

CIVIL
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MICHAEL O'REILLY

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Michael O'Reilly



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 Thomas Telford

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<i>National Coal Board v. William Neill & Sons (St Helens) Ltd</i> (1983) 26 BLR 81	46
<i>Neck v. Taylor</i> [1893] 1 QB 560 (CA)	346
<i>Nema (The)</i> [1981] 2 Lloyd's Rep. 239	106
<i>Nema (The)</i> [1982] AC 724 (HL)	366
<i>Neodox v. Swinton and Pendlebury Borough Council</i> (1958) 5 BLR 34	40, 136
<i>New Fenix Compagnie Anonyme v. General Accident</i> [1911] 2 KB 619 (CA)	346
<i>Nicolene v. Simmonds</i> [1953] 1 QB 543 (CA)	18
<i>Nimenia (The)</i> [1986] QB 802	366
<i>Norjarl (K/S) v. Hyundai Heavy Industries Co. Ltd</i> [1992] 1 QB 863	336
<i>Norta Wallpapers (Ireland) Ltd v. John Sisk & Sons (Dublin) Ltd</i> (1978) 14 BLR 99	14
<i>North Ocean Shipping Co. Ltd v. Hyundai Construction Co. Ltd</i> [1979] QB 705	18, 93
<i>North West Metropolitan Regional Hospital Board v. T. A. Bickerton & Son</i> [1970] 1 WLR 607 (HL)	14
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<i>Nova (Jersey) Knit v. Kammgarn Spinnerei GmbH</i> [1977] 1 WLR 713 (HL)	101
<i>Nye Saunders & Partners v. Alan E. Bristow</i> (1987) 37 BLR 92	69
<i>Ogilvie Builders Ltd v. Glasgow District Council</i> (1994) 68 BLR 122 (Scottish Court of Session)	84, 117
<i>Owen v. Nicholl</i> [1948] 1 All ER 707 (CA)	104, 360
<i>Pacific Associates v. Baxter</i> [1990] 1 QB 993 (CA)	12, 47
<i>Panamena v. Frederick Leyland & Co.</i> [1947] AC 428 (HL)	45, 46
<i>Parkinson (Sir Lindsay) & Co. v. Commissioners of Works</i> [1949] 2 KB 632 (CA)	42, 61, 248

<i>Parkinson (Sir Lindsay) & Co. v. Triplan</i> [1973] 1 QB 609 (CA)	341, 342
<i>Patman and Fotheringham v. Pilditch</i> (1904), <i>Hudson's Building Contracts</i> (4th edn) Vol. 2, p. 368	34
<i>Payzu Ltd v. Saunders</i> [1919] 2 KB 581	82
<i>Peak Construction (Liverpool) v. McKinney Foundations</i> (1970) 1 BLR 111 (CA)	38, 85, 180
<i>Pearce (C. J.) & Co. Ltd v. Hereford Corporation</i> (1968) 66 LGR 647	141
<i>Pearson v. Dublin Corporation</i> [1907] AC 351 (HL)	58
<i>Perar BV v. General Surety and Guarantee Co. Ltd</i> (1994) 66 BLR 72 (CA)	53
<i>Percy Bilton v. Greater London Council</i> [1982] 1 WLR 794 (HL)	14
<i>Perini Pacific Ltd v. Greater Vancouver Sewerage and Drainage District</i> (1966) 57 DLR (2d) 307 (British Columbia Court of Appeal)	85, 180
<i>Philipps v. Philipps</i> (1878) 4 QBD 127	77
<i>Philips Hong Kong Ltd v. AG of Hong Kong</i> (1993) 9 Constr. L.J. 202 (PC)	83
<i>Photo Production v. Securicor Transport</i> [1980] AC 827 (HL)	25, 26
<i>Piggott Foundations Ltd v. Shepherd Construction Ltd</i> (1993) 67 BLR 48	262
<i>Pillings (C. M.) & Co. v. Kent Investments Ltd</i> (1985) 30 BLR 80	46
<i>Piper Double Glazing Limited v. DC Contracts</i> [1994] 1 WLR 777	346
<i>Porzelack K. G. v. Porzelack UK Ltd</i> [1987] 1 WLR 420	342
<i>Post Office v. Norwich Union Fire Insurance Society Ltd</i> [1967] 2 QB 363	51
<i>Pratt v. Swanmore Builders Ltd and Baker</i> [1980] 2 Lloyd's Rep. 504	103, 371
<i>Prenn v. Simmonds</i> [1971] 1 WLR 1381 (HL)	22
<i>President of India v. Lips Maritime</i> [1988] AC 395 (HL)	84
<i>Priestly v. Stone</i> (1888), <i>Hudson's Building Contracts</i> (4th edn) Vol. 2, p. 134	34
<i>Proctor v. Bennis</i> [1887] ChD 740	62
<i>R. v. Demers</i> [1900] AC 103 (PC)	4
<i>R. v. Silverlock</i> [1894] 2 QB 766 (Crown Cases Reserved)	360
<i>Radford v. De Froberville</i> [1977] 1 WLR 1262	82
<i>Ramsden v. Dyson</i> (1866) LR 1 HL 129	62
<i>Ranger v. Great Western Railway</i> (1854) 5 HLC (HL)	52
<i>Rayner (J. H.) (Mincing Lane) Ltd v. Shaher Trading Co.</i> [1982] 1 Lloyd's Rep. 632	364
<i>Rees & Kirby v. Swansea City Council</i> (1985) 30 BLR 1 (CA)	84, 117
<i>Rees Hough Ltd v. Redland Reinforced Plastics Ltd</i> (1984) 27 BLR 136	26

