

THE CAMBRIDGE LAW JOURNAL 1957

AUSTRALIA

**The Law Book Co. of Australasia Pty Ltd.
Sydney : Melbourne : Brisbane**

CANADA AND U.S.A.

**The Carswell Company Ltd.
Toronto**

INDIA

**N. M. Tripathi Private Ltd.
Bombay**

NEW ZEALAND

**Sweet & Maxwell (N.Z.) Ltd.
Wellington**

PAKISTAN

**Pakistan Law House
Karachi**

THE
CAMBRIDGE LAW
JOURNAL
1957

EDITOR

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

*Published under the auspices of
The Faculty of Law, University of Cambridge*

LONDON

STEVENS & SONS LIMITED

1957

*Published by
Stevens & Sons Limited
of 119 & 120 Chancery Lane
London - Law Publishers
and printed in Great Britain
by The Eastern Press Ltd.
of London and Reading*

EDITORIAL COMMITTEE

Professor C. J. HAMSON, M.A., LL.M., *Chairman*

Professor S. J. BAILEY, M.A., LL.M.

Professor E. C. S. WADE, LL.D., *Note Editor*

T. ELLIS LEWIS, PH.D., *Book Review Editor*

R. W. M. DIAS, M.A., LL.B.

J. W. A. THORNELY, M.A.

H. W. R. WADE, M.A., *Note Editor*

CONTRIBUTORS OF ARTICLES

ARMITAGE, A. L. The Homicide Act, 1957	page 183
BAILEY, Professor S. J. Ranulf de Glanvill and his children	163
GOODERSON, R. N. Res gesta in Criminal cases—II	55
HALL, J. C. Recent developments in the <i>Cy-près</i> doctrine	87
HOLLOND, Professor H. A. Some Judges and Chancellors	151
ODGERS, F. J. Occupier's Liability: A further comment	39
WEDDERBURN, K. W. The rule in <i>Foss v. Harbottle</i>	194
WILSON, G. P. Jurisprudence and the Discussion of Ownership	216
YALE, D. E. C. Lord Nottingham and the Revival of Equitable Estates	72

SUBJECT INDEX

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

<p>Administrative Law</p> <p> Certiorari—Error of Law on Record 115</p> <p> Certiorari — when Decision “Final” 115</p> <p> Crown Proceedings — Post Office 113</p> <p> Declaration — Scope of Remedy 6</p> <p> Delegation—Disciplinary Powers 6</p> <p> Judicial or Administrative Function 117</p> <p> Loss of Police Officer’s Services 24</p> <p> Right to a Hearing — Price Fixing 117</p> <p>Armed Forces</p> <p> Foreign Marriage—Common Law 126</p> <p>Company Law</p> <p> †The Rule in <i>Foss v. Harbottle</i> 194</p> <p>Conflict of Laws</p> <p> Foreign Marriage — Common Law 126</p> <p> *Transfer of Chattels 109</p> <p>Constitutional Law</p> <p> Australia — Separation of Powers 117</p> <p> *English Legal System 104</p> <p> Nationality — Interpretation of Statute 1</p> <p> Police—Loss of Services 24</p> <p> Public Order—Binding Over State Interest—Exclusion of Evidence 9</p> <p>Contract</p> <p> Exemption Clause—Description or Condition 12, 16</p> <p> *Sutton & Shannon, Wedderburn’s edition 240</p> <p>Courts</p> <p> *English Legal System 104</p> <p> *Trial by Jury: Devlin 242</p> <p>Criminal Law</p> <p> Conspiracy—For Acts Abroad 131</p> <p> *History—Radzinowicz, Vols. 2 & 3 230</p> <p> †Homicide Act, 1957 183</p> <p> *Juvenile Offenders 102</p>	<p>Criminal Law—<i>cont.</i></p> <p> “Knowingly” Offending 129</p> <p> “Maliciously” Offending 129</p> <p> †<i>Res gesta</i> in Criminal Cases 55</p> <p> *Sexual offences—Department of Criminal Science 235</p> <p>Deed</p> <p> Benefit, if claimed, imposes Burden 35</p> <p>Equity</p> <p> Election—Contract for Sale 26, 143</p> <p> †Revival of Equitable Estates —History 72</p> <p>Evidence</p> <p> *Essays on Evidence 106</p> <p> Estoppel—Vendor of Goods 141</p> <p> Exclusion in State Interest 9</p> <p>History of Law</p> <p> *Sir Edward Coke—Bowen 249</p> <p> *English Legal System 104</p> <p> †Glanvill and his children—Bailey 163</p> <p> *Holdsworth, Vol I 107</p> <p> *History of Criminal Law—Radzinowicz, Vols. 2 & 3 230</p> <p> *Inns of Court—Readings and Moots 98</p> <p> †Some Judges and Chancellors —Holland 151</p> <p> *Quarter Sessions—Caernarvonshire 101</p> <p> †Revival of Equitable Estates 72</p> <p> *Roman Foundations of Modern Law—Jolowicz 244</p> <p> *The United Kingdom—Keeton, Lloyd, etc. 245</p> <p>International Law</p> <p> Sovereign Immunity 3</p> <p>Jurisprudence</p> <p> †Discussion of Ownership —Wilson 216</p> <p> *Law and Social Action —Carlston 252</p> <p>Leases</p> <p> Covenant — Option — Assignment 148</p> <p> Option to Purchase Reversion —Assignment 148</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Personal Property		Tort	
Perpetuity Rule—Reform	30	Action <i>per quod servitium</i>	
Title of Purchaser—Estoppel	141	<i>amisit</i>	24
Real Property		Indemnity by Servant to	
†Equitable Estates—History	72	Master	21
*Megarry & Wade—Textbook	231	Independent Contractor	132, 134
Option—Benefit—How Assignable	148	Loss of Services of Servant	24
Perpetuity Rule—Reform	30	Master and Servant	21, 24, 134, 140
Perpetuity Rule—Covenant affecting Land	35	Negligence—Defective Tool	134
Positive Covenant Enforceable	35	Negligence—Fire—Contractor	132
Restrictive Covenant—Benefit—Building Scheme	146	Nuisance—Tree Roots	137
Restrictive Trade Practices		†Occupiers' Liability	39
Agreements, when Registrable	121	Occupiers' Liability	21
Resale Price Maintenance	121	Police Officer's Wages	24
Statutes and Statutory Instruments		<i>Rylands v. Fletcher</i> —Fire—Contractor	132
Finality Clause—Interpretation	115	Safe System of Work	134, 140
Nationality—Interpretation	1	Trusts	
		†Charity— <i>Cy-près</i> Doctrine	87
		†History of Trusts	72
		Rule in <i>Lassence v. Tierney</i> —Accruer Clause	30
		Will	
		Ademption—Effect of Contract	143

