

THE
CAMBRIDGE
LECTURES
1981

Edited by
Nancy E. Eastham
and
Boris Krivy



BUTTERWORTHS

The
Cambridge Lectures
1981

Selected Papers Based upon Lectures Delivered
at the Conference of the Canadian Institute
for Advanced Legal Studies, 1981, held at
Cambridge University, England, and l'Université
Catholique de Louvain, Louvain-la-Neuve, Belgium

Edited by
Nancy E. Eastham, B.A., LL.B. (Harv.), Dip. Int'l Law (Cantab.)
and
Boris Krivy, Q.C., LL.B., of the Ontario Bar



BUTTERWORTHS
Toronto

The Cambridge Lectures 1981

© 1982 Butterworth & Co. (Canada) Ltd.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, photocopying, electronic, mechanical, recording, or otherwise, without the prior written permission of the copyright holder.

Printed and bound in Canada

The Butterworth Group of Companies

Canada:

Butterworth & Co. (Canada) Ltd., Toronto and Vancouver

United Kingdom:

Butterworth & Co. (Publishers) Ltd., London

Australia:

Butterworths Pty. Ltd., Sydney

New Zealand:

Butterworths of New Zealand Ltd., Wellington

South Africa:

Butterworth & Co. (South Africa) Ltd., Durban

United States:

Butterworth (Publishers) Inc., Boston

Butterworth (Legal Publishers) Inc., Seattle

Mason Publishing Company, St. Paul

Canadian Cataloguing in Publication Data

Canadian Institute for Advanced Legal Studies. Cambridge
Conference (1981).

The Cambridge lectures 1981

Text in English and French.

Includes bibliographical references.

ISBN 0-409-84392-X

1. Law — Congresses. I. Eastham, Nancy E. II. Krivy, Boris. III. Title.

K175.C36 1981 340 C83-094029-4E

Données de catalogage avant publication (Canada)

Canadian Institute for Advanced Legal Studies. Cambridge
Conference (1981).

The Cambridge lectures 1981

Textes en anglais et en français.

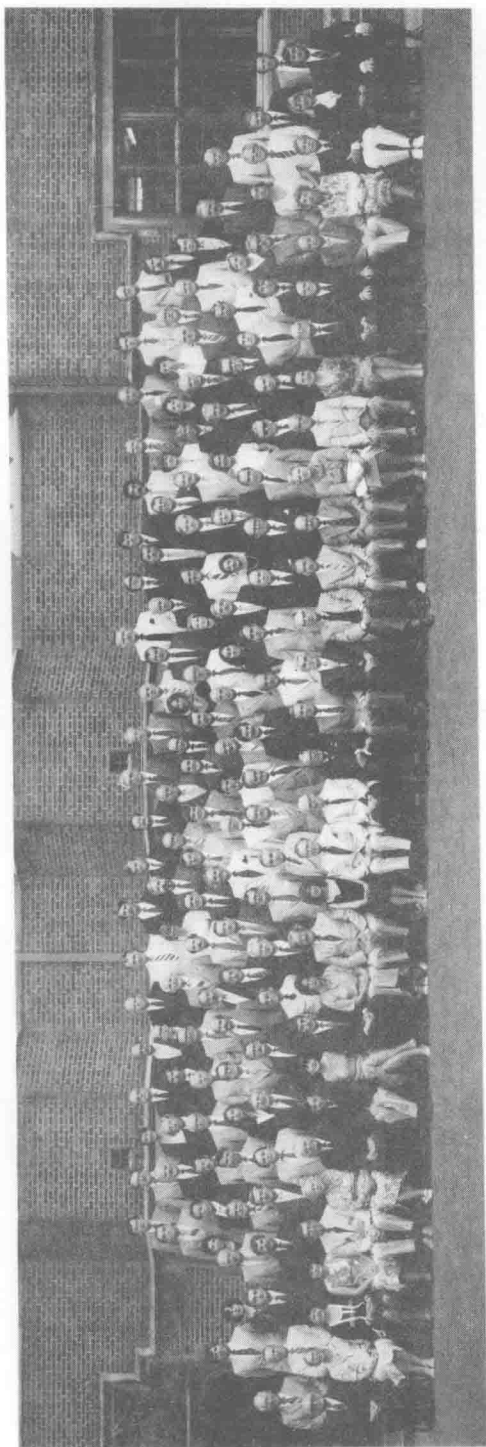
Comprend des références bibliographiques.

