

The Law Commission
and
The SCOTTISH LAW COMMISSION
(LAW COM No 241)
(SCOT LAW COM No 155)



**STATUTE LAW REVISION:
REPORT ON THE CHRONOLOGICAL TABLE
OF LOCAL LEGISLATION**

*Presented to Parliament by the Lord High Chancellor and the Lord Advocate
by Command of Her Majesty
July 1996*

Cm 3301

LONDON: HMSO
£8.25

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This Report was approved by the Law Commission and the Scottish Law Commission on 13 May 1996.

STATUTE LAW REVISION: THE CHRONOLOGICAL TABLE OF LOCAL LEGISLATION

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THE LAW COMMISSION AND THE SCOTTISH LAW COMMISSION

STATUTE LAW REVISION: THE CHRONOLOGICAL TABLE OF LOCAL LEGISLATION

*To the Right Honourable the Lord Mackay of Clashfern, Lord High Chancellor of Great Britain, and
the Right Honourable the Lord Mackay of Drumadoon, QC, Her Majesty's Advocate*

SUMMARY

This report is published to coincide with the completion and publication of the Law Commissions' Chronological Table of Local Legislation. That publication marks the first occasion on which a complete record of both public general and local legislation in force has been made publicly available.¹ The report highlights the significance of this achievement, provides some historical background and recommends further repeals by means of both programme legislation and the process of statute law revision in order to rationalise and update the still vast body of local legislation.

¹ Public general legislation in force has been recorded in the *Chronological Table of the Statutes* first published in 1870 and issued annually since 1898; see further paras 3.6 and 3.9 below.

Part I Introduction

Completion and scope of the Table; authority for publication

1.1 The Chronological Table¹ of Local Legislation (hereafter "the Table") for the first time lists the 26,500 local Acts passed by the Parliaments at Westminster between 1797 and the end of 1994 in their chronological sequence, the orders confirmed by local Provisional Order Confirmation Acts² in the sequence in which they are scheduled to their confirming Acts and the specific repeals and amendments made to the listed Acts and orders themselves.

1.2 The publication of the Table marks the completion of the major part of a project authorised by the Statute Law Committee in 1974 and since approved by its successor, the Advisory Committee on Statute Law.³

1.3 In 1974 the Statute Law Committee authorised the Statutory Publications Office to institute a table showing the effects of legislation passed on or after 1 January 1974 on earlier local, personal and private Acts. That table has since been published as Section 4 of the *Chronological Table of the Statutes*.⁴

1.4 In the same year the Statute Law Committee has authorised us, the Law Commission and the Scottish Law Commission, to prepare a chronological table showing the effect of local, personal and private legislation passed before the end of 1973, that is, to cover the period up to 1 January 1974 when Section 4 of the *Chronological Table of the Statutes* begins. It was originally intended that our table should cover the 26,000 local Acts passed between 1797⁵ and the end of 1973 and the 11,000 private, later described as personal, Acts passed between 1539⁶ and the end of 1973. We have completed the local Act part of the project and amalgamated it with Section 4 of the *Chronological Table of the Statutes* to form the Table, which covers the 26,500 local Acts passed up to the end of 1994. We have started work on the preparation of the text of the private Act table for completion at a later stage.

1.5 The publication of the Table brings to an end the paradoxical situation in which since 1870 there has been a chronological table for the smaller number of public general Acts enacted by the Parliaments at Westminster in the past two hundred years, but no table for the larger number of local Acts. The 26,500 local Acts passed between 1797 and 1994 are in

¹ A chronological table can be described as a list of Acts arranged in the order of their chapter numbers under each sessional or calendar year. For each Act details are given of its specific repeal, partial repeal, amendment, application etc. Acts which have been completely repealed are listed in italic or ordinary type and Acts which are in force or, in some cases, merely unrepealed, are listed in bold type.

² Until the end of 1867 Provisional Order Confirmation Acts were included in the Public General Acts.

³ The Statute Law Committee was succeeded in 1991 by the Advisory Committee on Statute Law whose members are listed in *Dod's Parliamentary Companion* and *Whitaker's Almanack*.

⁴ This work is published annually in cumulative form by HMSO. Modern editions are arranged in four sections comprising: 1 Acts of the Parliaments at Westminster from 1235 onwards as they affect Great Britain but excluding the series of private Acts (1539 onwards) and the series of local and personal Acts (1797 onwards); 2 Acts of the Parliaments of Scotland (1424-1707); 3 Church Assembly Measures (1920-1971) and General Synod Measures (1972 onwards); 4 Local and Personal Acts amended or repealed from 1974 onwards. There is a separate *Chronological Table of the Statutes, Northern Ireland*, arranged in four parts, which covers Irish legislation from 1310 onwards and United Kingdom legislation as it affects Northern Ireland.

⁵ In 1797 the public Acts were divided into separate series of Public General Acts and Public Local and Personal Acts.

⁶ In 1539 public and private Acts were first distinguished on the official enrolments of Acts of Parliament.

contrast to the 16,600 public general Acts passed in the same period, and until well into the 20th century local Acts outnumbered public general Acts by a considerable margin: in 1901 there were, for example, 281 local Acts compared with 40 public general Acts and in 1930 194 local Acts compared with 51 public general Acts.

Purposes of this report

1.6 The main purposes of this report are:

- (1) to explain the Table's use and limitations for all those concerned with legislation whether they be academics, administrators, lawyers, librarians, members of parliament or members of the public in general;
- (2) to make known the information about local legislation and the problems relating to it obtained in the course of preparing the Table;
- (3) to outline the Law Commissions' statute law revision work on local legislation, particularly that resulting from the preparation of the Table itself; and
- (4) to recommend that the opportunity provided by the completion of the Table should be taken to intensify and widen the work of modernising and rationalising local legislation as a whole.

Structure of this report

1.7 Part II of the report describes the content of the Table and its immediate and long term purposes.

1.8 Part III of the report explains the need for the Table. It provides some brief historical background to local legislation and to the way it has been indexed and listed. It points out the fundamental importance of local legislation in the development of the United Kingdom since the eighteenth century, and of the way in which its bulk and scope have in many respects overwhelmed Parliament and the machinery of government as a whole. It describes the development of the *Chronological Table of the Statutes* as an integral part of the three editions of *Statutes Revised* in order to show, by way of contrast, how no similar effort was made to revise, index and tabulate local legislation. Finally it outlines the consequences of the failure to provide adequate lists and indexes for local legislation.

1.9 Part IV of the report provides a short history of the project, in particular of the first, preliminary, instalment of the Table which was produced in 1985 and of the special difficulties attaching to repeal of Provisional Order Confirmation Acts.

1.10 Part V of the report shows how the pioneering work of preparing the Table has provided new information about the state of local legislation in general, earlier attempts to modernise and rationalise it and the problems relating to it. It also describes the repeals enacted by local Acts passed in accordance with section 262(9) of the Local Government Act 1972, the latest scheme for the reform of local authority legislation in England and Wales outside Greater London, and of the effect of the Scottish equivalent, section 225(6) of the Local Government (Scotland) Act 1973. While pointing out that considerable efforts have in the past been made to modernise and rationalise local legislation, Part V concludes that

those efforts have been too inconsistent and sporadic to cope with its vast bulk. As a result, local legislation remains in a deplorable state which is completely unsuited to the social and technical changes which are taking place in the late twentieth century.

1.11 Part VI of the report shows how in the field of local legislation our statute law revision work (that is, our proposals for the systematic repeal of legislation which is obsolete or otherwise of no practical utility) has expanded since the results of preparing the Table became apparent. It also mentions some of the further local legislation repeals projects on which work has been started.

1.12 Part VII of the report makes recommendations for expanding the work of repealing local legislation. It refers to the attitudes of government departments and points out the advantages to them and to other bodies in assisting us with systematic repeals in this field. Without such assistance, the aim of modernising and rationalising local legislation is unlikely to be achieved; the Report accordingly recommends that the publication of the Table should be regarded and used as an opportunity to provide such assistance.

Part II Contents and purposes of the Table

Contents

Legislation listed

2.1 The Table lists in their chronological sequence all those Acts passed by the Parliaments at Westminster between 1797 and the end of 1994 which have come to be generally described as local Acts, and the orders confirmed by local Provisional Order Confirmation Acts in the sequence in which they are scheduled to their confirming Acts.

2.2 Until 1797 there were two official series of Acts - Public and Private - but in that year the Public Acts were divided into two further series of Public General Acts and Public Local and Personal Acts. The Table is confined to the Public Local and Personal Acts, for which there were a number of technical changes in classification in the nineteenth century, and which as a result comprise:

- (i) Public Local and Personal Acts (1797-1802);
- (ii) Local and Personal Acts to be judicially noticed (1802-1814);
- (iii) Local and Personal Acts declared public and to be judicially noticed (1815-1867);
- (iv) Local and Personal Acts (1868);
- (v) Local and Private Acts (1869);
- (vi) Local Acts (1870 onwards).

From 1868 onwards these classifications include:

- (a) Provisional Order Confirmation Acts classified as Public Acts of a Local Character (1868-1963) and Provisional Order Confirmation Acts (1964-1980);
- (b) Acts confirming Provisional Orders made under the Private Legislation Procedure (Scotland) Act 1899 which has been consolidated by the Private Legislation Procedure (Scotland) Act 1936.

2.3 The Table lists the effects on the listed Acts and orders of the following categories of legislation enacted or made between 1797 and the end of 1994:

- (i) Public General Acts of the Parliaments at Westminster;
- (ii) Measures of the Church Assembly and the General Synod of the Church of England;

- (iii) Local, Personal and Private Acts of the Parliaments at Westminster;
- (iv) Statutory Rules and Orders (before 1948) and Statutory Instruments (from 1948) which are classified as general and the most readily available texts of those which are classified as local;¹
- (v) Public General Acts of the Northern Irish Parliament 1922-1972 so far as they affect pre-1922 United Kingdom local Acts;
- (vi) Local and Private Acts of the Northern Irish Parliament 1922-1972 so far as they affect pre-1922 United Kingdom Local Acts;
- (vii) Northern Ireland Statutory Rules so far as they affect pre-1922 United Kingdom local Acts;
- (viii) A small number of Orders in Council.

Provisional Order Confirmation Acts²

2.4 For all Provisional Order confirmation Acts the Table lists the orders in the sequence in which they are scheduled to the confirming Acts with details of the repeals, amendments and other modifications which have been made to each order. The Table also lists separately the repeals and amendments which have been made to specific provisions of the confirming Acts themselves, which in turn often relate specifically to one or more of the orders confirmed, or to one or more of the places affected by the confirmed orders.³

Purposes

Immediate purpose

2.5 The immediate purpose of the Table is to provide an accessible and authoritative means for determining how far local legislation is in force. By recording the specific repeals, amendments and other modifications made to local legislation the Table will be a basic tool and a vital source of information for, among others-

- (a) those concerned with the preparation, enactment and making of primary and secondary legislation;

¹ It has not been possible to record the effects of all local subordinate legislation in the Table since no comprehensive collection of the texts of local Statutory Rules and Orders for the period 1890-1921 has yet been found. See further para 5.13 below.

² The provisional order system was designed to save promoters the expense of obtaining new primary legislation for many of the powers which they needed, and to reduce the time and effort which Parliament had to devote to the consideration of private Bills. The system was widely used in the nineteenth and early twentieth centuries but it has, in general, been replaced by other legislative procedures. For the origins, details and development of the system see, eg, F Clifford, *A History of Private Bill Legislation* vol II (1887) pp 676-715; *Erskine May, Parliamentary Practice* (21st ed 1989) pp 949-956. For Scotland, the need to promote private Bills has been almost entirely replaced by the procedure for obtaining provisional orders under the Private Legislation Procedure (Scotland) Act 1936.

³ See, eg, the entry in the Table for the Local Government Board's Provisional Orders Confirmation (Askern, &c.) Act 1881 (c.xcviii) in which the repeal of s 3 of the Act and the repeal of the confirmed Liverpool Order by the Liverpool Corporation Act 1921 are separately recorded; the entry for the Local Government Board's Provisional Orders Confirmation (No 5) Act 1882 (c.clxx) in which there are separately entries for the repeal of s 2 of the Act and the repeal of the two confirmed Bury Orders by the Bury Corporation Act 1909, and for the repeal of s 3 of the Act and the repeal of the confirmed Marsden Order by the West Yorkshire Act 1980.

