Macmillan Professional Masters

Basic English Law

Macmillan Professional Masters

Titles in the series

Basic English Law W. T. Major

Communication Nicki Stanton

Company Accounts Roger Oldcorn

Constitutional and Administrative Law John Alder

Contract Law Ewan McKendrick

Cost and Management Accounting Roger Hussey

Criminal Law Marise Cremona

Data Processing John Bingham

Employee Relations Chris Brewster

Land Law Kate Green

Landlord and Tenant Law Margaret Wilkie and Godfrey Cole

Management Roger Oldcorn

Marketing Robert G. I. Maxwell

Office Administration E. C. Eyre

Personnel Management Margaret Attwood

Study Skills Kate Williams

Supervision Mike Savedra and John Hawthorn

Basic English Law

SECOND EDITION

W. T. Major
MA, LLB

*formerly Principal Lecturer in Law at the
City of London Polytechnic*

Consultant editor for the second edition:

Andrew Harvey

LLB

*Lecturer in Law at the
Thames Valley College of Higher Education*

Law Series Editor: Marise Cremona

*Principal Lecturer in Law at the
City of London Polytechnic*

M
MACMILLAN

© W. T. Major 1985, 1990

All rights reserved. No reproduction, copy or transmission of this publication may be made without written permission.

No paragraph of this publication may be reproduced, copied or transmitted save with written permission or in accordance with the provision of the Copyright Act 1956 (as amended), or under the terms of any licence permitting limited copying issued by the Copyright Licensing Agency, 33-4 Alfred Place, London WC1E 7DP.

Any person who does any unauthorised act in relation to this publication may be liable to criminal prosecution and civil claims for damages.

First edition 1985

Second edition 1990

The first edition of this book was published as *Mastering English Law* in the Macmillan Master series.

Published by
MACMILLAN EDUCATION LTD
Houndmills, Basingstoke, Hampshire RG21 2XS
and London
Companies and representatives
throughout the world

Typeset by TecSet Ltd, Wallington, Surrey

British Library Cataloguing in Publication Data

Major, W. T. (William Thomas)

Basic English law. — 2nd ed. — (Macmillan professional masters).

1. England. Law

I. Title II. Major, W. T. (William Thomas). *Mastering basic English law*.

344.2

ISBN 978-0-333-53251-5

ISBN 978-1-349-20588-2 (eBook)

DOI 10.1007/978-1-349-20588-2

Contents

<i>Preface to the Second Edition and Acknowledgements</i>	xi
<i>Table of Cases</i>	xiii
<i>Table of Statutes</i>	xxi

Part I PRELIMINARY MATTERS

1 Historical background	3
1.1 How law developed from custom	3
1.2 The common law	3
1.3 Equity	4
1.4 Legislation	5
1.5 Local custom	6
1.6 The law merchant	7
Summary	8
Exercises	8
2 Sources of law	9
2.1 Legislation	9
2.2 Kinds of statute	11
2.3 Delegated legislation	12
2.4 Autonomic legislation	12
2.5 Interpretation and construction of statutes	13
2.6 EEC legislation	15
2.7 Precedent	16
2.8 Case law	16
2.9 Precedents may be binding or persuasive	17
2.10 Law reporting	18
2.11 Subsidiary sources of law	20
Summary	21
Exercises	22
3 The system of courts	23
3.1 Introductory matters	23
3.2 The House of Lords	23

3.3	The Supreme Court: constitution	25
3.4	The Supreme Court: jurisdiction	28
3.5	Other courts	30
3.6	The European Court	34
3.7	Juries	36
3.8	The legal profession	37
	Summary	39
	Exercises	40
4	Basic legal concepts	41
4.1	Introductory matters	41
4.2	Persons	41
4.3	Rights and duties	43
4.4	Property	45
4.5	Ownership	46
4.6	Possession	47
	Summary	48
	Exercises	50
<hr/>		
Part II	BRANCHES OF LAW	
<hr/>		
5	Criminal law	53
5.1	Introductory matters	53
5.2	Offences against the person	56
5.3	Offences against property	60
	Summary	62
	Exercises	63
6	The law of torts	64
6.1	Introductory matters	64
6.2	Torts to the person	65
6.3	Interference with goods	66
6.4	Trespass to land	67
6.5	Defences	67
6.6	Other torts	69
	Summary	74
	Exercises	75
7	The tort of negligence	76
7.1	The general duty of care	76
7.2	Limits of the duty of care	77
7.3	The standard of care	80

7.4	Causation and remoteness	81
7.5	Defences	84
7.6	Product liability	85
	Summary	85
	Case notes	86
	Exercises	90
	Workshop	91
8	The law of real property	92
8.1	Introductory matters	92
8.2	The fee simple absolute in possession	96
8.3	Leaseholds and other interests	97
8.4	The strict settlement and trust for sale	101
	Summary	102
	Exercises	104
9	Company law	105
9.1	Introductory matters	105
9.2	Public companies	107
9.3	Private companies	118
9.4	EEC law	119
	Summary	119
	Exercises	120
<hr/>		
Part III	CONTRACTS	
<hr/>		
10	Contractual rights and obligations	123
10.1	What is a contract?	123
10.2	Agreement	125
10.3	Consideration	129
10.4	Intention to create legal relations	132
10.5	Terms of contract	133
10.6	Enforcement of contracts	140
	Summary	141
	Case notes	142
	Exercises	144
	Workshop	145
11	The authenticity of agreement	147
11.1	Mistake	147
11.2	Misrepresentation	151

