

LEGAL FICTIONS IN PRIVATE LAW

Legal fictions are falsehoods that the law knowingly relies on. It is the most bizarre feature of our legal system; we know something is false, and we still assume it. But why do we rely on blatant falsehood? What are the implications of doing so? Should we continue to use fictions, and, if not, what is the alternative? *Legal Fictions in Private Law* answers these questions in an accessible and engaging manner, looking at the history of fictions, the theory of fictions and current fictions from a practical perspective. It proposes a solution to what to do about fictions going forward, and how to decide whether they should be accepted or rejected. It addresses the latest literature and deals with the law in detail. This book is a comprehensive analysis of legal fictions in private law and a blueprint for reform.

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Legal Fictions in Private Law

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To Eliezer and Rivka

Contents

<i>List of Tables</i>	<i>page</i> xi
<i>Acknowledgements</i>	xii
<i>Table of Cases</i>	xiii
<i>List of Abbreviations</i>	xx
General Introduction	1
1 Old Fictions	5
1.1 Introduction	5
1.2 The Procedural Framework of the Old System	7
1.2.1 The Writ System	7
1.2.2 Civil Juries and Formal Pleading	9
1.2.3 Procedural Framework: An Epilogue	14
1.3 Old Fictions Examined	15
1.3.1 <i>Dominus Remisit Curiam</i>	15
1.3.2 <i>Vi et Armis</i>	16
1.3.3 Geographical Fictions	18
1.3.4 Bill of Middlesex	21
1.3.5 Writ of <i>Quominus</i>	23
1.3.6 Benefit of Clergy	25
1.3.7 Pleading the Belly	28
1.3.8 Common Recovery	30
1.3.9 Trover	33
1.3.10 Ejectment	36
1.3.11 Quasi-contract	40
1.4 Conclusion	44

2	New Fictions Defined	48
2.1	Introduction	48
2.2	The Problem: A Loose Concept	50
2.3	The Solution: Hard and Soft Fictions	53
2.4	Do Legal Fictions Exist?	53
2.4.1	Vaihinger's Assault	54
2.4.2	Repelling Vaihinger's Assault	56
2.4.3	Kelsen's Assault	57
2.4.4	Repelling Kelsen's Assault	57
2.4.5	The Linguistic Problem	59
2.4.6	The Solution to the Linguistic Problem	60
2.4.7	Fictions and Rules	61
2.4.8	Fictions and Counterfactuals	67
2.4.9	Conclusion	68
2.5	Overview of Existing Definitions	68
2.5.1	Plain and Ordinary Meaning	68
2.5.2	Academic Definitions	70
2.6	A Proposed Definition of Hard Fiction	87
2.6.1	What Do We Know So Far?	88
2.6.2	The Basis of Hard Fiction: Fact or Law?	88
2.6.3	The Basis of Hard Fiction: Statement, Assumption or Issue?	89
2.6.4	A Definition of Hard Fiction	90
2.7	A Proposed Definition of Soft Fiction	91
2.8	Case Studies	94
2.8.1	First Case Study: The Reasonable Man	94
2.8.2	Second Case Study: <i>Volenti non fit Injuria</i>	101
2.9	Conclusion	110
3	New Fictions Explored	111
3.1	Introduction	111
3.2	A Common Misunderstanding Concerning the Evaluation of Fictions	112
3.3	Classifications of Fictions	113
3.4	Equity Treats as Done That Which Ought to Be Done	114
3.4.1	Description	114
3.4.2	Is the Maxim a Hard Fiction?	118
3.4.3	Effect Classification of the Maxim	120
3.4.4	Difficulties in Application	120
3.4.5	Evaluation	126