- (b) those concerned with the operation of local legislation, such as local authorities and statutory undertakers;
- (c) legal practitioners who need to advise their clients about the effect of local legislation;
- (d) members of the public who want to ascertain the effect of local legislation for themselves;
- (e) librarians who need to be able to supply information about local legislation to all those concerned with the preparation and operation of legislation of all kinds, the legal profession and members of the public in general.

Long term purpose

2.6 The long term purpose of the Table is to act as an essential aid for modernising and rationalising local legislation. Besides recording the repeals, amendments and other modifications of local legislation which have already been made, the Table will provide a means for recording all such modifications made in the future. It will therefore help with our programmes of statute law revision on local legislation, both with the repeal of the enormous backlog of redundant local statutory provisions, and with the identification and repeal of those provisions which will become redundant as the result of future changes in the law.

2.7 So far as statute law revision is concerned, the Table provides a new starting point for the repeal of redundant local legislation on a subject matter basis. Clear examples are the large numbers of unrepealed local electricity and gas Acts most of whose provisions have been made redundant by the nationalisation legislation of the 1940s (Electricity Act 1947, Gas Act 1948) and the privatisation legislation of the 1980s and 1990s (Gas Act 1986, Electricity Act 1989, Gas Act 1995). More immediately the Table provides a visual chart of the current condition and effect of the enactments listed in it. Thus it indicates where we can most readily undertake further statute law revision because the enactments are empty shells or have been almost entirely repealed. For example, the Table lists a considerable number of Provisional Order Confirmation Acts for which all the confirmed orders have been repealed but with the confirming and short title provisions in the Acts remaining in force in respect of some or all of the confirmed orders.⁴ For other Provisional Order Confirmation Acts the Table shows that only a small number of the confirmed orders remain unrepealed, so indicating that those Acts are early potential candidates for statute law revision.⁵

2.8 Ultimately, after we have made substantial further progress in the rationalisation and repeal of local legislation through the medium of statute law revision, it will be feasible to produce an index of the subject matter of those local Act provisions which remain as current

⁴ See, eg, the entries for: The Electric Lighting Orders Confirmation Acts (Nos 1-3) 1883 (cc.ccxiii-ccxv), (No 5) 1883 (c.ccxvii), (No 8) 1882 (c.ccxx, (No 10) 1883 (c.ccxii), No 2) 1884 (c.xlii), (No 3) 1884 (c.lxxvi), (No 4) 1884 (c.lxxxiv); The Tramways Orders Confirmation (No 2) Act 1884 (c.lxxx); the Local Government Board's Provisional Orders Confirmation (No 8) Act 1890 (c.clxxvii).

⁵ The Table shows, for example, that four of the six orders confirmed by the Local Government Board's Provisional Orders Confirmation (Bath, &c.) Act 1881 (c.xv) have been repealed. If the remaining two orders can be proposed for repeal, so can the whole Act since it did no more than confirm the six scheduled orders. A similar example is provided by the entry for the Local Government Board's Provisional Orders Confirmation Act 1884 (c.iv) which shows that two of the three confirmed orders have been repealed.

and live law. In turn that will make it possible to produce an authoritative edition of the texts of such provisions in either hard copy or in electronic form or both, in the same way that such editions have been, and are being, prepared for the public general Acts.⁶

2.9 Public Acts frequently act upon and overlap local acts,⁷ so that the preparation of the Table and, at a later stage, an authoritative index and edition of local legislation, would enable significant improvements to be made to those provisions of public general legislation which relate to local legislation. We discuss how the availability of the Table would enable such improvements to be made in Part III.

⁶ *Statutes Revised* (1st ed 1870-1878), (2nd ed 1888-1929), (3rd ed 1950); *Statutes in Force* (1972 onwards) which is being replaced by the *Statute Law Database*, an authoritative electronic text of the public general Acts in force.

⁷ Eg, all the most important privatisation Acts passed in the last 15 years contain provisions authorising the Secretary of State to repeal or amend local statutory provisions by order: Transport Act 1981, Sched 1(8); Telecommunications Act 1984, s 109(2)(3); Gas Act 1986, s 67(2); Water Act 1989, s 191; Electricity Act 1989, s 112(2); Railways Act 1993, s 153; Coal Industry Act 1994, s 67(2-4) and (6).

Part III Why the Table is needed

Importance of local legislation

3.1 As the end of the twentieth century approaches, the publication of the Table provides an opportunity to offer a reminder of the importance of local legislation. Local legislation¹ has played a crucial part in the process whereby the United Kingdom has since the eighteenth century been changed from a predominantly agricultural and rural society into one that is predominantly urban and suburban. Many of the changes in that process were to a large extent initially effected through - literally - thousands of separately promoted, very detailed, local Acts of Parliament: for docks, harbours and ports, for transport (bridges, ferries, roads, canals, river navigations, railways, buses, trams and trolley vehicles), for public utilities (electricity, gas and water supply) and for local government and public health.²

3.2 Since the late nineteenth century, and increasingly in the twentieth century, much local legislation has been superseded by public general legislation which has enacted provisions of general application in place of those having limited application in many separate localities, and for many separate undertakings, throughout the country. This general legislation, however, is itself largely founded on the administrative, legal and technical experience gained through promoting and operating an enormous number of individual local Acts over a period of more than 200 years.

Failure to provide full indexes and tables for local legislation

3.3 The widespread and important achievements of local legislation have been obtained at the price of its increasing obscurity and uncertainty. Its bulk and complexity have often and, in the case of certain subjects, continually overwhelmed Parliament and the resources which successive governments have been prepared to devote to the drafting, indexing and listing of legislation in general. As a result local legislation as a whole³ has never been fully indexed or tabulated.

¹ Although there were only two official categories of Acts up to 1798 - Public and Private - local legislation formed an increasingly large proportion of the public Acts passed in the eighteenth century and a majority of such Acts from 1752 onwards (F H Spencer, *Municipal Origins* (1911) p 312). The explanation for this is that most of those eighteenth century Acts which were in substance local Acts were founded on private Bills, and that Private Acts were not judicially noticed unless specifically put in evidence. To overcome this difficulty "it was usual ... for the promoters of the Acts which were of a purely local or personal application to insert a clause declaring them public Acts to be judicially noticed without being specially pleaded. All such Acts were, therefore, printed and bound up with the Public ... Acts" (*ibid*, p 47).

² *Index to Local and Personal and Private Acts 1801-1899* (HMSO 1900); *1801-1947* (HMSO 1949). Many of these matters could be dealt with by the same Act, eg, the Sheffield Corporation (Consolidation) Act 1918 (c.lxi) which also granted new powers, including provisions relating to water, tramways, electricity, markets, fairs and slaughterhouses, museums and art gallery, burial board and crematorium, street improvements, streets and buildings, streams and bridges, sewers and drains, sanitary provision and infectious disease, milk supply, common lodging-houses, weights and measures, police and fire provisions and offences.

³ But individual authorities and undertakings have produced indexes, eg, the former Greater London Council published and regularly updated an index of the public general and some of the local legislation relating to

3.4 Full and effective indexing and tabulation of legislation requires two separate but interlinked approaches:

- (1) indexing the subject matter of the legislation concerned both on an historical basis (indexing all the legislation which has been passed)⁴ and on a practical basis (indexing the legislation which is in force at any particular time);
- (2) tabulating the current effect of the legislation concerned, that is, listing individual Acts in their chronological order with information showing whether particular Acts have been wholly or partly repealed, and whether they have been amended or otherwise affected by other legislation, with details of the repealing and amending legislation itself.

The main link between indexes and tables is that it is the information in tables which provides the basis for the preparation of indexes of legislation which is in force.

3.5 Public general legislation has been fully indexed and tabulated since 1870 but until the publication of the Table in 1996 only outline subject indexes have been produced for local legislation in general,⁵ and it is only the repeals and amendments made to local legislation after 1 January 1974 which have been recorded in a chronological table.⁶ An outline of the way in which the two types of legislation have been indexed and tabulated provides a striking contrast.⁷

Public general legislation

3.6 Although there were earlier official indexes and tables for public general legislation, for the purposes of this report the relevant starting point is the official *Chronological Table of the Statutes* and the *Index to the Statutes* which were first published in 1870 as an integral part of *Statutes Revised*.

3.7 *Statutes Revised* was produced under the direction of the Statute Law Committee and it was the official revised edition of the statutes. It aimed to publish the text of public Acts in force in the form in which they were in force at the date of publication. The first edition was published between 1870 and 1878, the second between 1888 and 1929 and the third, covering the period up to 1948, in 1950. When the first edition was started in 1870 the number of public Acts to be considered was apparently greater than the number of local Acts,⁸ but

Greater London: *Index to the London Government Act 1963 and orders made thereunder and to certain local Act provisions in force in Greater London* (Greater London Council 1974).

⁴ An *Index to the Local and Personal Acts 1850-1995*, compiled by Rosemary Devine, Examiner of Private Acts, House of Lords, is being published at the same time as the Table. The Index lists in one alphabetical, cross-referenced, sequence the titles of the Local and Personal and Private Acts passed between 17 May 1850 and 1995, the orders confirmed by local Provisional Order Confirmation Acts, and the companies, local authorities, places, people, undertakings and other matters in respect of which the Acts and orders were respectively passed or confirmed.

⁵ See n 3 above.

⁶ See para 1.3 above.

⁷ Much of the remainder of this Part is based on a talk entitled 'The Law Commissions' Work in the Field of Local Legislation' which was given to a British and Irish Association of Law Librarians course on local legislation held at the Law Commission in May 1990. An edited version of the talk has been published in the *Law Librarian* (1991), p 163 and (1992), p 35.

⁸ *Statutes Revised* starts in 1235 and successive editions of the *Chronological Table of the Statutes* list some 18,360 Acts passed between 1235 and 1870, in contrast to the 11,800 local Acts listed in the *Chronological Table of Local Legislation* between 1797 and 1870. This contrast is reduced by the fact that between 1752 and 1797 the majority

during the eighty years spanning publication of the three editions local Acts came to outnumber public general Acts.⁹

3.8 The *Chronological Table of the Statutes* and the *Index to the Statutes* originally related to those Acts included in *Statutes Revised*. They were designed to be used together and they were initially published as one volume in 1870 as the *Chronological Table of an Index to the Statutes to the end of the Session of 1869*, the chronological table preceding the index. As its preface stated, the Chronological Table was framed -

"(1) To show what Acts are not in force, and how the same have ceased to be in force (by express repeal or otherwise):

(2) With respect to Acts wholly or partly in force to give (column 2) the respective heads in the Index under which the enactments in force (with other enactments on the same subject) will be found:

(3) With respect to Acts partly in force to give (column 3) any express partial repeals thereof ...".

3.9 The *Chronological Table* and the *Index* continued to be published in one volume until 1890,¹⁰ the volumes growing thicker for each edition as *Statutes Revised* contained the texts of an increasing number of Acts which had to be tabulated and indexed. The table and the index were published in two volumes for the first time in 1895¹¹ but they continued to be "arranged for combined use" until the end of 1950,¹² since when they have been published separately and no longer cover the same ground.

3.10 The *Chronological Table* continued to be related to the third edition of *Statutes Revised* until 1959.¹³ Thereafter any formal link with *Statutes Revised* ceased and the table now covers a wider range of Acts than that included in *Statutes Revised* or its successor *Statutes in Force*, which is itself to be superseded by the computerised *Statute Law Database*.

Local and private legislation

3.11 The position relating to the listing and indexing of local, personal and private Acts is very different from that described above. No attempt has been made to produce the equivalent of *Statutes Revised* for local, personal and private legislation and it was not until the 1970s that work began on producing a systematic chronological table for such legislation.¹⁴ Most of the composite¹⁵ indexes of local and personal and private legislation produced so far have been collections of lists in which Acts have been classified by reference

of the Acts which were published as public Acts were in substance local Acts (see n 1 above). It should also be borne in mind that these figures exclude private Acts passed after 1539 (see n 7 to Part I above).

⁹ See para 1.5 above.

