

THE CAMBRIDGE LAW JOURNAL 1971

THE
CAMBRIDGE LAW
JOURNAL
1971

EDITOR

C. J. HAMSON, M.A., LL.M.
Professor of Comparative Law

CAMBRIDGE
AT THE UNIVERSITY PRESS

FOR THE FACULTY OF LAW, UNIVERSITY OF CAMBRIDGE
1971

**Published by the Syndics of the Cambridge University Press
Bentley House, P.O. Box 92, 200 Euston Road, London, NW1 2DB
American Branch: 32 East 57th Street, New York, N.Y. 10022**

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

EDITORIAL COMMITTEE

PROFESSOR C. J. HAMSON, M.A., LL.M., *Chairman & Treasurer*

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

D. W. BOWETT, M.A., LL.B., *Note 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., *Book Review Editor*

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

CONTRIBUTORS OF ARTICLES

BAKER, J. H. New light on <i>Slade's Case</i>	51, 213
DENNENBERG, R. V. The U.S. Supreme Court— An introductory note	134
FAIREST, P. B. The Shiloh Yarn Tangle	258
HARRIS, J. W. When and why does the grundnorm change?	103
HICKS, J. C. The liar paradox in legal reasoning	275
HOPKINS, J. A. Certain uncertainties of trusts and powers	68
LOW, PETER W. Reform of the sentencing process	237

STATUTE ANNOTATED

Nullity of Marriage Act 1971	208
--	-----

CASES ANNOTATED

Adams <i>v.</i> Adams	37	Launchbury <i>v.</i> Morgans	195
Barclay <i>v.</i> Barclay	44	Lavender (H.) & Son Ltd. <i>v.</i> Minister of Housing and Local Government	6
Barker <i>v.</i> Bell	203	Lever (Finance) Ltd. <i>v.</i> West- minster Corpn.	3
Bentinck <i>v.</i> Cromwell Engineer- ing Co. Ltd.	203	Malcolm <i>v.</i> Broadhurst	22
Blackburn <i>v.</i> Att.-Gen.	178	Midland Railway Co.'s Agree- ment, <i>Re</i>	198
British Oxygen Co. Ltd. <i>v.</i> Board of Trade	6	Mihalís Angelos, The	11
Broome <i>v.</i> Cassell & Co. Ltd.	187	Mutual Life & Citizens' Assur- ance Co. Ltd. <i>v.</i> Evatt	189
Burns <i>v.</i> Edman	17	Ogopogo, The	193
Crompton (Alfred) Amusement Machines Ltd. <i>v.</i> Commis- sioners of Customs and Excise	183	Petticoat Lane Rentals Ltd. <i>v.</i> Secretary of State for the Environment	201
Crow <i>v.</i> Wood	27	Qureshi <i>v.</i> Qureshi	40
D.P.P. <i>v.</i> Bhagwan	9	R. <i>v.</i> Lawrence	9, 185
Dolphin's Conveyance, <i>Re</i>	24	R. <i>v.</i> Lewes Justices, <i>ex p.</i> Home Secretary	183
Edwards <i>v.</i> Soc. of Graphical and Allied Trades	15	R. <i>v.</i> Richardson	210
Eshun <i>v.</i> Moorgate Mercantile Co. Ltd.	203	S. <i>v.</i> S.	34
Falconer <i>v.</i> Falconer	31	S.C.M. (United Kingdom) Ltd. <i>v.</i> W. J. Whittall & Son Ltd.	19
Gissing <i>v.</i> Gissing	31	Singh <i>v.</i> Singh	206
Glynn <i>v.</i> Keele University	181	Stringer <i>v.</i> Minister of Housing and Local Government	6
Hanratty <i>v.</i> Butler (Lord)	178	W. <i>v.</i> Official Solicitor	34
Hodgson <i>v.</i> Marks	29		
Horsley <i>v.</i> MacLaren	193		
Irani Finance Ltd. <i>v.</i> Singh	46		
Jenkins <i>v.</i> Att.-Gen.	178		

