

ACADEMIC NEWS

SPRING/SUMMER 2011

FREE



REUTERS/Yannis Behrakis

IN THIS ISSUE

POLICY, POLICE AND PROGRESS

Paula Giliker on writing a fourth edition of Tort

THE EQUALITY ACT 2010

Michael Connolly discusses changes in discrimination law

E-BOOKS: THE NEXT BIG THING?

Chris Hendry on the future of books

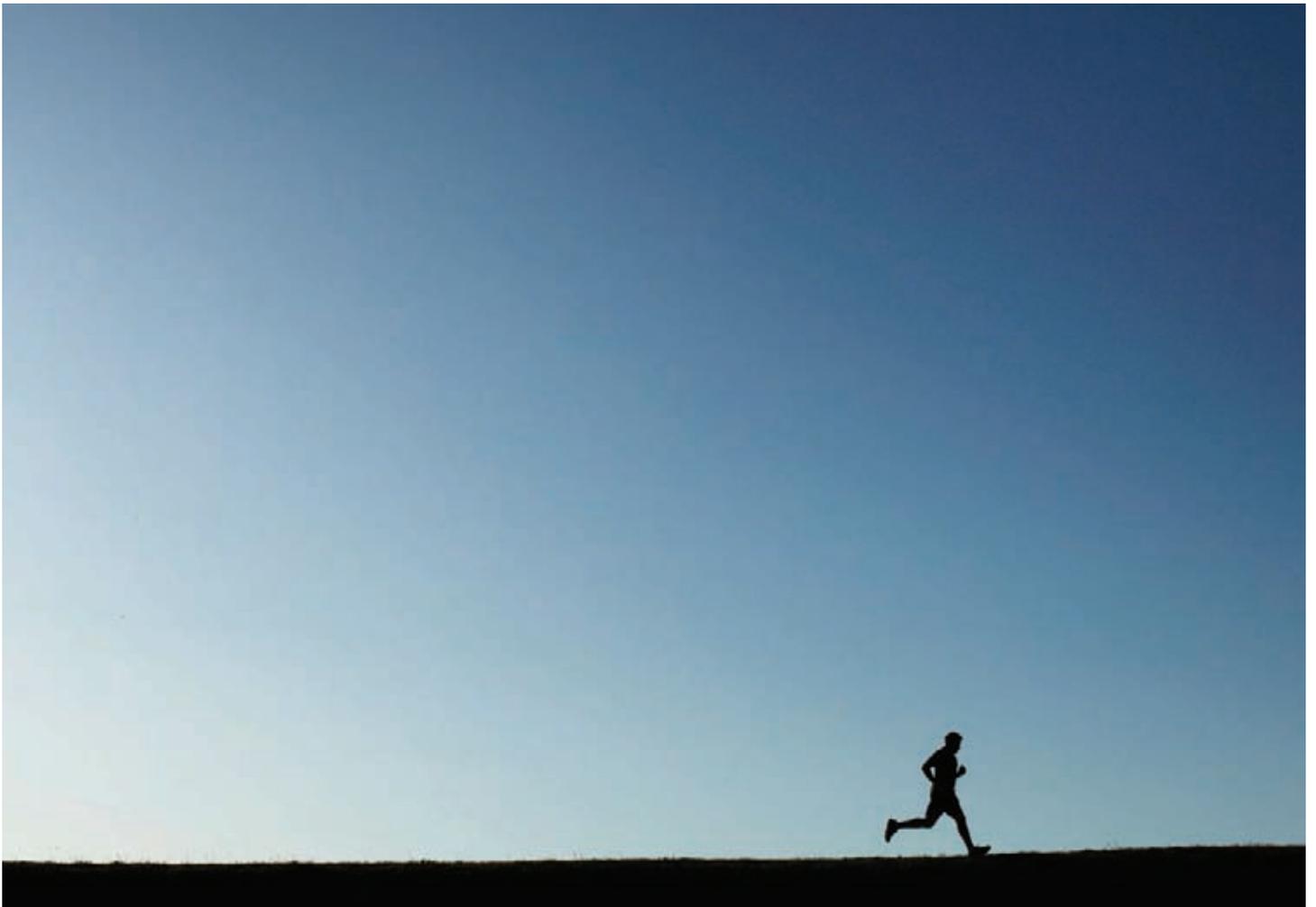
LAYING DOWN THE LAW

Daniel Greenberg considers by whom and how laws are made

PLUS

Key New Textbooks





WESTLAW UK TRAINING

TRAINING IS INCLUDED AS PART OF A WESTLAW UK SUBSCRIPTION,
SO WHY NOT TAKE ADVANTAGE OF THIS FREE SERVICE?

We can offer you training in a number of formats that can be tailored to your specific needs.

Whether it is on-site, one-on-one over the phone, online or using WebEx, our legally qualified training team are here to help you gain the maximum benefit from using Westlaw UK.

Training options include:

- On-Site Sessions
- Tailored On-Site Practice Area Workshops
- Tailored WebEx Workshops

TAILORED ON-SITE SESSIONS

Our experienced trainers can visit your university for full training sessions, bespoke to your needs.

TAILORED WEBEX WORKSHOPS

Online training sessions (conducted over the internet and telephone) designed to cover content and functionality at the level your university requires. Lecturers and students alike can benefit from these interactive sessions.

SET A DATE

To book a training session or for general help on training, please email sweetandmaxwell.training@thomson.com

Helping you get the most out of your subscription

Contact us for more information:

Call **0800 028 2200**, email customer.service@westlaw.co.uk or visit westlaw.co.uk

WELCOME

Welcome to the Spring/Summer 2011 issue of Academic News from Sweet & Maxwell – bringing you the latest articles for everyone involved in teaching law.

In this issue Paula Giliker writes about developments in tort law, Michael Connolly examines the Equality Act 2010, and Daniel Greenberg introduces his new title, *Laying Down the Law*.

We also have updates on our new eBooks and the latest enhancements to Westlaw UK. And, as usual, we detail the many new textbooks published this year, all of which are available on inspection.

I hope you enjoy this issue of Academic News. If you have any comments or suggestions, please get in touch at the address below.



David Lloyd
Editor

Academic News, Sweet & Maxwell, 100 Avenue Road, London NW3 3PF
david.lloyd@thomsonreuters.com

CONTENTS

Policy, Police and Progress: Writing a Fourth Edition of Tort	4-7
The Gender Pay Gap, Hypothetical Comparators, and The Equality Act 2010	8-10
New Textbooks for 2011.....	11-14
Laying Down the Law	16-18
E-books have been the next big thing for some time	20-21
Key Contacts at Sweet & Maxwell.....	22



REUTERS / Luke McGregor

JURIDICAL REVIEW

THE LAW JOURNAL OF
THE SCOTTISH UNIVERSITIES

Juridical Review is Scotland's leading refereed law journal, giving you complete confidence that the contributions are of the highest standard. Edited by Professor Joe Thomson, this title has remained popular since first publication.

This subscription journal comes in four paper parts which lend themselves well to academic study as well as use in the office or court environment.

0022-6785, Full 2011 subscription **£240**
Special 50% discounted price for students and academics **£120.00**

*Cutting edge, scholarly, thought provoking –
Don't miss out on inspired discussion of topical legal issues...*

PLACE YOUR ORDER TODAY:

Visit sweetandmaxwell.co.uk Email sweetandmaxwell.orders@thomson.com
Call 0845 600 9355 (uk) +44 (0)1264 388560 (international), Quoting reference 0700103



POLICY, POLICE AND PROGRESS: WRITING A FOURTH EDITION OF TORT

Paula Giliker, Professor of Law, University of Bristol



Updating the new edition of our textbook, *Tort*, has been a fascinating task. Tort law is a fast moving area of law and the impetus for change has been increased in recent years with the implementation of the Human Rights Act 1998 and its potential to challenge English tort law, both in questioning the convention-compliance of existing law and in providing a possible new basis for challenging existing legal rules. To this may be added the election of a new Conservative/Liberal Democrat Coalition government in May 2010, which has engaged in a process of reviewing many of the reform proposals of its predecessor and suggesting reforms of its own. Equally, uncertainty remains as to a number of key legal concepts, for example in establishing the test for causation in tort law.

