

Fourth Edition

A Casebook on Contract



Andrew Burrows

A Casebook on Contract

Fourth Edition

ANDREW BURROWS

*MA, BCL, LLM (Harvard), QC (Hon), FBA, Honorary Bencher of Middle Temple,
Professor of the Law of England in the University of Oxford and a Fellow of All
Souls College, Oxford*



OXFORD AND PORTLAND, OREGON
2013

Published in the United Kingdom by Hart Publishing Ltd
16C Worcester Place, Oxford, OX1 2JW
Telephone: +44 (0)1865 517530
Fax: +44 (0)1865 510710
E-mail: mail@hartpub.co.uk
Website: <http://www.hartpub.co.uk>

Published in North America (US and Canada) by
Hart Publishing
c/o International Specialized Book Services
920 NE 58th Avenue, Suite 300
Portland, OR 97213-3786
USA
Tel: +1 503 287 3093 or toll-free: (1) 800 944 6190
Fax: +1 503 280 8832
E-mail: orders@isbs.com
Website: <http://www.isbs.com>

© Andrew Burrows 2013

Andrew Burrows has asserted his right under the Copyright, Designs and Patents Act 1988, to be identified as the author of this work.

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, without the prior permission of Hart Publishing, or as expressly permitted by law or under the terms agreed with the appropriate reprographic rights organisation. Enquiries concerning reproduction which may not be covered by the above should be addressed to Hart Publishing Ltd at the address above.

British Library Cataloguing in Publication Data

Data Available

ISBN: 978-1-84946-446-8

Typeset by Forewords, Oxford

Printed and bound in Great Britain by
TJ International Ltd, Padstow, Cornwall



A Casebook on Contract

IN MEMORY OF MY FATHER

Acknowledgements

The author and publisher gratefully acknowledge the authors and publishers of extracted material which appears in this book, and in particular the following for permission to reprint from the sources indicated:

Justis and the Incorporated Council of Law Reporting for England and Wales—the Law Reports, the Weekly Law Reports and the Industrial Cases Reports.

LexisNexis Butterworths—extracts from the All England Law Reports, the All England Reports Commercial Cases, Family Court Reports and Law Times Reports.

Informa UK Ltd—extracts from Lloyd's Law Reports and Building Law Reports.

Sweet & Maxwell Ltd (Westlaw)—for an extract from the Fleet Street Reports, an extract from Commercial Law Cases, and an extract from the Property, Planning and Compensation Reports.

While every care has been taken to establish and acknowledge copyright, and to contact copyright owners, the publishers apologise for any accidental infringement and would be pleased to come to a suitable agreement with the rightful copyright owners in each case.

Preface

In my view, the best way for students to understand and enjoy the law of contract is by careful analysis of what the judges have said in the leading cases. It is with that in mind that I have written this book. It aims to make the cases readily accessible through a clear structure, by a succinct introductory commentary to the various sections, and by notes and questions that will enable a student to appreciate the significance of a particular case and the interesting issues raised by it. Novel features include the treatment of statutes, where I have tried to give a principled overview of the central provisions, and the summaries of academic writings either as part of the notes on a particular case or in the additional reading at the end of each chapter. Above all it is hoped that the book will convey the fascination and excitement of this central subject.

This is a casebook in the traditional sense that it is designed to be used alongside, rather than as a replacement for, a textbook. There are several excellent textbooks on contract. I have given references throughout to the three that I consider the best. As an introductory book, most usefully read at the start of a topic, I would recommend Ewan McKendrick, *Contract Law*. If the student is going to buy any other books I would recommend, as a more detailed textbook, *Anson's Law of Contract* and, as a more theoretical work, *Atiyah's Introduction to the Law of Contract*. But obviously teachers and students have their own favourites and this casebook can be used just as easily with any other textbook.

This book is aimed at all those studying contract, in particular undergraduates on law courses. The contents seek to reflect the scope of most modern university courses so that the law on illegality and incapacity is not included.

Three further particular features of the contents should be noted. The first is the prominence given to remedies. Both theoretically and in practice this topic is, arguably, the most important in contract law and yet often it is pushed to the end of a course where it is not given the attention it merits. It is to be found in the centre of this book as Part Three. The second is the recognition of the interplay between contract law and the drafting of contract terms. Lawyers need a detailed knowledge of contract law not only to advise when things go wrong but also in order to be able to draft contracts effectively. Proper attention is therefore paid at various stages of this book to interpretation and to various types of contract term. The third is the use made of the outstanding comparative work of the Commission on European Contract Law (led by Olé Lando and Hugh Beale). Their *Principles of European Contract Law* (PECL) merits greater attention by students than has traditionally been the case. What I have done here, therefore, is to set out the relevant parts of PECL at the ends of chapters (along with the page references to the detailed commentary) so that students can compare PECL with English law once they have mastered a particular topic. My own square-bracketed comments are then designed to help a student to see, and to think about, the differences. I have chosen PECL rather than the relevant sections of the 2009 *Draft Common Frame of Reference* (prepared by the Study Group on a European Civil Code and the Research

Group on EC Private Law (Acquis Group)) because the DCFR is, in my view, a more difficult draft and commentary for students to understand and use. I have referred to PECL, rather than the equally impressive Unidroit Principles of International Commercial Contracts, because, given the ongoing talk of a Common European Sales Law or even a European Contract Code, PECL are, arguably, of greater importance.