Contents

ix

3.5	Estoppel	130
3.5.1	Description	130
3.5.2	Applications	132
3.5.3	Is Estoppel a Hard Fiction?	133
3.5.4	Reality Check	135
3.5.5	Effect Classification of Estoppel	136
3.5.6	Evaluation	137
3.6	<i>Volenti non fit Injuria</i>	139
3.6.1	Effect Classification	139
3.6.2	Evaluation	140
3.7	The Single Meaning Rule	141
3.7.1	Description	141
3.7.2	Is the Rule a Hard Fiction?	144
3.7.3	Effect Classification of the Single Meaning Rule	148
3.7.4	Evaluation	148
3.8	Common Intention Constructive Trust	158
3.8.1	Description	158
3.8.2	Is the Common Intention Constructive Trust a Fiction?	160
3.8.3	Evaluation	163
3.9	Remoteness in Negligence	164
3.9.1	Description	164
3.9.2	Is Remoteness in Negligence a Fiction?	168
3.9.3	Effect Classification	169
3.9.4	Evaluation	170
3.10	Reading Down Exclusion Clauses	171
3.11	Summary of Findings	173
3.12	Conclusion	173
4	An Acceptance Test for Fictions	175
4.1	Introduction	175
4.2	The Nature of the Test: The Degree of Discretion	176
4.2.1	Tests and Discretion	176
4.2.2	Choosing the Width of the Discretion	180
4.3	The Nature of the Test: The General Approach	180
4.3.1	The Possible Approaches	180
4.3.2	The Champions of the Various Approaches	181
4.3.3	Choosing an Approach	185
4.4	Motives for Fictions	187
4.4.1	Motives in Context	187

4.4.2	Motives in the Literature	188
4.4.3	Motives and the Acceptance Test	198
4.5	Analysis of Previous Results	201
4.5.1	The Correlation between Nature and Recommendation	201
4.5.2	The Correlation between Age and Recommendation	205
4.5.3	The Correlation between Effect and Recommendation	205
4.5.4	The Role of Justice in the Acceptance Test	206
4.5.5	The Role of the Conservative Argument in the Acceptance Test	211
4.6	The Retention Test	213
4.7	The Creation Test	213
4.7.1	Background and Statement	213
4.7.2	The Application of the Creation Test	215
4.8	The Acceptance Test	219
4.9	Hard Cases	220
4.10	Conclusion	222
	General Conclusion	223
	<i>Bibliography</i>	226
	<i>Index</i>	233

Tables

1.1	Old Fictions	<i>page</i> 45
3.1	All fictions	174
4.1	All fictions with motives	199
4.2	Flowchart of Acceptance Test	221

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Table of Cases

- Ajinomoto Sweeteners Europe SAS v Asda Stores Ltd* [2010] EWCA Civ 609,
 [2011] QB 497 142, 143, 144, 147, 151, 152, 153, 156
Ajinomoto Sweeteners Europe SAS v Asda Stores Ltd [2009] EWHC 1717 (QB),
 [2010] QB 204 143, 144, 145, 152, 156
*Amalgamated Investment & Property Co Ltd (In Liquidation) v Texas Commerce
 International Bank Ltd* [1982] QB 84 (CA) 132, 138
Anon (1304) B & M (2nd edn) 338 16
Anon (1452) YB Mic 31 Hen VI, f 10, pl 15 22
Arundell v Carye (1549) KB 27/1149 m 75 35
Ashpitel v Bryan (1863) 3 B&S 474, 122 ER 179 (QB) 132, 134, 135
Attorney-General for Hong Kong v Reid [1994] 1 AC 324 115, 117, 118, 127, 129
Barnes v Phillips [2015] EWCA Civ 1056, [2016] HLR 3 162
Barnett v Chelsea and Kensington Hospital Management Committee [1969] 1
 QB 428 (QB) 218
Barnett v French [1981] 1 WLR 848 (QB) 215, 216, 217, 219, 220
Bernardston v Heighlynge (1344) B & M (2nd edn) 381 8
Blake v Galloway [2004] EWCA Civ 814, [2004] 1 WLR 2844 109
Bonnick v Morris [2002] UKPC 31, [2003] 1 AC 300 146, 147, 149, 150
Bonnington Castings Ltd v Wardlaw [1956] AC 613 (HL) 218
Bowater v Rowley Regis Corporation [1944] KB 476 (CA) 101, 103
Bowman v Secular Society Ltd [1917] AC 406 (HL) 208
Bray v Ford [1896] AC 44 (HL) 122
Brown v Dean [1910] AC 373 (HL) 137
Buggs v Buggs [2003] EWHC 1538 (Ch), [2004] WTLR 799 204
Burns v Burns [1984] Ch 317 (CA) 204
Burton v Todd (1818) 1 Swans 255, 36 ER 380 (Ch) 127
Butler v Meredith (1855) 11 Ex 85, 156 ER 755 39