Our textbook seeks to cover all these debates, but this note will take as its focus three issues covered in our new edition:

- The impact of the Human Rights Act 1998 on the law relating to negligent police investigations;
- The response of the new Government to criticisms of the law relating to defamation; and
- The law relating to causation, as articulated by the Supreme Court recently in *Sienkiewicz v Greif (UK) Ltd*.¹

1. THE IMPACT OF THE HUMAN RIGHTS ACT 1998 ON THE LAW RELATING TO NEGLIGENT POLICE INVESTIGATIONS

As set out in Chapter 2 of our textbook, in *Hill v Chief Constable of South Yorkshire Police*,² the House of Lords found that the police owed no general duty of care in tort to investigate the allegations of victims of crime. Lord Keith found cogent policy reasons for this:

“The general sense of public duty which motivates police forces is unlikely to be appreciably reinforced by the imposition of such liability so far as concerns their function in the investigation and suppression of crime. From time to time they make mistakes in the exercise of that function, but it is not to be doubted that they apply their best endeavours to the performance of it. In some instances the imposition of liability may lead to the exercise of a function being carried on in a detrimentally defensive frame of mind... The result [of liability] would be a significant diversion of police manpower and attention from their most important function, that of the suppression of crime. Closed investigations would require to be reopened and retraversed, not with the object of bringing any criminal to justice but to ascertain whether or not they had been competently conducted.”³

Although Lord Steyn in *Brooks v Commissioner of Police* commented that “With hindsight not every observation

in *Hill* can now be supported”;⁴ the House of Lords accepted the continuing validity of the policy grounds of *Hill*, albeit with the reservation that they did not provide an immunity against negligence claims.⁵

More recently, in the conjoined cases of *Van Colle v Chief Constable of Hertfordshire*; *Smith v Chief Constable of Sussex Police*,⁶ the House of Lords faced a wholesale assault on the *Hill* policy grounds. Would it make any difference, asked *Van Colle*, if the action against the police was brought under section 7 of the Human Rights Act 1998 instead of negligence?⁷ In a negligence claim, is there, as Sedley L J suggested in the Court of Appeal in *Smith*, “a point at which police officers, once alerted, cannot entirely escape such responsibility: their public office will require them, unlike the ordinary passer-by, to do something”?⁸ The answer to both questions, according to the House of Lords, was no.

These cases are interesting in discussing the impact (or lack of it) of the Human Rights Act 1998 in amending

¹ [2011] UKSC 10; [2011] 2 WLR 523.

² [1989] AC 53.

³ *Ibid.*, at 63.

⁴ [2005] UKHL 24; [2005] 1 WLR1495 at para. 28.

⁵ Such an immunity would, of course, conflict with Article 6, European Convention on Human Rights (ECHR): see *Osman v United Kingdom* (2000) 29 EHRR 245.

⁶ [2008] UKHL 50; [2009] 1 AC 225.

⁷ Section 7(1) states: “A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by section 6(1) may – (a) bring proceedings against the authority under this Act in the appropriate court or tribunal, or (b) rely on the Convention right or rights concerned in any legal proceedings, but only if he is (or would be) a victim of the unlawful act.”

⁸ *Smith v Chief Constable of Sussex Police* [2008] EWCA Civ 39 at para. 29.



key principles of English tort law. The claimants in *Van Colle* and *Smith* had both sought to rely on Article 2 of the ECHR which protects the right to life,⁹ arguing in *Van Colle* that the public authority (the police) was in breach of its positive duty under Article 2 to protect individuals whose lives were in danger and, in *Smith*, that the tort of negligence must take account of the positive duties imposed by Article 2. In both cases, it was alleged that the police had been alerted to the risk of attack and were negligent in their response in failing to prevent the incident: *Van Colle* being murdered by the person against whom he was due to give evidence, *Smith* narrowly surviving a vicious attack by a former partner.

In *Van Colle*, the House of Lords adopted a narrow interpretation of liability under the Human Rights Act 1998 whereby liability would only arise for breach of Article 2 where "... the authorities knew or ought to have known at the time of the existence of a real and

immediate risk to the life of an identified individual or individuals from the criminal acts of a third party and... they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk."¹⁰ Here, the mere fact that *Van Colle* had agreed to give evidence against Brougham, who had been charged with relatively minor criminal offences and had no obvious record of violence, provided insufficient evidence on which to conclude that the police should have appreciated that there was a real and immediate risk to *Van Colle's* life.

In *Smith*, the majority¹¹ found that the *Hill* policy arguments survived save in exceptional circumstances. Here, the circumstances were not sufficiently "special" to justify imposing liability. In the view of Lord Phillips C J, the difficulties of evaluating the extent to which the existence of a common law duty of care would conflict with the performance of the police of their duties signified that it should be for Parliament, rather than



⁹ Article 2(1): "Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law."

¹⁰ *Osman v United Kingdom* (2000) 29 EHRR 245, para 116.

¹¹ Lord Bingham dissenting.



the courts, to indicate when any such liability should arise.¹² *Van Colle* and *Smith* indicate the limits to relying on the Human Rights Act 1998 either directly or via the doctrine of indirect horizontal effect to create new causes of action. Indeed, such case-law does seem to lend support to Steele's pessimistic view that "After a period in which it was thought clear that tort would adapt and change in order to protect Convention rights in a manner more akin to the HRA, there has been a period of caution, veering in some instances toward scepticism about the role of tort in the human rights arena".¹³

2. THE RESPONSE OF THE COALITION GOVERNMENT TO CRITICISMS OF THE LAW OF DEFAMATION

In contrast to the Human Rights Act 1998, which came into force in October 2000, defamation is a well-established tort, with, as we discuss in Chapters 13 and 14, long-standing problems. It is complicated, costly and at times unpredictable due, in part, to the presence of juries (now a rare occurrence in civil cases). In the past 18 months there have been no less than three reports¹⁴ and a Private Member's bill¹⁵ suggesting reforms and, in March 2011, the Government published its consultation paper.¹⁶ The Justice Secretary Kenneth Clarke, in unveiling the draft Defamation Bill, expressed the Government's objectives: "The right to speak freely and debate issues without fear of censure is a vital cornerstone of a democratic society. In recent years

though, the increased threat of costly libel actions has begun to have a chilling effect on scientific and academic debate, and investigative journalism... The Government's draft Defamation Bill will ensure that anyone who makes a statement of fact or expresses an honest opinion can do so with confidence."¹⁷

The reforms make interesting reading both in terms of what the Government includes and what it excludes. The proposals are set out in the textbook, but it is worth mentioning here a few provisions of particular note. Clause 6 of the Draft Bill, for example, seeks to introduce a single publication rule, that is, limit the ability to sue for publication of the same material by the same publisher to the standard one year limitation period following first publication (subject, of course, to the discretion of the court to extend the limitation period under section 32A of the Limitation Act 1980). This is to be welcomed. At present, each time a person views an article on a newspaper's website a fresh publication is deemed to arise, with its own one year limitation period, exposing newspapers potentially to ongoing liability. The Government also seeks in clause 7 to tackle "libel tourism" by ensuring that a court will not accept jurisdiction unless satisfied that England and Wales is clearly the most appropriate place to bring an action against someone who is not domiciled in the UK or an EU Member State. Clause 8, which seeks to

¹² See n 6 above at para 102.

¹³ J Steele [2008] CLJ 606 at 634.

¹⁴ See the report of English PEN and Index on Censorship, *Free Speech is Not for Sale* (November 2009); the report of the Libel Working Group (March 2010); and the Culture Media and Sport Select Committee report on press standards, privacy and libel (February 2010).

¹⁵ Introduced by Lord Lester of Herne Hill (see Annex C of Draft Defamation Bill: Consultation below).

¹⁶ Draft *Defamation Bill* Consultation (Consultation Paper CP3/11). <http://www.justice.gov.uk/consultations/draft-defamation-bill.htm>.

¹⁷ <http://www.justice.gov.uk/news/newsrelease150311a.htm>.



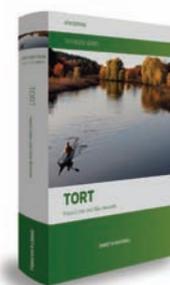
public, communicate and expressing its recognition of the variety of internet services now available (Mumsnet, which attracted the interest of politicians in the last election receives a specific mention!)

In updating the book, therefore, we have sought not only to describe the law, but indicate areas for reform and examine the extent to which any proposals for change will meet our concerns.

3. THE LAW RELATING TO CAUSATION

In Chapter 6, we discuss the law relating to causation. Causation is often confusing, despite the protests of Lord Hoffmann that there is “nothing special or mysterious about the law of causation”.¹⁹ The starting point is that of ‘but for’ test,²⁰ but in *Fairchild v Glenhaven Funeral Services Ltd (t/a GH Dovener & Son)*,²¹ set out in Chapter 6, the House of Lords provided an alternative test based not on proving causation on the balance of probabilities, but on proof of a “material increase in risk”. A subsequent return visit to the House of Lords in *Barker v Corus UK Ltd*²² offered some clarification, but also provoked Parliamentary intervention by means of section 3 of the Compensation Act 2006. Any textbook must stay up-to-date and therefore the inclusion of *Sienkiewicz v Greif (UK) Ltd*²³ allows us to cast fresh light on the ‘material increase in risk’ test as applied to victims of mesothelioma; a form of cancer caused by exposure to asbestos. In contrast to the situation in *Fairchild* and *Barker*, where a number of defendants had negligently exposed the victim to asbestos and thereby materially increased the risk of the employee developing mesothelioma, in *Sienkiewicz*, there was only one defendant and evidence that the victim had been at risk in any event of developing the disease from low-level exposure to asbestos in the general atmosphere. Seven Justices of the Supreme Court unanimously ruled that the *Fairchild* exception would also apply where a single defendant had negligently exposed the victim to asbestos. Although the claimant could only establish an increase in risk of 18% arising from the defendants’ negligence, such a risk was material: a risk would only be regarded as immaterial if the negligent exposure had been too insignificant to be taken into account, having regard to the overall exposure. This was a matter for the judge on the facts of the particular case. The Supreme Court did warn, however, that the rule in *Fairchild* and *Barker* had been adopted to cater for the evidential gap that had existed at the time of those decisions about the causes of mesothelioma.²⁴ This did not preclude the courts from reverting to the conventional approach of balance of probabilities should advances in medical science in relation to the disease make such a step appropriate.

