preliminary enquiries then in use, we sought to reappraise the questions which conveyancers ought to ask as a matter of routine in every

¹"Pre-Contract Deposits: A Practice Recommendation by the Conveyancing Standing Committee" (1987), available free from the Law Commission.

²"Preliminary Enquiries: House Purchase—A Practice Recommendation. Guidance from the Conveyancing Standing Committee of the Law Commission" (1987), Longman.

transaction. Our recommendations cover thirteen categories of questions, ranging from adverse rights to fixtures and fittings. We decided against drafting our own single standard form of preliminary enquiries. Instead, we approached the commercial publishers of legal forms to find out whether they would be interested in producing forms complying with our recommendations. A number of publishers have now produced standard forms of preliminary enquiries endorsed by the Committee. Our recommendations received widespread support at the time of publication, although it is difficult for us to gauge the extent to which they have influenced conveyancing practice.

Conveyancing protocols

2.5 In recent years, a number of local law societies have adopted local protocols in an attempt to standardise conveyancing procedures between local solicitors. In a paper entitled "Consistency in Conveyancing",³ the Young Solicitors' Group of The Law Society called for the adoption of a set of national conveyancing guidelines. Following consultation with the Conveyancing Standing Committee and The Law Society, the Young Solicitors' Group published a set of national guidelines in July.⁴ We welcomed the initiative the guidelines represented, seeing them as a significant development towards greater efficiency in conveyancing. The Committee expressed the hope that the guidelines would be adopted by solicitors and licensed conveyancers alike, and looked forward to the time when they could be extended and developed further.

Scottish conveyancing

2.6 It has often been suggested that all the ills of English conveyancing could be solved by the adoption of the Scottish system of buying and selling houses. Since there are no legal barriers to doing this now, a fact which comes as a surprise to many, we decided to examine in detail the Scottish system. We compared it with our own system, pointed to certain advantages and disadvantages between the two and prepared a report to show how the Scottish system could be adapted for use in England and Wales. During the preparation of the report we were extremely fortunate in having the advice and guidance of Professor Philip Love, Vice-Principal and Professor of Conveyancing and Professional Practice of Law at the University of Aberdeen, a Scottish Law Commissioner and a Past-President of the Law Society of Scotland. We are also extremely grateful to Mrs. Catherine Hand of the Law Commission, for preparing the explanatory guide.

2.7 Our report, entitled "House Selling the Scottish Way for England and Wales—An Explanatory Guide",⁵ was published in September. The guide made it clear that the Committee makes no recommendation as to whether the English or Scottish system is better. We have merely presented the Scottish system, adapted for use in England and Wales with illustrative forms, as an option which some sellers and buyers, with the advice of their conveyancers, may wish to adopt.

Deposits

2.8 In our annual report last year, we gave details of a pilot survey we had carried out amongst 100 firms of solicitors on the present practice on taking deposits on exchange of contracts. We subsequently carried out an extended survey, sending a questionnaire to 1,000 firms of solicitors. We received a total of 247 replies. In our sample, a 10% deposit accounted for less than half the total cases, although it was still the single most favoured size of deposit. As we suspected, there were marked regional differences in the practice on taking deposits, particularly in the capacity in which the deposit is held, as stakeholder or as agent for the vendor. Having completed the survey, we are now in the process of preparing a consultation paper, in conjunction with The Law Society, putting forward a range of options for the future practice on taking deposits. We hope to publish this consultation paper early in 1988.

Land and charge certificates

2.9 The suggestion has been made in the past that land and charge certificates within the registered land system should be abolished. In an attempt to discover whether the abolition of one or both categories of certificate would make conveyancing simpler, quicker or cheaper, without other, harmful consequences, we issued a consultation paper to relevant organisations. The response was overwhelmingly in favour of retaining both certificates. The perceived advantages of the certificates as a safeguard against fraud was considered to outweigh the

³ *Law Society's Gazette*, 22 October 1986, p. 3163.

⁴ "Consistency in Conveyancing—Guidelines", *Law Society's Gazette*, 29 July 1987, p. 2260.

⁵ Available free from the Law Commission.

estimated potential saving in administrative costs resulting from their abolition. In the light of the views expressed on consultation, the Committee has decided not to recommend the abolition of land or charge certificates.

Local authority searches and enquiries

2.10 The time taken by some local authorities to reply to requisitions for official searches of the local land charges register⁶ and additional enquiries submitted on the appropriate CON 29 form, continues to be one of the major sources of delay in residential conveyancing transactions. Following discussions with a number of local councils to try to discover the reasons for the delays and possible ways to reduce them, we published a consultation paper⁷ in December. We are seeking views on the options put forward in the paper by 31 March 1988.