ISBN 0-409-84392-X

1. Droit — Congrès. I. Eastham, Nancy E. II. Krivy, Boris. III. Titre.

K175.C36 1981 340 C83-094029-4F

*The
Cambridge Lectures
1981*



Back Row (from left to right): A. Shipley, C. Pardons, G. Burton, T. Wickett, G. Darling, D. Goudie, J. Bowlby, W. Donaldson, D. Plumley, A. Gnat, N. Waterman, D. Tuck, L. Deniset, B. Maloney, J. Blacklock, I. MacDonnell, J. Dallal, J. Bracco, M. Friedland, R. Chester, D. Wright.

Fifth Row (from left to right): M. Arpin, G. Hall, G. Rondeau, E. Brown, D. Stinson, D. Neilson, H. LeBel, K. Lysyk, F. Rodger, D. Gillis, D. Matas, R. Abella, S. Hogg, J. Gomery, D. Coo, J. Brooke, E. Greville, R. Wertschek, M. Newbury, A. Walsh, N. Nadeau.

Fourth Row (from left to right): R. Nitikman, R. Chouinard, V. Masson, J. Robinson, J. Cavanagh, C. Tallis, M. Shumiatcher, L. Klar, H. Gow, J. Rowan, J. Halladay, J. McLaren, R. Miller, E. Murphy, M. Glendon, J. Macpherson, T. Marshall, G. Kinsman, E. Boychuk, M. Shannon, T. Noble, W. Parker, B. McLean.

Third Row (from left to right): B. Mahoney, E. Cronk, H. Chappell, W. Colter, J. Fitzpatrick, H. English, D. Michener, D. Shanks, J. Lawrence, B. Crane, K. Alexander, F. Gibson, G. LaForest, A. de Grandpré, M. Lacourcière, M. Ogilvie, M. Nichols, R. Tassé, G. Côté-Harper, J. Dugas, G. Deslandes, M. Rothman, M. Van Camp, M. de Weerd, G. Hart.

Second Row (from left to right): H. McIntosh, F. Kaufman, J. Cavarzan, R. Thompson, J. Bouck, B. Emes, C. Branson, B. Carrothers, J. Nicholson, A. Mifflin, M. Goldie, R. Guile, J. Laycraft, A. Sarich, N. Ryan, J. Pink, E. Danielson, D. Morand, F. Hayes, F. McArdle, D. Jordan, D. Ward, R. Edwards, M. Cullity, P. Patenaude, L. Desjardins, H. Maddison, E. Bayda, M. Hellyer.

Front Row (from left to right): E. Colas, A. Desjardins, M. Hughes, R. Hunter, C. Estey, E. Mitchell-Thomas, L. McKenzie, B. Krivy, S. Oxner, R. Peterson, L. Harris, J. Potts, C. Curtis, G. Evans, N. Nemetz, P. Martin, D. Carruthers, B. Laskin, J. Clyne, W. Estey, F. Iacobucci, G. Vallée, L. Fortin, R. Colas, G. Beaudoin, L. Leger, R. Langlois, E. Robson, J. Matheson, K. Mahoney, J. Giles.

Foreword

I am most pleased to have this opportunity of introducing the second volume of *The Cambridge Lectures*. There are collected here the texts of most of the lectures that were given in 1981 between July 26th and August 8th. Whereas in 1979 the whole of the session was conducted at Queens' College, University of Cambridge, England, in 1981 it was divided into two parts, the first half being held at Queens' College and the second at l'Université Catholique de Louvain, Louvain-la-Neuve, Belgium.