11.3	Duress and undue influence	154
	Summary	156
	Case notes	157
	Exercises	158
	Workshop	158
12	Contractual validity	160
12.1	Contracts which must be evidenced in writing	160
12.2	Illegal contracts	162
12.3	Contracts in restraint of trade	164
12.4	Capacity	166
	Summary	169
	Case notes	170
	Exercises	171
	Workshop	172
13	Breach of contract and discharge	174
13.1	Breach of contract	174
13.2	Discharge of contract	179
	Summary	185
	Case notes	186
	Exercises	188
	Workshop	188
<hr/> Part IV COMMERCIAL LAW <hr/>		
14	Agency	193
14.1	Principal and agent	193
14.2	The creation of agency	193
14.3	The agency agreement	196
14.4	Position of third parties	197
14.5	Breach of warranty of authority	198
14.6	Termination of agency	199
	Summary	200
	Exercises	200
	Workshop	200
15	Partnership	202
15.1	The nature of partnership	202
15.2	Relations of partners to persons dealing with them	203
15.3	Relations of partners to one another	205
15.4	Accountability of partners: duty of good faith	206

15.5	Dissolution of partnership	206
15.6	The effects of dissolution of partnership	208
	Summary	209
	Exercises	209
	Workshop	210
16	Sale of goods	211
16.1	The contract of sale	211
16.2	Performance of the contract	211
16.3	The transfer of property in the goods to the buyer	212
16.4	The <i>nemo dat</i> rule and its exceptions	214
16.5	Implied terms	215
16.6	Exclusion of seller's liability	217
16.7	Breach of contract of sale	219
	Summary	221
	Exercises	222
	Workshop	222
17	Consumer credit	224
17.1	The Consumer Credit Act 1974	224
17.2	Regulated consumer agreements	225
17.3	Entry into credit or hire agreements	228
17.4	Matters arising during the agreement	230
17.5	Default and termination	231
17.6	Security	233
17.7	Judicial control	235
	Summary	236
	Exercises	237
18	The assignment of things in action	238
18.1	Assignment	238
18.2	Restrictions on the effectiveness of assignment	240
	Summary	242
	Exercises	242
	Workshop	243
19	Bills of exchange	244
19.1	Negotiability	244
19.2	Definition and form of a bill	245
19.3	Capacity and authority of the parties	248
19.4	The consideration for a bill	249
19.5	The negotiation of bills	250

19.6	General duties of the holder	252
19.7	Liabilities of parties	255
19.8	The discharge of a bill	257
19.9	Acceptance and payment for honour	258
	Summary	259
	Exercises	260
	Workshop	260
20	Cheques and promissory notes	262
20.1	Cheques on a banker	262
20.2	Crossed cheques	263
20.3	The Cheques Act 1957	266
20.4	Promissory notes	267
	Summary	269
	Exercises	270
	Workshop	270
	<i>Appendix: The Unfair Contract Terms Act 1977</i>	272
	Index	279

Preface to the Second Edition and Acknowledgements

This book has been designed to meet the needs of those readers who are preparing for a professional examination containing a paper on the general principles of law. Such papers are encountered by students of accountancy, banking, insurance, business studies and company secretarial studies. Parts I, II and III, taken together, will be found to cover most syllabuses of this kind. Part IV of the book goes on to deal with commercial law topics which are required by some, but not all, examining bodies.

The book may be used as a complete self-study course comprising main explanatory text, chapter summaries, exercises and workshop problems. Alternatively, the book may be found useful as an auxiliary text or revision text for readers attending college courses.

The author gratefully acknowledges the influence of Lady Oliver, who was the original law series editor. She was always generous with assistance and encouragement during the preparation of the first edition, resulting in many substantial improvements.

The author is grateful also to Andrew Harvey, who, as consultant editor for the second edition, did most of the work required for the updating and preparation of the text of this edition.

November 1989

W. T. Major

ACKNOWLEDGEMENTS

The author and publishers wish to thank the Controller of Her Majesty's Stationery Office for Nos 1–14 of *Appendix: Unfair Contract Terms Act 1977*.

Every effort has been made to trace all the copyright-holders but if any have been inadvertently overlooked the publishers will be pleased to make the necessary arrangement at the first opportunity.