¹⁰ The editions, the years they covered, and their dates of publication are as follows: Second, 1235-1872 (1873); Third, 1235-1874 (1874); Fourth, 1235-1877 (1878); Fifth, 1235-1878 (1879); Sixth, 1235-1879 (1880); Seventh, 1235-1880 (1881); Eighth 1235-1881 (1882); Ninth 1235-1883(1884); Tenth, 1235-1886 (1887); Eleventh, 1235-1889 (1890). The twelfth edition (1893) contained the Index only.

¹¹ Thirteenth edition.

¹² *Chronological Table of the Statutes 1235-1950* (HMSO 1951), p v.

¹³ *Chronological Table of the Statutes 1235-1951* (HMSO 1952), p x, para 8; 1235-1959 (HMSO 1960), p x, para 8; 1235-1960 (HMSO 1961), p vii, para 2.

¹⁴ See para 1.3 above.

¹⁵ As opposed to the lists and indexes of local, personal and private Acts in the Sessional volumes of public and local Acts.

to their titles and broad subject matter; for example, railways, canals, local government, gas, electricity and water.

3.12 The main nineteenth century indexes to local and personal and private¹⁶ Acts were those produced on the initiative of the House of Commons and the House of Lords. The almost completed manuscript of an index compiled in pursuance of a recommendation of the Committee on the Library of the House of Commons was destroyed in the fire which burnt down the Houses of Parliament in 1834. In 1835 the committee ordered that a similar index should be re-compiled and what was evidently the result was published in 1840, covering the period between 1798 and 1839.¹⁷ This index of 484 pages listed in one alphabetical sequence the names of the places, people, companies, rivers, railways, and other matters for which the Acts had been passed, provided their broad subject matter and chapter numbers, but omitted repeals or amendments. Also in 1840 a classified list, or index, of local, personal and private Acts covering the period between 1801 and 1839 was published on the authority of the Select Committee on the Library of the House of Lords, followed in 1845 by a list covering the period 1801-1844, which divided the Acts into 19 classes, with place, company and other names listed under each class.¹⁸ The House of Lords published three further classified indexes of local and personal and private Acts in the nineteenth century: an index covering the Acts passed between 1801 and 1865, an index covering the Acts passed between 1866 and 1877 and an index covering the Acts passed between 1878 and 1887.

3.13 A new index (hereafter the '1900 Index') was published under the direction of the Statute Law Committee in 1900. It covered the Local and Personal and Private Acts passed between 1801 and 1899,¹⁹ and by the time it was published Parliament had for many years been passing more Local and Personal Acts than Public General Acts.²⁰ It was based mainly on the last three indexes published by the House of Lords, but in a shortened form and with an altered classification of 15 classes of local and personal and private Acts.²¹ These classes were followed with certain changes in the *Index to Local and Personal Acts 1801-1947* published in 1949 (hereafter 'the 1949 Index') and the *Supplemental Index to the Local and Personal Acts 1948-1966*, both of which were prepared under the authority of the Statute Law Committee.²²

3.14 The 1900 Index listed only repeals which had been entered in earlier indexes or which were apparent from the titles of particular Acts. For the 1949 Index Acts and orders

¹⁶ An earlier 'Analytical Table' of private Acts, 1727-1812, was published in 1813 but was confined to private Acts. A second volume, covering 1813-1834, was published in 1835. See George Bramwell, *An Analytical Table of the Private Statutes passed between the 1st Geo.II. A.D. 1727 and 52d. Geo.III. A.D. 1812* (1813); and *An Analytical Table of the Private Statutes passed between 53d. Geo.III. A.D. 1813 and 4th and 5th Will.IV. A.D. 1834* (1835).

¹⁷ Thomas Vardon, *Index to the Local, Personal and Private Acts 1798-1839* (1840), preface.

¹⁸ *An Index to the Statutes, Public and Private passed in the several years ... (1801-1844)* (1845), p iii.

¹⁹ *Index to Local Acts consisting of Classified Lists of the Local and Personal and Private Acts from 1801 to 1899* (HMSO 1900), p.v.

²⁰ Between 1870, when the first volume of the first edition of *Statutes Revised* was published, and the end of 1899 some 2180 Public General Acts were passed in contrast to 6,570 Local and Personal Acts. For 1899 there were 54 Public General Acts and 277 Local and Personal Acts.

²¹ I Bridges, Ferries, Roads, Subways and Tunnels; II Railways, Tramroads and Tramways; III Canals, Rivers and Navigations; IV Harbours, Docks, Ports, Piers and Quays; V Local Government (including Judicial Matters, Poor Law and Public Health); VI Lighting (Gas, Electricity); VII Water Supply; VIII Drainages and Drainage Embankments; IX Inclosures and Open Spaces; X Fisheries; XI Charitable and Educational, etc Foundations and Institutions; XII Ecclesiastical Affairs; XIII Personal and Private (including Estates); XIV Trading and Other Companies; XV Crown.

²² (HMSO) 1949, 1967.

passed or made after 1900 were examined for their effect on earlier legislation and the index noted whole or substantial repeals made after 1900²³ in addition to those noted in the 1900 Index. The record of those repeals had been a valuable source of information for the preparation of the Table, but neither the 1900 Index nor the 1949 Index purports to index local legislation fully.

3.15 The preface to the 1900 Index explains why these Indexes were incomplete. Consideration was evidently given to indexing local legislation in the same way as public general legislation, but the task was considered too great for the necessary resources to be made available to undertake it. Two passages in the preface are particularly noteworthy:

"Like the previous volumes, this volume is, strictly speaking, not an Index, but merely a collection of classified lists. The various Acts are simply classified by reference to their titles, *and no attempt has been made to examine the matter of each Act in detail, as work of that nature would involve a considerable staff and considerable time. In this respect this volume is essentially different from the Index to the Public Statutes.*"

"No attempt has been made to enter repeals exhaustively, *as it would be impossible to do so without examining the Acts in detail ... in using the volume it must be remembered that the entries of repeals are quite incomplete*".²⁴

Consequences of this failure

3.16 The lack of adequate lists and indexes for local legislation has had a serious and continuing effect on both local legislation and public general legislation throughout the twentieth century.

3.17 The effect of local legislation itself has become increasingly obscure and uncertain because it has not been adequately tabulated or indexed. Part V of this report shows that more consolidation and rationalisation of local legislation has been effected than has been realised; but in the absence of a proper chronological table there has been nowhere for the results of such consolidation and rationalisation to be recorded, so that it has become increasingly difficult to identify those local statutory provisions which are in force and the form in which they are in force.²⁵

3.18 Public general legislation has also been affected by the lack of adequate tables and indexes for local legislation. Since 1900 many of the industries and undertakings which were originally authorised and regulated by local legislation, whether run by local authorities or commercial companies, have been re-organised for administrative, economic and political reasons. Such reorganisation has been effected largely through public general legislation which has had to be prepared and drafted without any detailed, up-to-date record of the effect of the local legislation relating to the undertakings to be re-organised. This has, among other factors,²⁶ including lack of time, generally made it impossible, in

²³ 1900 Index, p v; 1949 Index, p v.

²⁴ 1900 Index, p v (emphasis added).

²⁵ The noting by the 1949 Index of whole or substantial repeals of local Acts and orders enacted or made since 1900 (see para 3.14 above) did not alter the situation substantially, since the index did not record most of the partial repeals or any of the amendments of the local legislation which it covered.

²⁶ The desire to avoid making a public Bill "hybrid" by including in it the specific repeal of local statutory provisions has also sometimes been raised as constituting a deterrent to making such repeals. A hybrid Bill has been defined as "a public Bill which affects a particular private interest in a manner different from the private interest of other persons or bodies in the same category or class" (*Hansard* (HC) 10 December 1962, vol 669, col 45

reforming and re-organising public general legislation, for specific repeals or amendments to be made to the local legislation concerned. To circumvent this problem, repeals have been made in general terms,²⁷ a course which has been adopted since the nineteenth century,²⁸ wide statutory powers have been conferred on Ministers to repeal, amend or modify local legislation by statutory instrument,²⁹ and legislation has been formulated in such a way as to avoid the need to repeal and amend local statutory provisions.³⁰

3.19 The adoption of the expedients referred to in the preceding paragraph has created new uncertainties in public general and in local legislation.

(1) The precise effect of repeals in general terms cannot be ascertained without further research to identify exactly the provisions which are subject to them, so enabling the provisions concerned to be specifically repealed by later legislation. In the meantime, the effect of public general legislation making the repeals in general terms will often be to create uncertainty for those using the legislation and in such cases make it impossible to list the local statutory provisions which have been repealed.

(2) Powers given to Ministers to repeal, amend or modify local legislation by statutory instrument are often not used and, when left for long periods, they become so embedded in the legislation that their original purpose is forgotten. In such circumstances there is nonetheless a reluctance to repeal them in case they could conceivably prove useful in the future.

(3) The drafting of public general legislation in such a way as to avoid repealing or amending local statutory provisions means that those provisions often cannot be understood without some knowledge of the public general legislation itself, and it becomes increasingly difficult to record the effect of local legislation accurately and succinctly.

3.20 The publication of the Table is the first step in a process whereby the need for public general legislation to operate on local legislation in ways which have such unsatisfactory consequences can be greatly reduced.

quoted in *Erskine May, Parliamentary Practice* (21st ed 1989), p 519), and such a Bill is subject to proceedings in Parliament "additional to the normal stages in the passing of public Bills" (*ibid*).

²⁷ Eg, Railway Act 1921, s 34(1); Electricity Act 1947, ss 57(3) proviso, 57(7); Gas Act 1948, ss 56(2) proviso, 67(2), 76; Public Utilities Street Works Act 1950, ss 15(3), 17(2), 24(2); Transport Charges &c. (Miscellaneous Provisions) Act 1954, s 13(2)-(5); Local Government Act 1972, s 262(9); Water Act 1973, s 30(9)(10); Hallmarking Act 1973, s 18(1) but see the specific repeal of a number of local statutory provisions in Sched 7, pt II; Local Government (Scotland) Act 1973, s 225(6); New Roads and Street Works Act 1991, ss 101(1)-(3), 160(1)-(3). Repeals in general terms have also been made by subordinate legislation; see, for example, article 18 of each of three amalgamation schemes made under the Railways Act 1921 (SR &O 1922 Nos 1411 and 1435, 1923 No 827) which repealed from the date of vesting of the companies to be amalgamated "all unexercised powers of raising money" conferred upon them. The three orders concerned were classified as local orders. Their texts do not survive in the major collections of local orders and instruments but they are held by the British Railway Board.

²⁸ Eg, Local Government (Scotland) Act 1889, s 121.

²⁹ Eg, Public Health Act 1936, ss 313, 314; Electricity Act 1947, s 57(4); Gas Act 1948, s 56(4); Transport Act 1962, s 91; Gas Act 1972, Sched 6(21); Water Act 1973, Sched 6(15)(d); Transport Act 1981, Sched 1(8); Telecommunications Act 1984, s 109(2)(3); Gas Act 1986, s 67(2); Water Act 1989, s 191; Electricity Act 1989, s 112(2); Environmental Protection Act 1990, s 162(4); Railways Act 1993, s 153; Coal Industry Act 1994, s 67(2-4) and (6).

³⁰ Eg, Transport Act 1947, ss 12, 13 and 14: vesting of railway and canal undertakings in the British Transport Commission subject to all rights and liabilities to which the undertakings were subject both by agreement and by statute.

Part IV History of the project

4.1 We started work on the whole project, ie the preparation of the Table and the private Act table, in 1974 and progress made has since been recorded in annual reports.¹

Nature of the project

4.2 In contrast to the *Chronological Table of the Statutes*, which has expanded with successive volumes and successive editions of *Statutes Revised* (and more recently on an annual basis), and to Section 4 of the *Chronological Table of the Statutes*, which has expanded from year to year since its inception in 1974,² we had to plan the Table from the outset to show the effect of a huge body of legislation dating from 1797 to 1973 which had never been fully indexed or tabulated before. Our plans have had to be modified in the light of experience, in particular as we realised that the effects of local legislation of different kinds and of different periods had to be recorded in different ways.

