

Cordery's

Law relating to Solicitors

Eighth edition

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Chief Taxing Master of the
Supreme Court of Judicature

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Preface

In 1961, after a lapse of a quarter of a century, the editorship of *Cordery* was assumed by Graham J. Graham-Green then a Master of the Supreme Court Taxing Office, and in the succeeding period of 25 years until his death he was responsible for the publication of three further editions of the work together with three supplements.

During that period under his skilful and experienced guiding hand the work was first brought into its modern format, and in the seventh edition was re-arranged, pruned of non-essential material and reduced in length. Thus, while retaining its comprehensive coverage of the laws and practice of the solicitors' branch of the legal profession, it was generally honed and strengthened as a handbook for practising lawyers not only in the United Kingdom but also in other countries where the legal professions have their roots in the English system.

It was my privilege to assist my old friend in the production of the seventh edition, he having then recently retired from the office of Chief Taxing Master and been honoured with the C.B. in addition to his Territorial Decoration. Now, it has fallen to me to undertake production of the eighth edition of *Cordery*. Following his plan I have retained the basic layout of the book, but have condensed it a little further; at the same time very substantial re-writing has been necessary to incorporate the almost unprecedented volume of new law affecting solicitors which has made its appearance in the past seven years.

This particularly applies to Chapter 7, Remuneration, which has been revised to include the latest authorities and statutory provisions and to describe the most up-to-date methods of computing remuneration for both contentious and non-contentious business. The amendment of the Rules of the Supreme Court on 28 April 1986 by the adoption of a new Order 62, which now comprises a virtually self-contained code governing the taxation of costs in the Supreme Court, effected a virtual revolution in contentious costs and in the taxation process. The former scales and the numerous bases on which costs could be awarded have been swept away and replaced by two bases founded on a single concept of fairness and reasonableness. These two bases, the Standard Basis and the Indemnity Basis, are now the only two bases on which costs can be awarded inter partes in the Supreme Court. The new Order has greatly increased the scope of the discretionary powers of taxing officers, while wide-ranging new powers in respect of the costs of taxation proceedings, and of the costs of the proceedings giving rise to the taxation proceedings, have also been vested in the taxing officers.

In addition, Chapter 10, Professional Practice, Conduct and Discipline, has been expanded into virtually a completely new chapter. This is as a result of the Administration of Justice Act 1985 which has given The Law Society

extensive new powers to deal with 'shoddy work' by solicitors, not falling within the definition of negligence, and of the issue by The Law Society of a greatly expanded Code of Conduct for Solicitors. The fundamental changes in The Law Society's policies towards advertising, complaints by the public at large and relationships with foreign lawyers are fully explained and the 1987 Practice Rules, Publicity Code and Solicitors' Overseas Practice Rules are reproduced in the Appendix.

An entirely new code of company and insolvency law has been promulgated with the enactment of the Companies Act 1985, the Insolvency Acts 1985 and 1986 and the Insolvency Rules 1986 which together represent the first major overhaul of this body of legislation for some 40 years. Other statutes, e.g. the Financial Services Act 1986 and the Building Societies Act 1986, have also had their own individual effect on the professional obligations of solicitors. All these have given rise to considerable revision throughout the work.

I have been greatly helped by my friend and fellow Taxing Master, Peter Hurst, who undertook responsibility for the chapters on Liens and Charging Orders; Solicitors' Professional Relationships; and Professional Practice, Conduct and Discipline. He also gave me general advice and assistance whenever I needed it. I would also express my thanks to the staff of The Law Society for their assistance; particularly to Mr P. C. Lamplugh, Secretary of Ethics and Guidance, and to Mr J. P. S. Thompson, Director of the Solicitors' Complaints Bureau, for their help and guidance in the compilation of Chapter 10. The Law Society has also kindly permitted the reproduction of the Practice Rules etc, in the Appendix.

Finally, I have endeavoured to present the law as it stood on 1 November 1987, but the future of the legal profession is at present the subject of so much public debate and the situation appears to be so fluid that there is every probability that a number of important developments are yet to come and they may well be imminent.

December 1987

F.T.H.

