

A. R. Mellows

The Law of Succession

Fourth Edition

Butterworths

The Law of Succession

Anthony R. Mellows

TD, BD, PHD, LLD

Solicitor, Professor of the Law of Property
in the University of London, Fellow of
King's College, London

Fourth Edition

London
Butterworths
1983

England	Butterworth & Co (Publishers) Ltd 88 Kingsway, LONDON WC2B 6AB
Australia	Butterworths Pty Ltd, SYDNEY, MELBOURNE, BRISBANE, ADELAIDE and PERTH
Canada	Butterworth & Co (Canada) Ltd, TORONTO Butterworth & Co (Western Canada) Ltd, VANCOUVER
New Zealand	Butterworths of New Zealand Ltd, WELLINGTON
Singapore	Butterworth & Co (Asia) Pte Ltd, SINGAPORE
South Africa	Butterworth Publishers (Pty) Ltd, DURBAN
USA	Mason Publishing Co, ST PAUL, Minnesota Butterworth Legal Publishing, SEATTLE, Washington; BOSTON, Massachusetts; and AUSTIN, Texas D and S Publishers, CLEARWATER, Florida

© Butterworth & Co (Publishers) Ltd 1983

All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, including photocopying and recording, without the written permission of the copyright holder, application for which should be addressed to the publisher. Such written permission must also be obtained before any part of this publication is stored in a retrieval system of any nature.

This book is sold subject to the Standard Conditions of Sale of Net Books and may not be re-sold in the UK below the net price fixed by Butterworths for the book in our current catalogue.

Mellows, Anthony R.
The Law of succession. — 4th ed.
1. Inheritance and succession—England
I. Title
344.2065'2 KD1500
ISBN Hardcover 0 406 62377 5
Softcover 0 406 62378 3

The Law of Succession

FIRST PUBLISHED February 1970
SECOND EDITION June 1972
THIRD EDITION July 1977
FOURTH EDITION July 1983

Preface

I have followed the general approach of the previous editions of this book in attempting to present as a chronological sequence and logical unity the various elements which are commonly thought of as constituting the law of succession. The law of wills and of intestacy has generally been considered as part of the law of property. Probate law has usually been regarded as an independent topic of little academic import. And administration of estates is frequently presented as part of equity. Yet these elements combine to form a unity, which is a striking amalgam of the various sources of English law. The law and practice of the church courts, common law and equity, as well as statute law and the more recent discipline of taxation are here joined together, but with their separate origins and influences still apparent.

I have attempted to deal with the whole of this field in a length which admits of discussion without making the book too bulky. In doing so I have tried not only to explain the law, but to show how sometimes the likely result can be avoided when the interests of the client so require, for a good lawyer is not one who can merely understand and interpret the law, but one who is able to use the law in the best interests of his client. For this reason I have presented the law not just as a series of rather dead propositions, but have illustrated its significance in overall wealth planning.

This branch of the law has seen a number of changes in legislation since the previous edition was prepared. The most important of these has been the enactment of the Supreme Court Act 1981 with regard to probate, but more particularly the amendments which have been made to the Wills Act 1837 by the Administration of Justice Act 1982. Further changes have been made by the Forfeiture Act 1982, and the Family Provision (Intestate Succession) Order 1981.

There have also been significant developments in case law. As well as dealing with the decisions of the English courts, I have referred to a number of important decisions from courts in the Commonwealth. Indeed, one of the interesting aspects of the law of wills and administration of estates is how particular topics which have not fallen for decision by the courts in England are being developed in the Commonwealth. While all decisions of Commonwealth courts need to be treated with care, not only because they are of only persuasive authority, but also because they may be dependent on their particular local context, they cannot be ignored if an overall view of this subject is to be obtained.

There continues to be difficulty in the selection of material to be included, and I have been faced with two problems in particular. In the first place there is a substantial overlap between the position of personal representatives and that of trustees. As most readers come to the law of trusts before that of succession, I have assumed some knowledge of the law of trusts, and I have therefore felt justified in merely referring on some occasions to the equivalent position of trustees, rather than giving an exhaustive exposition. For the same

reason I have omitted discussion of such topics as the perpetuities and accumulations rules, and the equitable rules as to apportionment.

In the second place, I would very much have liked to have included a section on capital transfer tax, but an account in comparable detail to the rest of the material would have required an increase of about 200 pages in the length of the book.

The manner in which I have dealt with the material is bound to reflect my own experience as a university teacher and a partner in a London firm of solicitors. The result will, I hope, be of interest and use to students reading for degrees, and subsequently while undergoing professional training. I also hope that they will find it worth keeping by them after qualification. By the same token, I should like to think that the book will be of assistance to practitioners, both in the law itself, and in other fields, such as accountancy, where legal problems are never far away. But above all I hope that, whoever the reader, he will find this subject alive and interesting.

