

# Scottish Law Commission

(SCOT. LAW COM. No. 81)

**EIGHTEENTH  
ANNUAL REPORT  
1982–1983**

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

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*Ordered by The House of Commons to be printed  
16th November, 1983*

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*EDINBURGH*  
HER MAJESTY'S STATIONERY OFFICE  
£4.15 net

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 Maxwell, *Chairman*,  
Mr. R. D. D. Bertram,  
Dr. E. M. Clive,  
Mr. J. Murray, Q.C.  
Sheriff C. G. B. Nicholson, Q.C.

The Secretary of the Commission is Mr. R. Eadie. Its offices are at 140 Causewayside, Edinburgh EH9 1PR.

SCOTTISH LAW COMMISSION  
REPORT FOR THE YEAR ENDED 15TH JUNE, 1983

To: The Right Honourable the Lord Mackay of Clashfern, Q.C.,  
*Her Majesty's Advocate*

In accordance with 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 Eighteenth Annual Report of the Scottish Law Commission.

*(Signed)* PETER MAXWELL,  
*Chairman*

R. D. D. BERTRAM

E. M. CLIVE

JOHN MURRAY

GORDON  
NICHOLSON

R. EADIE, *Secretary*

15 September 1983.

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<sup>1</sup>Transfer of Functions (Secretary of State and Lord Advocate) Order 1972 (S.I. 1972, No. 2002).



## EIGHTEENTH ANNUAL REPORT

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## I. THE COMMISSION

1.1 The Scottish Law Commission, which was set up on 16 June 1965, consists of a full-time Chairman, two full-time Commissioners and two part-time Commissioners. The present Commissioners are:

The Honourable Lord Maxwell, <i>Chairman</i>	(Full-time)
Mr. R. D. D. Bertram	(Part-time)
Dr. E. M. Clive	(Full-time)
Mr. J. Murray, Q.C.	(Part-time)
Sheriff C. G. B. Nicholson, Q.C. <sup>1</sup>	(Full-time)

The Secretary of the Commission is Mr. R. Eadie.

1.2 Professor A. E. Anton, C.B.E., retired from membership of the Commission on 30 September 1982. We wish to express our sincere appreciation of his invaluable contribution to our work since he joined the Commission in 1966. Professor Anton, who has been appointed to an honorary academic post at the University of Aberdeen, continues his association with the Commission in the capacity of our consultant on private international law matters. In October 1982 we welcomed Sheriff C. G. B. Nicholson, Q.C., to membership of the Commission.

### STAFF

1.3 Our legal staff consists of one full-time and two part-time Parliamentary Draftsmen, our Secretary and eight other qualified lawyers. During the year we received assistance from a Depute Procurator Fiscal who has undertaken research on our behalf into criminal law matters. During the summer vacation of 1982 we employed three graduates in law to assist with our research work. We wish to thank them for their assistance. Our non-legal staff remains at eleven.

### PREMISES—LIBRARY

1.4 In our last annual report<sup>2</sup> we referred to adaptation of part of our rear premises previously occupied by the National Museum of Antiquities of Scotland as the nucleus of our future library. We are pleased to report that the initial phase of the development was completed in December 1982 and was officially opened by Professor Emeritus Sir Thomas Smith, Q.C. Work is now proceeding on the final phase which is scheduled for completion shortly.

1.5 We and our legal staff continue to have access to the University of Edinburgh Law Library for a modest annual payment. This arrangement has been most beneficial to us and we again express our appreciation of the co-operation and assistance which we have received from the University and its officers, including in particular the Law Librarian, Miss M. E. Sturgeon. Access to the University Library has been invaluable to us, and will continue to be necessary for the foreseeable future on account of the very wide scope of its contents.

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<sup>1</sup>Sheriff Nicholson was appointed as a Commissioner with effect from 4 October 1982.

<sup>2</sup>(1982) Scot. Law Com. No. 73, para. 1.4.

## MEETINGS

1.6 We continue to hold full Commission meetings on average twice a month. Additional meetings are held as required.

## II. GENERAL

2.1 Without feeling in any way complacent about our achievements, we consider that we have, on the whole, made good progress with our law reform work in the past year. In the period covered by this annual report, four reports<sup>1</sup> making recommendations for reform of the law of Scotland have been published, and in the same period we have issued four consultative documents<sup>2</sup> setting out provisional proposals for comment and criticism. At the time of preparing this report for submission to you, two further reports<sup>3</sup> have just been published and others<sup>4</sup> will be submitted shortly.

2.2 These facts, we believe, give cause for modest satisfaction with the performance of a small law reform agency such as this Commission. We feel it is necessary, however, to sound a note of caution. The nature of law reform work results inevitably in peaks and troughs in terms of published proposals, for a major project is bound to take several years to complete (and it is often quite impossible at the outset to forecast just how long completion of such a project will in fact take). Thus, the size of the list of published reports and consultative documents produced in the period covered by an annual report is not necessarily an accurate indication of the amount of activity that has been generated within the Commission in that period. In the past few years, however, we have endeavoured to deploy our resources in such a way as to produce a fairly steady stream of law reform proposals. A central feature of our general strategy has been to try to complete as soon as possible our main work on two of our largest programme subjects, bankruptcy and diligence, and then to turn our attention progressively to other important projects, preferably in most cases of more manageable size. Both bankruptcy and diligence are clearly subjects of great social and economic concern. We think it proper to mention, however, that they have absorbed a very significant proportion of our limited resources over a number of years. Our work on bankruptcy was, of course, completed in the period covered by our last annual report.<sup>5</sup> Because of the sheer difficulty and complexity of diligence, however, it has simply not been possible to complete our main report on this subject

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<sup>1</sup>Reports on *Financial Provision after Foreign Divorce* (Scot. Law Com. No. 72), *Prescription and Limitation of Actions: Personal Injuries Actions and Private International Law Questions* (Scot. Law Com. No. 74), *Irritancies in Leases* (Scot. Law Com. No. 75) and *Outdated Rules in the Law of Husband and Wife* (Scot. Law Com. No. 76).

<sup>2</sup>Consultative Memoranda on *Civil Liability in relation to Animals and Matrimonial Property*; and, jointly with the Law Commission for England and Wales, consultative documents on *Polygamous Marriages*, etc. and the *Recognition of Foreign Nullity Decrees and related Matters* (the latter with restricted circulation). Other, less extensive, documents have also been issued (see Appendix II, section 4).

<sup>3</sup>Reports on *Evidence in Cases of Rape and Other Sexual Offences* (Scot. Law Com. No. 78) and *Rectification of Contractual and other Documents* (Scot. Law Com. No. 79).

<sup>4</sup>On the *Mental Element in Crime* (see para. 3.5 below) and *Illegitimacy* (see para. 3.15 below). The former was submitted on 23 August 1983.

<sup>5</sup>See Report on *Bankruptcy and Related Aspects of Insolvency and Liquidation*, (1982) Scot. Law Com. No. 68.

as quickly as we would have wished, and bearing in mind that there are practical limits to the amount of resources which can usefully be devoted to any one project, however important, a number of other important, albeit less intractable, projects have been completed ahead of it. We are satisfied that this measure of success on other fronts has not been achieved at the expense of our work on diligence (as to which please see below).<sup>1</sup>

2.3 In determining our priorities within our published programmes of law reform, we have tried, so far as practicable, to concentrate on areas where we believe there is a real need for change, rather than to strive for codification of the law according to some preconceived plan. Whatever may be the theoretical merits of codification, we consider that it is just not a practical proposition in the foreseeable future given the need to make the best possible use of limited resources. This applies with particular force to our very large programme subject, obligations, about which we have more to say below.<sup>2</sup>

2.4 By far the largest and most difficult of our current projects is our first report on the law of diligence,<sup>3</sup> covering the major aspects of that subject. We are all too well aware of the strong public interest in the subject and the demand that we should submit our proposals as a matter of great urgency. We are also conscious, however, of the extraordinary difficulty of devising proposals which will avoid undue harshness to debtors who cannot pay their debts, but which will at the same time avoid creating unacceptable difficulties for the modern system of credit on which so much of society depends, and which will not impose large demands on the public purse. The existing law has grown up gradually over the centuries and it cannot be changed in any responsible way without a great deal of thought. While in general we favour trying to keep the law reasonably simple, this particular exercise necessarily involves a vast amount of complex detail. A report with draft clauses is in active preparation. It will continue to receive the highest priority. Certain more technical and specialised areas of the law of diligence, including diligence on the dependence and inhibition, will be dealt with separately in a later report, and some preliminary work is being undertaken for us in those areas.<sup>4</sup> But we have no intention of delaying submission of our major report until those areas are considered. Our first report on diligence will be confined to those topics which we consider must be dealt with together if we are to present a coherent and systematic package of reforms. Even so, the scope of the report is very large indeed.

2.5 The first report on diligence, together with our report on bankruptcy<sup>5</sup> (published early in 1982), will represent a more or less complete set of proposals for reform of the law of personal insolvency in Scotland. We understand that our bankruptcy report is being considered by interdepartmental working groups set up by the Department of Trade and Industry and that these working groups are at the same time considering the report of the Insolvency Law Review Committee for England and Wales. We are glad to learn that steps have been taken to ensure a substantial Scottish involvement

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<sup>1</sup>See para. 2.4.

