

THE CAMBRIDGE LAW JOURNAL 1975

THE
**CAMBRIDGE LAW
JOURNAL**
1975

EDITOR
D. E. C. YALE, M.A., LL.B.
Reader in English Legal History

CAMBRIDGE UNIVERSITY PRESS
CAMBRIDGE · LONDON · NEW YORK

FOR THE FACULTY OF LAW, UNIVERSITY OF CAMBRIDGE
1975

Published by the Syndics of the Cambridge University Press
The Pitt Building, Trumpington Street, Cambridge CB2 1RP
Bentley House, P.O. Box 92, 200 Euston Road, London, NW1 2DB
32 East 57th Street, New York, N.Y. 10022

Printed in Great Britain by The Eastern Press, Ltd, London and Reading

EDITORIAL COMMITTEE

D. E. C. YALE, M.A., LL.B., *Editor*

PROFESSOR GLANVILLE L. WILLIAMS, Q.C., LL.D., F.B.A.

J. H. BAKER, M.A., *Secretary and Treasurer*

D. W. BOWETT, LL.D., *Note Editor*

R. N. GOODERSON, M.A., *Note Editor*

B. A. HEPPLE, M.A., LL.B., *Note Editor*

J. A. JOLOWICZ, M.A., *Note Editor*

M. J. PRICHARD, M.A., LL.B.

L. S. SEALY, PH.D.

J. W. A. THORNELY, M.A., *Book Review Editor*

D. G. T. WILLIAMS, M.A., LL.B., *Note Editor*

CONTRIBUTORS OF ARTICLES

ASHWORTH, A. J. Self-Defence and the Right to Life	282
GOODE, R. M. The Consumer Credit Act 1974	79
JENKINS, D. Skinning the Pantomime Horse: Two Early Cases on Limited Liability	308
JOLOWICZ, J. A. Damages in Equity—A Study of Lord Cairns' Act	224
NETTHEIM, G. <i>Dunn v. The Queen</i> Revisited	253
SIMPSON, A. W. B. The Early Constitution of Gray's Inn	131
SPENCER, J. R. The Defective Premises Act 1972 (concluded)	48

OBITUARIES

Professor Henry Arthur Hollond, M.A., 1884–1974	1
Professor Arnold Duncan McNair, Baron McNair of Gleniffer, M.A., LL.D., 1885–1975	177

REPORT ANNOTATED

Report of the Committee on Contempt of Court (Cmnd. 5794)	6
---	---

CASES ANNOTATED

A. & B.C. Chewing Gum Ltd., <i>Re</i>	209	Holwell Securities Ltd. v. Hughes	25
American Cyanamid v. Ethicon	191	Hubbard v. Pitt	191
A. to Z. Bazaars Ltd. v. Min. Agriculture	25	Lloyds Bank Ltd. v. Bundy	21
Att.-Gen.'s Reference (No. 1 of 1975)	182	Microbeads A.G. v. Vinhurst Road Markings Ltd.	199
Azam v. Home Secretary	9	Nielson-Jones v. Fedden	28
Bryanston Finance Ltd. v. De Vries	196	Overbrooke Estates Ltd. v. Glencombe Properties Ltd.	17
Capital Motors Ltd. v. Beecham	194	Owen v. Tate	202
Carter v. Richardson	182	Pollway Ltd. v. Abdullah	26
Chappell v. Times Newspapers Ltd.	212	Racal Communications Ltd. v. Pay Board	39
Charter v. Race Relations Bd. . .	11	R. v. Cogan	182
Coleman, <i>Re</i>	205	R. v. Davies	188
Dalmia Cement Co. v. National Bank of Pakistan	44	R. v. Howell	14
D.P.P. (N. Ireld) v. Lynch . . .	185	Robinson v. Post Office	15
Dockers' Labour Club & Insti- tute Ltd. v. Race Relations Bd.	11	Sanders v. Ernest A. Neale Ltd. .	36
Egerton v. Harding	34	Schorsch Meier GmbH v. Hennin	215
Esso Petroleum Co. Ltd. v. Mardon	194	Schroeder (A.) Music Publishing Co. Ltd. v. Macaulay	24
Gallagher Ltd. v. British Road Services Ltd.	19	Taylor v. Provan	42
Henry v. Geopresco Inter- national Ltd.	219	Thurlow v. Thurlow	207
		Waddington v. Miah	9
		Wallis's Cayton Bay Holiday Camp Ltd. v. Shell-Mex and B.P. Ltd.	32