Table of abbreviations

AC	(preceded by year, e.g. [1891] AC) means Law Reports Appeal Cases since 1890.
Add	Addams' Reports, 1822–1826.
Ad & El.	Adolphus and Ellis's Reports, 1834–1842.
All ER	(preceded by the year and volume number, e.g. [1940] 2 All ER), All England Law Reports, 1936 and subsequently.
All ER Rep.	(preceded by the year, e.g. [1930] All ER Rep), All England Law Reports Reprint.
App Cas	Law Reports Appeal Cases, House of Lords, 1875–1890.
Asp MLC	Aspinall's Maritime Law Cases, 1870–1943.
Atk	Atkyn's Reports, 1736–1754.
B & Ad.	Barnewall and Adolphus's Reports, 1830–1834.
B & Ald	Barnewall and Alderson's Reports, 1817–1822.
B & B	Broderip and Bingham's Reports, 1819–1822.
B & C	Barnewall and Cresswell's Reports, 1822–1830.
B & S	Best and Smith's Reports, 1861–1870.
BCC	Bail Court Cases, 1852–1854.
BWCC	Butterworth's Workmen's Compensation Cases, 1907–1949.
Ball & B	Ball and Beatty's Reports (Ireland), 1807–1814.
Barnes CP	Barnes's notes of cases in the Common Pleas, 1732–1760.
Beat	Beatty's Reports (Ireland), 1813–1830.
Beav	Beavan's Reports, 1838–1866.
Bengal LR (PC)	Bengal Law Reports (India), Privy Council Decisions, 1869–1875.
Bing	Bingham's Reports, 1822–1834.
Bing NC	Bingham's Reports, new cases, 1834–1840.
Bli	Bligh's Reports, 1819–1821.
Bli NS	Bligh's Reports, new series, 1827–1837.
Box & P	Bosanquet and Puller's Reports, 1796–1804.
Bro CC	Brown's Chancery Cases, 1778–1794.
Bro PC	Brown's Parliamentary Cases, 1702–1800.
Buck	Buck's Bankruptcy Cases, 1816–1820.
Bulst	Bulstrode's Reports, 1610–1626.
Burr	Burrow's Reports, 1756–1772.
C & K	Carrington and Kirwan's Reports, 1843–1853.
C & M	Carrington and Marshman's Reports, 1841–1842.
C & P	Carrington and Payne's Reports, 1823–1841.
CB	Common Bench Reports, 1845–1856.
CBNS	Common Bench Reports, New Series, 1856–1865.
CPD	Law Reports series, Common Pleas Division, 1875–1880.
Cab & El	Cababé and Ellis's Reports, 1882–1885.
Camp	Campbell's Reports, 1807–1816.
Ch.	(preceded by the year and (sometimes) the volume number, e.g. [1900] 2 Ch) means Law Reports series, Chancery Division, 1891 and subsequently.
ChD	(preceded by the volume number, e.g. 22 ChD) means Law Reports series, Chancery Division, 1875–1890.
Chitt	Chitty's Practice Reports, 1770–1822.

