# Cross on Evidence

Fifth edition

Butterworths

# EVIDENCE

SIR RUPERT CROSS, F.B.A., D.C.L.

*Solicitor; formerly Vinerian Professor of English Law in the University of Oxford*

FIFTH EDITION

LONDON

BUTTERWORTHS

1979

*ENGLAND:* BUTTERWORTH & CO. (PUBLISHERS) LTD.
LONDON: 88 KINGSWAY, WC2B 6AB

*AUSTRALIA:* BUTTERWORTHS PTY. LTD.
SYDNEY: 586 PACIFIC HIGHWAY, CHATSWOOD, NSW 2067
ALSO AT MELBOURNE, BRISBANE ADELAIDE AND PERTH

*CANADA:* BUTTERWORTH & CO. (CANADA) LTD.
TORONTO: 2265 MIDLAND AVENUE, SCARBOROUGH M1P 4S1

*NEW ZEALAND:* BUTTERWORTHS OF NEW ZEALAND LTD.
WELLINGTON: 77–85 CUSTOMHOUSE QUAY

*SOUTH AFRICA:* BUTTERWORTH & CO. (SOUTH AFRICA) (PTY.) LTD. DURBAN: 152–154 GALE STREET

*U.S.A.* BUTTERWORTH & CO. (PUBLISHERS) INC.
BOSTON: 10 TOWER OFFICE PARK, WOBURN, MASS. 01801

| | |
|---|---|
| *First Edition* | *January 1958* |
| Second Edition | *June 1963* |
| Third Edition | *March 1967* |
| Reprinted | *October 1969* |
| Second Reprint | *December 1970* |
| Third Reprint | *December 1972* |
| Fourth Reprint | *August 1973* |
| Fourth Edition | *October 1974* |
| Reprinted | *November 1975* |
| Reprinted | *March 1977* |
| Fifth Edition | *October 1979* |



ISBN—Casebound: 0 406 57005 1
Limp: 0 406 57004 3

Printed in Great Britain by Thomson Litho Ltd., East Kilbride, Scotland.

## PREFACE TO THE FIFTH EDITION

Since the publication of the fourth edition there has been comparatively little relevant statute law and a great deal of case-law. The latter accounts to a large extent for the alterations which have been made in this edition. The following list only mentions those of the greatest importance:

1. section 6 of chapter I has been rewritten in the light of the judgment of the Court of Appeal in *R.* v. *Sang and Mangan*;[1]

2. there has been much rewriting in chapter IV due in part to the judgment of the Court of Appeal in *R.* v. *Edwards*;[2]

3. the account of the competence and compellability of the accused's spouse in chapter VIII has been reorganised partly in order to allow for the decision of the House of Lords in *Hoskyn* v. *Metropolitan Police Commissioner*;[3]

4. there has been a good deal of rewriting in chapter X, notably the enlargement of the section on refreshing memory due to some recent decisions of the Court of Appeal;

5. chapter XII has been enlarged in order to cater for the decision of the House of Lords in *D.* v. *N.S.P.C.C.*;[4]

6. chapter XIV has been extensively rewritten on account of the speeches in the House of Lords in *Director of Public Prosecutions* v. *Boardman*,[5] and subsequent decisions of the Court of Appeal; and

7. the account of the rule against hearsay and its exceptions, now contained in chapters XVII–XXI, has been reorganised, though not revolutionised to the extent that might at first sight appear to be the case.

My one deep regret is the increase in the size of the book. This must be due in part to the prolixity which comes with old age. I can at least allay the fears of those who might be worried about a repitition of my offence in subsequent editions. I am happy to say that my friend and former pupil, Colin Tapper, All Souls Reader in Law and Fellow of Magdalen College, Oxford, has undertaken to bear responsibility for what I hope will be many such editions. We have conducted more seminars in evidence together than either of us would care to remember and I hope that we shall remain in close touch for many years to come. It is therefore *possible* that I shall play a *small* part in the preparation of the sixth edition, but I must emphasise that the emphases have been added after very careful deliberation. This edition owes a lot to Colin for, quite apart

[1] [1979] 2 All E. R. 46. See addendum (pp. viii–ix) for comment on the speeches in the House of Lords.
[2] [1975] Q.B. 27.
[3] [1978] 2 All E.R. 136.
[4] [1978] A.C. 171.
[5] [1975] A.C. 421.

from what I learnt from him at those seminars, he has read the proofs, a repulsive task for which I am most grateful.

In gross breach of my undertakings to my publishers, for whose tolerance my admiration knows no bounds, the manuscript was delivered piecemeal between early January and early June 1979. I have found it possible to refer to some decisions reported during and after that period in the text or footnotes, but it has been necessary to have an addendum (see pp. viii–x) for others. Piecemeal delivery has great advantages, but it can lead to the finished product's containing passages in the earlier parts of the book in which the author would have expressed himself differently had he known what he knew by the time his manuscript was completed. The major instances in the present work are the outcome of the speeches in the House of Lords in *R.* v. *Sang* and *Waugh* v. *British Railways Board*. If allowance is made for the addendum in which these and a few other decisions are noted, it is hoped that this book contains a reasonably accurate account of the English law as it stood on the day when the preface was written.

*31st July* 1979 RUPERT CROSS

## EXTRACT FROM THE PREFACE TO THE FIRST EDITION

IN the preface to the first edition of his Law of Evidence, the late S. L. Phipson said that he had endeavoured to supply students and practitioners with a work which would take a middle place between "the admirable but extremely condensed Digest of Sir James Stephen, and that great repository of evidentiary law, Taylor on Evidence". Those words were written as long ago as 1892, and Phipson's book now has claims to be regarded as *the* great English repository of evidentiary law. I realise therefore that I am flying high when I say that I hope to have supplied students and practitioners with a work which will take a middle place between those of Stephen and Phipson. The needs of students and practitioners are not, of course, identical; but I have catered for the students by including a good deal more theoretical discussion in the text than is customary in the case of a book designed solely for the practitioner, and I have catered for the latter by including many more cases in the footnotes than any student could conceivably wish to consult. Nearly all the decisions that are really important from the student's point of view are mentioned in the text. Though I have primarily borne in mind the requirements of those who are working for a law degree, I trust that the book may not prove too long for those working for the professional examinations. The long book may often be tedious, but it is sometimes more digestible than the shorter one.

I have adopted the growing practice of citing a number of decisions of the courts of the Commonwealth. My citations are not intended to be exhaustive. I have, in the main, chosen those Commonwealth decisions in which English cases have been discussed or which provide a neat illustration of what is pretty clearly English law. Should a further edition be called for, it will not be difficult to keep the Commonwealth material up to date, but I am painfully conscious of the fact that I may have omitted important matter, and I would be most grateful to any reader who draws my attention to what he considers to be a serious omission.

I have laid myself open to the charge of having quoted at too great length from English judges and American writers. My answer is that I have endeavoured to meet the undoubted need of an up-to-date account of the theory of the subject—a need that is made plain by the fact that, in nine cases out of ten, any advocate can say whether evidence is admissible or inadmissible, but he is frequently at a loss to explain why this should be so. It is impossible to give a satisfactory account of the theory of our law of evidence without frequent reference to the *ipsissima verba* of the judges and the work of such great American exponents of the subject as Thayer, Wigmore, Morgan and Maguire.

RUPERT CROSS.

## ADDENDUM[1]

PAGE

**32–36 and 325–6** The House of Lords has dismissed the appeal in *R.* v. *Sang and Mangan*[2] being unanimously of the opinion that, whatever be the ambit of judicial discretion to exclude admissible evidence, it does not extend to excluding evidence of a crime because it was instigated by an *agent provocateur*. The general question certified by the Court of Appeal as fit for consideration by the House of Lords was: "does a trial judge have a discretion to refuse to allow evidence–being evidence other than evidence of admissions–to be given in any circumstances in which such evidence is relevant and of more than minimal probative value?" The following answer was given by four out of the five members of the House:

> "(1) A trial judge at a criminal trial has always a discretion to refuse to admit evidence if in his opinion its prejudicial effect outweighs its probative value.
> (2) Save with regard to admissions and confessions and *generally with regard to evidence obtained from the accused after his commission of the offence*, he has no discretion to refuse to admit relevant admissible evidence on the ground that it was obtained by improper or unfair means. The court is not concerned with how it was obtained."[3] (Italics supplied).

