

Palgrave MacMillan Law Masters

麦克米伦法学精要丛书·影印本



【英】斯蒂芬·贾奇

Stephen Judge

商法

BUSINESS LAW

第二版

2nd edition



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Stephen Judge

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出版说明

1843年,来自苏格兰的麦克米伦兄弟在英国创立了麦克米伦出版社,筚路蓝缕,以启山林。一百多年来,这家出版社早已发展成为国际知名的跨国出版集团,以出版学术著作和高等教育教材而享有盛誉,其包括法学在内的人文社会科学出版物更是广有嘉声。

麦克米伦法学精要丛书是麦克米伦近年来重点推出的一套法学教材。风格明晰简约,内容深浅适中。丛书以方便学生学习为目标,阐发原理,评介法律;析解制度,品读案例;引导思考,提供练习。既适用于专业课程的学习,也有助于职业技能的改进,受到学生与教师的广泛欢迎。对我们非英语国家的学生和研究者来说,这样一套教材恰好是学习、了解英语国家法学和提高法律英语水平的极好读物。

法律出版社作为中国最大的法律图书出版机构,一直致力于法律图书的全品种出版。2002年,成立专门的法律教育出版中心,将服务于中国法律教育事业的发展引为重责。在从事法律教育出版的过程中,我们一直认为,中国学子不仅应该阅读中文法学教材,通过母语了解本土或域外法学知识,同时也应该眼界高远,进一步阅读外文法学教材与文献,在原汁原味中学取域外知识,提升专业水平,适应日益全球化的现实需要。1999年,本社曾经出版英文影印本的美国法精要系列丛书,受到佳评。如今,我们再次引进这套麦克米伦法学精要丛书,影印出版,期冀于在中文教材之外,为广大学子和研究人员进一步提供优秀英文教材读物,谨献绵薄之力,给进步中的中国法治事业和进步中的中国年轻一代。

本书为《商法》。本书在体例上的两个特点:其一,在书的第一部分作者对英国法律体系作了一个言简意赅的回顾,包括英国法律的基本划分、法律渊源、法律解释、争端解决机制以及欧盟法的相关内容等等。虽都是浅显涉及,但让初学者可以很快对庞大的法律体系获得概括认识和把握。在这一部分中,本书将1996年仲裁法(Arbitration Act

1996)和 1998 年人权法案(Human Rights Act 1998)等英国法编撰的最新动态也囊括其中。

其二,本书增加了消费者保护的部分。从传统商法的角度看,这一领域(尤其是所涉及到的竞争法的相关内容)一般不纳入商法范围,但从实际来看,这些内容又与商事活动环环相扣。本书的增加可谓体例上的突破。值得一提的是,这一部分中所涉及到的英国 1998 年竞争法(The Competition Law 1998),它既是对英国前两部竞争法的修改(the Fair Trading Act 1973, the Competition Act 1980),也是英国法在“限制贸易协议”和“公司商业支配地位滥用”两个法律领域的一场革命性的变迁。

关于如何学习本书,读者除通读全书内容外,可充分利用列于卷首的案例和法条汇编。这种体例是英美法系教科书的一大特色,便于读者从浩如烟海的判例和法规中找出头绪深入学习。其次,每一章前的 learning objections 可帮助读者更有针对性的学习,而列于每章节末尾的 Recommended further reading in questions 将引发读者的思索,回顾本章内容,深入分析揣摩,于不知不觉中对知识的把握又进一层。

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Preface to the Second Edition

The book is aimed at business studies students on undergraduate and equivalent courses as well as the business community.

It is almost impossible to define precisely the scope of a book on business law since no such thing exists – there is merely a heading embracing specific aspects of the law generally identified with business activities. And, as business activities cannot be closely defined since they extend to 'any trade, profession or occupation' (s.45, Partnership Act 1890), it is necessary to restrict artificially the scope of what is defined as a business activity to define the scope of business law.

The law in this book will be of central interest to specialists such as bankers, insurers, stockbrokers or debt factors, but it excludes the specific law that governs their particular professions' specialised literature. Business law is largely concerned with the supply of goods and services, and the organisations that undertake this activity.