Cl & Fin.	Clark and Finnelly's Reports, 1831-1846.
Co Rep.	Coke's Reports, 1572-1616.
Coll	Collyer's Chancery Reports, 1844-1846.
Com Cas	Commercial Cases, 1895 and subsequently.
Coop t Cott	Cooper's Reports of cases in Chancery before Lord Cottenham, 1846-1848.
Cooper's Ch Pr	Cooper's Reports of cases in Chancery, 1837-1838.
Cowp	Cowper's Reports, 1774-1778.
Cox	Cox's Equity Cases, 1745-1797.
Cox CC	Cox's Criminal Cases, 1843-1945.
Cr & J	Crompton and Jervis's Reports, 1830-1832.
Cr & M	Crompton and Meeson's Reports, 1832-1834.
Cr & Ph	Craig and Phillips's Reports, 1840-1841.
Cr App R	Criminal Appeal Reports (Cohen), 1908 and subsequently.
Cr M & R	Crompton, Meeson and Roscoe's Reports, 1833-1835.
Cro Car	Croke's Reports of cases during the reign of Charles I.
Curt	Curteis's Reports of Ecclesiastical Cases, 1833-1844.
D & M	Davison and Merivale's Reports, 1843-1844.
D & R	Dowling and Ryland's Reports, 1822-1827.
De G	De Gex's Reports, 1844-1848.
De G & J	De Gex and Jones's Reports, 1857-1859.
De G & Sm	De Gex and Smale's Reports, 1846-1852.
De G F & J	De Gex, Fisher and Jones's Reports, 1859-1862.
De G J & Sm	De Gex, Jones and Smith's Reports, 1862-1865.
De G M & G	De Gex, Macnaghten and Gordon's Reports, 1851-1857.
Dick	Dickens's Reports of cases in Chancery, 1559-1792.
Dougl	Douglas's Reports, 1778-1785.
Dow	Dow's Reports of appeals to the House of Lords, 1813-1818.
Dow & C	Dow and Clark's Reports, 1827-1832.
Dow & L	Dowling and Lowndes's Practice Reports, 1843-1849.
Dowl	Dowling's Practice Reports, 1830-1841.
Dowl NS	Dowling's Practice Reports, New Series, 1841-1843.
Dr & Walsh	Drury and Walsh's Reports (Ireland), 1837-1840.
Dr & War	Drury and Warren's Reports (Ireland), 1841-1843.
Drew	Drewry's Reports, 1852-1859.
Drew & Sm	Drewry and Smale's Reports, 1859-1865.
Dyer	Dyer's Reports, 1513-1581.
E & B	Ellis and Blackburn's Reports, 1852-1858.
E & E	Ellis and Ellis's Reports, 1858-1861.
E B & E	Ellis, Blackburn and Ellis's Reports, 1858-1860.
East	East's Reports, 1800-1812.
Ed	Eden's Reports, 1757-1766.
Eq Cas Abr	Equity Cases Abridged, 1667-1744.
Eq R	Equity Reports, 1853-1855.
Esp	Espinasse's Reports, 1793-1807.
Ex D	Law Reports series, Exchequer Division, 1875-1880.
Exch	Exchequer Reports, 1847-1856.
F	Reports of cases in the Courts of Session, of Justiciary, and in the House of Lords (Scotland), 1898-1908.
F & E	Foster and Finlason's Reports, 1856-1867.
G Coop.	G Cooper's Reports, 1792-1815.
Gale	Gale's Term Reports, 1835-1836.
Giff	Giffard's Reports, 1857-1865.
G & J	Glyn and Jameson's Reports, 1821-1828.
Godb	Godbolt's Reports, 1574-1637.
H & C	Hurlstone and Coltman's Reports, 1862-1866.
H & N	Hurlstone and Norman's Reports, 1856-1862.
H & Tw	Hall and Twell's Reports, 1849-1850.

H Bl	Henry Blackstone's Reports, 1788-1796.
H L Cas	House of Lords Cases, 1847-1866.
Hag Ecc	Haggard's Ecclesiastical Reports, 1827-1833.
Har & W	Harrison and Wollaston's Reports, 1835-1836.
Hare	Hare's Reports, 1841-1853.
Hem & M	Hemming and Miller's Reports, 1862-1865.
Hogan	Hogan's Reports (Ireland), 1827-1834.
Holt NPC	Holt's Nisi Prius Reports, 1815-1817.
Ir CL	(preceded by volume number, e.g. 10 Ir CL) means Irish Common Law Reports, 1849-1866.
Ir Ch	(similarly) Irish Chancery Reports, 1850-1867.
Ir Eq	(similarly) Irish Equity Reports, 1838-1851.
Ir LR	(similarly) Irish Law Reports, 1838-1851.
Ir LTR	(similarly) Irish Law Times Reports, 1867 and subsequently.
IR	(preceded by year and volume number, e.g. [1900] 1 Ir) means Irish Law Reports, 1894 and subsequently.
Ir [] CL	(e.g. Ir R 2 CL) means, in the case exemplified, the second volume of the Irish Common Law Reports, 1866-1877.
IR [] Eq	Irish Equity Reports, 1866-1877.
J & H	Johnson and Hemming's Reports, 1859-1862.
J & La	Jones and La Touche's Reports, (Ireland), 1844-1846.
JP	(preceded by the volume number) means the Justice of the Peace Reports, 1837 and subsequently.
Jac	Jacob's Reports, 1821-1822.
Jac & W	Jacob and Walker's Reports, 1819-1821.
John	Johnson's Reports, 1858-1860.
Jon Ir Ex	Jones's Irish Exchequer Cases, 1835-1837.
Jur	Jurist Reports, 1837-1854.
Jur NS	Jurist Reports, New Series, 1855-1867.
K & J	Kay and Johnson's Reports, 1854-1858.
KB	(preceded by the year and volume number, e.g. [1901] 2 KB) means Law Reports series, King's Bench Division, 1900-1952.
Kay	Kay's Reports, 1853-1854.
Keen	Keen's Reports, 1836-1838.
LGR	Local Government Reports, 1903 and subsequently.
LJ	(preceded by the volume number) means the Law Journal Reports, 1831-1946. (Letters following the LJ indicate the court whose proceedings are reported.)
LJNC	Law Journal Notes of Cases, 1866-1892.
LJOS	Law Journal Reports, Old Series, 1822-1831.
LJR	(preceded by date, e.g. [1947] LJ R) means the Law Journal Reports, 1947-1949.
L Jo	Law Journal newspaper, 1866 and subsequently.
L M & P	Lowndes, Maxwell and Pollock's Reports, 1850-1851.
LR [] A & E	(e.g. LR 2 A & E) means, in the case exemplified, the second volume of the Law Reports series, Admiralty and Ecclesiastical Cases, 1865-1875.
LR [] Ch	Law Reports series, Chancery Appeal cases, 1865-1875.
LR [] C P	Law Reports series, Common Pleas cases, 1865-1875.
LR [] Eq	Law Reports series, Equity cases, 1865-1875.
LR [] Exch	Law Reports series, Exchequer cases, 1865-1875.
LR [] H L	Law Reports series, House of Lords, English and Irish Appeals, 1866-1875.
LR Ir [] CL	Law Reports (Ireland), Common Law cases, 1877-1893.
LR Ir [] Ch	Law Reports (Ireland), Chancery cases, 1877-1893.
LR [] PD	Law Reports series, Probate and Divorce cases, 1865-1875.
LR [] PC	Law Reports series, Privy Council cases, 1865-1875.
LR [] QB	Law Reports series, Queen's Bench cases, 1865-1875.
LR [] Sc & Div	Law Reports series, Scotch and Divorce Appeals, 1865-1875.

