

LEGAL TOPICS SERIES

Law of Bankruptcy

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Foreword

One of the aims of this series has been to present within the treatment of the various topics discussed a view of the law of both England and Scotland. Many, indeed most, of the titles of the series relate to the law regulating commercial affairs. The objective, accordingly, while never easy, is in most cases possible of achievement and it is hoped that as a result the treatment will not only prove useful to students of either English or Scots law but will also provide for both the added dimension of a comparative study in the chosen field of law.

In this book on the law of bankruptcy that objective has been abandoned at least *pro loco et tempore*. The bankruptcy law of both countries while bearing some resemblance in basic theory is so divergent in all else that to present both systems of law in the one volume would entail the writing of two separate and almost entirely uncorrelated accounts of the law. It would not be feasible to give a satisfactory account of either system in these circumstances, nor would it be possible to study the two systems comparatively save at disproportionate length.

Mr Fletcher has therefore confined himself in this book to an exposition of the English law of bankruptcy. In doing so, and in presenting to the reader his clear, succinct and readable account of that law, he may, of course, have greatly assisted any future comparative study which may be essayed. Be that as it may, this treatment of the law, brief without eschewing any significant detail, comprehensive without undue *longueurs* of explanation, must surely be welcomed in its own right.

J. Bennett Miller

Preface

Despite its unquestionable importance, both as a legal and as a social phenomenon, the law of bankruptcy in England and Wales has been and is relatively neglected by academic writers. This is a matter for considerable regret, not only because of the intrinsic fascination of the bankruptcy law itself, but also because the nature of bankruptcy is such that it raises simultaneously questions touching upon almost every aspect of law, both civil and criminal. Thus, for didactic purposes, bankruptcy furnishes an instructive paradigm of the essential unity of the law in its actual operation, when the convenient "divisions" of the law, which serve some of the purposes of study and analysis, must be transcended if one is to appreciate the law in its functional context.

It is hoped that this book will prove useful both in meeting the requirements of students and teachers in Universities and Colleges, and also in serving the needs and satisfying the curiosity of the general reader who has a desire to become acquainted with the law and its detailed provisions. The author also has the temerity to hope that his work will be found of some value to practitioners. In these various ways, some of the effects of the neglect already alluded to may be remedied, at least in part.

No author is an island, and no author's work can be accomplished without his amassing a large indebtedness to many friends and colleagues whose patient advice and constructive criticism have ensured that the final product is spared from many of the vices which would otherwise have been inherent therein. Among this almost innumerable company of benefactors, several claim special acknowledgment, including my colleagues Professor John Andrews, Professor Dafydd Jenkins and Professor Hywel Moseley, each of whom read parts or all of the book in typescript and suggested many corrections and improvements. No author could hope to submit his work to a more scrupulous and stimulating editor than Professor J. Bennett Miller, who is additionally to be thanked, together with Mr David Sutherland, for taking such infinite pains to ensure the

ultimate publication of the work. It is a pleasure besides to tender my sincerest thanks to Mrs Christine Davies, who typed and retyped nearly all of the manuscript, and to Mrs Ann Watkin-Jones and the late Mrs Sian Davies, who typed the remainder.

The book was originally conceived as a joint work to be written in conjunction with my former colleague Mr Gareth Lewis. After our several labours had commenced, it became apparent that the pressure of his other commitments would prevent Mr Lewis from executing the parts originally allotted to him, and accordingly with his agreement I assumed responsibility for the work in its entirety. I am happy to record my gratitude to Mr Lewis for making his preliminary work available to me. For all that now appears, however, the responsibility is mine alone, and no discredit should be borne by Mr Lewis for any deficiencies from which the work may suffer. I have tried to state the law as it stood at 1st October 1977.

The pains of a toiling author may be greatly alleviated (or otherwise), according to the degree of selflessness and forbearance practised by those closest to him. All too often, moreover, their unquantified but indispensable contribution is allowed to pass unacknowledged. In the present case, such an omission would indeed be unpardonable, for I was singularly fortunate at all times in enjoying the support and encouragement of my wife, in whom sympathetic solicitude and critical, professional discernment proved to be ideally blended. That I was able to complete the task of writing this book is in no small measure thanks to her, and in grateful recognition of this unexpiated indebtedness, it is to her that I respectfully and affectionately dedicate it.

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