Methods and organisation of research

4.3 The first step was to draw up an authoritative list of the Acts covered by both the Table and the private Act table with the help of the House of Lords Record Office. Each of the 37,000 or so private and local and personal Acts was listed on separate sheets in the order of their regnal years and chapter numbers, together with their short titles or a brief description of their subject matter.³ Thirty-seven loose-leaf files, known as the "Master Files", contained these sheets and formed the basis of the whole project. We then examined legislation and subordinate legislation passed or made before the end of 1973⁴ in reverse chronological order⁵ to ascertain and note in the Master Files the repeals, amendments and other modifications made to the listed Acts and the orders confirmed by Provisional Order Confirmation Acts. This approach ensured that we noted first the final repeal of any Act, so making it unnecessary to note any amendments, applications or other effects which had been overtaken by the final repeal itself. But we noted all partial repeals and included them in our chronological order under each Act which was finally repealed.

¹ See the Law Commission's Annual Reports: Ninth (1973-1974), paras 59-61; Tenth (1974-1975), para 63; Eleventh (1975-1976), para 56; Twelfth (1976-1977), para 57, Thirteenth (1977-1978), para 2.45; Fourteenth (1978-1979), para 2.52; Fifteenth (1979-1980), para 2.49; Sixteenth (1980-1981), para 2.90-92; Seventeenth (1981-1982), paras 2.94-96; Eighteenth (1982-1983), paras 2.82-87; Nineteenth (1983-1984), paras 2.85-86; Twentieth (1984-1985), paras 2.80-82; Twenty-First (1985-1986), paras 2.70-72; Twenty-Second (1986-1987), paras 2.81-82; Twenty-Third (1987-1988), paras 2.68-70; Twenty-Fourth (1989), paras 2.56-58; Twenty-Fifth (1990), paras 2.54-56; Twenty-Sixth (1991), paras 2.58-60; Twenty-Seventh (1992), paras 2.75-76; Twenty-Eighth (1993), paras 2.79-80; Twenty-Ninth (1994), paras 2.102-104. Annual Reports of the Scottish Law Commission also recorded progress.

² Section 4 has grown from just over 10 pages in 1974 (*Chronological Table of the Statutes 1235-1974* (HMSO 1975), pp 1489-1499) to 210 pages in 1992 (*ibid* (HMSO 1995), Part II, pp 1863-2072).

³ Between 1539 and 1797 the Master Files listed one category of Act - private Acts - for each Session of Parliament. After 1797 (38 Geo.3) there are two lists for each Session, the first for local and personal Acts and the second for private, later described as personal, Acts.

⁴ See para 1.4 above.

⁵ Ie starting with 1973, then 1972 and so on.

Differences between local and personal and private Acts and public general Acts

4.4 In the absence of any earlier detailed examination of local, personal and private legislation as a whole, we had to assume at the start of the project that the effect of local and personal and private Acts could be recorded in the same way as that of public general Acts. Thus initially we intended that the Table should follow the conventions and layout of the *Chronological Table of the Statutes*. But at a relatively early stage in our work it became apparent that the effect of local and personal and private Acts could not always be recorded in the same way and that we would therefore have to use conventions and layout in the Table which differed from those of the *Chronological Table of the Statutes*. We outline three examples by way of illustration: place names, the closing to navigation of specified parts of canals and river navigations, and recording repeals and amendments made to Provisional Order Confirmation Acts and the orders confirmed by them.

Place names

4.5 Much local legislation, as its name indicates, concerns places and different places often have the same name. The Table must of course distinguish such places for which local legislation has been enacted and indeed does so: examples are Newport (Monmouthshire),⁶ Newport (Salop.) and Newport (Isle of Wight); Wellington (Salop.), Wellington (Somerset) and the Wellington Suspension Bridge (burgh of Aberdeen and County of Kincardine).

The closing of navigation to canals and river navigations

4.6 During the twentieth century the rights of navigation on specified parts of many canals and river navigations have been extinguished along with concomitant obligations to keep the waterways concerned open for navigation. That has required specific statutory authority but not the repeal or amendment of the Acts relating to the waterways in question,⁷ and other existing rights, powers and obligations in respect of those waterways remain unchanged unless altered by later statutory provisions or by agreement. Provisions closing canals and river navigations to navigation are among those annotated "see" in the Table⁸ in order to draw attention to the situation where the primary purpose of an undertaking has been abandoned, but the legislation relating to that undertaking has not been specifically repealed or amended to take account of the abandonment.

Provisional Order Confirmation Acts

4.7 The bulk of the Provisional Order Confirmation Acts, those passed from 1868 onwards,⁹ were local Acts. Their repeal and amendment, and the repeal and amendment of the orders confirmed by them, have posed particular problems in the preparation of the Table.

4.8 Many Provisional Order Confirmation Acts merely confirmed one or more orders whose texts were set out in full in the schedule to the Act. Such Acts generally had a short

⁶ Later Gwent (Local Government Act 1972, s 20, Sched 4) and now the unitary authority of the County Borough of Newport (Local Government (Wales) Act 1994, s 1, Sched 1).

⁷ Eg, British Transport Commission Act 1961 (c.xxxvi), ss 16, 17, Sched 3; 1962 (c.xlii), s 17, Sched 2.

⁸ See eg, the entries in the Table for the Weavers Navigation Act 1807 (Session 2) (c.lxxxii), Grand Western Canal Act 1811 (c.clxviii), Regent's Canal Act 1819 (c.lxvi), Aire and Calder Navigation Act 1828 (c.xcviii), Trent and Mersey Canal Act 1831 (c.lv) and Birmingham Canal Navigations Act 1835 (c.xxxiv).

⁹ See n 3 to Part I above.

title section, a section confirming the scheduled orders¹⁰ and sometimes some additional sections relating to all the confirmed orders.¹¹ But a significant number of Provisional Order Confirmation Acts also contained sections which related specifically to one or more of the orders confirmed, and the earlier practice was generally to repeal the "whole of the Order and so much of the Act as relates to the said Order".¹² For repeals expressed in these terms the Table records, so far as possible, the repeal of the substantive sections of the Act under the title of the confirming Act itself and the repeal of the order under its short title or subject matter description.¹³ More recently the repeal of the sections of, and of the orders confirmed by, Provisional Order Confirmation Acts have been identified separately, which has enabled the repeals to be entered in the Table without further research.¹⁴

Early consultation

4.9 In the course of our early work on the project we contacted the legal departments of those bodies particularly concerned with local legislation¹⁵ to find out whether they had any lists or indexes which could assist our work, and to seek their advice and assistance generally. While much useful information about the problems relating to local legislation was obtained from these contracts, the information in the lists and indexes made available was generally too specialised to be used in the Table.

First instalment of the Table

4.10 We originally intended that the Table and the private Act table should be published in one complete and final form; but because the project proved to be bigger and more complex than expected, we decided to produce a preliminary version, or first instalment, of both tables, to make the information obtained to date available to those most likely to need it and, in return, to seek their comments and advice. The first instalment was produced in 1985 in two volumes containing a total of 781 pages and was divided into two separate chronological tables, namely, a Chronological Table of Local and Personal Acts 1797-1973 (pp 1-770), and a Chronological Table of Private Acts 1539-1973 (pp 771-781).¹⁶

¹⁰ The repeal of these sections so far as they relate to particular orders has not been recorded in the Table. They will become spent and will be clear candidates for repeal themselves when all the orders to which they relate have been specifically repealed, and the repeals concerned have been entered in the Table under the title or subject matter description of the order concerned (see para 1.1. above).

¹¹ The repeal of individual orders subject to these sections has not always been accompanied by the necessary consequential partial repeal of the sections themselves, so introducing further uncertainty into local legislation as a whole.

¹² Leeds Corporation (Consolidation) Act 1905 (c.i), Sched 14 pts II, IV and V. Examples of other Acts in which repeals are expressed in similar terms are Bury Corporation Act 1909 (c.clix), Sched 15; Plymouth Corporation Act 1915 (c.lxix), Sched 1; Sheffield Corporation (Consolidation) Act 1918 (c.lxi), Sched 12 pt II; Liverpool Corporation Act 1921 (c.lxxiv), Sched 5 pt II.

¹³ Eg, the repeal of ss 4 and 5 of, and the almost complete repeal of the Liverpool Corporation Tramways Order 1879 confirmed by, the Tramways Orders Confirmation Act 1879 (c.cxciii) by the Liverpool Corporation Act 1921 (c.lxxiv); the repeal of s 3 of, and the Plymouth Order confirmed by, the Local Government Board's Provisional Orders Confirmation (No 7) Act 1893 (c.cxxviii) by the Plymouth Corporation Act 1915 (c.lxix); the repeal of s 2 of, and the Leeds Order confirmed by, the Local Government Board's Provisional Orders Confirmation (No 15) Act 1900 (c.cxcvi) by the Leeds Corporation (Consolidation) Act 1905 (c.i).

¹⁴ See, eg, County of Merseyside Act 1980 (c.x), Sched 5; West Yorkshire Act 1980 (c.xiv), Sched 5 pt I; Staffordshire Act 1983 (c.xviii), Sched 5 pt II; County of Lancashire Act 1984 (c.xxi), Sched 8 pt I.

¹⁵ Eg, The British Railways Board, the British Waterways Board, the Electricity Council (now the Electricity Association), the former Great London Council and London Transport.

¹⁶ The Law Commission and the Scottish Law Commission, *Chronological Table of Local Legislation* (1985). Part (Volume) I contains the table of local and personal Acts for the period 1797-1908. Part (Volume) II contains the table of local and personal Acts for the period 1909-1973, and the table of private Acts for the period 1539-1973.

4.11 The first instalment recorded the effect on Local, Personal and Private Acts passed by the Parliaments at Westminster between 1539 and 1973 of the following categories of legislation enacted or made between 1 January 1925 and 31 December 1973, a research period of some 50 years:

- (1) Public General Acts of the Parliaments at Westminster;
- (2) Measures of the Church Assembly and the General Synod of the Church of England;
- (3) Local and Personal Acts of the Parliaments at Westminster;
- (4) Statutory Rules and Orders (before 1948) and Statutory Instruments (from 1948) which are classified as general but not those which are classified as local.¹⁷

All local and personal and private Acts passed after 1925 were listed whether or not they had been repealed or amended, but Acts passed before 1925 were listed only if we had recorded repeals, amendments or other effects relating to them.

4.12 The first instalment was not formally published. Instead, we distributed about 120 copies free of charge to specialist recipients such as parliamentary agents, both Houses of Parliament and statutory undertakers, and to a number of libraries. In return, we received many valuable comments. In particular, we were advised that if we wanted to produce accurate tables showing the full effect of local and personal and private legislation we would have to examine and take account of local Statutory Rules and Orders and local Statutory Instruments. This we did subsequently,¹⁸ and their effects on local and personal Acts were noted for inclusion in the Table.

The finalised Table

We completed the main research for the whole project - covering the local, personal and private Acts passed between 1797 and 1973 - in 1992, since when the Table has been updated to the end of 1994.¹⁹ Preparation of the edited text of this 2,700 page work, its transference to a computerised database and its production in a form ready for publication marked the final stages of the project.

The table recorded repeals, amendments and other effects passed or made only between 1 January 1925 and 31 December 1973.

¹⁷ The effects of local orders and instruments were not included in the first instalment of the project because their texts were not readily accessible. Such texts are not included in the annual volumes of Statutory Rules and Orders published between 1890 and 1947 and of Statutory Instruments published since 1948, and the main general collection of the texts in the Statutory Publications Office did not become known until it was too late to examine them for the first instalment of the project.

¹⁸ Our main sources for local SR&Os and local SIs were the British Library, the Public Record Office and the Statutory Publications Office. The Solicitor's Library and Information Centre, Department of Trade and Industry, has sometimes been able to fill the gaps in those collections, but it should be borne in mind that no comprehensive collection of the texts of local orders has been found for the period 1891-1921.

¹⁹ Using information in Section 4 of the *Chronological Table of the Statutes 1235-1992* (HMSO 1995), and in the annual tables *Effects of Legislation* for 1993 and 1994 (HMSO 1994 and 1995). See para 1.4 above.