<sup>2</sup>See paras. 2.10 to 2.12.

<sup>3</sup>See paras. 3.9. and 3.10 below.

<sup>4</sup>See para. 3.10 below.

<sup>5</sup>(1982) Scot. Law Com. No. 68.

in these working groups. We trust that the distinctive origins and characteristics of Scottish bankruptcy law and its close relationship with other aspects of the Scottish system, notably the law of diligence, will be kept clearly in view. We should add that we have received informal indications that the scheme set out in our report has the support of the bodies representing the professions concerned with the practical operation of bankruptcy law in Scotland.

2.6 A major programme subject on which considerable work is being done, and on which we hope to make more rapid progress once the back of the diligence project is broken, is the law of evidence.<sup>1</sup> This is a huge subject, parts of which are of great practical importance. One problem which arises is whether we should attempt to deal with various topics in this field in one very large report or in a series of reports, and if the latter how the divisions should be made. In the meantime, at your request, we have dealt as a matter of urgency with certain special problems of evidence peculiar to trials involving rape and other sexual offences and have submitted to you our report, with a draft Bill annexed, on these matters.

2.7 Family law is a field in which we are committed to an extensive programme of systematic reform. This is a field where changing social attitudes and conditions appear to us to call for relatively frequent legislative action. We have already reported on occupancy rights in the matrimonial home and domestic violence and our proposals here have been given effect (albeit with modifications) by legislation.<sup>2</sup> We have submitted a report on aliment and financial provision on divorce<sup>3</sup> and a further report on certain outdated rules in the law of husband and wife.<sup>4</sup> The former is of major importance on a matter of intense public interest while the latter contains, we believe, useful proposals for clearing away dead wood. We hope to submit shortly a report on illegitimacy.<sup>5</sup> We have consulted on and will fairly soon be returning to the subject of matrimonial property,<sup>6</sup> and once resources become available after completion of our first report on diligence, we hope to make progress with a wide-ranging review of the law relating to children.<sup>7</sup>

2.8 Our work in the family law field highlights two problems of general importance. First, while looking back over the years we think that this Commission can be well satisfied with the extent to which its recommendations have been implemented, we view with some disquiet the fact that none of our reports published since 29 April 1981 (other than reports on consolidation Bills) have been the subject of Bills laid before Parliament. This is of particular concern in relation to our report on aliment and financial provision which was published on 5 November 1981. The prolonged uncertainty as to whether our proposals are likely to be implemented, and if so in what form, gives rise to considerable practical difficulties in preparing subsequent proposals in related areas. We have found at some points in our work on illegitimacy difficulty in knowing how to express our proposals in view of the uncertainty of the fate

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<sup>1</sup>See para. 3.11 below.

<sup>2</sup>Matrimonial Homes (Family Protection) (Scotland) Act 1981 (c. 59).

<sup>3</sup>(1981) Scot. Law Com. No. 67. We have, of course, reported separately on the topic of *Financial Provision after Foreign Divorce* (see (1982) Scot. Law Com. No. 72).

<sup>4</sup>(1983) Scot. Law Com. No. 76.

<sup>5</sup>See para. 3.15 below.

<sup>6</sup>See para. 3.14 below.

<sup>7</sup>See para. 3.17 below.

of the earlier proposals on aliment. We appreciate that it would be presumptuous of us to assume either that the Government will support or that Parliament will decide to implement our earlier proposals. But one area of law, however it is delimited, inevitably has implications for neighbouring areas, and continued uncertainty of this kind necessarily presents obstacles to efficient and systematic law reform. We have found a similar, though less severe, problem in formulating certain aspects of our diligence report when the outcome of our proposals on bankruptcy remains unknown.

2.9 The second point of general significance recently highlighted by our family law work concerns the application to Scotland of statutory provisions designed for the legal system of England and Wales. In our illegitimacy project we have found it impracticable to ask our draftsman to prepare reasonably intelligible clauses for the illegitimacy exercise in the field of guardianship against the background of what can only be described as a 'jungle' of *ad hoc* statutory provisions of English origin applied to Scotland. Accordingly, in our illegitimacy report we are recommending, with the strong support of those whom we consulted on the subject, radical simplification of guardianship legislation as it applies to Scotland, even though this goes beyond the sphere of illegitimacy. We are certainly not in favour of Scots law being different from the law south of the Border simply for the sake of being different. In many areas we think it desirable that in practical effect the two laws should be the same, but the methods and techniques which the systems use are different, and the legislation designed for England is often unsuited to the Scottish system. We are concerned that this problem still seems to receive less attention than it deserves.

2.10 One of our most necessary and important programme subjects is obligations which, because of its very wide scope, has served as a convenient umbrella for a large number of projects of great diversity. A very important aspect of our work under the general heading of obligations has been the examination, in conjunction with the Law Commission for England and Wales, of the subject of implied terms and remedies in the sale and supply of goods.<sup>1</sup> Work on the preparation of a joint consultative document has recently been completed and this document is expected to be published soon. Another important area of our work under this general heading is our project on civil liability in relation to animals.<sup>2</sup> We have now received, and are in the process of analysing, comments in response to consultation on this exercise. We expect to be in a position to consider the policy options in the fairly near future with a view to preparation of our report. A notable feature of this exercise was that when we published our consultative memorandum we issued simultaneously a much shorter and less technical 'popular' version. The response to this document has been fairly encouraging. We have since published a similar 'popular' version along with our consultative memorandum on matrimonial property, and the two Commissions propose to follow the same course in relation to the joint project on sale and supply of goods mentioned above. In both cases we await the response with interest, as we shall wish to assess in the light of experience whether the publication of such documents is the most satisfactory and cost-effective way of involving a wider cross-section of the public in the formulation of our proposals.

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<sup>1</sup>See para. 3.25 below.

<sup>2</sup>See para. 3.24 below.

2.11 A further exercise falling under the general heading of obligations, and one which should be of particular interest to the business community, is our project on security over moveables.<sup>1</sup> This exceptionally difficult area is of great practical importance, largely because the existing rules of Scots law may place obstacles in the way of Scottish business concerns raising finance. The general principle is that security cannot be granted over corporeal moveables without surrender of possession, or over incorporeal moveables without transfer of title (and with it not only attendant rights but possibly also corresponding liabilities). Those difficulties have to some extent been alleviated by the introduction into Scots law of the floating charge, but we have little doubt that this does not meet by any means all the problems and that further and perhaps more radical changes in the law are required. We are greatly assisted in consideration of the problems by a report submitted to us by a distinguished Working Party.<sup>2</sup> The setting up of that Working Party resulted from certain recommendations of the Crowther Committee<sup>3</sup> which proposed the creation of a new system of security based on registration or 'filing' which was much influenced by the complex system developed in the United States and set out in article 9 of that country's Uniform Commercial Code. At the time when the Working Party was set up it was thought that there might be pressure for legislation to give effect to the security system advocated by the Crowther Committee, and in the circumstances the Working Party's report, very properly, was largely concerned with devising a scheme for the introduction of such a system, in suitably modified form, into the law of Scotland. It now appears rather less likely that anything on the lines of the Crowther recommendations in this area will be adopted. While we shall, of course, draw heavily on the Working Party's report, we wish to give further consideration to a number of important issues, and probably also to consult further, before preparing our own report. Preliminary work in this area is now in hand within the Commission, and we mean to devote more time to it as soon as other commitments allow.

2.12 Also under the obligations heading, we have submitted to you in the latter part of the period under review a report on the rectification of contractual and other documents.<sup>4</sup> Although this may appear a relatively minor matter, it is an area where there is at present an unnecessary and troublesome gap in our law as compared with other systems. Work has begun on proposals for reform of certain aspects of the law relating to the formation and formalities of contract,<sup>5</sup> where we believe the present rules (especially on the latter aspect) are unduly complex and restrictive. We intend to proceed in due course with other work in the general area of voluntary obligations<sup>6</sup> in so far as a need and demand for reform have been identified. As previously indicated, however, it is not our intention to proceed with codification of the law of obligations in the foreseeable future.

2.13 In the area of private international law, the exercise which has continued to occupy most of our attention has been conflicts of jurisdiction affecting the

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<sup>1</sup>See para. 3.20 below.

<sup>2</sup>See list of members in Appendix I.

<sup>3</sup>*Report of the Committee on Consumer Credit*, (1971) Cmnd. 4596.

<sup>4</sup>(1983) Scot. Law Com. No. 79.

<sup>5</sup>See para. 3.21 below.

<sup>6</sup>See para. 3.19 below.

custody of children,<sup>1</sup> on which we are working in conjunction with the Law Commission for England and Wales. The object of this exercise is to harmonise, so far as practicable, the law relating to the jurisdiction of courts in the United Kingdom to make custody orders and to devise satisfactory rules to enable effect to be given to such orders throughout the United Kingdom. Although some issues have yet to be settled, this exercise has made considerable progress and we hope that it will be completed in the fairly near future. Recently, again in conjunction with the Law Commission for England and Wales, we issued a consultation paper on the recognition of foreign nullity decrees,<sup>2</sup> and we are at present studying the response to consultation on the joint exercise on polygamous marriages.<sup>3</sup> The subject of choice of law rules in delict<sup>4</sup> has continued to be discussed on a United Kingdom basis by a Joint Working Party of the two Commissions. We envisage that a joint consultative document on this topic will be issued fairly soon.