To Tom
and to the memory of Mary

Table of Cases

Ailsa Craig v. Malvern Fishing Co. [1983] 1 W.L.R. 964; [1983] 1 All E.R. 101	138
Alexander v. Rayson [1936] 1 K.B. 169	163
Alan (W.J.) & Co. Ltd. v. El Nasr Export and Import Co. (1972) 2 Q.B. 189; [1972] 2 All E.R. 127	182
Allcard v. Skinner (1887) 36 Ch.D. 145; [1886–90] All E.R. Rep. 90	155
Allen v. Gulf Oil Refining Ltd. [1981] A.C. 1001; [1981] All E.R. 353	69
Allen v. Thorn Electrical Industries [1968] 1 Q.B. 487; [1967] 2 All E.R. 1137	14
Aluminium Industrie Vaassen BV v. Romalpa Aluminium Ltd. [1976] 1 W.L.R. 676; [1976] 2 All E.R. 552	213
Amalgamated Investment and Property Co. Ltd. v. John Walker & Sons [1977] 1 W.L.R. 164; [1976] 3 All E.R. 509	184
Anglia Television v. Reed [1972] 1 Q.B. 60; [1971] 3 All E.R. 690	176, 186
Anns v. London Borough of Merton [1978] A.C. 728; [1977] 2 All E.R. 492	76, 86, 90, 91
Archer v. Brown [1985] Q.B. 401; [1984] 2 All E.R. 267	153
Appleson v. Littlewood Ltd. [1939] 1 All E.R. 464	133
Archbolds v. Spanglett [1961] 1 Q.B. 374; [1961] 1 All E.R. 417	163
Ashmore v. Dawson [1973] 1 W.L.R. 828; [1973] 2 All E.R. 856	164
Atlantic Baron, The [1979] Q.B. 705; [1978] 3 All E.R. 1170	155
Attwood v. Lamont [1920] 3 K.B. 571	166, 170
Bainbridge v. Firmstone (1838) 8 AD. & E. 743	130, 146
Baker v. Jones [1954] 1 W.L.R. 1005; 2 All E.R. 553	164
Balfour v. Balfour [1919] 2 K.B. 571	133
Barnett v. Chelsea and Kensington Hospital Management Committee [1969] 1 Q.B. 428; [1968] 1 All E.R. 1068	82
Beale v. Taylor [1967] 1 W.L.R. 1193; [1967] 3 All E.R. 253	216
Beck v. Smith (1836) 2 M. & W. 190	13
Bell v. Lever Brothers [1932] A.C. 161	147
Bentley (Dick) Productions Ltd. v. Harold Smith Ltd. [1965] 1 W.L.R. 623; [1965] 2 All E.R. 65	134
Beresford v. Royal Insurance Co. Ltd. [1938] A.C. 586; [1938] 2 All E.R. 602	162

Bernstein v. Pamsons Motors (1986) Times, 25 October	221
Bevan v. The National Bank (1906) 23 T.L.R. 65	264
Bigos v. Boustead [1951] 1 All E.R. 92	162, 164
Blythswood Motors Ltd. v. Lloyds & Scottish Finance (1973) S.L.T.	215
Board of Trade v. Owen [1957] A.C. 602; [1957] 1 All E.R. 411	53, 62
Bolton v. Mahadeva [1972] 1 W.L.R. 1009; [1972] 2 All E.R. 1322	180, 186
Bolton v. Stone [1951] A.C. 850; [1951] 1 All E.R. 1078	81
Bond Worth Ltd, <i>Re</i> [1980] Ch. 228; [1979] 3 All E.R. 919	213
Boulton v. Jones (1857) 2 H. & N. 564	150
British Railways Board v. Pickin [1974] A.C. 765; [1974] 1 All E.R. 609	9
British Reinforced Concrete Co. v. Schelff [1921] 2 Ch. 563	165, 171
Bulmer (H.P.) Ltd. v. J. Bollinger S.A. [1974] Ch. 401; [1974] 2 All E.R. 1226	35
Burnett v. Westminster Bank [1966] 1 Q.B. 742; [1965] 3 All E.R. 81	138
Bushwall Properties Ltd. v. Vortex Properties Ltd [1976] 1 W.L.R. 591; [1976] 2 All E.R. 282	137, 146
Butler Machine Tool Co. v. Ex-Cell-O Ltd. [1979] 1 W.L.R. 401; [1979] 1 All E.R. 965	126, 142
Byrne v. Van Tienhoven [1880] 5 C.P.D. 344	129, 142
Carlill v. Carbolic Smoke Ball Co. [1893] 1 Q.B. 256	127
Carslogie S.S. Co. v. Royal Norwegian Government [1952] A.C. 292; [1952] 1 All E.R. 20	82
Casey's Patents, <i>Re</i> [1892] 1 Ch. 104	131
Cehave v. Bremer [1976] Q.B. 44; [1975] 3 All E.R. 739	216
Central London Property Trust Ltd. v. High Trees House Ltd. [1947] K.B. 130	182
Chandler v. Webster [1904] 1 K.B. 493	184
Chapelton v. Barry UDC [1940] 1 K.B. 532	138
Chaplin v. Frewin [1966] Ch. 71; [1965] 3 All E.R. 764	168
Charter v. Sullivan [1957] 2 Q.B. 117; [1957] 1 All E.R. 809	219
Clough Mill Ltd. v. Martin [1984] 3 All E.R. 982	213
Combe v. Combe [1951] 2 K.B. 215; [1951] 1 All E.R. 767	182, 183
Courtney & Fairburn v. Tolaini Bros [1975] 1 W.L.R. 297; [1975] 1 All E.R. 716	137
Craddock v. Hunt [1923] 2 Ch. 136	150
Craven-Ellis v. Canons Ltd. [1936] 2 K.B. 403	177
Crow v. Wood [1971] 1 Q.B. 77; [1970] 3 All E.R. 425	100
Currie v. Misa (1875) L.R. 10 Ex. 153	129, 141
Cutter v. Powell (1795) 6 Term. Rep. 320	180, 188

