[1969] C.L.J.

Part 2

THE CAMBRIDGE LAW JOURNAL

November 1969

Counsellors and Barristers J. H. BAKER

Mr. Justice Browne's Judgment in the Anisminic Case With Foreword by H. W. R. Wade

> The Essence of the Contract DAFYDD JENKINS

> > Escaping Borstal Boys C. J. HAMSON

Two Petty Perpetuity Puzzles M. J. PRICHARD

For full contents see back of cover

CAMBRIDGE UNIVERSITY PRESS

FOR THE FACULTY OF LAW, UNIVERSITY OF CAMBRIDGE

THE CAMBRIDGE LAW JOURNAL

EDITORIAL COMMITTEE

Professor C. J. Hamson, M.A., LL.M., Chairman and Treasurer
Professor Glanville L. Williams, Q.C., LL.D., F.B.A.
D. W. Bowett, M.A., LL.B., Note Editor
R. W. M. Dias, M.A., LL.B., Assistant Editor
R. N. Gooderson, M.A., Note Editor
J. C. Hall, M.A., LL.B., Note Editor
J. A. Jolowicz, M.A., Note Editor
L. S. Sealy, Ph.D., Secretary
J. W. A. Thornely, M.A., Editor
D. W. A., LL.B., Note Editor

SUBSCRIPTIONS

One volume of *The Cambridge Law Journal* is published each year. Each volume is in two parts, published in April and November. The subscription price of a volume is 45s. net (including postage) and is payable in advance. Single parts cost 25s. net plus postage. Orders may be sent to Cambridge University Press, Bentley House, 200 Euston Road, London, N.W.I, or to any bookseller. In Canada and the United States of America, the subscription price is \$7.50 and single parts cost \$4.00. Orders should be sent to Cambridge University Press, 32 East 57th Street, New York, N.Y. 10022.

BACK VOLUMES

Volumes 1—25 (1921—1967)	£125 net (\$375.00) per set until 31 December 1969
	(hardbound)
Volumes 1—26 (1921—1968)	£150 net (\$455.00) per set from 1 January 1970
	(hardbound)
Volumes 1—11 (1921—1953)	· · · · · · · · · · · · · · · · · · ·
one volume of 3 parts every 3 years	$\pounds 8$ 5s. net (\$25.00) per vol. (hardbound)
	f.2 net per part (paper covers
	if available)
Volumes 12—25 (1954—1967)	· · · · · · · · · · · · · · · · · · ·
one volume of 2 parts every year	$\pounds 4 \text{ net } (\$12.00) \text{ per vol.}$
	(hardbound)
	27s. 6d. net per part (paper
•	covers if available)
Volume 26 (1968)	45s. net (\$7.50)
	until 31 December 1969
	(paper covers)
	55s. net (\$8.50) from
	1 January 1970
	(paper covers)
	$\pounds 4 \text{ net } (\$12.00)$
	(hardbound)

ADVERTISING

Details of advertising in the *Journal* may be obtained from Cambridge University Press.



OXFORD BOOKS FOR STUDENTS

* Anson's Law of Contract

Edited by A. G. GUEST

So rapid has been the development of the law of contract in the past five years that many traditional principles have undergone extensive change. The enactment of the Misrepresentation Act 1967, together with a number of important decisions of the House of Lords, have necessitated much new writing in this twenty-third edition of Sir William Anson's classic work. Now in its ninetieth year, *Anson* has consistently provided a clear and comprehensible statement of the law for students. Its long life is some indication of the extent to which it has answered their needs and difficulties; it is now available for the first time in a paper as well as in a cloth edition. A. G. Guest is Professor of English Law, King's College, London. Twenty-third edition 75/- net paper covers 38/- net

* Comparative Judicial Behaviour

GLENDON SCHUBERT and DAVID J. DANELSKI

This book is the first to focus cross-culturally on judicial decisionmaking, using theories and methods developed in the behavioural sciences. It contains a group of original empirical studies designed and carried out by authors who are political scientists or lawyers or both. Though there is an extensive literature on American courts and judges, and much of it from a behavioural point of view, very little work has been done on judicial behaviour in other cultures. The chapters on the Korean, Philippine, and Indian judiciaries are the first behavioural analyses of these subjects to be published anywhere, and with only a few exceptions, the same is true of Japan, Australia, and Canada. Glendon Schubert is at York University, Toronto; David J. Danelski is Associate Professor of Political Science, Yale University. 72/6 net