The Governors of the Canadian Institute for Advanced Legal Studies had determined that much was to be gained by adding, for that year, a new dimension to the format in the nature of a visit to a university situated in continental Europe. The setting at Louvain-la-Neuve, near Brussels, offered the opportunity to renew the interest in the European Economic Community kindled in 1979 by Professor Kurt Lipstein. At the same time, the participants were able to compare and consider the legal system of Belgium and programs relating to its bicultural and bilingual make-up. I am pleased to advise that from all accounts, the venture was most successful.

I think that the majority of those of you not fortunate enough to be present in 1981 will agree from reading the contents of this volume that throughout the whole session, the Institute again achieved a high level of excellence in the choice of topics and those individuals invited to discuss them. One of the principal objects for which the Canadian Institute for Advanced Legal Studies was established was "for the benefit of the Canadian community and for the advancement of the administration of justice in Canada to foster, encourage and promote education in law, in legal science and law reform". *The Cambridge Lectures, 1981* represents an important stage in the fulfillment of those objects.

I cannot end this foreword without making particular mention of the good fortune the Institute received when Nancy Eastham agreed to take on the onerous task of editing this edition of *The Cambridge Lectures*. Ms. Eastham, as expected, has performed simply a fantastic job, a fact evident from a reading of the content.

*The Honourable Mr. Justice Douglas H. Carruthers,
President, the Canadian Institute for Advanced Legal Studies.*

Preface

The editing of *The Cambridge Lectures 1981* has proved to be a fascinating, educational, and challenging undertaking. The volume contains 39 legal papers by 39 authors from six countries in two languages, varying in length from four to more than thirty pages and from no footnotes to 147, varying in form from a tape of the actual lecture to a prepublished article, and varying in content from *abus de droit* to Westminster's parliamentary supremacy.

As is inevitable in a publication of this kind, the amount of revision done between the initial presentation of the lecture in the summer of 1981 and the printed version of 1982 has varied considerably, for a number of reasons. The situation was especially difficult for the lecturers dealing with the Canadian Constitution patriation problem, with many of the questions they discussed having been finally decided not long after their papers had been given in Cambridge. These authors were faced with the rather unpleasant alternatives of doing a complete rewrite (in which case their published papers would have borne little resemblance to their lectures) or having their lectures be "long out of date" (as one author commented) by the time they were seen in galley form. Nevertheless, even if only for historical purposes, these papers continue to be of interest. Moreover, as Professor Clive Parry (who unfortunately lost a battle with cancer while this volume was being prepared) once said in my defence during my Cambridge student days, *no issue is ever closed for the purposes of academic discussion.*

A great many people have been involved with the preparation of this book. Some have been behind the scenes and are unknown even to me, but to some I want to express my special appreciation. First, of course, I must thank the authors, without whom there would have been no book to edit, and whose cooperation and understanding have been splendid. Second, I want to thank the Canadian Institute for Advanced Legal Studies for giving me the opportunity to work with these most interesting lectures. Butterworths as always deserves a strong vote of thanks; in particular I have very much enjoyed working with Linda Kee of their editorial department. Finally, I want to thank Boris Krivy, who has played an invaluable role as co-editor, not only in performing the enormous task of administration connected with the publication of a book of this sort, including the preparation of the contributors' biographies, but also in being an always patient, always encouraging, always helpful advisor in the editorial process.

Nancy E. Eastham
December 1982

Biographical Notes

GEORGE W. ADAMS

Q.C. (1981). Chairman, Ontario Labour Relations Board. Previously, he taught Labour Relations Law at Osgoode Hall Law School, York University, and was Assistant Deputy Minister of Labour for the Province of Ontario (1976-78). Member of the Law Society of Upper Canada and the National Academy of Arbitrators.

GERALD A. BEAUDOIN

Professeur de droit constitutionnel à la Faculté de Droit de l'Université d'Ottawa. B.A., LL.L. et M.A. de l'Université de Montréal et D.E.S. de l'Université d'Ottawa. Membre du Barreau du Québec (1954); nommé Conseiller de la Reine (1969). Doyen, Section de droit civil, Université d'Ottawa (1969-79). Auteur d'une cinquantaine d'articles publiés dans les revues juridiques canadiennes et étrangères. Auteur de chapitres dans plusieurs ouvrages écrits en collaboration. Membre de la Société Royale du Canada (Académie des lettres et sciences humaines) depuis 1977. Officier de l'Ordre du Canada (1980). Président des doyens des Facultés de Droit du Canada (1972-73). Gouverneur de l'Institut canadien d'études juridiques supérieures.