BOOK REVIEWS

ADELL, B. L.: The Legal Status of Collective Agreements in England, the United States and Canada	316
AL-BAHARNA, H. M.: The Legal Status of the Arabian Gulf States: A Study of their Treaty Relations and their International Problems	293
AMERASINGHE, C. F.: Defamation and other Aspects of the Actio Iniuriarum in Roman-Dutch Law (in Ceylon and South Africa) . . .	310
ARENS, R.: Make Mad the Guilty	298
ATIYAH, P. S.: Accidents, Compensation and the Law	294
BARNETT, M. J.: The Politics of Legislation: The Rent Act 1957 . . .	321
BELLAMY, J. G.: The Law of Treason in England in the Later Middle Ages	301
BROWNLIE, I. (Ed.): Basic Documents on Human Rights	318
BUZZARD, J. H., AMLOT, R. D., and MITCHELL, S.: Phipson on Evidence (11th ed.)	162
CRAFFE, M.: La Puissance Paternelle en Droit Anglais	315
CSIZMADIA, A., and KOVACS, K.: Die Entwicklung des Zivilrechts in Mitteleuropa, 1848-1944	163
DAINOW, J.: Essays on the Civil Law of Obligations	313
DE SMITH, S. A.: Microstates and Micronesia. Problems of America's Pacific Islands and Other Minute Territories	153
GILES, O. C.: Uniform Commercial Law	319
GORDON, W. R.: Studies in the Transfer of Property by Traditio . . .	312
GOULD, J., and CRAIGMYLE, LORD: Your Death Warrant? The Implications of Euthanasia	300
GRANT, H. B.: Family Law	330
GREEN, L. C.: International Law through the Cases (3rd ed.) . . .	327
GUTTERIDGE, J. A. C.: The United Nations in a Changing World . . .	292
HANBURY, H. G.: Modern Equity (9th ed. by MAUDSLEY, R. H.) . . .	148
HIGGINS, R.: United Nations Peacekeeping 1946-67. Documents and Commentary. Vol. II. Asia	154
HORNBY, J. A.: Introduction to Company Law (3rd ed.)	169
JENKINS, D.: Cyfraith Hywel Rhagarweiniad i Gyfraith Gynhenid Cymru'r Oesau Canol	303
JOSEPH, C.: Nationality and Diplomatic Protection. The Commonwealth of Nations	325
KEAN, M.: The Civil Evidence Act 1968	164
KEITH, K. J. (Ed.): Essays on Human Rights	170
KERRIDGE, E.: Agrarian Problems in the Sixteenth Century and After .	158
LAMBERT, S.: Bills and Acts. Legislative Procedure in Eighteenth-Century England	322
MCILWAIN, C. H.: Constitutionalism and the Changing World	329
MAX PLANCK INSTITUTE FOR COMPARATIVE PUBLIC LAW AND INTERNATIONAL LAW: Judicial Protection against the Executive. Volumes 1 and 2. National Reports	296

Book Reviews

MAYRZEDT, H., and BINSWANGER, H. C.: Die Neutralen in der Europäischen Integration	318
MELLOWS, A. R.: The Trustee's Handbook	330
MILLS, J.: Wurtzburg and Mills' Building Society Law (13th ed.)	308
MUELLER, G. O. W.: Crime, Law and the Scholars. A History of Scholarship in American Criminal Law	331
OERTON, R. T.: Underhill's Law relating to Trusts and Trustees (12th ed.)	152
POULANTZAS, N. M.: The Right of Hot Pursuit in International Law	155
RAZ, J.: The Concept of a Legal System. An Introduction to the Theory of Legal System	160
RYDER, F. R.: Negotiable Instruments	165
STORZ, M.: Capital Gains and Short Term Gains	168
SUNNUCKS, J. G. H.: Williams and Mortimer on Executors, Administrators and Probate	306
SYKES, E. I.: Cases and Materials on Private International Law (2nd ed.)	323
THORNTON, C. E. I., and MCBRIEN, J. P.: Building Society Law Cases and Materials	308
TURNER, R. V.: The King and his Courts. The Role of John and Henry III in the Administration of Justice, 1199-1240	157
WELLINGTON, H. H.: Labor and the Legal Process	166