The extracts from the statutes are reproduced in the most recent form with all amendments being incorporated within square brackets.

By the time a student has worked his or her way through this book, he or she will have favourite judges who can be relied on for rational and clear exposition of contractual principles. I anticipate that most will derive the greatest illumination from the judgments of Lord Denning, Lord Wilberforce, Lord Steyn, Lord Nicholls and Lord Bingham. It is striking how much more sophisticated judicial reasoning on contract has become albeit that this coincides with ever longer judgments.

There are several people I would like to thank. Hugh Collins who, along with the late great Peter Birks, taught me contract at Brasenose College and is the author of a deservedly popular theoretical text, *The Law of Contract* (4th edn, 2003); my excellent research assistants for the first edition, Andrew Scott (who helped with Chapter 4), Adam Rushworth (who assisted with Chapters 11–13) and Kira King (who helped on Chapters 14–15); and Richard Hart, Mel Hamill and Tom Adams at Hart Publishing for being such a great pleasure to work with and for being so encouraging and efficient from start to finish.

New cases covered in this fourth edition include (in the order in which they appear): *Jet2.com Ltd v Blackpool Airport Ltd*; *Yam Seng Pte Limited v International Trade Corporation Limited*; *Rainy Sky SA v Kookmin Bank*; *Cherry Tree Investments Ltd v Landmain Ltd*; *Mir Steel UK Ltd v Morris*; *KG Bominflot Bunkergesellschaft für Mineralöle mbH & Co v Petroplus Marketing AG*; *The Mercini Lady*; *Air Transworld Ltd v Bombardier Inc*; *United Trust Bank Ltd v Dohil*; *FG Wilson (Engineering) Ltd v John Holt & Co (Liverpool) Ltd*; *Office of Fair Trading v Ashbourne Management Service Ltd*; *Geys v Société Générale, London Branch*; *Edwards v Chesterfield Royal Hospital NHS Foundation Trust*; *Giedo Van der Garde BV v Force India Formula One Team Ltd*; *Isabella Shipowner SA v Shagang Shipping Co Ltd*; *The Aquafaith*; *Araci v Fallon*; *Great Eastern Shipping Co Ltd v Far East Chartering Ltd*; *The Javi*; *Axa Sun Life Services plc v Campbell Martin Ltd*; *Cleaver v Schyde Investments Ltd*; *Daventry DC v Daventry and District Housing Ltd*; *Progress Bulk Carriers Ltd v Tube City IMS LLC*. Other new material referred to includes articles by McCaughran, Davies, and Tettenborn; and the Law Commission's Report on *Consumer Redress for Misleading and Aggressive Practices*.

This edition is again dedicated to my father who died from cancer as I was nearing completion of the first edition. If I can be half as good a father to my four children as he was to me, I will have done a wonderful job.

Andrew Burrows
1 March 2013

Table of Cases

Abu Dhabi National Tanker Co v Product Star Shipping Ltd (The Product Star)	
[1993] 1 Lloyd's Rep 397	208
Achilleas (The) , see Transfield Shipping Inc v Mercator Shipping Inc	
Actionstrength Ltd v International Glass Engineering SpA [2003] UKHL 17,	
[2003] 2 AC 541	88
Adam Opel GmbH v Mitras Automotive (UK) Ltd [2007] EWHC 3481 (QB) . . .	110, 752
Adams v Lindsell (1818) 1 B & Ald 681	35, 37–38
Addis v Gramophone Co Ltd [1909] AC 488, HL	362, 421–23 , 427, 434–36, 441
Adler v Dickson [1955] 1 QB 158, CA	515
AEG (UK) Ltd v Logic Resource Ltd [1996] CLC 265, CA	166, 181–85
Aerial Advertising Co v Batchelors Peas Ltd (Manchester)	
[1938] 2 All ER 788	434–35
Ailsa Craig Fishing Co Ltd v Malvern Fishing Co Ltd	
[1983] 1 WLR 964, HL (Sc)	251–52 , 253–54
Air Transworld Ltd v Bombardier Inc [2012] EWH C 243 (Comm),	
[2012] 1 Lloyd's Rep 349	251
Ajayi v RT Briscoe (Nigeria) Ltd [1964] 1 WLR 1326, PC	144, 151
Akerblom v Price (1881) 7 QBD 129	816
Alan (WJ) & Co Ltd v El Nasr Export and Import Co	
[1972] 2 QB 189, CA	143–45 , 146, 151
Alaskan Trader (The) , see Clea Shipping Corporation v Bulk Oil International Ltd	
Albazero (The) [1977] AC 774, HL	523, 525–27, 529, 531–32, 534–36, 556
Albert (L) & Son v Armstrong Rubber Co 178 F 2d 182 (1949)	369, 370–71, 373–75
Alcatel Australia Ltd v Scarcella (1998) 44 NSWLR 349	205
Alder v Moore [1961] 2 QB 57, CA	450
Alderslade v Hendon Laundry Ltd [1945] KB 189, CA	238–40 , 241–42,
	244–46, 249, 251
Alec Lobb Garages Ltd v Total Oil (GB) Ltd [1985] 1 WLR 173, CA	801, 806,
	812–14 , 817
Alexander v Cambridge Credit Corp (1987) 9 NSWLR 310	412
Alf Vaughan & Co Ltd v Royscot Trust plc [1999] 1 All ER (Comm) 856	761
Alfred McAlpine Construction Ltd v Panatown Ltd [2001] 1 AC 518, HL . . .	526–35 ,
	543, 556–57
Allcard v Skinner (1887) 36 Ch D 145, CA	769, 770–73 , 778, 781, 784–85,
	793–94, 796, 799, 816–18
Allied Maples Group Ltd v Simmons & Simmons [1995] 1 WLR 1602, CA	365
Alman v Associated Newspapers Groups Ltd, 20 June 1980	618
Amalgamated Investment & Property Co v John Walker & Sons Ltd	
[1977] 1 WLR 174, CA	732–34
Amalgamated Investment & Property Co Ltd v Texas Commerce	
International Bank Ltd [1982] QB 84, CA	108, 129–31 , 137–39

