

SCOTTISH LAW COMMISSION

(SCOT. LAW COM. No. 41)

**TENTH  
ANNUAL REPORT  
1974-1975**

*Laid before Parliament  
by the Lord Advocate  
under Section 3(3) of the Law Commissions Act 1965*

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The Scottish Law Commission was set up by section 2 of the Law Commissions Act 1965 for the purpose of promoting the reform of the law of Scotland. The Commissioners are :

The Honourable Lord Hunter, V.R.D., *Chairman*

Mr A. E. Anton, C.B.E.

Mr R. B. Jack

Professor T. B. Smith, Q.C.

Mr Ewan Stewart, M.C., Q.C.<sup>1</sup>

The Secretary of the Commission is Mr J. B. Allan. Its offices are at the Old College, University of Edinburgh, South Bridge, Edinburgh, EH8 9BD.

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<sup>1</sup> Mr Stewart ceased to be a Commissioner on 20 January, 1975.

**SCOTTISH LAW COMMISSION**  
**REPORT FOR THE YEAR ENDED 15th JUNE, 1975**

TO THE RIGHT HONOURABLE RONALD KING MURRAY, Q.C., M.P.,  
*Her Majesty's Advocate.*

In accordance with the provisions of section 3(3) as read with section 6(2) of the Law Commissions Act 1965, as amended<sup>1</sup> we have the honour to submit this the Tenth Annual Report of the Scottish Law Commission.

J. O. M. HUNTER,  
Chairman

21st November 1975

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<sup>1</sup> The Transfer of Functions (Secretary of State and Lord Advocate) Order 1972 (S.I. 1972, No. 2002), removes the requirement to submit Reports to the Secretary of State for Scotland.

# TENTH ANNUAL REPORT

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## I. THE COMMISSION

1. The Scottish Law Commission, which was set up on 16 June 1965, consists of a full-time Chairman, three full-time Commissioners and one part-time Commissioner. They are :

The Honourable Lord Hunter, V.R.D., Chairman	(Full-time)
Mr A. E. Anton, C.B.E.	(Full-time)
Mr R. B. Jack	(Part-time)
Professor T. B. Smith, Q.C.	(Full-time)
Mr Ewan Stewart, M.C., Q.C.	(Full-time) <sup>1</sup>

The Secretary of the Commission is Mr J. B. Allan.

2. During the year Mr Ewan Stewart, M.C., Q.C., ceased to be a Commissioner on taking up his appointment as a Senator of the College of Justice with the judicial title of Lord Stewart. We wish to express our appreciation of his considerable contribution to our work since he joined the Commission in October 1971.

### STAFF

3. In February 1975 authority was given for the complement of the legal research staff of the Commission to be increased by two. One of the posts will be filled very shortly<sup>2</sup> and the other post will be filled in October 1975<sup>3</sup>. In May 1975 Mr W. C. Galbraith, Advocate, who had joined the Lord Advocate's Department on a part-time basis, was seconded to us as an extra draftsman. We welcome these additions to our staff.

4. By October 1975 the complement of the legal staff will comprise three Parliamentary Draftsmen, one employed on a full-time basis and two part-time, the Secretary and eight other qualified lawyers. There has been no increase in the number of non-legal staff, which remains at ten. During the 1974 summer vacation, we employed a qualified lawyer and four graduates in law to assist in research work. We wish to thank them for their assistance.

### PREMISES

5. The premises we occupy in the Old College of Edinburgh University are now too small to house all our staff some of whom are accommodated in two other buildings. Because of our need for larger accommodation and because the University urgently require our present premises for their own use, arrangements have been made for us to be accommodated in Government Buildings at 63 Causewayside early in 1976. We hope to retain the use of one room at the Old College in order that we may maintain our close and extremely useful contacts with the University.

### MEETINGS

6. We continue to hold meetings of the Commission twice a month.

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<sup>1</sup> To succeed Mr Stewart who resigned on 20 January 1975 Mr J. P. H. Mackay, Q.C. has been appointed a part-time member of the Commission as from 1 January 1976.

<sup>2</sup> A member of the legal staff joined on 30 June 1975.

<sup>3</sup> Another member of the legal staff joined on 1 October 1975.

## II. GENERAL

7. The year under review, the tenth year of our existence, although disappointing in certain respects, has seen considerable advances in several large and important law reform projects undertaken by us. By the end of that year the further Joint Report on Exemption Clauses<sup>1</sup> prepared by the Law Commission and ourselves was almost ready for submission to Ministers. Although the consumer protection aspects of this exercise and its treatment of negligence clauses may tend to attract most attention, it should be appreciated that the proposals in that Report are designed to extend far beyond the field of consumer transactions and will, if put into effect by legislation, have important consequences for many types of business transactions as well as consumer transactions, particularly in relation to contracts for services. We carried out this very substantial exercise as part of our Programme work on Obligations and not under any limited form of reference from a particular Minister or Ministers, and the Report should, therefore, be seen as an attempt to make a material and systematic contribution to the development of the substantive law of Scotland in the domain of Obligations. These considerations will no doubt be borne in mind by those who determine the shape and content of any legislation applying to Scotland which may result from the Report.

8. Another project on which we were able to make substantial progress during the year was the Joint Exercise on Products Liability. The two Law Commissions have now published a Joint Working Paper/Memorandum<sup>2</sup> for consultation. The comments received should prove of considerable value not only to ourselves but also to the Royal Commission on Civil Liability and Compensation for Personal Injuries as well as to those who are charged with negotiating on behalf of the United Kingdom the terms of the EEC draft Directive on Products Liability which is at present under consideration by the member states of the European Communities.

9. In the early months of 1975 we prepared and presented to you a Memorandum dealing with a number of legal consequences and implications of the proposed legislative devolution to a Scottish Assembly. We dealt particularly with matters which will be of direct interest to this Commission should such legislative devolution take place. We understand that this paper may not be published, but we trust that the advice so given may be of assistance to those who are charged with the responsibility for reaching policy decisions on these important constitutional questions.

10. We think it right to make a reference in this general part to the passing into law during the year of a very large and useful Scotland-only consolidation statute, the Criminal Procedure (Scotland) Act 1975<sup>3</sup>. We would wish to take this opportunity of paying a tribute to those who were responsible for the considerable task of instructing and drafting this valuable measure, which brings together in a single consolidation act a multitude of procedural rules previously contained in many different enactments, some dating back to the sixteenth century.

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<sup>1</sup> This Report was published on 2 October 1975 as Scot. Law Com. No. 39 ; Law Com. No. 69.

<sup>2</sup> Circulated as Scottish Law Commission Memorandum No. 20 and Law Commission Working Paper No. 64.

<sup>3</sup> c.21.



11. The Joint Working Party of the two Law Commissions on Conflicts of Jurisdiction affecting the Custody of Children has during the year under review made good progress with the preparation and drafting for the respective Commissions of a draft consultative paper on the first branch of this exercise. It is hoped to publish at a relatively early date a Working Paper/Memorandum dealing with the cross-border implications of this very difficult subject. The second stage of the work of the Joint Working Party will be to consider on a wider scale the international implications of such conflicts of jurisdiction.

12. We draw attention to the setting up of our Working Party on Security over Moveables. We are much indebted to the Law Society of Scotland for their initiative and assistance in putting this work in hand and to the distinguished members of the Working Party for undertaking this particularly difficult study, which raises issues of great importance to the law of Scotland and to the commercial and economic interests of the country. It is believed that this work on Security over Moveables is proving to be well timed not only because it is important that any further legislation consequent on the *Report of the Departmental Committee on Consumer Credit*<sup>1</sup> (the Crowther Report) and the White Paper, *Reform of the Law on Consumer Credit*<sup>2</sup> should be consonant with the principles of Scots law, but also because of (1) problems which have arisen in connection with oil developments and (2) the existence of an EEC draft Directive on Security over Moveables without dispossession. We hope in due course, with the assistance of our Working Party, to make a contribution to the development of the law of Scotland on Security over Moveables. This very important branch of the law has raised serious problems for most advanced legal systems and demands considerable comparative research. Of necessity, therefore, the work must be regarded as long-term.