D & C Builders v. Rees [1966] 2 Q.B. 617; [1965] 3 All E.R. 837	181
Dakin v. Lee [1916] 1 K.B. 566	180
Davies & Co. Ltd. v. William Old Ltd. (1969) 113 S.J. 252	126, 142
Davies Contractors v. Fareham U.D.C. [1956] A.C. 696; [1956] 2 All E.R. 145	183
De Bernady v. Harding (1853) 8 Ex. 822	177
De Francesco v. Barnum [1886-901] All E.R. Rep. 414	168
Derry v. Peek (1889) 14 App. Cas. 337	70, 75, 153
Dickinson v. Barrow [1904] 2 Ch. 339	161
Dickinson v. Dodds (1876) 2 Ch.D. 453	129, 142
DPP v. Smith [1961] A.C. 290; [1960] 3 All E.R. 161	56, 63
Donoghue v. Stevenson [1932] A.C. 562	76, 86, 87
Doughty v. Turner Manufacturing Co. Ltd. [1964] 1 Q.B.; 518; [1964] 1 All E.R. 98	83
Doyle v. White City Stadium [1935] 1 K.B. 110	168
D & F Estates Ltd. v. Church Commissioners (1988) 2 All E.R. 992	79, 87, 91
Dunlop v. New Garage [1915] A.C. 79	177, 188
Dunlop v. Selfridge [1915] A.C. 847	20, 130, 141
Eastern Distributors Ltd. v. Goldring [1957] 2 Q.B. 600; [1957] 2 All E.R. 525	214
Eccles v. Bryant [1948] Ch. 93; [1947] 2 All E.R. 865	133
English Hop Growers v. Dering [1928] 2 K.B. 174	165, 171
Fagan v. Metropolitan Police Commissioner [1969] 1 Q.B. 439; [1968] 3 All E.R. 442	58-9
Federal Commerce and Navigation v. Molean Alpha [1979] A.C. 757; [1979] 1 All E.R. 307	179
Felthouse v. Brindley (1862) 6 L.T. 157	126
Fercometal S.A.R.L. v. Mediterranean Shipping Co. The <i>Simona</i> [1988] 2 All E.R. 742	180
Fibrosa Spolka Akeyjna v. Fairbairn Lawson Combe Barbour Ltd. [1943] A.C. 32	11, 184
Fisher v. Bell [1961] 1 Q.B. 394; [1960] 3 All E.R. 731	126
Fitch v. Dewes [1921] 2 A.C. 158	165, 171
Fitzroy v. Cave [1904-7] All E.R. Rep. 194	238
Folkes v. King [1923] 1 K.B. 282	214
Fowler v. Lanning [1959] 1 Q.B. 426; [1959] 1 All E.R. 290	75
Galloway v. Galloway (1914) 30 T.L.R. 531	148
Gardner v. Coutts Co. [1968] 1 W.L.R. 173; [1967] 3 All E.R. 1064	135
Geddling v. Marsh [1920] All E.R. Rep. 63	216
Glasbrook Bros Ltd. v. Glamorgan County Council [1925] A.C. 270; [1924] 1 All E.R. 579	130, 143

Goldsoll v. Goldman [1915] 1 Ch. 292	166
Goldsworthy v. Brickel [1987] 1 All E.R. 853	156
Griffiths v. Peter Conway Ltd. [1939] 1 All E.R. 685	216
Grist v. Bailey [1967] Ch. 532; [1966] 2 All E.R. 875	149
Hadley v. Baxendale (1854) 9 Ex. 341	140, 174, 175, 185
<i>Hannah Blumenthal</i> , The, <i>see</i> Paal Wilson v. Partenreederei HB	
Harris v. Nickerson (1873) L.R. 8 Q.B. 282	126
Harris v. Wyre Forest District Council [1989] 2 All E.R. 514	140, 146
Hartley v. Ponsonby (1858) 7 E. & B. 872	130
Hartog v. Colin & Shields [1939] 3 All E.R. 566	148
Harvela Investments Ltd. v. Royal Trust Co. of Canada [1985] 3 W.L.R. 276; [1985] 2 All E.R. 966	127
Haynes v. Harwood [1935] 1 K.B. 146	84
Hedley Byrne & Co. v. Heller & Partners Ltd. [1964] A.C. 465; [1963] 2 All E.R. 575	78, 86, 87–8, 91, 153
Henthorn v. Fraser [1892] 2 Ch. 27; [1891–4] All E.R. Rep. 908	127, 143
Herd v. Weardale Steel, Coke and Coal Co. [1915] A.C. 67	65
Herman v. Jeuchner (1885) 15 Q.B.D. 561	163
Heron II [1969] 1 A.C. 350; [1967] 3 All E.R. 686	176
Heydon's case (1584) 3 Co. Rep. 7a	13
Hochster v. De la Tour (1853) 2 E. & B. 678	179
Holman v. Johnson (1775) 1 Cowp. 341	162, 171
Holwell Securities v. Hughes [1974] 1 W.L.R. 155; [1974] 1 All E.R. 161	128, 143
Home Office v. Dorset Yacht Co. [1970] A.C. 1004; [1970] 2 All E.R. 294	77–8, 88, 91
Household Fire Insurance Co. v. Grant (1879) 4 Ex. D. 216	127
Howard Marine & Dredging Co. v. Ogden & Sons Ltd. [1978] Q.B. 574; [1978] 2 All E.R. 1134.	154, 157
Hughes v. Liverpool Victoria Legal Friendly Society [1916] 2 K.B. 482; [1916–17] All E.R. Rep. 819	164
Hughes v. Lord Advocate [1963] A.C. 837; [1963] 1 All E.R. 705	83
Hyam v. DPP [1975] A.C. 55; [1974] 2 All E.R. 41	56, 63
Hyde v. Wrench (1840) 3 Beav. 334	126
Imperial Loan v. Stone [1892] 1 Q.B. 599; [1891–4] All E.R. Rep. 412	168
Interfoto Picture Library Ltd. v. Stiletto Visual Programmes Ltd. [1988] 1 All E.R. 83	134
JEB Fasteners Ltd. v. Marks, Bloom and Co. [1983] 1 All E.R. 583	78
Joachimson v. Swiss Bank Corporation [1921] 3 K.B. 110	262, 270
Jones v. Paddavaton [1969] 1 W.L.R. 328; [1969] 2 All E.R. 616	133