Anangel Atlas Compania Naviera SA v Ishikawajima – Harima Heavy Industries Co Ltd (No 2) [1990] 2 Lloyd's Rep 526	117
Anderton v Clwyd County Council (No 2) [2002] 1 WLR 3174, CA	676–77
Aneco Reinsurance Underwriting Ltd v Johnson & Higgins Ltd [2002] 1 Lloyd's Rep 157	407
Anglia TV v Reed [1972] 1 QB 60, CA.	366–67, 368, 370, 374
Anglo-Continental Holidays Ltd v Typaldos Lines (London) Ltd [1967] 2 Lloyd's Rep 61	435
Antaios Compania Naviera SA v Salen Rederierna AB [1985] AC 191	230, 344–45
Antons Trawling Co Ltd v Smith [2003] 2 NZLR 23.	111
Appleby v Myers (1867) LR 2 CP 651	720, 729
Aquafaith (The) , see Isabella Shipowner SA v Shagang Shipping Co Ltd	
Araci v Fallon [2011] EWCA Civ 668	483
Arcos Ltd v Ronassen & Son [1933] AC 470, HL	340
Associated Japanese Bank International Ltd v Crédit du Nord SA [1989] 1 WLR 255, QBD.	669–71, 674–75, 683
Astley v Reynolds (1731) 2 Stra 915	737, 742–43, 816
Atlantic Baron (The) , see North Ocean Shipping Co Ltd v Hyundai Construction Co Ltd	
Atlas Express Ltd v Kafco (Importers and Distributors) Ltd [1989] QB 833, QBD.	750–51
Attica Sea Carriers Corporation v Ferrostaal Poseidon Bulk Reederei GmbH (The Puerto Buitrago) [1976] 1 Lloyd's Rep 250	463–65
Attorney-General v Blake [2001] 1 AC 268, HL.	350, 436–41, 442–46
Attorney-General of Belize v Belize Telecom Ltd [2009] UKPC 10, [2009] 1 WLR 1988.	199–202, 205
Attorney-General of Hong Kong v Humphreys Estate [1987] AC 114	134
Attwood v Small (1838) 6 Cl & F 232	581–83
Avery v Bowden (1855) 5 Ex B 714, QB.	349
Avon Finance Co Ltd v Bridger [1985] 2 All ER 281, CA.	657
Avraamides v Colwill [2006] EWCA Civ 1533, [2007] BLR 76.	554
Axa Sun Life Services plc v Campbell Martin Ltd [2011] EWCA Civ 133, [2011] 2 Lloyd's Rep 1.	619
B & S Contracts & Design Ltd v Victor Green Publications Ltd [1984] ICR 419, CA.	747–50
Babcock v Lawson (1880) 5 QBD 284.	648
Backhouse v Backhouse [1978] 1 WLR 243	806
Bagot v Stevens Scanlan & Co Ltd [1966] 1 QB 197	601
Bailey v Bullock [1950] 2 All ER 1167	424
Bain v Fothergill (1874) LR 7 HL 158	355
Bainbrigge v Browne (1881) 18 Ch D 188.	775
Baird Textiles Holdings Ltd v Marks & Spencer plc [2001] EWCA Civ 274, [2002] 1 All ER (Comm) 737	64, 137–41, 143
Bairstow Eves London Central Ltd v Smith [2004] EWHC 263 (QB), [2004] 2 EGLR 25	314
Balfour v Balfour [1919] 2 KB 571, CA.	15, 79–80, 81, 83