The law is stated as at 1 May 1983.

203 Temple Chambers
Temple Avenue
London EC4

A.R.M

Table of statutes

References in this Table to *Statutes* are to Halsbury's Statutes of England (Third Edition) showing the volume and page at which the annotated text of the Act will be found.
 Page references printed in bold type indicate where the Act is set out in part or in full.

	PAGE
Administration Act 1969 (New Zealand)	228
Administration of Estates Act 1925 (13 <i>Statutes</i> 38)	153, 309, 314, 508
s 1	10, 286, 292, 481
(1)	286, 290, 294, 320
(3)	286
2	301, 482
3	287, 294, 482
(1) (ii)	287, 294
(2)	289, 320
(4)	287
(5)	289
5	225, 226, 483
6 (4)	465, 483
7	219, 483 , 523
(2)	219
(3)	220, 258
(4)	220
8	484
9	286, 290, 318, 484
11	577
(5)	577
15	484
17	271, 484
21, 21A	485
22	219, 308, 485 , 572
(1)	307
23	485
(1)	219, 226, 277
(a), (b)	310
(2)	219
24	486
(1)	310
25	270, 487 , 524
(a)	356, 525
(b)	525
(c)	270
26	487
(4)	298, 299
(10)	332, 466
27	271, 487
(2)	271
28	337, 488
29, 30	488
31	489
32	166, 317, 320, 321, 442, 489

	PAGE
Administration of Estates Act 1925—	
<i>contd</i>	
s 32 (1)	317
33	151, 166, 300, 452, 456, 457, 489
(1)	151, 352, 353
(2)	151, 452, 456, 457
(4)	152
(7)	165, 166
34	166, 439, 490
(1)	325
(2)	526
(3)	437, 451, 454
35	166, 432, 433, 436, 437, 443, 490
(1)	435
(2)	433, 435, 436
(a), (b)	436
36	166, 310, 311, 491
(1)	310, 465
(2)	311, 466
(3)	371, 466
(4)	282
(5)	317, 467
(6), (7)	467
(10)	371, 416
37	166, 271, 492
39	166, 349, 493
(1) (i), (ii)	299, 300, 349
(iii)	271, 283
40	166, 282, 300, 493
41	7, 155, 156, 166, 463, 464, 493 , 508, 510
(1), (4)	463
(5)	508
(9)	463
42	166, 281, 495
43	166, 371, 466, 496
44	166, 416, 496
45	166, 496
46	166, 233, 497 , 512
(1)	234, 512, 585, 586
(i)	512
(iii), (iv)	161
(vi)	162, 542
(3)	157
(4)	512
47	499

	PAGE		PAGE
Administration of Estates Act 1925—		Administration of Justice Act 1969—	
<i>contd</i>		<i>contd</i>	
s 47(1), (i)	515	s 17 (1), (2)	38
(ii)	161	18	63, 191, 520
(iii)	158, 159	19	521
(iv)	161	Administration of Justice Act 1970 (40	
(3)	162	Statutes 1098)	217
47A	154, 424, 500 , 583	s 1 (1)	87
(3A)	585	(4) (a)	115
(5)	154	Administration of Justice Act 1977 (47	
(6)	154, 585	Statutes 304)	
(7)	154, 583, 585	s 28	153
(8)	154	Administration of Justice Act 1982 (52	
(9)	509	Statutes 1585)	52, 66, 379
48	166, 502 , 512	s 3	297
(2) (a)	512	18	96
49	165, 166, 502 , 512	(2)	99
(1)	165	20	50, 85, 116, 201, 239,
(a)	167, 168	417, 557	
50	138, 166, 503	(2)	50
51	166, 503	21	397, 558
52	166, 504	(1) (a)	128
53	504	(b)	127
54	277, 504	(c)	128
55	442, 504	22	144, 413, 558
(1)	271	23	558
(vi)	12	(1) (a)	64
(ix)	323, 411, 423	24	559
(x)	152	25	64, 559
(xvii)	165, 445	27	560
(xxiv)	286	(1)	66
56, 57	506	28	560
58	507	(1), (3)	66
Sch 1	391, 507	33 (2)	380
Pt I	507	(4) (a)	380
para 1	430, 456	(b)	379
2	430, 443, 456	52	561
Pt II	437, 438, 507	73 (5), (6)	66
para 3	453, 454	Sch 2	561
4	453	Pt 1-4	562
5	457	5-10	563
8	443	11-15	
Administration of Estates Act 1971 (41		Sch 3	202
Statutes 566)		Adoption Act 1950	544
s 1	523	Adoption Act 1958 (17 Statutes 635)	
(1), (2)	250	s 4 (3)	544
(3), (4)	220	16	545
(5)	250	(2), (3)	135
2	250	17	545
4, 7	524	(2)	135
9	270, 356	Adoption Act 1968 (17 Statutes 779)	
10	330, 525	s 4 (3)	516, 544
11	525	16, 17	545
(5)	577	Agricultural Holdings Act 1948 (1	
12, 13	526	Statutes 685)	292
14	527	s 24 (2) (g)	292
(2)	330	Agriculture (Miscellaneous Provisions)	
Administration of Estates (Small Pay-		Act 1976 (46 Statutes 15)	
ments) Act 1965 (13 Statutes 137)		s 16	292
s 1 (2)	313	18	292
7 (2)	313	(2), (3)	292
Administration of Justice Act 1969		20, 21	292
s 17	38, 63, 520		