The House was also unanimously of the opinion that there is only one type of exclusionary discretion, viz. that which is based on fairness to the accused. No reference was made to public policy as the basis of a discretion to exclude illegally obtained evidence such as that envisaged by Lord HODSON in *King* v. *R.*,[4] and the Australian law as stated by BARWICK, C.J., in *R.* v. *Ireland* (No. 2)[5] was not mentioned.

The broad *dicta* of Lord PARKER and Lord WIDGERY, C.JJ., in *Callis* v. *Gunn* and *Jeffery* v. *Black* respectively[6] were regarded as incorrect by Viscount DILHORNE and cited without much sympathy by Lord DIPLOCK, but Lords FRASER and SCARMAN considered that they should be followed while Lord SALMON expressed no opinion on the subject.

The terms of the certified question are sufficient to rob anything said in the speeches of authority with regard to the discretion to exclude legally admissible confessions, but the

[1] The comments on the first two cases are based on the prints of the speeches in the House of Lords received by the courtesy of Lord EDMUND DAVIES.
[2] P. 35, *infra*; see now [1979] 2 All E. R. 1222.
[3] Lord SALMON formulated his conclusions in different terms but without disagreeing with the rest of the House.
[4] P. 34, *infra*.
[5] P. 326, *infra*.
[6] P. 34, *infra*.

PAGE

following two points are of considerable interest. (1) Lords DIPLOCK and DILHORNE considered that Lord GODDARD's remarks in *Kuruma* v. *R.*[7] concerning the discretion to exclude evidence obtained by a trick must have been made with reference to *R.* v. *Barker*[8] (a decision which had been thought to turn on admissibility as a matter of law) and to mean no more than that there is a discretion to exclude, not merely confessions, but also evidence tantamount to a confession, obtained from the accused by a trick. (2) Speaking of confessions, Lord DIPLOCK said:

> "The underlying rationale of this branch of the criminal law, though it may originally have been based upon ensuring the reliability of confessions, is, in my view, now to be found in the maxim *nemo debet prodere se ipsum*, no one can be required to be his own betrayer or in its popular English mistranslation 'the right to silence'."

Having regard to the differences between Viscount DILHORNE and, probably, Lord DIPLOCK on the one had, and Lords FRASER and SCARMAN on the other, the implications of the words in the answer to the general question I have italicised may have to be drawn out by subsequent case-law on the subject of the exclusionary discretion in criminal cases.

285–6 The House of Lords has allowed the plaintiff's appeal in *Waught* v. *British Railways Board*[9]. The speeches were unanimously in favour of "the dominant purpose" as the right test by which the existence of legal professional privilege should be determined in "dual" or "multiple" purpose cases. The judgment of BARWICK, C.J., in *Grant* v. *Downes*[9a] is thus preferred to those of the other members of the High Court of Australia. In so far as they could count as decisions to the contrary, *Birmingham and Midland Motor Omnibus Co. Ltd.* v. *London and North Western Rail. Co.* and *Ogden* v. *London Electric Rail. Co.* are respectively overruled.[10]

313 *Burmah Oil Co. Ltd.* v. *Bank of England*[11] shows that clarification of the law concerning the exclusion of evidence on the ground of state interest is required in cases in which the government participates in what is essentially a commercial transaction. The Burmah Oil Company brought an action to set aside the sale of its shareholding in British Petroleum Co. Ltd. to the Bank on the ground that it was unconscionable, having been made for less than the current market price at a time when, owing to financial obligations which, due to pressure from the Bank it had been unable to relieve in any

[7] P. 33, *infra*.
[8] P. 322, *infra*.
[9] P. 285, *infra*. See now [1979] 2 All E. R. 1196; [1979] 3 W. L. R. 150.
[9a] P. 286, *infra*.
[10] P. 285, *infra*.
[11] [1979] 2 All E.R. 461.

other way, the Company had no alternative. The Bank had acted in cooperation with the government at all material times. Its list of documents referred to three categories in respect of which there was an objection to disclosure taken in an affidavit sworn by the Chief Secretary to the Treasury. They were (a) memoranda relating to meetings at which ministers were present, (b) memoranda relating to meetings at which government officials were present and (c) documents containing commercial or financial information communicated to the government of the Bank by business men in their capacities as government advisers. The objection in relation to categories (a) and (b) was that the documents related to the formulation of government policy on important economic matters. In the case of category (c) the objection was based on the importance of maintaining the free flow of such information.

By a majority the Court of Appeal affirmed the judge's dismissal of the Company's application for production of the documents. It was in the public interest that the Company should be kept afloat and no distinction could be drawn between the question of principle whether the government should provide financial assistance, plainly a matter of policy, and the terms on which it should be given with which the meetings were concerned. As to category (c), the information had been supplied in confidence and the public interest involved outweighed the public interest in the administration of justice.

Lord DENNING, M.R., discussed the possibility of a waiver of Crown privilege in the course of his dissenting judgment. He said that, by consciously and consistently failing to claim it, the Crown could waive the privilege, and he considered that there should be such a waiver when the government participates in a commercial transaction. The Bank's appeal has been heard by the House of Lords but, at the time of writing (31st July 1979), no decision has been announced.

*31st July 1979*

# TABLE OF STATUTES

**References in this Table to *Statutes* are to Halsbury's Statutes of England (Third Edition) showing the volume and page at which the annotated text of the Act will be found.**


PAGE

Administration of Justice Act 1920 (6 *Statutes* 353)—
s. 15 .. .. .. .. .. 67
Affiliation Proceedings Act 1957 (1 *Statutes* 75)—
s. 4, 8 .. .. .. .. .. 194
Affiliation Proceedings (Amendment) Act 1972 (42 *Statutes* 2) .. 194
Bankers' Books Evidence Act 1879 (12 *Statutes* 848) 184, 602, 633
s. 3–5 .. .. .. .. .. 602
6 .. .. .. .. .. 184
7 .. .. .. .. 294, 602
Bankruptcy Act 1914 (3 *Statutes* 33) 643
s. 15 .. .. .. .. 280, 291
(8) .. .. .. .. 281
137 (2) .. .. .. 124, 641
139 .. .. .. .. .. 641
142 .. .. .. .. .. 157
148 (2) .. .. .. .. 641
166 .. .. .. .. .. 280
Bankruptcy Law Consolidation Act 1849—
s. 117 .. .. .. .. .. 281
Bigamy (1603) .. .. .. .. 140
Bills of Exchange Act 1882 (3 *Statutes* 188)—
s. 9 (2) .. .. .. .. 628
30 .. .. .. .. .. 107
(2) .. .. .. .. 93, 98
54, 55 .. .. .. .. 347
Bills of Lading Act 1855 (31 *Statutes* 44) .. .. .. .. 615
Births and Deaths Registration Act 1953 (27 *Statutes* 1021)—
s. 34 .. .. .. 636, 637, 638
British Law Ascertainment Act 1859 (12 *Statutes* 832) .. .. 635
Cestui que Vie Act 1666 (27 *Statutes* 300) .. .. .. 140, 145
Children and Young Persons Act 1933 (17 *Statutes* 435) 169, 173, 174, 205
s. 15 .. .. .. .. .. 174
26 (5) .. .. .. .. 174
38 .. .. .. 169, 192, 193, 194
42 .. .. .. .. .. 221
43 .. .. .. .. 221, 567
50 .. .. .. .. 29, 124
99 .. .. .. .. 12, 637
Sch. 1 .. .. .. .. .. 174
Children and Young Persons Act 1963 (17 *Statutes* 699) .. 221
s. 16 .. .. .. .. 29, 124
(2) .. .. .. .. 417
27 .. .. .. .. .. 567