SUBJECT INDEX 1971

† indicates an article * indicates a book review

Other references are to notes

- * Accidents—compensation for . . . 294
- * Administration of estates . . . 306
- Administrative law
 - Discretion . . . 6, 7, 8
 - Estoppel . . . 3
- * Agrarian law—history . . . 158
- * Arabian Gulf States—status . . . 293
- Blood test . . . 34
- Building societies
 - * Law of . . . 308
 - * Cases and materials . . . 308
- Cambridge Law Journal—jubilee . . . 1
- * Capital gains tax . . . 168
- Certainty of terms—periodic tenancy . . . 198
- Civil law
 - Medieval sources . . . 177
 - * Obligations . . . 313
- * Civil rights . . . 163
- * Collective agreements—comparative law . . . 316
- Colony—recognition of secessionist government . . . 37
- * Commercial law, uniform . . . 319
- Common Market
 - * Neutral states . . . 318
 - Parliamentary prerogative . . . 178
- * Commonwealth — Diplomatic protection . . . 325
- * Company law—introduction . . . 169
- Comparative law
 - * Collective agreements . . . 316
 - * Judicial protection . . . 296
 - * *Puissance paternelle* . . . 315
- * Compensation for accidents . . . 294
- Conflict of laws
 - * Cases and materials . . . 323
 - Recognition of Moslem divorce . . . 40
 - Recognition of Rhodesian divorce . . . 37
- Conspiracy—public mischief . . . 9
- Constitutional law
 - * Microstates . . . 153
 - † Rhodesia — change of grundnorm . . . 103
- Constitutional law—*cont.*
 - Rhodesia—recognition of government . . . 37
 - † United States Supreme Court . . . 134
- * Constitutionalism . . . 329
- Contract
 - Anticipatory breach—damages . . . 11
- Criminal law
 - Conspiracy—public mischief . . . 9
 - Theft—overcharging . . . 9, 185
 - * United States . . . 331
- Criminology
 - * Insanity—criminal responsibility . . . 298
 - † Sentencing . . . 237
- Crown privilege . . . 183
- Damages
 - Anticipatory breach . . . 11
 - Economic loss . . . 19
 - Exemplary . . . 187
 - Expulsion from trade union . . . 15
 - Remoteness . . . 19
- * Defamation — Roman-Dutch law . . . 310
- * Diplomatic protection—Commonwealth . . . 325
- Divorce
 - Moslem, recognition . . . 40
 - Rhodesian, recognition . . . 37
- * Equity, modern . . . 148
- Estoppel—administrative law . . . 3
- European Economic Community
 - * Neutral states . . . 318
 - Parliamentary prerogative . . . 178
- * Euthanasia . . . 300
- Evidence
 - * Civil Evidence Act 1968 . . . 164
 - * Law of . . . 162
 - Refreshing memory . . . 210
- * Executive—protection against . . . 296
- * Executors, administrators and probate . . . 306

Subject Index 1971

Family law	† Legal reasoning	275
Blood test	* Legal system	168
* Family law	Local government—estoppel	3
Matrimonial home	Marriage	
Moslem divorce—recogni-	Nullity	208
tion	Nullity of Marriage Act	
* <i>Puissance paternelle</i>	1971	208
Rhodesian divorce —	Mischief, public	9
recognition	Moslem divorce — recognition	40
Fatal Accidents Acts—illegality	Motor vehicle—vicarious lia-	
.	bility	195
Fence, duty to	* Nationality — diplomatic pro-	
Goodhart, Prof. A. L.	tection	325
† Grundnorm—Rhodesia	Natural justice—classification	181
Hill, E. W.	Negligence—negligent advice	189
Hire-purchase	* Negotiable instruments	165
Default	Nullity of marriage	208
Disposition to private	Nullity of Marriage Act 1971	208
purchaser	* Obligations—civil law	313
Owner's right of recovery	Parliament	
.	Prerogative and E.E.C.	178
* Hot pursuit	* Rent control legislation	321
House of Lords—precedent	Planning	
Human rights	Estoppel	3
* Basic documents	Existing use	201
* Essays	† Powers—trusts and	68
* Historical development	Prerogative—Common Market	178
Illegality—Fatal Accidents Act	Privilege, Crown	183
.	* Probate, executors and ad-	
* Insanity — criminal responsi-	ministrators	306
bility	* Rent control legislation	321
International law	Repugnancy—periodic tenancy	198
* Arabian Gulf States	Rescue—duty to	193
* Cases	Rhodesia	
* Hot pursuit	† Constitutional law	103
* United Nations	Recognition of divorce	37
* United Nations — peace-	* Roman-Dutch law—defama-	
keeping	tion	310
Jubilee of Journal	* Roman law—transfer of pro-	
.	perty	312
Jurisprudence	† Sentencing	237
† Grundnorm—Rhodesia	* Taxation—capital gains	168
Legal reasoning	Tenancy, periodic	198
Legal system	Theft—overcharging	9, 185
Labour law	Tort	
* Collective agreements	Cattle trespass	27
Expulsion from trade	Economic loss	19
union	Exemplary damages	187
* Legal process	Illegality	17
† Land charges	Negligent advice	189
Land law	Remoteness of damage	19
Actual occupation	Rescuers	193
Restrictive covenants	Vicarious liability—motor	
Trust for sale	vehicle	195
Legal history	Trade union—expulsion	15
* Agrarian law	* Treason—middle ages	301
* American criminal law	* Transfer of property—Roman	
* Courts of John and	law	312
Henry III	Trespass, cattle	27
* Law of treason		
Medieval sources		
† <i>Slade's Case</i>		
* Welsh law		