H.M. Land Registry

2.11 In recent years the Land Registry has been taking an increasing length of time to deal with applications, in particular, applications for first registration. Where a purchaser wishes to resell quickly, for example, where a property has been purchased for conversion into flats, the delays at the Land Registry cause considerable inconvenience, possibly adding to the cost of the development. With the assistance of the Committee's Land Registry liaison officer, we examined the difficulties currently being experienced by the Land Registry. We were told that these difficulties had arisen because the growth in the Land Registry's workload, which had seen the number of applications received treble in ten years, had far exceeded the increase in resources available to the Land Registry. Following discussions between the Land Registry and H.M. Treasury, we understand that a significant increase in both manpower and expenditure has been approved and that from 1988-89 the Land Registry will be exempt from gross running cost control. Coupled with the gradual spread of computerisation within the district land registries, the Land Registry appear confident that they will be able to meet their future commitments and, eventually, reduce the backlog of outstanding work.

2.12 The Land Registry has asked the Committee to consider the introduction of a scheme for statutory easements on residential developments. The purpose of such a scheme would be to imply, by statute, the grant and reservation of standard-form easements into transfers of plots on new developments, thereby obviating the need to set out in full the wording of the easements in each entry on the register. The Land Registry believe this would achieve considerable savings in time and costs. We will be examining this proposal in greater detail in the coming year.

Restrictive Covenants

2.13 On analysis of the responses to our consultation paper "What should we do about old restrictive covenants?" there was no clear consensus in favour of any one of the five suggested options— A do nothing, B abolish restrictive covenants, C limit the life of restrictive covenants, D cancel restrictive covenants after a fixed period unless renewed, E discretionary cancellation plus compensation. However the need to do something was accepted by the majority of those who responded, and option D (or some variation of it) appeared to be the most acceptable solution. We considered that any proposal involving the renewal of restrictive covenants should take account of the Law Commission's Report on land obligations.⁸ The Law Commission's recommendations about land obligations were intended to supersede the existing law of positive and restrictive covenants but for the future only. No recommendations as to the abolition of any existing restrictive covenants were made. The perpetuation of the old system alongside a new one cannot be conducive to conveyancing simplification. We have therefore asked the Law Commission to prepare a detailed solution containing proposals for the transitional abolition of existing restrictive covenants as part of the implementation of the land obligations recommendations. Our basic proposal is that existing restrictive covenants should lapse when 80 years old but could be resurrected as land obligations on application to the Lands Tribunal. The Law Commission has agreed to prepare a detailed report including draft legislation to implement the proposed solution, which we hope will be published during 1988.

⁶Under the Local Land Charges Act 1975.

⁷"Local Authority Enquiries: How Can We Eliminate Delays?" (1987), available free from the Law Commission.

⁸Transfer of Land: The Law of Positive and Restrictive Covenants (1984), Law Com. No. 127.

Part III: Reform of Conveyancing Law

Law Commission working papers and reports

3.1 During the year we considered and responded to the Commission's working paper on land mortgages.⁹

3.2 Last year we recommended to the Commission that a Bill should be drafted to implement their recommendation that landlords should have a duty to reply within a reasonable time to a request for permission to assign or sublet a lease. The Commission subsequently prepared a report with draft Bill attached, which was published in May.¹⁰ The Bill has since been introduced as a Private Member's Bill in the House of Lords and has received its second reading.

3.3 A Bill implementing the Commission's recommendation, with which we expressed agreement, that the register of title should be open to public inspection¹¹ was also introduced as a Private Member's Bill in the House of Lords earlier in the year, and has passed its Committee Stage.

Part IV: List of Publications by the Conveyancing Standing Committee

24 April 1986	What Should We Do About Old Restrictive Covenants?—A Consultation Paper.
14 January 1987	Pre-Contract Deposits—A Practice Recommendation.
25 March 1987	Preliminary Enquiries: House Purchase—A Practice Recommendation.
15 September 1987	House Selling the Scottish Way for England and Wales—An Explanatory Guide.
11 December 1987	Local Authority Enquiries: How Can We Eliminate Delays?—A Consultation Paper.

December 1987

⁹Land Mortgages (1986), Working Paper No. 99.

¹⁰Leasehold Conveyancing (1987), Law Com. No. 161.

¹¹Second Report on Land Registration: Inspection of the Register (1985), Law Com. No. 148.

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