The book starts with an introduction to the background of the sources of law and resolving legal disputes, including arbitration and alternative dispute resolution (ADR). It continues with the identification and explanation of the law of obligations, with particular reference to contract and tort, before considering the different forms of business organisation and the nature of business assets, including their use as a security for loans. The book then looks at business contracts of agency, employment and the sale and supply of goods and services.

The book then considers consumer credit and methods of payment and has a section devoted to consumer protection, including competition law, since the protection of the consumer is the justification for interference in respect of mergers, monopolies and general restrictive practices. This is looked at from the point of view of English and Community law. Chapters on the law of personal and corporate insolvency conclude the volume.

STEPHEN JUDGE

Table of Cases

A. Ketley Ltd v. Scott [1981] ICR 241	300
A. Roberts & Co. Ltd v. Leicestershire County Council [1961] Ch 555	74
A-G v. Blake [1998] 1 All ER 833	363
A-G v. Edison Telephone Co. (1880) 6 QBD 244	11
A-G for Hong Kong v. Reid [1994] 1 All ER 1	346
Aas v. Benham [1891] 2 Ch 244	189
AB Trucking and BAW Commercials (unreported 3 June 1987)	234
Abbey Glen Property Corp'n v. Stumborg [1976] 2 WWR 1	241
Aberdeen Rly Co. v. Blaikie Bros. (1854) 2 Eq Rep 1281	239
Aberfoyle Plantations Ltd v. Cheng [1960] AC 115	93
ACF Chemiefarma v. Commission [1970] ECR 661	518
ADT Limited v. BDO Binder Hamlyn, <i>Independent</i> , 7 December 1995	196
Adams v. Cape Industries plc [1990] Ch 433	164
Adams v. Lindsell (1818) 1 B 7 Ald 681	61
Adams v. Union Cinemas [1939] 3 All ER 136	391
Adams v. Ursell [1913] 1 Ch 269	128
Addis v. Gramophone Co. Ltd [1909] AC 488	139, 387
Adler v. Dickson [1954] 3 All ER 396	95
Aerators Ltd v. Tollitt [1902] 2 Ch 319	200
Aero Zipp Fasteners Ltd v. YKK Fasteners (UK) Ltd [1978] CMLR 888	516
AIB Finance Ltd v Debtors [1997] 4 All ER 677	302
Air Ecosse Ltd v. CAA (1987) 3 BCC 492	560
Airfix Footwear v. Cope [1978] ICR 1210	356
Airtours plc v. Shipley (1994) 158 JP 835	482
Albert v. Motor Insurers' Bureau [1972] AC 301	69
Alcock and Others v. Chief Constable of South Yorkshire Police [1991] 3 WLR 1057	114
Alexander v. Rayson [1936] 1 KB 169	82
Ali v. Christian Salvesen Food Services Ltd [1997] 1 All ER 721	91
Allam v. Europa Poster Services [1968] 1 All ER 286	344
Allcard v. Skinner (1887) 36 ChD 145	79, 148
Allen v. Emerson [1944] KB 362	14
Allen v. Gold Reefs of West Africa Ltd [1900] 1 Ch 656	204
Allen v. Hyatt (1914) 30 TLR 444	237
Alliance & Leicester Building Society v. Edgestop Ltd [1993] 1 WLR 1462	146
Aluminium Industrie Vaassen v. Romalpa Aluminium Ltd [1976] 2 All ER 552	329