- Cammell Laird & Co Ltd v Manganese Bronze & Brass Co Ltd* [1934] AC 402 (HL) 208
- Canada and Dominion Sugar Co Ltd v Canadian National (West Indies) Steamship Co Ltd* [1947] AC 46 (PC) 138
- Caparo Industries v Dickman* [1990] 2 AC 605 (HL) 179
- Capehorn v Harris* [2015] EWCA Civ 955, [2016] HLR 1 158, 162
- Carley v Smith* [1980] Lexis Citation 217 (CA) 204
- Carter v McLaren & Co* (1870–75) LR 2 Sc 120 (HL) 1
- Caswell v Powell Duffryn Associated Collieries Ltd* [1940] AC 152 (HL) 98
- Central Trust & Safe Deposit Co v Snider* [1916] 1 AC 266 (PC) 116
- Charleston v News Group Newspapers Ltd* [1995] 2 AC 65 (HL) 142, 147, 149, 151
- Chartbrook Ltd and another v Persimmon Homes Ltd and another* [2009] UKHL 38, [2009] 1 AC 1101 52
- Cherry Tree Investments Ltd v Landmain Ltd* [2012] EWCA Civ 736, [2013] Ch 305 51
- Collins v Godefroy* (1831) 1 B&Ad 950, 109 ER 1040 (KB) 99
- Collins v Wilcock* [1984] 1 WLR 1172 (QB) 109
- Cooper v Simmons* (1862) 7 Hurl&N 707, 158 ER 654 (Exchequer) 1
- Cowern v Nield* [1912] 2 KB 419 (KB) 43
- Curistan v Times Newspapers Ltd* [2008] EWCA Civ 432, [2009] QB 231 142, 149, 152, 153
- Davie v Beversham* (1661) Rep Ch 4, 21 ER 711 (Ch) 116
- Daly v Liverpool Corporation* [1939] 2 All ER 142 (Liverpool Assizes) 98
- Davis Contractors Ltd v Fareham UDC* [1956] AC 696 (HL) 96, 97
- Dolphin Maritime & Aviation Services Ltd v Sveriges Angfartygs Assurans Forening* [2009] EWHC 716 (Comm), [2010] 1 All ER (Comm) 473 178
- Englewood Properties Ltd v Patel* [2005] EWHC 188 (Ch), [2005] 1 WLR 1961 115
- Entienne Pty Ltd and Cosenza v Festival City Broadcasters Pty Ltd* [2001] SASC 60, (2001) 79 SASR 19 153
- Eves v Eves* [1975] 1 WLR 1338 (CA) 161, 203, 204, 220
- Fage UK Ltd v Chobani UK Ltd* [2014] EWCA Civ 5, [2014] ETMR 26 69
- Fairchild v Glenhaven Funeral Services Ltd* [2002] UKHL 22, [2003] 1 AC 32 215, 218, 219
- Fairchild v Glenhaven Funeral Services Ltd* (HC, 1 February 2001) 218
- Fairchild v Glenhaven Funeral Services Ltd* [2002] 1 WLR 1052 (CA) 218
- Fairclaim ex dimiss Fowler v Shamtitle* (1762) 3 Burr 1290, 97 ER 837 (KB) 37, 38
- FHR European Ventures LLP v Cedar Capital Partners LLC* [2014] UKSC 45, [2015] AC 250 115, 117, 118, 122, 210