2.14 Before leaving the general field of private law, we mention several matters which do not fall under any of our published programmes of law reform. The first of these is irritancies in leases.<sup>5</sup> We have submitted a report on this topic during the year to the Secretary of State for Scotland. The fairly modest proposals for reform contained in that report, as in some other reports of similar length, perhaps give a misleading impression of the amount of work involved. We thought it right to canvass on consultation a wider range of more radical reforms; but, having regard to the views of those consulted, we decided not to recommend these in our report. A second matter in this category is breach of confidence.<sup>6</sup> This exercise is proving extremely difficult, and we are currently re-examining the policy options in light of the response to the consultation paper we issued last year. We hope to be able to submit a report on this topic in the course of the coming year. A third matter under this heading is the law relating to receivers.<sup>7</sup> We hope to receive shortly from a Joint Working Party of members of the legal and accountancy professions in Scotland a report drawing attention to particular problems in this field. It is our intention to submit a report on this matter in due course (after such further consultation as may be appropriate). We have in mind that our report will also include the results of certain work done in the Commission some time ago on the technicalities of registration of floating charges. Fourthly, there is the subject which we have until now referred to under the description of 'actions of ejection and removings'<sup>8</sup> on which we propose to issue a consultative memorandum in the fairly near future. Our memorandum will deal with procedural issues relating to the termination of leases and the recovery of possession of heritable property.

2.15 We wish to take the opportunity of making it clear that this Commission is concerned with criminal as well as civil law. The amount of work likely to be done in the area of criminal law is, however, limited by three factors. First,

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<sup>1</sup>See para. 3.30 below.

<sup>2</sup>See para. 3.31 below.

<sup>3</sup>See para. 3.33 below.

<sup>4</sup>See para. 3.29 below.

<sup>5</sup>See para. 3.46 below.

<sup>6</sup>See para. 3.45 below.

<sup>7</sup>See para. 3.49 below.

<sup>8</sup>See paras. 3.50 and 3.51 below.

having regard to certain realities, including the effect of the considerable demands made on our time by work on the major programme subjects mentioned earlier, our approach in this area has been in general to undertake an exercise leading to proposals for reform of the law only where statutory intervention appears likely to be clearly necessary or desirable. In this respect, the situation is entirely different from that in England and Wales where the Law Commission have been involved in an exercise designed to lead to extensive codification of the criminal law. We do not have a corresponding codification of Scots criminal law in view. Second, we do not consider it appropriate that we should attempt to intervene in the area of criminal procedure generally. This area was fairly recently the subject of a major review by the Thomson Committee, resulting in legislation,<sup>1</sup> and we understand that criminal procedure is now under continuing review by a standing committee under the chairmanship of Lord Cowie. Third, our staff resources in the criminal law field are rather limited despite the helpful arrangements under which the services of a member of the Procurator Fiscal Service are made available to us. We understand that it is intended to continue with this practice and we are grateful to the Crown Office authorities for their assistance. Notwithstanding these limitations, we have made recommendations in the field of criminal law. Towards the end of 1981 we submitted a report with a draft Bill on the law of incest.<sup>2</sup> We are disappointed that it has not as yet been found possible to bring our proposals before Parliament. For the most part, we think that the proposed reforms in the report are unlikely to give rise to controversy. As mentioned already, we have very recently submitted a report with a draft Bill on evidence in cases of rape and other sexual offences.<sup>3</sup> In response to a reference, we are about to submit a report on the mental element in crime.<sup>4</sup> In addition, we are currently preparing papers on certain other aspects of the criminal law, including mobbing and rioting.<sup>5</sup> From time to time we have to consider and, where appropriate, advise on any implications for Scotland of proposed reforms of the criminal law recommended for England and Wales.<sup>6</sup> Our work on evidence will certainly involve consideration of further aspects of the law of evidence in criminal matters, and our work on civil law matters from time to time involves incidental consideration of aspects of criminal law. This has occurred, for example, in our work on diligence. In general we intend, so far as our limited resources permit, to increase our involvement in work in the criminal law field. It should be borne in mind (and this applies to the private law field as well) that by no means all of our work takes the form of published documents.

2.16 We continue to enjoy an excellent relationship and close co-operation with the Law Commission for England and Wales. We are grateful for their understanding of the fact that, because of our much smaller size, we cannot always move at the same speed in matters on which we are jointly engaged. Because of the differences in approach and technique of the two legal systems, it is sometimes difficult to reach agreement on the two sides of the Border,

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<sup>1</sup>Criminal Justice (Scotland) Act 1980 (c.62).

<sup>2</sup>(1981) Scot. Law Com. No. 69.

<sup>3</sup>(1983) Scot. Law Com. No. 78.

<sup>4</sup>This report was submitted to the Secretary of State for Scotland on 23 August 1983.

<sup>5</sup>See para. 3.6 below.

<sup>6</sup>See para. 3.3 below.

even on matters where there is no substantial difference as to the basic objectives. For this reason, amongst others, we consider it of the greatest importance that the close and amicable relationships which we presently enjoy at a personal level should be maintained.

### III. PROGRESS OF LAW REFORM PROJECTS

3.1 The present position in each of our current law reform projects is set out in the following paragraphs. The main subject headings are presented in alphabetical order. We continue to attach greatest importance to our 'programme' work, that is, to projects undertaken in accordance with our published programmes<sup>1</sup> of law reform. In the main headings set out below, programme subjects are denoted by the use of an asterisk.

#### **BANKRUPTCY\***

(Second Programme, Item 6)

3.2 We are informed that the Department of Trade and Industry has set up interdepartmental working groups to consider the recommendations for alteration of insolvency law contained in our report on *Bankruptcy and Related Aspects of Insolvency and Liquidation*<sup>2</sup> and in the report of the Insolvency Law Review Committee for England and Wales.<sup>3</sup> We hope that the deliberations of these groups will result in early implementation of the recommendations contained in our report.

#### **CRIMINAL LAW**

##### *General*

3.3 The bulk of our work in the field of the criminal law has continued to arise from requests (both formal and informal) made to us by Government Departments and other bodies for advice under section 3(1)(e) of the Law Commissions Act 1965 or from proposals for reform of the law submitted to us under section 3(1)(a) of that Act. In addition, so far as our resources have allowed, we have continued to respond to consultation by the Law Commission for England and Wales on aspects of that Commission's work, and to consider the possible implications for Scotland of proposals made by them under their programme subject 'Codification of the Criminal Law'. Matters in the foregoing categories have sometimes led to formal law reform projects: examples of such projects are mentioned below. But in other cases the matters in question have been dealt with informally and are not, therefore, mentioned in the following summary.

##### *Incest*

3.4 We have yet to receive an indication as to when legislation will be introduced to implement the recommendations contained in our report on

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<sup>1</sup>First Programme, (1965) Scot. Law Com. No. 1; Second Programme, (1968) Scot. Law Com. No. 8; Third Programme, (1973) Scot. Law Com. No. 29.

\*Denotes programme subject.

<sup>2</sup>(1982) Scot. Law Com. No. 68.

<sup>3</sup>Cmnd. 8558, 1982.

*The Law of Incest in Scotland.*<sup>1</sup> The report was submitted to the Secretary of State for Scotland on 25 September 1981 and published on 23 December 1981.

*Mental Element in Crime*

3.5 Work on the above topic (which was interrupted in 1982 owing to unexpected staff changes) has proceeded to the extent that other pressures on the Commission's resources have allowed. We have concluded that we should proceed straight to a report to the Secretary of State for Scotland, pursuant to the reference received from the Scottish Home and Health Department in 1979, instead of issuing a consultative memorandum as we had originally intended. A draft of our report has reached an advanced stage of preparation and we hope that it will be ready for submission shortly.<sup>2</sup>

*Mobbing and Rioting*

3.6 Since our last annual report was completed, it has been possible to carry out a preliminary examination of certain aspects of the law relating to mobbing and rioting. A research paper has been prepared and further work in this area is currently being undertaken. It is not our intention at present, however, to undertake a project on the law relating to conspiracy generally.

*Coercion*

3.7 As explained in our last annual report,<sup>3</sup> having regard to other pressures on our resources, we have decided to discontinue work on the above topic, at any rate for the time being.

**DAMAGES ARISING FROM PERSONAL INJURIES AND DEATH\***

(Second Programme, Item 10)

3.8 Our report on *Damages for Personal Injuries: (1) Admissibility of Claims for Services; (2) Admissible Deductions*,<sup>4</sup> following upon Consultative Memorandum No 21, was submitted to your predecessor on 20 April 1978 and published on 18 July 1978. Our report on *Section 5 of the Damages (Scotland) Act 1976*<sup>5</sup> was submitted to you on 6 February 1981 and was published on 29 April 1981. Most of the recommendations contained in these two reports were implemented by the Administration of Justice Act 1982.