Amalgamated Investment & Property Co. Ltd v. John Walker & Sons Ltd [1976] 3 All ER 509	73, 101
American Cynamid Co. v. Ethicon Ltd [1975] 1 All ER 504	29
American Express Banking Corp. v. Hurley [1985] 3 All ER 564	302, 556
Anangel Atlas Naviera SA v. Ishikawajima-Harima Heavy Industries Co. Ltd [1990] 1 Lloyd's Rep 167	346
Andre et Cie. SA v. Ets. Michel Blanc et fils [1979] 2 Lloyd's Rep 427	74
Andrews v. Ramsay & Co. [1903] 2 KB 635	346
Anglia Television v. Reed [1972] 1 QB 60	138
Annabel's (Berkeley Square) v. G. Schoek [1972] RPC 838	179
Anns v. Merton London Borough Council [1977] 2 All ER 492	147
Anton Piller K. G. v. Manufacturing Processes Ltd [1976] 1 All ER 779	30
Appleby v. Myers [1867] LR 2 CP 651	103
Appleson v. Littlewood Ltd [1939] 1 All ER 454	69
Arab Bank Ltd v. Ross [1952] 1 All ER 709	459
Arab Bank plc v. Mercantile Holdings Ltd and Another [1994] 1 BCLC 330	220
Arbuckle v. Taylor (1815) 3 Dow 160	183
Arbuthnot Leasing International Ltd v. Havelet Leasing Ltd (No.2) [1990] BCC 636	576
Arcos v. Ronaasen (E. A.) & Son [1933] AC 470	398
Armhouse Lee Ltd v. Chappell (1996) <i>The Times</i> , 7 August	81
Armour v. Thyssen Edelstahl Werke AG (1990) FT 26 October	329
Arora v. Bradford City Council 1990 [1991] 3 All ER 545	147
Ashbury Railway Carriage & Iron Co. Ltd v. Riche (1875) LR 7 HL 653	202, 249
Ashington Piggeries Ltd v. Christopher Hill Ltd (Nordsildmel Third Parties) [1971] 1 All ER 847	402
Ashley v. Sutton London Borough Council (1994) 159 JP 631, DC	482
Ashmore, Benson, Pease & Co. Ltd v. A. W. Dawson Ltd [1973] 2 All ER 856	83
Ashville Investments Ltd v. Elmer Contractors Ltd [1989] 2 QB 488	36
Associated Distributors Ltd v. Hall [1938] 2 KB 83	447
Associated Japanese Bank (International) Ltd v. Crédit du Nord SA [1988] 3 All ER 902	322
Astor Chemicals v. Synthetic Technology [1990] BCC 97	561
Aswan Engineering Establishment v. Lupdine [1987] 1 WLR 1	400
Atari Corporation (UK) Ltd v. Electronics Boutique Stores (UK) Ltd [1998] 2 WLR 66	409
Attica Sea Carriers Corp. v. Ferrostaal Poseidon Bulk Reederei GmbH, The Puerto Buitrago [1976] 1 Lloyd's Rep 250	101
Att. Gen. v. Corke [1933] Ch 89	131
Attwood v. Small (1838) 6 Cl & Fin 232	76
Atwood v. Lamont [1920] 3 KB 571	84
Avery v. Bowden (1855) 5 E & B 714	100, 102

Baden Delvaux & Lecuit v. Société Générale pour favoriser le développement du commerce et de l'industrie en France SA [1983] BCLC 325	222
Badgerhill Properties Ltd v. Cottrell [1991] BCLC 805	208
Bagot v. Stevens Scanlon & Co. Ltd [1966] 1 QB 197	135
Baker v. Australia and New Zealand Bank Ltd [1958] NZLR 907	464
Baker v. Barclays Bank Ltd [1955] 2 All ER 571	472
Baker v. James Bros. [1921] 2 KB 674	121
Baldry v. Marshall [1925] 1 KB 260	402
Baldwin v. British Coal (1994) IRLB 501	388
Balfour v. Balfour [1919] 2 KB 571	69
Balkis Consolidated Co. v. Tomkinson [1893] AC 396	229
Balsamo v. Medici [1984] 2 All ER 304	344
Balston Ltd v. Headline Filters Ltd [1990] FSR 385	241
Bamford v. Bamford [1970] Ch 212	210, 238
Banco-Exterior Internacional v. Mann [1995] 1 All ER 936	295
Banco Exterior Internacional SA v. Thomas [1997] 1 All ER 46	296
Bank of Baroda v. Panessar [1986] BCLC 497	553
Bank of Baroda v. Rayarel [1995] 2 FLR 376	296
Bank of England v. Vagliano Brothers [1891] AC 107	453
Bank of Montreal v. Stuart [1911] AC 120	322
Bank of Scotland v. Grimes NLJ, Vol 135 (1985)	300
Banque de l'Indochine et de Suez S. A. v. Euroseas Group Finance Co. Ltd [1981] 3 All ER 198	200
Barber v. Guardian Royal Exchange Assurance Group [1991] 2 WLR 72	365, 368
Barclays Bank Ltd v. Astley Industrial Trust Ltd [1970] 1 All ER 719	473
Barclays Bank plc v. Boulter [1997] 2 All ER 1002	295
Barclays Bank plc v. Thomson [1997] 4 All ER 816	296
Barclays Bank Ltd v. Trevanion The Banker, Vol. xxvii (1933)	324
Barclays Bank Ltd v. W. J. Simms & Son & Cooke (Southern) Ltd and Another [1980] QB 677	462, 465
Barclays Bank plc v. Fairclough Building Ltd and Others [1995] 1 All ER 289	140
Barclays Bank plc v. O'Brien [1994] 1 AC 180	295
Barker v. Hargreaves [1981] RTR 197	486
Barnes v. Hampshire County Council [1969] 3 All ER 746	113
Barnett v. Chelsea & Kensington Management Committee [1969] 1 QB 428	120
Barrett v. Enfield LBC [1997] 3 All ER 171	116
Barry v. Midland Bank plc [1998] 1 All ER 805	366
Bartlett v. Sydney Marcus [1965] 1 WLR 1013	400
Bass Brewers Ltd. v. Appleby and Another [1997] 2 BCLC 700A	184
Batty v. Metropolitan Property Realisations Ltd [1978] QB 554	136
Baxendale v. Bennett (1878) 3 QBD 525	457
Beach v. Reed Corrugated Cases Ltd [1956] 2 All ER 652	138