SIR GORDON BORRIE

LL.B., LL.M. (Manchester) elected Master of the Bench of the Middle Temple (1980). Lectured at the College of Law, London (1957-1964); Dean of Law, University of Birmingham (1974-76); Director General of Fair Trading, 1976-. Author or part author of *Law of Contempt* (1973), *Commercial Law* (1980), *The Consumer, Society and the Law* (4th ed., 1981).

ANTHONY W. BRADLEY

Professor of Constitutional Law, University of Edinburgh (1968-); Dean of the Faculty of Law, University of Edinburgh (1979-82). Formerly Lecturer in Law at the University of Cambridge and Fellow and Director of Studies at Trinity Hall. Visiting Reader in Law at University College, Dar es Salaam (1966-67). Member of the Law and Social Sciences Committee of the Social Science Research Council (1975-79).

THE HONOURABLE JOHN V. CLYNE

C.C.; Born in Vancouver, 1902; B.A. (U.B.C., 1923); studies in law at London School of Economics and King's College, London. Called to the British Columbia Bar (1927); Justice of the Supreme Court of British Columbia (1950-57). Chairman of the Board and Chief Executive Officer, MacMillan Bloedel Limited (1957-73); Chancellor, University of British Columbia (1978-). Knight of Grace of the Order of Knights of St. John (1959); Companion of the Order of Canada (1972); Honorary LL.D. (McGill, 1981); President (1978-79) and now Honorary Patron of the Canadian Institute for Advanced Legal Studies.

MAURICE C. CULLITY

LL.B. (Hons); B.C.L. (Oxon); Barrister at Law, Middle Temple (1957); Barrister and Solicitor, Supreme Court of Victoria (1965), Osgoode Hall, Ontario (1970). Lecturer, Wadham, Oxford (1960-63); Senior Lecturer, University of Melbourne (1963-68); Professor, Osgoode Hall Law School, York University (1968-). Partner in the firm of Davies, Ward & Beck, Toronto (1980). Co-author of *Tax and Estate Planning* (1977); *Probate Practice* (3rd ed., 1981).

ALBERT JEAN DE GRANDPRE

O.C.; Q.C.; B.C.L.; Chairman and Chief Executive Officer of Bell Canada (1976-); Directorships include DuPont Canada Inc., Toronto-Dominion Bank, Transcanada Pipelines, Northern Telecom Limited, The Seagram Company Ltd., Stelco Inc., Chrysler Canada Ltd. Honorary President of La Chambre de Commerce France-Canada and an Officer of the Order of Canada.

PAUL DE VISSCHER

Professeur de droit de l'Université Catholique de Louvain.

ALFONS DE VREESE

Dr. Jur. (Universités de Louvain et Gand, 1932). Conseiller émérité à la Cour de Cassation Belge (1979-). Il a été successivement juge au Tribunal de Ire Instance à Furnes et à Bruges (1935-51); Conseiller à la Cour d'Appel de Gand (1951-61); Conseiller à la Cour de Cassation Belge (1961-79); Juge à la Cour de Justice Benelux (1974-79). Il a été Président de l'Union Internationale des Magistrats (1974-76); Président de la Fulbright Alumni Association in Belgium (1956-58) et Vice-Président de la "Vlaamse Juristenvereniging" (L'Association des Juristes Flamands) (1965-).

FRANCIS DELPEREE

Né à Liège en 1942. Docteur en droit des universités de Louvain et de Paris; professeur ordinaire à la Faculté de droit de Louvain. Auteur de: *Elaboration du droit disciplinaire de la fonction publique* (1968) et de *Droit constitutionnel* (1980) ainsi que de nombreuses études sur le droit des états fédéraux.