Junior Books Ltd. <i>v</i> Veitchi Ltd. [1983] A.C. 520; [1982] 3 All E.R. 201	65, 78, 88–9, 91
Keighly Maxted & Co. <i>v</i> . Durant [1901] A.C. 240	196, 200
Krell <i>v</i> . Henry [1903] 2 K.B. 740	184
L.P.T.B. <i>v</i> . Upson [1949] A.C. 155; [1949] 1 All E.R. 60	73
Lagunas Nitrate Co. <i>v</i> . Lagunas Syndicate [1899] 2 Ch. 392	152
Lancashire Loans <i>v</i> . Black [1934] 1 K.B. 380; [1933] All E.R. Rep.	156
Leaf <i>v</i> . International Galleries [1950] 2 K.B. 86; [1950] 1 All E.R. 693	153, 179, 186
Lee <i>v</i> . Showmen's Guild [1952] 2 Q.B. 329; [1952] 1 All E.R. 1175	164
Lewis <i>v</i> . Averay [1973] 1 W.L.R. 510; [1973] 2 All E.R. 229	151, 215
Liverpool County Council <i>v</i> . Irwin [1977] A.C. 239; [1976] 2 All E.R. 39	135
Lloyds Bank <i>v</i> . Bundy [1975] Q.B. 326; [1974] 3 All E.R. 757	156
Lumley <i>v</i> . Wagner (1852) 1 De G.M. & G. 604	178
Luxor <i>v</i> . Cooper [1941] A.C. 108	135
McArdle, <i>Re</i> [1951] Ch. 669; 1 All E.R. 905	131, 146
McCutcheon <i>v</i> . MacBrayne [1964] 1 W.L.R. 125; [1964] 1 All E.R. 430	138
McWilliams <i>v</i> . Sir William Arrol & Co. [1962] 1 W.L.R. 295; [1962] 1 All E.R. 623	82
Manchester Diocesan Council for Education <i>v</i> . Commercial and General Investments Ltd [1970] 1 W.L.R. 241 [1969] 3 All E.R. 1593	128
Mason <i>v</i> . Provident Clothing and Supply Co. Ltd. [1913] A.C. 724	165
Merritt <i>v</i> . Merritt [1970] 1 W.L.R. 1211; [1970] 2 All E.R. 760	133
Miller <i>v</i> . Jackson [1977] Q.B. 966; [1977] 3 All E.R. 338	81
Mitchell <i>v</i> . Finney Lock Seeds [1983] 3 W.L.R. 163	139, 218
Moorcock, <i>The</i> (1889) 15 P.D. 64	135
Moreton <i>v</i> . William Dixon Ltd. (1909)	77
Morris <i>v</i> . Saxelby [1916] 1 A.C. 688	165, 171
Munro <i>v</i> . Wilmot [1949] 1 K.B. 295; [1948] 2 All E.R. 983	195
N.Z. Shipping Co. Ltd. <i>v</i> . A.M. Satterthwaite & Co. Ltd. [1975] A.C. 154; [1974] 1 All E.R. 1015	131
Nash <i>v</i> . Halifax Building Society [1979] Ch. 584; [1979] 2 All E.R. 19	164
Nash <i>v</i> . Inman [1908] 2 K.B. 1; [1908–10] All E.R. Rep. 17	168
National Carriers <i>v</i> . Panalpina (1981)	183

National Westminster Bank Ltd. v. Morgan [1985] A.C. 685; [1985] 1 All E.R. 821	156
Niblett v. Confectioners' Materials Ltd [1921] 3 K.B. 387	215
Nicolene v. Simmonds [1953] 1 Q.B. 543; [1953] 1 All E.R. 822	137, 146
Nordenfelt v. Maxim Nordenfelt [1894] A.C. 535	165
Northwestern Utilities Ltd. v. London Guarantee and Accident Col. Ltd [1936] A.C. 108	81
Olley v. Marlborough Court Hotel [1949] 1 K.B. 532; [1949] 1 All E.R. 127	138
Oropesa, The [1943] P. 32; [1943] 1 All E.R. 211	84
Paal Wilson v. Partenreederei, H.B., The <i>Hannah Blumenthal</i> [1982] 3 W.L.R. 1149; [1983] 1 All E.R. 34	181
Pao On v. Lau Ying Long [1980] A.C. 614; [1979] 3 All E.R. 65	155
Paradine v. Jane (1647) Aleyn 26	183
Paris v. Stepney B. C. [1951] A.C. 367; [1951] 1 All E.R. 42	81, 91
Parker v. S. E. Rly Co. (1877) 2 C.P.D. 416	138
Parkinson v. The College of Ambulance [1952] 2 K.B. 1; [1924] All E.R. Rep. 325	163
Parmeter v. Coupland (1840) 6 M. & W. 105	71
Payne v. Cave (1789) 3 T.R. 148	128
Peabody Donation Fund v. Sir Lindsay Parkinson & Co. Ltd (1984) 3 All E.R. 529	77, 91
Pearce v. Brooks (1866) L.R. 1 Ex. 213	162
Peters v. Fleming (1840) 6 M. & W. 42	167
Pharmaceutical Society v. Boots [1953] 1 Q.B. 401; [1953] 1 All E.R. 482	126, 144
Phillips v. Brooks [1919] 2 K.B. 243	151
Photo Productions Ltd. v. Securicor Transport Ltd. [1980] A.C. 827; [1980] 1 All E.R. 556	138, 140
Pinnel's case (1602) 5 Co. Rep. 117a	181
Powell v. Braun [1954] 1 W.L.R. 401; [1954] 1 All E.R. 484	177
R. v. Cunningham [1982] A.C. 566; [1981] 2 All E.R. 863	60
R v. Dudley and Stephens (1884) 14 Q.B.D. 273	55
R v. Ghosh [1982] Q.B. 1053; [1982] 2 All E.R. 689	60
R. v. Hancock and Shankland (1986) A.C. 455; 1 All E.R. 641	57
R. v. Howe (1987) A.C. 417; 1 All E.R. 771	55
R. v. Lamb [1967] 2 Q.B. 981; 2 All E.R. 1282	58
R. v. M'Naghten (1843) 10 Cl. & F. 200	55
R. v. Nedrick (1986) 3 All E.R. 1; 1 W.L.R. 1025	57, 63
Raffles v. Wichelhaus (1864) 2 H. & C. 906	148
Ramsgate Victoria Hotel Co. Ltd, v. Montefiore (1866) L.R. 1 Exch. 109	129