Balmoral Group Ltd v Borealis (UK) Ltd [2006] EWHC 1900 (Comm), [2006] 2 Lloyd's Rep 629	300
Banco de Portugal v Waterlow & Sons Ltd [1932] AC 452, HL	415
Bank Line Ltd v Arthur Capel & Co [1919] AC 435	666, 705
Bank of Australasia v Palmer [1897] AC 540	649
Bank of Credit and Commerce International SA v Aboody [1990] 1 QB 923, CA	774–76, 783, 792–93
Bank of Credit & Commerce International SA v Ali [2002] AC 251, HL . . .	205, 232, 234, 242, 677
Bank of Montreal v Stuart [1911] AC 120	774
Bank of Nova Scotia v Hellenic Mutual War Risks Association (Bermuda) Ltd [1990] 1 QB 818	419
Banque Bruxelles Lambert SA v Eagle Star Insurance Co Ltd [1995] 2 WLR 607, CA	395
Banque Bruxelles Lambert SA v Eagle Star Insurance Co Ltd, see also South Australia Asset Management Corp v York Montague Ltd (SAAMCO)	
Banque Financière de la Cité SA v Westgate Insurance Co Ltd, sub nom Banque Keyser Ullmann SA v Skandia (UK) Insurance Co Ltd [1991] 2 AC 249, HL; affirming [1990] 1 AC 665, CA	579–80
Barclays Bank plc v Fairclough Building Ltd [1995] QB 214, CA	418–21
Barclays Bank plc v O'Brien [1994] 1 AC 180, HL . . .	585, 773–75 , 776, 781, 785–89, 792, 794, 796, 801–2, 809–10
Barry v Davies [2000] 1 WLR 1962, CA	15–18
Barton v Armstrong [1976] AC 104, PC	738–40 , 743, 746, 753–54, 756, 763
Bell v Lever Bros Ltd [1932] AC 161, HL	664–67 , 669–73, 675, 678–82, 685
Bentsen v Taylor, Sons & Co [1893] 2 QB 274	334
Berkeley Community Villages Ltd v Pullen [2007] EWHC 1330 (Ch), [2007] 3 EGLR 101	206
Berry v Berry [1929] 2 KB 316	121
Beswick v Beswick [1968] AC 58, HL . . .	437, 471 , 504–8 , 509, 512 , 518, 520–22, 543
Bettini v Gye (1876) 1 QBD 183	331
Birch v Paramount Estates Ltd, unreported, 2 October 1956, CA	159–60
Birmingham and District Land Co v London & North Western Railway Co (1888) 40 Ch D 268	120, 123
Bisset v Wilkinson [1927] AC 177, PC	164–65, 576–77 , 602
Blackburn Bobbin & Co v TW Allen & Sons [1918] 2 KB 467, CA	710
Blackpool and Fylde Aeroclub Ltd v Blackpool Borough Council [1990] 1 WLR 1195, CA	22–25
Blakeley v Muller & Co (1903) 19 TLR 186	673
Bliss v South East Thames Regional Health Authority [1987] ICR 700	425
Bobux Marketing Ltd v Raynor Marketing Ltd [2002] 1 NZLR 506	205
Borrelli v Ting [2010] UKPC 21, [2010] Bus LR 1718	758
Boston Deep Sea Fishing and Ice Co v Ansell (1888) 39 Ch D 339	249
Bourne v Mason (1699) 1 Ventr 6	498–99
Boustany v Pigott (1995) 69 P & CR 298, PC	806–7
Bowdell v Parsons (1808) 10 East 359	348
Bowes v Shand (1877) 2 App Cas 455	337