BOOK REVIEWS

ALEXANDROWICZ, C. H.: <i>The European African Confrontation</i>	165
ALEXANDROWICZ, C. H.: <i>The Law-Making Functions of the Specialised Agencies</i>	165
ANSON, W. See GUEST, A. G.	
ARCHBOLD, J. F. See BUTLER, T. R. F.	
BABCOCK, B., and others (Eds.): <i>Sex Discrimination and the Law</i>	345
BELLAMY, C.: <i>Common Market Law of Competition</i>	344
BERNIER, I.: <i>International Legal Aspects of Federalism</i>	160
BRIDGE, J. W., and others (Eds.): <i>Fundamental Rights</i>	167
BUTLER, T. R. F., and MITCHELL, S. (Eds.): <i>Archbold Pleading &c. in Criminal Cases</i> (38th ed.)	151
CAESAR, J. See HILL, L. M.	
CHESHIRE, G. C. See NORTH, P. M.	
DIETZE, G.: <i>Two Concepts of the Rule of Law</i>	341
EPSTEIN, J.: <i>The Great Conspiracy Trial</i>	154
FARRAR, J. H.: <i>Law Reform and the Law Commission</i>	174
FAWCETT, J. E. S., and HIGGINS, R.: <i>International Organization</i>	166
FRANK, R., and CRONKITE, W.: <i>Media and the 1st Amendment in a Free Society</i>	348
GANZ, G.: <i>Administrative Procedures</i>	174
GILMORE, G.: <i>The Death of Contract</i>	325
GLUCKMAN, M.: <i>The Ideas in Barotse Jurisprudence</i>	156
GRAVESON, R. H.: <i>Conflict of Laws</i> (7th ed.)	163
GRIFFITH, J. A. G.: <i>Parliamentary Scrutiny of Government Bills</i>	335
GUEST, A. G. (Ed.): <i>Anson's Law of Contract</i> (24th ed.)	333
HEUSTON, R. F. V. (Ed.): <i>Salmond on Torts</i> (16th ed.)	334
HEWARD, E.: <i>Mathew Hale</i>	169
KADISH, M. R., and KADISH, S. H.: <i>Discretion to Disobey</i>	347
KIELAR, B. Z.: <i>Angielskie Ekwivalenty Polskich Terminów Prawno-ustrojowych</i>	338
KORTE, D.: <i>Untersuchungen zu Inhalt, Stil und Technik angelsächsischer Gesetze und Rechtsbücher 6–12 Jahrhunderts</i>	328
LAWSON, F. H.: <i>Remedies of English Law</i>	323
MILLER, J. G.: <i>Family Property and Financial Provision</i>	326
NEWARK, F. H.: <i>Elegantia Juris</i>	169
NEWMAN, R. A. (Ed.): <i>Equity in the World's Legal Systems</i>	169
NORTH, P. M. (Ed.): <i>Cheshire's Private International Law</i> (9th ed.)	163
QADRI, A. A.: <i>Islamic Jurisprudence in the Modern World</i> (2nd ed.)	159
ROSS, A.: <i>On Guilt, Responsibility, and Punishment</i>	342
SALMOND, J. W. See HEUSTON, R. F. V.	

Book Reviews

SAMEK, R. A.: <i>The Legal Point of View</i>	339
SCARMAN, L.: <i>English Law—The New Dimension</i>	322
SHUBBER, S.: <i>Jurisdiction over Crimes on Board Aircraft</i>	161
SHYLLON, F. O.: <i>Black Slaves in Britain</i>	152
SZABO, I.: <i>Les Fondements de la Theorie du Droit</i>	157
SZASZY, I.: <i>Conflict of Laws in the Western, Socialist, and Developing Countries</i>	331
TAPPER, C.: <i>Computers and the Law</i>	172
TREITEL, G. H.: <i>Law of Contract</i> (4th ed.)	333
VARANO, V.: <i>Organizzazione e Garanzie della Giustizia Civile nell'Inghilterra Moderna</i>	337
WATSON, A. (Ed.): <i>Daube Noster</i>	330
WATSON, A.: <i>Law Making in the Later Roman Republic</i>	170
YBEMA, S. B.: <i>Constitutionalism and Civil Liberties</i>	349