LT	Law Times Reports, New Series, 1859–1947.
L T Jo	Law Times newspaper, 1843 and subsequently.
LTOS	Law Times Reports, Old Series, 1843–1860.
Lev	Levinz's Reports, 1660–1696.
Lush	Lushington's Reports, 1859–1862.
M & A	Montagu and Ayrton's Bankruptcy Cases, 1833–1838.
M & Gr	Manning and Grainger's Reports, 1840–1845.
M & Ry	Manning and Ryland's Reports, 1827–1828.
M & S	Maule and Selwyn's Reports, 1813–1817.
M & W	Meeson and Welsby's Reports, 1836–1847.
Mac & G	Macnaghten and Gordon's Reports, 1849–1852.
Macq	Macqueen's Scotch Appeal Cases, 1849–1852.
Mad	Maddock's Reports, 1815–1822.
Mad & G	Maddock and Geldart's Reports, 1821–1822.
McCle & Yo	McClelland and Younge's Reports, 1825.
M D & D	Montagu, Deacon and De Gex's Reports, 1840–1844.
Mer	Merivale's Reports, 1815–1817.
Mont Bkcy C	Montagu's Bankruptcy Cases, 1829–1832.
Moo & Mal	Moody and Malkin's Reports, 1826–1830.
Moo & P	Moore and Payne's Reports, 1827–1831.
Moo & Rob	Moody and Robinson's Reports, 1830–1844.
Moo & Sc	Moore and Scott's Reports, 1831–1834.
Moo CC	Moody's Crown Cases, 1824–1844.
Moo PCC	Moore's Privy Council Cases, 1836–1863.
Moore	Moore's Reports of cases in the Common Pleas, 1817–1827.
Morr	Morrell's Reports of cases in bankruptcy, 1884–1893.
My & Cr	Mylne and Craig's Reports, 1835–1841.
My & K	Mylne and Keen's Reports, 1832–1835.
N & M	Nevile and Manning's Reports, 1832–1836.
Nev & Per	Nevile and Perry's Reports, 1836–1838.
New Sess Cas	New Sessions Magistrates' Cases, 1844–1851.
Noy	Noy's Reports, 1558–1645.
NR	New Reports, 1862–1865.
NYR	Reports of the Appellate Division of the Supreme Court of the State of New York.
NZLR	New Zealand Law Reports, 1883–1887.
O'M & H	O'Malley and Hardcastle's Election Cases, 1869–1934.
P	(preceded by the year) means the Law Reports, Probate, Divorce and Admiralty Division, 1891 and subsequently.
Paterson Sc Ap	Paterson's Reports of Scotch Appeals, 1851–1873.
PD	Law Reports, Probate, Divorce, and Admiralty Division, 1875–1890.
Peake NPC	Peake's Nisi Prius Cases, 1790–1812.
Ph	Phillips' Reports, 1841–1849.
Phill	Phillimore's Reports, 1809–1821.
Pr	Price's Reports, 1814–1824.
P Wms	Peere Williams' Reports, 1695–1735.
QB	Queen's Bench Reports (Adolphus and Ellis), 1841–1852.
QB	(preceded by year and vol. number) means Law Reports, Queen's Bench Division, 1891–1900, and since 1952.
R & M	Russell and Mylne's Reports, 1824–1829.
Rep	The Reports, 1893–1895.
Rep t Finch	Reports of cases in the time of Sir H. Finch, 1673–1680.
Ridg PC	Ridgway's Parliamentary Cases (Irish Appeals), 1784–1796.
Ridg t Hard	Ridgway's Reports of cases in the time of Lord Hardwicke.
Rob Sc Ap	Robinson's Scotch Appeal Cases, 1840–1842.
Rose	Rose's Reports, 1810–1816.
RPC	Reports of Patent Cases, 1884 and subsequently.