PAGE

Children and Young Persons Act 1969 (40 *Statutes* 843) 315, 518
Civil Evidence Act 1968 (12 *Statutes* 910) .. .. .. 2, 3, 4, 7, 8, 16, 19, 21, 24, 46, 209, 228, 234, 237, 238, 244, 245, 248, 249, 258, 273, 458, 467, 468, 471, 474, 481, 482, 484, 491, 494, 509, 510, 517, 523, 534, 552, 571, 572, 573, 575, 583, 589, 594, 618, 630, 633, 637, 638, 640, 644
s. 1 .. .. .. 262, 484, 496
(1) .. 7, 484, 487, 490, 630
(2) .. .. .. 484, 499
2 .. .. .. .. 268, 484, 485, 486, 487, 491, 493, 495, 497, 498, 501, 502, 503, 504, 505, 507, 508, 509, 512, 513, 521, 523, 525, 527, 534
(1) .. .. 487, 490, 491, 495
(2) .. 228, 485, 488, 489, 493
(3) .. 485, 490, 492, 493, 501
3 .. .. .. 484, 489, 510
(1) (a) .. .. 255, 256, 259, 261
(b) .. .. .. .. 247
(2) .. .. .. 235, 452
(3) .. .. .. .. 452
4 .. .. .. .. 484, 486, 492, 498, 499, 501, 502, 503, 509, 512, 513, 517, 571, 572
(1) .. .. .. .. 497
(2), (3) .. .. .. .. 498
5 .. .. .. .. 484, 486, 487, 497, 500, 501, 513, 572
(1) .. .. .. .. 499
(2), (4), (6) .. .. .. 500
6 .. .. .. .. .. 484
(1) .. .. .. .. 492
(3) .. .. .. .. 493
(4) .. .. .. 209, 236
7 .. .. .. .. .. 484
8 .. 37, 262, 484, 485, 486, 490, 492
(5) .. .. .. .. 492
9 .. .. .. .. 484, 487, 494, 500, 504, 505, 507, 508
(1) .. .. 41, 501, 512, 519
(2) .. .. .. 501, 519
(3) .. .. .. .. 503
(a) .. .. 501, 502, 503
(b) .. .. 503, 505, 507
(4) .. .. 501, 502, 503
(5) .. .. .. 494, 501
(6) .. .. .. .. 502
10 .. .. .. .. 484, 499
(1) .. .. .. .. 491

PAGE

Civil Evidence Act 1968—*continued*
s. 11 .. .. .. .. 457, 460
(1) .. .. .. 457, 458
(2) .. .. .. .. 457
(a) .. .. .. 458
12 .. .. .. 457, 459, 460
(1), (2) .. .. .. .. 459
(5) .. .. .. .. 460
13 .. .. .. .. 457, 460
(1) .. .. .. .. 459
14 (1) (a) .. .. .. .. 279
(b) .. .. .. .. 278
15 .. .. .. .. .. 300
16 (1) (a) .. .. .. .. 277
(b) .. .. .. .. 299
(3) .. .. .. .. 298
(4) .. .. .. .. 299
(5) .. .. .. .. 277
Civil Evidence Act 1972 (42 *Statutes* 347) .. .. .. 3, 4, 496
s. 1 .. .. .. 448, 484, 513
(1) .. .. 484, 491, 495, 496
(2) .. .. .. .. 447
(3) .. .. .. .. 289
3 .. .. .. .. .. 443
(1), (2) .. .. .. .. 450
(3) .. .. .. 450, 452
4 (1) .. .. .. .. 636
(2) .. .. .. 633, 634
(3)–(5) .. .. .. .. 633
Civil Rights of Convicts Act 1828 .. 164
Colonial Laws Validity Act 1865 (4 *Statutes* 476)—
s. 6 .. .. .. .. .. 635
Common Law Procedure Act 1854—
s. 22 .. .. .. .. 252, 253
23, 24 .. .. .. .. 258
Companies Act 1948 (5 *Statutes* 110) 643
s. 15 .. .. .. .. .. 46
165 .. .. .. .. .. 314
Consular Relations Act 1968 (6 *Statutes* 1025)—
s. 1 (1) .. .. .. .. 184
Sch. 1 .. .. .. .. .. 184
County Courts Act 1846 .. .. 165
County Courts Act 1959 (7 *Statutes* 302)—
s. 26 .. .. .. .. .. 641
97 .. .. .. .. .. 67
Criminal Appeal Act 1907—
s. 4 (1) .. .. .. .. 196
Criminal Appeal Act 1968 (8 *Statutes* 687)—
s. 2 .. .. .. .. 80, 598
(1) .. .. .. 83, 414, 421
(a) .. .. .. 78, 81, 82
(b), (c) .. .. .. .. 82
7 .. .. .. .. .. 82
23 .. .. .. .. .. 82
Criminal Evidence Act 1898 (12 *Statutes* 865) .. .. 2, 38, 46, 53, 164, 166, 168, 170, 173, 181, 186, 403, 404, 405, 406, 408, 429, 570, 594
s. 1 .. .. 166, 171, 172, 179, 411
(a) .. .. .. .. 411
(b) .. .. .. 53, 413
(c) .. .. .. 178, 179
(d) .. .. .. 181, 182, 297, 298, 299, 411

PAGE

Criminal Evidence Act 1898—*continued*
s. 1 (e) .. .. .. 281, 416, 417, 418, 419, 420, 421, 437, 438, 439
(f) .. .. .. 173, 178, 219, 282, 341, 382, 392, 396, 411, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 436, 437, 440
(i) .. .. 418, 419, 420, 423, 424, 436, 437, 438
(ii) .. .. 31, 408, 417, 418, 419, 420, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 436, 437, 438
(iii) .. .. 418, 419, 420, 434, 435, 436, 437
(h) .. .. 186, 187, 411
4 .. .. .. 174, 179, 411
(1) .. .. 173, 174, 177
(2) .. .. .. .. 176
6 .. .. .. .. .. 176
(1) .. .. .. .. 166
Schedule .. .. 173, 178, 179
Criminal Evidence Act 1965 (12 *Statutes* 907) .. .. .. 467, 468, 482, 497, 509, 572
s. 1 (1) .. .. .. .. 570
(2) .. .. .. .. 570
(4) .. .. .. .. 571
Criminal Evidence Act 1979 418, 436, 439
Criminal Justice Act 1925 (21 *Statutes* 75)—
s. 12 (4) .. .. .. .. 186
13 .. .. .. .. .. 567
(3) .. .. .. .. 231
Criminal Justice Act 1948 (8 *Statutes* 337) .. .. .. .. 403
s. 23 (2) .. .. .. .. 641
39 .. .. .. .. 641, 642
80 (3) .. .. .. .. 637
Criminal Justice Act 1967 (8 *Statutes* 583)—
s. 1 .. .. .. .. .. 224
2 .. .. .. .. .. 220
(7) .. .. .. .. .. 221
8 .. .. .. .. .. 124
9 .. .. .. 3, 222, 570, 571
10 .. .. .. 162, 222, 603
11 .. .. .. .. 3, 42, 548
33 .. .. .. .. .. 54
Criminal Justice Administration Act 1914 (21 *Statutes* 67)—
s. 28 (2) .. .. .. .. 169
(3) .. .. .. .. 174
Criminal Law Act 1967 (8 *Statutes* 552)—
s. 1 .. .. .. .. .. 197
Criminal Law Act 1977 (47 *Statutes* 142, 692)—
s. 44 .. .. .. .. .. 81
48 .. .. .. .. .. 310
62 .. .. .. .. .. 547
Criminal Law Amendment Act 1867 (8 *Statutes* 172)—
s. 6 .. .. .. .. 221, 567
Criminal Law Amendment Act 1885 166, 192
s. 5 .. .. .. .. .. 239