13. Although two Scottish Divorce Bills were introduced in Parliament in the course of the year under review we note with regret that the future development of our law in this important social area still remains uncertain. Each of these Divorce Bills employed resources which we could ill spare but we are nevertheless pleased, with the approval of Ministers, to be able to provide drafting and other assistance to sponsors of such measures. Meanwhile we are making such progress as we can with other aspects of Family Law, and details of some of this work are contained later in this Report.

14. We again note with regret that it has not yet proved possible to introduce legislation for much needed reforms to the Scots law relating to Damages for Injuries Causing Death along the lines recommended in our Report which was published on 24 October 1973. We have reason to think that the reforms proposed in that Report would receive general support, and we would express the hope that early legislation may be thought practicable.

15. The completion of the further Joint Report on Exemption Clauses and of the Joint Working Paper/Memorandum on Products Liability<sup>3</sup>, together with a reinforcement of our legal staff which is expected in the autumn, will enable us to restart work on other parts of our Programme subject of Obligations. The preparation of a Report on Bankruptcy continues to absorb a very substantial

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<sup>1</sup> (1971) Cmnd. 4596 (2 vols.).

<sup>2</sup> (1973) Cmnd. 5427.

<sup>3</sup> See paras. 20 and 49.

part of our resources and it is estimated that the completion of our work in this field cannot be expected for some considerable time.

16 We have continued to devote a considerable part of our resources to the preparation of advice, both formal and informal, to Government Departments and other bodies concerned at the instance of the Government with law reform. This function of tendering independent advice, to which we attach considerable importance, and also the scrutiny of proposed legislation emanating from both Scottish and United Kingdom Departments absorb substantial time of both Commissioners and legal staff. Where advice is given informally, as happens with increasing frequency, or where our advice relates to matters being negotiated internationally, it usually happens that the work is not represented by any published material. References to such work carried out in the international field, either directly by the Commission or indirectly through service by Commissioners or legal staff on advisory bodies, will be found in several later parts of this Report. The Commission is also quite frequently approached for comments and advice on matters of internal law and proposals for legislation in that field. Another aspect of the Commission's work where the time and effort expended are not immediately apparent in the form of publication is the accumulation of research material which is essential as the first step in almost every law reform exercise. In our work of research in a number of different fields we have been greatly assisted during the past year by members of the Judiciary and by practising and academic lawyers as well as by students and post-graduates. To all who have given their help in this way and to the members of our Working Parties and Committees we are once more deeply indebted.

17. The experience of the past decade has, we think, established that the Commission has an important role to fill both in the national and international spheres, but particularly in the systematic reform and coherent development of Scots law. External pressures on the legal system of Scotland continue to increase not only as a result of increased intervention by the State through its departments and agencies in matters of private law but also in consequence of increasing legislative activities in the European Communities. Moreover, in the event of measures for legislative devolution passing into law, the role of the Commission seems likely to become even more important in the future. We trust that in the years to come the Commission will continue to have at its disposal the resources to carry out satisfactorily these important duties to the public and to the Government and, as in the past, to attract Commissioners and legal staff with the desire to render an important public service and with the qualities and abilities to fulfil it.

### III. LAW REFORM PROGRAMMES

#### 1. FIRST PROGRAMME<sup>1</sup>

##### Item 1: Evidence

18. Work has progressed on the research referred to in our last Annual Report.<sup>2</sup> This will not be completed until after the publication of the *Second Report*<sup>3</sup> of the *Departmental Committee on Criminal Procedure* under the chairmanship of Lord Thomson.

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<sup>1</sup> (1965) Scot. Law Com. No. 1.

<sup>2</sup> (1975) Scot. Law Com. No. 37, para. 14.

<sup>3</sup> This Report is now published : Cmnd. 6218.

## Item 2 : Obligations

### (a) *General*

19. In the field of Obligations our Reports have largely centred on the Reform of Exemption Clauses in Contracts. Work is also progressing on the acquisition of title to corporeal moveables<sup>1</sup> and on constitution and proof of obligations, with a view to the preparation of Memoranda.

### (b) *Exemption Clauses*

20. On 27th September 1971 we published, jointly with the Law Commission, a Paper<sup>2</sup> containing provisional proposals relating to

- (i) the exclusion of liability for negligence in the sale of goods ; and
- (ii) exemption clauses in contracts for the supply of services and other contracts.

Work on the preparation of a report<sup>3</sup> proceeded throughout the year and has almost been completed.

### (c) *Security over Moveables*

21. The *Report of the Departmental Committee on Consumer Credit*<sup>4</sup> recommended that, in relation to the creation of security interests over moveable property, there should be " a legal structure applicable uniformly to all forms of security interest". We noted, in relation to the wider issues of lending and security across the whole field of commercial transactions, the expression of policy in paragraphs 13 and 14 of the White Paper, *Reform of the Law on Consumer Credit*<sup>5</sup>. We and the Law Society of Scotland considered that an examination of the law of Scotland in that field was desirable. We have therefore set up a Working Party<sup>6</sup> " to consider the legal and technical problems which would arise or be likely to arise in the creation in Scotland of a system of security over moveable property in relation to all types of loans including consumer loans and to make recommendations in that respect". The Working Party has met ten times during the year under review.

## Item 3 : Prescription and Limitation of Actions

22. In our last Annual Report<sup>7</sup> we mentioned that some further work may have to be done in the domain of limitation, and it is our intention to consider matters dealt with in the Twentieth Report of the Lord Chancellor's Law Reform Committee *Interim Report on Limitation of Actions : In Personal Injury Claims*<sup>8</sup> which dealt only with the law applicable to England and Wales. A preliminary paper has been prepared which surveys the present law in Scotland and England on the subject of limitation of actions in personal injury claims and examines the possibilities for reform. We would think it advantageous in the longer term to carry out a systematic review of other time limitations with a view to simplification and modernisation of the law, but the resources for such an examination are not likely to be available for some considerable time.

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<sup>1</sup> See paragraph 55.

<sup>2</sup> Circulated as Scottish Law Commission Memorandum No. 15 and Law Commission Working Paper No. 39.

<sup>3</sup> The Report was submitted to the Lord Advocate as Scot. Law Com. No. 39, on 30 July 1975 and published on 2 October 1975.

<sup>4</sup> (1971) Cmnd. 4596 (2 vols.).

<sup>5</sup> (1973) Cmnd. 5427.

<sup>6</sup> A list of members of this Working Party appears in Appendix I to this Report.

<sup>7</sup> (1975) Scot. Law Com. No. 37 para. 18.

<sup>8</sup> Cmnd. 5630.

23. Our draft Memorandum on the Acquisition of Title to Corporeal Moveables will contain a part dealing with Acquisitive Prescription of Corporeal Moveables—a topic which we deliberately excluded from our *Report on the Reform of the Law Relating to Prescription and Limitation of Actions*<sup>1</sup> so that further study could be undertaken.

## 2. SECOND PROGRAMME<sup>2</sup>

### Item 6 : Insolvency, Bankruptcy and Liquidation

24. During the year under review we have held frequent meetings of our Bankruptcy Team and have also had meetings with outside interests concerned with bankruptcy such as the Law Society of Scotland, the Faculty of Advocates and the Institute of Chartered Accountants of Scotland and also with the Crown Agent and the Fraud Squads of the Edinburgh and Glasgow City Police. As we mentioned in our last Annual Report<sup>3</sup>, we had circulated a Consultation Paper to those principally interested in bankruptcy. We received comments from fifteen sources. These comments have now been analysed by our Team and have assisted us in reaching decisions on various matters raised in the Consultation Paper which are of fundamental importance to the preparation of our Report on Bankruptcy.

25. Our work on bankruptcy during the past year has confirmed the formidable range and extent of our Bankruptcy exercise, comprising as it does the most fundamental and comprehensive review of this branch of Scots law undertaken for over a century, and as we foreshadowed in our last Report<sup>4</sup>, we are accordingly now devoting increased resources both of Commissioners and legal staff to this Programme subject. While substantial progress is being made with the preparation of our draft Report (to which we intend to append a comprehensive draft Bankruptcy Bill), we anticipate that we shall require to deploy these increased resources on this subject for some considerable time yet. We are convinced, however, that this use of resources is essential for the creation of a new bankruptcy code which will both provide a just result in a situation of insolvency and also serve efficiently the complex needs of modern society.

