#### THE CAMBRIDGE LAW JOURNAL 1954

https://doi.org/10.1017/S0008197300003998 Published online by Cambridge University Press

#### 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 Ltd. Bombay

NEW ZEALAND Legal Publications Ltd. Wellington

PAKISTAN Pakistan Law House Karachi

# THE CAMBRIDGE LAW JOURNAL 1954

EDITOR S. J. BAILEY, LL.M.

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

LONDON STEVENS & SONS LIMITED 1954

Published by Slevens & 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 S. J. BAILEY, M.A., LL.M., Chairman

Professor C. J. HAMSON, M.A., LL.M., Treasurer

Professor H. LAUTERPACHT, Q.C., LL.D.

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

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

S. F. C. MILSOM, M.A.

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

#### CONTRIBUTORS OF ARTICLES

DIAS, R. W. M. Mechanism of Definition as applied	to	Intern	natio	onal	
Law				page	<b>215</b>
DUFF, Professor P. W. Furtum and Larceny					86
HAMSON, Professor C. J. Professor II. C. Gutteridge					197
HANBURY, Professor H. G. Licences, A Jonah's Gourd					201
LANDON, P. A. Professor Sir Percy Winfield					80
McNAIR, Sir Arnold. Professor Sir Percy Winfield .					80
MILSOM, S. F. C. Not Doing Is No Trespass : A View of	f tł	ne Bou	nda	ries	
of Case				•	105
O'CONNELL, D. P. Res Ipsa Loquitur: The Australasia	an 1	Experi	enc	е.	118
PRICHARD, M. J. The Army Act and Murder Abroad		•			<b>232</b>
WADE, H. W. R. The Effect of Statutory Notice of Inc	um	brance	s.		89

#### SUBJECT INDEX

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

Administrative Law	
Certiorari—Disciplined Ser-	
vices-Firemen	154
Certiorari-Licensing of Cab-	
drivers	14
Natural Justice-Right to a	
Hearing	14
Agricultural Holding	1.1
Notice to Quit — Joint	
Tenancy	194
	194
British Commonwealth	
+Australia–Res Ipsa Loquitur	118
Colonies—Tenure of Judges	<b>2</b>
*Documents and Speeches,	
1931-52	135
Company	
Winding Up of Company	
Dissolved Abroad	181
Constitutional Law	
*Cases in Constitutional Law .	263
*Government Liability	247
Contract	241
Formality — Amendment of	
	1
	151
Law Reform (Enforcement	
of Contracts) Act, 1954.	151
Mistake—Rectification—Res-	
cission	32
Rectification and Rescission	<b>32</b>
War-Effect on Banking Ac-	
count	178
Courts	
*Bar-Conduct and Etiquette	260
Colonial Judges-Tenure of	
Office	<b>2</b>
Court-Martial – Power to	
Dissolve	30
Justices' Clerks-Retirement	
with Bench	7
*Legal Ethics	260
*Machinery of Justice in Eng-	
*Machinery of Justice in Eng- land	
land	137
land	
land	137
land	
land	137 169
land	137 169 26
land	137 169 26 242
land	137 169 26