PAGE

Criminal Procedure Act 1865 (12 *Statutes* 837)—
s. 1 .. .. .. .. .. 258
3 .. .. .. 7, 249, 252, 253, 254, 255, 256, 490
4 .. .. 7, 254, 258, 259, 490, 518
5 .. .. .. 7, 254, 258, 259, 260, 261, 490
6 .. 266, 403, 429, 641, 642, 643
7 .. .. .. .. .. 607
8 .. .. .. .. 76, 604
Criminal Procedure (Attendance of Witnesses) Act 1965 (8 *Statutes* 533) .. .. .. 221
Criminal Procedure (Right of Reply) Act 1964 (12 *Statutes* 906) .. 223
Crown Proceedings Act 1947 (8 *Statutes* 844) .. .. .. 309
s. 28 .. .. .. .. .. 309
Diplomatic and other Privileges Act 1971 (41 *Statutes* 276)—
s. 4 .. .. .. .. .. 184
Diplomatic Privileges Act 1964 (6 *Statutes* 1013)—
s. 2 (1) .. .. .. .. 184
Sch. 1.. .. .. .. .. 184
Divorce Reform Act 1969 (40 *Statutes* 768) .. .. 112, 116, 118, 339
Documentary Evidence Act 1868 (12 *Statutes* 841)—
s. 2 .. .. .. .. .. 601
Documentary Evidence Act 1882 (12 *Statutes* 852) .. .. 157, 601
Domestic Proceedings and Magistrates' Courts Act 1978 (48 *Statutes* 730)—
s. 62 .. .. .. .. .. 339
European Communities Act 1972 (42 *Statutes* 2230) .. .. .. 279
s. 4 (2) .. .. .. 67, 157
Evidence Act 1843 (12 *Statutes* 812) 38, 163, 164, 165, 180, 181, 182
Evidence Act 1845 (12 *Statutes* 813)—
s. 1 .. .. .. .. .. 602
2 .. .. .. .. .. 157
3 .. .. .. .. 157, 601
Evidence Act 1851 (12 *Statutes* 815) 2, 38, 52, 164, 165, 182, 639, 642
s. 4 .. .. .. .. .. 165
7 .. .. .. .. 602, 641
13 .. .. ... 641, 642, 643
14 .. .. .. .. .. 602
Evidence Act 1877 (12 *Statutes* 847) 166, 171, 173, 176, 178, 179, 180, 181, 583
Evidence Act 1938 (12 *Statutes* 878) 3, 228, 482, 483, 484, 487, 498, 517, 570, 633, 640
s. 3, 4 .. .. .. .. .. 607
Evidence (Amendment) Act 1853 (12 *Statutes* 822) .. .. 38, 164, 181
s. 1 .. .. .. .. 167, 182
3 .. .. .. .. 182, 298
Evidence by Commission Act 1859 (12 *Statutes* 829) .. .. 220
Evidence (Colonial Statutes) Act 1907 (12 *Statutes* 871) 634, 635, 639

PAGE

Evidence (Foreign, Dominion and Colonial Documents) Act 1933 (12 *Statutes* 875) .. .. 635, 636, 637, 639
Evidence Further Amendment Act 1869 (12 *Statutes* 846) 164, 165
s. 3 .. .. .. .. .. 277
Evidence (Proceedings in Other Jurisdictions) Act 1975 (45 *Statutes* 482) .. .. .. .. 220
s. 5 .. .. .. .. .. 220
Factories Act 1961 (13 *Statutes* 400)—
s. 29 (1) .. .. .. .. 101
155 (1) .. .. .. .. 101
Factors Act 1889 (1 *Statutes* 94) .. 350
Family Law Reform Act 1969 (40 *Statutes* 614) .. .. .. 55
s. 15 .. .. .. .. 623, 624
18–24 .. .. .. .. 55
26 .. .. .. 94, 127, 131, 133, 139
Finance Act 1942—
s. 34 .. .. .. .. .. 322
Finance Act 1962—
s. 16 (7) .. .. .. .. 291
Finance Act 1975 (45 *Statutes* 1770)—
s. 22 (9) .. .. .. .. 145
Foreign Law Ascertainment Act 1861 (12 *Statutes* 834) .. .. 635
Foreign Marriage Act 1892 (17 *Statutes* 16) .. .. .. 639
Foreign Tribunals Evidence Act 1856 (12 *Statutes* 825) .. .. 448
Forfeiture Act 1870 (8 *Statutes* 179) 168
Highways Act 1959 (15 *Statutes* 143)—
s. 35 .. .. .. .. .. 508
Homicide Act 1957 (8 *Statutes* 457)—
s. 2 (2) .. .. .. .. 98
Income and Corporation Taxes Act 1970 (33 *Statutes* 17)—
s. 167 (4) .. .. .. .. 291
Indecency with Children Act 1960 (8 *Statutes* 486) .. .. .. 174
Infant Life (Preservation) Act 1929 (8 *Statutes* 304)—
s. 2 (5) .. .. .. .. 174
International Organisation Act 1968 (6 *Statutes* 1051) .. .. 184
Interpretation Act 1889 (32 *Statutes* 434)—
s. 9 .. .. .. .. .. 157
Interpretation Act 1978 (48 *Statutes* 1296) .. .. .. .. 39
s. 3 .. .. .. .. 157, 601
7 .. .. .. .. .. 39
Sch. 2.. .. .. .. .. 157
Intestates' Estates Act 1952 (13 *Statutes* 128)—
s. 1 (4) .. .. .. .. 145
Ireland Act 1949 .. .. .. 67
Larceny Act 1916—
s. 43 (1) .. .. .. 30, 400
Law of Property Act 1925 (27 *Statutes* 341)—
s. 40 .. .. .. .. 610, 611
184 .. .. .. .. 144, 145
(1) .. .. .. .. 144

PAGE

Law Reform (Contributory Negligence) Act 1945 (23 *Statutes* 789) .. .. .. 77, 152, 337
Law Reform (Miscellaneous Provisions) Act 1934 .. 335, 527
Law Reform (Miscellaneous Provisions) Act 1949 .. .. 299
Legitimacy Act 1976 (46 *Statutes* 2)—
s. 1 .. .. .. .. .. 139
Libel Act 1792 (19 *Statutes* 5) .. 66
Limitation Act 1939 (19 *Statutes* 60)—
s. 2D .. .. .. .. .. 291
Limitation Act 1975 (45 *Statutes* 847) 291
Local Government Act 1972 (42 *Statutes* 841)—
s. 238 .. .. .. .. .. 602
Magistrates' Courts Act 1952 (21 *Statutes* 181)—
s. 40 .. .. .. .. .. 54
41 .. .. .. .. 221, 567
81 .. .. 99, 100, 101, 106, 108
126 (5) .. .. .. .. 637
Maintenance Orders Act 1950 (17 *Statutes* 280)—
s. 22 (2) .. .. .. 67, 634
Malicious Damage Act 1861 (8 *Statutes* 114) .. .. .. 154
Marine Insurance Act 1906 (17 *Statutes* 836)—
s. 20 (7) .. .. .. .. 66
Marriage Act 1949 (17 *Statutes* 44)—
s. 24, 48, 61 .. .. .. .. 135
65 .. .. .. .. .. 639
Married Women's Property Act 1884 180
Matrimonial Causes Act 1937 .. 148
Matrimonial Causes Act 1973 (43 *Statutes* 539) .. .. 118, 299
s. 1 (3) .. .. .. .. 339
4 .. .. .. .. .. 339
19 .. .. .. .. .. 145
(1) .. .. .. .. 148
(3) .. .. .. .. 148
48 (1) .. .. .. .. 299
Medical Act 1956 (21 *Statutes* 624)—
s. 33 (2) .. .. .. .. 461
Medical Act 1978 (48 *Statutes* 898) .. 461
Merchant Shipping Act 1894 (31 *Statutes* 57)—
s. 691 .. .. .. .. .. 221
Merchant Shipping Act 1970 (31 *Statutes* 739)—
s. 75 .. .. .. .. .. 636
Misuse of Drugs Act 1971 (41 *Statutes* 878) .. .. .. 538
s. 28 .. .. .. .. .. 98
National Assistance Act 1948 (23 *Statutes* 636)—
s. 51 .. .. .. .. .. 174
National Insurance (Industrial Injuries) Act 1946 (23 *Statutes* 473) .. .. .. .. 318
National Parks and Access to the Countryside Act 1949 .. .. 508
Northern Ireland (Emergency Provisions) Act 1978 (48 *Statutes* 972)—
s. 8 .. .. .. .. .. 73
Oaths Act 1978 (48 *Statutes* 691) .. 185
s. 1 .. .. .. .. .. 185