Bowlay Logging Ltd v Domtar Ltd [1978] 4 WWR 105, Sup Ct (BC)	368, 370–71, 373, 375
BP Exploration Co (Libya) v Hunt (No 2) [1979] 1 WLR 783, QBD; [1983] 1 WLR 232, CA; [1983] 2 AC 352, HL	722, 723–29 , 730
BP Refinery (Westenpoort) Pty Ltd v Shire of Hastings (1977) 180 CLR 266	201
Bradburn v Great Western Ry Co (1874) LR 10 Ex 1	414
Braddon Towers Ltd v International Stores Ltd [1987] 1 EGLR 209	472, 476
Bratton Seymour Service Co Ltd v Oxborough [1992] BCLC 693, CA	236
Bremer Handelsgesellschaft mbh v Vanden Avenne-Izegem PVBA [1978] Lloyd's Rep 109	146, 338
Brennan v Bolt Burdon [2004] EWCA Civ 1017, [2005] QB 303	676–78
Brimnes (The) [1975] QB 929, CA	35
Brinkibon Ltd v Stahag and Stahlwarenhandelsgesellschaft mbh [1983] 2 AC 34, HL	35–37
British & American Telegraph Co v Colson (1871) LR 6 Exch 108	40
British Columbia and Vancouver's Island Spar, Lumber and Saw-Mill Co Ltd v Nettleship (1868) LR 3 CP 499	383, 400, 405
British Crane Hire Corporation Ltd v Ipswich Plant Hire Ltd [1975] QB 303, CA	192–94
British Fermentation Products Ltd v Compair [1999] 2 All ER (Comm) 389	297
British Motor Trade Association v Gilbert [1951] 2 All ER 641	439
British Movietonews Ltd v London and District Cinemas Ltd [1952] AC 166	706
British Road Services Ltd v Arthur V Crutchley & Co Ltd [1968] 1 Lloyd's Rep 271	28
British Steel Corporation v Cleveland Bridge and Engineering Co Ltd [1984] 1 All ER 504, QBD	75–77
British Westinghouse Electric v Underground Electric Railways Co of London Ltd [1912] AC 673, HL	413–14
Britvic Soft Drinks Ltd v Messer UK Ltd [2002] EWCA Civ 548, [2002] 2 Lloyd's Rep 368	300
Brogden v Metropolitan Railway Co (1877) 2 App Cas 666, HL	11, 14, 26–27 , 28, 38, 41
Broome v Cassell & Co Ltd [1972] AC 1027	426
Brown v KMR Services Ltd [1995] 4 All ER 598, CA	393–96 , 408
Brownlie v Campbell (1880) 5 App Cas 592	594
Bruner v Moore [1904] 1 Ch 305	40, 144
BS & N Ltd (BVI) v Micado Shipping Ltd (Malta) (The Seaflower) [2001] 1 Lloyd's Rep 341, CA	339
Bulman & Dickson v Fenwick & Co [1894] 1 QB 179	749
Bunge Corporation v Tradax Export SA [1981] 1 WLR 711, HL	336–39 , 344
Burger King Corporation v Hungry Jack's Pty Ltd [2001] NSWCA 187	205
Butler Machine Tool Co Ltd v Ex-Cell-O Corporation (England) Ltd [1979] 1 WLR 401, CA	27–31 , 32, 54–55
Buttery v Pickard [1946] WN 25	119
Bwllfa and Merthyr Dare Steam Collieries (1891) Ltd v Pontypridd Waterworks Co [1903] AC 426	378
Byrne & Co v Van Tienhoven & Co (1880) 5 CPD 344, CPD	50–51 , 53, 55
C & P Haulage v Middleton [1983] 1 WLR 1461, CA	368–70 , 371, 373, 375, 442

Canada Steamship Lines Ltd v R [1952] AC 192, PC	240–42, 252, 255, 621
Car and Universal Finance Co Ltd v Caldwell [1965] 1 QB 525, CA.	590–92, 593
Carle & Montanari Inc v American Export Isbrandtsen Lines Inc [1969] 1 Lloyd's Rep 260, DC (US)	515
Carlill v Carbolic Smoke Ball Company [1893] 1 QB 256, CA.	11–15, 23, 36, 41, 47–48, 83, 514
Carmichael v Carmichael's Executrix 1920 SC (HL) 195	529
Casey's Patents, In re [1892] 1 Ch 104.	94
CBS Songs Ltd v Amstrad Consumer Electronics Plc [1988] AC 1013.	23
CCC Films (London) Ltd v Impact Quadrant Films Ltd [1985] QB 16, QBD.	370–72, 374–75
Cehave NV v Bremer Handelsgesellschaft mbH (The Hansa Nord) [1976] QB 44, CA	334–35, 337, 339, 344
Cemp Properties (UK) Ltd v Dentsply Research & Development Corporation [1991] 2 EGLR 197	609–10
Central London Property Trust Ltd v High Trees House Ltd [1947] 1 KB 130, KBD	118, 119–20, 122–25, 132, 138, 140, 142–48, 151
Centrovincial Estates plc v Merchant Investors Assurance Company Ltd [1983] Com LR 158, CA	632
Chandelor v Lopus (1603) Cro Jac 4	158, 160
Channell Home Centers, Division of Grace Retail Corporation v Grossman 795 F 2d 291 (1986).	72
Chapelton v Barry Urban District Council [1949] 1 KB 532	169, 172–73, 174–75
Chaplin v Hicks [1911] 2 KB 786, CA	363–65, 366
Chappell & Co Ltd v Nestlé Co Ltd [1960] AC 87, HL	88–91
Charles Rickards Ltd v Oppenheim [1951] 1 KB 149	123, 144
Chartbrook Ltd v Persimmon Homes Ltd [2009] UKHL 38, [2009] 1 AC 1101.	232–37, 687–88, 689
Cheese v Thomas [1994] 1 WLR 129, CA	777–78
Cherry Tree Investments Ltd v Landmain Ltd [2012] EWCA Civ 736, [2012] 2 P & CR 10	237
Chesneau v Interhome Ltd (1983) 134 NLJ 341, CA.	605
Christopher Hill Ltd v Ashington Piggeries Ltd [1972] AC 441	390
Chwee Kin Keong v Digilandmall.com Pte Ltd [2005] 1 SLR 502.	636
CIBC Mortgages Plc v Pitt [1994] 1 AC 200, HL	776, 782, 788, 794, 796
Circle Freight International Ltd v Medeast Gulf Exports Ltd [1988] 2 Lloyd's Rep 427	184
Clark v Kirby-Smith [1964] Ch 506.	601
Clarke v Dunraven , see Satanita (The)	
Clea Shipping Corporation v Bulk Oil International Ltd (The Alaskan Trader) [1983] 2 Lloyd's Rep 645, QBD	464–65
Cleaver v Schyde Investments Ltd [2011] EWCA Civ 929, [2011] 2 P & CR 21	622–25
Clef Acquittaine SARL v Laporte Materials (Barrow) Ltd [2001] QB 488, CA.	599
Clough v The London and North Western Railway Co Law Rep (1871) 7 Ex 34, Exch Ct.	589