	PAGE
Army Pensions Act 1830 (29 <i>Statutes</i> 960)	
s 5	314
Bankruptcy Act 1914 (3 <i>Statutes</i> 33)	
s 7 (2)	329
30 (4)-(6)	328
33 (1)	327
(4)	329
(5), (8)	328
(9)	326, 327
35 (1)	328
36 (1), (2)	327
38	282, 283
(2) (c)	284
42	9, 327, 328
44, 66	328
130	325, 328
(1), (4)	325
167	327
Sch 2	
para 10-17	327
British Nationality Act 1948 (1 <i>Statutes</i> 861)	519
Building Societies Act 1962 (3 <i>Statutes</i> 312)	
s 46	314
Capital Gains Tax Act 1979 (49 <i>Statutes</i> 1283)	
s 3	345
32	347
46	346
(1)	346
(3)	340
47	285
(1)	347
49 (1) (a), (b)	345
(3)	283, 285, 340
(4)	346, 374
(6)	155, 378
51, 52	346
Sch 1	
para 4	346
Children Act 1948 (17 <i>Statutes</i> 538)	
s 2	523
Children Act 1975 (45 <i>Statutes</i> 669)	
Sch 1	
Pt I	543
para 1	134, 135
3	135, 163
Pt II	545
para 6	134, 135
12	134, 135, 163
Pt III	546
Pt IV	547
Civil Evidence Act 1968 (12 <i>Statutes</i> 910)	265
s 2	191, 541
(1)	541
Civil List Act 1910 (6 <i>Statutes</i> 541)	
s 9	499
Coal Act 1938 (22 <i>Statutes</i> 92)	388, 389

	PAGE
Colonial Probates Act 1892 (13 <i>Statutes</i> 34)	526, 553, 577
s 2	525
(1)	577
(2) (b)	525
(3)	525
Colonial Probates (Protected States and Mandated Territories) Act 1927 (13 <i>Statutes</i> 113)	553, 577
Commissioners for Oaths Act 1889 (12 <i>Statutes</i> 857)	
s 6 (1)	560
Companies Act 1948 (5 <i>Statutes</i> 110)	
s 76	293
245	233
319 (1) (b), (d)	327
352	381
353	381
(6)	381
Sch 1	
Table A	
art 29	301
Consular Conventions Act 1949 (6 <i>Statutes</i> 879)	
s 1	245, 552
Consular Relations Act 1968 (6 <i>Statutes</i> 1025)	
s 10	561
County Courts Act 1959 (7 <i>Statutes</i> 302)	
s 52A	202
Court of Probate Act 1857 (13 <i>Statutes</i> 20)	216
s 73	228
Customs and Inland Revenue Act 1881 (12 <i>Statutes</i> 437)	
s 30	578
Duchy of Lancaster Act 1920 (6 <i>Statutes</i> 706)	
s 3 (3)	488
Eire Succession Act 1965	
s 117	188
Evidence Act 1938 (12 <i>Statutes</i> 878)	265
Family Law Reform Act 1969 (17 <i>Statutes</i> 792, 40 <i>Statutes</i> 2)	133, 548
s 1	5, 31, 514
3	514
(1)	77
(3)	88
9, 12, 13	515
14	163, 516
(2), (4)	163
15	105, 134, 517
(2)	120, 134
(8)	105, 106, 134
17	163, 518
26, 28	518
Sch 1	
Pt I, II	519
Sch 2	519
Family Protection Act 1908 (New Zealand)	14, 177
Family Provision Act 1966 (13 <i>Statutes</i> 146)	
s 1	151, 498, 512 , 586