This brief overview of three changes to tort law since our last edition serves to demonstrate both the dynamism of tort law and the need to keep up-to-date. The common law continues to evolve and we see developments and changes throughout the 17 chapters of our textbook. In highlighting change past, present and future, the aim is to give a sense of how tort law is developing and set out the law clearly in a readily understandable and structured way, but also to give students a critical appreciation (vital for answering essay questions) of how the law could be improved and reformed. The final result, we hope, provides interesting reading!



Paula Giliker is the co-author of **Tort Textbook (4th Edition)**, publishing in June. See page 15 for how to order your free inspection copy.

remove the presumption in favour of jury trial so that the judge would have a discretion to order jury trial where it is in the interests of justice, is likely to prove controversial in reducing access to a jury. Attempts to clarify and place on a statutory footing *Reynolds* privilege (clause 2), justification or truth (clause 3) and fair/honest comment (renamed honest opinion in clause 4) are also likely to give rise to debate as to content and the extent to which a legislative framework is necessary. In contrast, the omission of any restrictions on the ability of corporations to bring a defamation action or of any extension to the rule in *Derbyshire CC v Times Newspapers*¹⁸ – that a local authority cannot bring an action for libel in respect of its governmental and administrative functions – to other bodies exercising public functions (although still technically open for consultation) will disappoint those favouring more radical reform in the interests of freedom of expression.

So defamation reform is on the agenda. In addition to the draft Bill, the Government is also consulting on responsibility for publication on the internet. In seeking views on whether the law should be changed to give greater protection to secondary publishers such as internet service providers, discussion forums and (in an offline context) booksellers, or alternatively how the existing law should be updated and clarified, the Government is responding to changes in how we, the

¹⁸ [1993] A.C. 534.

¹⁹ L. Hoffmann (2005) 121 LQR 592 at 603.

²⁰ *Barnett v Chelsea and Kensington Hospital Management Committee* [1969] 1 QB 428.

²¹ [2002] UKHL 22; [2003] 1 AC 32.

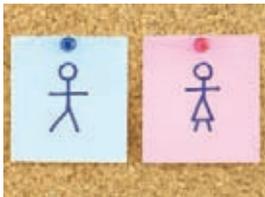
²² [2006] UKHL 20; [2006] 2 AC 572.

²³ [2011] UKSC 10; [2011] 2 WLR 523.

²⁴ See Lord Phillips, President at para 18: “The special rule of causation applied to mesothelioma was devised because of ignorance about the biological cause of the disease. It was accepted in *Fairchild* and *Barker* that this rendered it impossible for a claimant to prove causation according to the conventional ‘but for’ test and this caused injustice to claimants.”

THE GENDER PAY GAP, HYPOTHETICAL COMPARATORS, AND THE EQUALITY ACT 2010

Michael Connolly, Lecturer in Law, University of Surrey



The gender pay gap has remained notoriously high. The methods of measuring the pay gap are many and varied, but one general figure indicates the scale of the problem. For the period 2004-2007, the overall gap between all working men's and all working women's hourly earnings, was 19 per cent. ('The Gender Pay Gap in the UK 1995-2007 Research Reports Parts 1 and 2' (2010) published by the Government Equalities Office, www.equalities.gov.uk.)

The traditional equal pay model developed under the Equal Pay Act 1970 required the claimant to produce a real comparator. In other words, she must produce a man in the same employment doing equal work for more pay. She could not use a hypothetical comparator to show that a man *would have been* paid more, had he been employed on equal work. This rule fettered the law's ability to reduce the gender pay gap. The Equality Act 2010 has loosened this rule a little. This article presents three 'pay gap scenarios' where the Equal Pay Act 1970 has been ineffective because of the rule, and then explores how far the Equality Act 2010 has liberated the rule in these scenarios.

The first scenario can arise in segregated occupations, typically portrayed in all-female sweatshops. Under the Equal Pay Act 1970, female cooks in a shipyard could compare their jobs to (male) painters, whilst cleaners at a coal mine may compare themselves to clerical staff, and seamstresses in a motor factory compare themselves to repair workers (as seen in the film 'Made in Dagenham'). But where these occupations are segregated, a comparison for equal pay is impossible. So the cook or the cleaner working for an outside contractor, or the seamstress in the proverbial (and real) sweatshop, has no claim to equal pay. The dinner lady working for the contractor may see her friend doing the same work for more money in the shipyard or for the local council. The sweatshop's seamstress may see her neighbour working for Vauxhall or Ford, being paid a lot more for the same work. These segregated jobs predominantly are occupied by women. Only those women who, per chance, work for a large employer with men doing work of comparable value, can claim equal pay. As such, the National Minimum Wage legislation did more for these workers than the equal pay legislation.

The second scenario is where a male successor is paid more for equal work. Under the rule, although a woman can compare pay to a male *predecessor* in the same job, she cannot use a male successor as a comparator. The theory is that, viewed from the time when the woman is doing the job, a successor's pay is hypothetical.

Third, the traditional model does not permit 'proportionate comparators'. This would be useful where, say, a woman

may be doing superior work to a man and receive inferior, or at best, equal pay. Although she can compare herself to a man doing *inferior* work, and achieve the *same* level of pay as him, she cannot claim for proportionally *more* pay than he receives. Alternatively, men doing *superior* work may receive disproportionately more pay.

EQUALITY ACT 2010, S.71

Section 71, Equality Act 2010, offers a new remedy in some of these cases. The traditional model (carried over to EA 2010, s.66) implies a 'sex equality clause' into every woman's employment contract. However, under s.71, where the equality clause 'has no effect', it permits the woman to invoke the *sex discrimination* provisions if her discriminatory 'pay' arose from *direct* sex discrimination (s.13; or if from 'dual discrimination' (sex and one other protected characteristic) under s.14, should it come into force). The benefit here is that claims of direct sex discrimination can invoke a hypothetical comparator.



REUTERS/Arko Datta

S.71 AND SEGREGATED OCCUPATIONS

The Explanatory Note (246) offers a crude example of an employer telling a black female worker: 'I would pay you more if you were a white man'. Of course, few employers are likely to be so self-destructive. In other cases, evidence will prove more difficult to collect, and be more nuanced in nature. It could be a revealing conversation between two employers, or the explanation behind the employer's hiring patterns that seem to exclude men from the low paid segregated jobs (perhaps arising from word-of-mouth hiring), or the difference between the wages and those paid elsewhere for like-, or equal-value, work. Bearing in mind that s.71 extends only to direct discrimination, an interesting question arises of whether statistics alone could be enough to prove a case. This could arise where, say, a large undertaking, over several years, has employed only women in its low paid jobs. Could proof of such a pattern be enough to establish a prima facie case of direct discrimination? Such claims have been recognised

in the United States for direct race discrimination (*International Brotherhood of Teamsters v US 431 US 324* (Sup Ct 1977)), and same principle should apply to sex discrimination.

PREDECESSORS AND SUCCESSORS AS COMPARATORS

Section 64(2), Equality Act 2010 provides that the comparator's work 'is not restricted to work done contemporaneously'. This codifies *Macarthy's v Smith* Case 129/79, [1980] ICR 672, where the ECJ held that it was possible to use a predecessor in the same job as a comparator, under what is now Art.157 TFEU. The logic of that decision suggests it is possible to use a successor as a comparator. In *Diocese of Hallam Trustee v Connaughton* [1996] ICR 860, an organist was paid £11,138 per annum at her time of leaving in September 1994. Her male successor was paid £20,000 per annum from January 1995. The EAT held that whilst using a successor as a comparator posed evidential problems



it did not preclude Miss Connaughton's equal pay claim. Although the successor was appointed some four months' later, it was on near double her salary. However, *Connaughton* was not followed in *Walton Centre for Neurology & Neuro Surgery NHS Trust v Bewley* [2008] ICR 1047, where the EAT pointed out (1) (at the time of the of the pay in question) using a successor as a comparator was in fact using a hypothetical comparator, and (2) the ECJ in *Macarthy's* and subsequent cases set itself against the use of hypothetical comparators, demanding a 'concrete appraisal' (at [36] and [47] citing *Macarthy's*, [15] and *Coloroll Pension Trustees Ltd v Russell* Case C-200/91 [1995] I.C.R. 179 (ECJ), [101]). Therefore, successors should not be used in equal pay claims. Thus, it would seem, the new s.64(2), (which came into force after *Bewley*), does not codify *Connaughton* nor question *Bewley's* logic. So much turns on the authority of *Bewley*.