THE RIGHT HONOURABLE LORD ELWYN-JONES

P.C.; C.H.; LL.D.; Called to the Bar, Gray's Inn, 1935; Queen's Counsel, 1953; Attorney General, 1964-70; Lord High Chancellor of Great Britain, 1974-79; Fellow of Gonville and Caius College, Cambridge University. One of the prosecuting counsel in the Nuremberg Trial of the Nazi major war criminals; since 1979 a Lord of Appeal. Honorary Patron of the Canadian Institute for Advanced Legal Studies.

MARTIN L. FRIEDLAND

Q.C.; B.Comm.; LL.B.; Ph.D. (Cantab). Professor of Law at the Faculty of Law, University of Toronto, where he was formerly Dean of Law. Author of several works, including *Detention Before Trial* (1965), *Double Jeopardy* (1969), *Access to the Law* (1975) and *National Security: The Legal Dimensions* (1980).

MARY ANN GLENDON

Professor of Law at Boston College Law School (1968-), teaching Property, Comparative Law and Legal Theory. Author or co-author of several books and articles on comparative law, social-legal theory and private law subjects, most notably *State, Law and Family* (1977) and *The New Family and the New Property* (1981). She has lectured widely to learned societies in the United States, Canada and Europe.

BERNARD HANOTIAU

Docteur en droit (Louvain, 1970); licencié en droit social (Louvain, 1971); LL.M. (Columbia, 1973); agrégé de l'enseignement supérieur en droit (Louvain, 1979). Avocat au Barreau de Bruxelles. Chargé de cours extraordinaire aux Facultés de Droit des Universités de Louvain et Namur (1979-). Secrétaire général de la branche belgo-luxembourgeoise de l'International Law Association.

L'HONORABLE RENE HURTUBISE

Juge de la Cour supérieure, district de Montréal (1980-). LL.L. (1957, Montréal); M.A. (1960, Oxon); M.A. Droit (1961, Montréal). Professeur à la Faculté de droit de l'Université de Montréal (1960-69). Président de la Commission des droits de la personne du Québec (1975-80).

FRANK IACOBUCCI

B.Comm. (U.B.C., 1961); LL.B. (U.B.C., 1962); LL.B. (Cambridge, 1964); Diploma in International Law (Cambridge, 1966). Dean, Faculty of Law, University of Toronto (1977-). Vice-President, Canadian Institute for Advanced Legal Studies (1981-). Member, Ontario Securities Commission (1982-). Dean Iacobucci has taught and written in corporate law and related areas.

JOHN H. JACKSON

Professor of Law, University of Michigan. Member of the Bars of Michigan, California, Wisconsin and Missouri. Since 1961 has held professorships at universities in U.S.A., Belgium, India and Switzerland, lecturing on the law of International Trade and Economic Relationships, Contracts and International Law. Author of numerous books and articles on International Trade and related subjects.

J.A. JOLOWICZ

Professor of Comparative Law, Trinity College, Cambridge (1978-); Barrister at Law, Inner Temple and Gray's Inn (1952); Benchers, Gray's Inn (1978). Director elect of Scientific Work of International Association of Legal Science.

GARETH H. JONES

LL.B. (Cambridge); LL.M. (Harvard); LL.D. (Cantab); Fellow of Trinity College, Cambridge; Downing Professor of the Laws of England at Cambridge; Fellow of the British Academy; Honorary Benchers of Lincoln's Inn. Writings include *The History of the Law of Charity* (1969) and, with Lord Justice Goff, *The Law of Restitution* (2nd ed., 1978).

THE HONOURABLE FRED KAUFMAN

Judge of the Quebec Court of Appeal since 1973. Born in Vienna in 1923, he received his early education in Austria, England and Canada. A member of the Bars of Quebec (1955), the Northwest Territories (1961) and Alberta (1968), he practised law in Montreal until his appointment to the Bench. Lecturer in Criminal Law (1962-68) and Medical Jurisprudence (1968-73) at McGill University. Author of *The Admissibility of Confessions in Criminal Matters* (3rd ed., 1979).

