

THE CAMBRIDGE LAW JOURNAL 1976

THE
CAMBRIDGE LAW
JOURNAL
1976

EDITOR

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

Published for the
Faculty of Law, University of Cambridge

CAMBRIDGE UNIVERSITY PRESS

CAMBRIDGE · LONDON · NEW YORK

**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, U.S.A.**

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

EDITORIAL COMMITTEE

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

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

J. G. COLLIER, M.A., LL.B.

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

B. W. NAPIER, PH.D., *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

ARNOLD, M. S. Fourteenth-Century Promises	321
ASHWORTH, A. J. The Doctrine of Provocation	292
CLARKE, M. Notice of Contractual Terms	51
KAHN-FREUND, O. The Impact of Constitutions on Labour Law	240
MARKESINIS, B. S. The Law of Agency and section 9 (2) of the European Communities Act 1972	112
STEINER, J. M. Judicial Discretion and the Concept of Law	135
TAYLOR, G. D. S. Judicial Review of Improper Purposes and Irrelevant Considerations	272
WALLINGTON, P. Injunctions and the "Right to Demonstrate"	82
YALE, D. E. C. Maitland to Acton	158

REPORTS ANNOTATED OR REVIEWED

Report of the Committee on the Preparation of Legislation (Cmnd. 6053)	344
Report of the Committee on Mentally Abnormal Offenders (Cmnd. 6244)	9

CASES ANNOTATED

Abbott v. The Queen	206	Michael Richards Properties Ltd.	
Albazero, The	31	v. Wardens of St. Saviour's,	
Arenson v. Casson, Beckman,		Southwark	28
Rutley & Co.	41	Moorgate Mercantile Co. Ltd. v.	
Att.-Gen. v. Jonathan Cape Ltd.	1	Twitchings	225
Burgess v. Rawnsley	20	R. v. Barnsley Supplementary	
Bushwall Properties Ltd. v. Vor-		Benefits Tribunal, <i>ex p.</i> Atkin-	
tex Properties Ltd.	215	son	196
Cehave N.V. v. Bremer Handels-		R. v. Blaue	15
gesellschaft mbH	33	R. v. Sagoo	48
Clemens v. Clements Bros.	236	Schorsch Meier GmbH v. Hennin	17
Congreve v. Home Office	193	Sorrell v. Finch	237
Dewar v. Dewar	47	Sparham-Souter v. Town and	
D.P.P. (N. Ireland) v. McNeill	6	Country Developments Ltd.	222
Evenden v. Guildford City		Stevenson v. Beverley Bentink	
Association Football Club Ltd.	38	Ltd.	231
Esso Petroleum Co. Ltd. v.		Thai-Europe Tapioca Service	
Mardon	221	Ltd. v. Govt. of Pakistan	198
Freer v. Unwins Ltd.	211	United Dominions Trust v.	
Froom v. Butcher	44	Western	218
Gengler v. Gengler	233	Van Duyn v. Home Office	3
Liverpool City Corpn. v. Irwin	25	Wilson, Smithett & Cope Ltd. v.	
Majewski v. D.P.P.	208	Terruzzi	203

BOOK REVIEWS

BENJAMIN, J. P. See GUEST, A. G.	
BICKEL, A. M.: <i>The Morality of Consent</i>	357
BLAKE, LORD: <i>The Office of Prime Minister</i>	182
BRYSON, W. H.: <i>The Equity Side of the Exchequer</i>	340
BUTLER, W. E. (Ed.): <i>Tunkin's Theory of International Law</i>	168
CAESAR, SIR JULIUS. See HILL, L. M.	
CHESHIRE, G. C. See FURMSTON, M. P.	
COX, A.: <i>The Role of the Supreme Court in American Government</i>	335
CROSS, R.: <i>Statutory Interpretation</i>	342
DIAS, R. W. M., and MARKESINIS, B. M.: <i>The English Law of Torts, A Comparative Introduction</i>	341
DICKERSON, R.: <i>The Interpretation and Application of Statutes</i>	344
DOBSON, A. P.: <i>Sale of Goods and Consumer Credit</i>	350
DONALDSON, J., STAUGHTON, C. S., and WILSON, D. J.: <i>Lowndes and Rudolf's The Law of General Average and the York-Antwerp Rules</i>	349
DURAND, A. See JACOBS, G.	
FARMER, J. A.: <i>Tribunals and Government</i>	186
FIFOOT, C. H. S. See FURMSTON, M. P.	
FRIDMAN, G. H. L.: <i>The Law of Agency</i> (4th ed.)	352
FURMSTON, M. P.: <i>Cheshire and Fifoot's Law of Contract</i> (9th ed.)	360
GOODE, R. M.: <i>Hire-Purchase Law and Practice</i> (Supp. to 2nd ed.)	181
GREGORY, R., and HUTCHESSON, P.: <i>The Parliamentary Ombudsman, A Study in the Control of Administrative Action</i>	185
GUEST, A. G. (General Ed.): <i>Benjamin's Sale of Goods</i> (9th ed.)	180
HAILSHAM, Lord: <i>The Door Wherein I Went</i>	339
HEAP, D.: <i>The Land and the Development, or the Turmoil and the Torment</i>	355
HILL, L. M. (Ed.): <i>The Ancient State, Authorities, and Proceedings of the Court of Requests, by Sir Julius Caesar</i>	173
HOOD, R.: <i>Crime, Criminology, and Public Policy—Essays in Honour of Sir Leon Radzinowicz</i>	336
HUTCHESSON, P. See GREGORY, R.	
JACOB, I. H. (General Ed.): <i>The Supreme Court Practice 1976</i>	192
JACOBS, G., and DURAND, A.: <i>References to the European Court, Practice and Procedure</i>	192
KAMES, LORD. See ROSS, I. S.	
KLOCKARS, C. B.: <i>The Professional Fence</i>	361
LAUTERPACHT, E. (Ed.): <i>International Law, being the Collected Papers of Sir Hersch Lauterpacht, Vols. I and II</i>	165
LEIGH, L. H.: <i>Police Powers in England and Wales</i>	188