**DILIGENCE\***

(Second Programme, Item 8)

3.9 Work has proceeded throughout the year under review on the preparation of our first report on diligence, which will make recommendations in the various areas covered by our Consultative Memoranda Nos. 47 to 51 referred to in previous annual reports.<sup>6</sup> We have given, and are continuing to give, top priority to the preparation of this major report.

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<sup>1</sup>(1981) Scot. Law Com. No. 69.

<sup>2</sup>This report was submitted to the Secretary of State for Scotland on 23 August 1983.

<sup>3</sup>(1982) Scot. Law Com. No. 73, para. 3.7.

<sup>4</sup>(1978) Scot. Law Com. No. 51.

<sup>5</sup>(1981) Scot. Law Com. No. 64.

\*Denotes programme subject.

<sup>6</sup>(1982) Scot. Law Com. No. 73, para. 3.10.

3.10 To assist us in our work on other topics in the field of diligence not covered by the consultative memoranda referred to above, we have commissioned Mr G. L. Gretton, Lecturer in the Department of Scots law at the University of Edinburgh, to prepare research papers on diligence on the dependence, adjudications for debt and inhibitions.

#### EVIDENCE\*

(First Programme, Item 1)

3.11 Our report on *Evidence in Cases of Rape and Other Sexual Offences*<sup>1</sup> was submitted to you on 27 April 1983 and published on 21 July 1983. Work has commenced on the preparation of a further report dealing with other topics raised in Consultative Memorandum No. 46—*The Law of Evidence*.

#### FAMILY LAW\*

(Second Programme, Item 14)

##### *Aliment and Financial Provision*

3.12 Our report on *Aliment and Financial Provision*,<sup>2</sup> following upon Consultative Memorandum No. 22, was submitted to you on 17 July 1981 and published on 5 November 1981. No legislation has yet been introduced to implement the recommendations contained in this report.

##### *Financial Provision after Foreign Divorce*

3.13 Our report on *Financial Provision after Foreign Divorce*<sup>3</sup> was submitted to you on 9 September 1982 and published on 28 October 1982.

##### *Matrimonial Property Law*

3.14 On 30 March 1983, we published Consultative Memorandum No. 57—*Matrimonial Property*. A short version, in pamphlet form (with a questionnaire appended), was published on the same date. Comments on both documents have been requested by 30 September 1983.

##### *Illegitimacy*

3.15 Work is nearing completion on a report on illegitimacy, dealing with matters covered in Consultative Memorandum No. 53—*Family Law: Illegitimacy*. We hope to submit the report, together with a draft Bill annexed, later this year.

##### *Husband and Wife*

3.16 Our report on *Outdated Rules in the Law of Husband and Wife*<sup>4</sup> was submitted to you on 11 February 1983 and published on 12 May 1983. The report recommends the elimination of certain rules in the law of husband and wife which could be said to be obsolete or discriminatory. Our proposals include abolition of actions for breach of promise of marriage and abolition of the rule whereby, as between husband and wife, the choice of the place of the matrimonial home is regarded as the husband's prerogative. The effect of our proposal on the latter issue would be to place spouses on an equal footing.

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<sup>1</sup>(1983) Scot. Law Com. No. 78.

\*Denotes programme subject.

<sup>2</sup>(1981) Scot. Law Com. No. 67.

<sup>3</sup>(1982) Scot. Law Com. No. 72.

<sup>4</sup>(1983) Scot. Law Com. No. 76.

### *Law of Children*

3.17 Important steps towards modernising and reforming the law relating to children have already been proposed in our report on *Aliment and Financial Provision*,<sup>1</sup> and further action will be taken in our forthcoming report regarding the law on illegitimacy.<sup>2</sup> We have received several representations that systematic reform of the law of children is desirable. Accordingly, we propose to commence work shortly on a new project with the object of advancing further the modernisation and reform of the main enactments and common law rules on the custody and guardianship of children, parental rights and duties, and the legal capacity of minors and pupils. The last-mentioned topic is a separate programme item<sup>3</sup> which, as originally conceived, was mainly concerned with the age of minority and contractual capacity; we propose that this topic be subsumed in the wider project on the reform of the law of children.

### **OBLIGATIONS\***

(First Programme, Item 2)

3.18 This heading covers a very wide area of the law of Scotland. Although the law of obligations and the law of property are, strictly speaking, distinct chapters of the law, we include aspects of the law relating to corporeal moveables, as in questions of transfer of and security over moveables the law of obligations frequently has effects on property law.

### *Voluntary Obligations—General*

3.19 We have reviewed the progress of work arising from our series of consultative memoranda on voluntary obligations<sup>4</sup> and are proceeding with work in those areas where there is a need and demand for law reform.

### *Security over Moveables*

3.20 Our Working Party on Security over Moveable Property,<sup>5</sup> which was appointed to consider the introduction into Scots law of a system of security over moveable property related to the recommendations in Part 5 of the report on Consumer Credit (the Crowther Report),<sup>6</sup> submitted its report to us on 14 March 1983. We are very grateful to the members of the Working Party for this valuable contribution to an understanding of the difficult problems associated with the creation of security over moveable property. We are now considering how best to proceed with the proposed reform of this branch of the law.

### *Constitution and Proof of Voluntary Obligations;*

### *Defective consent and Consequential Matters*

3.21 The above headings cover our series of consultative memoranda Nos. 34–39 and 42. Work is currently proceeding towards the preparation of a report or reports dealing with those matters in respect of which a need and demand for reform have been identified.

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<sup>1</sup>(1981) Scot. Law Com. No. 67.

<sup>2</sup>See para. 3.15 above.

<sup>3</sup>See para. 3.26 below.

\*Denotes programme subject.

<sup>4</sup>Consultative Memoranda Nos. 34–39 and Nos. 42 and 43.

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

<sup>6</sup>Cmnd. 4596.

*Defective Expression—Rectification of Documents*

3.22 Our report on *Rectification of Contractual and other Documents*<sup>1</sup> was submitted to you on 17 May and published on 28 July 1983. The report, which is based on our Consultative Memorandum No. 43, recommends the introduction into Scots law of a new remedy of 'rectification'. This remedy would enable the court to rectify the terms of a document which fails to express accurately the common intention of the parties.

*Corporeal Moveables*

3.23 Our report on *Lost and Abandoned Property*,<sup>2</sup> including the disposal of uncollected property (based on our Consultative Memorandum No. 29) was published on 16 January 1980. The recommendations made in that report have been implemented in part in the Civic Government (Scotland) Act 1982. We intend to re-examine at a later date the provisional proposals contained in the remainder of our series of consultative memoranda on corporeal moveables.<sup>3</sup>

*Civil Liability in Relation to Animals*

3.24 As indicated in our last annual report,<sup>4</sup> we published our Consultative Memorandum No. 55—*Civil Liability in relation to Animals*—on 11 August 1982. A short version, in pamphlet form (with a questionnaire appended), was published simultaneously. Comments on both documents were invited by 28 February 1983. The response has been encouraging, and with a view to preparing a report, work has now begun on a paper identifying the main policy options to be considered.

*Sale and Supply of Goods*

3.25 In conjunction with the Law Commission for England and Wales, we are preparing a joint consultative document which will (*inter alia*) examine the implied terms of quality and fitness in contracts of sale and the remedies of the buyer where implied terms are breached. The document will also examine terms implied by law in certain other contracts under which goods are supplied, such as barter and hire, and the remedies available for breach of such implied terms. This document has been completed and is expected to be published soon.

*Legal Capacity of Minors and Pupils*

3.26 As mentioned in paragraph 3.17 above, this project will be subsumed in the new and wider project on the reform of the law of children. We regret that because of other commitments demanding higher priority, we were unable to make further progress with our work on the legal capacity of minors and pupils in the past year.

*Other topics*

3.27 We have prepared research papers on the general law relating to irritancies, illegality, penalty clauses and liquidated damages clauses in contracts. We also keep under review other aspects of the law of obligations.

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<sup>1</sup>(1983) Scot. Law Com. No. 79.

<sup>2</sup>(1980) Scot. Law Com. No. 57.

<sup>3</sup>Consultative Memoranda Nos. 24–31.

<sup>4</sup>(1982) Scot. Law Com. No. 73, paras. 2.4 and 3.26.

Subject to the availability of resources, we shall when necessary undertake work in greater depth on such matters.

#### **PRESCRIPTION AND LIMITATION OF ACTIONS\***

(First Programme, Item 3)

3.28 Our report on *Personal Injuries Actions and Private International Law Questions*<sup>1</sup> was submitted to you on 16 November 1982 and published on 10 February 1983. The report deals with time-limits in actions for personal injuries (following upon our Consultative Memorandum No. 45) and with the treatment of rules of prescription and limitation in cases where a foreign system of law falls to be applied by the Scottish courts.

#### **PRIVATE INTERNATIONAL LAW\***

(Third programme)

*Proposed EEC Convention on the Law applicable to Non-Contractual Obligations: Choice of Law Rules in Tort/Delict*

3.29 The Joint Working Party<sup>2</sup> of the two Law Commissions has met on three occasions in the past year to discuss reform in the field of choice of law rules in tort/delict in the United Kingdom. We recently considered the policy issues arising out of the Working Party's deliberations with a view to issuing a joint consultative document on this topic.