If it remains good law, then claimants must revert to s.71. Question marks hang over *Bewley*, both technically and on policy grounds. The *Bewley* logic, that a successor-comparator is a hypothetical one, and that a hypothetical comparator cannot provide a 'concrete appraisal', is flawed and artificial, as the facts of *Connaughton* and *Bewley* illustrate. Although Ms Connaughton's successor was appointed some four months' later, it was on near double her salary. In *Bewley*, the claimant worked alongside her comparators. As such, for the period before their appointment, they were treated as hypothetical. Hence her claim for equal pay for the period she worked *before* their appointment was barred, despite the obvious evidence that their appointment presented of the pre-existing discriminatory pay. Both claims presented a 'concrete' appraisal of how much men doing equal work would have been paid, and shows the *Bewley* reasoning to be somewhat artificial. These comparisons were no less concrete than, say, that of a predecessor from several years' past. Predicting what this man would have been earning years' later would be, if anything, more speculative. Moreover, if the law were serious about combating the gender pay gap, it would not cling to an inflexible rule against successors as comparators, and instead treat each case on the merits of the evidence presented, without some notional distinction between real and hypothetical.

Given that s.71 is limited to direct discrimination (*Bewley* was a case of indirect discrimination) it would be better for tribunals to abandon *Bewley*, and take a more flexible approach under s.64(2), reverting

to *Connaughton*, and treating successors as concrete comparators, depending on no more than the strength of the evidence.

Otherwise (if *Bewley* remains good law), claims of direct discrimination (such as *Connaughton*) could succeed via 71, whilst cases of indirect discrimination (such as *Bewley*) will remain stranded without a remedy.

S.71 AND 'PROPORTIONATE' COMPARATORS

The legislation limits comparisons to those doing 'equal work'. Yet discriminatory pay exists beyond the simplistic equal-pay-for-equal-work mantra. For instance, a woman may be doing superior work to a man and receive inferior, or at best, equal pay. Although she can compare herself to a man doing *inferior* work, and achieve the *same* level of pay as him (*Murphy v Bord Telecom Eireann* Case 157/86, [1988] ICR 445 (ECJ), [10]), she cannot claim for proportionally *more* pay than he receives (*Redcar & Cleveland Borough Council v Bainbridge* (No 1) [2007] IRLR 984 (CA)). Alternatively, men doing superior work may receive disproportionately more pay. The problem was illustrated by the US case, *County of Washington v Gunther* 452 US 161 (Sup. Ct. 1981). Here, male prison officers had more onerous duties than female prison officers. A job evaluation study recommended that the women's pay should be 95% of the men's. The men were paid their worth in full, whilst the women were paid just 70% of the men's pay. In the United States, just as in the UK, the Equal Pay Act 1963 demands a real comparator. The US Supreme Court bypassed this restriction ruling that the female prison officers could make a claim of sex discrimination using the Civil Rights Act 1964 (the loose equivalent of the EA 2010), which does not demand a real comparator.

As things stand, the exception provided by EA 2010, s.71 cannot address this problem, as normally these 'disproportionate differentials' are caused by *indirect* discrimination. Further, it is arguable that s.71 has no application in the sub-class of 'inferior work' cases, because s.66 has *some* effect of equalising the pay. (Section 71 applies if the equality clause has 'no effect'.) Thus, section 71 can do little to address the problem of disproportionate differentials.

Technically, the cases in all three scenarios founder on the rule barring hypothetical comparators, and cannot be rescued by s.71 if they are rooted in indirect discrimination and/or s.66 supplies a partial solution.

Gunther hints at a practical solution. Courts could revert to the (sex discrimination) Recast Directive 2006/54/EC, which includes pay in its definition of discrimination, which embraces the standard definitions of direct and indirect discrimination. Thus, it should be possible in these cases to invoke the Directive and present the claim under the conventional definitions sex discrimination which is free from the limits of ss.66 and 71.

In conclusion, the new s.71 can address *some* of the problems caused by the old comparator rule, but others remain to contribute to the gender pay gap.



Michael Connolly is the author of **Discrimination Law (2nd Edition)**, just published by Sweet & Maxwell. See page 15 for how to order your free inspection copy.



NEW TEXTBOOKS

COMMERCIAL & CONSUMER LAW

MARITIME LAW 2ND EDITION

Yvonne Baatz (General Editor and Author)

- Suitable for practitioners and for those new to the area who need a sound knowledgeable introduction to the field of maritime law.
- Covers the key areas of maritime law in a concise and accessible style
- Showcases the expertise of the various members of the Institute of Maritime Law

New to this Edition

- Covers all developments since the first edition
- Includes a new chapter on ship sale, finance and registration
- Expanded marine insurance chapter, with the subject covered in greater depth

Paperback • 978-0-414-04876-8 • £46.95 • August 2011

CONTRACT LAW

CONTRACT LAW – TEXTBOOK SERIES

2ND EDITION

Robert Duxbury

- Sets out a clear framework and seeks to explain the intricacies of the law of contract as clearly as possible, without sacrificing the detail that is required for a proper understanding of the subject
- Concentrates on topics common to the majority of undergraduate law courses
- Goes through the life of a contract from formation through to discharge and remedies as well as dealing with the contents of the contract and vitiating factors
- Focuses on UK common law but covers relevant EU law and makes comparisons with other common law jurisdictions

Paperback • 978-0-414-04603-0 • £26.95 • June 2011

CONTRACT LAW – THE FUNDAMENTALS

2ND EDITION

Ryan Murray

- Sets out a clear framework and explains the intricacies of the law as clearly as possible without sacrificing the detail that is required for a proper understanding
- Includes full coverage of all topics likely to be studied on contract law courses at undergraduate level, on Diploma in Law (CPE) programmes, and ILEX level 6
- Uses charts, grids and diagrams to enable students to grasp complex legal principles with ease

Paperback • 978-0-414-048171 • £24.95 • April 2011

TREITEL ON THE LAW OF CONTRACT

13TH EDITION

Edwin Peel

- Follows the classic structure for the teaching of contract, going through formation; contents; vitiating factors; capacity and parties; performance; breach; termination; and remedies
- Examines, and offers resolutions to, controversial and problematic points of law
- Takes account of more than 300 new cases including *The Achilles* (remoteness), *Chartbrook Ltd v Persimmon Homes Ltd* (interpretation), *OFT v Abbey National Plc* (unfair terms), *Attorney General of Belize v Belize Telecom Ltd* (implied terms), *Cobbe v Yeoman's Row Management Ltd* (proprietary estoppel), *Collier v Wright* (promissory estoppel)
- Covers all key legislative developments since the last edition published including those resulting from the Bribery Act 2010 and the bringing into force of provisions of the Companies Act 2006

Paperback • 978-1-847-03921-7 • £36.95 • September 2011

EMPLOYMENT LAW

DISCRIMINATION LAW 2ND EDITION

Michael Connolly

- Covers the UK and EU, with comparisons to the US, Canada and Australia
- Analyses the different theories and definitions of who should be protected and what is classed as discrimination
- Goes through the different grounds for discrimination including race, sex, gender reassignment, sexual orientation, religion or belief, age and disability
- Covers the many different forms of discrimination including direct and indirect discrimination, dual discrimination, harassment, victimisation and disability discrimination
- Discusses positive action
- Discusses the remedies available and ways of enforcing them
- Refers to all relevant legislation and regulations including the Human Rights Act 1998 and European Convention on Human Rights
- Includes coverage of all key case law

Paperback • 978-0-414-04606-1 • £29.95 • April 2011

EMPLOYMENT LAW 8TH EDITION

Gwyneth Pitt

- Provides a succinct account of employment law and industrial relations law
- Set in the context of experience in the workplace as well as within the wider social and political framework
- Draws references from the British courts, the European Court of Justice and the European Court of Human Rights
- Written in a straightforward and engaging style, making it easy for students to understand the topic and grasp difficult concepts
- Covers the latest legislative and case law developments

Paperback • 978-0-414-04617-7 • £28.95 • July 2011

NEW TEXTBOOKS

ENGLISH LEGAL SYSTEM AND LEGAL METHOD

DARBYSHIRE ON THE ENGLISH LEGAL SYSTEM

10TH EDITION

Penny Darbyshire

- Provides students with an engaging, thought-provoking and highly readable introduction to the contemporary legal system of England and Wales
- Explains both new and old laws derived from the ELS, guiding students through a text which discusses legal principals, historical context and practice procedure
- Considers the various functions and powers of individuals and institutions within the ELS
- Takes into account all new legislation
- Includes analysis of the latest case law developments, especially in criminal procedure and human rights
- Discusses other key developments such as the judicial diversity project
- Comes with free online updates, providing news of the latest changes and additional material
- Contains a list of further reading at the end of each chapter so that students can undertake further study