Book Reviews

LIEBESNEY, H. J.: The Law of the Near and Middle East (Cases, Readings, and Materials)	354
MARKESINIS, B. S. See DIAS, R. W. M.	
MEGARRY, R. E., and WADE, H. W. R.: Law of Real Property (4th ed.)	176
O'NEAL, F. H.: Squeeze-outs of Minority Shareholders, Expulsion or Oppression of Business Associates	362
POLYVIUO, P. G.: Cyprus in Search of a Constitution	348
RADZINOWICZ, L. (Festschrift). See HOOD, R.	
RAZ, J.: Practical Reason and Norms	364
RENTON, D. (Ed.): Report of a Committee on the Preparation of Legislation (Cmnd. 6053)	344
ROBERTS, N. A.: The Reform of Planning Law, A Study of the Legal, Political, and Administrative Reform of the British Land-Use Planning System	355
ROSS, I. S.: Lord Kames and the Scotland of his Day	190
SAUVEPLANNE, J. G. (Ed.): Security over Corporeal Moveables	181
SIMPSON, A. W. B.: A History of the Common Law of Contract, Vol. I (The Rise of the Action of Assumpsit)	174
SIMPSON, S. R.: Land Law and Registration	353
STAUGHTON, C. S. See DONALDSON, J.	
TUNKIN, G. I. See BUTLER, W. E.	
ULLMANN, W.: Law and Politics in the Middle Ages, an Introduction to the Sources of Medieval Political Ideas	170
WADDAMS, S. M.: Products Liability	178
WADE, H. W. R. See MEGARRY, R. E.	
WALKER, N. (Ed.): The British Jury System	365
WIENER, C.: Vers une Codification de la Procédure Administrative, Etude de Science Administrative Comparée	346
WILSON, D. J. See DONALDSON, J.	
ZWIEBACH, B.: Civility and Disorder	358

SUBJECT INDEX 1976

† indicates an article * indicates a book review
Other references are to notes

- Administrative Law**
 * Codification—comparative study 346
 * Planning law 355
 Review of discretion 193, †272
 Supplementary Benefits Tribunal 196
- Agency**
 Liability for deposit 237
 † European Communities Act and 112
 * Textbook 352
- * **America—Supreme Court** 335
- Biography**
 † Acton, Lord 158
 * Caesar, Sir Julius 173
 * Hailsham, Lord 339
 † Jenks, Edward 162
 * Kames, Lord 190
 * Lauterpacht, Sir Hersch 165
 † Maitland, F. W. 158
- Cambridge University Law Society** 364
- Company law—Protection of minority shareholders** 235, *362
- Conflict of laws—Exchange Control Legislation** 203
- Constitutional law**
 * American 335
 * Cypriot 348
 Immigration—E.E.C. and 3
 † Labour law and 240
 * Office of Prime Minister 182
 * Office of Lord Chancellor 339
 * Ombudsman 185
 * Police powers 188
 Review of discretion 193, †272
 † “Right to demonstrate” 82
 Secrecy—Cabinet information 1
 Sovereign immunity 198
 Territorial waters 6
 Tribunals *186, 196
- Contract**
 Certainty of terms 215
 Damages 31
 History *174, †321
 Implied covenant 27
 Misrepresentation 221
 Non est factum 218
 Notice of terms 51
 Promissory estoppel 38
 Sale of goods. See that heading.
 “Subject to contract” 28
 * Textbook 360
- Conveyancing**
 Contract—certainty 215
 Rectification of register 211
 “Subject to contract” 28
- Criminal law**
 Bigamy 48
 Causation 15
 Drunkenness 13, 208
 Duress 206
 Mental disorder 9
 † Provocation 292
- Criminology**
 * Essays 336
 Mental disorder 9
 * Receiving as a profession 361
- * **Cyprus—Constitution** 348
- English Legal System**
 Arbitrators—Liability 41
 * Jury system 365
 * Legislation 342, 344
 * Police powers 188
 Precedents 17
 * Statutory interpretation 342
 Tribunals *186, 196
 * White Book 192
- Equity**
 * Court of Exchequer and 340
 † Injunction—Public nuisance 82
 Promissory estoppel 38
 Resulting trust 47