Clydebank Engineering and Shipbuilding Co v Don Jose Ramos Yzquierdo y Castaneda [1905] AC 6	448–49
Cobbe v Yeoman's Row Management Ltd [2008] UKHL 55, [2008] 1 WLR 1752	78, 129
Cockburn v Smith [1924] 2 KB 119	215
Coggs v Bernard (1703) 2 Ld Raym 909	197
Cointax v Myham & Son [1913] 2 KB 220	435
Collier v P & MJ Wright (Holdings) Ltd [2007] EWCA Civ 1329, [2008] 1 WLR 643	121–22
Collins v Godefroy (1831) 1 B & Ad 950, KB	95–96 , 100
Combe v Combe [1951] 2 KB 215, CA	123–25 , 132–33, 135, 137, 139–40, 143
Commercial Bank of Australia Ltd v Amadio (1983) 46 ALR 402, (1983) 151 CLR 447	807–8
Commission for New Towns v Cooper (GB) Ltd [1995] Ch 259, CA	660–62
Commonwealth v Scituate Savings Bank 137 Mass 301 (1884)	133
Commonwealth of Australia v Amann Aviation (1991) 174 CLR 64	374–75
Commonwealth of Australia v Verwayen (1990) 170 CLR 394	137–38, 140–41
Compagnie Commerciale Sucres et Denrées v C Czarnikow Ltd (The Naxos) [1990] 1 WLR 1337, HL	339
Comptoir Commercial Anversois v Power, Son & Co, In re [1920] 1 KB 868	214
Cooper v Phibbs (1867) LR 2 HL 149	665, 679–82
Co-operative Insurance Society Ltd v Argyll Stores (Holdings) Ltd [1998] AC 1, HL	472–76 , 477
Cory v Thames Ironworks and Shipbuilding Co Ltd (1868) LR 3 QB 181 ...	383–84, 403
Couchman v Hill [1947] KB 554	159
Couldery v Bartram (1881) 19 Ch D 394	147
Coulls v Bagot' Executor and Trustee Co Ltd (1967) 40 ALJR 461, HCA	507, 510
Countrywide Communications Ltd v ICL Pathway [2000] CLC 324	78
Courtney & Fairbairn Ltd v Tolaini Brothers (Hotels) Ltd [1975] 1 WLR 297, HL	72, 75
Couturier v Hastie (1856) 5 HLC 673, HL	663–64 , 672
CPC Group Ltd v Qatari Diar Real Estate Investment Co [2010] EWHC 1535 (Ch)	206
Crabb v Arun District Council [1976] Ch 179, CA	108, 125–28 , 132–33, 138
Crane v Hegeman-Harris Co Inc [1939] 1 All ER 662	684–86
Credit Lyonnais Nederland NV v Burch [1997] 1 All ER 144, CA	778–80 , 792, 796, 806
Cremdean Properties Ltd v Nash (1977) 244 EG 547, CA	617–18
Crescendo Management Pty Ltd v Westpac Banking Corporation (1988) 19 NSWLR 40	753, 755–56
Cresswell v Potter [1978] 1 WLR 255n, Ch D	804–5 , 806, 809
Crosse v Gardner (1689) Carth 90	158
Crossley v Faithful & Gould Holdings Ltd [2004] EWCA Civ 293, [2004] 4 All ER 447	221
CTI Group Inc v Transclear SA (The Mary Nour) [2008] EWCA Civ 856, [2008] 2 Lloyd's Rep 526	710