Beard v. London General Omnibus Co. [1900] 2 QB 530	358
Beattie v. E. & F. Beattie Ltd [1938] Ch 708	206
Beckett v. Cohen [1972] 1 WLR 1593	483
Beckett v. Kingston Bros. (Butchers) Ltd [1970] 1 QB 606	484
Beguelin Import v. SAGL Import/Export [1971] ECR 949	519
Belfield v. Bourne [1894] 1 Ch 521	192
Bell v. Lever Bros. [1932] AC 161	73, 241
Bell Houses Ltd v. City Wall Properties Ltd [1966] 2 QB 656	202
Belmont Finance Corp'n v. Williams Furniture Ltd [1979] Ch 250	222
Belmont Finance Corp'n Ltd v. Williams Furniture Ltd (No. 2) [1980] All ER 393	221
Bence Graphics International Ltd v. Fasson UK Ltd [1997] 1 All ER 979	425
Bentinck Ltd v. Cromwell Engineering Co. [1971] 1 QB 324	446
Bentley v. Craven (1853) 18 Beav 75	189
Bentley-Stevens v. Jones [1974] 2 All ER 653	255
Benyon v. Nettleford (1850) 3 Mac & G 94	81
Berkshire County Council v. Olympic Holidays Ltd [1994] Crim LR 277	489
Birmingham v. Sher Brothers 1980 SLT 122	113
Bernstein v. Pamsons Motors (Golders Green) Ltd [1987] 2 All ER 22	400, 404
Bernstein v. Skyviews & General Ltd [1977] 3 All ER 902	106
Bertram, Armstrong & Co. v. Godfrey (1830) 1 Knapp 381	342
Beswick v. Beswick [1968] AC 58	67
Bettini v. Gye (1876) 1 QBD 183	91
Betts v. Brintel Helicopters Ltd [1997] 2 All ER 840	390
Bevan v. Webb [1901] 2 Ch 59	188
Beverley Acceptance v. Oakley [1982] RTR 417	415
Bigos v. Boustead [1951] 1 All ER 92	83
Bilka-Kaufhaus v. Weber van Hartz [1986] 2 CMLR 701	376
Binstead v. Buck 1777 2 WB1 1117	340
Bird & Co. (London) Ltd v. Thomas Cook & Son Ltd and Thomas Cook & Son (Bankers) Ltd [1937] 2 All ER 227	457
Bisney v. Swanston [1972] 225 EG 2299	147
Bisset v. Wilkinson [1927] AC 177	75
Blackmore v. Bellamy [1983] RTR 303	480
Blackpool and Fylde Aero Club Ltd v. Blackpool Borough Council [1993] 3 All ER 25	63
Bliss v. South East Thames Regional Health Authority [1987] ICR 700	387
Bloomenthal v. Ford [1897] AC 156	229
Blum v. OCP Repartition SA [1988] BCLC 170	201
Boardman v. Phipps [1967] 2 AC 46	189, 345
Boardman v. Sanderson [1964] 1 WLR 1317	114
Boden v. French (1852) 10 CB 886	343
Boehringer Mannheim v. EC Commission [1970] ECR 769	517