CASES ANNOTATED

Att.-Gen. <i>v.</i> Prince Ernest 1	Lister <i>v.</i> Romford Ice Co. 21
Att.-Gen. for Australia <i>v.</i> R. (Boilermakers Soc.) 117	Monmouth C.C. <i>v.</i> Smith 24
Ashdown <i>v.</i> Williams, Ltd. 21	Nizam of Hyderabad <i>v.</i> Jung 3
Atkinson's Will Trust, <i>Re</i> 30	N.-Z. Victuallers <i>v.</i> Price Tri- bunal 119
Austin, Ltd., <i>Re</i> 121	Pinewood Estates, <i>Re</i> 146
Balfour <i>v.</i> Barty-King 132	Receiver, Metrop. Police <i>v.</i> Croydon Corp. 24
Board of Trade <i>v.</i> Owen 131	Renton, Ltd. <i>v.</i> Palmyra Corp. 16
County Laboratories, Ltd. <i>v.</i> Mindel, Ltd. 121	R. <i>v.</i> Cunningham 129
Davey <i>v.</i> Harrow Corp. 137	R. <i>v.</i> Hallam 130
Davie <i>v.</i> New Merton Mills, Ltd. 134	R. <i>v.</i> Medical App. Trib., <i>ex p.</i> Gilmore 115
Dacey, <i>Re</i> 26	Spurling, Ltd. <i>v.</i> Bradshaw 16
Eastern Distrib. <i>v.</i> Goldring 141	Taczanowska <i>v.</i> T. 126
Edwards, <i>Re</i> 26, 143	Treifus, Ltd. <i>v.</i> Post Office 113
Griffith <i>v.</i> Pelton 148	Vine <i>v.</i> Nat. Dock Labour Board 6
Halsall <i>v.</i> Brizell 35	Whitehall <i>v.</i> W. 9
Hudson <i>v.</i> Ridge, Ltd. 140	
Karsales, Ltd. <i>v.</i> Wallis 13	

BOOK REVIEWS

BOWEN: Sir Edward Coke	249
CARLSTON: Law & Structure of Social Action	252
CHRIMES: Holdsworth, Vol. 1	107
COWEN & CARTER: Law of Evidence	106
DEPARTMENT of Criminal Science: Sexual Offences	235
DEVLIN: Trial by Jury	242
GRÜNHUT: Juvenile Offenders	102
JOLOWICZ: Roman Foundations of Modern Law	244
KIRALFY: The English Legal System	104
MEGARRY & WADE: Law of Real Property	231
RADZINOWICZ: History of Criminal Law, Vols. 2 & 3	230
THORNE: Readings and Moots	98
THE BRITISH COMMONWEALTH: The United Kingdom (The British Commonwealth Series, Vol. 1)	245
WEDDERBURN: Sutton & Shannon on Contracts	241
WILLIAMS: Caernarvonshire Quarter Sessions	101
ZAPHIRIOU: Transfer of Chattels	109

• *New Butterworth Publications* •

MAGNUS ON THE RENT ACT, 1957

By S. W. MAGNUS, B.A., of Gray's Inn, Barrister-at-Law. With Annotations to the Scottish provisions by R. A. BENNETT, M.A., LL.B., Advocate, Edinburgh. This new book, reprinted from *Butterworths Annotated Legislation Service*, follows the usual format of a General Introduction followed by the annotated text of the Act. In addition, there are two Appendices; the first containing previous rent control legislation as amended by the 1957 Act, and the second containing statutory instruments issued consequent upon the passing of the Act.