Rimmer v. Liverpool City Council [1984] 2 W.L.R. 426	89, 91
Robinson v. Davison (1871) L.R. 6 Ex. 269	183
Rose and Frank Co. v. Crompton & Bros Ltd. [1923] 2 K.B. 261	132, 133
Ross v. Caunters [1980] Ch. 297; [1979] 2 All E.R. 580	78
Routledge v. Grant (1828) 4 Bing. 653	129
Rylands v. Fletcher (1868) L.R. 3 H.L. 330	69–70, 74, 75
Salomon v. Salomon Co. Ltd [1897] A.C. 22	105, 119
Saunders v. Anglia Building Society [1971] A.C. 1004; [1970] 3 All E.R. 691	149
Scammell & Nephew Ltd. v. Ouston [1941] A.C. 251	137, 146
Schuler v. Wickman Tool Sales Ltd. [1974] A.C. 235; 2 All E.R. 39	136
Scotson v. Pegg (1861) 6 H. & N. 295	131
Scott v. Avery (1856) 5 H.L.C. 811	164
Shadwell v. Shadwell (1860) 9 C.B.(N.S.) 159	131
Shirlaw v. Southern Foundries Ltd. (1926) [1939] 2 K.B. 206	135
Sibean and the Sibro, The [1976] 1 Lloyd's Rep. 293	154
Sim v. Rotherham Metropolitan Borough Council [1986] 3 W.L.R. 851; [1986] 3 All E.R. 387	135, 144
Sim v. Stretch [1936] 2 All E.R. 1237	71
Simmaan Co. v. Pilkington Glass (No 2) (1988) 1 All E.R. 791	79, 89, 91
<i>Simona</i> , The, see <i>Fercometal S.A.R.L. v Mediterranean Shipping Co.</i>	
Sky Petroleum Ltd, v. V.I.P. Petroleum Ltd. [1974] 1 W.L.R. 576; [1974] 1 All E.R. 954	220
Smith v. Eric Bush [1989] 2 All E.R. 514	140, 146
Solle v. Butcher [1950] 1 K.B. 671; [1949] 2 All E.R. 1107	149
Spartan Steel and Alloys Ltd. v. Martin & Co. Ltd. [1973] Q.B. 27; [1972] 3 All E.R. 557	78, 86, 89–90, 91
Spurling v. Bradshaw [1956] 1 W.L.R. 461; [1956] 2 All E.R. 121	138
Steven v. Bromley [1919] 2 K.B. 722	177
Stilk v. Myrick (1809) 2 Camp. 317	130, 146
Suisse Atlantique [1967] 1 A.C. 361; [1966] 2 All E.R. 61	138
Summers v. Solomon (1857) 7 E. & B. 879	195
Sweet v. Parsley [1970] A.C. 132; [1969] 1 All E.R. 347	54
Sybron Corporation v. Rochem Ltd. (1983) 3 W.L.R. 713; (1983) 2 All E.R. 707	148, 158
Tamlin v. Hannaford [1950] K.B. 18	14
Tamplin v. James (1880) 15 Ch.D. 215	150, 177, 186
Taylor v. Caldwell (1863) 32 L.J.Q.B. 164	183
Thompson v. Lohan [1987] 2 All E.R. 631	139
Thompson (W.L.) Ltd. v. Robinson (Gunmakers) Ltd. [1955] Ch. 177; [1955] 1 All E.R. 154	176, 187, 219

xx *Table of Cases*

Thornton v. Shoe Lane Parking [1971] 2 Q.B. 163; [1971] 1 All E.R. 686	138
Tinn v. Hoffman & Co. (1873) 29 L.T. 271	128
Trollope & Colls, Ltd v. North West Regional Hospital Board (1973)	132
Truman v. Loder (1840) 9 L.J.Q.B. 165	195
Tuberville v. Savage (1669) 2 Keb. 545	65, 75
Valentini v. Canali (1889) 24 Q.B.D. 166	167
Van Duyn v. The Home Office [1975] Ch. 358; [1975] 3 All E.R. 190	15
Victoria Laundry v. Newman Industries Ltd. [1949] 2 K.B. 528; [1949] 1 All E. R. 997	176, 177, 183
Wagon Mound, The (No. 1) [1961] A.C. 388; [1961] 1 All E.R. 404	83
Wakeham v. Mackenzie [1969] 1 W.L.R. 1175; [1968] 2 All E.R. 783	161
Ward v. Byham [1956] 1 W.L.R. 496; [1956] 2 All E.R. 318	130, 145
Warner Bros v. Nelson [1937] 1 K.B. 209	178, 187
Watteau v. Fenwick [1893] 1 Q.B. 346	195, 200
Webster v. Cecil (1861) 3 Beav. 62	177, 187
Wheat v. E. Lacon Co. Ltd [1966] A.C. 552; [1966] 1 All E.R. 582	90, 91
White and Carter Ltd. v. McGregor [1962] A.C. 413; [1961] 3 All E.R. 1178	180, 187
Williams v. Bayley (1866) L.R. 1 HL 200	153
Winter Garden Theatre v Millenium Productions [1948] A.C. 173; [1947] 2 All E.R. 331	99
Yonge v. Toynbee [1908-10] All E.R. Rep. 204	198, 200
Young v. Bristol Aeroplane Co. [1944] K.B. 718	17, 18
Youssoupoff v. Metro-Goldwyn-Mayer Pictures Ltd. (1934) 50 T.L.R. 581	71