### Item 7 : Succession

26. We indicated in our last Annual Report<sup>5</sup> that no substantial progress can be made in this Programme subject because of the commitment of our resources to other exercises. This continues to be the position, and it is right to point out that the continued existence of a vacancy on the Commission has increased the difficulties in making progress with this Programme subject.

### Item 8 : Diligence

27. Our Working Party continues to make progress with their report. They have met four times during the year under review and arrangements have been made for them to meet for a week in September to consider a substantial part of their draft report.

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<sup>1</sup> (1970) Scot. Law Com. No. 15.

<sup>2</sup> (1968) Scot. Law Com. No. 8.

<sup>3</sup> (1975) Scot. Law Com. No. 37, para. 20.

<sup>4</sup> 1975) Scot. Law Com. No. 37, para. 21.

<sup>5</sup> (1975) Scot. Law Com. No. 37, para. 22.

Item 10 : Damages arising from Personal Injuries and Death

28. We are in the course of completing a Memorandum on certain aspects of the assessment of damages in claims arising out of personal injuries. The Memorandum will deal, amongst other things with benefits received from the State, benefits from other sources, and losses and expenses sustained by persons other than the injured person.

Item 12 : Legal Capacity of Minors and Pupils

29. We have continued our research on the legal capacity of minors and pupils and have also made substantial progress towards the associated aim of reforming and modernising the law relating to the categories, functions and appointment of tutors and curators, and of judicial factors administering the assets of minors and pupils. In harmonising the statute law of guardianship with the common law, we have had regard to the revision of the law of aliment under Item 14 of our Second Programme. It is hoped that the two projects, when taken together, will modernise the much criticised Guardianship of Infants Acts 1886 and 1925, and provide an up-to-date code of guardianship.

Item 13 : Criminal Procedure

30. We understand that the *Second Report<sup>1</sup> of the Departmental Committee on Criminal Procedure*, under the chairmanship of Lord Thomson, is to be ready soon. Even although he ceased to be a Commissioner, Lord Stewart continued to serve on this Committee.

Item 14 : Family Law

(a) *Divorce*

31. On 21 January 1975, Mr Robin F. Cook, M.P. introduced under the ten minute rule, a Private Member's Bill<sup>2</sup> in the House of Commons which was substantially the same as the four previous Private Members' Bills introduced to implement our Report, *Divorce : The Grounds Considered<sup>3</sup>* published as long ago as May 1967. The Bill failed to get a Second Reading and was withdrawn. Thereafter on 21 May 1975, the Rt. Hon. the Earl of Selkirk introduced an almost identical Bill in the House of Lords<sup>4</sup>. With the permission of Ministers we rendered technical assistance to both sponsors in the drafting of the Bills and related matters.

(b) *Aliment and Financial Provision*

32. We mentioned in our last Annual Report<sup>5</sup> that work had been initiated on the law of aliment and financial provision, and that we had secured the services of Dr E M Clive of the University of Edinburgh to assist us in this work. Substantial progress has been made in the current year and we hope to publish a consultative Memorandum on the topic in the year 1976.

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<sup>1</sup> This Report is now published : Cmnd. 6218.

<sup>2</sup> Divorce Law Reform (Scotland) Bill [Bill 62].

<sup>3</sup> Cmnd. 3256.

<sup>4</sup> Divorce (Scotland) Bill [H.L.] (217). This Bill passed rapidly through the House of Lords stages without a division, received its Third Reading on 10 July 1975, and came before the House of Commons on 11 July. This Bill failed to get a second Reading.

<sup>5</sup> (1975) Scot. Law Com. No. 37, para. 32.

(c) *Damages for Adultery and Enticement*

33. On 24 September 1974, we published our Memorandum No. 18 on the *Liability of a Paramour in Damages for Adultery and Enticement of a Spouse*. In due course we shall submit a Report on this topic.

(d) *Miscellaneous*

34. Following on the *Report of the Departmental Committee on The Adoption of Children*<sup>1</sup> we were asked to comment on certain discussion papers issued in the autumn of 1974 by the Social Work Services Group which dealt with the main issues involved in implementing the Report in Scotland. Although the terms of reference of the Committee applied to Scotland, important recommendations of the Report seemed to us to be based on a fundamental misunderstanding or disregard of relevant principles of the law of Scotland.<sup>2</sup> The Report did not take account of the fact that foster-parents, step-parents and relatives, who can qualify an interest, already have a title to sue for custody in Scotland, and its proposals were formulated against the very different background of the English law of guardianship. In October 1974, we submitted comments on this and cognate problems to the Social Work Services Group. We refer elsewhere in this Report to family law topics which are being separately considered.

3. THIRD PROGRAMME<sup>3</sup>

Item 15: Private International Law

(a) *General*

35. In our Third Programme<sup>3</sup> we undertook to keep under review matters which are subject to negotiation or agreement between member states of the European Economic Community and of the Hague Conference on Private International Law. In the following paragraphs we give an outline of the work in which we have been involved during the year under review. The Steering Committee<sup>4</sup>, comprising members of both Commissions, will continue to supervise the consideration of matters covered by the Third Programme and will set up Joint Working Parties as and when this is considered appropriate.

(b) *EEC Convention on the Law applicable to Contractual and Non-Contractual Obligations*

36 The Joint Working Party<sup>5</sup> referred to in our last Annual Report<sup>6</sup> have examined the many comments received on their Consultative Document, which was circulated on 12 September 1974, and are in the course of completing an Interim Report which will be submitted to Ministers soon<sup>7</sup>.

(c) *Proposed EEC Convention on the Law applicable to Corporeal and Incorporeal Property*

37 There has been no need to convene a meeting of the Joint Working Party<sup>8</sup> as no further progress has been made on the proposed Convention by the EEC Working Group on Private International Law.

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<sup>1</sup> (1972) Cmnd. 5107.

<sup>2</sup> See in particular Chapter 6.

<sup>3</sup> (1973) Scot. Law Com. No. 29.

<sup>4</sup> A list of members of the Steering Committee appears in Appendix I to this Report.

<sup>5</sup> A list of members of this Working Party appears in Appendix I to this Report.

<sup>6</sup> (1975) Scot. Law Com. No. 37, para. 36.

<sup>7</sup> This Interim Report was submitted to Ministers on 11 July 1975. The contents of this Report are confidential and will not be made public.

<sup>8</sup> A list of members of this Working Party appears in Appendix I to this Report.

*(d) Hague Conference : Conflict of Laws in respect of Marriage*

38. The Joint Working Party<sup>1</sup> examined the Report and Questionnaire prepared by the Permanent Bureau of the Hague Conference and drafted the proposed reply of the United Kingdom. Following receipt of Replies from Member States the Permanent Bureau of the Hague Conference convened a Special Commission to prepare a draft convention. Mr Anton, as the United Kingdom representative, attended the first meeting of the Special Commission from 26-31 May 1975.<sup>2</sup>

*(e) Hague Conference : Law applicable to Matrimonial Property*

39. As mentioned in our last Annual Report<sup>3</sup> we co-operated with the Law Commission in the preparation of the Reply of the United Kingdom. The Permanent Bureau of the Hague Conference convened a Special Commission to prepare a draft convention. This Special Commission has met twice, on 24 February to 1 March 1975 and on 9-17 June 1975 and the United Kingdom was represented by Mr M. D. A. Freeman, University College, London. We have agreed with the Law Commission to set up a Joint Working Party<sup>4</sup> to consider a preliminary draft of a proposed convention.

#### IV. CONSOLIDATION AND STATUTE LAW REVISION

##### 1. CONSOLIDATION

40. As in previous Reports we comment on current progress under the following heads :

*(a) Consolidation of enactments applying to Scotland only, and consolidation separately for Scotland of enactments which apply to other parts of the United Kingdom as well as to Scotland.*

##### *Second Programme<sup>5</sup>*

(1) *Education Scotland Acts*—Progress has been made and a further print of a Bill has been produced.

(2) *Enactments relating to the functions of the Scottish Electricity Boards*—Instructions have been given to the Parliamentary Draftsman.