Paperback • 978-0-414-04602-3 • £26.95 • September 2011

ENGLISH LEGAL SYSTEM – THE FUNDAMENTALS

2ND EDITION

Jo Boylan-Kemp

- Focuses on what is the law, sources of law, how the law is used, the civil and criminal court systems, ADR, legal personnel, the judiciary, juries, funding, sentencing, and appeals
- Explains the intricacies of this area of the law in a simple and straightforward language, but without losing any of the detail or necessary evaluation required for students to progress well in their degree level courses
- Uses charts and grids to enable students to grasp complex legal principles with ease
- Provides diagrams in order to enhance retention of information
- Facilitates learning with clear language and bite-size chunks of text
- Assumes no prior knowledge of the subject – allowing the book to be used by those new to the subject and for distance learning courses
- Includes a section on how to find, read and analyse legislation and cases so that students can put their knowledge into practice

Paperback • 978-0-414-04604-7 • £24.95 • May 2011

MANCHESTER AND SALTER ON EXPLORING THE LAW

4TH EDITION

Colin Manchester, David Salter

- Provides an initial overview of the principles of statutory interpretation and precedent, with extensive cross-referencing to their detailed consideration in case studies
- Uses case studies throughout to extract the principles of statutory interpretation and precedent from substantive law
- Examines the influence of the EU and the Human Rights Act 1998 on principles of statutory interpretation
- Provides students with guidance on further reading at the end of case study chapters

Paperback • 978-0-414-04185-1 • £24.95 • April 2011

MEDIA LAW

LAW AND THE MEDIA

2ND EDITION

Duncan Bloy, Sara Hadwin

- Acts as an invaluable text for those studying media studies, journalism, a media module of a law course, as well as for trainee and practising journalists
- Applies the legal analysis of key case studies to reporting situations. This is useful to students trying to learn the law and essential for journalists who need to be able to work without contravening the law
- Covers all key topics including freedom of expression, defamation, contempt, privacy and confidentiality, investigative journalism, sources, regulation, public interest, the legal system, copyright and reporting restrictions
- Discusses all key case law and relevant legislation, including the Human Rights Act 1998, and how it impacts on media law
- Contains chapter summaries to aid student revision
- Provides website addresses where full case reports can be found

Paperback • 978-0-414-04610-8 • £19.95 • August 2011

MEDICAL LAW

MEDICAL LAW AND ETHICS

3RD EDITION

Dr Shaun, D Pattinson

- Covers the major topics of medical law and ethics, combining detailed legal exposition and analysis with moral theory and philosophy
- Considers the wider contextual pressures facing the law such as the impact of patient consumerism, and the changing perceptions of medicine
- Chapters can be read individually to provide detailed overviews of specific topics or together, as part of the whole, for a comprehensive understanding of the subject. Ethical scenarios are used throughout to highlight and clarify the main points
- Examines the impact of increasingly direct (international and domestic) recognition of human rights
- Details all recent legislative developments
- Examines further developments in relation to clinical negligence, professional regulation, patient complaints, and organ transplantation
- Includes reference to international instruments and the laws of other jurisdictions enabling students to compare with domestic law

Paperback • 978-0-414-04860-7 • £29.95 • July 2011

TORT

TORT – TEXTBOOK SERIES

18TH EDITION

Paula Giliker, Silas Beckwith

- Presents all of the major concepts in the law of torts and clearly illustrates how they work in practice by reference to the major cases in this field and the main statutory provisions
- Goes through all the main areas of tort including: negligence, causation and remoteness, employers' liability, occupiers' liability, liability for defective products, nuisance and the rule in *Rylands v Fletcher*, trespass, economic torts, defamation and privacy, defences, and remedies
- Breaks case law down so that students are presented with the most salient points, enabling them to consider the law in a factual context. This guide also serves as an aide mémoire
- Considers the impact of the Human Rights Act 1998 and all other key legislation on the law of torts
- Evaluates recent reports by the Law Commission and recent case decisions
- Its clarity and comprehensive coverage makes it essential reading for those studying law at degree or graduate diploma level

Paperback • 978-0-414-04608-5 • £27.95 • June 2011

EQUITY & TRUSTS – TEXTBOOK SERIES

3RD EDITION

Michael Haley, Lara McMurtry

- Presents a detailed account of the law of trusts and equity placing the subject in its modern context
- Takes account of the latest legislative and case law developments
- Combines in depth commentary with critical analysis to give more than just a guide to the law
- Mirrors the structure of a traditional trusts and equity course for ease of use during studies
- Contains practical illustrations to show how the law operates
- Gives examples to aid understanding of the more complex and technical areas
- Contains a glossary of key terms at the back of the work
- Offers a short guide to further reading at the end of each chapter

Paperback • 978-0-414-04616-0 • £28.95 • September 2011

EUROPEAN UNION LAW

3RD EDITION

Koen Lenaerts, Piet Van Nuffel

Editors: Robert Bray, Nathan Cambien

- Provides a rigorously structured analysis of the institutional structure of the EU, its jurisdiction, its legal instruments and the main substantive principles underlying EU law
- Develops a detailed overview of EU substantive law and of the effect the various sources of EU law have within the legal order of every Member State
- Outlines the main elements of the Lisbon Treaty
- Includes references to case law and legislative developments as well as to academic literature in the major European languages
- Covers significant developments in the EU, including the many changes brought by the entry into force of the Lisbon Treaty
- Contains examples, diagrams and tables to help readers grasp complex processes and retain information

Hardback • 978-1-847-03743-5 • £125 • April 2011

Paperback • 978-1-847-03743-5 • £39.95 • April 2011

INTERNATIONAL LAW

INTERNATIONAL ECONOMIC LAW

3RD EDITION

Asif H Qureshi, Andreas R Ziegler

- Examines key problems of international economic relations in the framework of public international law
- Focuses on international monetary law, international trade law, international law relating to factor movement (labour movement and international investment), international fiscal law and international development law
- Combines all the key cases and materials on International economic law with in-depth commentary to provide readers with everything they need in one place
- Sets the subject in context with an introductory focus on the foundations of international economic law
- Describes the workings and influence of the IMF, WTO and the World Bank
- Includes references to international agreements and the jurisprudence of international courts, in particular the WTO

Paperback • 978-0-414-04615-3 • £38.95 • September 2011

WILLS, TAX AND PROBATE

WILLS, ADMINISTRATION AND TAXATION LAW AND PRACTICE

10TH EDITION

John Barlow, Lesley King, Anthony King

- Applies a practical approach to a subject which forms a large part of the work of many solicitors
- Provides invaluable guidance for both students studying the LPC or BVC and those new to practice
- Deals comprehensively with tax considerations, the substantive law and also covers drafting, probate practice and procedure
- Uses precedents, examples of frequently used forms and worked examples to present a clear, practical picture of the operation of the law
- Deals fully with the changes to CGT introduced in 2010/11 including the introduction of the 28% rate payable by personal representatives and trustees
- Covers the implications of the 50% rate of income tax payable by many trusts
- Includes a wealth of key case law, for example recent decisions on statutory and mutual wills.

Paperback • 978-0-414-04595-8 • £38.95 • April 2011

LEGAL SKILLS, REFERENCE AND REVISION

LAYING DOWN THE LAW

1ST EDITION

Daniel Greenberg

- Presents a lively account of how Acts of Parliament are drafted and made law, structured around three main themes – people, processes and problems
- Goes beyond standard textbook accounts to give an insider perspective on how the system actually works in practice
- Written in a lively, polemical style by a “thought leader” in the area, highlighting current problems and suggesting innovative ideas for reform
- Will appeal to undergraduate and postgraduate students of law, policy and politics, those involved in the preparation and practice of legislation, or any reader with an interest in British Government

Paperback • 978-0-414-04693-1 • £16.95 • May 2011

MOOTING AND ADVOCACY SKILLS – LEGAL SKILLS SERIES

2ND EDITION

David Pope, Dan Hill

- Presents practical guidance on mooting both for those participating in and those organising moots
- Covers all aspects of mooting from legal research and drafting skeleton arguments to moot court advocacy and organising mooting competitions
- Describes the key skills of mooting step-by-step, using worked examples and an illustrative moot problem
- Contains material, including a number of precedents and templates, that will assist not only mooters, but also newly-qualified solicitors and barristers who are starting to appear in court
- Highlights common pitfalls and explains how to avoid them