<i>Regalian Properties plc v. London Docklands Development Corporation</i> [1995] 1 WLR 212	17, 61
<i>Richard Roberts Holdings Ltd and Another v. Douglas Smith Stimson Partnership</i> (1988) 46 BLR 50	67, 91
<i>Richo International Ltd v. Industrial Food Co. SAL, The Fayrouz III</i> [1989] 2 Lloyd's Rep. 10	340
<i>Roberts v. Bury Commissioners</i> (1870) LR 5 CP	52
<i>Roberts & Co. v. Leicestershire County Council</i> [1961] ChD 555	25
<i>Robinson v. Harman</i> (1848) 1 Ex 850	80
<i>Rolimpex Centrala Handlu Zagranicznego v. Haji E. Dossa & Sons Ltd</i> [1971] 1 Lloyd's Rep. 380	361
<i>Rose and Frank Co. v. Crompton Brothers</i> [1925] AC 445 (HL)	15
<i>Rosehaugh Stanhope v. Redpath Dorman Long</i> (1990) 50 BLR 75 (CA)	22
<i>Roxburghe v. Cox</i> (1881) 17 ChD 520 (CA)	13, 49
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<i>Ruxley Electronics v. Forsyth</i> [1995] 2 WLR 118 (HL)	41
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<i>Scammel v. Ouston</i> [1941] AC 251 (HL)	18
<i>Schawel v. Reade</i> [1913] IR 81	21
<i>Schuler AG v. Wickman Machine Tool Sales Ltd</i> [1974] AC 235 (HL)	25
<i>Scott v. Avery</i> (1856) 5 HLC 811 (HL)	101, 309
<i>Scott v. Mercantile Accident Insurance Co.</i> (1892) 8 TLR	340
<i>Scott Lithgow Ltd v. Secretary of State for Defence</i> (1989) 45 BLR 6 (HL)	258, 262
<i>Sealand of the Pacific v. Robert C. McHaffie Ltd</i> (1974) 51 DLR (3d) 702 (British Columbia Court of Appeal)	72, 137
<i>Secretary of State for Transport v. Birse-Farr Joint Venture</i> (1993) 62 BLR 36	217
<i>Selectmove Ltd (Re)</i> [1995] 1 WLR 474	19
<i>Shanklin Pier Ltd v. Detel Products</i> [1951] 2 KB 854	12
<i>Shanks & McEwan v. Strathclyde Regional Council</i> (1994) CILL 916 (Scottish Court of Session)	41, 194
<i>Sharpe v. E. T. Sweeting & Son Ltd</i> [1963] 1 WLR 665	13
<i>Sharpe v. San Paulo Railway Co.</i> (1873) LR 8 Ch App 597	34, 39, 42, 95
<i>Shearson Lehman Brothers Inc. v. Maclaine Watson & Co. Ltd</i> [1987] WLR 480 at 489 (CA)	107
<i>Sheldon v. R. H. M. Outhwaite (Underwriting Agencies) Ltd</i> [1996] 1 AC 102 (HL)	92