Table of Statutes

Administration of Estates Act 1925	20, 45, 94
Administration of Justice Act 1969	25
Appellate Jurisdiction Act 1876	23, 25
Barristers (Qualification for Office) Act 1961	37
Bills of Exchange Act 1882	8, 11, 244
s.3(1)	245, 246, 259, 266, 267, 270
s.3(2)	245
s.3(4)	245
s.4(1)	247
s.10(1)	247
s.10(2)	247
s.11	247
s.17(1)	247
s.17(2)	248
s.18(1)	248
s.18(2)	248
s.18(3)	248
s.19(2)	248
s.21(1)	248
s.22(1)	248
s.22(2)	248
s.23	249
s.24	249
s.26(1)	249
s.27(1)	131, 249
s.27(2)	249
s.28(1)	249
s.28(2)	249
s.29	252
s.29(1)	250
s.30	250
s.31	250
s.31(4)	250, 257
s.32	251
s.34	251
s.35	251
s.36	252

s.38	252
s.39(1)	252
s.40	252, 253
s.42	253
s.43	253, 254
s.45	263
s.47	254
s.48	254
s.49	254
s.53(1)	255
s.54(1)	256
s.54(2)	256
s.55	256
s.58	257
s.59(1)	257
s.60	266
s.61	257
s.62(1)	257
s.63	257
s.64(1)	257, 258
s.65	258
s.66	258
s.67(1)	258
s.68(1)	258
s.68(5)	259
s.73	269
s.73(1)	262
s.74(1)	263, 270
s.75	263
s.76(1)	263
s.76(2)	264
s.77	264, 265
s.78	265
s.79	265, 269
s.80	265, 269
s.81	266
s.83	267, 269
s.84	268
s.85	268
s.86	268, 270
s.86(1)	268
s.87	268
s.88	268, 270
s.89	269
Business Names Act 1985	203, 209
s.1	203
s.2	203

s.4	203
s.5	203
 Cheques Act 1957	 245, 266–7, 269, 270
Civil Liability Act 1978	204
Companies Act 1985	12, 105, 113, 169, 203, 209
s.1(1)	107
s.1(2)	106
s.1(3)	106, 118, 119
s.1(4)	106
s.2	107, 119
s.7	107
s.10	107, 112
s.13(1)	108
s.14(1)	107
s.24	117
s.25	107
s.27	107
s.35	169
s.80	110
s.89	110
s.99	118
s.102	118
s.103	118
s.117	108
s.121	112
s.143	112
s.143(1)	112
s.143(2)	112
s.151	112
s.224	114
s.236	115
s.237	115
s.239	114, 117
s.241	114, 117
s.263	111
s.282	112
s.283	112
s.319	112
s.363	114
s.366	113
s.368	113
s.384	114, 120
s.442	117
s.459	115
s.716	203

s.738	109
s.744	109
Company Securities (Insider Dealing) Act 1985	115
s.8	115
Consolidation of Enactments (Procedure) Act 1949	11
Consumer Credit Act 1974	45, 277
s.1	224
s.8	225
s.10(1)	226
s.11(1)	226
s.11(2)	226, 235
s.13	227
s.14	227
s.15	228
s.16	225
s.17(1)	228
s.55(1)	228
s.56(1)	228
s.56(2)	228
s.61(1)	228
s.61(3)	229
s.62(1)	229
s.62(2)	229
s.63(1)	229
s.64	229
s.65(1)	235
s.67	229
s.68	229
s.69	229
s.70	229
s.71	229
s.72	229
s.73	229
s.75(1)	230
s.76(1)	234
s.77(1)	230
s.83(1)	230
s.83(2)	230
s.84(1)	230
s.84(3)	230
s.87(1)	231
s.88(1)	231
s.88(2)	231
s.89	231
s.90(1)	231
s.91	231
s.92	232

s.93	232
s.94(1)	232
s.95	232
s.97(1)	232
s.98(1)	232, 234
s.98(3)	232
s.99(1)	232
s.100	232
s.100(1)	232
s.101	233
s.103	233
s.105	234, 235
s.107(1)	234
s.108(1)	234
s.109(1)	234
s.110(1)	234
s.111(1)	234
s.111(2)	234
s.123	234, 235
s.124	235
s.125	235
s.127(1)	235
s.129(1)	235
s.129(2)	235
s.137(1)	236
s.137(2)	236
s.138(1)	236
s.139(1)	236
s.139(2)	236
s.189(1)	225, 226, 230, 233
Consumer Protection Act 1987	85
County Courts Acts 1984	12, 30, 45
Courts Act 1971	27, 30
Criminal Appeal Act 1966	26, 28
Criminal Appeal Act 1968	25, 26
Criminal Justice Act 1967	56, 63
Criminal Justice Act 1972	26
Criminal Justice Act 1988	
s.119	36
Defamation Act 1952	71–2
Employment Protection (Consolidation) Act 1978	33
Employment Protection Act 1975	33
Estate Agents Act 1979	197
European Communities Act 1972	15, 18, 34, 35, 169
European Economic Community Treaty	34, 35, 39