- Forsyth-Grant v Allen* [2008] EWCA Civ 505, [2008] 2 EGLR 16 213
Freeth v Burr (1873–74) LR 9 CP 208 (CP) 178
Galloway v Telegraph Group [2004] EWHC 2786 (QB), [2005] EMLR 7 144
George Mitchell (Chesterhall) Ltd v Finney Lock Seeds Ltd [1983] QB 284 (CA) 93, 107, 171
Gissing v Gissing [1971] AC 886 (HL) 158, 159
Glasbrook Brothers Limited v Glamorgan County Council and Others [1925] AC 270 (HL) 99
Glasgow Corporation v Muir [1943] AC 448 (HL) 96, 97
Grant v Edwards [1986] Ch 638 (CA) 158, 159, 161, 203, 204
Grundt v Great Boulder Proprietary Gold Mines Ltd (1937) 59 CLR 641 (HCA) 137
Hall v Brooklands Auto Racing Club [1933] 1 KB 205 (CA) 95
H Parsons (Livestock) Ltd v Uttley Ingham & Co Ltd [1978] QB 791 (CA) 166
Harvela Investments Ltd v Royal Trust Co of Canada (CI) Ltd [1986] AC 207 (HL) 127
Haugesund Kommune v Depfa ACS Bank [2010] EWCA Civ 579, [2012] QB 549 44, 48
Healthcare at Home Ltd v Common Services Agency for the Scottish Health Service [2014] UKSC 49, [2014] PTSR 1081 51, 95, 97
Helow v Secretary of State for the Home Department and another [2008] UKHL 62, [2008] 1 WLR 2416 51, 95
Heneghan v Manchester Dry Docks Ltd [2014] EWHC 4190 (QB) 51
Heyman v Darwins [1942] AC 356 (HL) 178
Hough v London Express Newspaper Ltd [1940] 2 KB 507 (CA) 150
Howard v Wood (1688) 2 Shower KB 21, 89 ER 767 (KB) 193
Imperial Chemical Industries Ltd v Shatwell [1965] AC 656 (HL) 102–105, 107–109, 140
Interactive E-Solutions JLT v O3B Africa Ltd [2018] EWCA Civ 62 172
Interflora Inc v Marks & Spencer Plc [2013] EWHC 1291 (Ch), [2013] ETMR 35 149, 156
Investors Compensation Scheme Ltd v West Bromwich Building Society [1998] 1 WLR 896 (HL) 96, 97, 100
Jerome v Kelly [2001] STC (SCD) 170 (Special Commissioners) 124
Jerome v Kelly [2002] EWHC 604 (Ch), [2002] STC 609 124
Jerome v Kelly EWCA [2002] Civ 1879, [2003] STC 206 124
Jerome v Kelly [2004] UKHL 25, [2004] 1 WLR 1409 124
Jolley v Sutton London Borough Council [2000] 1 WLR 1082 (HL) 166, 167, 170
Jolley v Sutton London Borough Council [1998] 1 WLR 1546 (CA) 166
Jones v Kernott [2011] UKSC 53, [2012] 1 AC 158–163, 203