<i>Sherry (Re)</i> (1884) 25 ChD 692 (CA)	55
<i>Sidney Kaye, Eric Firmin & Partners v. Leon Joseph Bronesky</i> (1973) 4 BLR 1	65
<i>Simaan General Contracting Co. v. Pilkington Glass Ltd.</i> [1987] 1 WLR 516	342
<i>Simplex Concrete Piles Ltd v. St Pancras Borough Council</i> (1958) 14 BLR 80	44, 143, 195
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<i>Smeaton Hanscombe & Co. v. Sassoon I. Setty, Son & Co.</i> (No. 2) [1953] 1 WLR 1481	341
<i>Smith (Re)</i> (1896) LT 46	342
<i>Solholt (The)</i> [1983] 1 Lloyd's Rep. 605	82
<i>South Shropshire District Council v. Amos</i> [1986] 1 WLR 1271 (CA)	351
<i>Southway Group Ltd v. Wolff and Wolff</i> (1991) 57 BLR 33	18, 48
<i>Spencer v. Harding</i> (1870) LR 5 CP 561	16
<i>Stevenson v. McLean</i> (1880) 5 QBD 346	16
<i>Stockport MBC v. O'Reilly</i> [1978] 1 Lloyd's Rep. 595	42
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<i>Sumpter v. Hedges</i> [1898] 1 QB 673	37
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<i>Tamplin v. James</i> (1880) 15 ChD 215 (CA)	15
<i>Tara Civil Engineering Ltd v. Moorfield Developments Ltd</i> (1989) 46 BLR 72	28, 52, 222
<i>Taunton-Collins v. Cromie</i> [1964] 1 WLR 633 (CA)	101
<i>Taylor v. Caldwell</i> (1863) 32 LJQB	29
<i>Temloc v. Errill Properties Ltd</i> (1988) 39 BLR 30 (CA)	83, 181, 187
<i>Themehelp Ltd v. West and others</i> [1995] 3 WLR 751 (CA)	54
<i>Thomas v. Hammersmith Borough Council</i> [1938] 3 All ER 201	68
<i>Thomas Feather & Co. (Bradford) Ltd v. Keighley Corporation</i> [1953] 53 LGR 30	28
<i>Thorn v. Mayor and Commonalty of London</i> [1876] 1 AC 120 (HL)	39, 43
<i>Toepfer v. Warinco</i> [1978] 2 Lloyd's Rep. 569	31, 41, 121
<i>Token Construction v. Charlton Estates</i> (1973) 1 BLR 48 (CA)	46
<i>Top Shop Estates v. Danino</i> (1984) 273 EG 197 (1 EGLR 9)	104, 360
<i>Town & City Properties (Developments) Ltd v. Wiltshier Southern Ltd and Gilbert Powell</i> (1988) 44 BLR 109	103, 357, 360
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<i>Trafalgar House Construction (Regions) Ltd v. General Surety & Guarantee Co. Ltd</i> [1995] 3 WLR 204 (HL)	56, 135
<i>Tramountana Armadora v. Atlantic Shipping Co.</i> [1978] 1 Lloyd's Rep. 391	341
<i>Trollope & Colls Ltd v. Atomic Power Construction Ltd</i> [1963] 1 WLR 333	61
<i>Tucker v. Linger</i> (1883) 8 App Cas 508 (HL)	25
<i>Turner v. Fenton</i> [1982] 1 WLR 52	101
<i>Turriff Ltd v. Welsh National Water Development Authority</i> (1979) CLY 1994, 122	145
<i>Tweddle v. Atkinson</i> (1861) 1 B & S 393	11
<i>Unione Stearinerie Lanza v. Wiener</i> [1917] 2 KB 558	332
<i>United Scientific Holdings v. Burnley Council</i> [1978] AC 904 (HL)	135
<i>Universal Petroleum Co. Ltd v. Handels und Transportgesellschaft mbH</i> [1987] 2 All ER 737 (CA)	363
<i>University of Warwick v. Sir Robert McAlpine</i> (1988) 42 BLR 1	360
<i>Vimeira (The)</i> [1984] 2 Lloyd's Rep. 66	104
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<i>Wadsworth v. Lydall</i> [1981] 1 WLR 598 (CA)	84
<i>Walters v. Whessoe Ltd & Shell Refining Co. Ltd</i> (1960) 6 BLR 23 (CA)	50
<i>Walton-on-the-Naze UDC (Re) v. Moran</i> (1905) <i>Hudson's Building Contracts</i> (4th edn) Vol. 2, 376	35
<i>Waring (F. R.) (UK) Ltd v. Administracao Geral do Acucar e do Alcool</i> [1983] 1 Lloyd's Rep. 45	104, 347
<i>Way v. Latilla</i> [1937] 3 All ER 759	62
<i>Wells v. Army and Navy Co-operative Society</i> (1902) 86 LT 764	38
<i>West Faulkner Associates v. London Borough of Newham</i> (1994) 71 BLR 1 (CA)	223, 262
<i>Westminster Corporation v. Jarvis</i> [1970] 1 WLR 637 (HL)	189
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