	PAGE		PAGE
Family Provision Act 1966 (13 <i>Statutes</i> 146)— <i>contd</i>		Fines and Recoveries Act 1833 (27 <i>Statutes</i> 305)	175
s 1 (1) (a), (b)	586	Forfeiture Act 1870 (8 <i>Statutes</i> 179)	393
Fatal Accidents Act 1976 (46 <i>Statutes</i> 1115)	296	Forfeiture Act 1982 (52 <i>Statutes</i> 524)	
s 1	297	s 1	555
(2), (3)	297	2	417, 555
1A	297	(1)–(3)	396
2, 4	297	(4) (a), (b)	396
Fatal Accidents (Damages) Act 1908	297	3	394, 556
Finance Act 1894 (12 <i>Statutes</i> 453)		5	396, 556
s 9 (1)	362	7	557
Finance (1909–10) Act 1910 (12 <i>Statutes</i> 509)		Friendly Societies Act 1896 (14 <i>Statutes</i> 259)	
s 62	468	s 35	326
Finance Act 1952		56	314, 315
s 30 (1)	327	57	315
Finance Act 1965	3	58	314
Finance Act 1972 (42 <i>Statutes</i> 159)		Friendly Societies Act 1955 (14 <i>Statutes</i> 399)	
s 33 (1)	327	s 5	314, 315
Finance Act 1973	5	Government Annuities Act 1929 (30 <i>Statutes</i> 175)	501
Finance Act 1975 (45 <i>Statutes</i> 1770)	3, 550	Government of Ireland Act 1920 (23 <i>Statutes</i> 843)	515, 526
s 20 (1)	461	Great Western Railway Act 1923	387
22	5, 432	Guardianship of Minors Act 1971 (41 <i>Statutes</i> 761)	237
(1)	324, 461	s 3	522, 564
(9)	384	4	522, 564
23	209	(1)	7, 257
25	315	(2)	7
(5)	338, 461	(3), (4)	257
(6)	338	5, 14	523
28	292	Housing Act 1957 (16 <i>Statutes</i> 109)	3
(1)	392, 464	s 61	368
(a)	464, 465	Sch 2 Pt. II para 4	369
(b)	464	Housing Act 1961 (16 <i>Statutes</i> 327)	3
(3)	461	Housing Act 1980 (50 (1) <i>Statutes</i> 884, 1191)	
37 (2)	461	s 28 (1)	291
44	207	30, 56	291
45	177	Income and Corporation Taxes Act 1970 (34 <i>Statutes</i> 1402)	
Sch 4		s 37–42	175
para 19	315	52	340
20	465	53	426
25	292	54	340
Sch 6		57–64	339
para 1	370	154	289
Sch 12		(6)	289
para 1	315, 323	168, 171	340
Sch 13		230	424
Pt I	315	426 (1)	339
Finance Act 1976 (46 <i>Statutes</i> 1389)		427, 428	344
s 94	195	432	339
121 (1)	10	(2), (3)	342, 374
122 (1)	195	433	276, 339
Finance Act 1978 (48 <i>Statutes</i> 1373)		478	207
s 68	155, 378	Industrial and Provident Societies Act 1965 (17 <i>Statutes</i> 233)	
Finance Act 1980 (50 (2) <i>Statutes</i> 2194)		s 23, 24	314, 315
s 79	4	25	314
94 (1) (a)	550		
Finance Act 1981 (51 <i>Statutes</i> 1613)			
s 101	371		
Finance Act 1982 (52 <i>Statutes</i> 1588)			
s 80	346		
Finance Act 1983	464		

	PAGE
Inheritance (Family Provision) Act 1938 (13 <i>Statutes</i> 118)	176, 177
Inheritance (Provision for Family and Dependants) Act 1975 (45 <i>Statutes</i> 493)	151, 177, 392, 476, 556
s 1	527
(1)	164, 177, 183, 203
(c)	180
(d)	181
(e)	181, 182
(2) (a)	183
(b)	184
(3)	181, 206
(7)	191, 521
s 2	528
(1)	209
(a)	197
(b)-(f)	198
(2), (3)	197
3	187, 529
(1) (a)	187
(b), (c)	188
(f)	190
(g)	190, 191, 394
(2)	183, 192
(3)	192
(4)	193
(5)	185, 186, 190
(6)	188
4	200, 530
5	199, 530
(1) (b)	199
6	198, 531
(2), (5), (6), (9)	199
7	532
8	533
(1), (2)	190, 196, 204
(3)	196
9	533
(1)	190
(2), (4)	196
10	204, 205, 209, 534
(2) (b)	205
(3)	190, 206
(4)	207
(5)	208
(6)	206
(7)	204
(8)	205
11	21, 209, 535
(2)	208, 210, 211
(c)	210
(3)	190, 210
(4)	210
(5)	211
(6)	209
12	536
(1)	205, 209
(2)	210
(3)	208, 211
(4)	207, 210
13	537
14	538