(3) *National Health Service (Scotland) Acts*—Work is well advanced on the preparation of a Bill.

(4) *Enactments relating to criminal procedure in Scotland*—This large Consolidation Bill, comprising 464 clauses and 10 Schedules, received the Royal Assent on 8 May 1975.

(5) *The Criminal Law Amendment Acts*—Work is proceeding on the preparation of Instructions.<sup>6</sup>

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<sup>1</sup> A list of members of this Working Party appears in Appendix I to this Report.

<sup>2</sup> Mr Anton also attended the Second Meeting held on 6-10 October 1975.

<sup>3</sup> (1975) Scot. Law Com. No. 37, para. 39.

<sup>4</sup> A list of members of this Working Party appears in Appendix I to this Report.

<sup>5</sup> (1973) Scot. Law Com. No.27.

<sup>6</sup> These Instructions have been received and given to a Parliamentary Draftsman.

### *Third Programme*

On 29 October 1974 we were invited by you to prepare a Third Programme of Consolidation. Consultation has taken place with Government Departments and progress is being made with the preparation of the Programme.

*(b) Consolidation of enactments applying to other parts of the United Kingdom as well as to Scotland.*

(1) During the year under review the following Acts were passed :

Friendly Societies Act 1974

Solicitors Act 1974

[The following provisions extend to Scotland :—

Subsection (4) of section 4—Admission of certain overseas solicitors ;

Subsection (3) of section 5—Restrictions on admission of certain overseas solicitors ;

Section 86—Bankers' books ;

Paragraph 5 of Schedule 3—Consequential amendments ;

and the repeals of sections 5(2) and 5(3) of the Solicitors Act 1957 and paragraphs 1 and 5 of Schedule 2 to the Solicitors (Amendment) Act 1974.]

Insurance Companies Act 1974

Supply Powers Act 1975

Social Security Act 1975

Industrial Injuries and Diseases (Old Cases) Act 1975

Social Security (Consequential Provisions) Act 1975

House of Commons Disqualification Act 1975

Ministers of the Crown Act 1975

Ministerial and other Salaries Act 1975

(2) Bills on the following subjects are before Parliament :

Export Guarantees Bill<sup>1</sup>

Salmon and Freshwater Fisheries Bill<sup>2</sup>

[The following provisions extend to Scotland :—

Subsections (1) and (2) of section 28—General powers and duties of water authorities and Minister ;

Subsections (1) and (4) of section 39—Border rivers and Solway Firth ;

Subsection (1) of section 42 (Repeals etc.) so far as it relates to the repeal of section 15 of the Salmon and Freshwater Fisheries Act 1972 and section 18 of the Water Act 1973 ; and

Paragraph 3 of Schedule 4 (Offences).]

Iron and Steel Bill<sup>3</sup>

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<sup>1</sup> This Bill received the Royal Assent on 3 July 1975.

<sup>2</sup> This Bill received the Royal Assent on 1 August 1975.

<sup>3</sup> This Bill received the Royal Assent on 12 November 1975.



(3) Bills on the following subjects are being prepared :—

Airports Authority<sup>1</sup>  
Countryside  
Police Pensions  
Recess Elections<sup>2</sup>  
Resale Prices  
Restrictive Practices Court  
Restrictive Trade Practices  
Rights of Employees  
Supplementary Benefits

## 2. STATUTE LAW REVISION

41. All the proposals for repeals which we have received have been or are in the course of being examined and consultations on these proposals are being conducted with interested representative bodies and with Government Departments.

42. We co-operated with the Law Commission in producing a Sixth Report<sup>3</sup> on Statute Law Revision. The Statute Law (Repeals) Bill, which was referred to as under preparation in our last Annual Report received the Royal Assent on 13 March 1975. In conjunction with our English colleagues, material is now being assembled for another Report<sup>4</sup> and Statute Law (Repeals) Bill.

## 3. PRIVATE ACTS

43. As we indicated in our last Annual Report<sup>5</sup> we agreed to co-operate with the Law Commission on this project. Some preliminary work has been done on a chronological table of Private Acts presented since 1539.

# V. OTHER STATUTORY FUNCTIONS

## 1. ADVICE TO GOVERNMENT DEPARTMENTS AND OTHER BODIES

44. We continue to give advice to Government Departments and other bodies under section 3(1)(e) of the Law Commissions Act 1965 and some of the matters on which we have advised are mentioned in the following paragraphs. In the first seven of these paragraphs we report progress on the subjects that have been formally referred to us for advice under that section.

### (1) *Administrative Law*

45. Due to priority being given to Programme work we have deferred our examination of the comments we received on our Memorandum No. 14 on Remedies in Administrative Law<sup>6</sup> which was issued on 23 August 1971.

### (2) *Foreign Money Liabilities*

46. During the year under review there have been no meetings of the Working Party<sup>7</sup> set up by us and the Law Commission to examine the problems that arise

<sup>1</sup> A Bill on this subject was introduced on 14 October 1975 and received the Royal Assent on 12 November 1975.

<sup>2</sup> A Bill on this subject was introduced on 26 June 1975 and received the Royal Assent on 12 November 1975.

<sup>3</sup> (1974) Scot. Law Com. No. 36 ; Law Com. No. 63.

<sup>4</sup> This Report was submitted to Ministers on 28 October 1975 as Scot. Law Com. No. 40 ; Law Com. No. 70.

<sup>5</sup> (1975) Scot. Law Com. No. 37, para. 45.

<sup>6</sup> (1971) Memorandum No. 14.

<sup>7</sup> A list of members of this Working Party appears in Appendix I to this Report.

if a sum of money is due in a currency other than that of the place of payment or the place where payment is sought.

(3) *Conflicts of Jurisdiction affecting the Custody of Children*

47. The Joint Working Party<sup>1</sup> set up by ourselves and the Law Commission under the chairmanship of Lord Justice Scarman have continued work on their terms of reference.<sup>2</sup> Members of the Working Party have attended further meetings of the Council of Europe's Committee of Experts on the Legal Representation and Custody of Minors, whose remit includes the recognition and enforcement of custody orders. It is expected that the Working Party will early in 1976 produce a consultation paper dealing with the jurisdiction of the Courts in the United Kingdom to make custody orders and the enforcement and recognition of these orders within the United Kingdom.

(4) *Mental Element in Crime*

48. As we indicated in our last Annual Report<sup>3</sup> the Law Commission's Working Paper No. 31 on the *Mental Element in Crime* has been referred to the Working Party<sup>4</sup> which we set up under the chairmanship of Lord Cameron.

(5) *Products Liability*

49. In October 1971 we were asked by your predecessor "to consider whether the existing law governing compensation for personal injury, damage to property or any other loss caused by defective products is adequate, and to recommend what improvements, if any, in the law are needed to ensure that additional remedies are provided and against whom such remedies should be available". The Law Commission received a similar request from the Lord Chancellor. A Joint Working Party<sup>5</sup> set up by the two Commissions prepared a draft consultation paper, and this was adopted with minor modifications by the two Commissions at their joint meeting in London in April 1975. The paper, entitled *Liability for Defective Products*,<sup>6</sup> is to be published very shortly. We wish to thank Mr Black, Department of Scots Law, University of Edinburgh, for the assistance we received from his paper containing a comparative survey of the foreign law on products liability.

(6) *Breach of confidence*

50. In June 1973 we were asked by your predecessor, "with a view to the protection of privacy—

- (1) to consider the law of Scotland relating to breach of confidence and to advise what statutory provisions, if any, are required to clarify or improve it ;
- (2) to consider and advise what remedies, if any, should be provided in the law of Scotland for persons who have suffered loss or damage in consequence of the disclosure or use of information unlawfully obtained, and in what circumstances such remedies should be available "

<sup>1</sup> A list of members of this Working Party appears in Appendix I to this Report.

<sup>2</sup> For the terms of reference, see our Seventh Annual Report (1973) Scot. Law Com. No. 28, para. 39.

<sup>3</sup> (1975) Scot. Law Com. No. 37, para. 50.

<sup>4</sup> See para. 72.

<sup>5</sup> A list of members of this Working Party appears in Appendix I to this Report.

<sup>6</sup> Circulated in June 1975 as Scottish Law Commission Memorandum No. 20 and Law Commission Working Paper No. 64.