- JP Morgan Bank v Springwell Navigation Corp* [2008] EWHC 1186 (Comm) 132
Kleinwort Benson Ltd v Lincoln CC [1999] 2 AC 349 (HL) 1, 44
Knight v Beyond Properties Pty Ltd [2007] EWHC 1251 (Ch), [2007] FSR 34 69
Lady Foliamb's Case (1651) 116
Lait v Evening Standard Ltd [2011] EWCA Civ 859, [2011] 1 WLR 2973 144, 149
Lane v Wheat (1783) 1 Doug 314 (KB) 207
Legione v Hateley (1983) 152 CLR 406 (HCA) 131
Letang v Ottawa Electric Railway Co [1926] AC 725 (PC) 103
Lictor Anstalt v Mir Steel UK Ltd [2012] EWCA Civ 1397, [2013] 2 All ER (Comm) 54 172
Lipkin Gorman v Karpnale Ltd [1991] 2 AC 548 (HL) 44
Lissenden v CAV Bosch Ltd [1940] AC 412 (HL) 114
Lister v Romford Ice and Cold Storage Co Ltd [1957] AC 555 (HL) 97
Liverpool City Council v Irwin and Another [1977] AC 239 (HL) 97
London and Cheshire Insurance Co Ltd v Laplagrene Property Co Ltd [1971] Ch 499 (Ch) 121
Lysaght v Edwards (1875–76) LR 2 Ch D 499 (Ch) 121, 123, 124
Marshall v Osmond [1983] QB 1034 (CA) 109
Mary Portington's Case (1613) 10 Co Rep 35b (KB) 72
McGhee v National Coal Board [1973] 1 WLR 1 (HL) 218, 219
McIlkenny v Chief Constable of the West Midlands [1980] QB 283 (CA) 131
Merivale v Carson (1887) 20 QBD 275 (CA) 149
Moorgate Mercantile Co Ltd v Twitchings [1976] QB 225 (CA) 137
Morris v Murray [1991] 2 QB 6 (CA) 102–105, 108, 109, 140
Moses v Macferlan (1760) 2 Burr 1005, 97 ER 676 (KB) 41
Mostyn v Fabrigas (1775) 1 Cowp 161, 98 ER 1021 (KB) 19, 20, 73
Mountford v Scott [1975] Ch 258 (CA) 99
Mountney v Treharne [2002] EWCA Civ 1174, [2003] Ch 135 116, 117, 127, 129
MT Højgaard A/S v EON Climate & Renewables UK Robin Rigg East Ltd [2017] UKSC 59, [2017] Bus LR 1610 208
Nettleship v Weston [1971] 2 QB 691 (CA) 101, 102, 105
New England Coal & Coke Co v Northern Barge Corp (The TJ Hooper) 60 F2d 737 (US Circuit Court of Appeals, 2nd Circuit 1932) 96
New Zealand Shipping Co Ltd v A M Satterthwaite & Co Ltd (The Eurymedon) [1975] AC 154 (PC) 99
OBG Ltd v Allan [2007] UKHL 21, [2008] 1 AC 1 183, 213
Oriental Daily Publisher Ltd v Ming Pao Holdings Ltd [2012] HKCFA 59, (2012) 15 HKCFAR 299 149, 150, 151
Overseas Tankship (UK) Ltd v Morts Dock & Engineering Co (The Wagon Mound) [1961] AC 388 (PC) 164, 165, 166, 169, 171