	PAGE
Inheritance (Provision for Family and Dependants) Act 1975— <i>contd</i>	
s 15	538
(1), (2)	180
(3)	190
(4)	179
16-18	539
19	540
(1)	195, 197
(2)	197
(3)	197, 561
20	541
(1)	197
(2)	201, 202
21	191, 202
23	200, 541
24	542
25	211, 542
(1)	180, 188, 195, 197, 199, 204, 206, 209
(2), (3)	209
(4)	179
(5)	180
27	543
(2)	177, 203
(3)	205, 209
Sch 6	
para 1	195
Interpretation Act 1889 (32 <i>Statutes</i> 434)	
s 20	53
36	527
Interpretation Act 1978 (48 <i>Statutes</i> 1296)	564, 585, 586
Intestates' Estates Act 1890 (13 <i>Statutes</i> 32)	503
Intestates' Estates Act 1952 (13 <i>Statutes</i> 128)	151, 154, 177, 234
s 1	508 , 512, 586
(4)	153, 384
2	508
3, 4	509
5	510
6	464, 510
7	510
Sch 1	384, 464, 512
Sch 2	513
para 1	155, 156
2	156
3	155
4	155, 156
5	156
6	157
Judicature (Northern Ireland) Act 1978 (48 <i>Statutes</i> 1015)	559
Land Charges Act 1925 (27 <i>Statutes</i> 685)	434
s 4 (6)	465
Land Charges Act 1972 (42 <i>Statutes</i> 1590)	434
s 4 (6)	465
Land Registration Act 1925 (27 <i>Statutes</i> 778)	496
s 19-23	9

xxx **Table of statutes**

	PAGE		PAGE
Land Registration Act 1925—	<i>contd</i>	Legitimacy Act 1926—	<i>contd</i>
s 37 (1), (2)	292	s 5	134
41 (1)	292	8	544
Land Transfer Act 1897 (27 <i>Statutes</i>		9	516
335)	217, 286	Legitimacy Act 1959 (1 <i>Statutes</i> 87)	134
Landlord and Tenant Act 1954 (18		s 1 (2)	134
<i>Statutes</i> 533)		2	134
s 37	317	Limitation Act 1939 (19 <i>Statutes</i> 60)	485
Law of Property Act 1925 (27 <i>Statutes</i>		s 21	318
341)		Limitation Act 1980 (50 (1) <i>Statutes</i>	
s 27 (2)	277	1253)	485
34–36	288	s 2, 5, 8	363
40	18, 323	11	296
51	9	(5)	296
85 (1)	294	12, 14	296
88	294	21	364
91, 101	327	(1)	278
111	288	(b)	364
130 (1)	379	(2), (3)	278
153 (3)	294	22	278
172	10	(a), (b)	364
175 (1)	418	28	364
176	289	29	363, 364
177	97	30, 31	363
179	70	32	364
184	157, 234, 382, 383, 384, 499	Loan Societies Act 1840 (19 <i>Statutes</i> 192)	
185	283	s 11	314
199	333	Local Government Act 1933 (19 <i>Statutes</i>	
204	270, 271	393)	576
205 (1) (xxvii)	286	s 57	519
Law of Property (Amendment) Act 1924		Local Government Act 1972 (42 <i>Statutes</i>	
(7 <i>Statutes</i> 118)		841)	576
Sch 9	11	Locke King's Act 1854. See Real Estate	
Law of Property (Amendment) Act 1926		Charges Act 1854	
(27 <i>Statutes</i> 719)	306, 332	Locke King's Act 1867. See Real Estate	
s 3	565, 574	Charges Act 1867	
Schedule	305	Locke King's Act 1877. See Real Estate	
Law of Property (Joint Tenants) Act		Charges Act 1877	
1964 (27 <i>Statutes</i> 725)	277	Lunacy Act 1890	
Law Reform (Frustrated Contracts) Act		s 116	505
1943 (7 <i>Statutes</i> 9)	295	Married Women (Restraint upon Anticipation) Act 1949 (17 <i>Statutes</i>	
Law Reform (Married Women and		131)	175
Tortfeasors) Act 1935 (17 <i>Statutes</i>		Married Women's Property Act 1882	
128)	175	(17 <i>Statutes</i> 116)	175
s 2	106	Matrimonial Causes Act 1973 (43	
Law Reform (Miscellaneous Provisions)		<i>Statutes</i> 539)	542, 543
Act 1934 (13 <i>Statutes</i> 115, 23 <i>Statutes</i>		s 18 (2)	157
788)	252	23, 24	538
s 1	296, 323	31	539
(1)	295, 296	(6)	540, 556
(2)	295	35	540
2 (3)	296	36 (1)	540, 556
Law Reform (Testamentary Promises)		52 (1)	178
Act 1949 (New Zealand)	276	Mental Deficiency Act 1913	36
Leasehold Reform Act 1967 (18 <i>Statutes</i>		s 64	505
633)	156	Mental Health Act 1959 (25 <i>Statutes</i>	
s 7	513	42)	31, 35, 491
Legal Advice and Assistance Act 1972		s 103	36
(42 <i>Statutes</i> 1522)	4	(1)	38, 520
Legitimacy Act 1926 (1 <i>Statutes</i> 62)	134	(dd)	521
s 1	544	(3)	520
(1)	547	(a)	38