It has been necessary to suspend work on the preparation of a Memorandum and there is no prospect of this work being restarted until the vacant Commissioner post is filled.

(7) *Hague Convention on the International Administration of the Estates of Deceased Persons*

51. In November 1973 we were asked by your predecessor to advise on the legislation that would be needed to give effect in Scotland to the Convention concerning the International Administration of the Estates of Deceased Persons. Work is proceeding on the preparation of a Report.

(8) *Devolution*

52. You sought our advice on certain issues in connection with the devolution of legislative powers to a Scottish Assembly. We spent a considerable time in the first four months of 1975 preparing our Memorandum<sup>1</sup> on *Devolution, Scots Law and the Role of the Commission*, which was submitted to you on 28 May 1975.

2. OTHER MATTERS DEALT WITH UNDER SECTION 3(1)

53. As part of our function we have to examine the law for anomalies and defects ; consider the simplification and modernisation of the law ; and consider proposals for law reform. In fulfilment of this function the following matters have been or are being examined.

(1) *Proposals*

54. We continued to receive at various times throughout the year proposals for changes in the law. We take under consideration all such proposals and in subsequent paragraphs we mention what action is being taken in relation to some of them.

(2) *Acquisition of Title to Corporeal Moveables*

55. Extensive research has been carried out in this subject and very comprehensive papers containing the results of this research are still under consideration by the Commission.

(3) *Married Women's Policies of Assurance (Scotland) Act 1880*

56. The Report containing our proposals for the amendment of the Married Women's Policies of Assurance (Scotland) Act 1880 is nearing completion. In accordance with our usual practice, we intend to append to our Report a draft Bill providing for the amendment of the 1880 Act and are presently in the course of instructing our Parliamentary Draftsman regarding the proposed legislation. We hope that the completed Report and appended draft Bill will be completed in the course of the next few months.

(4) *Powers of Attorney*

57. In our last Annual Report<sup>2</sup> we mentioned that we had received a proposal that the subject of Powers of Attorney should be examined, and that we had

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<sup>1</sup> The contents of this Memorandum are confidential.

<sup>2</sup> (1975) Scot. Law Com. No. 37, para. 68.

decided to study the subject with a view to circulating in due course a Memorandum containing tentative proposals for amendment of the law. The research into this subject has been completed and a discussion paper, which will form the basis of a Memorandum, has been prepared.

(5) *Agricultural Holdings*

58. In our last Annual Report<sup>1</sup> we mentioned that our attention had been drawn to the unsatisfactory working of the provisions of the legislation relating to the termination of tenancies of agricultural holdings and that we had decided to examine those provisions which have come under criticism with a view to incorporating the results of our examination in a Memorandum. It has not been possible to make progress on this during the year under review.

(6) *Powers of Judicial Factors*

59. On 10 October 1974 we circulated a Memorandum<sup>2</sup> containing our provisional proposals for the amendment of the Trusts (Scotland) Acts 1921 and 1961 to facilitate the exercise by judicial factors of certain of their statutory powers. We have received, and we understand may yet receive, comments on the Memorandum from a number of sources. We are in process of analysing the comments and reassessing our proposals in the light of the views expressed to us.

(7) *Companies (Floating Charges) (Scotland) Act 1961*

60. We noticed an article<sup>3</sup> entitled "Between Two Companies Bills" which drew attention to three points where the Scottish provisions in the Companies Bill, introduced in January 1974 but lost on the dissolution of Parliament in February 1974, departed from existing Scottish provisions in the Companies (Floating Charges and Receivers) (Scotland) Act 1972, which implemented the recommendations in our *Report on the Companies (Floating Charges) (Scotland) Act 1961*.<sup>4</sup> We are examining these and certain other points with a view to making representations to the Department of Trade before another Companies Bill is introduced.

(8) *Voluntary Wayleaves*

61. We received from the Chairman of the Lands Tribunal for Scotland a Memorandum to the effect that the law on voluntary wayleaves should be examined. We recognised that wayleaves for pipelines are assuming greater importance, particularly in the context of North Sea oil, and because of this importance we felt that immediate legislation might be required to give protection against singular successors. In these circumstances we decided to refer the Memorandum to the Scottish Home and Health Department for their consideration.

(9) *Lands Tribunal Orders*

62. We also received from the Chairman of the Lands Tribunal for Scotland a Memorandum drawing attention to two areas of legal doubt that have arisen in

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<sup>1</sup> (1975) Scot. Law Com. No. 37, para. 69.

<sup>2</sup> Memorandum No. 19.

<sup>3</sup> Scots Law Times 20 September 1974.

<sup>4</sup> (1970) Cmnd. 4336 ; Scot. Law Com. No. 14.

connection with the Lands Tribunal Orders made under section 1 of the Conveyancing and Feudal Reform (Scotland) Act 1970. These concern appeals against Tribunal Orders and the registration and validity of Tribunal Orders. These matters are presently under examination by us.

## VI. FOREIGN LEGAL SYSTEMS AND INTERNATIONAL LAW

63. In our last Annual Report<sup>1</sup> we indicated that the Council of Europe had set up a Committee of Experts to examine the subject of Penalty Clauses in Private Law. Professor Smith represented the United Kingdom at two meetings of this Committee of Experts which were held in Strasbourg from 28 to 31 October 1974 and from 5 to 7 May 1975.

64. The Department of Trade continue to keep us informed on the progress of negotiations with EEC officials on the draft Directive on Commercial Agents.

65. Professor Smith presided at the third and final meeting of the Committee of Governmental Experts convened by UNIDROIT to formulate a draft Uniform Law on Protection of the *bona fide* Acquirers of Corporeal Moveables which was held in Rome from 24 to 28 June 1974.

66. A member of our legal staff attended the sixth and seventh meetings of the Council of Europe Committee of Experts on the Liability of Producers which were held in Strasbourg from 18 to 22 November 1974 and from 3 to 7 March 1975.

67. In October 1974 the EEC Commission published a first preliminary draft Directive on Products Liability and set up a Working Group to discuss the draft Directive with experts from Member States. A member of our legal staff attended the first and second meetings of this Working Group which were held in Brussels from 7 to 9 January 1975 and from 16 to 18 April 1975, as the representative of the Scottish Departments.

68. A member of our legal staff attended a meeting of the Council of Europe Committee of Experts on the Legal Representation and Custody of Minors which was held in Strasbourg from 9 to 13 December 1974.

## VII. CONSULTATION

### THE LAW COMMISSION

69. We have maintained our close co-operation and consultation with the Law Commission. Our joint exercise with them on Exemption Clauses has occupied the attention of both Commissions with meetings held in Edinburgh and London. The Commissions have worked together on products liability and conflicts of jurisdiction affecting the custody of children, as well as exercises undertaken in co-operation under their Third Programmes.

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<sup>1</sup> (1975) Scot. Law Com. No. 37, para. 72.

70. Our annual joint meeting was held in London on 22 and 23 April 1975. We wish to thank our English colleagues for the generous hospitality accorded to us.

71. We submitted comments on the Law Commission's Working Paper No. 49—*Transfer of Land—Rentcharges*.

72. All Working Papers of the Law Commission on Criminal Law which have been received during the year under review have been referred to the Working Party<sup>1</sup> set up to examine Working Papers, Draft Reports and Reports produced by the Law Commission under their Programme subject 'Codification of the Criminal Law'.

73. We have set up a Working Party<sup>2</sup> to examine Working Papers, Draft Reports and Reports produced by the Law Commission under their Programme subjects relating to aspects of the law of contract. All Working Papers of the Law Commission on the law of contract are to be referred to this Working Party.

#### OTHER LAW REFORM ORGANISATIONS

74. We continue to inform the Northern Ireland Office of the Legislative Draftsmen on matters of common interest.

75. We have maintained our contact with law reform organisations in other parts of the world and are pleased to welcome members of these organisations who come to visit us.

#### THE LEGAL AND OTHER PROFESSIONS IN SCOTLAND

76. We continue to consult with the leading organisations of the legal and other professions in Scotland and with other bodies. We have also continued to hold informal quarterly meetings with representatives of the Law Society of Scotland and the Faculty of Advocates, and have found these meetings most useful. As in previous years we wish to record our appreciation of the valuable assistance afforded by those whom we have invited to act as consultants or advisers and by others who have served on our Working Parties.