Precedent in English Law

RUPERT CROSS, Vinerian Professor of English Law, University of Oxford

Dr Goodhart said in 1948 that the English doctrine of precedent was more rigid than it ever had been in the past, and when the first edition of this book was being written between 1958 and 1960 that remained substantially true. The message of the second edition is that the doctrine of precedent is less rigid than ever before, the major pointer to that conclusion being the famous Practice Direction of the House of Lords of July 1966 in which the House asserted its power to reconsider its previous decisions. The Direction is discussed, together with several other indications of the loosening of the old rigidity of the English rules of precedent. An effort is made to collect together all the exceptions to the rule of *stare decisis*, but it is recognised that such an undertaking can never be definitive. Second edition 30/- net Clarendon Law Series

* Just published

OXFORD UNIVERSITY PRESS Cambridge Studies in English Legal History

History of the Law of Charity, 1532-1827

GARETH H. JONES

This book covers the period when the modern law of charity took a definite shape. Mr Jones shows how the contemporary religious, economic and social pressures moulded the substantive law and illustrates the importance of procedural considerations in defining the limits of legal charity. 75s. net

The Church under the Law

Justice, Administration and Discipline in the Diocese of York, 1560-1640 **RONALD A. MARCHANT** Dr Marchant has produced the first systematic account of church courts as they were re-moulded to serve the Protestant Church in England after the Elizabethan Settlement, and at a time when they were still one of the principal responsibilities of bishops and archdeacons. This study is based on a detailed account of the courts in the diocese of York, but the author measures the individuality of the northern courts by constant reference to the typical southern diocese of Norwich. 75s. net

CAMBRIDGE UNIVERSITY PRESS

POLITICAL INTEGRATION BY JURISPRUDENCE

The Work of the Court of Justice of the European Communities in European Political Integration

by

Andrew Wilson Green LL.B., M.B.A., PH.D. Diplomé of the University of Amsterdam Member of the Pennsylvania and District of Columbia bars

A CRITICAL STUDY OF LAW AND POLITICAL INTEGRATION

840 pp., Bibliography, Table of Contents, and Alphabetical Index; Reference tables to the Court of Justice:
Alphabetical, Chronological, Docket-Number, Order-of-Publication,
Analytical, Cross-Reference, and National Jurisprudence

A. W. SIJTHOFF Leyden, The Netherlands P.O. Box 26

1969. cloth. Dfl. 95.00; £12; U.S. \$28.00

Double Jeopardy

MARTIN L. FRIEDLAND

The history of the rule against Double Jeopardy is the history of criminal procedure; no other procedural doctrine is more fundamental or all-pervasive. This is the first comprehensive analysis of the subject. 90/- net

Cases on Private International Law

J. H. C. MORRIS

The fourth edition, radically revised and brought up to date, includes four new statutes and twelve new cases. The notes have been revised and in some cases completely rewritten. 65/- net

Judicial Control of Administrative Action in India and Pakistan

A Comparative Study of Principles and Remedies

M. A. FAZAL

Examines the action of the courts in India and Pakistan against the background of English law and leading American doctrines, and reveals the subtle differences that have arisen between the various systems. It is the first comparative analysis in this field. 80/- net

International Law and the Use of Force by States

IAN BROWNLIE

First published in 1963, this book has now been reprinted. It is concerned with the determination of the occasions on which resort to the threat or use of force by states is lawful. 84/- net

The Law of Property in the Later Roman Republic

ALAN WATSON

In the last two centuries of the Roman Republic, the old property law was modernized and the pattern set for classical law. This book deals with that period, studying in detail every legal and non-legal text which throws light on it. Many new interpretations are suggested and conclusions drawn. 55/- net

Precedent in English Law

RUPERT CROSS

The message of the second edition of Professor Cross's book is that the English doctrine of precedent is less rigid than ever before; the major pointer in the direction of this conclusion is the famous Practice Direction of the House of Lords of July 1966 in which the House asserted its power to reconsider its previous decisions. 30/- net *Clarendon Law Series*