PAGE

Oaths Act 1978—*continued*
s. 4 (2) .. .. .. .. 185
5 .. .. .. .. .. 185
Obscene Publications Act 1959 (8 *Statutes* 479) .. .. .. 451
s. 4 .. .. .. .. .. 451
Offences against the Person Act 1861 (8 *Statutes* 147) .. .. 337
s. 44 .. .. .. .. .. 643
57 .. .. 105, 139, 145, 146, 147
Official Secrets Act 1911 (8 *Statutes* 250)—
s. 1 .. .. .. .. .. 281
(1) .. .. .. .. 399
(2) .. .. 281, 399, 403, 406
Official Secrets Act 1920 (8 *Statutes* 294) .. .. .. .. 399
s. 6 .. .. .. .. .. 281
Partnership Act 1890 (24 *Statutes* 500)—
s. 2 (3) .. .. .. .. 29
14 (1) .. .. .. .. 347
15 .. .. .. .. .. 527
Patents Act 1949 (24 *Statutes* 550) 299, 300
s. 77 .. .. .. .. .. 602
Perjury Act 1911 (8 *Statutes* 240) .. 217
s. 11 (6) .. .. .. .. 66
13 .. .. .. .. 191, 192
14 .. .. .. .. .. 642
Police (Property) Act 1897 (25 *Statutes* 280) .. .. .. 458
Prevention of Corruption Act 1906 (8 *Statutes* 236) .. .. .. 99
Prevention of Corruption Act 1916 (8 *Statutes* 291)—
s. 2 .. .. .. .. ..98, 99
Prevention of Crimes Act 1871 (8 *Statutes* 197)—
s. 15 .. .. .. 399, 403, 406
18 .. .. .. 641, 642, 643
19 .. .. .. .. .. 400
Protection of Children Act 1978 (48 *Statutes* 317)—
s. 2 (1) .. .. .. .. 174
Public Order Act 1936 (8 *Statutes* 327)—
s. 5 .. .. .. .. .. 65
Public Records Act 1958 (12 *Statutes* 883)—
s. 9 .. .. .. .. .. 602
Punishment of Incest Act 1908 174, 364
Registration of Births, Deaths and Marriages (Scotland) Act 1854 639
Rehabilitation of Offenders Act 1974 (44 *Statutes* 148) 404, 417, 457
s. 4 (1) .. .. .. 266, 404
7 (2) .. .. .. .. 266
(a) .. .. .. .. 404
(3) .. .. .. .. 404
8 .. .. .. .. .. 404
Representation of the People Act 1949 (11 *Statutes* 543)—
s. 146 (5) .. .. .. .. 190
Rights of Way Act 1932 .. .. 508
Road Traffic Act 1960 (28 *Statutes* 219)—
s. 5 .. .. .. .. .. 98
Road Traffic Act 1962 (28 *Statutes* 407)—
s. 2 .. .. .. .. .. 55

PAGE

Road Traffic Act 1972 (42 *Statutes* 1633)—
s. 5 .. .. .. .. .. 326
(1) .. .. .. .. .. 98
6 .. .. .. .. .. 326
7 .. .. .. .. .. 55
(1) .. .. .. .. .. 326
9 (7) .. .. .. .. .. 326
101 (1) .. .. .. .. .. 643
203 .. .. .. .. .. .. 190
Road Traffic Regulation Act 1967 (28 *Statutes* 517)—
s. 78A .. .. .. 190, 191, 448
Royal Marriages Act 1772 (6 *Statutes* 518) .. .. .. .. .. 555
Sale of Goods Act 1893 (30 *Statutes* 6)—
s. 4 .. .. .. .. .. .. 611
14 (3) .. .. .. .. .. 609
Sexual Offences Act 1956 (8 *Statutes* 415) .. .. 174, 179, 207, 239
s. 2–4 .. .. .. .. .. 192
12 (3) .. .. .. .. .. 637
15 (5) .. .. .. .. .. 637
22, 23 .. .. .. .. .. 192
28 (5) .. .. .. .. .. 637
30 .. .. .. .. .. .. 98
39 .. .. 173, 174, 178, 179, 181
(1) .. .. .. 178, 179
(3) .. .. .. .. .. 179
Sexual Offences Act 1967 (8 *Statutes* 577) .. .. .. .. .. 240
s. 2 .. .. .. .. .. .. 410
Sexual Offences (Amendment) Act 1976 (46 *Statutes* 321)—
s. 1 (2) .. .. .. .. .. 91
2 .. .. .. .. .. .. 264
(1) .. .. .. .. .. 264
Solicitors Act 1974 (44 *Statutes* 1478)—
s. 18, 63 .. .. .. .. .. 46
Statute of Frauds (1677) (7 *Statutes* 6) .. .. .. .. .. 611
Summary Jurisdiction Act 1848 (21 *Statutes* 29)—
s. 14 .. .. .. .. .. .. 100
Summary Jurisdiction Act 1879 (21 *Statutes* 53)—
s. 39 (2) .. .. .. .. .. 100
Supreme Court of Judicature (Consolidation) Act 1925 (25 *Statutes* 708)—
s. 85 .. .. .. .. .. .. 641
102 .. .. .. .. .. .. 67
Taxes Management Act 1970 (34 *Statutes* 1245)—
s. 105 .. .. .. .. .. .. 322
Theft Act 1968 (8 *Statutes* 782) 180, 280
s. 22 .. .. .. .. .. .. 49
24 (4) .. .. .. .. .. 49
25 (3) .. .. .. .. 107, 108
27 (3) .. .. 30, 341, 399, 400, 403
(4) .. .. .. .. .. 570

PAGE

Theft Act 1968—*continued*
s. 30 .. .. .. 173, 177, 178, 181
(2) .. .. 173, 175, 176, 178
(3) .. 175, 176, 177, 178, 179
31 .. .. .. .. .. .. 280
Tithe Act 1836 (35 *Statutes* 390) .. 499
Torts (Interference with Goods) Act 1977 (47 *Statutes* 1340)—
s. 8 .. .. .. .. .. .. 348
Treason Act 1795 (8 *Statutes* 42)—
s. 1 .. .. .. .. .. .. 190
Vagrancy Act 1824 (8 *Statutes* 71) .. 174
s. 4 .. .. .. .. .. .. 399
Witnesses Act 1806 (12 *Statutes* 802) 275

AUSTRALIA

NEW SOUTH WALES

Crimes Act—
s. 407 .. .. .. .. .. .. 413
412 .. .. .. .. .. .. 408
413 (a), (b) .. .. .. .. 438

SOUTH AUSTRALIA

Evidence Act .. .. .. .. .. 500

VICTORIA

Crimes Act—
s. 399 .. .. .. .. 417, 437
Evidence Act 1958—
s. 149 .. .. .. .. .. .. 545

CANADA

FEDERAL ACT

Evidence Act (RSC. 1970)—
s. 12 .. .. .. .. .. .. 394
Evidence Act 1952—
s. 5 .. .. .. .. .. .. 282