32s. 6d. net, by post 2s. extra.

WILLIAMS ON TITLE

Being the Law and Practice Relating to the Contract for Sale of Land and the Title to Land

2nd Edition, 1957. By W. J. WILLIAMS, B.A., of Lincoln's Inn, Barrister-at-Law; Conveyancing Editor of the *Encyclopaedia of Forms and Precedents* (Third Edition). For the new edition this work has undergone thorough revision to bring it up to date, and a completely new chapter has been added to deal with Estate Agent's Commission. Altogether, the book now runs to over 1,000 pages.

95s. net, by post 2s. extra.

ERSKINE MAY'S PARLIAMENTARY PRACTICE

16th Edition, 1957. Editors: Sir EDWARD FELLOWES, K.C.B., C.M.G., M.C., Clerk of the House of Commons; T. G. B. COCKS, O.B.E., Second Clerk Assistant of the House of Commons. Editor Consultant: LORD CAMPION, G.C.B., HON.D.C.L., formerly Clerk of the House of Commons.

Sir Thomas Erskine May's great work has for some time been out of print and unobtainable, and this new edition will therefore be very welcome, particularly as it incorporates all the changes in practice which have taken place during the past seven years.

Price £5 5s. net, by post 2s. 3d. extra.

BROMLEY ON FAMILY LAW

By P. M. BROMLEY, M.A. (OXON), of the Middle Temple, Barrister-at-Law, Lecturer in Law in the University of Manchester.

The author of this new book sets out to satisfy the need for a comprehensive up-to-date text book which, dealing with the legal problems of the family as a whole, will be of practical value, particularly to third year University Students and others at an advanced stage in their legal studies.

55s. net, by post 1s. 9d. extra.

BUTTERWORTHS, 88 KINGSWAY, LONDON, W.C.2

SHOWROOM: 11-12 BELL YARD, TEMPLE BAR, W.C.2

PITMAN

LAW BOOKS

THE LAW OF TRUSTS

By GEORGE W. KEETON, M.A., LL.D., Professor of English Law in the University of London. 7th Edition. Revised and brought up to date, this work provides a textbook for law students who require a more detailed statement of the rules of Law and Equity relating to Trusts than is provided in works dealing with the field of Equity generally. 50s. net. "There is no fault to find . . . We recommend 'Keeton' wholeheartedly . . ."—*LAW NOTES* (from a review of a former edition).

THE LAW OF TRUSTS (WITH IRISH SUPPLEMENT)

This is the seventh edition of G. W. Keeton's *Law of Trusts* and the first edition to contain an Irish Supplement, which is written by L. A. Sheridan, LL.B., PH.D., of Queen's University, Belfast. Particularly for Irish Law students the supplement will be of immense value in that it forms a comparison between the English and the Irish systems and deals with Irish practice in a lucid and comprehensive manner. The inclusion of references to cases renders the book equally useful to the practitioner. 60s. net.

THE LAW OF WILLS

Including Intestacy and Administration of Assets. Fifth edition. By S. J. BAILEY, M.A., LL.M. An introduction to the rules of law, equity and construction relating to testamentary dispositions. This, the fifth edition, has been revised in the light of recent decisions, and of certain statutory changes. Some topics such as annuities and the following of assets have been treated rather more adequately than before. The new material includes sections on the incidence of pecuniary legacies and on alternative gifts. References to the Intestacies Act, 1952, have been incorporated in the text, and a special appendix in Part I of the Act has been included. 50s. net.

THE SALE OF GOODS

By P. S. ATIYAH, B.A., B.C.L. (Oxon). Students, Teachers and Practitioners in Commercial Law will find much to stimulate thought and argument in this new approach to the modern law of sale of goods. Far from being a commentary upon the Sale of Goods Act, 1893, the arrangement of the Act is discarded and the subject is dealt with in a more readable manner. 25s. net.

FRAUD IN EQUITY

By L. A. SHERIDAN, LL.B., PH.D., etc. A thorough re-examination of the concept of fraud as developed by the Court of Chancery. Taking as a starting point the classical division of equitable fraud as enunciated by Lord Harwicke in *Earl of Chesterfield v. Janssen*, the author surveys the various types of behaviour fraud for limited purposes, arriving at a final synthesis in which meaning, classification and distinguishing features of equitable fraud are considered in the light of the material surveyed. A comprehensive review—one that could not be expected of a general book on Equity—for students and legal practitioners. 40s. net.

PITMAN

PARKER STREET, KINGSWAY, LONDON, W.C.2