JOHN TEMPLE LANG

Legal adviser in the Legal Service of the EEC Commission. Solicitor, Republic of Ireland (1958); visiting lecturer at Trinity College, Dublin. Author of *The Common Market and Common Law* and many articles on legal topics.

RAYNOLD LANGLOIS

LL.L. (Laval); member of the Bar of Quebec (1964) and partner in the firm of Langlois, Drouin & Associés. Member of Council, Canadian Bar Association; Governor and member of Executive Committee, Canadian Institute for Advanced Legal Studies.

THE HONOURABLE JAMES HERBERT LAYCRAFT

Justice of the Court of Appeal of Alberta (1979-); appointed to Trial Division, Supreme Court of Alberta (1975). B.A., LL.B. (University of Alberta, 1951). Served in Canadian Army (1941-46); seconded to Australian Imperial Forces, Southwest Pacific Theatre (1944-46). Practised law in Calgary with the firm of Nolan, Chambers et al. (1951-75).

KURT LIPSTEIN

Ph.D. (Cantab, 1936); LL.D. (Cantab, 1977); of the Middle Temple, Barrister (1950) and Honorary Bencher (1966). Professor of Comparative Law, University of Cambridge (1973-); formerly University Lecturer (1946-62); Reader in Conflict of Laws (1962-73), Fellow of Clare College. Visiting Professor, University of Pennsylvania (1962); Northwestern University (1966, 1968); University of Paris I (1977). Humboldt Prize (1981). Member of Conference Committee, Canadian Institute for Advanced Legal Studies.

JAMES C. MACPHERSON

B.A. (Acadia, 1971); LL.B. (Dalhousie, 1974); LL.B. (Cambridge, 1976); Diploma in Comparative Legal Studies (Cambridge, 1977). Professor, Faculty of Law, University of Victoria (1976-82); Visiting Professor, Osgoode Hall Law School, York University (1979-80). Presently Director, Constitutional Law Branch, Department of Attorney General, Saskatchewan.

BASIL S. MARKESINIS

LL.B., D.IUR. (Athens); M.A., Ph.D. (Cantab); of Gray's Inn, Barrister; Advocate to the Supreme Court (Athens). Fellow of Churchill College, Cambridge (1970-73); Fellow of Trinity College, Cambridge and Director of Studies in Law (1975). Visiting Professor, Cornell Law School (1981, 1982); currently Professeur Associé at University of Paris I and II. Books include *An Introduction to the English Law of Torts* (co-author, Bruylants, Brussels 1976); *An Outline of the Law of Agency* (co-author, Butterworths 1979).

GEOFFREY MARSHALL

M.A., Ph.D.; Graduate Manchester, Glasgow and Oxford Universities. Fellow and Praelector in Politics, Queen's College, Oxford (1957-); Fellow of the British Academy (1970). Member of Oxford City Council (1964-74); Sheriff of City of Oxford (1970). Associate Editor of *Public Law*. Publications include: *Parliamentary Sovereignty and the Commonwealth*, *Constitutional Theory, Police and Government* and *Some Problems of the Constitution*.

DAVID MATAS

B.A. (U. of Man., 1964); M.A. (Princeton, 1965); B.C.L. (Oxford, 1968). Barrister-at-Law of the Middle Temple (1969); Barrister and Solicitor, Manitoba

(1971). Lecturer in Constitutional Law, McGill University (1972-73); Lecturer in Introductory Economics and Canadian Economic Problems, University of Manitoba (1982). Special Assistant to Solicitor General of Canada (1971-72); Member, Canadian Delegation to United Nations General Assembly (1980); Member, Task Force on Immigration Practices and Procedures (1980-81).

PETER OLIVER

B.A. (Cambridge, 1975); Licence spéciale en droit européen (Bruxelles, 1976); Barrister-at-Law. Member of Legal Service, Commission of European Communities, Brussels. Author of *Free Movement of Goods in the EEC* (London, 1982).

