Preface

This volume in the Studies of the Oxford Institute of European and Comparative Law is the product of a colloquium held at St John's College, Oxford, in March 2007, the purpose of which was to discuss the *Avant-projet de réforme du droit des obligations et de la prescription* both from an internal French perspective and from wider perspectives of comparative law.

The *Avant-projet*, drawn up by a group of distinguished French jurists and retired judges under the leadership of Pierre Catala, was presented to the French Minister of Justice in September 2005. If enacted, it would lead to the most far-reaching reform of the French Civil Code since it came into force in 1804, and would fundamentally alter many central aspects of contract law, the law of delict and the law of unjustified enrichment. There is currently a very lively debate in France as to the merits or demerits of both the particular draft provisions and the general idea of recodification as such. These discussions are not only of interest to French lawyers, since one of the main aims of the *Avant-projet* is to update the French Civil code in order to make it more attractive as a model for other jurisdictions and to give French legal thought more weight in the continuing debates on the future of harmonisation of the laws of contract and tort in Europe: to enhance the 'exportability' of French law. To this end, various official translations of the *Avant-projet* were commissioned, amongst them one into English by two of the co-editors of this volume, John Cartwright and Simon Whittaker.

The purpose of the volume is to make both this translation and the original text of the *Avant-projet* accessible to an English speaking audience, together with discussion of particularly interesting aspects of the substantive draft provisions in a comparative perspective. Eight topics are dealt with first from an internal French perspective by French lawyers, and then subjected to a comparative assessment by contributors from other jurisdictions. Other contributions within the volume include an overall assessment of the draft provisions by one of the most senior French judges who headed a Working Party on the *Avant-projet* established by the French Supreme Court, the Cour de cassation.

The colloquium was organised by the Institute of European and Comparative Law at Oxford and supported financially by the *Association Sorbonne-Oxford pour le droit comparé*, whose founding members are the Université de Paris I, the Institute of European and Comparative Law of the University of Oxford and Clifford Chance. The objects of the *Association* are to develop exchanges, teaching and research in the field of

Anglo-French comparative law between the two universities. The *Association* is funded principally by Clifford Chance, and we should like to thank the *Association*, and Clifford Chance in particular, for their support which enabled us to bring scholars to Oxford in order to participate in the colloquium. We were very pleased that Michael Elland-Goldsmith, partner of Clifford Chance and Secrétaire Général—and long-standing supporter—of the *Association*, was able to participate in the colloquium. It is with great sadness that we record his premature death in June 2007.

We should also like to thank Jenny Dix, Administrator of the Institute of European and Comparative Law, for her invaluable assistance throughout the preparation for, and the running of, the colloquium; Janice Feigher and James Dingley of Clifford Chance, who took notes of the discussions at the colloquium; the President and Governing Body of St John's College, Oxford, for their hospitality; Jonathan Bremner, Wendy Kennett, Marina Milmo and Peter Wilson, for their assistance in translating papers that had originally been written in French; Adam Sher, for his help in editing the contributions; Pierre Catala and *La documentation française* for allowing us to reproduce the text of the *Avant-projet*; and most particularly, of course, the participants at the colloquium, both those who presented papers (which are now, in their revised forms, contained in this volume) and those who attended and made a very significant contribution to the discussion.

Since the Oxford colloquium, in the wake of the *Avant-projet*, various steps have been taken towards the reform of the laws of contract and prescription. Some of these developments took place only after submission of the manuscripts to the publishers. They concern many of the topics covered in this volume, and particularly those dealt with in chapters 4, 5, 16 and 17. It was not possible to update all the contributions in the light of these most recent developments but we are grateful to Richard Hart for allowing us to change the end of the penultimate section of chapter 1 in order to give a very brief account of the current state of the debate.

John Cartwright
Stefan Vogenauer
Simon Whittaker
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Contributors

Hugh Beale is Professor of Law at the University of Warwick; from 2000 to 2007 he was a Law Commissioner for England and Wales.

Jean-Sébastien Borghetti is Professor of Private Law at the University of Nantes.

John Cartwright is Professor of the Law of Contract at the University of Oxford and Tutor in Law at Christ Church, Oxford; and Professor of Anglo-American Private Law at the University of Leiden.

Gerhard Dannemann is Professor for British Legal, Economic and Social Structures at the Humboldt-Universität zu Berlin.

Muriel Fabre-Magnan is Professor of Private Law at the University of Paris I (Panthéon-Sorbonne).

Bénédicte Fauvarque-Cosson is Professor of Law at the University of Paris II (Panthéon-Assas).

Paula Giliker is Professor of Comparative Law at the University of Bristol.

Yves-Marie Laithier is Professor of Law at the University of Reims.

Denis Mazeaud is Professor of Private Law at the University of Paris II (Panthéon-Assas).

Lucinda Miller is Lecturer of Laws at University College London.

Pauline Rémy-Corlay is Professor of Comparative Law and Private International Law at the University of Paris XI, Faculté Jean Monnet, and Director of the Institut Charles Dumoulin.

Judith Rochfeld is Professor of Private Law (French and European) at the University of Paris I (Panthéon-Sorbonne).

Solène Rowan is a Fellow in Law at Queens' College, Cambridge.

Pierre Sargos was a Président de chambre à la Cour de cassation (France).

Ruth Sefton-Green is Maître de conférences at the University of Paris I (Panthéon-Sorbonne).

Philippe Théry is Professor of Law at the University of Paris II (Panthéon-Assas), Director of the Institut d'études judiciaires and formerly French Deputy Director at the Oxford Institute of European and Comparative Law.

Stefan Vogenauer is Professor of Comparative Law at the University of Oxford. He is a Fellow of Brasenose College and Director of the Oxford Institute of European and Comparative Law.

Simon Whittaker is Fellow and Tutor in Law at St John's College, Oxford and Professor of European Comparative Law at the University of Oxford.

Robert Wintgen is Professor of Law at the University of Paris X (Nanterre).