

Charles Mitchell

Hayton & Mitchell:
Commentary and Cases
on the Law of
Trusts and
Equitable Remedies

Thirteenth Edition



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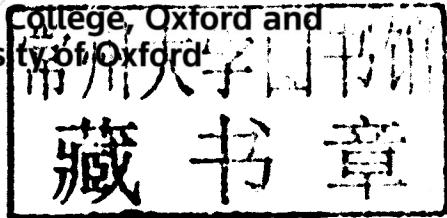
**HAYTON AND MITCHELL
COMMENTARY AND CASES ON
THE LAW OF TRUSTS AND
EQUITABLE REMEDIES**

THIRTEENTH EDITION

By

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First Edition 1939 by J.A. Nathan
Second Edition 1951 by O.R. Marshall
Third Edition 1955 by O.R. Marshall
Fourth Edition 1961 by O.R. Marshall
Second Impression 1966 by O.R. Marshall
Fifth edition 1967 by O.R. Marshall
Second impression 1971 by O.R. Marshall
Sixth edition 1975 by D.J. Hayton
Seventh edition 1980 by D.J. Hayton
Eighth edition 1986 by D.J. Hayton
Second impression 1988 by D.J. Hayton
Third impression 1989 by D.J. Hayton
Ninth edition 1991 by D.J. Hayton
Second impression 1994 by D.J. Hayton
Tenth edition 1996 by D.J. Hayton
Second impression 1997 by D.J. Hayton
Third impression 1999 by D.J. Hayton
Fourth impression 2000 by D.J. Hayton
Eleventh edition 2001 by D.J. Hayton
Second impression 2001 by D.J. Hayton
Third impression 2003 by D.J. Hayton
Twelfth edition 2005 by D.J. Hayton and C.C.J. Mitchell

Published in 2010 by Thomson Reuters (Legal) Limited
(Registered in England & Wales, Company No 1679046.
Registered Office and address for service: 100 Avenue Road, London NW3 3PF)
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Typeset by LBJ Typesetting Ltd of Kingsclere
Printed in Great Britain by Ashford Colour Press, Gosport, Hants

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A CIP catalogue record for this book is available from the British Library.

ISBN-13 978-1-84703-730-5

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ACKNOWLEDGMENTS

The Publishers and Author wish to thank the following for permission to reprint material from publications in which they have copyright:

The Charity Commission

The Charity Commission's Annual Reports

James Kessler QC

The Modern Trust Precedent from James Kessler, *Drafting Trusts and Will Trusts*, 7th edn (2004)

PREFACE

This book was edited by David Hayton for 30 years, between 1975 and 2005. During this time he took the book through six editions, and transformed it from an annotated collection of case extracts into a combined textbook and case-book, with extensive in-depth discussion that contextualises and illuminates selected passages from the case law. For the last (12th) edition of the book David invited me to join him as co-editor, and following his appointment as a Justice of the Caribbean Court of Justice in 2005, I have now taken over as sole editor of this (13th) edition. I am very grateful to David for entrusting me with this responsibility, and for his continued input into parts of the text, particularly Chapter 16, on trusts and the conflict of laws, which he has once more updated.

For this edition I have made some changes to the structure of the book and revised parts of the discussion to account for new developments over the past five years. I have found space for sections of the Charities Act 2006 and the Perpetuities and Accumulations Act 2009, excerpts from two Charity Commission documents, *Charities and Public Benefit* (January 2008 version) and *Public Benefit and Fee-Charging* (December 2008 version), and extracts from these cases: *BCCI (Overseas) Ltd v Akindele* [2001] Ch. 437; *Barlow Clowes International Ltd v Eurotrust International Ltd* [2006] 1 W.L.R. 1476; *Breakspear v Ackland* [2009] Ch. 32; *Chartbrook Ltd v Persimmon Homes Ltd* [2009] Bus. L.R. 1200; *Chopra v Bindra* [2009] 2 F.L.R. 786; *Re Griffiths (deceased)* [2009] Ch. 162; *Hanchett-Stamford v Att.-Gen.* [2009] Ch. 173; *HMRC v Trustees of the Peter Clay Discretionary Trust* [2009] Ch. 296; *Sieff v Fox* [2005] 1 W.L.R. 3811; *Stack v Dowden* [2007] 2 A.C. 432; *Re Walters (deceased)* [2009] Ch. 212; and *Wyndham v Egremont* [2009] W.T.L.R. 1473.

To make way for this new material, I have deleted extracts from these cases: *Abacus Trust Co (Isle of Man) Ltd v Barr* [2003] Ch. 409; *Re Burroughs-Fowler* [1916] 2 Ch. 251; *Cannon v Hartley* [1949] Ch. 213; *Chan v Zacharia* (1984) 154 C.L.R. 178; *Chellaram v Chellaram* [1985] Ch. 409; *Re Cleaver (deceased)* [1981] 1 W.L.R. 939; *Re Cook's ST* [1965] Ch. 902; *Re EVTR* [1987] B.C.L.C. 646; *Grant v Edwards* [1986] Ch. 638; *Huntingford v Hobbs* [1993] 1 F.L.R. 736; *Knocker v Youle* [1986] 1 W.L.R. 934; *Re Montagu's S.T.* [1987] Ch. 264; *National Anti-Vivisection Society v IRC* [1948] A.C. 31; *Oxley v Hiscock* [2004] 2 F.L.R. 669; *Pilkington v IRC* [1964] A.C. 612; *R. v District Auditor, ex parte West Yorkshire CC* [2001] W.T.L.R. 785; and *Vacuum Oil Co Pty Ltd v Wiltshire* (1945) 72 C.L.R. 319.

I could not have undertaken the task of editing this book if I had not had the benefit of many enlightening conversations about trusts and equity with generations of students at King's College London and Oxford. I have also learnt much from the friends and colleagues with whom I have taught this fascinating subject. Besides David Hayton, I should also therefore like to thank Rob Chambers, Catriona Cook, Christian Daly, Ray Davern, Adam Doyle, Jamie Edelman, Emma Ford, Simon Gardner, Jon Garton, Josh Getzler, Jamie Glistler, Ben McFarlane, Mike Macnair, Paul Matthews, Peter Oliver, James Penner, Irit Samet-Porat, Bill Swadling, Leslie Turano, and Theresa Villiers. For their insights and their enthusiasm, I owe them all a great debt.

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