Criminal Law—cont.	
+Murder committed Abroad—	
Army Act	232
Murder or Manslaughter-	
Provocation	165
Provocation — Murder or	
Manslaughter	165
Public Mischief	26
Crown Proceedings	20
	11
Refused Deed	11
Construction — Reservation	
Construction — Reservation	191
Construed against Grantee	191
Easements and Profits	
Profit of Rabbiting-Title-	100
Equitable Right Profit—Grant—Oral Lease	189
Invalid	189
Gift	
Advancement, Presumption	
of	57
Parent and Child—Advance-	
ment	57
History of Law	
*Court of Wards and Liveries	133
Trespass and Case	105
Husband and Wife	
Deserted Wife's Right to	
Matrimonial Home	72
Matrimonial Home-Owner-	
ship of Hidden Money .	73
International Law (Private)	
Bona Vacantia and Ultimus	
Heres	
	22
International Law (Public)	22
International Law (Public)	
†Definition, Mechanism of .	22 215
†Definition, Mechanism of . Foreign Legislation—Expro-	
†Definition, Mechanism of Foreign Legislation—Expro- priation—Effect in Eng-	215
†Definition, Mechanism of Foreign Legislation—Expro- priation—Effect in Eng- land	
+Definition, Mechanism of . Foreign Legislation—Expro- priation—Effect in Eng- land Jurisprudence	215 20
+Definition, Mechanism of Foreign Legislation—Expro- priation—Effect in Eng- land Jurisprudence *English Law and Moral Law	215
<ul> <li>+Definition, Mechanism of .</li> <li>Foreign Legislation—Expropriation—Effect in England .</li> <li>Jurisprudence</li> <li>*English Law and Moral Law</li> <li>+International Law — Defini-</li> </ul>	215 20 242
<ul> <li>†Definition, Mechanism of</li> <li>Foreign Legislation—Expropriation—Effect in England</li> <li>Jurisprudence</li> <li>*English Law and Moral Law</li> <li>†International Law — Definition</li> </ul>	215 20 242 215
<ul> <li>†Definition, Mechanism of</li> <li>Foreign Legislation—Expropriation—Effect in England</li> <li>Jurisprudence</li> <li>*English Law and Moral Law</li> <li>†International Law — Definition</li> <li>*Jurisprudence in Action</li> </ul>	215 20 242
<ul> <li>+Definition, Mechanism of . Foreign Legislation—Expropriation—Effect in England .</li> <li>Jurisprudence</li> <li>*English Law and Moral Law</li> <li>+International Law — Definition .</li> <li>*Jurisprudence in Action .</li> <li>Leases</li> </ul>	215 20 242 215
<ul> <li>†Definition, Mechanism of . Foreign Legislation—Expropriation—Effect in England .</li> <li>Jurisprudence</li> <li>*English Law and Moral Law</li> <li>†International Law — Definition .</li> <li>*Jurisprudence in Action .</li> <li>Leases</li> <li>Agricultural Holding—Joint</li> </ul>	215 20 242 215 257
<ul> <li>†Definition, Mechanism of . Foreign Legislation—Expropriation—Effect in England .</li> <li>Jurisprudence</li> <li>*English Law and Moral Law</li> <li>†International Law — Definition .</li> <li>*Jurisprudence in Action .</li> <li>Leases</li> <li>Agricultural Holding—Joint Tenancy—Notice to Quit .</li> </ul>	215 20 242 215
<ul> <li>†Definition, Mechanism of . Foreign Legislation—Expropriation—Effect in England .</li> <li>Jurisprudence</li> <li>*English Law and Moral Law</li> <li>†International Law — Definition .</li> <li>*Jurisprudence in Action .</li> <li>Leases</li> <li>Agricultural Holding—Joint</li> </ul>	215 20 242 215 257

Leases—cont.	
Covenant — Implied Term	
against Assignment	66
Estoppel—Feeding of Estop-	
pel-Lease by Estoppel .	192
Repairs — Weekly Tenant's	
Linhility	71
Weekly Tenant — Whether	
Liable to Repair	71
Licences Affecting Land	
Deserted Wife's Right to	
Matrimonial Home	72
Limitation of Actions	
Contribution between Joint	
Contribution between Joint Tortfeasors—Action Barred	50
Law Reform (Limitation of	
Actions, etc) Act, 1954 .	149
Military Law	110
+Army Act—Murder Abroad .	232
Condenation of Offence	30
Condonation of Offence . Court-Martial — Power to	30
	90
Dissolve	30
Obituary	
†Gutteridge, Professor H. C.	197
†Winfield, Professor Sir P. H.	80
Personal Property	
Finding-Money Hidden in	
Matrimonial Home	73
Gift-Presumption of Ad-	
vancement	57
*Personal Property (textbook)	252
Real Property	
*American Law of Property.	256
*American Law of Property . *Conveyancing—Precedents .	271
†Registration of Land Charges	
	89
Roman Law	00
<i>+Furtum</i> and Larceny	86
•	00
Settled Land	
Capital Money — Use for	60
Repairs Sale—Restraint—Gift over	63
Sale—Restraint—Gift over	
of Maintenance Fund .	60
Solicitor and Client	
Privileged Communications .	156
Statutes and Statutory Instru-	
ments	
Crown Servants—Immunity	
from Taxing Statutes .	159
Interpretation—Solicitor and	
Client—Privilege	156