Paperback • 978-0-414-04486-9 • £19.95 • January 2011

NEW TEXTBOOKS

LEGAL SKILLS, REFERENCE AND REVISION

SUCCESSFUL LEGAL WRITING – LEGAL SKILLS SERIES

2ND EDITION

Edwina Higgins, Laura Tatham

- Uses worked examples and exercises to guide students through the legal writing process
- Focuses on improving writing skills in both assignments and exams
- Offers guidance on how to write a case note, how to write a critical review and how to prepare and draft a dissertation
- Presents the information in a step-by-step format, leading students through the world of legal writing from understanding good and bad writing to assessing their own strengths and weaknesses
- Details at the start of each chapter the key learning points and rounds each chapter off with a brief summary of what's been learnt
- Provides questions and reflective exercises to help students assess their progress and identify their learning needs

Paperback • 978-0-414-04184-4 • £19.95 • September 2011

HOW TO REQUEST YOUR TITLES ON INSPECTION

ONLINE Order online at
**sweetandmaxwell.co.uk/
lecturers-students**

FAX Tick the titles you would like
to view and fax this form to:
+44 (0)20 7393 7890

EMAIL Email your details and
titles to **sweetandmaxwell.
inspectioncopies@thomson.
com**

POST Tick the titles you would like
to view and return this form to:
Inspection Copies, Marketing Data,
Sweet & Maxwell, FREEPOST
LON12091, London, NW3 4YS

PHONE Call our Inspection Copy Hotline
on **+44 (0)20 7393 7293**

Request Details (PLEASE COMPLETE IN BLOCK LETTERS)

Title:	First Name:	
Surname:		
Job Title:		
Department:		
Institution:		
Address:*		
	Postcode:	Country:
Telephone:*	DX:	
Email address:*		

Tracking Code (internal use only):

0661201A

* Please note that we only deliver to institution addresses. Inspection copy requests cannot be processed without a telephone number and email address.

INSPECTION COPY SERVICE TERMS AND CONDITIONS

Selected textbook titles are available for inspection to qualified lecturers for consideration as a course textbook. Please note that inspection copies are sent out at the discretion of Sweet & Maxwell. A maximum of five titles can be sent free to prospective adopters, and only paperback versions will be sent. A questionnaire will be sent for each book viewed on inspection. The questionnaire must be completed and returned to us.

Thomson Reuters (Professional) UK Limited – Legal Business (Company No. 1679046), 100 Avenue Road, Swiss Cottage, London NW3 9PF. Registered in England and Wales. Registered office: Aldgate House, 33 Aldgate High Street, London EC3N 1DL. Trades using various trading names, a list of which is posted on its website at sweetandmaxwell.co.uk

Thomson Reuters (Professional) UK Limited is a registered data controller under number Z7602050.

Your information will be added to the marketing database and will not be given to third parties without your prior consent. Your information will be used to send you relevant marketing and informational material on our products and services.

If you do not wish to receive information about products and services from the following please tick the relevant box(es) Sweet & Maxwell W Green Incomes Data Services

For a detailed privacy statement, a copy, or correction of your information please write to Marketing Information, 100 Avenue Road, London NW3 3PF or call 0207 393 7000.

UK VAT is charged on all applicable sales at the prevailing rate except in the case of sales to Ireland where Irish VAT will be charged on all applicable sales at the prevailing rate. Customers outside of the EU will not be charged UK VAT.

The price charged to customers, irrespective of any prices quoted, will be the price specified in our price list current at the time of despatch of the goods, as published on our website unless the order is subject to a specific offer or discount in which case special terms may apply.

Rates, prices, delivery charges, discounts, dates and other information are subject to change at anytime without prior notice. Goods will normally be despatched within 3-5 working days of availability.

Thomson Reuters and the Thomson Reuters logo are trademarks of Thomson Reuters and its affiliated companies.





REUTERS/Denis Sinyakov

ACADEMIC CATALOGUE 2011-2012 **OUT NOW**

Download your copy from

sweetandmaxwell.co.uk/lecturers-students

SWEET & MAXWELL



THOMSON REUTERS

LAYING DOWN THE LAW

Daniel Greenberg, Parliamentary Counsel, 1991-2010



REUTERS/Luke Macgregor

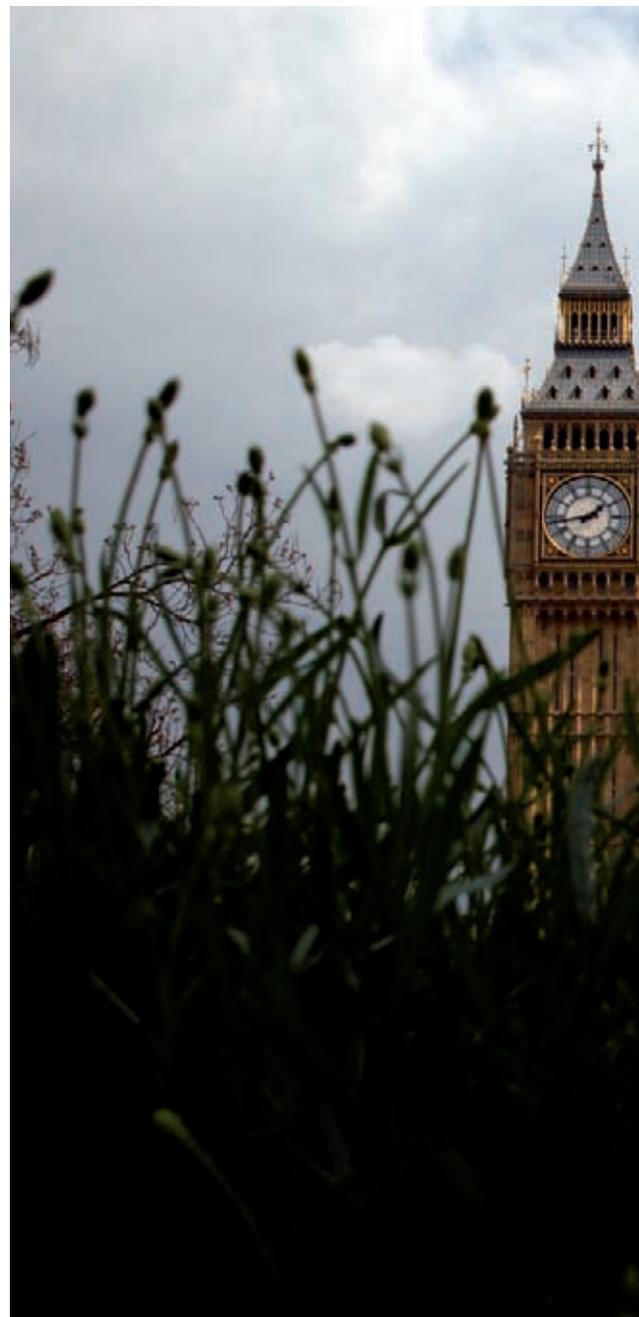
When one considers that there are few remaining areas of the law of the United Kingdom that are wholly or even mainly a product of the common law, it is a source of surprise, not to mention dismay, that those parts of university and other courses that deal with the mechanisms of the law continue to concentrate primarily on the development of the common law, and deal only cursorily, if at all, with the intricacies of the legislative process. It is true that most students will, possibly as part of their English Legal System course, be given an outline of how the most commonly known forms of legislation are made; but considering that almost every practitioner in the law today has to construe and apply an increasing variety of kinds of legislation in the course of his or her daily practice, and considering how much attention the courts now permit themselves to give to the Parliamentary and other political background to legislation in construing it, it is troubling how little attention is given to preparing lawyers to understand and apply the legislation that will form the framework of their entire practices.

Everyone, of course, knows a little bit about the legislative process, as part of the general knowledge that we all pick up from the media and elsewhere. There are even some rather recondite details of legislation that are sufficiently often the subject of comment on the news to have become surprisingly familiar to those interested in practical politics: for example, most people who follow the political news will have heard of “ping pong” in its form not as a ballgame but as the process of dialogue between the two Houses of Parliament that takes place when a Bill reaches its final stages.

Although some of the finer details are surprisingly well-known, however, some of the most basic and important details, without which a person cannot expect to be able to understand and apply legislation correctly, are surprisingly and troublingly unknown. By the time the High Court judiciary are apparently incapable of recognising the difference between a financial provision that is inserted in a Bill in order to achieve a substantive effect in relation to the expenditure of public money, and a provision which is inserted purely for a transient purpose relating to Parliamentary procedure and having no intended legal effect beyond Royal Assent, it is clear that something needs to be done to further the education of the legal community generally in matters relating to the legislative process.

This article is not, of course, the first occasion on which a concern of this kind has been raised; nor will it be addressed, if at all, by any one simple solution. As a modest contribution to progress in this area,

however, the new book “Laying Down the Law”, to be published by Sweet and Maxwell in May 2011, offers legal practitioners and others with a strong interest in the legislative and political processes, an opportunity to benefit from the author’s twenty years of experience as Parliamentary Counsel. The aim of the book is to draw on that experience so as to expose some of the finer details of the practice and processes by which legislation



is made, and to invite the reader to draw conclusions from those details at a practical level.