- Overseas Tankship (UK) Ltd v The Miller Steamship Co Pty and Another (The Wagon Mound No 2)* [1967] 1 AC 617 (PC) 165, 166, 167, 168, 170
- Page v Smith* [1996] AC 155 (HL) 170
- Pankhania v Hackney LBC* [2002] EWHC 2441 (Ch), [2002] NPC 123 1
- Patel v Mirza* [2016] UKSC 42, [2016] 3 WLR 399 114
- Peekay Intermark Ltd v Australia & New Zealand Banking Group Ltd* [2006] EWCA Civ 386, [2006] 2 Lloyd's Rep 511 133
- Persimmon Homes Ltd v Ove Arup and Partners Ltd* [2017] EWCA Civ 373, [2017] BLR 417 172
- Pettitt v Pettitt* [1970] AC 777 (HL) 158, 159, 160
- Photo Production Ltd v Securicor Transport Ltd* [1980] AC 827 (HL) 172, 173
- Pitt v Holt* [2013] UKSC 26, [2013] 2 AC 108 75, 179
- Prime Sight Ltd v Lavarello* [2013] UKPC 22, [2014] AC 436 132–135, 137
- Procter and Gamble Co v Svenska Cellulosa Aktiebolaget SCA* [2012] EWCA Civ 1413 52
- Pynchmore v Brewyn* (1481) B & M (2nd edn) 197 (KB) 36
- R v Bailey* (1800) Russ&Ry 1, 168 ER 651 (Crown Cases Reserved) 1, 4
- R v Henry* (1326) Wilts Record Office, Bruce MS 11, fo, 58 v (KB) 26
- R (Jackson) v Attorney General* [2005] UKHL 56, [2006] 1 AC 262 219
- Rainy Sky SA v Kookmin Bank* [2011] UKSC 50, [2011] 1 WLR 2900 52
- Ragland v Wildgoose* (1581) Saville's 11 (Exchequer) 24
- Ratcliffe v Evans* [1892] 2 QB 524 (CA) 141
- Rayner v Preston* (1880–81) LR 18 Ch D 1 (CA) 123, 124
- Re Anstis* (1886) 31 Ch D 596 (CA) 115
- Re F (Mental Patient: Sterilisation)* [1990] 2 AC 1 (HL) 109
- Re Rose* [1952] Ch 499 (CA) 92
- Re St Stephen's, Walbrook* [1987] 3 WLR 726 (Court of Ecclesiastical Causes Reserved) 89
- Reed Executive Plc v Reed Business Information Ltd* [2004] EWCA Civ 159, [2004] ETMR 56 156
- Regal (Hastings) Ltd v Gulliver* [1967] 2 AC 134 117
- Reynolds v Clarke* (1724) 1 Strange 634, 93 ER 747, 748 (KB) 9
- Richardson v Marsh* 481 US 200, 107 SCt 1702 (SCOTUS 1987) 76
- Rubber Improvement Ltd v Daily Telegraph Ltd* [1964] AC 234 (HL) 145
- Scally v Southern Health and Social Services Board* [1992] 1 AC 294 (HL) 97
- Scott v Shepherd* (1773) 3 Wils KB 403, 95 ER 1124 (KB) 17
- Sempra Metals Ltd (formerly Metallgesellschaft Ltd) v Inland Revenue Commissioners* [2007] UKHL 34, [2008] 1 AC 561 44
- Shaw v Foster* (1871–72) LR 5 HL 321 (HL) 115, 118, 119, 123, 125
- Shirlaw v Southern Foundries (1926) Ltd* [1939] 2 KB 206 (CA) 95