CTN Cash and Carry Ltd v Gallaher Ltd [1994] 4 All ER 714, CA.	755, 759–61 , 765
Cullinane v British “Rema” Manufacturing Co Ltd [1954] 1 QB 292.	367
Cumber v Wane 1 <i>Smith’s Leading Cases</i> (8th ed) 366	113
Cundy v Lindsay (1878) 3 App Cas 459, HL	583, 636–37 , 638–39, 645, 647–48, 650–54, 679–80
Cunliffe-Owen v Teather & Greenwood [1967] 1 WLR 1421	194
Currie v Misa (1875) LR 10 Ex 15	387
Curtis v Chemical Cleaning and Dyeing Co [1951] 1 KB 805, CA.	167, 168–69
D & C Builders Ltd v Rees [1966] 2 QB 617, CA.	116, 122, 144, 147–49 , 151, 816
Dade County v Palmer & Baker Engineers Inc 339 F 2d 208 (1965)	371
Dahl v Nelson (1886) 6 App Cas 38.	706
Darlington Borough Council v Wiltshier Northern Ltd	
[1995] 1 WLR 68, CA	523–25 , 526, 528, 533, 535
Darlington Futures Ltd v Delco Australia Pty Ltd (1986) 161 CLR 500, HC	253
Dataliner Ltd v Vehicle Builders & Repairers Association (1995) <i>Independent</i> , 30 August, CA	372
Daulia Ltd v Four Mill Bank Nominees Ltd [1978] Ch 231	49
Daventry DC v Daventry and District Housing Ltd [2011] EWCA Civ 1153, [2012] 1 WLR 1333	689
Davies v London and Provincial Marine Insurance Co (1878) 8 Ch D 469.	579
Davies v Sumner [1984] 1 WLR 1301	271
Davis Contractors Ltd v Fareham Urban District Council	
[1956] AC 696, HL.	217, 704–7 , 709, 712, 716–18, 733
Day v McLea (1889) 22 QBD 610, CA	148
De Francesco v Barnum (1890) 45 Ch D 430.	477
De Mattos v Gibson (1858) 4 De G & J 276	492, 562–66
De Molestina v Ponton [2002] 1 Lloyd’s Rep 271	585
Deepak Fertilisers and Petrochemicals Corporation v ICI Chemicals & Polymers Ltd [1999] 1 Lloyd’s Rep 387, CA	618–19
Denny, Mott & Dickson Ltd v James B Fraser & Co Ltd [1944] AC 265	705–6, 717
Denton v Great Northern Railway Co (1856) 5 E & B 860	17
Derry v Peek (1889) 14 App Cas 337, HL.	593–94
DHN Food Distributors Ltd v Tower Hamlets London Borough Council [1976] 1 WLR 852	272
Dick Bentley Productions Ltd v Harold Smith (Motors) Ltd	
[1965] 1 WLR 623, CA	162–63 , 164
Dickinson v Dodds (1876) 2 Ch D 463, CA	51–53
Diesen v Samson 1971 SLT 49.	424
Dimmock v Hallett (1866) LR 2 Ch App 21.	580
Dimskal Shipping Co SA v International Transport Workers Federation (The Evia Luck) [1992] 2 AC 152, HL.	
	752–53 , 754–55
Director General of Fair Trading v First National Bank Plc	
[2001] UKHL 52, [2002] 1 AC 481	308, 309–13
Doherty v Allman (1878) 3 App Cas 709	483, 485

Dolphin Maritime & Aviation Services Ltd v Sveriges Angfartygs Assurans	
Forening [2009] EWHC 716 (Comm), [2009] 2 Lloyd's Rep 123	554
Dowty Boulton Paul Ltd v Wolverhampton Corporation [1971] 1 WLR 204, Ch D	472
Doyle v Olby (Ironmongers) Ltd [1969] 2 QB 158, CA	165, 595 , 597–98, 605, 610–11
DPP v Lynch [1975] AC 653, HL	756
DSND Subsea Ltd v Petroleum Geo-Services ASA [2000] BLR 530	757
Dunkirk Colliery Co v Lever (1878) 9 Ch D 25	413
Dunlop v Higgins (1848) 1 HLC 381	37, 51
Dunlop v Lambert (1839) 6 Cl & F 600	523–26, 530–31, 533
Dunlop Pneumatic Tyre Ltd v New Garage and Motor Co Ltd	
[1915] AC 79, HL	448–49 , 452, 501
Dunlop Pneumatic Tyre Co Ltd v Selfridge	
[1915] AC 847, HL	499–501 , 502, 504, 508
Dunster v Hollis [1918] 2 KB 795	215
Dutton and Wife v Poole (1677) 2 Lev 21; 1 Ventr 318	499
DVA v Voest Alpine (The Jay Bola) [1997] 2 Lloyd's Rep 279, CA	548–49
Dynamic (The), see Ocean Marine Navigation Ltd v Koch Carbon Inc	
Earl of Aylesford v Morris (1873) 8 Ch App 484, CA	801–3 , 812
Earl of Chesterfield v Janssen (1751) 2 Ves Sen 125	802
East v Maurer [1991] 1 WLR 461	598–99
Eastleigh BC v Town Quay Developments Ltd [2009] EWCA Civ 1391,	
[2010] P & CR 2	208
Eastwood v Kenyon (1840) 11 Ad & E 438, QB	91–92 , 93
Eastwood v Magnox Electric plc [2004] UKHL 35, [2005] 1 AC 503	423
Edgington v Fitzmaurice (1885) 29 Ch D 459, CA	583–84
Edmunds v Merchants' Despatch Transportation Co 135 Mass 283 (1883)	639
Edwards v Chesterfield Royal Hospital NHS Foundation Trust	
[2011] UKSC 58, [2012] 2 AC 22	423
Edwards v Skyways Ltd [1964] 1 WLR 349	83, 85
Edwinton Commercial Corporation v Tsavliris Russ (Worldwide	
Salvage & Towage) Ltd (The Sea Angel) [2007] EWCA Civ 547,	
[2007] 2 Lloyd's Rep 517	699, 718
Ehrman v Bartholomew [1898] 1 Ch 671	485
Elder, Dempster & Co Ltd v Paterson, Zochonis & Co Ltd	
[1924] AC 522, HL	49–98, 502–4, 560
Embiricos v Sydney Reid & Co [1914] 3 KB 45	716
Empress Engineering Company, In re (1880–81) LR 16 Ch D 125, CA	547
Enrico Furst & Co v WE Fischer Ltd [1960] 2 Lloyd's Rep 340	143–44
Entores Ltd v Miles Far East Corporation [1955] 2 QB 327, CA	33–34 , 36–37
Equitable Life Assurance Society v Hyman [2002] 1 AC 408, HL	198, 200
Erie County Natural Gas and Fuel Co v Carroll [1911] AC 105, PC	414
Erlanger v New Sombrero Phosphate Co (1878) 3 App Cas 1218, HL	589 , 590, 777
Errington v Errington [1952] 1 KB 290, CA	47–48 , 49
Esso Petroleum Co Ltd v Commissioners of Customs and Excise	
[1976] 1 WLR 1, HL	82–84
Esso Petroleum Co Ltd v Harper's Garage (Stourport) Ltd [1966] 2 QB 514	217–18