For example, lawyers and politicians are by now all familiar with the basic concept of the rule in *Pepper v Hart*, according to which the courts now permit themselves to have recourse to Hansard for the purposes of construing legislation in instances of

ambiguity. In *Laying Down the Law*, the author spends a few paragraphs on describing at some level of practical detail the different arrangements by which Ministers inform themselves, and are informed, during the process of debate; he invites the courts and others, therefore, to speculate on whether all ministerial pronouncements deserve to be given the same kind of weight, or whether the constraints under which some are produced suggest



REUTERS/Suzanne Plunkett



REUTERS

that they may be less than entirely reliable.

The general scheme of the book is to divide the discussion into three areas: the first focuses on the different roles of different people in the legislative process – Ministers, special advisers, departmental lawyers, back-benchers, House authorities and others; the second focuses on aspects of the legislative process that may not be familiar even to those with some experience of politics – the legislative programme, the drafting process, the effect of the rules of scope, hybridity, the amendment procedures, Queen’s Consent and the financial rules of the Commons; and the last deals with a number of particular problems relating to the drafting and preparation of legislation – the balance between primary and secondary legislation, plain English, explanatory material, the use of examples, precedent, mistakes in legislation, purpose clauses and *Pepper v Hart*.

Particularly in the last section of the book, it is unashamedly an expression of the author’s own particular point of view, rather than purporting to be a balanced presentation of all possible arguments on each issue. The reader is not, however, likely to be misled; a chapter entitled “the Pestilential Power of Precedent” is a fairly predictably one-sided presentation of the

argument in favour of innovation and experiment in legislative drafting. Since consistency has sufficient champions already, and appears to be advanced as a virtue that must be accepted without question, it is perhaps excusable to put the minority opposing view with a certain degree of force.

The reader of this book will not find in it a large quantity of highly technical material. At the outset the author explains his intention not to attempt to reinvent the wheel, and redirects the reader to a number of other sources of detailed and purely technical information. This is much more of a commentary based on experience, although it certainly aims along the way to expose a number of practical details that will not be found elsewhere, including in Erskine May or any of the other standard technical works.

It is hoped that the book will be of service to legal academics and practitioners, academics in the fields of politics and public affairs, and a range of others who need or wish to acquire additional information about how law is made.



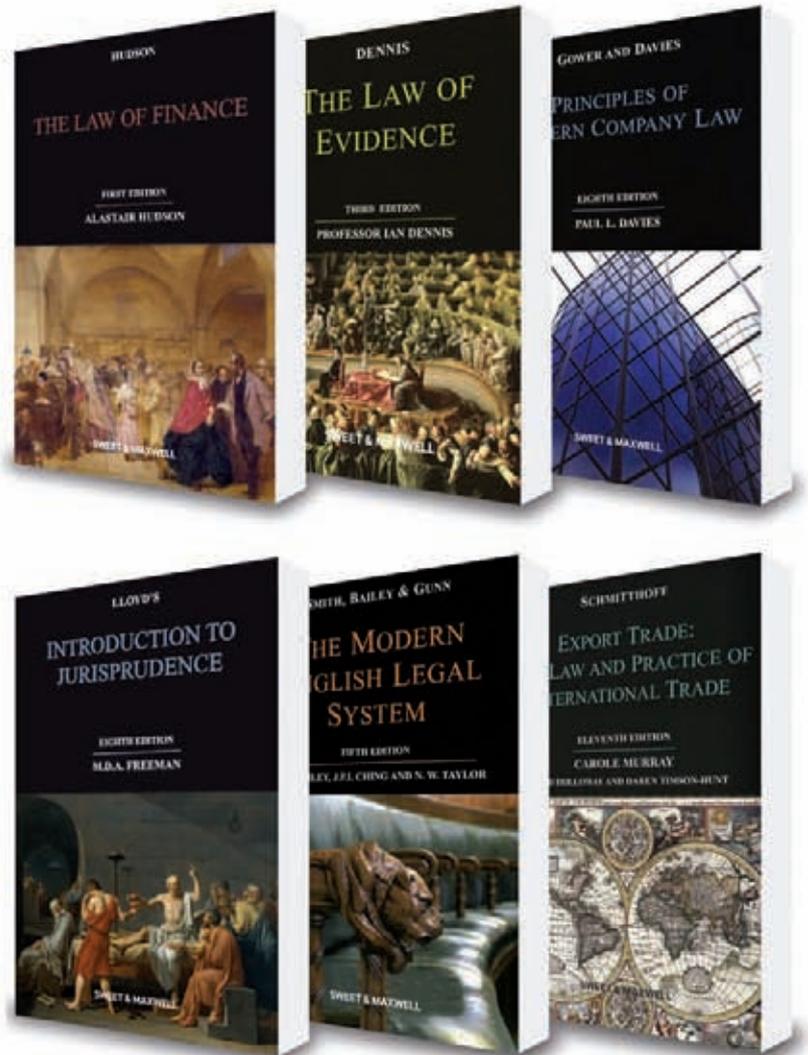
Daniel Greenberg is the author of **Laying Down the Law**, just published by Sweet & Maxwell. See page 15 for how to order your free inspection copy.

SWEET & MAXWELL'S CLASSIC SERIES

Providing students with the detailed and extensive coverage needed to achieve top marks

TITLES INCLUDE:

- Gower and Davies' Principles of Modern Company Law
- Schmitthoff's Export Trade: The Law and Practice of International Trade
- Treitel on the Law of Contract
- Smith, Bailey & Gunn on the Modern English Legal System
- Hanbury & Martin: Modern Equity
- Wyatt & Dashwood's European Union Law
- Dennis: The Law of Evidence
- Cretney's Principles of Family Law
- Cornish & Llewelyn Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights
- Morris: The Conflict of Laws
- Lloyd's Introduction to Jurisprudence
- Winfield & Jolowicz on Tort
- Craig: Administrative law
- Hudson: The Law of Finance
- Megarry & Wade: The Law of Real Property



Request your inspection copies today

CALL The Inspection Copy Hotline +44 (0) 20 7393 7293
EMAIL sweetandmaxwell.inspectioncopies@thomson.com
VISIT www.sweetandmaxwell.co.uk/lecturers-students

E-BOOKS HAVE BEEN THE NEXT BIG THING FOR SOME TIME

Chris Hendry, Head of Advanced Media, Sweet & Maxwell



eBooks have been the next big thing for some time, but so far, the printed book has proved remarkably resilient to the challenge from its upstart younger sibling. Portable, durable, easy to use, the printed book – whether Harry Potter or Glanville Williams – has a lot going for it. But how much longer can print hold out against a tide of new technology?

An eBook is an electronic version of a book which can be read on a computer screen or hand held device such as a dedicated eReader, tablet or smart mobile phone. For years, law publishers have produced e-versions of their leading titles via CD Rom and online subscription, but it is the experience of reading on dedicated hand held devices which may drive people away from print for good.

FALSE STARTS

In 2007, Sweet & Maxwell conducted a trial with a brand new reading device, the iRex iLiad. The iLiad was one of the first e-ink reading devices on the market. It could hold hundreds of books which would be read on an e-ink screen that replicated the experience of reading ink on paper. There was none of the subtle flickering or glare which can spoil the experience of reading on a computer monitor whilst the battery would last almost all day. In the hands of our volunteers, the device was put through its paces as a tool for legal research. The concept of the eReader was popular because it could reduce a whole library down to the weight of a paper-back, but in practice it was just too slow to respond to commands and navigation was a touch clunky. On balance, the overall experience of the print was still better and the iRex device is no more.