GHANA

Criminal Procedure Code 1960—
s. 120 (5) (c) .. .. .. .. .. 438

INDIA

Evidence Act 1872 .. .. .. 4, 86
s. 27 .. .. .. .. .. .. 323
106 .. .. .. .. .. .. 103
157 .. .. .. .. .. .. 201
159 .. .. .. .. .. .. 230

ISRAEL

Criminal Procedure Law 1965—
s. 146 .. .. .. .. .. .. 438

NEW ZEALAND

Evidence Act 1908—
s. 20 .. .. .. .. .. .. 545

SWAZILAND

Criminal Procedure and Evidence Proclamation—
s. 231 .. .. .. .. .. .. 201

# TABLE OF CASES

**In the following Table references are given to the English and Empire Digest where a digest of the case will be found.**

A


PAGE

Abbot *v.* Massie (1796), 3 Ves. 148; 23 Digest (Repl.) 453 .. .. .. 622, 628

Abrath *v.* North Eastern Rail Co. (1883), 11 Q. B. D. 440; [1881–5] All E. R. Rep. 614; 52 L. J. Q. 620; 49 L. T. 618; 47 J. P. 692; 32 W. R. 50; 15 Cox C. C. 354, C. A.; on appeal (1886), 11 App. Cas. 247; [1886–90] All E. R. Rep. 179; 55 L. J. Q. B. 457; 55 L. T. 63; 50 J. P. 659; 2 T. L. R. 416, H. L.; 22 Digest (Reissue) 45 .. .. .. .. .. .. .. .. .. 95, 97, 102

Acerro *v.* Petroni (1815), 1 Stark. 100; 22 Digest (Reissue) 502 .. .. .. 227

Actaeon, The (1853), 1 Ecc. & Ad. 176; 3 L. T. 90; 22 Digest (Reissue) 52 .. .. 526

Adams, *Re*, Benton *v.* Powell, [1922] P. 240; 91 L. J. P. 209; 127 L. T. 528; 38 T. L. R. 702; 22 Digest (Reissue) 110 .. .. .. .. .. .. 558, 560

Adams *v.* Batley (1887), 18 Q.B.D. 625; 56 L. J. Q. B. 393; 56 L. T. 770; 35 W. R. 537; 3 T. L. R. 511, C. A.; 14 (1) Digest (Reissue) 13 .. .. .. .. 276

Adams *v.* Canon (1621), 1 Dyer 53 b, n; Ley 68; 22 Digest (Reissue) 135 .. .. 453

Adams *v.* Lloyd (1858), 3 H. & N. 351; 27 L. J. Ex. 499; 31 L. T. O. S. 219; 4 Jur. N. S. 590; 6 W. R. 752; 18 Digest (Reissue) 221 .. .. .. .. .. 299

Adelaide Chemical and Fertiliser Co. *v.* Carlisle (1936), 65 C. L. R. 514 .. .. 580

Advocate, H.M. *v.* H. D., 1953 S. C. (J.) 65; 14 (2) Digest (Reissue) 651 .. .. 298

Advocate, H.M. *v.* Turnbull, 1951 S. C. (J.) 96; 1951 S. L. T. 409 .. .. .. 325

Aetna Factors Corporation Ltd. *v.* Breau (1957), 10 D. L. R. (2d) 100; 6 Digest (Reissue) 39 .. .. .. .. .. .. .. .. .. .. 610

Agassiz *v.* London Tramway Co. (1872), 27 L. T. 492; 21 W. R. 199; 22 Digest (Reissue) 58 .. .. .. .. .. .. .. .. .. .. 22

Aggas *v.* Aggas, [1971] 2 All E. R. 1497; [1971] 1 W. L. R. 1409; 135 J. P. 484; 115 Sol Jo. 346; 27 (2) Digest (Reissue) 999 .. .. .. .. .. .. 186

Ah Chuck *v.* Needham, [1931] N. Z. L. R. 559 .. .. .. .. .. .. 133

Ahmed *v.* Brumfitt (1967), 112 Sol. Jo. 32, C. A.; 22 Digest (Reissue) 540 .. .. 246

Ajami *v.* Customs Comptroller, [1954] 1 W. L. R. 1405; 98 Sol Jo. 803, P. C.; 22 Digest (Reissue) 686 .. .. .. .. .. .. .. .. .. .. 636

Ajum Goolam Hossen & Co. *v.* Union Marine Insurance Co., [1901] A. C. 362; 70 L. J. P. C. 34; 84 L. T. 366; 17 T. L. R. 376; 9 Asp. M. L. C. 167, P. C.; 29 Digest (Repl.) 225 .. .. .. .. .. .. .. .. .. 28, 92

Akehurst *v.* Inspector of Quarries, [1964] N. Z. L. R. 621 .. .. .. .. .. 100

Akerele *v.* R., [1943] A. C. 255; [1943] 1 All E. R. 367; 112 L. J. P. C. 26; 168 L. T. 102, P. C.; 14 (2) Digest (Reissue) 526 .. .. .. .. .. .. 23, 359

Albus *v.* Ryder, [1956] V. L. R. 56 .. .. .. .. .. .. .. .. .. 52

Alderman *v.* Alderman and Dunn, [1958] 1 All E. R. 391; [1958] 1 W. L. R. 177; 102 Sol. Jo. 126; 27 (1) Digest (Reissue) 418 .. .. .. .. .. 519

Aldersey, *Re*, Gibson *v.* Hall, [1905] 2 Ch. 181; [1904–07] All E. R. Rep. 644; 74 L. J. Ch. 548; 92 L. T. 826; 22 Digest (Reissue) 176 .. .. .. .. .. 144

Alderson *v.* Clay (1816), 1 Stark. 405; 22 Digest (Reissue) 420 .. .. 522, 595

Alexander *v.* Rayson, [1936] 1 K. B. 169; [1935] All E. R. Rep. 185; 105 L. J. K. B. 148; 154 L. T. 205; 52 T. L. R. 131; 80 Sol. Jo. 15, C. A.; 31 Digest (Reissue) 97 .. .. .. .. .. .. .. .. .. .. .. 78

Alexander's Will Trust, *Re*, [1948] 2 All E. R. 111; [1948] L. J. R. 1373; 64 T. L. R. 308; 92 Sol. Jo. 350; 48 Digest (Repl.) 475 .. .. .. .. .. .. 627

Alfred Crompton Amusement Machines, Ltd. *v.* Customs and Excise Commissioner (No. 2). *See* Crompton (Alfred) Amusement Machines, Ltd. *v.* Customs and Excise Commissioner (No. 2).

Alivon *v.* Furnival (1834), 1 Cr. M. & R. 277; [1924–34] All E. R. Rep. 705; 4 Tyr. 751; 3 L. J. Ex. 241; 22 Digest (Reissue) 235 .. .. .. .. .. 596

Allen (Doe *d.*) *v.* Allen (1840). *See* Doe *d.* Allen *v.* Allen.