ments—cont. Law Reform (Enforcement of Contracts) Act, 1954 . 151 Law Reform (Limitation of Actions, Etc.) Act, 1954 . 149 Statutory Instrument—Not Printed—Validity . 153 Taxation Crown Servants—Immunity from Tax 159 Trusteeship—Whether "Office of Profit "	Statutes and Statutory Instru-	
of Contracts) Act, 1954 . 151 Law Reform (Limitation of Actions, Etc.) Act, 1954 . 149 Statutory Instrument—Not Printed—Validity . 153 Taxation Crown Servants—Immunity from Tax 159 Trusteeship—Whether "Office of Profit "		
Law Reform (Limitation of Actions, Etc.) Act, 1954 . 149 Statutory Instrument—Not Printed—Validity . 153 Taxation Crown Servants—Immunity from Tax 159 Trusteeship—Whether "Office of Profit "	Law Reform (Enforcement	
Actions, Etc.) Act, 1954 . 149 Statutory Instrument—Not Printed—Validity . 153 Taxation Crown Servants—Immunity from Tax 159 Trusteeship—Whether "Office of Profit "	of Contracts) Act, 1954 .	151
Statutory Instrument—Not Printed—Validity . 153 Taxation Crown Servants—Immunity from Tax 159 Trusteeship—Whether "Office of Profit "	Law Reform (Limitation of	
Statutory Instrument—Not Printed—Validity . 153 Taxation Crown Servants—Immunity from Tax 159 Trusteeship—Whether "Office of Profit "	Actions, Etc.) Act, 1954 .	149
Taxation         Crown Servants—Immunity         from Tax	Statutory Instrument—Not	
Crown Servants—Immunity from Tax	Printed–Validity	153
from Tax	Taxation	
Trusteeship—Whether "Office of Profit"	Crown Servants—Immunity	
Trusteeship—Whether "Office of Profit"		159
Tort Causation — Contributory Negligence	Trusteeship—Whether "Office	
Tort Causation — Contributory Negligence	of Profit".	55
Negligence	Tort	
Negligence	Causation — Contributory	
feasors — Limitation of Actions	Negligence 3	36 42
feasors — Limitation of Actions	Contribution — Joint Tort-	
Actions	feasors - Limitation of	
Contributory Negligence — Causation	Actions	50
Causation	Contributory Negligence —	50
Deceit—Principal's Liability for Agent	Constant	6 40
for Agent	Deceit_Principal's Liability	10, 44
<ul> <li>+Evidence—Res Ipsa Loquitur in Australasia</li></ul>	for A rept	170
in Australasia	tEvidence Des Inst Leguitur	170
Joint Tortfeasors—Contribu- tion—Limitation of Actions 50 Master and Servant — Liability to Servant's Spouse		110
tion—Limitation of Actions 50 Master and Servant — Liability to Servant's Spouse	In Australasia	118
Master and Servant — Liability to Servant's Spouse		-0
Liability to Servant's Spouse	Moster and Court Actions	50
Spouse	Master and Servant —	
Negligence, Nuisance and Trespass	Liability to Servant's	
Trespass	Spouse	45
Nuisance, Negligence and Trespass		
Trespass		172
Trespass	Nuisance, Negligence and	
bility for Agent 49 *Salmond on Torts 142 Trespass, Nuisance and Neg- ligence 172 Trade Union Expulsion—Member's Remedy 162 Trusts Modification of Interests— Jurisdiction to Sanction . 184 Trusteeship—Whether "Office of Profit"	Trespass	172
bility for Agent 49 *Salmond on Torts 142 Trespass, Nuisance and Neg- ligence 172 Trade Union Expulsion—Member's Remedy 162 Trusts Modification of Interests— Jurisdiction to Sanction . 184 Trusteeship—Whether "Office of Profit"	Principal and Agent-Lia-	
*Salmond on Torts 142 Trespass, Nuisance and Neg- ligence 172 Trade Union Expulsion—Member's Remedy 162 Trusts Modification of Interests— Jurisdiction to Sanction . 184 Trusteeship—Whether "Office of Profit"	bility for Agent	49
Trespass, Nuisance and Neg- ligence 172 Trade Union Expulsion—Member's Remedy 162 Trusts Modification of Interests— Jurisdiction to Sanction . 184 Trusteeship—Whether "Office of Profit" 55 Will	*Salmond on Torts	142
ligence		
Trade Union Expulsion—Member's Remedy 162 Trusts Modification of Interests— Jurisdiction to Sanction . 184 Trusteeship—Whether "Office of Profit"		172
Expulsion—Member's Remedy 162 Trusts Modification of Interests— Jurisdiction to Sanction . 184 Trusteeship—Whether "Office of Profit"	•	1.2
Trusts Modification of Interests	Fundation Manda and Dama da	100
Modification of Interests Jurisdiction to Sanction . 184 TrusteeshipWhether "Office of Profit"		162
Jurisdiction to Sanction . 184 Trusteeship-Whether "Office of Profit" 55 Will		
Trusteeship-Whether "Office of Profit"		
of Profit" 55 Will		184
Will		
	of Profit"	55
Condition — Uncertainty —		
	Condition — Uncertainty —	
"Church of England". 76	"Church of England".	76
	*Executors and Administrators	<b>270</b>

#### STATUTES ANNOTATED

$\mathbf{Law}$	Reform	(Enforcement	of		Law	Reform	(Limitation	of	
Con	tracts) Act,	1954		151	Action	is, Etc.)	Act, 1954 .		149