NEW TECHNOLOGY

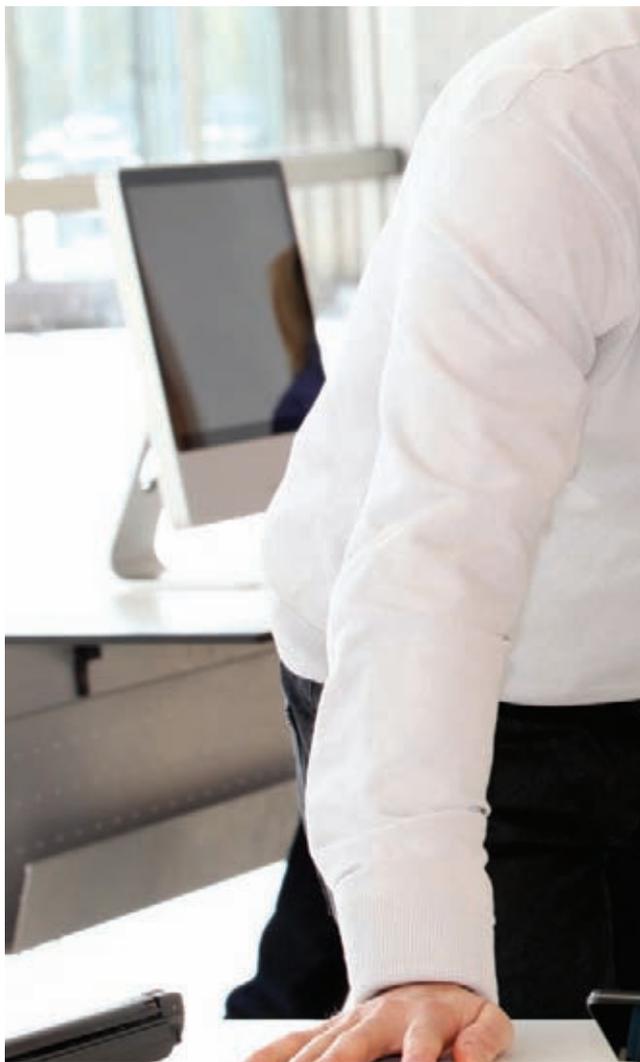
Fast forward 3 years and the technology has improved enormously. Amazon's e-ink Kindle now offers the user experience and price point which makes a dedicated reading device a tempting option. Apple's iPad offers an excellent reading experience and its launch has been incredibly successful, creating a multi-billion dollar market for tablet computers in a matter of weeks. Even large screened smart mobile phones can offer a decent reading experience. In the last twelve months, more smartphones were sold worldwide than laptop computers. Given current rates of growth, it is likely that these 'untethered' devices will collectively exceed the combined sales of laptop and desktop computers in just a couple of years' time. Suddenly, mobile technology can offer a user experience which is a viable alternative to print and device adoption is rapid.

These improvements to device technology have very quickly brought fresh demand for electronic law books. To students, eBooks bring an end to back breaking

journeys from home to campus with several kilos of text books. Practitioners see the benefits of being able to access a library of eBooks whilst working from home or on the train. The answers to obscure legal problems can be in your pocket rather than tucked away in the library. Pushed updates can automatically merge with the original text. Searches through whole books or even entire libraries can be done in fractions of a second and case and legislation citations can be linked to online databases. When the basics of navigation are mastered, these additional benefits build a compelling case for eBooks.

THE FUTURE OF THE BOOK

Does the book – whether in print or eBook format – have a long term place in a future driven more and



more by technology? For hundreds of years, publishers of legal content have been trying to answer the same question: what is the authority for that point? Lawyers now have access to thousands of databases and can conduct endless research to answer that question, but books remain the place where they can understand and appreciate the relationship between the authority and practice, between content and meaning. Books are ideal for quick 'look-ups' where one needs to double check recollections or confirm knowledge. Books are also great for gaining an initial orientation to a new area of law which may then lead to subsequent electronic searches. In short, books offer a quick and familiar way into an issue.

SWEET & MAXWELL LAUNCH

This year has seen the launch of 14 academic eBooks

from Sweet & Maxwell, with 40 more due by September. Across Thomson Reuters, more and more books are publishing in electronic formats and we are investing in technology which will enhance the user experience of eBooks.

eBooks are set to have a significant impact on the publishing industry and on the way we consume information; what is unclear is the speed and the magnitude of the change. As the technology develops and the market emerges, it will be fascinating to see this transition take place.

Find out more about Sweet & Maxwell's academic eBooks at www.sweetandmaxwell.co.uk/lecturers-students



KEY CONTACTS AT SWEET & MAXWELL



INSPECTION COPY SERVICE

ONLINE Order online at:
sweetandmaxwell.co.uk/lecturers-students

EMAIL Email your details & titles to:
sweetandmaxwell.inspectioncopies@thomson.com

PHONE Call our Inspection Copy Hotline on:
 +44 (0)20 7393 7293

FAX +44 (0)20 7393 7890

POST Inspection Copies, Sweet & Maxwell,
 FREEPOST LON 12091, London, NW3 4YS

YOUR LOCAL ACADEMIC SALES REP

South West England & Wales

Martin Reed

PHONE 07771 506 895
 EMAIL martin.reed@thomsonreuters.com

South East England, East Anglia,
 London and International

Dominic Smith

PHONE 07771 506 896
 EMAIL dominicsmith@thomsonreuters.com

Northern England, Midlands,
 Scotland, Ireland

Barbara Gerken

PHONE 07771 506 897
 EMAIL barbara.gerken@thomsonreuters.com

WESTLAW UK AND LAWTEL ENQUIRIES

Philippa Pritchett-Brown
 UK Academic Account Manager

PHONE 07702 319 730
 EMAIL philippa.pritchett-brown@thomsonreuters.com

WESTLAW UK AND LAWTEL TRAINING

Ambika Shekhawat
 Academic Trainer

EMAIL ambika.shekhawat@thomsonreuters.com
 PHONE 07818 595311

CUSTOMER SERVICES

Direct Customers:

EMAIL sweetandmaxwell.orders@thomson.com
 PHONE 0845 600 9355

Trade Customers:

EMAIL sweetandmaxwell.trade@thomson.com
 PHONE 0845 082 1032

International Customers:

EMAIL sweetandmaxwell.international@thomson.com
 PHONE +44 (0) 1264 388560

Westlaw UK and Lawtel Customers:

EMAIL customer.service@westlaw.co.uk
 for Westlaw UK; or
helpdesk@lawtel.com for Lawtel
 PHONE 0800 028 2200 for Westlaw UK;
 or 0800 018 9797 for Lawtel

PUBLISHING TEAM

Steven Warriner
 Publishing Manager

EMAIL steven.warriner@thomsonreuters.com
 PHONE 020 7393 7420

Nicola Thurlow
 Senior Publishing Editor

EMAIL nicola.thurlow@thomsonreuters.com
 PHONE 020 7393 4707

Amanda Strange
 Senior Publishing Editor

EMAIL amanda.strange@thomsonreuters.com
 PHONE 020 7393 7408

MARKETING

David Lloyd
 Senior Marketing Executive

EMAIL david.lloyd@thomsonreuters.com
 PHONE 020 7393 7366

EARN 6 CPD HOURS



REUTERS/Luke Macgregor

HUMAN RIGHTS LAW CONFERENCE 2011

THE COALITION AND THE COURTS IN CONFLICT

WEDNESDAY 19TH OCTOBER 2011, LONDON

FIND OUT WHAT'S NEW AND WHAT IT MEANS FOR YOUR WORK

- Update your knowledge of key areas – at popular updaters sessions on criminal law and judicial review
- Ensure you are aware of all the major developments – all the key new cases and relevant legislation
- Learn how the law is striking the balance in controversial and contested areas – such immigration, judicial review and privacy
- Get a glimpse of the future – as likely trends are highlighted and analysed and the effects of government policy are put under the microscope
- Discuss the issues that affect your work, and exchange experience and ideas with delegates from government departments, the legal profession and academia

SPECIAL
PRICE FOR
ACADEMICS



JUSTICE

For more information and to book your place,
visit sweetandmaxwell.co.uk/conferences-events or call 020 7393 7589

SWEET & MAXWELL



THOMSON REUTERS®



REUTERS / Nacho Doce

SWEET & MAXWELL E-BOOKS

INSPIRATION, WHENEVER YOU NEED IT

ACCESS ANYWHERE • SEARCH IN SECONDS • ANNOTATE WITH EASE

EVERYTHING IN SYNC

Available from the Amazon.co.uk Kindle store, your Sweet & Maxwell eBooks can be downloaded to all your devices. Whether you're on your PC, smartphone, iPod or eReader, you'll always have access to the information you need.

ANNOTATE EVERYWHERE

Any notes, highlights and bookmarks you make to your texts can be saved and synchronised with your other devices*. No transferring files, no packing books, no hassle.

MORE TIME TO LEARN

Read, revise and search entire texts wherever you are – in the library, at home, or on the go. Less time spent searching for information means more time to learn.

LAUNCH TITLES

14 titles are available now, with dozens more on the way. Exclusively available to purchase from amazon.co.uk Kindle eBooks store, free samples are available to download for every title.

Launch titles are as follows:

- Osborn's Concise Law Dictionary
- Glanville Williams: Learning the Law
- Morley: Devil's Advocate
- Harrison: From Student to Solicitor
- Robson and Wolfe: The Path to Pupillage
- Rogers: Winfield & Jolowicz on Tort
- Chuah: Law of International Trade
- Birds' Modern Insurance Law
- Mathijesen: Guide to European Union Law
- Parry and Kerridge: The Law of Succession
- Carey: Media Law
- Charlesworth's Company Law
- Hanbury & Martin: Modern Equity
- Dennis: The Law of Evidence

*Compatible devices. Requires internet connection.

sweetandmaxwell.co.uk/lecturers-students

SWEET & MAXWELL



THOMSON REUTERS™