Part V Information gained and problems relating to local legislation consequent on preparing the Table

5.1 In 1976 it was said in Parliament that "the general state of local legislation is chaotic" and that the "local and private Statute Book has been subjected to virtually no revision at all".¹ But the completion of the Table shows that more was done in the past to consolidate and rationalise local legislation than has been realised, and the Table emphasises the need not only for consolidation and rationalisation themselves but also for reliable indexes and tables where the results of such consolidation and rationalisation can be recorded and made generally available.

Repeals and expiries

5.2 Sampled information collated from the Table (see Appendix A) indicates that between one-half and three-quarters of the local and personal Acts passed from 1797 to 1840 were specifically repealed or expired: for example, 49 per cent of the Acts passed in 1800, 71 per cent of those passed in 1830, and 49 per cent of those passed in 1840. Thereafter the number of local Acts which were completely repealed or which expired diminished.²

Consolidation

5.3 Although only 62 Acts listed in the Table were specifically entitled "Consolidation" Acts³ the amount of consolidation effected by local legislation was greater than has been realised since much consolidation was achieved by Acts which were not specifically so entitled. As examples Appendix C lists some of the larger local government consolidation Acts passed between 1797 and 1950 with the number of local enactments which they repealed. Some of these Acts were entitled "Consolidation" Acts and some were not, but they were - and remain - impressive examples of consolidating and rationalising local legislation.⁴

¹ *Hansard* (HL) 11 March 1976, vol 368, cols 1428, 1432 (Earl of Listowel in a debate on a motion for review of Parliamentary practice and procedure).

² Appendix A also indicates that the number of local Acts passed between 1797 and 1860 which have been repealed or have expired after 1 January 1974, and which may therefore have been repealed by local Acts passed as a consequence of the operation of section 262(9) of the Local Government Act 1972, is relatively small.

³ Appendix B.

⁴ Eg, in particular, the Leeds Corporation (Consolidation) Act 1905 (c.i) - 383 sections, 15 schedules, 51 local enactments repealed wholly or in part; Plymouth Corporation Act 1915 (c.lxix) - 264 sections, 11 schedules, 69 local enactments repealed wholly or in part; Sheffield Corporation (Consolidation) Act 1918 (c.lxi) - 534 sections, 13 schedules, 51 local enactments repealed wholly or in part; Liverpool Corporation Act 1921 (c.lxxiv) - 658 sections, 6 schedules, 168 local enactments repealed wholly or in part; Brighton Corporation Act 1931 (c.cix) - 587 sections, 13 schedules, 55 local enactments repealed wholly or in part; Edinburgh Corporation Act 1932 (confirmed by Edinburgh Corporation Order Confirmation Act 1932 (c.vii)) - 203 articles, 14 schedules, 59 local enactments repealed wholly or in part.

Effect on local and personal Acts of public general Acts and subordinate legislation

5.4 The consolidation, rationalisation and repeal of local legislation attained so far has been enacted mainly through local and personal Acts, public general Acts, general subordinate legislation and local subordinate legislation. The remaining paragraphs of this Part illustrate how this has come about and refer in particular to the consequences of the operation of section 262(9) of the Local Government Act 1972 and of section 225(6) of the Local Government (Scotland) Act 1973.

Effect of public general legislation

5.5 Two notable illustrations of the effect on local legislation of public general legislation are the Acts which terminated the turnpike road system in the United Kingdom⁵ and the effect of the County Courts Act 1846 on local Acts concerning local courts held for the recovery of small debts; all of these changes are recorded in the Table. Thus, for example, forty-four local Acts relating to turnpike roads in south Wales were repealed by the South Wales Turnpike Trusts Act 1844⁶ which was passed to reform the turnpike system there following the Rebecca Riots of 1842-1843.⁷ Details of how the rest ceased to have effect are recorded in the Introduction to the Table itself.⁸ This Introduction also records the parallel effect under different public general legislation in Scotland upon unexpired and unrepealed turnpike Acts.⁹ So far as concerns local courts, under the County Courts Act 1846 eighty Acts relating to local courts held for the recovery of small debts were repealed from the time when the courts concerned were ordered to be held as County Courts.¹⁰ The relevant orders were made as Orders in Council for which references are given in the Table.¹¹

5.6 The foregoing examples appear to have been exceptional both in the number of whole Acts repealed and in the repeal or expiry of nearly two complete areas of local legislation. Subsequently the number of whole Acts repealed by public general legislation has in general been limited and the subject matter concerned has generally been confined to discrete areas of the law within local Acts rather than all the law covered by a number of Acts.¹²

⁵ For the history of turnpikes see S & B Webb, *The Story of the King's Highway* (1913); W Albert, *The Turnpike Road System in England 1663-1840* (1972).

⁶ 1844 (c.91), s 34 which repealed all local turnpike road Acts applying within the counties of Glamorgan, Brecknock, Radnor, Carmarthen, Pembroke and Cardigan, and which provided that the repeals should take effect from such days as the Commissioners appointed under the Act should appoint by order, of which notice was to be published in the *London Gazette*. The notices in the Gazette have been found and noted, from which it has been ascertained that 44 local Acts were repealed under the 1844 Act. As an example, see the entry in the Table for the repeal of the Roads in Carmarthen Act 1828 (c.lxxxii).

⁷ So called in allusion to Genesis Chapter 24, verse 60, in which Rebecca, wife of Isaac, is promised that her seed should "possess the [turnpike] gate of those which hate them." The armed mobs involved in the riots were often led by a man disguised in women's clothes, and they claims to be "Rebecca and her children" (S & B Webb, *op cit*, p 218).

⁸ See further the note in the Introduction to the Table headed "*Expired*: see Introduction". The last 16 Irish local turnpike road Acts were repealed by the Turnpikes Abolition Act (Ireland) 1857 (c.16), s 38, Sched A.

⁹ See further the note in the Introduction to the Table headed "*Repealed*: see Introduction".

¹⁰ 1846 (c.95), s 5, Schedules A, B. A total of 109 Acts were listed in the two schedules, but 29 of them were passed before 1797 (38 Geo.3) and are therefore outside the scope of the Table.

¹¹ See, eg, the entries in the Table for 1839 cc.lxxxv-xci.

¹² Eg, Court of Chancery (Funds) Act 1872 (c.44), s 26, Sched 2 pt I; Public Health (London) Act 1936 (c.50), s 308, Sched 7; Fire Brigades Act 1938 (c.72), ss 5, 30, Sched 3; London Government Act 1939 (c.40), ss 205, 207, Schedules 7, 8; Justices of the Peace Act 1949 (c.101), s 46(2), Sched 7 pt III; House of Commons Disqualification Act 1957 (c.20), s 14, Sched 4 pt I; Transport Act 1962 (c.46), s 32, Sched 2 pts II, III and s 95(2), Sched 12 pt II; Weights and Measures Act 1963 (c.31), s 63(2), Sched 9 pt III; London Government Act 1963 (c.33), s 93(1), Sched 18 pt II;

5.7 But many of the public general Acts which repeal and amend local statutory provisions reflect the lack of comprehensive and up-to-date indexes and tables of local legislation. Even when it has been possible to identify specific local statutory provisions to be repealed, the repealing public general legislation sometimes also contains repeals of local statutory provisions in general terms¹³ or provisions empowering the Minister concerned to repeal such provisions by order¹⁴ or both.¹⁵ The problem was openly expressed in section 63(2) of the Weights and Measures Act 1963 which, while repealing provisions in some 155 local Acts, also provided that -

"if at any time any other enactment contained in any local Act passed before this Act appears to the Board [of Trade] to have been superseded by, or to be inconsistent with, any provision of this Act or any instrument made thereunder, the Board may by order, a draft of which shall be laid before Parliament, specify that enactment for the purposes of this subsection and ... any enactment specified in any such order is hereby repealed as from the date of the making of the order ...".¹⁶

Effect of subordinate legislation: Introduction

5.8 In the 19th century the effect of subordinate legislation on local legislation appears to have been limited, but it is impossible to be certain about this because it was not until the 1890s that subordinate legislation was published systematically.¹⁷ Examples of the use of means other than primary legislation to assist in the repeal of local legislation include the identification by notices in the *London Gazette* of the local Acts repealed by the South Wales Turnpike Trusts Act 1844¹⁸ and the use of Orders in Council to activate the repeal by the County Courts Act 1846 of Acts relating to local courts held for the recovery of small debts.¹⁹

5.9 Orders, rules and regulations made under statutory powers were not published systematically until those for 1890 were published in a single volume in 1891 under the authority of the Lord Chancellor and the Treasury. The volume was -

Scrap Metal Dealers Act 1964 (c.69), s 10(2), Sched pt II; Justices of the Peace Act 1968 (c.69), s 8(2), Sched 5 pts I, II; Theatres Act 1968 (c.54), s 19(2), Sched 3; Post Office Act 1969 (c.48), s 137(1), Sched 8 pt I and s 141, Sched 11 pt II; Employment Agencies Act 1973 (c.35), s 14(2), Sched 1 pt II; Hallmarking Act 1973 (c.43), s 23, Sched 7 pt II; Telecommunications Act 1984 (c.12), s 109(1), Sched 4(86)-(89) and s 109(6), Sched 7 pt I; Environmental Protection Act 1990 (c.43), s 162(2), Sched 16 pt IV; Railways Act 1993 (c.43), s 152(3), Sched 14.

¹³ Eg, Fire Brigades Act 1938 (c.72), s 5.

¹⁴ Eg, Transport Act 1962 (c.46), s 9(1); Scrap Metal Dealers Act 1964 (c.69), s 10(3); Theatres Act 1968 (c.54), s 19(3); Employment Agencies Act 1973 (c.35), s 14(3).

¹⁵ Section 18 of the Hallmarking Act 1973 (c.43) provided that -

"(1) Any local statutory provision which is inconsistent with any provision of this Act shall cease to have effect.

(2) The Secretary of State may on the application of an assay office, or, if he thinks fit, of his own volition, but in either case subject to the provisions of this section, by order repeal or amend any local statutory provision where it appears to him that the provision is inconsistent with, or has become unnecessary in consequence of, any provision of this Act.

(3)"

¹⁶ This provision has been consolidated by the Weights and Measures Act 1985 (c.72), Sched 11(7). One order was made under the 1963 Act - the Weights and Measures (Birkenhead Corporation Acts: Repeal) Order 1967 (SI 1967 No 623) - but none under the 1985 Act.

¹⁷ See para 5.9 below.

¹⁸ See n 6 above.

¹⁹ See para 5.5 above.

"limited to Orders of public and general interest, and does not contain those of a local, personal or temporary character: the distinction between the two classes of Orders follows in the main the distinction between public and local Acts."²⁰

In 1893 the Rules Publication Act 1893 (c.66), together with the rules made under it in 1894 (SR&O 1894 No 734)²¹ placed the printing and publication of Statutory Rules and Orders on a more formal basis after the end of 1893. The Rules Publication Act 1893 was repealed by the Statutory Instruments Act 1946 (c.36) which, with the Statutory Instruments Regulations 1947 (SI 1948 No 1), introduced a more comprehensive system for the parliamentary control of subordinate legislation and for its printing and publication, and made new provision with respect of the effect on criminal proceedings of a failure to publish.²²

5.10 The Rules Publication Act 1893 and the Statutory Instruments Act 1946 have both adopted the classification of orders made in the first volume of Statutory Rules and Orders for 1890, namely, those of public and general importance and those of local and personal importance, following the distinction between public and local Acts. The practice of the 1890 volume in excluding local orders has been followed under the 1893 Act and the 1946 Act, and the respective regulations made under each of them,²³ so that general orders and instruments have been published in a regular annual edition but local orders and instruments have not. However, successive annual editions of general orders and instruments have always contained, and continue to contain, classified lists of the local orders and instruments for the year concerned.

Effect of subordinate legislation: general orders and instruments

5.11 As with public general legislation, much valuable rationalisation and the repeal of many local enactments have been achieved through general orders and instruments, a notable example being twelve orders made under the London Government Act 1963²⁴ which made significant repeals and amendments to a very large number of local enactments applying within Greater London.²⁵ Orders of this nature are readily available as a matter of permanent record in the bound volumes of successive annual editions of general orders and instruments.