PIERRE PATENAUDE

B.A. (1963); LL.L. (1966). Avocat, membre du Barreau du Québec (1967); professeur titulaire à la faculté de droit de l'Université de Sherbrooke (1980-). Il fut doyen-fondateur de la faculté de droit de l'Université de Moncton (1978-80). Il a publié plus de 25 articles dans des revues juridiques et un volume sur *La protection des conversations en droit privé* (Paris, 1976).

JOEL E. PINK

B.A. (Acadia University, 1966); LL.B. (Dalhousie, 1969). Practising in Halifax with the firm of Stewart, MacKeen and Covert, with his practice restricted to Criminal Law. A member of the part-time faculty of Dalhousie Law School (Criminal Trial Practice) and Saint Mary's University (Introduction to Criminal Law). Guest lecturer at the Atlantic Police Academy, Maritime Police School and the Canadian Police College.

FRANCOIS E.R. RIGAUX

Bachelier en philosophie (1945); docteur en droit (1947); licencié en science criminelles (1948); agrégé de l'enseignement supérieur en droit (1956); docteur honoris causa de l'Université de Dijon (1981). Doyen de la Faculté de Droit, Université Catholique de Louvain (1980-). Avocat au Barreau de Bruxelles (1947-54); substitut du Procureur du Roi (1954-63); assesseur de la section de législation du Conseil d'Etat (1966-).

LEONARD S. SEALY

M.A.; LL.M.; Ph.D. Fellow, Gonville and Caius College and Lecturer in Law, University of Cambridge (1959-). Barrister and Solicitor, New Zealand. Visiting Fellow, Australian National University (1968), University of Auckland, New Zealand (1977); Visiting Professor, Tilburg, Holland (1981). Author of *Cases and Materials in Company Law* (2nd ed., 1978); co-editor of Benjamin's *Sale of Goods* (1974, 1981); regular contributor to *Annual Survey of Commonwealth Law*.

FRANCOISE TULKENS

Docteur en droit (1965); Licencié en criminologie (1965); Agrégé de l'enseignement supérieur à la Faculté de droit de l'Université Catholique de Louvain (1976-). Auteur de *L'actus reus en droit pénal anglo-américain* (1976) ainsi que de nombreuses articles dans des revues juridiques.

ANDRE TUNC

Licencié en droit (1937); Docteur (1941); Agrégé des Facultés de Droit (1943). Professor, University of Paris I. Visiting professor: Tulane (1954), Pennsylvania (1980), Cambridge (1972-73), Laval (1974). Author of books on American Law, Torts, American Politics, Traffic Accident Compensation, English Company Law.

DAVID A. WARD

Q.C.; B.Comm. A partner in the firm of Davies, Ward & Beck, Toronto. Former lecturer in Business Planning, Osgoode Hall Law School, York University; sometime lecturer or panelist on taxation subjects, Canadian Institute of Chartered Accountants. Author of *Current Tax Planning* (1971); *Current Estate Planning* (2nd ed., 1972); numerous articles on taxation subjects.

DAVID G.T. WILLIAMS

M.A.; LL.B. President, Wolfson College and Reader in Public Law at the University of Cambridge. Member of various Government bodies, including the Council on Tribunals and the Royal Commission on Environmental Pollution. Author of *Not in the Public Interest*, the first book to be published on official secrecy in the United Kingdom. First Special Visiting Lecturer in Canada under the auspices of the Canadian Institute for Advanced Legal Studies (1982).

GLANVILLE WILLIAMS

Q.C.; LL.D.; F.B.A. Professor Emeritus, University of Cambridge; Honorary Fellow of Jesus College, Cambridge; Honorary Bencher of the Middle Temple. Author of many works, most notably *The Criminal Law: The General Part*, *Learning the Law* and most recently *Textbook of Criminal Law* (1978). He has been a member of several law reform committees, including the Criminal Law Revision Committee.

THE RIGHT HONOURABLE SIR OWEN WOODHOUSE

P.C. (1974). Judge of the Court of Appeal of New Zealand (1974-); Judge of the Supreme Court of New Zealand (1961-74). Knighted in 1974. Served in World War II and awarded DSC (1944). Chairman, Royal Commission on Compensation and Rehabilitation in Respect of Personal Injury in New Zealand (1966-67) and inquiry into similar questions in Australia (1973-74). Member of Judicial Committee of Privy Council (1974-).