77. We are also most grateful for the help we continue to receive from the librarian and staff of the University Library, University Law Library, Centre of European Governmental Studies, the National Library of Scotland and the Signet Library.

#### SEMINARS, COLLOQUIA, ETC.

78. Mr Stewart attended a Seminar on Breach of Confidence which was held by the Law Commission at All Souls College, Oxford, on 10 and 11 January 1975.

79. Mr Anton attended a Colloquium organised by the British Institute of International and Comparative Law and the Société Française de Législation Comparée which was held at the French Institute London from 22 November to 24 November 1974.

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<sup>1</sup> A list of members of this Working Party appears in Appendix I to this Report.

<sup>2</sup> A list of members of this Working Party appears in Appendix I to this Report.

## VIII. MISCELLANEOUS

### DEPARTMENTAL AND OTHER COMMITTEES

80. Our Commissioners and legal staff serve on various Government and Departmental Committees some of which are referred to in the following paragraphs.

(1) *Statute Law Committee*

81. Our Chairman continues to serve on the Statute Law Committee and continues as a member of the Editorial Board, which body is responsible for the production of *The Statutes in Force*, the new continuously revised edition of live statutes.

(2) *Committee on the Preparation of Legislation*

82. Lord Stewart and Sir John Gibson continued to serve as members of the Committee on the Preparation of Legislation set up in May 1973 by the Lord President of the Council under the chairmanship of the Rt. Hon. Sir David Renton, K.B.E., T.D., Q.C., M.P., to review the form in which public Bills are drafted with a view to achieving greater simplicity and clarity in statute law and to consider any consequential implications for Parliamentary procedure. The Committee's Report was published in May 1975<sup>1</sup>.

(3) *Advisory Committee on the EEC Bankruptcy Convention*

83. Mr Anton continues to serve as a member of the Advisory Committee set up by the Department of Trade to consider the terms of the draft EEC Bankruptcy Convention and to advise that Department upon the effect of the implementation of the Convention in its present terms and to recommend any necessary modifications. During the year in question the Advisory Committee issued a Consultative Paper relating to the draft Convention, and we have found that Paper of considerable assistance to us in determining how our domestic law is likely to be affected by the provisions of the Convention if and when it is signed and ratified by the United Kingdom.

(4) *Scottish Council on Crime*

84. Our Chairman continued to serve as Chairman of the Scottish Council on Crime which was set up in 1972. A Report by the Council entitled *Crime and the Prevention of Crime* was published in March 1975.

(5) *Boundary Commission for Scotland*

85. Our Chairman continues to serve as Deputy Chairman of the Boundary Commission for Scotland.

(6) *Scottish Records Advisory Council*

86. Our Chairman continues to serve as a member of the Scottish Records Advisory Council.

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<sup>1</sup> Cmnd. 6053.

(7) *EEC Draft Directive on Products Liability*

87. One of our legal staff is a member of an inter-departmental working group, under the chairmanship of the Department of Prices and Consumer Protection, which was set up in April 1975 to consider a draft EEC Directive on Products Liability.

(8) *Civil Judicial Statistics*

88. One of our legal staff is a member of a Working Party of officials, set up by the Scottish Courts Administration, to review the annual Civil Judicial Statistics for Scotland.

COMPUTERS

89. We continue to be represented on the Executive Committee of the Scottish Legal Computer Research Trust by a member of our legal staff. There were no meetings of the executive committee of the Trust during the year.

90. Our representative on the Executive Committee attended the conference on Computers and Law sponsored by the Society for Computers and Law Ltd. at Oxford on 27 to 29 September 1974. The emphasis of the conference was on practical working systems and information retrieval.

SCRUTINY OF BILLS

91. Our work on the scrutiny of Bills continues so far as our resources permit.

APPENDICES

92. Membership of the various Working Parties etc. appears in Appendix I. A list of papers which have been prepared by the Commission and made public appears in Appendix II. Included in this Appendix are certain consultative documents, some published and some unpublished, which were given restricted circulation. The extent to which our proposals have been incorporated in legislation is indicated in Appendix III.



## APPENDIX I

### MEMBERSHIP OF WORKING PARTIES

#### *Working Party on Security over Moveable Property*

Professor J. M. Halliday, C.B.E. (Chairman)	Solicitor, Glasgow
Mr R. H. Barclay	Solicitor, Glasgow
Mr T. Gardiner	Solicitor, Glasgow
Mr A. M. Hamilton	Solicitor, Glasgow
Mr R. B. Jack	Scottish Law Commission
Mr G. R. H. Reid	Solicitor, Glasgow
Professor W. A. Wilson	University of Edinburgh
Secretary : Mr A. J. Sim,	Scottish Law Commission

#### *Working Party on Diligence*

The Hon. Lord Hunter, V.R.D. (Chairman)	Scottish Law Commission
Mr J. A. Anderson	Law Society of Scotland
Mr J. M. Bell	Society of Messengers-at-Arms and Sheriff Officers
Mr J. R. Cowie	Sheriff-Clerk, Dumbarton
Mr J. Donald	Society of Messengers-at-Arms and Sheriff Officers
Mr J. G. Gray	Scottish Chamber of Commerce
Mr J. A. D. Hope	Advocate, Edinburgh
Mr A. C. Macpherson	Solicitor, Glasgow
Secretary : Mr A. J. F. Tannock, M.C.,	Scottish Law Commission

#### *Steering Committee on Private International Law*

The Hon. Lord Hunter, V.R.D.	} Joint Chairmen	Scottish Law Commission
The Hon. Mr Justice Cooke		Law Commission
Mr A. E. Anton, C.B.E.		Scottish Law Commission
Mr A. L. Diamond		Law Commission
Joint Secretaries :		
Mr J. B. Allan,		Scottish Law Commission
Mr J. M. Cartwright Sharp,		Law Commission

#### *Joint Working Party on Private International Law (Corporeal and Incorporeal Property)*

The Hon. Lord Hunter, V.R.D.	} Joint Chairmen	Scottish Law Commission
The Hon. Mr Justice Cooke		Law Commission
Mr A. E. Anton, C.B.E.		Scottish Law Commission
Miss F. Carmichael		Representative for Scottish Departments
Mr J. A. E. Davies		Law Commission
Mr A. L. Diamond		Law Commission
Mr H. S. A. Hart		Department of Trade
Mr T. S. Legg		Lord Chancellor's Office
Dr F. A. Mann		Solicitor, London
Mr I. K. Mathers		Foreign and Commonwealth Office
Mr H. S. Trembath		Solicitor, London
Secretary : Miss J. Richardson,		Law Commission

*Joint Working Party on Private International Law (Obligations)*

The Hon. Lord Hunter, V.R.D.	} Joint Chairmen	Scottish Law Commission
The Hon. Mr Justice Cooke		Law Commission
Mr A. E. Anton, C.B.E.		Scottish Law Commission
Miss F. Carmichael		Representative for Scottish Departments
Mr J. A. E. Davies		Law Commission
Mr A. L. Diamond		Law Commission
Mr R. J. Holmes, Q.C. (Aden)		Law Commission
Dr F. A. Mann		Solicitor, London
Mr I. K. Mathers		Foreign and Commonwealth Office
Mr K. M. H. Newman		Lord Chancellor's Office
Mr W. J. Sandars		Solicitor, London
Mr L. V. Wellard		Department of Trade
Secretary : Miss J. Richardson, Law Commission		

*Joint Working Party on Private International Law  
(Conflict of Laws in respect of Marriage)*

Mr A. E. Anton, C.B.E. (Chairman)	Scottish Law Commission
Mr John Churchill	Law Commission
Dr E. M. Clive	University of Edinburgh
Mr A. Cope	Law Commission
Mr A. L. Diamond	Law Commission
Mr H. V. Richardson, O.B.E.	Lord Chancellor's Office
Mr I. A. Saunders	Queen Mary College, London