Effect of subordinate legislation: local orders and instruments

5.12 Local orders and instruments have been used extensively to repeal and amend many kinds of local Acts, and it seems very likely that more modernisation and rationalisation of local legislation has been achieved through them than through public general legislation and general orders and instruments. But - again paradoxically - it is impossible to be sure about

²⁰ SR&O (1890), p v. The volumes for 1891, 1892 and 1893 followed the same pattern:

SR&O (1891), p vi; (1892), p vi; (1893), p vi.

²¹ SR&O (1894), pp 415-417.

²² 36 *Halsbury's Laws* (3rd ed 1961), pp 478-479; 44(1) *Halsbury's Laws* (4th ed 1995), pp 926-927.

²³ Rules Publication Act 1893, ss 3, 4; SR&O 1894 No 734, regs 4, 5, 9, 10, 15; Statutory Instruments Act 1946, ss 2, 8; Statutory Instruments Regulations 1947 (SI 1948 No 1), regs 4, 5, 10, 11; Statutory Instruments (Amendment) Regulations 1977 (SI 1977 No 641) and 1982 (SI 1982 No 1728).

²⁴ SI 1965 Nos 508-510, 531-533, 540, 654; SI 1966 Nos 199, 942, 1250; SI 1970 No 211. Most of these orders were made under ss 84 and 87 of the London Government Act 1963 (c.33) which gave the Minister wide powers to repeal and amend Greater London local statutory provisions by order including those which were spent, obsolete or unnecessary.

²⁵ Eg, the Local Law (Greater London Council and Inner London Boroughs) Order 1965 (SI 1965 No 540) repealed or amended some 240 local Acts.

this, because the texts of local orders and instruments survive in such a form that extensive research would be required to determine their overall effect on local legislation as a whole.

5.13 Not only have the texts of local orders and instruments been omitted from the annual edition of orders and instruments but they have not been systematically collected together in bound annual volumes. No comprehensive collection of their texts for the period 1890-1921 has been found and the most comprehensive collections for the period after 1922 - in the Statutory Publications Office, the Public Record Office and the British Library, Social Policy and Information Service²⁶ - have gaps in them, notably for 1942, 1950, 1951 and part of 1952.²⁷

5.14 Until recently the lack of an annual edition of local orders and instruments has made local legislation increasingly obscure and difficult to obtain since neither the official indexes, lists and tables of local orders and instruments nor *Halsbury's Statutory Instruments*, which includes a number of them,²⁸ provide comprehensive guidance as to where the text of a particular order or instrument can be found, or even whether it survives at all.

5.15 Since 1987 the texts of all printed and published Statutory Instruments, both general and local, have also been available in an electronic form (CD-ROM) and after 1988 the annual edition of general Statutory Instruments has included the texts of selected local instruments. The computerised *Statute Law Database* will initially contain the texts of printed and published local Statutory Instruments from 1991 onwards and ultimately those from 1987 onwards also.

Section 262(9) of the Local Government Act 1972

5.16 The most recent and probably the most important single attempt to rationalise any significant part of the inherited mass of local legislation was triggered by the operation of a scheme²⁹ authorised by section 262(9) of the Local Government Act 1972.³⁰

5.17 Section 262(9) originally provided that the local statutory provisions to which it applies should "cease to have effect" by the end of 1979 in the metropolitan counties and by the end of 1984 elsewhere. Those time limits were extended several times in relation to different categories of legislation and finally expired on 31 December 1987.³¹ The cesser applies, in general, to local legislation promoted or applied for by local authorities outside Greater London which was in force immediately before 1 April 1974. Certain provisions are exempted from the cesser by section 262(12), the most important being those relating to

²⁶ The Solicitor's Library and Information Centre, Department of Trade and Industry, holds the texts of local orders and instruments made by the Board of Trade between 1920 and 1945 and of local orders and instruments in general made between 1946 and 1987.

²⁷ *Statutory Instruments* 1992 (HMSO 1994), Part I, Section I, p viii.

²⁸ Vol 1 (1996), p vii.

²⁹ The scheme for England and Wales was set out in Department of the Environment Circular 14/74 and a circular letter dated 10 May 1974.

³⁰ A similar scheme was authorised for Scotland by section 225(6) of the Local Government (Scotland) Act 1973 (c.65).

³¹ Metropolitan Counties (Local Statutory Provisions) Order 1979 (SI 1979 No 969); Greater Manchester (Local Statutory Provisions) Order 1980 (SI 1980 No 1845); Non-Metropolitan and Welsh Counties (Local Statutory Provisions) Order 1983 (SI 1983 No 619); Non-Metropolitan and Welsh Counties (Local Statutory Provisions) Order 1986 (SI 1986 No 2106). For Scotland the cesser applied to the local statutory provisions concerned which were in force immediately before 16 May 1975. The original cesser date of 31 December 1979 was postponed generally until the end of 1984 (Local Government (Scotland) Act 1978 (c.4), s 5; Civic Government (Scotland) Act 1982 (c.45), s 134(1)), and later in relation to specified local authorities until the end of 1991 (SI 1984 No 1926; 1985 No 1629; 1986 No 2034; 1987 No 2090; 1988 No 2106; 1989 No 2223 and 1990 No 2370).

statutory undertakings (defined in section 262(13)) and protective provisions for the benefit of any person. Similar exceptions were made for statutory undertakers and protective provisions in the equivalent Scottish legislative provision.

5.18 Under the scheme the local authorities created under the Local Government Act 1972, mainly the counties, were to review their existing local legislation, select those provisions which they wished to retain and identify those of their unwanted provisions which would cease to have effect under section 262(9). Thereafter they were each to promote a private Bill which would re-enact the provisions to be retained and repeal both the original provisions so re-enacted and also those provisions which would cease to have effect. Local authorities were also encouraged to identify and include for repeal as many as possible of the provisions excepted from the cesser which were no longer needed, especially those relating to statutory undertakings.

5.19 A considerable number of local authorities promoted Bills which implemented fully the policy behind section 262(9)³² and which contained comprehensive repeals schedules that is, they repealed the provisions which were re-enacted, the provisions which would cease to have effect under section 262(9) and the provisions which were excepted from the cesser but which were obsolete or of no practical utility. Other authorities, however, promoted Bills which only repealed the provisions which they re-enacted, leaving much of their local legislation to "cease to have effect" without being specifically identified.³³ Some authorities did not promote rationalising Bills at all,³⁴ and in some counties certain districts promoted Bills but not the county itself.³⁵

5.20 A large number of local statutory provisions have been rationalised and repealed by Acts passed as a consequence of the operation of section 262(9),³⁶ and those Acts which had comprehensive repeals schedules have repealed many provisions which had previously been repealed only in general terms.³⁷ But the valuable modernisation and rationalisation achieved through the operation of section 262(9) has been accompanied by the introduction of further uncertainty for the large number of local statutory provisions which have "ceased to have effect" but which have not been specifically identified and repealed. As a result the Table has had to list as unrepealed many more local Acts and provisions of local Acts which have been repealed in general terms but which await specific repeal by future legislation.

5.21 A further source of uncertainty has arisen from the fact that rationalising Acts promoted as a consequence of the operation of section 262(9) could only repeal legislation so far as it applied to the area of the promoting authority. As a result, repeals of legislation applying to more than one county had to be specifically limited to the area of the county promoting the Bill concerned. A good example is provided by the West Riding County Council Acts 1948 to 1970.³⁸ Following the abolition of the West Riding County Council on

³² Eg, County of Merseyside Act 1980 (c.x); Cheshire County Council Act 1980 (c.xiii); West Yorkshire Act 1980 (c.xiv); County of Lancashire Act 1984 (c.xxi).

³³ Eg, South Yorkshire Act 1980 (c.xxxvii); Greater Manchester Act 1981 (c.ix); County of Avon Act 1982 (c.iv).

³⁴ Eg, the counties of Buckinghamshire, Hertfordshire and West Sussex.

³⁵ Eg, Norwich City Council Act 1984 (c.xxiii), Harrogate Stray Act 1985 (c.xxii) and Plymouth City Council Act 1987 (c.iv) which all had comprehensive repeals schedules; Scarborough Borough Council Act 1985 (c.xxviii) and Hereford City Council Act 1985 (c.xlii) which had repeals schedules which were not comprehensive.

³⁶ Eg, some 800 local Acts and orders were wholly or partly repealed by the West Yorkshire Act 1980.

³⁷ Eg, by the Electricity Act 1947, ss 57(3) proviso, 57(7); Gas Act 1948, ss 56(2) proviso, 67(2), 76.

³⁸ West Riding County Council (General Powers) Acts 1948 (c.lii), 1951 (c.xliii) and 1964 (c.xxxix); West Riding County Council Act 1970 (c.xxv).

1 April 1974 its legislative powers under those Acts were devolved on seven successor authorities.³⁹ This required separate repeals for each of the seven successor authorities, but this was not achieved until the Statute Law (Repeals) Act 1989.⁴⁰ Meanwhile, such repeals as had been made were incorrectly listed as having achieved a complete repeal of the relevant legislative powers.⁴¹

Conclusion

5.22 The Table indicates that, while more has been done to modernise and rationalise local legislation than has been realised, local legislation as a whole remains in a deplorable state. There are large numbers of local Acts which have evidently been obsolete for many years but which remain untouched by later legislation; and there are large numbers of whole Acts and provisions in Acts which have been repealed in general terms but which await specific repeal before the Table can accurately record that they are no longer in force. In the field of local government consolidation and repeal has depended too much on local initiative for uniform results to have been achieved throughout the country,⁴² and although the railway system has been subject to three major re-organisations in the twentieth century⁴³ little has been done to modernise and rationalise the enormous number of local railway Acts which have been passed over a period of nearly 200 years. The overall result is that it is difficult to determine the effect of many local Acts and that it remains almost impossible for public general legislation to act upon local legislation in a clear and satisfactory manner.

³⁹ Viz the metropolitan county councils of South Yorkshire and West Yorkshire, the metropolitan district of Oldham and the county councils of Cumbria, Humberside, Lancashire and North Yorkshire.

⁴⁰ See para 6.3 below.

⁴¹ See, eg, the entry for the West Riding County Council (General Powers) Act 1948 (c.lii) in the *Chronological Table of the Statutes 1235-1988* (HMSO 1990), p 1927 which incorrectly lists that Act as having been completely repealed by Acts passed for only three of the areas in which it applied - Humberside, Cumbria and the County of Lancashire.

⁴² Appendix C lists those local authorities which promoted Consolidation Acts up to 1950 but many which had significant numbers of local Acts did not; eg, Bristol, Cardiff, Kingston-upon-Hull, Portsmouth, Salford, South Hampton and Wigan.

⁴³ Railways Act 1921; Transport Act 1947; Railways Act 1993.

Part VI The Law Commissions' Statute Law Revision Work in the Field of Local Legislation

6.1 Our statute law revision work in the field of local legislation has expanded significantly as a result of experience and knowledge gained from the preparation of the Table. Our earlier Statute Law (Repeals) Acts¹ concentrated on the repeal of public general legislation or, more precisely, the repeal of Acts which had been passed as public Acts including those which were of a local nature.² The number of local Acts repealed by earlier Statute Law (Repeals) Acts were small,³ with the exception of the 1977 Act which repealed some 45 local marriage confirmation Acts,⁴ and the repeal of local Acts was at first generally confined to those which formed part of a larger project.⁵

6.2 Our first separate local legislation statute law revision project was enacted by the Statute Law (Repeals) Act 1986 as the direct result of our work on the preparation of the Table. In the course of that work we noticed that a number of Scottish order confirmation Acts remained unrepealed, even though the single order which they had each confirmed had itself been repealed. Each of the Acts concerned had only two sections: a short title provision and a provision confirming a single order. Since the orders in question had all been repealed, the Acts themselves had become empty shells. Thus the Statute Law (Repeals) Act 1986 repealed 41 order confirmation Acts passed between 1902 and 1962.⁶

6.3 In the course of our work on preparing the Table it had also become apparent that it would be impossible for the Table to record the repeal in general terms of those local Act provisions which had ceased to have effect under section 262(9) of the Local Government Act 1972, but which had not been specifically repealed by local legislation promoted by the local authorities concerned in accordance with the scheme behind section 262(9).⁷ As a start in remedying the situation for those local authorities which had been unable to promote such legislation, and to enable the Table to record the effect of local legislation more

¹ Thirteen were enacted between 1969 and 1995. Other repeals have been enacted by eg, the Wild Creatures and Forest Laws Act 1971, the Telecommunications Act 1981 and the Companies Consolidation (Consequential Provisions) Act 1985.