SUBJECT INDEX 1975

† indicates an article

* indicates a book review

Other references are to notes

* Administrative law — procedures	175	Conflict of laws— <i>cont.</i>	
Agency—limitation clause	17	Debt in foreign money	215
* Air law—crimes	161	Foreign awards	44
America		Jurisdiction — Submission to	219
* conspiracy trial	154	* Textbooks	163
* constitution	348, 349	Constitutional law	
* free speech in	348	* American	348, 349
* women's rights in	345	* Call for new constitution	322
Animals—duty to fence common	34	* Civil liberties	348, 349
Arbitration—foreign	44	† Civil servants—security of tenure	253
Biography		* Conspiracy and liberty	154
* Hale, Sir Mathew	169	* Freedom of speech	348
Hollond, Professor H. A.	1	* Fundamental rights	167
McNair, Professor Lord	177	* Parliament—legislative process	335
Cambridge Law Faculty	177	* Parliament—Sovereignty	322
Hollond, Professor, and McNair, Professor Lord, and	1	* Polish	338
University Law Society	177	* Rule of law	341
Commercial law		* Slavery	152
Cheques—consideration	26	Watching and besetting	191
† Consumer Credit Act 1974	79	Construction—Resolution of Commons	39
Commons — obligation to fence	34	Contempt of court	6
Company law		Contract	
† Limited liability — History	308	Acceptance—Revocation	25
Winding up	209	Bargaining power	21, † 119
Comparative Law		Consideration	26
* Conflict of laws	331	Contract of employment	36
* Equity	169	† Crown—Civil Servants and	253
* Italian account of English law	337	* End of classical theory	325
* Translation problems	338	Misrepresentation—Negligence	194
* Computers and the law	172	Privity — Limitation clause	17
Conflict of laws		Sale of goods—Title	199
* Comparative approaches to	331	* Textbooks	333

Subject Index 1975

Courts— <i>cont.</i>		
Enforcement of foreign judgment	219	
* Italian description of	337	
† Credit and security—Consumer Credit Act 1974	79	
Criminal law		
Complicity	182	
* Evidence and procedure	151	
* Guilt and responsibility	342	
Manslaughter	14	
Manslaughter — Provocation	188	
Murder—Duress	185	
† Offences in credit transactions	126	
† Self-defence	282	
* Criminology — Guilt and punishment	342	
Defamation — Privilege of typist	196	
Divorce		
Illness as “ behaviour ”	207	
* Sex equality and	345	
Easement—Fencing	34	
Equity		
* Comparative law	169	
† Damages—Lord Cairns' Act	224	
Injunction—Picketing	191	
Joint-tenancy — Severance	28	
Petitioner must do equity	212	
Quasi-contract — Negotiorum gestio	202	
Striker—Position in	212	
Undue influence	21	
European Law		
* Competition law	344	
Human Rights Convention	9	
Judgment in foreign currency	215	
* Sovereignty of Parliament and	322	
Evidence		
* Computers and	173	
* Criminal cases, in — Textbook	151	
Family law		
Divorce for illness	207	
Marriage revokes will	205	
Family law— <i>cont.</i>		
* Property and financial provision	326	
* Sex discrimination in	345	
† Gray's Inn—History	131	
Holland, Professor H. A.	1	
Human rights		
European law	9	
* Fundamental rights	167	
Racial discrimination	11	
† Right to life	282	
See also: Persons, law of.		
Industrial law		
† Civil servants—Security of tenure	253	
Equity in	212	
Fair wages	39	
Redundancy	36	
Strike, right to	212	
International law		
* Aircraft—Crimes on	161	
* Federalism	160	
* International organisations	166	
* Specialised agencies	165	
* Treaty-making	165	
Irish law—Murder	14	
* Islamic law, modern	159	
Jurisprudence		
* Computers and legal knowledge	173	
* Fundamental rights	167	
* Gluckman and the Barotse	156	
* Islamic	159	
* Language	176	
* Language — Translation problems	338	
* Legal point of view (Samek's)	339	
* Legitimated disobedience		
* Marxist theory	157	
* New approach to English law	322	
* Penal theory	342	
* Rule of law	341	
Land law		
Adverse possession	32	
Joint-tenancy — Severance	28	
† Landlord and tenant—Defective Premises Act	48	
* Law reform	174	