Secretary : Mrs P. J. Manfield, Law Commission

*Joint Working Party on Private International Law  
(Matrimonial Property)*

Mr A. E. Anton, C.B.E.	} Joint Chairmen	Scottish Law Commission
Mr Norman S. Marsh, Q.C.		Law Commission
Mr A. Akbar		Law Commission
Mr John Churchill		Law Commission
Mr G. C. Duke		Scottish Courts Administration
Mr M. D. A. Freeman		University College, London
Mr I. K. Mathers		Foreign and Commonwealth Office
Mr K. M. H. Newman		Lord Chancellor's Office
Secretary : Mrs P. J. Manfield, Law Commission		

*Consultative Committee on Administrative Law*

The Hon. Lord Hunter, V.R.D. (Chairman)	Scottish Law Commission
The Rt. The Hon. Lord Fraser of Tullybelton	
Mr A. L. Bushnell, C.B.E.	
Mr J. S. Dalgetty	Formerly Solicitor to the Secretary of State for Scotland
Mr C. E. Jauncey, Q.C.	Faculty of Advocates
Mr J. Mellick, O.B.E.	Solicitor, Glasgow
Professor J. Bennett Miller	University of Glasgow
Secretary : Mr H. R. M. Macdonald, Scottish Law Commission	

*Working Party on Foreign Money Liabilities*

Mr A. L. Diamond (Chairman)	Law Commission
Mr A. E. Anton, C.B.E.	Scottish Law Commission
Mr R. K. Batstone	Foreign and Commonwealth Office
Mr R. Cassels	The Royal Bank of Scotland
Mr J. A. E. Davies	Law Commission
Mr W. H. Elliott	Lord Chancellor's Office
Mr L. Gretton	Department of Trade
Mr R. J. Holmes, Q.C. (Aden)	Law Commission
Mr M. W. Parkington	Law Commission
Secretary : Miss J. Richardson, Law Commission	

*Joint Working Party on Conflicts of Jurisdiction affecting the Custody of Children*

The Rt. Hon. Lord Justice Scarman, O.B.E.  
(Chairman)

The Hon. Mr Justice Cooke	Law Commission
Mr G. P. H. Aitken	Scottish Courts Administration
Mr A. E. Anton, C.B.E.	Scottish Law Commission
Mr R. K. Batstone	Foreign and Commonwealth Office
Mr D. A. Bennet	Scottish Office
Mr M. C. Blair	Lord Chancellor's Office
Mr John Churchill	Law Commission
Mr R. L. Jones	Home Office
Mr W. J. Pickering	Principal Registry of the Family Division
Mr N. R. Whitty	Scottish Law Commission
Mr J. W. Wilson	Assistant Secretary to the Supreme Court of Northern Ireland

Secretary : Mr A. Akbar, Law Commission

*Joint Working Party on Products Liability*

Mr A. L. Diamond (Chairman)	Law Commission
The Hon. Lord Hunter, V.R.D.	Scottish Law Commission
Mr R. J. Ayling	Department of Trade
Mr J. A. E. Davies	Law Commission
Mr P. N. Legh-Jones	Barrister
Mr H. R. M. Macdonald	Scottish Law Commission
Mr M. W. Parkinson	Law Commission
Mr T. N. Risk	Solicitor, Glasgow
Mr M. J. Rogers	Chief Executive, Common Market Secretariat, Lloyds
Mr T. D. Salmon	Department of Trade
Mr P. J. K. Thompson	Law Commission

Secretary : Miss J. Richardson, Law Commission

*Working Party to examine Law Commission Working Papers on Criminal Law*

The Hon. Lord Cameron, D.S.C. (Chairman)	
Mr J. D. Allan	Crown Office
Professor G. H. Gordon, Q.C.	University of Edinburgh
Mr A. F. Rodger	Advocate, Edinburgh
Mr W. A. P. Weatherston	Scottish Home and Health Department

Secretary : Mr A. J. F. Tannock, M.C., Scottish Law Commission

*Working Party to examine Law Commission Working Papers relating to the Law of Contract*

Professor T. B. Smith, Q.C. (Chairman)	Scottish Law Commission
Mr J. T. Cameron, Q.C.	Faculty of Advocates
Mr M. G. Clarke	University of Edinburgh
Mr W. W. McBryde	University of Glasgow

Secretary : Mr H. R. M. Macdonald, Scottish Law Commission

## APPENDIX II

1 SCOTTISH LAW COMMISSION — PAPERS PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE  
(as at 31 October 1975)

		<i>Commission No.</i>
1965	1	First Programme of Law Reform
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1966	2	First Programme of Consolidation and Statute Law Revision
	3	First Annual Report 1965-66
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1967	4	Proposals for Reform of the Law of Evidence relating to Corroboration
	5	Reform of the Law Relating to Legitimation <i>per subsequens matrimonium</i> (Cmnd. 3223)
	6	Divorce—The Grounds Considered (Cmnd. 3256)
	6A	*Report on the Consolidation of Certain Enactments relating to Shellfish Fisheries and Shellfish-Sea Fisheries (Shellfish) Bill (Cmnd. 3267)
	7	Second Annual Report 1966-67
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1968	8	Second Programme of Law Reform
	9	Third Annual Report 1967-68
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1969	10	*Report on the Consolidation of the Trustee Savings Banks Acts 1954 to 1968—Trustee Savings Banks Bill (Cmnd. 4004)
	11	*Report on the Interpretation of Statutes
	12	*Report on Exemption Clauses in Contracts—First Report: Amendments to the Sale of Goods Act 1893
	13	Fourth Annual Report 1968-69
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1970	14	Report on the Companies (Floating Charges) (Scotland) Act 1961 (Cmnd 4336)
	15	Reform of the Law Relating to Prescription and Limitation of Actions
	16	*Report on the Hague Convention on Recognition of Divorces and Legal Separations (Cmnd. 4542)
	17	Fifth Annual Report 1969-70
	18	*Report on the Consolidation of Certain Enactments relating to Coinage (Cmnd. 4544)
	19	*Report on the Consolidation of Certain Enactments relating to Excise Duties on Mechanically Propelled Vehicles, and to the Licensing and Registration of such Vehicles (Cmnd. 4547)
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1971	20	*Report on the Consolidation of Enactments relating to the National Savings Bank (Cmnd. 4574)
	21	*Report on the Taxation of Income and Gains derived from Land (Cmnd. 4654)
	22	*Report on the Consolidation of Certain Enactments relating to Road Traffic— Road Traffic Bill (Cmnd. 4731)
	23	Sixth Annual Report 1970-71

\*Produced jointly with the Law Commission

*Commission  
No.*

- 1972 24 Report on the Consolidation of Certain Enactments relating to Town and Country Planning in Scotland—Town and Country Planning (Scotland) Bill (Cmnd. 4949)
- 25 Family Law—Report on Jurisdiction in Consistorial Causes affecting Matrimonial Status
- 26 \*Statute Law Revision—Fourth Report : Draft Statute Law (Repeals) Bill (Cmnd. 5108)
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- 1973 27 Second Programme of Consolidation and Statute Law Revision
- 28 Seventh Annual Report 1971-72
- 29 Third Programme of Law Reform
- 30 Report on Liability for Antenatal Injury
- 31 Report on the Law relating to Damages for Injuries causing Death
- 32 \*Statute Law Revision—Fifth Report : Draft Statute Law (Repeals) Bill (Cmnd. 5493)
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- 1974 33 Eighth Annual Report 1972-73
- 34 Report on Presumption of Death
- 35 \*Friendly Societies Bill—Report on the Consolidation of the Friendly Societies Acts 1896 to 1971 and certain other enactments relating to the Societies to which those Acts apply (Cmnd. 5634)
- 36 \*Statute Law Revision—Sixth Report : Draft Statute Law (Repeals) Bill (Cmnd. 5792)
- 
- 1975 37 Ninth Annual Report 1973-74
- 38 \*Supply Powers Bill—Report on the Consolidation of Enactments relating to Supply Powers (Cmnd. 5850)
- 39 \*Exemption Clauses—Second Report