Bolton v. Mahadeva [1975] QB 326	98
Bolton v. Stone [1951] AC 850	118, 126
Bondina Ltd v. Rollaway Shower Blinds Ltd and Others [1986] BCLC 177	454
Bone v. Seale [1975] 1 All ER 787	128
Borden (UK) Ltd v. Scottish Timber Products Ltd [1979] 3 All ER 961	331
Borland's Trustee v. Steel Bros. & Co. Ltd [1907] 1 Ch 279	223
Boston Deep Sea Fishing and Ice Co. v. Ansell [1888] 39 ChD 339	346
Bourhill v. Young [1943] 2 All ER 396	113
Bowmakers Ltd v. Barnet Instruments Ltd [1945] KB 65	82
Box v. Midland Bank Ltd [1979] 2 Lloyd's Rep 391	468
BP v. EC Commission [1978] ECR 1513	524
BP Exploration Co. (Libya) Ltd v. Hunt (No. 2) [1983] 2 AVC 352	103
Brace v. Calder [1895] 2 QB 253	140
Bradford Banking Co. Ltd v. Henry Briggs, Sons & Co. Ltd (1886) 12 App Cas 29	305
Bradford v. Robinson Rentals Ltd [1967] 1 All ER 267	143
Brady v. Brady [1988] BCLC 20	221, 237
Brasserie de Haecht v. Wilkin and Wilkin [1968] CMLR 26	519
Brasserie du Pecheur SA v. Germany [1996] 1 CMLR 889	20
Bratton Seymour Service Co. Ltd v. Oxborough [1992] BCLC 693	206
BRDC Ltd v. Hextall Erskine & Co [1997] 1 BCLC 182	245
Brettel v. Williams (1849) 4 Exch 623	323
Bridge v. Campbell Discount Co. Ltd [1962] AC 600	446
Bridlington Relay Ltd v. Yorkshire Electricity Board [1965] 1 All ER 264	128
Brikom Investments Ltd v. Carr [1979] QB 467	76
Brinkibon Ltd v. Stahag Stahl [1983] AC 34	61
Bristol & West Building Society v. Henning and Another, <i>The Times</i> 3 April 1985	265
Bristol Airport v. Powdrill [1990] BCLC 585	560
British Airways Board v. Parish [1979] 2 Lloyd's Rep 386	200
British Airways Board v. Taylor [1976] 1 All ER 65	483
British Celanese v. A. H. Hunt (Capacitors) Ltd [1969] 2 All ER 1252	131
British Concrete Co. Ltd v. Schelfff [1921] 2 Ch 563	85
British Homes Assurance Corpn. Ltd v. Patterson [1902] 2 Ch 404	183
British Telecommunications v. Commission [1973] 1 CMLR 457	527
British Transport Commission v. Gourley [1956] AC 185	138
Britton v. The Commissioners of Customs and Excise [1986] VATTR 204	175
Brown v. Westminster Bank Ltd [1964] 2 Lloyd's Rep 187	465
Browne-Wilkinson Woods v. WM Car Services (Peterborough) Ltd [1981] ICR 666	362
Bull v. Pitney-Bowes Ltd [1966] 3 All ER 384	85