*Conflict of Jurisdiction affecting the Custody of Children*

3.30 Work is proceeding as a matter of some urgency on the preparation of a joint report by the two Law Commissions on the above topic. We have also given consideration to the terms of the Hague Convention on International Child Abduction, which was finalised in October 1980, and have submitted comments to Government on the acceptability of the Convention.

*Recognition of Foreign Nullity Decrees*

3.31 In conjunction with the Law Commission for England and Wales, we issued on 6 May 1983, on a restricted basis, a joint consultation paper on the recognition of foreign nullity decrees and related matters. Comments have been invited by 31 July 1983. Work on the preparation of a report will be commenced when the comments have been received and analysed.

*Foreign Money Liabilities*

3.32 As mentioned in our last annual report,<sup>3</sup> we do not propose to undertake any further work on the subject of foreign money liabilities as such in the foreseeable future. We are, however, maintaining an interest in the work of the Law Commission for England and Wales in this field and will take into account, as appropriate, questions relating to foreign money liabilities in our examination of particular branches of the law.

*Polygamous Marriages*

3.33 We explained in our last annual report<sup>4</sup> that we were co-operating with the Law Commission for England and Wales in the production of a joint

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<sup>1</sup>(1983) Scot. Law Com. No. 74.

\*Denotes programme subject.

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

<sup>3</sup>(1982) Scot. Law Com. No. 73, para. 3.38.

<sup>4</sup>(1982) Scot. Law Com. 73, para. 3.39.

consultative document on polygamous marriages. This document<sup>1</sup> (containing a separate Scottish part dealing with capacity for polygamy and the concept of the potentially polygamous marriage in Scots law) was published on 13 September 1982. Work has begun on consideration of the policy issues, in the light of the response to consultation, with a view to preparation of a joint report on the subject.

#### SUCCESSION\*

(Second Programme, Item 7)

3.34 We explained in our last annual report<sup>2</sup> that no work was being done on this subject at that time, principally because of the commitment of resources to other subjects, but also because we thought it advisable to defer systematic consideration of the law of succession until our study of family property law was further advanced. This remains the position.

#### STATUTE LAW

##### *Consolidation*

3.35 As in the past, progress is recorded under two heads: consolidation of legislation applying to Scotland only; and consolidation of legislation extending to other parts of the United Kingdom as well as to Scotland.

##### (a) *Scotland-only consolidations*

###### *First Programme*<sup>3</sup>

3.36 *Court of Session*—The draftsman has sought the views of the Court of Session Rules Council on a proposal to deal with certain provisions of the legislation by means of rules of court. When the Council's views have been received, a further print of the Bill will be prepared. This consolidation is proving, as expected, to be rather a difficult one, and it is not yet possible to predict when a Bill may be introduced into Parliament.

###### *Second Programme*<sup>4</sup>

3.37 As indicated in our Sixteenth Annual Report,<sup>5</sup> work on our second Programme of Consolidation and Statute Law Revision has been completed.

###### *Third Programme*<sup>6</sup>

3.38 The position regarding the remaining eight of the original eleven items in the Third Programme is as follows:

- (1) *Building legislation*—Work on this consolidation remains deferred for the reason stated in our Sixteenth Annual Report.<sup>7</sup>
- (2) *Rents*—Work on this consolidation has proceeded in the course of the year under review, and it is hoped that a Bill will be introduced into Parliament in the course of the present Session.

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<sup>1</sup>Law Commission Working Paper No. 83; Scottish Law Commission Consultative Memorandum No. 56—*Polygamous Marriages: Capacity to Contract a Polygamous Marriage and the Concept of the Potentially Polygamous Marriage*.

\*Denotes programme subject.

<sup>2</sup>(1982) Scot. Law Com. No. 73, para. 3.40.

<sup>3</sup>(1966) Scot. Law Com. No. 2.

<sup>4</sup>(1973) Scot. Law Com. No. 27.

<sup>5</sup>(1981) Scot. Law Com. No. 70, para. 3.38.

<sup>6</sup>(1978) Scot. Law Com. No. 46.

<sup>7</sup>(1981) Scot. Law Com. No. 70, para. 3.38.

(3) *Other items*—We have still not been given an indication by the Scottish Office as to when instructions may be received with regard to the other six items in the programme.

*Fourth Programme*<sup>1</sup>

3.39 Our Fourth Programme of Consolidation and Statute Law Revision was published on 28 October 1982. This programme contains four items, viz.: foster care, criminal procedure, housing and planning. As mentioned in our last annual report,<sup>2</sup> work was begun in advance of publication of the new programme on a Bill to consolidate the legislation relating to *Foster Care*. Work on the preparation of this Bill has proceeded in the year under review, and it is hoped that the Bill will be introduced into Parliament in the present Session. Instructions were received during the course of the year with regard to a further item, *Housing*; preliminary work on the preparation of a draft Bill has commenced.

*Additional item*

3.40 With our agreement, a draftsman in your Department is undertaking the preparation of a Bill to consolidate the legislation relating to *Mental Health* in Scotland. The draftsman concerned prepared the Bill which became the Mental Health (Amendment) (Scotland) Act 1983. We agreed that it was sensible that the same draftsman should prepare the consolidation Bill and that the work should be undertaken before the relevant Departmental Bill team was disbanded.

(b) *United Kingdom and Great Britain Consolidations*

3.41 The following Acts have been passed since completion of our last annual report:

- Aviation Security Act 1982
- Industrial Development Act 1982
- Insurance Companies Act 1982
- Iron and Steel Act 1982
- Litter Act 1983
- Pilotage Act 1983
- Representation of the People Act 1983.

3.42 Bills on the following subjects have been introduced into Parliament this Session:<sup>3</sup>

- Car Tax
- Medical Profession
- Value Added Tax.

3.43 Bills on the following subjects are in course of preparation:

- Capital Transfer Tax
- Clean Air
- Companies
- Dentists
- Exhibition of Films

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<sup>1</sup>(1982) Scot. Law Com. No. 71.

<sup>2</sup>(1982) Scot. Law Com. No. 73, para. 3.45.

<sup>3</sup>These three Bills have now received the Royal Assent.

Fisheries  
Nature Conservancy Council  
Reserve Forces (Protection of Civil Interests)  
Road Traffic and Road Traffic Regulation  
Weights and Measures.

*Statute Law Revision*

3.44 We indicated in our last annual report,<sup>1</sup> that our work on statute law revision had been disrupted because of the demands made on our resources by other priorities. Regrettably, this has continued for much of the past year. We are now able, however, to give higher priority to statute law revision, and we intend to work in co-operation with our colleagues in the Law Commission for England and Wales towards the presentation of the Eleventh Joint Report on Statute Law Revision in the course of the coming year.

**OTHER MATTERS**

*Breach of Confidence*

3.45 Following on the publication of the report by the Law Commission for England and Wales on Breach of Confidence,<sup>2</sup> we prepared a further consultation paper for restricted circulation,<sup>3</sup> on which we have received comments. Work is proceeding on the preparation of a report.

*Irritancies in Leases*

3.46 Our report on *Irritancies in Leases*<sup>4</sup> was submitted to the Secretary of State for Scotland on 19 November 1982 and published on 17 February 1983.

*Powers of Attorney*

3.47 As indicated in the next paragraph, we shall be considering shortly how our work in this area could best be advanced.

*Judicial Factors*

3.48 We have recently received a research paper on the subject of judicial factors prepared for us by a consultant. In light of this research paper, we shall be considering shortly how our work on the law relating to both judicial factors and powers of attorney could best be advanced.

*Companies (Floating Charges and Receivers) (Scotland) Act 1972*

3.49 We referred in our last annual report<sup>5</sup> to the setting up of a Joint Working Party by the Law Society of Scotland. The Joint Working Party consists of representatives from the Society, the Faculty of Advocates and the Institute of Chartered Accountants of Scotland, together with an observer from this Commission. Its function is primarily to provide us with information about difficulties experienced in the operation of the law relating to receivers and possible ways of overcoming such difficulties. The Joint Working Party has been actively pursuing its remit, and we hope that it will submit its conclusions fairly soon so as to enable us to give further consideration to this topic.

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<sup>1</sup>(1982) Scot. Law Com. No. 73, para. 3.49.

<sup>2</sup>(1981) Law Com. No. 110.

<sup>3</sup>Issued in May 1982.

<sup>4</sup>(1983) Scot. Law Com. No. 75.

<sup>5</sup>(1982) Scot. Law Com. No. 73, para. 3.54.

### *Actions of Ejection and Removings*

3.50 Work is in hand on the preparation of a consultative memorandum which will invite views on provisional proposals for the reform of the law relating to actions of ejection and removings (including the particular topic mentioned in the next paragraph). These provisional proposals will, to a substantial extent, be formulated in light of a research paper prepared for the Commission by Mr. A. G. M. Duncan, formerly Senior Lecturer in Law at the University of Edinburgh.