Esso Petroleum Co Ltd v Mardon [1976] QB 801, CA	164–65, 577, 600–1, 602
Esso Petroleum Co Ltd v Niad Ltd [2001] All ER (D) 324 (Nov)	443–44, 446
Eugenia (The) , see Ocean Tramp Tankers Corporation v V/O Sovfracht	
Eurymedon (The) , see New Zealand Shipping Co Ltd v AM Satterthwaite Co Ltd	
Evans v Llewellyn (1877) 1 Cox 333	803, 816
Evia Luck (The) , see Dimskal Shipping Co SA v International Transport Workers Federation	
Experience Hendrix LLC v PPX Enterprises Inc [2003] EWCA Civ 323, [2003] 1 All ER (Comm) 830.	442–46
Export Credits Guarantee Department v Universal Oil Products Co [1983] 1 WLR 399, HL	450
Fairbanks v Snow 13 NE Reporter 596 (1887).	739
Fairline Shipping Corp v Adamson [1975] QB 180	43
Falcke v Gray (1859) 4 Drew 651, Ct of Chancery	468–69
Farley v Skinner [2001] UKHL 49, [2002] 2 AC 732	423, 426–31, 432
Feldarol Foundry plc v Hermes Leasing (London) Ltd [2004] EWCA Civ 747	273
Felthouse v Bindley (1862) 11 CB (NS) 869, CCP.	41–42
Fenner v Blake [1900] 1 QB 426	119
Fercometal SARL v Mediterranean Shipping Co SA [1989] AC 788, HL.	349
Fibrosa Spolka Akcyjna v Fairbairn Lawsom Combe Barbour Ltd [1943] AC 32, HL.	700, 719–20, 722
Financings Ltd v Baldock [1963] 2 QB 104.	341–43
Finnish Government (Ministry of Food) v H Ford & Co Ltd (1921) 6 Ll L Rep 188	329–30, 335
First Energy (UK) Ltd v Hungarian International Bank Ltd [1993] 2 Lloyd's Rep 194	207
First National Bank plc v Thompson [1996] Ch 231	138
Fisher v Bell [1961] 1 QB 394, QBD	7–8, 10
Fitch v Snedaker (1868) 38 NY 248.	45
Flamar Pride (The) [1990] 1 Lloyd's Rep 434	295–96
Fletcher Challenge Energy Ltd v Electricity Corporation of New Zealand Ltd [2002] 2 NZLR 433, CA	68
Flureau v Thornhill (1746–1779) 2 W Bla 1078.	354–55
Foakes v Beer (1884) 9 App Cas 605, HL.	111, 112–15, 116–18, 120–21, 147, 151
Foaminol Laboratories Ltd v British Artid Plastics Ltd [1941] 2 All ER 393	433, 435
Foley v Classique Coaches [1934] 2 KB 1	68
Ford v Tiley (1827) 6 B & C 325	347
Forsikringsaktieselskapet Vesta v Butcher [1986] 2 All ER 488, QBD; [1988] 3 WLR 565, CA; [1989] AC 852, HL	416–17, 419–20
Foster v Mackinnon (1869) LR 4 CP 704.	656
Foster v Robinson [1951] 1 KB 705.	123
Frost v Knight (1872) LR 7 Ex 111	348
Fry v Lane (1888) 40 Ch D 312, Ch D	803–4, 805, 807, 809–10, 816
Gaisberg v Storr [1950] 1 KB 107	124
Galoo Ltd v Bright Grahame Murray [1994] 1 WLR 1360, CA.	411–13