The British Yearbook of International Law 1967

Forty-Second Year of Issue £5 net Royal Institute of International Affairs

Bracton: On the Laws and Customs of England

Two volumes, edited by GEORGE E. WOODBINE,

translated by SAMUEL E. THORNE £23/15/- net Harvard University Press

OXFORD UNIVERSITY PRESS

Cracknell's Law Students' Companion

General Editor: D. G. Cracknell, LL.B., Barrister-at-Law

1969. No. 5: Criminal Law

By T. GORE, M.A., B.Sc.(Econ.), Barrister-at-Law, and C. L. MAUNDY, LL.B., Barrister-at-Law

The books in this series are designed as companions to lecture notes, textbooks and other documents from which students work, enabling them to work more systematically and revise more effectively. The fifth volume in an already wellestablished series, Cracknell's Criminal Law seeks to provide a comprehensive and up to date yet economical selection sifted from the vast wealth of cases in this field. 25s. net, by post 1s. 3d. extra 406 56740 9

James' Introduction to English Law

Seventh Edition 1969

By PHILIP S. JAMES, M.A., Barrister-at-Law, Professor of Law in the University of Leeds

This well-established textbook provides an excellent introduction to the basic principles of the law in easy logical stages. The author has successfully incorporated in this new edition the latest wave of legislation, and as before his informal style of writing makes for quicker understanding.

Casebound Edition: £1 16s. net, by post 3s. extra. 406 60492 2 Limp Edition: £1 4s. net, by post 3s. extra. 406 60493 2

Scott's Casebook on Torts

1969. By D. M. M. SCOTT, LL.B., Dip. Air Law, Solicitor of the Supreme Court, Chief Examiner in Tort to the Institute of Legal Executives, Principal Lecturer in Law at Holborn College of Law, Languages and Commerce

This book contains about 250 cases, all of which the student should know if he is to have a real appreciation of the law of tort. It is divided into self-contained chapters so that it may be used with any tort textbook. The cases are mainly English, but also included are a small number of Commonwealth and American cases which are referred to in English judgments and which are not easily accessible. Casebound Edition: £2 5s. net, by post 2s. 6d. extra. 406 65250 3 Limp Edition: £1 10s. net, by post 1s. 9d. extra. 406 65251 1

Milsom's Historical Foundations of the Common Law

1969. By S. F. C. MILSOM, F.B.A., Professor of Legal History in the University of London

More than any other branch of history, the history of the law suffers from being read backwards. The aim of this important book is to show the development of the common law from its starting point, avoiding the unconscious assumptions of a later age. The topics discussed are traditional, but it is not a traditional picture that emerges.

Casebound Edition: £3 net, by post 4s. 6d. extra. 406 62500 x Limp Edition: £2 4s. net, by post 3s. extra. 406 62501 8

BUTTERWORTHS, 88 Kingsway, London WC2

Showroom: 11-12 Bell Yard, Temple Bar, WC2

From Pitman

ENGLISH LAW D. J. KEENAN and K. SMITH

The extensive law reforms of the past few years have prompted a new edition of this celebrated work.

"This work is ideal for students preparing for any professional examinations involving the study of the principles of English Law." Law Society's Gazette

3rd Edition 40s. net (hardback) 22s. net (paperback)

ESSENTIALS OF MERCANTILE LAW D. J. KEENAN and K. SMITH

"Every student of Mercantile Law should obtain a copy of this book." Corporate Secretary

2nd Edition 45s. net (hardback) 28s. net (paperback)

COMPANY LAW D. J. KEENAN and K. SMITH

"If there is any justice, this book will become one of the recognized standard student's books on Company Law." Business Education **30s. net** (hardback) **20s. net** (paperback)

INDUSTRIAL LAW

H. SAMUELS

"A first-class work.... of great use to both lawyers and laymen." Industrial Society Journal

35s. net (hardback) 15s. net (paperback)

LAW OF BANKING

LORD CHORLEY assisted by J. Milnes Holden

"... highly recommended to law students; the practitioner too will find much of value." Law Society's Gazette 5th Edition 55s. net (hardback) 27s. 6d. net. (paparback)

THE LAW OF TRUSTS

G. W. KEETON

"Well-balanced and very readable.... the student who uses it should acquire a sound practical understanding of the subject as well as a correct historical perspective." British Book News 9th Edition 90s. net (with Irish supplement) 95s.

PITMAN PUBLISHING

SIR ISAAC PITMAN AND SONS LTD. 39 PARKER STREET, LONDON, W.C.2