### *Agricultural Holdings*

3.51 A paper relating to the termination of leases of agricultural holdings has been prepared within the Commission. This paper will form the basis for provisional proposals for reform of the law on that topic for inclusion in the consultative memorandum referred to in the preceding paragraph.

### *Miscellaneous: Advice to Government Departments, etc.*

3.52 It has become our practice to mention under this heading items which do not readily fit into any of the other classifications adopted in this report, including matters of an international character on which our advice has been sought by Government Departments. In some instances such matters have been the subject of formal references to us under section 3(1)(e) of the Law Commissions Act 1965 and have resulted in our undertaking law reform projects. Matters in this category are covered elsewhere in this report. In other cases, however, the requests have been dealt with informally. We do not think it would be appropriate for us to give an exhaustive list of matters in the second category in this report.

### *Reservation of Title to Corporeal Moveable Property*

3.53 We explained in our last annual report<sup>1</sup> that the topic of reservation of title to corporeal moveables had been the subject of co-operation between the Commission of the European Communities and the Council of Europe. In August 1982 the Scottish Office sought our views on a draft European Convention on the topic prepared by a Council of Europe Working Party. We duly submitted a note of observations in response to that request.

## IV. CONSULTATION

### THE LAW COMMISSION FOR ENGLAND AND WALES

4.1 We continue our close co-operation with the Law Commission for England and Wales. During the year under review we have worked together on various matters, including sale and supply of goods,<sup>2</sup> conflicts of jurisdiction affecting the custody of children,<sup>3</sup> recognition of foreign nullity decrees<sup>4</sup> and polygamous marriages.<sup>5</sup> The annual Joint Meeting was held in London on 21 and 22 April 1983. We wish to record our appreciation of the generous hospitality provided by the Senate of the Inns of Court and Bar and the Law Society.

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<sup>1</sup>(1982) Scot. Law Com. No. 73, para. 3,58.

<sup>2</sup>See para. 3.25.

<sup>3</sup>See para. 3.30.

<sup>4</sup>See para. 3.31.

<sup>5</sup>See para. 3.33.

#### *Codification of the Criminal Law*

4.2 Elsewhere in this report,<sup>1</sup> we refer to our interest in the work of the Law Commission for England and Wales on their major programme subject 'Codification of the Criminal Law'. We are grateful to the Law Commission for continuing to keep us informed of the progress of their work in this field and for affording us the opportunity to comment from time to time on the possible implications for Scotland of certain of their projects.

#### *Working Party on Contract Law*

4.3 Our Working Party<sup>2</sup> on Contract Law has remained in being for the purpose of considering working papers published by the Law Commission for England and Wales and such other matters as may be referred to it from time to time. It has not, however, had occasion to meet during the last year.

#### **OTHER LAW REFORM ORGANISATIONS**

4.4 We have maintained our contact with law reform organisations in various 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**

4.5 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 meetings with representatives of the Faculty of Advocates and the Law Society of Scotland 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.

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

#### **CONFERENCES, SEMINARS, ETC.**

4.7 Commissioners and members of our legal staff attended a number of conferences, seminars and colloquia in the course of the year under review: some of the more important of these are mentioned below in chronological order.

4.8 Dr. Clive attended a seminar on illegitimacy held by the Scottish Council for Single Parents on 25 June 1982 and presented a paper regarding the provisional proposals set out in our Consultative Memorandum No. 53.

4.9 Our full-time Parliamentary Draftsman attended the 12th Colloquy on European Law held under the auspices of the Council of Europe in Fribourg, Switzerland, from 13 to 15 October 1982 on the theme 'Principles and Methods of Preparing Legal Rules'.

4.10 Our Chairman addressed a meeting of the Public Service and Commerce Group of the Law Society of Scotland held on 18 January 1983 on the subject of law reform.

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<sup>1</sup>See para. 3.3.

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

4.11 A member of our legal staff attended the Annual Conference of the Law Society of Scotland held at Gleneagles Hotel from 22 to 24 April 1983. As in previous years, the informal discussions with practising members of the profession about aspects of the Commission's work which took place against the background of the conference proved most beneficial.

## V. MISCELLANEOUS

### DEPARTMENTAL COMMITTEES AND OTHER BODIES

5.1 Our Commissioners and legal staff are from time to time appointed to serve on Government and departmental committees and as members of other bodies concerned with the development and reform of the law.

#### *Statute Law Committee*

5.2 Our Chairman serves on the Statute Law Committee and is a member of the Editorial Board for Statutes in Force.

#### *Insolvency Law Review Committee*

5.3 We have already mentioned<sup>1</sup> that the Department of Trade and Industry has set up interdepartmental working groups to consider the recommendations in the report of the Insolvency Law Review Committee for England and Wales<sup>2</sup> and in our report on *Bankruptcy and Related Aspects of Insolvency and Liquidation*.<sup>3</sup>

#### *Consultative Committee on Insolvency Law Review*

5.4 In view of the fact that we have now completed our work on personal insolvency,<sup>4</sup> and that the report of the Review Committee on Insolvency Law and Practice relating to England and Wales<sup>5</sup> has also been completed, you agreed that the Consultative Committee should be disbanded. This has now been done, but the members of the Consultative Committee have been invited to make their experience and expertise available as required in connection with the deliberations of the interdepartmental working groups referred to in the preceding paragraph.

#### *British Institute of International and Comparative Law*

5.5 Our Chairman has been appointed a member of the Council of Management of the British Institute of International and Comparative Law.

#### *International Society on Family Law*

5.6 Dr Clive is a member of the Executive Council of the International Society on Family Law.

### SCRUTINY OF BILLS

5.7 We now confine our detailed scrutiny of Bills to those which particularly touch upon areas of law under current examination by us.

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<sup>1</sup>See para. 3.2 above.

<sup>2</sup>Cmnd. 8558, 1982.

<sup>3</sup>(1982) Scot. Law Com. No. 68.

<sup>4</sup>See report on *Bankruptcy and Related Aspects of Insolvency and Liquidation* mentioned above.

<sup>5</sup>Cmnd. 8558, 1982.

## **APPENDICES**

5.8 Membership of the various Working Parties etc appears in Appendix I. In Appendix II we list reports, consultative memoranda and other documents prepared by the Commission. These lists include certain consultative documents 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 ETC.

#### *Working Party on Security over Moveable Property<sup>1</sup>*

Professor J. M. Halliday, C.B.E. (Chairman)	Solicitor, Glasgow
Mr. R. H. Barclay, O.B.E.	Solicitor, Glasgow
Mr. T. Gardiner	Solicitor, Glasgow
Mr. A. M. Hamilton, C.B.E.	Solicitor, Glasgow
Professor R. B. Jack	Solicitor, Glasgow
Professor W. A. Wilson	University of Edinburgh

Secretary: Mr. A. J. Sim, Scottish Law Commission

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

The Hon. Lord Maxwell	} Joint	Scottish Law Commission
The Hon. Mr. Justice Ralph Gibson		Chairmen
Dr. E. M. Clive		Scottish Law Commission
Dr. P. M. North		Law Commission
Joint Secretaries	} Mr. R. Eadie, Scottish Law Commission	
		Mr. J. G. H. Gasson, Law Commission

#### *Joint Working Party on Private International Law (Tort/Delict)*

Professor A. L. Diamond (Chairman)	Institute of Advanced Legal Studies
Professor A. E. Anton, C.B.E.	Consultant, Scottish Law Commission
Mr. R. D. D. Bertram	Scottish Law Commission
Mr. L. A. Collins	Solicitor, London
Mr. B. J. Davenport, Q.C.	Law Commission
The Hon Lord Maxwell	Scottish Law Commission
Mr. C. G. J. Morse	King's College, London
Dr. P. M. North	Law Commission

Secretary: Mr. R. J. Dormer, Law Commission

#### *Joint Working Party on Recognition of Foreign Nullity Decrees*

Dr. E. M. Clive	} Joint	Scottish Law Commission
Dr. P. M. North		Chairmen
Mr. S. M. Cretney		Law Commission
The Hon Lord Dunpark		Court of Session
Mr. J. Siddle		Foreign and Commonwealth Office
Mr. P. J. Tweedale		Office of Law Reform, Northern Ireland

Secretary: Mr. I. H. Maxwell, Law Commission

#### *Working Party on Contract Law*

Mr. J. Murray, Q.C. (Chairman)	Scottish Law Commission
Mr. R. D. D. Bertram	Scottish Law Commission

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<sup>1</sup>The membership of the Working Party was supplemented, for the purpose of its examination of the question of security in connection with North Sea oil operations, by the addition of Mr J. T. Cameron, Q.C., Mr. T. M. Lawrie, Solicitor, Glasgow and Mrs. L. Lilleker of the Office of the Solicitor to the Secretary of State for Scotland.

Professor R. Black  
Mr. M. G. Clarke  
Dr. W. W. McBryde  
Mr. H. R. M. Macdonald  
Professor Emeritus Sir Thomas Smith, Q.C.