2 SCOTTISH LAW COMMISSION—MEMORANDA CIRCULATED FOR COMMENT AND CRITICISM

- 1966 Memorandum No. 1—Probates or Letters of Administration as Links in Title to Heritable Property under the Succession (Scotland) Act 1964
- Memorandum No. 2—Expenses in Criminal Cases
- 1967 Memorandum No. 3—Restrictions on the Creation of Liferents
- Memorandum No. 4—Applications for Planning Permission
- Memorandum No. 5—Damages for Injuries Causing Death
- \*Memorandum No. 6—Interpretation of Statutes
- 1968 \*Memorandum No. 7—Provisional Proposals Relating to Sale of Goods
- Memorandum No. 8—Draft Evidence Code—First Part
- 1969 Memorandum No. 9—Prescription and Limitation of Actions
- Memorandum No. 10—Examination of the Companies (Floating Charges) (Scotland) Act 1961
- Memorandum No. 11—Presumptions of Survivorship and Death
- Memorandum No. 12—Judgments Extension Acts

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- 1970 Memorandum No. 13—Jurisdiction in Divorce
- 1971 Memorandum No. 14—Remedies in Administrative Law
- \*Memorandum No. 15—The Exclusion of Liability for Negligence in the Sale of Goods and Exemption Clauses in Contracts for the Supply of Services and Other Contracts
- Memorandum No. 16—Insolvency, Bankruptcy and Liquidation
- 1972 Memorandum No. 17—Damages for Injuries Causing Death
- 1974 Memorandum No. 18—Liability of a Paramour in Damages for Adultery and Enticement of a Spouse
- Memorandum No. 19—Powers of Judicial Factors
- 1975 \*Memorandum No. 20—Liability for Defective Products

3 SCOTTISH LAW COMMISSION—PUBLISHED CONSULTATIVE DOCUMENTS CIRCULATED FOR COMMENT AND CRITICISM

- 1974 \*Private International Law—E.E.C. Preliminary Draft Convention on the law applicable to Contractual and Non-Contractual Obligations

4 SCOTTISH LAW COMMISSION—CONSULTATIVE PAPERS NOT PUBLISHED AND WITH VERY RESTRICTED CIRCULATION

- 1969 Married Women's Policies of Assurance (Scotland) Act 1880—Working Paper
- 1973 Consultation Paper on Divorce for Incurable Insanity
- 1974 Insolvency, Bankruptcy and Liquidation in Scotland—Consultative Paper

5 SCOTTISH LAW COMMISSION—UNPUBLISHED CONFIDENTIAL DOCUMENTS

- 1975 Memorandum on Devolution, Scots Law and the Role of the Commission
- \*Interim Report on the E.E.C. Preliminary Draft Convention on the Law applicable to Contractual and Non-Contractual Obligations

### APPENDIX III

#### STATUTORY PROVISIONS RELATING TO THE SCOTTISH LAW COMMISSION'S PROPOSALS (as at 31 October 1975)

<i>Titles of relevant Memoranda and Reports</i>	<i>Date of Publication</i>	<i>Statutory Provision</i>
<i>(a) Memoranda</i>		
Restrictions on the Creation of Life-rents (Memorandum No. 3)	5.5.67	Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70), section 18.
Applications for Planning Permission (Memorandum No. 4)	11.5.67	Town and Country Planning (Scotland) Act 1969 (c. 30), section 79.
<i>(b) Reports</i>		
Proposals for Reform of the Law of Evidence Relating to Corroboration (Scot. Law Com. No. 4)	20.4.67	Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70), section 9.
Reform of the Law Relating to Legitimation <i>per subsequens matrimonium</i> (Scot. Law Com. No. 5) (Cmnd. 3223)	20.4.67	Legitimation (Scotland) Act 1968 (c. 22) ; Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c. 70), section 5.
Divorce—The Grounds Considered (Scot. Law Com. No. 6) (Cmnd. 3256)	12.5.67	None.
Sea Fisheries (Shellfish) Bill (Joint Report with the Law Commission) (Scot. Law Com. No. 6A) (Cmnd. 3267)	11.5.67	Sea Fisheries (Shellfish) Act 1967 (c. 83)
Trustee Savings Banks Bill (Joint Report with the Law Commission) (Scot. Law Com. No. 10) (Cmnd. 4004)	17.4.69	Trustee Savings Banks Act 1969 (c. 50).
Interpretation of Statutes (Joint Report with the Law Commission) (Scot. Law Com. No. 11)	11.6.69	None
Exemption Clauses in Contracts—First Report: Amendments to the Sale of Goods Act 1893 (Joint Report with the Law Commission) (Scot. Law Com. No. 12)	18.9.69	Supply of Goods (Implied Terms Act 1973 (c. 13).
The Companies (Floating Charges) (Scotland) Act 1961 (Scot. Law Com. No. 14) (Cmnd. 4336)	22.4.70	The Companies (Floating Charges and Receivers) (Scotland) Act 1972 (c. 67).
Reform of the Law Relating to Prescription and Limitation of Actions (Scot Law Com. No. 15)	27.11.70	Prescription and Limitation (Scotland) Act 1973 (c. 52).
Hague Convention on Recognition of Divorces and Legal Separations (Joint Report with the Law Commission) (Scot. Law Com. No. 16) (Cmnd. 4542)	1.12.70	Recognition of Divorces and Legal Separations Act 1971 (c. 53).
Coinage Bill (Joint Report with the Law Commission) (Scot. Law Com. No. 18) (Cmnd. 4544)	26.11.70	Coinage Act 1971 (c. 24).
Vehicles (Excise) Bill (Joint Report with the Law Commission) (Scot. Law Com. No. 19) (Cmnd. 4547)	2.12.70	Vehicles (Excise) Act 1971 (c. 10).
National Savings Bank Bill (Joint Report with the Law Commission) (Scot. Law Com. No. 20) (Cmnd. 4574)	13.1.71	National Savings Bank Act 1971 (c. 29)

<i>Titles of relevant Memoranda and Reports</i>	<i>Date of Publication</i>	<i>Statutory Provision</i>
Taxation of Income and Gains derived from Land (Joint Report with the Law Commission) (Scot. Law Com. No. 21) (Cmnd. 4654)	23.4.71	In part by section 82 of the Finance Act 1972 (c. 41).
The Road Traffic Bill (Joint Report with the Law Commission) (Scot. Law Com. No. 22) (Cmnd. 4731)	26.7.71	Road Traffic Act 1972 (c. 20).
Town and Country Planning (Scotland) Bill (Scot. Law Com. No. 24) (Cmnd. 4949)	20.4.72	Town and Country Planning (Scotland) Act 1972 (c. 52).
Family Law—Report on Jurisdiction in Consistorial Causes affecting Matrimonial Status (Scot. Law Com. No. 25)	29.9.72	Domicile and Matrimonial Proceedings Act 1973 (c. 45).
Statute Law Revision—Fourth Report : Draft Statute Law (Repeals) Bill (Joint Report with the Law Commission) (Scot. Law Com. No. 26) (Cmnd. 5108)	28.9.72	Statute Law (Repeals) Act 1973 (c.39).
Report on Liability for Antenatal Injury (Scot. Law Com. No. 30)	30.8.73	None.
Report on the Law relating to Damages for Injuries causing Death (Scot. Law Com. No. 31)	24.10.73	None.
Statute Law Revision—Fifth Report : Draft Statute Law (Repeals) Bill (Joint Report with the Law Commission) (Scot. Law Com. No. 32) (Cmnd. 5493)	6.12.73	Statute Law (Repeals) Act 1974 (c. 22).
Report on Presumption of Death (Scot. Law Com. No. 34)	3.9.74	None.
Friendly Societies Bill (Joint Report with the Law Commission) (Scot. Law Com. No. 35) (Cmnd. 5634)	27.6.74	Friendly Societies Act 1974 (c. 46)
Statute Law Revision—Sixth Report : Draft Statute Law (Repeals) Bill (Joint Report with the Law Commission) (Scot. Law Com. No. 36) (Cmnd. 5792)	5.12.74	Statute Law (Repeals) Act 1975 (c. 10).
Supply Powers Bill (Joint Report with the Law Commission) (Scot. Law Com. No. 38) (Cmnd. 5850)	6.1.75	Supply Powers Act 1975 (c. 9).
Exemption Clauses—Second Report (Joint Report with the Law Commission) (Scot. Law Com. No. 39)	2.10.75	None.



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