PAGE

Allen *v.* Allen, [1894] P. 248; [1891–4] All E. R. Rep. 540; 63 L. J. P. 120; 70 L. T. 783; 42 W. R. 549; 10 T. L. R. 456; 38 Sol Jo. 456; 6 R. 597, C. A.; 22 Digest (Reissue) 505 .. .. .. .. .. .. .. .. .. 187, 257
Allen *v.* Dundas (1789), 3 Term Rep. 125; 23 Digest (Repl.) 239 .. .. .. 330
Allen *v.* Pink (1838), 4 M. & W. 140; 1 Horn. & H. 207; 7 L. J. Ex. 206; 2 Jur. 895; 17 Digest (Reissue) 382 .. .. .. .. .. .. .. .. 615
Allgood *v.* Blake (1873), L. R. 8 Exch. 160; 42 L. J. Ex. 101; 29 L. T. 331; 21 W. R. 599; 49 Digest (Repl.) 944 .. .. .. .. .. .. .. .. 622
Alli *v.* Alli, [1965] 3 All E. R. 480; 130 J. P. 6; 109 Sol Jo. 629; 27 (2) Digest (Reissue) 701 .. .. .. .. .. .. .. .. .. 205
Ames *v.* Nicholson, [1921] S. A. S. R. 224; 22 Digest (Reissue) 516 .. .. .. 231
Amos *v.* Hughes (1835), 1 Mood. & R. 464; 22 Digest (Reissue) 39 .. .. .. 95
Amys *v.* Barton, [1912] 1 K. B. 40; 81 L. J. K. B. 65; 105 L. T. 619; 28 T. L. R. 29; 5 B. W. C. C. 117, C. A.; 22 Digest (Reissue) 72 .. .. .. .. .. 463
Anderson *v.* Bank of British Columbia (1876), 2 Ch. D. 644; [1874–80] All E. R. Rep. 396; 45 L. J. Ch. 449; 35 L. T. 76; 24 W. R. 624, 724; 3 Char. Pr. Cas. 212, C. A., 18 Digest (Reissue) 114 .. .. .. .. .. .. .. 284
Anderson *v.* Hamilton (1816), 2 Brod. & Bing. 156, n.; 8 Price 244, n.; 22 Digest (Reissue) 428 .. .. .. .. .. .. .. .. .. 304
Anderson *v.* Morris Wools, Pty., Ltd. [1965], Qd. R. 65 .. .. .. .. .. 21
Anderson *v.* Weston (1840), 6 Bing. N. C. 296; 8 Scott 583; 9 L. J. C. P. 194; 4 Jur. 105; 17 Digest (Reissue) 409 .. .. .. .. .. .. .. .. 607
Andrews *v.* Cordiner, [1947] K. B. 655; [1947] 1 All E. R. 777; [1947] L. J. R. 1078; 177 L. T. 36; 111 J. P. 308; 63 T. L. R. 299; 91 Sol. Jo. 295; 45 L. G. R. 274; 22 Digest (Reissue) 271 .. .. .. .. .. .. .. .. 517
Andrews *v.* Ross (1888), 14 P. D. 15; 58 L. J. P. 14; 59 L. T. 900; 37 W. R. 239; 27 (2) Digest (Reissue) 749 .. .. .. .. .. .. .. .. 340
Andrews *v.* Wirral Rural Council, [1916] 1 K. B. 863; 85 L. J. K. B. 853; 114 L. T. 1006; 80 J. P. 257; 14 L. G. R. 521, C. A.; 22 Digest (Reissue) 267 .. 596, 599
Angell *v.* Duke (1875), L. R. 10 Q. B. 174; 44 L. J. Q. B. 78; 32 L. T. 320; 39 J. P. 677; 23 W. R. 548; 17 Digest (Reissue) 389 .. .. .. .. .. 610, 614
Ankin *v.* London and North Eastern Rail. Co., [1930] 1 K. B. 527; [1929] All E. R. Rep. 65; 99 L. J. K. B. 293; 142 L. T. 368; 46 T. L. R. 172; 74 Sol. Jo. 26, C. A.; 18 Digest (Reissue) 157 .. .. .. .. .. .. .. 284, 308, 311
Anthony *v.* Anthony (1919), 35 T. L. R. 559; 22 Digest (Reissue) 428 .. .. 308
Apothecaries' Co. *v.* Bentley (1824), 1 C. & P. 538; Ry. & M. 159; 14 (2) Digest (Reissue) 476 .. .. .. .. .. .. .. .. .. 103
Ardennes (Cargo Owners) *v.* Ardennes (Owners), [1951] 1 K. B. 55; [1950] 2 All E. R. 517; 66 (pt. 2) T. L. R. 312; 94 Sol. Jo. 458; 84 Lloyd L. R. 340; 41 Digest (Repl.) 241 .. .. .. .. .. .. .. .. .. 615
Arding *v.* Arding, [1954] 2 All E. R. 671; [1954] 1 W. L. R. 944; 98 Sol. Jo. 439; 27 (2) Digest (Reissue) 725 .. .. .. .. .. .. .. .. 222
Ares *v.* Venner (1971), 14 D. L. R. (3d) 4 .. .. .. .. .. 466, 482
Armory *v.* Delamirie (1722), 1 Stra. 505; 22 Digest (Reissue) 197 .. .. .. 11
Arnott *v.* Hayes (1887), 36 Ch. D. 731; 56 L. J. Ch. 844; 57 L. T. 299; 36 W. R. 246; 3 T. L. R. 807, C. A.; 3 Digest (Reissue) 739 .. .. .. .. .. 602
Arthurs *v.* A.-G. for Northern Ireland (1970), 114 Sol. Jo. 824; 55 Cr. App. Rep. 161, H. L.; 14 (1) Digest (Reissue) 392 .. .. .. .. .. .. 58
Arundel (Lord) (Doe *d.*) *v.* Fowler. *See* Doe *d.* Arundel (Lord) *v.* Fowler.
Ashburnham (Lord) (Doe *d.*) *v.* Michael. *See* Doe *d.* Ashburnham (Lord) *v.* Michael.
Ashburton (Lord) *v.* Pape, [1913] 2 Ch. 469; [1913] All E. R. Rep. 708; 82 L. J. Ch. 527; 109 L. T. 381; 29 T. L. R. 623; 57 Sol. Jo. 644, C. A.; 22 Digest (Reissue) 236 .. .. .. .. .. .. .. .. .. 292, 293, 325
Ashley *v.* Harrison (1793), 1 Esp. 48; Peake, 256; 32 Digest (Repl.) 210 .. .. 477
Ashton, *Re*, [1892] P. 83; 61 L. J. P. 85; 67 L. T. 325; 23 Digest (Repl.) 21 .. .. 624
Asiatic Petroleum Co., Ltd. *v.* Anglo-Persian Oil Co., Ltd., [1916] 1 K. B. 822; [1916–17] All E. R. Rep. 637; 85 L. J. K. B. 1075; 114 L. T. 645; 32 T. L. R. 367; 60 Sol. Jo. 417, C. A.; 18 Digest (Reissue) 154 .. .. .. .. 306, 311
Atherton, *Re*, [1912] 2 K. B. 251; 81 L. J. K. B. 791; 106 L. T. 641; 28 T. L. R. 339; 56 Sol. Jo. 446; 19 Mans. 126; 22 Digest (Reissue) 436 .. .. .. .. 278
A.-G. (The People) *v.* Ainscough, [1960] I. R. 136, C. C. A. .. .. .. .. 72
A.-G. *v.* Antrobus, [1905] 2 Ch. 188; 74 L. J. Ch. 599; 92 L. T. 790; 69 J. P. 141; 21 T. L. R. 471; 49 Sol Jo. 459; 3 L. G. R. 1071; 22 Digest (Reissue) 133 .. 502, 514
A.-G. *v.* Bowman (1791), 2 Bos. & P. 532, n.; 22 Digest (Reissue) 77 .. .. .. 408
A.-G. *v.* Bradlaugh (1885), 14 Q. B. D. 667; 57 L. J. Q. B. 205; 52 L. T. 589; 49 J. P. 500; 33 W. R. 673, C. A.; 22 Digest (Reissue) 174 .. .. .. .. 39
A.-G. *v.* Briant (1846), 15 M. & W. 169; 15 L. J. Ex. 265; 6 L. T. O. S. 394; 10 J. P. 518; 22 Digest (Reissue) 431 .. .. .. .. .. .. .. 309, 310
A.-G. (The People) *v.* Carney, [1955] I. R. 324 .. .. .. .. .. .. 199
A.-G. (The People) *v.* Casey (No. 2), [1963] I. R. 33 .. .. .. .. .. 206