	PAGE		PAGE
Mental Health Act 1959—	<i>contd</i>	Powers of Attorney Act 1971	260
s 103A (1)	63, 520	Proceedings Against Estates Act 1970	
(3)	63	(40 <i>Statutes</i> 632)	323
(4) (a), (b)	63	s 2	334
(5)	191	Public Authorities Protection Act 1893:	318
107 (3)	521	Public Health Act 1936 (28 <i>Statutes</i> 189)	3
117	521	Public Trustee Act 1906 (38 <i>Statutes</i> 83)	
119 (1)	522	s 4 (3)	506, 555
Merchant Shipping Act 1894 (31 <i>Statutes</i>		Railways Act 1921 (26 <i>Statutes</i> 875)	387
57)		Real Estate Charges Act 1854	433
s 176	314	Real Estate Charges Act 1867	433
Moneylenders Act 1927 (22 <i>Statutes</i> 700)		Real Estate Charges Act 1877	433
s 9 (1)	328	Regimental Debts Act 1893 (29 <i>Statutes</i>	
National Assistance Act 1948 (23 <i>Statutes</i>		1012)	
636)		s 9	314
s 42	175	Regency Act 1937 (6 <i>Statutes</i> 520)	519
National Debt Act 1958 (22 <i>Statutes</i>		Regency Act 1953 (6 <i>Statutes</i> 525)	519
1148)		Reinstatement in Civil Employment Act	
s 5 (1)	313	1944 (12 <i>Statutes</i> 106)	
National Debt (Conversion) Act 1888		s 18 (1)	327
(22 <i>Statutes</i> 1099)		Rent Act 1977 (44 <i>Statutes</i> 387)	
s 2	500	s 1	290
National Insurance Act 1965 (23 <i>Statutes</i>		2	291
250)		152 (1)	291
*s 61	327	Sch 1	
National Insurance (Industrial Injuries)		para 4, 5	291
Act 1965 (23 <i>Statutes</i> 474)	327	Rent (Agriculture) Act 1976 (46 <i>Statutes</i>	
National Savings Bank Act 1971 (41		50)	
<i>Statutes</i> 1282)	313	s 4 (2)	291
National Service Act 1948 (29 <i>Statutes</i>		Representation of the People Act 1949	
578)		(11 <i>Statutes</i> 543)	
s 48	327	s 167 (1) (a)	519
Naval Prize Act 1918		Revenue Act 1884 (13 <i>Statutes</i> 29)	
s 4	314	s 11	315
Navy and Marines (Property of De-		Revenue Act 1889	
ceased) Act 1865 (29 <i>Statutes</i> 990)		s 19	315
s 3, 6, 11, 15	314	Settled Land Act 1925 (30 <i>Statutes</i> 344):	219,
Navy and Marines (Wills) Act 1865 (39			506
<i>Statutes</i> 884)	568	s 1	305
Opencast Coal Act 1958 (22 <i>Statutes</i>		(1) (i)	305
472)	3	(ii)	306
Parliamentary Elections Act 1695 (25		2	306
<i>Statutes</i> 357)		3 (a), (b)	306
s 7	519	18 (1)	277
Partnership Act 1890 (24 <i>Statutes</i> 500)		30	309
s 3	327	(3)	308
22	288	36	306, 307, 309
42 (1)	289	(1)	306, 307, 309
Pensions and Yeomanry Pay Act 1884		(2)	307, 309
(29 <i>Statutes</i> 1004)		(6)	307
s 4	314	Solicitors Act 1974 (44 <i>Statutes</i> 1478):	576, 583
Pensions (Navy, Army, Air Force and		Stamp Act 1815 (12 <i>Statutes</i> 418)	
Mercantile Marine) Act 1939 (29		s 37	315
<i>Statutes</i> 1063)		Stamp Act 1891 (32 <i>Statutes</i> 134)	3
s 6 (3)	314	s 62	468
Perpetuities and Accumulations Act		Status of Aliens Act 1914 (1 <i>Statutes</i> 916)	
1964 (25 <i>Statutes</i> 3)		s 17	221
s 4	101	Statute of Frauds (1677) (7 <i>Statutes</i> 6)	72
Police Pensions Act 1948 (25 <i>Statutes</i>		Statutory Instruments Act 1946 (32	
313)	314	<i>Statutes</i> 668)	554
Post Office Savings Bank Act 1954 (30		s 4	560
<i>Statutes</i> 200)	313	Stock Transfer Act 1963 (22 <i>Statutes</i>	
s 7	315	1033)	9