Bunge Corp., N. York v. Tradax Export S. A. Panama [1981] 1 WLR 711	92
Bunker v. Charles Brand & Son Ltd [1969] 2 All ER 59	124
Burnard v. Haggis (1863) 14 CBNS 45	89
Buron v. Denman [1848] 2 Exch 167	339
Burton v. Gray (1873) 8 Ch App 932	321
Bushell v. Faith [1970] AC 1099	169, 236
Business Computers Ltd v. Anglo-African Leasing Limited [1977] 1 WLR 578	556
Bute (Marquess) v. Barclays Bank Ltd [1954] 3 All ER 365	472
Butler Machine Tool Co. Ltd v. Ex-Cell-O Corp (England) Ltd [1979] 1 WLR 401	61
Butterworth v. Kingsway Motors [1954] 1 WLR 1286	397
Byrne v. Van Tienhoven (1880) 5 CPD 344	60
C & P Haulage v. Middleton [1983] 3 All ER 94	138
Calico Printers' Association Ltd v. Barclays Bank (1931) 145 LT 51	343
Callow v. Lawrence (1814)	462
Cambridge Water Co. Ltd v. Eastern Counties Leather plc [1994] 1 All ER 53	131, 133
Cammell Laird Ltd v. Manganese Bronze and Brass Ltd [1934] AC 402	402
Campbell Discount Co. Ltd v. Bridge [1962] AC 600	141
Campbell v. Paddington Corporation [1911] 1 KB 869	126
Canadian Aero Service Ltd v. O'Malley (1973) 40 DLR (3d) 371	240
Cane v. Jones [1980] 1 WLR 1451	204
Cannon v. Hartley [1949] Ch 213	149
Caparo Industries plc v. Dickman [1990] 1 All ER 568	117
Capital and Counties plc v. Hants CC [1997] 2 All ER 865	116
Capital Finance Co. Ltd v. Bray [1964] 1 WLR 323	445
Capper Pass v. Lawton [1977] QB 852	366
Carlill v. Carbolic Smokeball Co. [1893] 1 QB 256	59
Carlisle and Cumberland Banking Co. v. Bragg [1911] 1 KB 489	322
Carlogie SS Co. Ltd v. The Royal Norwegian Government [1952] AC 292	144
Carlos Federspiel & Co. v. Charles Twigg & Co. [1957] 1 Lloyd's Rep 240	411
Carmichael v. Evans [1904] 1 Ch 486	191
Carney v. Herbert [1985] AC 301	221
Cassell & Co. Ltd v. Broome [1972] 1 All ER 808	147
Cassidy v. Ministry of Health [1951] 2 KB 343	355
Castle v. St Augustine's Links (1922) 38 TLR 615	126
Catamaran Cruisers Ltd v. Williams (1994) IRLR 501	356
Catlin v. Cyprus Finance Corporation (London) Ltd [1983] 1 All ER 809	467
CBS (UK) Ltd v. Lambert [1982] 3 All ER 213	29

CCC Films v. Impact Quadrant Films [1984] 3 All ER 298	138
Cebora S. N. C. v. S. I. P. (Industrial Products) Ltd [1976] 1 Lloyd's Rep 271	460
Cellulose Acetate Silk Co. Ltd v. Widnes Foundry Ltd [1933] AC 20	141
Centrafarm v. Sterling Drug [1976] 1 CMLR 1	528
Central London Property Trust Ltd v. High Trees House Ltd [1947] KB 130	68, 99
Central Motors (Birmingham) v. P. A. & S. N. P. Wadsworth [1983] CLY 79	454
Century Insurance Co. Ltd v. Northern Ireland Road Transport Board [1942] 1 All ER 491	359
Chadwick v. British Transport Commission [1967] 2 All ER 945	115
Champagne Perrier-Jonet SA v. H. H. Finch Ltd [1982] 3 All ER 713	229
Chandler v. Webster [1904] 1 KB 904	102
Chapelton v. Barry UDC [1940] 1 KB 532	93
Chaplin v. Hicks [1910] 2 KB 486	138
Chaplin v. Leslie Frewin (Publishers) Ltd [1966] Ch 71	88
Chapman and Elkins v. CPS Computer Group (1987) IRLIB 336	386
Chappell & Co. Ltd v. Nestlé Co. Ltd [1960] AC 87	64
Chapronière v. Mason (1905) 21 TLR 633	119, 490
Charing Cross Electricity Supply Co. v. Hydraulic Power Co. [1914] 3 KB 772	130
Charles Forte Investments Ltd v. Amanda [1963] 2 All ER 940	171, 229
Charles Rickards Ltd v. Oppenheim [1950] 1 KB 611	93, 404
Charter v. Sullivan [1957] 2 QB 117	137
Chaudhry v. Prabhakar [1989] 1 WLR 29	343
Chief Constable of Kent v. V and Another [1982] 3 WLR 462	467
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Earl of Oxford's Case (1615)	10

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