² See n 1 to Part III above.

³ The 1969 Act, s 1, Sched 1 pt VII partially repealed the Dean Forest (Mines) Act 1904 (c.clvi). The 1971, 1973 and 1974 Acts did not repeal any local statutory provisions, the 1975 Act, s 1, Sched 1 pt III repealed the whole of the Simonburn Parish Act 1811 (c.cxciv) except for two sections, and the 1976 Act, s 1, Sched 1 pt IX repealed part of s 6 of the Metropolitan Water Board Act 1935 (c.lxxxiv).

⁴ Section 1, Sched 1 pt XII.

⁵ Eg, the Wild Creatures and Forest Laws Act 1971, s 1, Sched 1 repealed 8 local Acts relating to forests, and the Statute Law (Repeals) Act 1981, s 1, Sched 1 pt X and Sched 2 repealed the Annual Turnpike Acts Continuance Act 1875 (c.cxciv) and amended s 279 of the Chester and Holyhead Railway Act 1844 (c.lxv) respectively, as part of a project to repeal the bulk of the remaining general turnpike legislation.

⁶ 1986 (c.12), s 1, Sched 1 pts III, VII(1), XI. The Acts concerned were all Scottish Acts but the Table lists many English Provisional order Confirmation Acts which are empty shells and await repeal; see, eg, Tramways Orders Confirmation (No 2) Act 1884 (c.lxxx); Local Government Board's Provisional Orders Confirmation (No 10) Act 1891 (c.lxxi); (No 7) Act 1897 (c.lxxii); (No 12) Act 1901 (c.clii); (No 11) Act 1905 (c.cvii); (No 14) Act 1905 (c.cix).

⁷ See paras 5.16-5.21 above.

accurately, the Statute Law (Repeals) Act 1989 repealed wholly or in part some 245 local enactments relating to South Yorkshire.⁸ These repeals included the final repeal of the West Riding County Council Acts 1948 to 1970.⁹ Those Acts had already been repealed for four of the seven successor authorities¹⁰ to the former West Riding County Council under the Local Government Act 1972, and as part of the South Yorkshire project they were repealed for the remaining three to which they applied.¹¹

6.4 Further projects to implement the scheme behind section 262(9) of the Local Government Act 1972, and also to implement that behind its Scottish equivalent - section 225(6) of the Local Government (Scotland) Act 1973 - were enacted by the Statute Law (Repeals) Act 1995 which repealed wholly or in part some 338 local enactments relating to Bedfordshire, Nottingham, Nottinghamshire, Warwickshire and the former Derwent Valley Water Board, some 34 local Glasgow Police Acts and a further 10 Scottish local enactments.¹² The Derwent Valley Water Board provisions were finally repealed without any geographical limitation, so removing the uncertainty which had arisen from the repeal of many of them by the Derbyshire Act 1981 only in so far as they applied within the county of Derbyshire.¹³

6.5 In addition to the repeals to implement the scheme behind section 262(9) of the Local Government Act 1972, we have included other local statutory provisions in our more recent Statute Law (Repeals) Acts, both in the form of separate projects¹⁴ and of the whole or partial repeal of individual local Acts.¹⁵ Many of these repeals stem from our increasing knowledge of local legislation gained as the direct result of our work in preparing the Table, and from our growing understanding of the interaction between public general and local legislation.

6.6 Currently we are working on other local legislation repeals projects which we hope will be included in future Statute Law (Repeals) Bills. Among our plans are further projects to implement the scheme behind section 262(9) of the Local Government Act 1972 (for the ten metropolitan districts in Greater Manchester and the shire counties of Gloucester, Hereford and Worcester and Shropshire), to implement the scheme behind section 225(6) of the Local Government (Scotland) Act 1973 (for Glasgow Corporation), a project to repeal the "Railway Shipping Acts" which have been repealed in general terms by the Repeal of

⁸ 1989 (c.43), s 1, Sched 1 pt IX: Group 1 (Barnsley), Group 2 (Doncaster), Group 3 (Rotherham), Group 4 (Sheffield) and Group 5 (West Riding Enactments). The South Yorkshire Act 1980 (c.xxxvii) had repealed those local enactments which it had re-enacted but not those which had ceased to have effect under s 262(9) or which were excepted from the cesser but were otherwise obsolete.

⁹ West Riding County Council (General Powers) Acts 1948 (c.lii), 1951 (c.xliii) and 1964 (c.xxxix); West Riding County Council Act 1970 (c.xxv).

¹⁰ West Yorkshire Act 1980 (c.xiv); Cumbria Act 1982 (c.xv); Humberside Act 1982 (c.iii); County of Lancashire Act 1984 (c.xxi).

¹¹ Metropolitan district of Oldham; North Yorkshire county council; metropolitan county of South Yorkshire.

¹² 1995 (c.44), s 1, Sched 1 pts I and III (Groups 1 and 3).

¹³ 1981 (c.xxxiv), s 65(1), Sched 6 pt I.

¹⁴ Eg, the whole or partial repeal of 11 Land Drainage Supplemental Acts passed between 1868 and 1898, and the repeal of 15 Land Drainage Provisional Order Confirmation Acts passed between 1911 and 1918 by the Statute Law (Repeals) Act 1993, s 1, Sched 1 pt XIII, Group 3; the repeal of 18 Pilotage Orders Confirmation Acts passed between 1891 and 1922 by the Statute Law (Repeals) Act 1995, s 1, Sched 1 pt V, Group 1.

¹⁵ Eg, the following repeals or partial repeals made by the Statute Law (Repeals) Act 1989: City of London Police Act 1839 (c.xciv) - Sched 1 pt I, Group 1 and pt II; Apothecaries Act 1907 (c.xxii) - Sched 1 pt V; Eynesford Road Act 1811 (c.ccv) and Channel Tunnel Company (Limited) Act 1875 (c.cxc) - Sched 1 pt X; the following repeals or partial repeals made by the Statute Law (Repeals) Act 1993: An Act to alter the Justiciary District of the County of Peebles 1876 (c.clii) - Sched 1 pt I, Group 1; Wimbledon and Putney Commons Act 1871 (c.cciv) - Sched 1 pts I and IV; Brighton Corporation Act 1970 (c.xl) - Sched 1 pt X, Group 1.

Railway Shipping Acts Order 1984¹⁶ but which have not been specifically identified, and a project to repeal the large number of orders confirmed by local Provisional Order Confirmation Acts passed between 1868 and 1936 which authorised the compulsory purchase of land.

¹⁶ SI 1994 No 1747.

Part VII Recommendations

7.1 Both in the preparation of the Table and in our statute law revision work we are doing as much as our resources permit to take forward the task of clearing the enormous backlog of redundant local legislation. Inevitably, however, the resources at our disposal are hardly commensurate with the size of the task and our progress is therefore limited. Thus there is a serious need for others in government also to undertake the repeal of local legislation if the process of modernising and rationalising it is to be accelerated, and if it is to be made readily accessible in an up-to-date form. With the publication of the Table, the opportunity for others to work in this area is widened and the goal of securing further repeals and rationalisation made more readily achievable.

7.2 It is true that government departments occasionally undertake the systematic repeal of local enactments in their programme legislation.¹ On some occasions, however, they have conveyed to us the impression that they consider that such exercises should be left to us to deal with in the context of our work on statute law revision, and that it is not part of their function to translate the repeals of local statutory provisions in general terms, which have been enacted in accordance with drafting instructions for which they were responsible, into the repeal of specifically identified provisions.

7.3 Accordingly **we recommend** that government departments should, as the opportunity arises, use the information now provided by the Table to undertake further large-scale repeals of local legislation in their future programme legislation. Whenever it is intended that such legislation should supersede local statutory provisions, the provisions concerned should where practicable be specifically identified and, if possible, repealed by the legislation itself together with any other obsolete or spent local statutory provisions relating to the same subject matter which, with the assistance of the Table, can be readily identified. If that is not possible, and the local statutory provisions concerned can be repealed in general terms only, powers to repeal them by order in specific terms should be provided, and the department should ensure that the powers are exercised as soon as possible after the legislation has been enacted.

7.4 **We also recommend** that whenever it is necessary to provide powers to repeal or amend local statutory provisions by order, the powers should not be confined to providing for repeals consequential on the provisions of the empowering legislation but should be extended to include the repeal of local statutory provisions within the scope of the Bill which are otherwise obsolete, spent or of no practical utility.² The existence of such powers would

¹ Eg, the repeal by the Railways Act 1993 (c.43), s 152(3), Sched 14 and the Railways Act 1993 (Commencement No 4 and Transitional Provision) Order 1994 (SI 1994 No 571), art 5, of the London Midland and Scottish Railway, the Great Western Railway, the London and North Eastern Railway and the Southern Railway (Road Transport) Acts 1928 (cc.ci-civ), and the Great Western Railway, the London and North Eastern Railway, the London Midland and Scottish Railway and the Southern Railway (Air Transport) Acts 1929 (cc.liv-lvii).

² See, eg, London Government Act 1963 (c.33), ss 84, 87(2). Section 84 gave power to the Minister to make "incidental, consequential, transitional or supplementary provision" by order for the purposes of the Act or other Acts of the same session applying to Greater London; and s 87(2)(a) provided that any such order might "repeal or revoke any Greater London statutory provision which appears to that Minister to have become spent, obsolete

provide a ready means for those bodies concerned by the local statutory provisions in question to request the Secretary of State (or appropriate Minister) that the relevant orders should repeal the inherited local legislation for which they are responsible which is no longer of practical utility, and they should be encouraged to do so.

7.5 Unless by the foregoing means the process of statute law revision can be accelerated, the statute law of the country will increasingly become divided into two parts: public general legislation which will be on the *Statute Law Database*³ and which will be regularly updated, and local legislation which will be unfit to be put on any database because so many of its provisions will be obsolete, spent or of no practical utility. As a result the interrelation of public general and local legislation, and in particular the effect of repeals in general terms of the latter by the former, will continue to be obscure, and the value of having such public general legislation on the *Database* will be correspondingly reduced.

(Signed) MARY ARDEN, *Chairman, Law Commission*

ANDREW BURROWS

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KENNETH F BARCLAY, *Secretary*

13 May 1996

or unnecessary or to have been substantially superseded by any enactment or instrument which applies or may be applied to the area, persons or things to which or to whom that provision applies". It should be noted that the possible objection to the repeal of local legislation in public general legislation based on "hybridity" (see n 26 to Part III above) does not arise when the repeals effected by a public general Act are of obsolete, spent, expired or superseded local legislation.

³ Only a small number of local Acts passed before 1991 will be held on the database and will be updated. The database will also hold all local Acts passed after 1991 but they will not be updated.

Appendix A Chronological Table of Local Legislation 1797 - 1994

Table showing the number of local Acts passed, the number completely repealed or expired and the percentage completely repealed or expired at five yearly intervals between 1800 and 1990

Year	Total number of Acts passed	Total number of Acts completely repealed or expired	Percentage of Acts completely repealed or expired	Number of Acts repealed after 1 January 1974
1800 (39 & 40 Geo.3) (41 Geo.3)	124	61	49.19	1
1805	119	57	47.89	-
1810	218	108	49.54	4
1815	94	53	56.38	3
1820 (60 Geo.3 & 1 Geo.4) (1 Geo.4)	96	68	70.83	1
1825	202	133	65.84	6
1830 (11 Geo.4 & 1 Will.4) (1 Will.4)	140	100	71.42	5
1835	112	60	53.57	4
1840	131	65	49.61	2
1845	204	61	29.90	1
1850	112	37	33.03	4
1855	198	64	32.32	5
1860	203	36	17.73	5

Year	Total number of Acts passed	Total number of Acts completely repealed or expired	Percentage of Acts completely repealed or expired	Number of Acts repealed after 1 January 1974
1865	382	43	11.25	
1870	177	33	18.64	
1875	215	34	15.81	
1880	211	25	11.84	
1885	200	23	11.50	
1890	247	36	14.57	
1895 (58 & 59 Vict.) (59 Vict.)	173	27	15.60	
1900	291	53	18.21	
1905	176	43	25.00	
1910	145	23	15.86	
1915	109	25	22.93	
1920	173	37	21.38	
1925	128	29	22.65	
1930 (20 & 21 Geo.5) (21 & 22 Geo.5)	200	40	20.00	
1935 (25 & 26 Geo.5) (26 Geo.5 & 1 Edw.8)	128	20	15.62	
1940	44	12	27.27	
1945 (8 & 9 Geo. 6) (9 & 10 Geo.6)	28	6	21.42	
1950 (14 Geo.6) (14 & 15 Geo.6)	69	25	36.23	

Year	Total number of Acts passed	Total number of Acts completely repealed or expired	Percentage of Acts completely repealed or expired	Number of Acts repealed after 1 January 1974
1955	30	10	33.33	
1960 (8 & 9 Eliz.2) (9 Eliz.2)	53	10	18.86	
1965	47	6	12.76	
1970	85	23	27.05	
1975	36	3	8.33	
1980	43	2	4.65	
1985	48	1	2.08	
1990	32	-	-	

Appendix B

Chronological Table of Local Legislation 1797-1994: Acts specifically entitled "Consolidation" Acts¹

Preston and Wyre Railway and Harbour and Preston and Wyre Dock Consolidation Act 1839 (c.cliv).