Subject Index 1975

Legal history		Persons, law of—<i>cont.</i>	
* Anglo-Saxon lawbooks	328	† Self-defence and right to life	282
† Company law—Limited liability	308	* Sexual equality	345
* Conflict of laws	331	* Slavery	152
* Contract	325	* Polish-English legal glossary	338
† Equity	308	Prescription—Que estate and custom	34
† Gray's Inn	131	Press—Contempt of court	6
* Hale, Sir Mathew	169	Remedies	
† Inns of Chancery	146	· † Damages in equity — Lord Cairns' Act	224
† Lord Cairns' Act	224	Injunction—Contract of employment	212
* Slavery	152	Injunction—Pickets	191
See also: Roman Law.		* Textbook	323
* Legal system—Italian account	337	Roman Law	
Limitation Act — Adverse possession	32	* Court of Requests and	
Money—Debts in foreign currency—Judgment	215	* Festschrift for Daube	330
† Moneylenders — Consumer Credit Act 1974	79	* Law-making in later Republic	170
Negligence		Statutes	
† Landlord	49	† Consumer Credit Act 1974	79
Misrepresentation	194	† Defective Premises Act 1973	48
Remoteness	15	* Scrutiny of government bills	335
Negotiable instruments — Cheque	26	Surety—Officious intervention	202
Negotiorum gestio—Officious surety	202	Tax — Income tax — Schedule E	42
† Nuisance—Defective premises	67	Tort	
Obituaries		† Defective premises	48
Hollond, Professor H. A.	1	Joint tortfeasors	196
McNair, Professor Lord	177	Libel—Privilege	196
Patents—Sale of Goods	199	Remoteness	15
† Personal property—Consumer credit transactions	79	* Textbook	334
Persons, law of		Wills — Revocation by marriage	205
* Fundamental rights	167		
Racial discrimination	11		

NOTES FOR CONTRIBUTORS

Communications concerning articles should be addressed to the Editor,
Mr D. E. C. Yale, Christ's College, Cambridge; those concerning notes to
Mr R. N. Gooderson, St Catharine's College, Cambridge.

Books for review should be sent to the Cambridge Law Journal, Squire
Law Library, The Old Schools, Cambridge.

A leaflet giving instructions about layout is available on application.

THE CAMBRIDGE LAW JOURNAL

November 1975

Lord McNair 1885–1975 177

CASE AND COMMENT

Criminal Law—Complicity	182	<i>Negotiorum gestio</i> —Surety	202
Criminal Law—Duress	185	Wills—Effect of Marriage	205
Criminal Law—Provocation	188	Divorce—Illness	207
Injunction against Pickets	191	Company—Winding-up	209
Misrepresentation as Negligence	194	Injunction—Employment	212
Defamation—Privilege	196	Conflict—Foreign Money	215
Sale of Goods—Patents	199	Conflict—Jurisdiction	219

ARTICLES

Damages in Equity—A Study of Lord Cairns' Act: J. A. JOLOWICZ	224
<i>Dunn v. The Queen</i> Revisited: GARTH NETTHEIM	253
Self-Defence and the Right to Life: A. J. ASHWORTH	282
Skinning the Pantomime Horse—Two Early Cases on Limited Liability: DAFYDD JENKINS	308

BOOK REVIEWS

SCARMAN: English Law—The New Dimension	322	VARANO: Giustizia Civile nell'Inghilterra Moderna	337
LAWSON: Remedies of English Law	323	KIELAR: Angielskie Ekwivalenty Polskich Terminow Prawno-ustrojowych	338
GILMORE: Death of Contract	325	SAMEK: The Legal Point of View	339
MILLER: Family Property and Financial Provision	326	DIETZE: Two Concepts of the Rule of Law	341
KORTE: Angelsächsischer Gesetze und Rechtsbücher 6-12 Jahrhunderts	328	ROSS: On Guilt, Responsibility, and Punishment	342
WATSON (Ed.): Daube Noster	330	BELLAMY: Common Market Law of Competition	344
SZASZY: Conflict of Laws in the Western Countries	331	BABCOCK & OTHERS (Eds.): Sex Discrimination and the Law	345
GUEST (Ed.): Anson's Law of Contract (24th ed.)	333	KADISH & KADISH: Discretion to Disobey	347
TREITEL: Law of Contract (4th ed.)	333	FRANK & CRONKITE: Media and the 1st Amendment	348
HEUSTON (Ed.): Salmond on Torts (16th ed.)	334	YBEMA: Constitutionalism and Civil Liberties	349
GRIFFITH: Parliamentary Scrutiny of Government Bills	335		

Edmund William Hill, 1906–1975 350

J. Blake: Cambridge University Law Society 351

CAMBRIDGE UNIVERSITY PRESS

Bentley House, 200 Euston Road, London NW1 2DB

32 East 57th Street, New York, N.Y. 10022

Price £3.00 net in U.K.; US\$9.00 in U.S.A. and Canada

Subscription price £5.00 net; US\$15.00