Russ	Russell's Reports, 1824-1829.
Ry & M	Ryan and Moore's Reports, 1823-1826.
Salk	Salkeld's Reports, 1689-1711.
SC	(preceded by the year) means the reports of cases decided in the Courts of Session or of Justiciary or in the House of Lords (Scotch cases), 1898 and subsequently, but the first ten volumes of these reports are cited also as 'F.' preceded by a volume number.
SLT	Scots Law Times, 1893 and subsequently.
Sch & Lef	Schoales and Lefroy's Reports, (Ireland), 1802-1806.
Sc LR	Scottish Law Reporter, 1865-1924.
Scott	Scott's Reports, 1834-1840.
Scott, NR	Scott's Reports, new reports, 1840-1845.
Show	Sir B. Shower's Reports, 1678-1687, 1689-1693.
Sim	Simon's Reports, 1826-1852.
Sim & St	Simon and Stuart's Reports, 1822-1826.
Sim NS	Simon's Reports, new series, 1850-1852.
Sm & G	Smale and Giffard's Reports, 1852-1857.
Sm LC	Smith's Leading Cases.
Sol Jo	Solicitor's Journal newspaper, 1856 and subsequently.
State Trials	Cobett's State Trials, continued by Howell, 1163-1820.
Stark	Starkie's Reports of Nisi Prius cases, 1814-1819.
Str	Strange's Reports, 1716-1747.
Style	Style's Reports, 1646-1655.
Sw & Tr	Swabey and Tristram's Reports, 1858-1865.
Swan	Swanston's Reports, 1818-1821.
T & R	Turner and Russell's Reports, 1822-1824.
TLR	Times Law Reports, 1884-1952.
TR	Term Reports, 1785-1800.
Taml	Tamlyn's Reports, 1829-1830.
Taunt	Taunton's Reports, 1807-1819.
Tax Cas	Tax Cases, 1875 and subsequently.
Tyr	Tyrwhitt's Reports, 1830-1835.
Tyr & Gr	Tyrwhitt and Granger's Reports, 1835-1836.
V & B	Vesey and Beame's Reports, 1812-1814.
VLR	Victorian Law Reports (Australia), 1875 and subsequently.
Vent	Ventris's Reports, 1668-1691.
Vern	Vernon's Reports, 1680-1719.
Ves	Vesey junior's Reports, 1789-1817.
Ves Sen	Vesey senior's Reports, 1747-1756.
W Bl	Sir William Blackstone's Reports, 1746-1779.
WLR	(preceded by date and volume number, e.g. [1953] 1 WLR) means the Weekly Law Reports, 1953 and subsequently.
WN	(preceded by the year) means the Weekly Notes, 1866-1952.
WR	Weekly Reporter, 1852-1906.
W W & D	Willmore, Wollaston, and Davison's Reports, 1837.
W W & H	Willmore, Wollaston, and Hodge's Reports, 1838-1839.
Wh & T	White and Tudor's Leading Cases in Equity.
Wils	Wilson's Reports, 1742-1774.
Y & CC	Younge and Collyer's Chancery Cases, 1841-1843.
Y & C Ex	Younge and Collyer's Exchequer Cases, 1833-1841.
Y & J	Younge and Jervis's Reports, 1826-1830.
You	Younge's Reports, 1830-1832.

Table of statutes

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