University of Edinburgh  
Faculty of Advocates  
University of Aberdeen  
Scottish Law Commission  
Consultant on Obligations

Secretary: Mr. J. C. Mullin, Scottish Law Commission

## APPENDIX II

### 1 SCOTTISH LAW COMMISSION—REPORTS, ETC. PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE (AS AT 31 AUGUST 1983)

<i>Commission</i>		
	<i>No.</i>	
1965	1	First Programme of Law Reform
<hr/>		
1966	2	First Programme of Consolidation and Statute Law Revision
	3	First Annual Report 1965–66
<hr/>		
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
<hr/>		
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
<hr/>		

\*Produced jointly with the Law Commission for England and Wales.

		<i>Commission</i>
		<i>No.</i>
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 (Cmnd. 5371)
	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)	
—————		
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
	40	*Statute Law Revision—Seventh Report: Draft Statute Law (Repeals) Bill (Cmnd. 6303)
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1976	41	Tenth Annual Report 1974–75
	42	Family Law: Report on Liability for Adultery and Enticement of a Spouse
—————		
1977	43	Eleventh Annual Report 1975–76
	44	*Statute Law Revision—Eighth Report: Draft Statute Law (Repeals) Bill (Cmnd. 6719)
	45	*Report on Liabilities for Defective Products (Cmnd. 6831)
—————		
1978	46	Third Programme of Consolidation and Statute Law Revision
	47	Twelfth Annual Report 1976–77
	48	*Statute Law Revision—Ninth Report: Draft Statute Law (Repeals) Bill (Cmnd. 7189)
	49	Electricity (Scotland) Bill—Report on the Consolidation of Certain Enactments relating to Electricity in Scotland (Cmnd. 7178)

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\*Produced jointly with the Law Commission for England and Wales.

*Commission*

	<i>No.</i>	
	50	Adoption (Scotland) Bill—Report on the Consolidation of Certain Enactments relating to Adoption in Scotland (Cmnd. 7187)
	51	Damages for Personal Injuries: Report on (1) Admissibility of Claims for Services (2) Admissible Deductions
	52	Report on the Married Women's Policies of Assurance (Scotland) Act 1880 (Cmnd. 7245)
	53	*Interpretation Bill—Report on Interpretation Act 1889 and Certain other Enactments, relating to the Construction and Operation of Acts of Parliament and other Instruments (Cmnd. 7235)
	54	*Customs and Excise Management Bill—Report on the Consolidation of the Enactments relating to the Collection and Management of the Revenues of Customs and Excise (Cmnd. 7418)
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1979	55	Thirteenth Annual Report 1977–78
	56	Fourteenth Annual Report 1978–79
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1980	57	Report on Lost and Abandoned Property
	58	Education (Scotland) Bill—Report on the Consolidation of Certain Enactments relating to Education in Scotland (Cmnd. 7688)
	59	Report on Powers of Judicial Factors (Cmnd. 7904)
	60	Report on Occupancy Rights in the Matrimonial Home and Domestic Violence
	61	Fifteenth Annual Report 1979–80
	62	*Judicial Pensions Bill—Report on the Consolidation of Certain Enactments relating to Pensions and other Benefits payable in respect of Service in Judicial Office (Cmnd. 8097)
	63	*Statute Law Revision—Tenth Report: Draft Statute Law (Repeals) Bill (Cmnd. 8089)
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1981	64	Report on Section 5 of the Damages (Scotland) Act 1976
	65	*Trustee Savings Banks Bill—Report on the Consolidation of the Trustee Savings Banks Acts 1969 to 1978 (Cmnd. 8257)
	66	*Report on the Council of Europe Conventions on Foreign Money Liabilities (1967) and on the Place of Payment of Money Liabilities (1972) (Cmnd. 8318)
	67	Family Law—Report on Aliment and Financial Provision
1981 /82	68	Report on Bankruptcy and Related Aspects of Insolvency and Liquidation
1981	69	Report on the Law of Incest in Scotland (Cmnd. 8422)
	70	Sixteenth Annual Report 1980–81
<hr/>		
1982	71	Fourth Programme of Consolidation and Statute Law Revision
	72	Family Law—Report on Financial Provision after Foreign Divorce
	73	Seventeenth Annual Report 1981–82
<hr/>		
1983	74	Prescription and the Limitation of Actions—Report on Personal Injuries Actions and Private International Law Questions
	75	Report on Irritancies in Leases (Cmnd. 8760)
	76	Family Law—Report on Outdated Rules in the Law of Husband and Wife

\*Produced jointly with the Law Commission for England and Wales.

- 77 \*Medical Bill—Report on the consolidation of the Medical Acts 1956 to 1978  
and certain related provisions (Cmnd. 8839)
- 78 Evidence—Report on Evidence in Cases of Rape and Other Sexual Offences
- 79 Obligations—Report on Rectification of Contractual and Other Documents

**2 SCOTTISH LAW COMMISSION—CONSULTATIVE MEMORANDA CIRCULATED FOR COMMENT AND CRITICISM<sup>1</sup>**

- 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
- 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  
Memorandum No. 21—Damages for Personal Injuries—Deductions and Heads of Claim
- 1976** Memorandum No. 22—Aliment and Financial Provision (2 Vols.)  
\*Memorandum No. 23—Custody of Children—Jurisdiction and Enforcement within the United Kingdom  
Memorandum No. 24—Corporeal Moveables—General Introduction and Summary of Provisional Proposals  
Memorandum No. 25—Corporeal Moveables—Passing of Risk and of Ownership  
Memorandum No. 26—Corporeal Moveables—Some Problems of Classification  
Memorandum No. 27—Corporeal Moveables—Protection of the Onerous *bona fide* Acquirer of Another's Property  
Memorandum No. 28—Corporeal Moveables—Mixing, Union and Creation  
Memorandum No. 29—Corporeal Moveables—Lost and Abandoned Property

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\*Produced jointly with the Law Commission for England and Wales.

<sup>1</sup>The publications in this series are not referred to by their full title of 'consultative memorandum' but in order to avoid undue repetition they will continue to be listed in this Appendix in the form set out.

- Memorandum No. 30—Corporeal Moveables—Usucapion or Acquisitive Prescription  
 Memorandum No. 31—Corporeal Moveables—Remedies  
 Memorandum No. 32—Comments on White Paper ‘*Our Changing Democracy: Devolution to Scotland and Wales*’ Appendix—Devolution, Scots Law and the Role of the Commission  
 Memorandum No. 33—Law of Rights in Security—Company Law—Registration of Charges: Scotland
- 1977** Memorandum No. 34—Constitution and Proof of Voluntary Obligations—General Introduction and Summary of Provisional Proposals  
 Memorandum No. 35—Constitution and Proof of Voluntary Obligations—Unilateral Promises  
 Memorandum No. 36—Constitution and Proof of Voluntary Obligations—Formation of Contract  
 Memorandum No. 37—Constitution and Proof of Voluntary Obligations—Abortive Constitution  
 Memorandum No. 38—Constitution and Proof of Voluntary Obligations—Stipulations in Favour of Third Parties  
 Memorandum No. 39—Constitution and Proof of Voluntary Obligations—Formalities of Constitution and Restrictions on Proof  
 Memorandum No. 40—Confidential Information
- 1978** Memorandum No. 41—Family Law: Occupancy Rights in the Matrimonial Home and Domestic Violence (2 Vols.)  
 Memorandum No. 42—Defective Consent and Consequential Matters (2 Vols.)
- 1979** Memorandum No. 43—Defective Expression and its Correction
- 1980** Memorandum No. 44—The Law of Incest in Scotland  
 Memorandum No. 45—Time-Limits in Actions for Personal Injuries  
 Memorandum No. 46—The Law of Evidence  
 Memorandum No. 47—First Memorandum on Diligence: General Issues and Introduction  
 Memorandum No. 48—Second Memorandum on Diligence: Poindings and Warrant Sales  
 Memorandum No. 49—Third Memorandum on Diligence: Arrestment and Judicial Transfer of Earnings  
 Memorandum No. 50—Fourth Memorandum on Diligence: Debt Arrangement Schemes  
 Memorandum No. 51—Fifth Memorandum on Diligence: Administration of Diligence
- 1981** Memorandum No. 52—Irritancies in Leases
- 1982** Memorandum No. 53—Family Law: Illegitimacy  
 Memorandum No. 54—Some Obsolete and Discriminatory Rules in the Law of Husband and Wife  
 Memorandum No. 55—Civil Liability in relation to Animals  
 \*Memorandum No. 56—Polygamous Marriages  
 (Capacity to Contract a Polygamous Marriage and the Concept of the Potentially Polygamous Marriage)
- 1983** Memorandum No. 57—Matrimonial Property

### 3 SCOTTISH LAW COMMISSION—OTHER PUBLISHED DOCUMENTS

- 1974** \*Private International Law—Consultative Document on EEC Preliminary Draft Convention on the Law applicable to Contractual and Non-Contractual Obligations
- 1979** Research Paper on the Law of Evidence of Scotland by Sheriff I. D. Macphail

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\*Produced jointly with the Law Commission for England and Wales.