Table of Contents

<i>Foreword</i>	v
<i>Preface</i>	vii
<i>Biographical Notes</i>	xiii
1. Confessions Revisited: Two Recent Cases The Honourable Fred Kaufman	1
2. Recklessness Glanville Williams	13
3. Double Jeopardy: Some Recent Developments M.L. Friedland	17
4. Pre-trial Discovery Joel E. Pink	24
5. The Royal Commission on Criminal Procedure The Right Honourable Lord Elwyn-Jones	31
6. The Enforcement of Gratuitous Promises Gareth H. Jones	35
7. A Comparative Look at Certain Problems of Pure Economic Loss B.S. Markesinis	45
8. Legal and Administrative Measures of Consumer Protection in the United Kingdom Sir Gordon Borrie	62
9. The Judicial Settlement of Intra-Corporate Conflicts André Tunc	73
10. Equitable and Other Fetters on the Shareholder's Freedom To Vote L.S. Sealy	80
11. Canadian Corporation Law: Some Recent Shareholder Developments Frank Iacobucci	88
12. The Role of Directors in the Modern Corporation A.J. de Grandpré	109
13. Abuse of Rights and the Business Purpose Test as Applied to Taxing Statutes David A. Ward and Maurice C. Cullity	120
14. The French Concept of <i>abus de droit</i> André Tunc	151
15. The Parties and the Judge in Civil Litigation J.A. Jolowicz	160
16. The Next Step: A Constituent Assembly? The Honourable J.V. Clyne	170

17.	Law and Convention and the Canada Act, 1981 Geoffrey Marshall	175
18.	De l'inconstitutionnalité du projet de Résolution portant adresse commune à Sa Majesté la Reine concernant la Constitution du Canada Pierre Patenaude	186
19.	The Patriation Debate and the Canadian Courts James C. MacPherson	195
20.	Le rapatriement de la Constitution—Problème insoluble? Gérald A. Beaudoin	208
21.	The "Indestructible" Sovereignty of the Westminster Parliament A.W. Bradley	217
22.	Assessment of Damages The Right Honourable Sir Owen Woodhouse	231
23.	Assessment of Damages for Personal Injury The Honourable James H. Laycraft	237
24.	Property Rights upon Dissolution of Marriages and Informal Unions Mary Ann Glendon	245
25.	Law and National Security David G.T. Williams	268
26.	Industrial Democracy: A Canadian Perspective George W. Adams	280
27.	An Introduction to the Belgian Legal System A. de Vreese	292
28.	La prévention et le règlement des conflits de compétences entre l'Etat, les communautés et les régions en droit constitutionnel belge Paul De Visscher	302
29.	Les nouvelles institutions de la Belgique Francis Delpérée	312
30.	L'égalité de l'homme et de la femme en droit belge François Rigaux	319
31.	Extension of Delictual Liability M. Bernard Hanotiau	325
32.	Aspects of Contemporary Belgian Law: Some Developments in Criminal Procedure Françoise Tulkens	333
33.	La mise en oeuvre au plan interne des obligations contractées au niveau international en ce qui concerne les droits de la personne: une expérience vécue ou la concertation fédérale-provinciale au Canada L'honorable René Hurtubise	340
34.	Antitrust Law in the European Community—Division of Powers John Temple Lang	350
35.	Free Movement of Goods in the Common Market Peter Oliver	366

36.	The Constitutional Basis of the Canadian Economic System	
	Raynold Langlois	376
37.	A Constitutional Comparison of the EEC and Canada	
	David Matas	396
38.	International Legal Framework for Trade	
	John H. Jackson	403
39.	The EEC Convention on the Jurisdiction and the Enforcement of Decisions in Civil and Commercial Matters of 27 September 1968	
	Kurt Lipstein	414
<i>Appendix:</i>	Officers of the Canadian Institute for Advanced Legal Studies	433