- Sim v Stretch* [1936] 2 All ER 1237 (HL) 142
Sinclair Investments (UK) Ltd v Versailles Trade Finance Ltd [2011] EWCA Civ 347, [2012] Ch 453 118
Sinclair v Brougham [1914] AC 398 (HL) 42, 43, 44, 84
Slade v Morley (1602) 4 Co Rep 92b, (1602) 76 ER 1074 (Exchequer Chamber) 9, 40
Slim v Daily Telegraph [1968] 2 QB 157 (CA) 142, 146, 147, 148, 150, 153
Smith v Baker [1891] AC 325 (HL) 101, 102, 103
Southern Pacific Co v Jensen 244 US 205 (1917) (SCOTUS) 98
Southern Pacific Mortgages Ltd v Scott [2014] UKSC 52, [2015] AC 385 122, 125, 126
Spencer v Wincanton Holdings Ltd (Wincanton Logistics Ltd) [2009] EWCA Civ 1404, [2010] PIQR P8 164, 167
Springette v Defoe (1992) 24 HLR 552 (CA) 204
Springwell Navigation Corp v JP Morgan Chase Bank [2010] EWCA Civ 1221, [2010] 2 CLC 705 131, 133
Stack v Dowden [2007] UKHL 17, [2007] 2 AC 432 158–161
Taumbes v Skegness (1312) B & M (2nd edn) 339 (CP) 17
Thornton v Telegraph Media Group Ltd [2010] EWHC 1414 (QB), [2011] 1 WLR 1985 141
Thrasvoulou v Secretary of State for the Environment [1990] 2 AC 273 (HL) 136, 137
Titchener v British Railways Board [1983] 1 WLR 1427 (HL) 103, 104, 109, 140
Transocean Drilling UK Ltd v Providence Resources Plc [2016] EWCA Civ 372, [2016] 2 All ER (Comm) 606 172
Tweddle v Atkinson (1861) 1 B&S 393, 121 ER 762 (QB) 99
Tyler v Judges of the Court of Registration 175 Mass 71, 77, 55 NE 812, 814 (Massachusetts SC 1900) 63
United Australia Ltd v Barclays Bank Ltd [1941] AC 1 (HL) 41, 44, 52
Vodafone Group Plc v Orange Personal Communications Services Ltd [1997] EMLR 84 (Ch) 149, 153
Wall v Bright (1820) 1 Jac & Walk 494, 37 ER 456 (Ch) 118
Walsh v Lonsdale (1882) 21 Ch D 9 (Ch) 116
Webster v Higgin [1948] 2 All ER 127 (CA) 171
Westdeutsche Landesbank Girozentrale v Islington LBC [1996] AC 669 (HL) 44, 84
White v Jones [1995] 2 AC 207 (CA) 95
(The) White Lion Hotel (A Partnership) v James [2021] EWCA Civ 31 103
Williams v Beesly [1973] 1 WLR 1295 (HL) 14

Table of Cases

xix

<i>Williams v Carwardine</i> (1833) 4 B&Ad 621, 110 ER 590 (KB)	70
<i>Wilsher v Essex Area Health Authority</i> [1987] QB 730 (CA)	98
<i>Wood v Sureterm Direct Ltd</i> [2017] UKSC 24, [2017] 2 WLR 1095	155, 211
<i>Wooldridge v Sumner</i> [1963] 2 QB 43 (CA)	101, 103
<i>Yarmouth v France</i> (1887) LR 19 QBD 647 (QB)	105, 114

Abbreviations

Books of Authority

Bl Comm	W Blackstone, <i>Commentaries on the Laws of England</i> (Clarendon Press 1765–9)
Co Litt	E Coke, <i>Commentarie upon Littleton</i> (London 1628)
Glanvill	R Glanvill, <i>Treatise on the Laws and Customs of England</i>
Hale PC	M Hale, <i>The History of the Pleas of the Crown</i> (London 1736)

Courts

CA	Court of Appeal of England and Wales
Ch	Chancery Division or, before 1875, Court of Chancery
CP	Court of Common Pleas
HC	High Court of England and Wales
HCA	High Court of Australia
HL	House of Lords
KB	King’s Bench Division or, before 1875, Court of King’s Bench
PC	Privy Council
QB	Queen’s Bench Division or, before 1875, Court of Queen’s Bench
SC	Supreme Court of the United Kingdom
SCOTUS	Supreme Court of the United States

Titles of Books

HCLC	AWB Simpson, <i>A History of the Common Law of Contract</i> (Clarendon Press 1987)
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HFCL	SFC Milsom, <i>Historical Foundations of the Common Law</i> (2nd edn, Butterworths 1981)
HILO	DJ Ibbetson, <i>A Historical Introduction to the Law of Obligations</i> (OUP 1999)
HLL	AWB Simpson, <i>A History of the Land Law</i> (2nd edn, Clarendon Press 1986)
IELH	JH Baker, <i>Introduction to English Legal History</i> (5th edn, OUP 2019)
LFTP	Maksymilian Del Mar and William Twining (eds), <i>Legal Fictions in Theory and Practice</i> (Springer 2015)
LTB	JH Baker, <i>The Law's Two Bodies</i> (OUP 2001)