#### **4 SCOTTISH LAW COMMISSION—CONSULTATIVE DOCUMENTS NOT PUBLISHED AND WITH 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
- 1978** Consultation Document—Private International Law: Choice of Law Rules in the EEC Draft Insurance Services Directive
- 1979** Consultation Paper—Bankruptcy: Gibson v. Hunter Home Designs Ltd  
Consultative Note on section 5(6) of the Damages (Scotland) Act 1976
- 1980** Consultation Paper—Prescription and Limitation in Private International Law
- 1981** Consultation Paper—Financial Provision after Foreign Divorce
- 1982** Consultation Paper—Exchange of Standard Term Forms in Contract Formation  
Consultation Paper—Breach of Confidence
- 1983** Consultation Paper—Custody of Children: Jurisdiction and Enforcement within the United Kingdom: Jurisdiction of the Sheriff Court  
Supplementary Consultation Paper—Conflicts of Jurisdiction affecting the Custody of Children  
Consultation Paper—Illegitimacy and the Guardianship Acts  
\*Consultation Paper—Recognition of Foreign Nullity Decrees and Related Matters

#### **5 SCOTTISH LAW COMMISSION—UNPUBLISHED CONFIDENTIAL DOCUMENTS**

- 1975** \*Interim Report on the EEC Preliminary Draft Convention on the Law applicable to Contractual and Non-Contractual Obligations.

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\*Produced jointly with the Law Commission for England and Wales.

## APPENDIX III

### STATUTORY PROVISIONS RELATING TO THE SCOTTISH LAW COMMISSION'S PROPOSALS (as at 31 August 1983)

<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 Liferents (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	Divorce (Scotland) Act 1976 (c. 39).
*Sea Fisheries (Shellfish) Bill (Scot. Law Com. No. 6A) (Cmnd. 3267)	11.5.67	Sea Fisheries (Shellfish) Act 1967 (c. 83)
*Trustee Savings Banks Bill (Scot. Law Com. No. 10) (Cmnd. 4004)	17.4.69	Trustee Savings Banks Act 1969 (c. 50).
*Interpretation of Statutes (Scot. Law Com. No. 11)	11.6.69	None.
*Exemption Clauses in Contracts—First Report: Amendment to the Sale of Goods Act 1893 (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 (Scot. Law Com. No. 16) (Cmnd. 4542)	1.12.70	Recognition of Divorce and Legal Separations Act 1971 (c. 53).
*Coinage Bill (Scot. Law Com. No. 18) (Cmnd. 4544)	26.11.70	Coinage Act 1971 (c. 24).
*Vehicles (Excise) Bill (Scot. Law Com. No. 19) (Cmnd. 4547)	2.12.70	Vehicles (Excise) Act 1971 (c. 10).

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\*Produced jointly with the Law Commission for England and Wales.

<i>Titles of relevant Memoranda and Reports</i>	<i>Date of Publication</i>	<i>Statutory Provision</i>
*National Savings Bank Bill (Scot. Law Com. No. 20) (Cmnd. 4574)	13.1.71	National Savings Bank Act 1971 (c. 29).
*Taxation of Income and Gains derived from Land (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 (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 (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) (Cmnd. 5371)	30.8.73	None required.
Report on the Law relating to Damages for Injuries causing Death (Scot. Law Com. No. 31)	24.10.73	Damages (Scotland) Act 1976 (c. 13).
*Statute Law Revision—Fifth Report: Draft Statute Law (Repeals) Bill (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	Presumption of Death (Scotland) Act 1977 (c. 27).
*Friendly Societies Bill (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 (Scot. Law Com. No. 36) (Cmnd. 5792)	5.12.74	Statute Law (Repeals) Act 1975 (c. 10).
*Supply Powers Bill (Scot. Law Com. No. 38) (Cmnd. 5850)	6.1.75	Supply Powers Act 1975 (c. 9).
*Exemption Clauses—Second Report (Scot. Law Com. No. 39)	2.10.75	Unfair Contract Terms Act 1977 (c. 50).
*Statute Law Revision—Seventh Report: Draft Statute Law (Repeals) Bill (Scot. Law Com. No. 40) (Cmnd. 6303)	8.12.75	Statute Law (Repeals) Act 1976 (c. 16).
Family Law—Report on Liability for Adultery and Enticement of a Spouse (Scot. Law Com. No. 42)	23.6.76	In part by section 10 of the Divorce (Scotland) Act 1976 (c. 39).

\*Produced jointly with the Law Commission for England and Wales.

<i>Titles of relevant Memoranda and Reports</i>	<i>Date of Publication</i>	<i>Statutory Provision</i>
*Statute Law Revision—Eighth Report: Draft Statute Law (Repeals) Bill (Scot. Law Com. No. 44) (Cmnd. 6719)	6.1.77	Statute Law (Repeals) Act 1977 (c. 18).
*Liability for Defective Products (Scot. Law Com. No. 45) (Cmnd. 6831)	15.6.77	None.
*Statute Law Revision—Ninth Report: Draft Statute Law (Repeals) Bill (Scot. Law Com. No. 48) (Cmnd. 7189)	11.5.78	Statute Law (Repeals) Act 1978 (c. 45).
Electricity (Scotland) Bill (Scot. Law Com. No. 49) (Cmnd. 7178)	23.5.78	Electricity (Scotland) Act 1979 (c. 11).
Adoption (Scotland) Bill (Scot. Law Com. No. 50) (Cmnd. 7187)	3.5.78	Adoption (Scotland) Act 1978 (c. 28).
Damages for Personal Injuries: Report on (1) Admissibility of Claims for Services (2) Admissible Deductions (Scot. Law Com. No. 51)	18.7.78	Administration of Justice Act 1982 (c. 53), Part II.
Report on the Married Women's Policies of Assurance (Scotland) Act 1880 (Scot. Law Com. No. 52) (Cmnd. 7245)	27.7.78	Married Women's Policies of Assurance (Scotland) (Amendment) Act 1980 (c. 56).
*Interpretation Bill (Scot. Law Com. No. 53) (Cmnd. 7235)	8.6.78	Interpretation Act 1978 (c. 30).
*Customs and Excise Management Bill (Scot. Law Com. No. 54) (Cmnd. 7418)	7.12.78	Customs and Excise Management Act 1979 (c. 2).
Report on Lost and Abandoned Property (Scot. Law Com. No. 57)	16.1.80	In part by the Civic Government (Scotland) Act 1982 (c. 45), Part VI.
Education (Scotland) Bill (Scot. Law Com. No. 58) (Cmnd. 7688)	2.4.80	Education (Scotland) Act 1980 (c. 44).
Report on Powers of Judicial Factors (Scot. Law Com. No. 59) (Cmnd. 7904)	3.7.80	Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55), section 8.
Report on Occupancy Rights in the Matrimonial Home and Domestic Violence (Scot. Law Com. No. 60)	17.7.80	Matrimonial Homes (Family Protection) (Scotland) Act 1981 (c. 59).
*Judicial Pensions Bill (Scot. Law Com. No. 62) (Cmnd. 8097)	27.11.80	Judicial Pensions Act 1981 (c. 20).
*Statute Law Revision—Tenth Report: Draft Statute Law (Repeals) Bill (Scot. Law Com. No. 63) (Cmnd. 8089)	10.12.80	Statute Law (Repeals) Act 1981 (c. 19).
Report on Section 5 of the Damages (Scotland) Act 1976 (Scot. Law Com. No. 64)	29.4.81	Administration of Justice Act 1982 (c. 53) Part II.

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\*Produced jointly with the Law Commission for England and Wales.

<i>Titles of relevant Memoranda and Reports</i>	<i>Date of Publication</i>	<i>Statutory Provision</i>
*Trustee Savings Banks Bill (Scot. Law Com. No. 65) (Cmnd. 8257)	11.6.81	Trustee Savings Banks Act 1981 (c. 65).
*Report on the Council of Europe Conventions on Foreign Money Liabilities (1967) and on the Place of Payment of Money Liabilities (1972) (Scot. Law Com. No. 66) (Cmnd. 8318)	28.7.81	None required.
Family Law—Report on Aliment and Financial Provision (Scot. Law Com. No. 67)	5.11.81	None.
Report on Bankruptcy and Related Aspects of Insolvency and Liquidation (Scot. Law Com. No. 68)	26.2.82	None.
Report on the Law of Incest in Scotland (Scot. Law Com. No. 69) (Cmnd. 8422)	23.12.81	None.
Report on Financial Provision after Foreign Divorce (Scot. Law Com. No. 72)	28.10.82	None.
Prescription and Limitation of Actions—Report on Personal Injuries Actions and Private International Law Questions (Scot. Law Com. No. 74)	10.2.83	None.
Report on Irritancies in Leases (Scot. Law Com. No. 75) (Cmnd. 8760)	17.2.83	None.
Family Law—Report on outdated Rules in the Law of Husband and Wife (Scot. Law Com. No. 76)	12.5.83	None.
*Medical Bill (Scot. Law Com. No. 77) (Cmnd. 8839)	24.3.83	Medical Act 1983 (c. 54).
Report on Evidence in Cases of Rape and Other Sexual Offences (Scot. Law Com. No. 78)	21.7.83	None.
Report on Rectification of Contractual and Other Documents (Scot. Law Com. No. 79)	28.7.83	None.

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\*Produced jointly with the Law Commission for England and Wales.