	PAGE		PAGE
Succession (Scotland) Act 1964		Testator's Family Maintenance and	
s 31 (1)	383	Guardianship of Infants Act 1916-	
Superannuation (Miscellaneous Pro-		1954 (New South Wales)	15, 209
visions) Act 1948	314	Treasury Solicitor Act 1876 (6 <i>Statutes</i>	
Superannuation and other Trust Funds		657)	
(Validation) Act 1927 (38 <i>Statutes</i>		s 2, 4, 6, 7	488
200)	314	Trustee Act 1893	279
Supplementary Benefit Act 1966 (23		Trustee Act 1925 (38 <i>Statutes</i> 104)	493, 496
<i>Statutes</i> 695)		s 10 (3), (4)	299
s 26 (2)	324	11 (1), (2)	299
Supreme Court Act 1981 (51 <i>Statutes</i> 590,		12	300
851, 1245)	564	15	300, 322, 357
s 25	217	16 (1)	300
104	565	19, 21	299
105-108	549	23	221, 300, 359,
109-112	550		360
113	252, 309, 550 , 582	(1)	360
114	231, 232, 256, 551	26	330, 331, 332
(1)	222, 233	(2)	331
(2)	219	27	225, 330, 332
(4)	219, 220, 232, 571	30	360
(5)	220	31, 32	302
115	551	33	405, 517
(1)	221	36	278, 279
116	228, 229, 230, 231,	(1)	253, 254
	235, 249, 551 , 582	40	282
(1)	224	57	298, 302
117	255, 256, 552	61	362
(3)	257	62	363
118	221, 257, 552	68 (4)	332
119	552	69	302, 357, 360, 362
120	244, 525, 552 , 566,	(1)	349
	575, 576	Trustee Investments Act 1961 (38	
(2)	245	<i>Statutes</i> 228)	7, 299
121	268, 270, 553	s 9 (1)	299
122	553 , 581	Trustee Savings Bank Act 1954	
123	553	s 21 (3)	315
124	553 , 583	61	326
125	554	Trustee Savings Bank Act 1969 (30	
126	559, 560	<i>Statutes</i> 243)	
127	526	s 21 (3)	313
128	554 , 565	(5)	311
130	559	Variation of Trusts Act 1958 (38 <i>Statutes</i>	
Sch 1		220)	426
para 1	261	West Indies Act 1967 (4 <i>Statutes</i> 610)	
Supreme Court of Judicature Act 1873:115,		s 3 (3)	519
217, 283		Wills Act 1837 (39 <i>Statutes</i> 856)	6, 9, 53,
Supreme Court of Judicature (Consoli-			141, 215, 236
dation) Act 1925 (13 <i>Statutes</i> 94, 25		s 1	473
<i>Statutes</i> 708)	256	3	11, 473
s 100	501	7	31, 76, 77, 474 , 515
162	228, 582	9	51, 52, 55, 56, 59,
163	575, 579		474 , 521, 568
164 (3)	255	(b)	55
167 (3)	577	(c)	56
172	64, 559, 560	(d)	58
Taxes Management Act 1970 (34 <i>Statutes</i>		10	145, 475
1245)		11	71, 76, 77, 87, 475 ,
s 106 (2)	427		480, 481, 515, 568
Teachers (Superannuation) Act 1925	314	13	475
Tenures Abolition Act 1660 (27 <i>Statutes</i>		14	58, 475
298)	176, 473	15	60, 475 , 569
Tenures Abolition Act (Ireland) 1662	473	16, 17	476

	PAGE
Wills Act 1837— <i>contd</i>	
s 18	30, 33, 77, 96, 97, 107, 476
(2)	99
(3)	97
(4)	98
18A	99, 476
(1) (a), (b)	99
(2)	99
19	477
20	77, 82, 88, 477
21	101, 477 , 567
22	107, 108, 477
23	477
24	126, 130, 141, 145, 477
25, 26	478
27	126, 130, 141, 145, 478
28, 29	478
30, 31	479
32	379, 382, 479
33	317, 379, 380, 381, 382, 479
(2)	380
(4) (a)	380
(b)	379
34	104, 480