Midland Railway Consolidation Act 1844 (c.xviii).

Sheffield and Rotherham and Midland Railway Consolidation Act 1845 (c.xc).

Birmingham and Dudley Canal Consolidation Act 1846 (c.cclxix).

Stockton and Darlington Railway (Consolidation of Acts, Increase of Capital and Purchase of Middlesbrough Dock) Act 1849 (c.liv).

Edinburgh, Perth and Dundee Railway (Consolidation) Act 1851 (c.lv).

Brackley Turnpike Roads Consolidation Act 1851 (c.lxi).

Londonderry and Coleraine Railway Consolidation Act 1851 (c.xliii).

Londonderry and Enniskillen Railway Consolidation 1852 (c.xliv).

Edinburgh and Glasgow Railway Consolidation 1852 (c.cix).

London Insurance Consolidation Act 1853 (c.i).

Staffordshire Potteries Waterworks Consolidation and Extension Act 1853 (c.cxcviii).

Royal Exchange Assurance Consolidation Act 1854 (c.xi).

Blyth and Tyne Railway Consolidation and Extensions Act 1854 (c.lxxix).

Dundee and Perth and Aberdeen Railway Junction (Consolidation) Act 1855 (c.lvi).

Glasgow and South Western Railway Consolidation Act 1855 (c.xcvii).

South Wales Railway Consolidation Act 1855 (c.xcviii).

Electric Telegraph Company's Consolidation Act 1855 (c.cxxiii).

Mersey Dock Acts Consolidation Act 1858 (c.xcii).

North British Railway Consolidation Act 1858 (c.cix).

Clyde Navigation Consolidation Act 1858 (c.cxliv).

Scottish Central Railway Consolidation Act 1859 (c.lxxxiii).

City of Dublin Steam Packet Company's (Consolidation of Shares) Act 1861 (c.iii).²Port Glasgow Harbour Consolidation Act 1861 (c.cxl).

¹ The following "Consolidation" Acts made no repeals consequential on the consolidations which they effected and they have not been included in this Appendix: North Eastern Railway (Consolidation of Stocks) Act 1870 (c.vii); Great North of Scotland Railway (Consolidation and Conversion of Stocks) Act 1882 (c.xvii); Benefices (Tiverton Portions) Consolidation Amendment Act 1884 (c.clv); West Bromwich Corporation (Consolidation of Loans) Act 1889 (c.xcvi). A further five Acts (1907 (c.xiii), 1932 (c.xvii), 1956 (c.liv), 1957 (6 & 7 Eliz 2) (c.iv), 1971 (c.xxvi)) had the word "consolidated" in their title but only one of them - Dundee Corporation (Consolidated Powers) Order Confirmation Act 1957 (c.iv) - was a consolidation Act.

Ardrossan Harbour Consolidation Act 1864 (c.ccviii).
Glasgow Bridges Consolidation Act 1866 (c.cccxxvii).
Alloa Harbour Consolidation Act 1872 (c.clx).
Dundee Harbour Consolidation Act 1875 (c.cl).
Dundee Police and Improvement Consolidation 1882 (c.clxxxv).
South Kerry Waste Lands Consolidation Act 1882 (c.lxxxix).
Birmingham Corporation (Consolidation) Act 1882 (c.lxx).
Accrington Corporation (Consolidation of Loans) Act 1890 (c.lxiii).³
Railway Passengers Assurance (Consolidation) Act 1892 (c.viii).
Gas Light and Coke Company (Capital Consolidation) Act 1898 (c.clxxii).⁴
Leeds Corporation (Consolidation) 1905 (c.i).
Glasgow Corporation (Tramways Consolidation) Order Confirmation Act 1905 (c.cxxviii).
Tees Valley Water (Consolidation) Act 1907 (c.lxxx).
Dundee Harbour and Tay Ferries Consolidation Act 1911 (c.lxxx).
York Gas (Consolidation) Act 1912 (c.lxxi).
London County Council (Finance Consolidation) Act 1912 (c.cv).
Greenock Port and Harbours Consolidation Act 1913 (c.xlii).
Railway Passengers Assurance (Consolidation) Act 1918 (c.xiv).
Sheffield Corporation (Consolidation) Act 1918 (c.lxi).
Port of London (Consolidation) Act 1920 (c.clxxiii).
Stoke-on-Trent (Gas Consolidation) Act 1922 (c.xxii).
Wear Navigation and Sunderland Dock (Consolidation and Amendment) Act 1922 (clxxxiv).
Scarborough Gas (Consolidation) Act 1927 (c.xcv).
North Metropolitan Electric Power Supply (Consolidation) Act 1928 (c.cxviii).
Sheffield Gas (Consolidation) Act 1929 (c.xii).
Dundee Corporation (Consolidation Powers) Order Confirmation Act 1932 (c.xlvi).
Leith Harbour and Docks Consolidation Order Confirmation Act 1935 (c.liv).
Edinburgh Chartered Accountants Annuity, &c. Fund (Consolidation and Amendment) Order Confirmation Act 1936 (c.ii).
Glasgow Streets, Sewers and Buildings Consolidation Order Confirmation Act 1937 (c.xliii).
Shropshire, Worcestershire and Staffordshire Electric Power Consolidation Act 1938 (c.lviii).

² Section 3 repealed in general terms the provisions in the company's local Acts which related to the shares which had been consolidated.

³ Section 20(a) repealed prospectively in general terms the corporation's statutory borrowing powers which would become redundant on the issue of corporation stock under the Act.

⁴ Section 21 repealed six specified Acts so far as they were "inconsistent with or repugnant to the provisions of this Act".

Clyde Lighthouses Consolidation Order Confirmation Act 1940 (c.xlii).

Dover Harvour Consolidation Act 1954 (c.iv).

Glasgow Corporation Consolidation (General Powers) Order Confirmation Act 1960 (c.iii).

Glasgow Corporation Consolidation (Water, Transport and Markets) Order Confirmation Act 1964 (c.xliii).

Appendix C

Chronological Table of Local Legislation 1797-1994: Local Authority Consolidation Acts 1797-1950

- NOTE:**
1. This list is not exhaustive. It lists the largest of those Acts which have, in the course of preparing the Chronological Table of Local Legislation, been noted as consolidation Acts.
 2. The Acts listed amend and consolidate the legislation of the authorities concerned, and in many instances also grant further powers.
 3. The list stops at 1950 because local authority electricity and gas undertakings were nationalised under the Electricity Act 1947 and the Gas Act 1948, and they had therefore ceased to be local authority functions by 1950.
 4. A number of the listed Acts consolidate and repeal Acts which were passed before 1797 (38 Geo.3) and which are outside the scope of the Chronological Table of Local Legislation. As a result the list understates the number of Acts repealed by the Acts mentioned in it.

Year and chapter number	Act	Number of sections	Number of schedules	Local Acts and orders wholly repealed	Local Acts and orders repealed in part	Total number of local Acts and orders repealed wholly or in part
1839 c.xcii.	An Act for altering, amending, consolidating and enlarging the provisions of certain Acts relating to the regulation of buildings in the borough of Liverpool.	83	2	-	3	3
1851 c.cxix.	Manchester General Improvement Act 1851.	146	1	9	6	15
1866 c.cccxxvii.	Glasgow Bridges Consolidation Act 1866.	71	-	3	-	3

Year and chapter number	Act	Number of sections	Number of schedules	Local Acts and orders wholly repealed	Local Acts and orders repealed in part	Total number of local Acts and orders repealed wholly or in part
1879 c.cxxxii.	Edinburgh Municipal and Police Act 1879.	369	5	8	2	10
1881 c.cliii.	Birkenhead Corporation Act 1881.	357	7	13	-	13
1882 c.clxxxv.	Dundee Police and Improvement (Consolidation) Act 1882.	335	4	-	7	7
1883 c.lxx.	Birmingham Corporation (Consolidation) Act 1883.	299	9	16	4	20
1905 c.i.	Leeds Corporation (Consolidation) Act 1905.	383	15	35	16	51
1907 c.lxxx.	Tees Valley Water (Consolidation) Act 1907. ⁵	104	6	11	1	12
1909 c.cxxix.	Greenock Corporation Act 1909.	450	12	7	6	13
1909 c.clix.	Bury Corporation Act 1909.	322	16	13	6	19
1915 c.lxix.	Plymouth Corporation Act 1915	264	11	38	31	69
1918 c.lxi.	Sheffield Corporation (Consolidaiton) Act 1918.	534	13	49	2	51

⁵ This Act is, in effect, a local authority water consolidation Act. The Tees Valley Water Board was a joint undertaking of Middlesbrough, Thornaby-on-Tees and Stockton corporation.

Year and chapter number	Act	Number of sections	Number of schedules	Local Acts and orders wholly repealed	Local Acts and orders repealed in part	Total number of local Acts and orders repealed wholly or in part
1921 c.lxxiv.	Liverpool Corporation Act 1921.	658	6	139	29	168
1922 c.xxii.	Stoke-on-Trent Gas (Consolidation) Act 1922. ⁶	81	4	23	6	29
1923 c.lxxxvi.	Lytham Saint Anne's Corporation Act 1923	342	5	24	-	24
1923 c.xcix	Chesterfield Corporation Act 1923	438	9	20	-	20
1930 c.clviii.	London Building Act 1930. ⁷	236	6	3	10	13
1931 c.cix.	Brighton Corporation Act 1931.	587	13	51	4	55
1932 c.vii.	Edinburgh Corporation Order Confirmation Act 1932: Edinburgh Corporation Order 1932.	203	14	27	32	59
1933 c.lxxxii.	Middlesbrough Corporation Act 1933.	431	10	27	2	29

⁶ This Act is, in effect, a local authority gas consolidation Act. Inter alia, it empowered Stoke-on-Trent corporation to acquire the Staffordshire Potteries Undertaking of the British Gas Light Company, to amalgamate that undertaking with the existing gas undertakings of the corporation and to consolidate the special Acts and orders of the undertakings concerned.

⁷ This Act, exceptionally, only consolidated the enactments relating to streets and buildings in London without amending them. Its predecessor, the London Building Act 1894 (c.ccxiii), was a consolidating and amending Act. Ten of the thirteen Acts which it repealed wholly or in part were public Acts, the earliest being the unrepealed residue of the Metropolitan Building Act 1844.

Year and chapter number	Act	Number of sections	Number of schedules	Local Acts and orders wholly repealed	Local Acts and orders repealed in part	Total number of local Acts and orders repealed wholly or in part
1935 c.cxxiv.	Newcastle-upon-Tyne Corporation (General Powers) Act 1935. ⁸	171	6	12	44	56
1939 c.vi.	Kirkcaldy Corporation Order Confirmation Act 1939: Kirkcaldy Corporation Order 1939.	284	16	27	-	27
1944 c.xxi.	Middlesex County Council Act 1944.	482	8	13	3	16

⁸ This Act consolidated only the provisions relating to the corporation's transport undertakings and the corporation's finances.