Subject Index 1976

<p>Estoppel Common-law 225 Equitable 38</p> <p>European Economic Community † Agency and E.C. Act . . 112 Community Court—References 3, *192 Immigration 3 Judgment in foreign currency 17</p> <p>Family law Maintenance 233 Polygamy 48</p> <p>International law * Collected papers on . . . 165 * Marxist theory of 168</p> <p>Jurisprudence * Bickel 357 † Dworkin v. Hart 135 * Medieval political ideas . 170 * Raz 364 * Zwiebach 358</p> <p>Labour law † Impact of constitutions . 240 † Picketing—Injunctions . 82 Redundancy—Promissory estoppel 38</p> <p>Land law High-rise blocks 25 Joint tenancy 20 Registration 211, *353 * Textbook 176</p> <p>Legal history * Assumpsit to 1677 . . . 174 † Contract in 14th century 321 * Court of Requests . . . 173 * Equity side of Exchequer 340</p>	<p>Legal history—cont. † Maitland correspondence 158 * Medieval public law . . 170</p> <p>Maritime law Carriage by sea—Damages 31 * General average 349</p> <p>* Muslim law—Materials . . 354</p> <p>Personal property * Consumer credit—Textbook 350 Gift or loan 47 Hire-purchase—estoppel . 225 Hire-purchase—nemo dat etc. 231 * Hire-Purchase—Textbook 181 * Security on chattels . . 181 See also Sale of goods.</p> <p>* Privacy—Injunction . . . 1</p> <p>* Russia—Marxist view of International law 168</p> <p>Sale of goods * Products liability 178 Right of rejection 33 Sale by hire-purchaser . 231 * Textbooks 180, 350</p> <p>* Scotland—Lord Kames and . 190</p> <p>Tort * Comparative introduction 341 Negligence—Arbitrators . 41 Negligence, contributory . 44 Negligence—Limitation of actions 222 Negligence—Misrepresentation 221, 225 * Products liability 178 † Public and private nuisance 82</p>
---	--

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 1976

CASE AND COMMENT

Judicial Review—Ministerial Discretion	193	Contract—Non est Factum	218
Judicial Review—Tribunal	196	Contract and Tort—Misrepresentation	221
Jurisdiction—Sovereign Immunity	198	Negligence—Limitation of Actions	222
Exchange Control Legislation	203	Hire-Purchase—Estoppel	225
Criminal Law—Murder—Duress	206	Hire-Purchase—Nemo dat etc.	231
Criminal Law—Drunkenness	208	Family Law—Maintenance	233
Land Registration—Rectification	211	Company Law—Minority Protection	235
Contract—Certainty of Terms	215	Agency—Estate Agent—Deposit	237

ARTICLES

The Impact of Constitutions on Labour Law: SIR OTTO KAHN-FREUND	240
Judicial Review of Improper Purposes and Irrelevant Considerations: G. D. S. TAYLOR	272
The Doctrine of Provocation: A. J. ASHWORTH	292
Fourteenth-Century Promises: M. S. ARNOLD	321

BOOK REVIEWS

COX: Role of the Supreme Court in American Government	335	DOBSON: Sale of Goods and Consumer Credit	350
HOOD (Ed.): Essays in Honour of Radzinowicz	336	FRIDMAN: Law of Agency (4th ed.)	352
LORD HAILSHAM: The Door Wherein I Went	339	SIMPSON: Land Law and Registration	353
BRYSON: Equity Side of the Exchequer	340	LIEBESNEY: Law of the Near and Middle East	354
DIAS & MARKESINIS: English Law of Torts	341	HEAP: The Land and the Development	355
CROSS: Statutory Interpretation	342	ROBERTS: Reform of Planning Law	355
RENTON (Ed.): Preparation of Legislation	344	BICKEL: Morality of Consent	357
DICKERSON: Interpretation and Application of Statutes	344	ZWIEBACH: Civility and Disobedience	358
WIENER: Vers une Codification de la Procédure Administrative	346	FURMSTON (Ed.): Cheshire and Fifoot's Law of Contract (9th ed.)	360
POLYVIU: Cyprus in Search of a Constitution	348	KLOCKARS: The Professional Fence	361
DONALDSON & OTHERS (Eds.): Lowndes and Rudolf's Law of General Average (10th ed.)	349	O'NEAL: Squeeze-outs of Minority Shareholders	362
		RAZ: Practical Reason and Norms	364
		WALKER (Ed.): The British Jury System	365

Cambridge University Law Society 367

CAMBRIDGE UNIVERSITY PRESS
Bentley House, 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