	PAGE
Wills Act 1837— <i>contd</i>	
35	480
Wills Act 1963 (39 <i>Statutes</i> 892)	66
s 1	65, 510
s 2	65, 510
(1) (a), (b)	65
3	65, 511
4, 6	511
7	512
Wills Act 1968 (39 <i>Statutes</i> 895)	
s 1	61
(1)	221, 234
Wills Act Amendment Act 1852 (39 <i>Statutes</i> 882)	52, 568
Wills (Interested Witnesses) Act 1977 (Victoria, Australia)	
s 5	61
Wills (Soldiers and Sailors) Act 1918 (39 <i>Statutes</i> 886)	
s 1	77, 88, 480
2	76, 480
3	72, 480
(1)	515
4	72, 481
5	481
(2)	76
8	515

List of cases

A

	PAGE
Abbey v Barnstym (1930)	290
Achilopoulos, Re, Johnson v Mavromichali (1928)	260
Ackers v Phipps (1835)	144
Adams, Re (1903)	163
Adams' Goods, Re (1872)	53
Adams and Kensington Vestry, Re (1883); on appeal (1884)	10, 289, 429
Adamson's Goods, Re (1875)	223
Addams v Ferick (1859)	332
Addison's Estate, Re (1964)	92
Adney v Greatrex (1869)	136
Agnese's Goods, Re (1900)	253
Agnew v Belfast Banking Co (1896):	458, 459
Ainsworth, Re, Finch v Smith (1915)	431
Airey v Airey (1958)	323
Alexander's Will Trusts, Re, Courtauld-Thomson v Tilney (1948):	122
Allan v Morrison (1900)	94
Allcorn v Harvey (1981)	185
Allen, Re v Crane (1953)	137
Allen, Re, Hincks v Allen (1880)	16
Allen v McPherson (1847)	238
Allen's Estate, Re (1945)	409
Amirteymour, Re (1978)	334
Amyot v Dwaris (1904)	130
Anderson, Re, Public Trustee v Bielby (1928)	387
Anderson v Anderson (1872)	60
Anderson's Estate, Re (1944)	75
Anderson's Will, Re (1958)	75
Andrews, Re, Andrews v Smorfit (1955)	188
Andrews v Freeborough (1967)	296
Andrews v Partington (1791)	140, 141
Angerstein v Martin (1823)	416
Anstead, Re, Gurney v Anstead (1943):	442, 443, 446, 455
Anthony, Re, Anthony v Anthony (1893)	433
Anziani, Re (1930)	9
Aplin v Stone (1904)	394
Applebee's Goods, Re (1828)	92
Apted's Goods, Re (1899)	262
Archer v Hudson (1844)	47
Archibald v Wright (1838)	412
Arnould, Re, Arnould v Lloyd (1955)	123
Ashburner v Wilson (1850)	131
Ashton, Re, Ballard v Ashton (1920)	413
Ashton, Re, Ingram v Papillon (1897)	40
Ashwell v Lomi (1850)	40, 47

	PAGE
Astbury v Astbury (1898)	363
Asten v Asten (1894)	397, 398
Astor's Goods, Re (1876)	237
Atcherley v Vernon (1723)	144
Atherton's Goods, Re (1892)	224
Athill, Re, Athill v Athill (1880)	120, 435
Atkinson, Re, Webster v Walter (1930):	449
Atkinson v Morris (1897)	266
Atkinson's Will Trusts, Re (1978)	119
Attenborough v Solomon (1913)	277, 279
Atter v Atkinson (1869)	43
A-G v Brackenbury (1863)	376
A-G v Dimond (1831)	322
A-G v Holbrook (1823)	321
A-G v Hollingworth (1857)	321
A-G v Jones and Bartlett (1817)	7, 69
A-G v Robins (1722)	392
A-G v Wax Chandlers Co (1873)	399
Auther v Auther (1843)	391
Avard, Re, Hook v Parker (1948)	289
Aynsley, Re (1973) Times, 6th February	90
Ayrey v Hill (1824)	39

B

Babcock, Re (1892)	413
Bacon's Goods, Re (1859)	90
Baddeley v Leppingwell (1764)	117
Bagshaw's Trusts, Re (1877)	122
Bahin v Hughes (1886)	360, 361
Bailey, Re, Barclay's Bank Ltd v James (1945)	119
Bainton v Ward (1741)	320
Baker, Re, Baker v Baker (1929)	109
Baker v Baker (1858)	425
Baker v Dening (1838)	54
Baker v Farmer (1867); on appeal (1868)	391, 463
Baker (GL) Ltd v Medway Building and Supplies Ltd (1958)	364
Balcom, Re (1978)	56
Baldwin v Church (1716)	301
Baldwin's Goods, Re (1903)	253
Balfour v Balfour (1919)	16
Ball, Re (1930)	352, 353
Ballard v Marsden (1880)	463
Balme's Goods, Re (1897)	69
Banks v Goodfellow (1870)	32, 33, 35, 36
Barber, Re (1886)	62
Barclay v Barclay (1970)	369