Factors Act 1889	214
Fair Trading Act 1973	166
Family Law Reform Act 1969	
s.1	166
s.9	167
Fatal Accidents Acts 1846 to 1908	90
Financial Services Act 1986	115
s.177	115
Health and Safety at Work Act 1974	73
Homicide Act 1957	56, 57, 58
Infants' Relief Act	168
Insolvency Act 1986	116–17
s.84	116
s.89	117
s.116	117
s.122	116
s.213	117
s.214	117
Interpretation Act 1978	13
Judicature Act 1873	5, 11, 16, 25, 240
Judicature Act 1875	5, 11, 16
Judicature Acts	
Judicial Committee Act 1833	33
Judicial Committee Act 1973	
Juries (Disqualification) Act 1984	36
Juries Act 1974	36
Justices of the Peace Act 1979	31
Land Charges Act 1925	94
Land Registration Act 1925	96
Law Commission Act 1965	11
Law of Property Act 1925	11, 46, 49, 94, 101, 102, 103, 124, 160, 161
s.1(1)	95, 96, 103
s.1(2)	95, 97
s.1(2)(c)	98
s.1(3)	95, 97, 98, 103
s.1(5)	97
s.7(2)	97
s.40(1)	160, 169, 170, 171
s.85	98
s.101	98
s.136	240, 241, 242
s.205	97, 102, 103
Law Reform (Contributory Negligence) Act 1947	84–5

Law Reform (Frustrated Contracts) Act 1943	11, 184, 186
Limitation Act 1980	98, 124, 178, 179, 185
Magistrates' Courts Act 1980	31
Mental Health Act 1959	207
Minors' Contracts Act 1987	
s.3	167, 170
Misrepresentation Act (Northern Ireland) 1967	276
Misrepresentation Act 1967	152, 154, 159, 275, 276
s.2(1)	153, 154
Murder (Abolition of Death Penalty) Act 1965	57
Occupiers' Liability Act 1957	79, 90–1, 272
Occupiers' Liability Act (Northern Ireland) 1957	272
Occupiers' Liability Act 1984	79, 91
Offences against the Person Act 1861	59–60, 62
Parliament Act 1911	10
Partnership Act 1890	8, 43, 202, 209
s.1(1)	202, 209
s.1(2)	202
s.2	202, 203
s.4(1)	203
s.5	204, 209
s.9	204, 209
s.10	205
s.11	205
s.12	205
s.14(1)	204
s.17	204
s.19	205
s.24	205, 209
s.25	206
s.28	206
s.29	206
s.30	206
s.32	207, 209
s.33	207, 209
s.34	207, 209
s.35	206, 208, 209
s.36	209
s.36(1)	208
s.39	208, 209
s.44	209
s.45	202
Patents Act 1977	27
Police Act 1964	59

Powers of Attorney Act 1971	199, 200
Public Health Act 1936	86
Rent Restriction Acts	149
Rentcharges Act 1977	100
Restrictive Practices Court Act 1976	33
Restrictive Trade Practices Act 1956	33
Restrictive Trade Practices Act 1976	33, 166
Sale of Goods (Implied Terms) Act 1973	274
Sale of Goods Act 1893	8, 11, 211, 221, 222, 274, 277
Sale of Goods Act 1979	12, 135, 177
s.2(1)	211
s.3	167
s.4	211
s.6	148
s.11(3)	221
s.12	215, 216, 217, 218, 221, 222
s.13	215, 216, 217, 218, 221, 222
s.14	215, 216, 217, 218, 221, 222
s.15	215, 217, 218, 221, 222
s.17	212
s.18	212
s.19(1)	213
s.20(1)	212
s.21(1)	214
s.22(1)	214
s.23	215
s.24	215
s.25(1)	215
s.27	211
s.29(1)	211
s.29(2)	211
s.35	221
s.37(1)	219
s.39(1)	220
s.49	219, 220
s.50	219
s.50(3)	219, 220
s.51	220
s.52(1)	220
s.53	221
s.55(1)	217
s.62(2)	211
Settled Land Act 1925	94, 95, 101–2, 103
Solicitors Act 1974	12, 38, 197
Solicitors' Deposit Interest Rules 1975	197

Statute of Frauds 1677	124, 161
s.4	160, 169, 171
Statute of Gloucester 1278	6
Statute of Marlborough 1267	5
Statute of Westminster I 1275	23
Statute of Westminster II 1285	6
Supply of Goods and Services Act 1982	135, 136, 217, 218
Supreme Court Act 1981	12, 23, 26, 28, 36
Supreme Court of Judicature Act 1873	25, 29
Supreme Court of Judicature Act 1875	29
Supreme Court of Judicature (Consolidation) Act 1925	
Tenures Abolition Act 1660	93
Theatre Act 1968	71
Theft Act 1968	60–2
Torts (Interference with Goods) Act 1967	66
Trustee Act 1925	94
Unfair Contract Terms Act 1977	137, 139, 141, 145, 146, 154, 211, 217, 218, 219, 272–8
s.2	139, 140
s.6	139, 217
s.6(1)	139, 216
s.6(2)	218
s.6(3)	218