PAGE

A.-G. *v.* Clough, [1963] 1 Q. B. 773; [1963] 1 All E. R. 420; [1963] 2 W. L. R. 343; 107 Sol. Jo. 96; 22 Digest (Reissue) 459 .. .. .. .. .. ..37, 294
A.-G. *v.* Durnan, [1934] I. R. 308 .. .. .. .. .. .. .. .. 202
A.-G. *v.* Good (1825), M'Cle. & Yo. 286; 22 Digest (Reissue) 35 .. .. 475, 591
A.-G. *v.* Hitchcock (1847), 1 Exch. 91; 2 New Pract. Cas. 321; 16 L. J. Ex. 259; 9 L. T. O. S. 270; 11 J. P. 904; 11 Jur. 478; 22 Digest (Reissue) 540 .. .. 22, 254, 263, 264, 265, 267
A.-G. *v.* Horner (No. 2), [1913] 2 Ch. 140; 82 L. J. Ch. 339; 108 L. T. 609; 77 J. P. 257; 29 T. L. R. 451; 57 Sol Jo. 498; 11 L. G. R. 784, C. A.; 22 Digest (Reissue) 413 .. .. .. .. .. .. .. .. 2, 502, 507, 518
A.-G. (The People) *v.* Keating, [1953] I. R. 200, C. C. A.; 22 Digest (Reissue) 423 .. 170
A.-G. (Rudely) *v.* Kenny (James) (1960), 94 I. L. T. R. 185 .. .. .. 449, 452
A.-G. *v.* Mulholland, [1963] 2 Q. B. 477; [1963] 1 All E. R. 767; [1963] 2 W. L. R. 658; 107 Sol. Jo. 154, C. A.; 22 Digest (Reissue) 459 .. .. .. ..37, 292
A.-G. *v.* Nottingham Corporation, [1904] 1 Ch. 673; 73 L. J. Ch. 512; 90 L. T. 308; 68 J. P. 125; 52 W. R. 281; 20 T. L. R. 257; 2 L. G. R. 698; 36 (1) Digest (Reissue) 431 .. .. .. .. .. .. .. .. .. .. 23
A.-G. (The People) *v.* Quinn, [1955] I. R. 57, C. C. A. .. .. .. .. .. 213
A.-G. (The People) *v.* Riordan, [1948] I. R. 416; 14 (2) Digest (Reissue) 770 .. 187
A.-G. (The People) *v.* Shaw, [1960] I. R. 168, C. C. A. .. .. .. .. .. 216
A.-G. (Comer) *v.* Shorten, [1961] I. R. 304 .. .. .. .. .. .. 103
A.-G. *v.* Simpson, [1959] I. R. 105; 22 Digest (Reissue) 430 .. .. .. .. 310
A.-G. for Quebec *v.* Begin, [1955] 5 D. L. R. 394; [1955] S. C. R. 593; 112 C. C. C. 209; 14 (2) Digest (Reissue) 554 .. .. .. .. .. .. .. 326
A.-G. to Prince of Wales *v.* Collom, [1916] 2 K. B. 193; 85 L. J. K. B. 1484; 114 L. T. 1121; 32 T. L. R. 448; 11 Digest (Reissue) 707 .. .. .. .. .. .. 349
A.-G.'s Reference (No. 3 of 1977), [1978] 3 All E. R. 1166; [1978] 1 W. L. R. 1123, 143 J. P. 94; 122 Sol. Jo. 641, C. A. .. .. .. .. .. .. .. 451
Attwood *v.* R., [1960] A. L. R. 321; 33 A. L. J. R. 537; 102 C. L. R. 353; 14 (2) Digest (Reissue) 637 .. .. .. .. .. .. .. .. .. .. 424
Attygale *v.* R., [1936] A. C. 338; [1936] 2 All E. R. 116; 105 L. J. P. C. 19; 154 L. T. 620; 52 T. L. R. 390; 80 Sol. Jo. 571; 30 Cox, C. C. 390, P. C.; 8 (2) Digest (Reissue) 836 .. .. .. .. .. .. .. .. .. .. 103
Auckland City Council *v.* Hapimana, [1976] 1 N. Z. L. R. 731 .. .. .. .. 160
Audley's (Lord) Case (1631), 3 State Tr. 401; Hut. 115; 27 (1) Digest (Reissue) 318 167
Augustien *v.* Challis (1847), 1 Exch. 279; 2 New Pract. Cas. 486; 17 L. J. Ex. 73; 10 L. T. O. S. 115; 18 Digest (Reissue) 356 .. .. .. .. .. 595, 616
Australian Communist Party *v.* Commonwealth, [1951] A. L. R. 129; 83 C. L. R.; 24 A. L. J. 485; 8 (2) Digest (Reissue) 748 .. .. .. .. .. .. .. 156
Auten *v.* Rayner, [1958] 3 All E. R. 566; [1958] 1 W. L. R. 1300; 123 J. P. 122; 102 Sol. Jo. 935, C. A.; 18 Digest (Reissue) 158 .. .. .. .. .. .. 310
Automobile Renault Canada Ltd. *v.* Maritime Import Autos Ltd. and Kyley (1962), 31 D. L. R. (2d) 592 .. .. .. .. .. .. .. .. .. 611
Aveson *v.* Kinnaird (Lord) (1805), 6 East 188, 2 Smith K. B. 286; 22 Digest (Reissue) 103 .. .. .. .. .. .. .. .. .. 590, 591
Axon *v.* Axon (1937), 59 C. L. R. 395 .. .. .. .. 136, 139, 140, 144, 146
Aylesford Peerage, The (1885), 11 App. Cas. 1, H. L.; 32 Digest (Reissue) 12 .. 472

**B**

B. *v.* A.-G., [1965] P. 278; [1965] 1 All E. R. 62; [1965] 2 W. L. R. 871; 108 Sol. Jo. 941; 32 Digest (Reissue) 25 .. .. .. .. .. .. .. 472, 504, 557
B. *v.* A.-G. (B intervening), [1966] 2 All E. R. 145; 110 Sol Jo. 309; 32 Digest (Reissue) 22 .. .. .. .. .. .. .. .. .. .. 55
Backhouse *v.* Jones (1839), 6 Bing. N. C. 65; 8 Scott 148; 9 L. J. C. P. 99 .. 454, 471
Baden's Deed Trusts, *Re*, Baden *v.* Smith, [1967] 3 All E. R. 159; [1967] 1 W. L. R. 1457; 111 Sol. Jo. 773; 22 Digest (Reissue) 503 .. .. .. .. .. 257
Bagot's Executor and Trustee Co., Ltd *v.* Fudge, [1949] S. A. S. R. 297; 22 Digest (Reissue) 112 .. .. .. .. .. .. .. .. .. 552
Baily & Co., Ltd. *v.* Clark, Son and Morland, [1938] A. C. 557; 107 L. J. Ch. 193; 159 L. T. 361; 54 T. L. R. 688; 82 Sol. Jo. 492; 55 R. P. C. 253, *sub nom. Re* Clark, Son and Morland, Ltd's Trade Mark, [1938] 2 All E. R. 377; 46 Digest (Repl.) 26 .. .. .. .. .. .. .. .. .. .. 589
Baker *v.* Dewey (1823), 1 B. & C. 704; 3 Dow. & Ry. K. B. 99; 1 L. J. O. S. K. B. 193; 17 Digest (Reissue) 356 .. .. .. .. .. .. .. .. 344
Baker *v.* London and South Western Rail Co. (1867), L. R. 3 Q. B. 91; 8 B. & S. 645; 37 L. J. Q. B. 53; 32 J. P. 246; 16 W. R. 126; 18 Digest (Reissue) 123 .. 288
Baker *v.* Market Harborough Industrial Co-operative Society, Ltd., [1953] 1 W. L. R. 1472; 97 Sol. Jo. 861, C. A.; 36 (1) Digest (Reissue) 241 .. .. .. 50
Baker *v.* Rabbetts (1954), 118 J. P. N. 303; (1954), *Times* April 30th .. .. .. 169
Baker *v.* Sweet, [1966] Crim. L. R. 51 .. .. .. .. .. .. .. .. 100