Subject Index 1971

Trusts		United States	
† Powers and	68	† Supreme Court	134
* Trusts and trustees	152	* Criminal law	331
Trust for sale	44, 46	University	
* Trustee's handbook	330	Natural justice	181
* Uniform commercial law	319	University Law Society	176
United Nations		Vicarious liability — motor	
* Changing World	292	vehicle	195
* Peacekeeping	154	* Wales, law of	303
		Work, right to	15

NOTES FOR CONTRIBUTORS

Communications concerning articles should be addressed to the Editor, Professor C. J. Hamson, 7 Cranmer Road, Cambridge; those concerning notes to Mr. J. C. Hall, St. John'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 to the Editor.

THE CAMBRIDGE LAW JOURNAL

November 1971

CASE AND COMMENT

Medieval Civil Law Sources	177	Vicarious Liability—Insurance	195
Prerogative—Control	178	Periodic Tenancies—Certainty	198
Natural Justice—Classification	181	Planning—Existing Use	201
Crown Privilege	183	Hire Purchase	203
Overcharging as Theft	185	Arranged Marriages	206
Precedent—Exemplary Damages	187	Nullity of Marriage	208
Negligent Advice	189	Evidence—Refreshing Memory	210
Rescuer as Defendant	193		

ARTICLES

New Light on <i>Slade's Case</i> : J. H. BAKER	213
Reform of the Sentencing Process: PETER W. LOW	237
The Shiloh Yarn Tangle: P. B. FAIREST	258
The Liar Paradox in Legal Reasoning: J. C. HICKS	275

BOOK REVIEWS

GUTTERIDGE: The United Nations in a Changing World	292	DAINOW: Essays on the Civil Law of Obligations	313
AL-BAHARNA: The Legal Status of the Arabian Gulf States.	293	CRAFFE: La Puissance Paternelle en Droit Anglais	315
ATTYAH: Accidents, Compensation and the Law	294	ADELL: The Legal Status of Collective Agreements in England, the United States and Canada	316
MAX PLANCK INSTITUTE FOR COMPARATIVE PUBLIC LAW AND INTERNATIONAL LAW: Judicial Protection against the Executive. National Reports	296	BROWNLIE (Ed.): Basic Documents on Human Rights	318
ARENS: Make Mad the Guilty	298	MAYRZEDT & BINSWANGER (Eds.): Die Neutralen in der Europäischen Integration	318
GOULD & CRAIGMYLE: Your Death Warrant? The Implications of Euthanasia	300	GILES: Uniform Commercial Law	319
BELLAMY: The Law of Treason in England in the Later Middle Ages	301	BARNETT: The Politics of Legislation. The Rent Act 1957	321
JENKINS: Cyfraith Hywel Rhagarweiniad i Gyfraith Gynhenid Cymru'r Ocsau Canol	303	LAMBERT: Bills and Acts. Legislative Procedure in Eighteenth-Century England	322
SUNNUCKS: Williams and Mortimer on Executors, etc.	306	SYKES: Cases and Materials on Private International Law (2nd ed.)	323
MILLS: Wurtzburg and Mills' Building Society Law (13th ed.)	308	JOSEPH: Nationality and Diplomatic Protection. The Commonwealth of Nations	325
THORNTON & MCBRIEN: Building Society Law Cases and Materials	308	GREEN: International Law through the Cases (3rd ed.)	327
AMERASINGHE: Defamation and other Aspects of the Actio Iniuriarum in Roman-Dutch Law	310	MCILWAIN: Constitutionalism and the Changing World	329
GORDON: Studies in the Transfer of Property by Traditio	312	MELLOWS: The Trustee's Handbook	330
		GRANT: Family Law	330
		MUELLER: Crime, Law and the Scholars.	331
		BOOKS ALSO RECEIVED	333

CAMBRIDGE UNIVERSITY PRESS

Bentley House, 200 Euston Road, London NW1 2DB

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

Price £1.50 net in U.K.; \$4.75 in U.S.A. Subscription price £2.80 net; \$9.00