#### CASES ANNOTATED

Aberconway's Settlement Trusts,	
Re	60
Allen, Re	76
Arab Bank, Ltd. v. Barclays Bank	178
Azoff-Don Commercial Bank, Re.	181
Bank voor Handel en Sheepvaart	-0-
v. Administrator of Hungarian	
Property	159
Bedder v. D. P. P.	166
Bonsor v. Musicians' Union .	163
Briess v. Woolley.	176
	45
Broom v. Morgan	40
Brougham and Vaux (Lord's)	20
S. E., Re	63
Chapman v. Chapman	184
Church of England Building	
Society v. Piskor	192
Cohen, Re	74
Dale v. Inland Revenue Commis-	·
sioners	55
Davies v. D. P. P	169
Drive Yourself Hire Co. (London)	
Ltd. v. Strutt	66
Ellis v. Home Office	11
Fry, Ex p	$154^{-1}$
How, $Ex p$ .	7
Inland Revenue v. West-Walker.	156
Littlewood v. George Wimpey &	100
	50
Co., Ltd	90

Lloyds Bank, Ltd. v. O's Trustee	72
Maldonado, Re	22
Marvin Sigurdson v. B. C. Electric	
Railway Co., Ltd	42
Mason v. Clarke	189
Northumberland (Duke of), Re.	63
	49
Ormrod v. Crosville Motor Services	
R. v. Barry (Glamorgan) Justices	7
R. v. Durkin	30
R. v. East Kerrier Justices	7
R. v. McCarthy	166
R. v. Metropolitan Police Com-	
missioner, ex p. Parker	14
R, v, Newland	26
R. v. Welshpool Justices	- 7
R. v. Sheer Metalcraft, Ltd.	153
Rose Mary, The	20
Rose $\nabla$ . Pim	32
Shephard, Re	57
Southport Corporation v. Esso	_
Petroleum Co	172
Stapley v. Gypsum Mines, Ltd	36
Sutherland Settlement Trusts, Re	63
Terrell v. Secretary of State for	
The Colonies	2
Warren V. Keen	71
Woodward v. Dudley (Earl of).	194
woodward v. Dudiey (Bari Of).	194

#### **BOOK REVIEWS**

American Law of Property	256
BELL: Introduction to the History and Records of the Court of Wards	
and Liveries	133
BOULTON: Conduct and Etiquette at the Bar	260
DRINKER: Legal Ethics	260
GOODHART: English Law and the Moral Law	242
HALE: Freedom through Law	145
INBAU and REID: Lie Detection and Criminal Investigation	261
Jurisprudence in Action	259
KEIR and LAWSON: Cases in Constitutional Law	263
KEY and ELPHINSTONE: Precedents in Conveyancing	271
JACKSON: Machinery of Justice in England	137
MANSERGH: Documents and Speeches on British Commonwealth Affairs,	
1931-52	135
	142
	247
	252
	243
	270

# ALL E.R.

### The Lawyer's First Choice

There is no official series of law reports in this country and, indeed, there is no need for one, since the reports at present published under the well-established independent system satisfy every modern requirement of efficiency and reliability. The only problem is that of selection.

Most lawyers prefer to use THE ALL ENGLAND LAW REPORTS—the original weekly series of reports with full judgments. The ALL E.R., with its weekly circulation of over 12,000 copies to registered subscribers alone, is the most widely used series of reports today, consulted and quoted everywhere. There is no other series which can offer such a comprehensive service to subscribers, on such reasonable terms. Send for a specimen issue and the descriptive brochure, so that you can see for yourself how the ALL E.R., by service to the legal profession, has won for itself so large a following which is still growing with the years.

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

Showroom: 11-12 Bell Yard, Temple Bar, W.C.2

#### THE HAMLYN LECTURES Sixth Series

# and JUDICIAL CONTROL

An Aspect of the Conseil d'Etat

#### By C. J. HAMSON

Ought the actions of the Executive in England to be subject to the kind of review which is available in France? There, the Conseil d'Etat claims authority over the grounds and substance of the administrative decision. How did the Conseil d'Etat come to have such powers? How does it exercise them? Upon what principles of law does it act? In this book the Author makes direct comparison between the practice in the two countries.

Net 12s. 6d. Postage 6d.

Other Titles in the Series

- 1. Freedom under the Law By the Right Hon. Sir Alfred Denning. 1949. 10s. net.
- 2. The Inheritance of the Common Law By Richard O'Sullivan, o.c. 1950. 10s. net.
- 3. The Rational Strength of English Law By F. H. Lawson. 1951. 10s. net.
- 4. English Law and the Moral Law By A. L. Goodhart, K.B.E., O.C. 1953. 12s. 6d. net.
- 5. The Queen's Peace By Sir C, K. Allen, q.c. 1953. 12s. 6d. net.

#### STEVENS

3 CHANCERY LANE, LONDON W.C.2 :: Tel. CHAncery 5462

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