

**Michael Furmston**

**Cheshire, Fifoot  
& Furmston's**

**Law of Contract**

**Fourteenth Edition**

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Cheshire, Fifoot and Furmston's  
**Law of Contract**

Fourteenth edition

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## Preface to the fourteenth edition

In historic terms, probably the most important development in English contract law since the thirteenth edition was marked by the passing of the Contract (Rights of Third Parties) Act 1999. This development is greatly to be welcomed and has necessitated some significant rewriting of Chapter 14. Its most important practical sign so far is a proliferation of clauses designed by cautious lawyers to exclude its effect, but it seems certain that in the long run it will have major effects on how English lawyers view contract law.

The House of Lords has continued to provide a flow of fascinating cases which have included: *BCC v Ali*, *Attorney General v Blake*, *Co-op Insurance v Argyll Stores*, *Equitable Life v Hyman*, *Investors Compensation Scheme v West Bromwich Building Society*, *Johnson v Unisys*, *Malik v BCCI*, *Platform Home Loans v Oyston Shipways*, *Smith New Court v Scrimgeour Vickers*, *South Australia Asset Management v York Montagu*, *Stocznia Gdanska v Latvian Shipping*. There have of course been even more important decisions of lower courts.

In previous editions, the material relating to competition law was spread between Chapters 10, 11 and 12. Although the material on the common law of restraint of trade remains in Chapter 12, all the rest of the material has been drawn together in Chapter 10 and the relevant part of that chapter has been written by my colleague Brenda Sufrin, Reader in Law at the University of Bristol. Without the knowledge of her sure guidance, I should not have embarked on this change, necessary as it seems to be. I am most grateful for her assistance. Syed Saif Mahmood, Advocate of the Supreme Court of India, provided some invaluable research assistance in finding references in periodical literature. Margaret Baillie has as usual transcribed the illegible writing and deciphered incoherent dictation in an invaluable fashion. My wife, my ten children and my four grandchildren have all in different ways provided support, encouragement and patience in the face of anti-social absences. The staff at Butterworths have been both more supportive and more patient than I deserve. I am grateful to them all and also to generations of students whose questioning of my attempts to explain the law of contract continues to make an invaluable contribution.

MP Furmston  
Bristol  
October 2001

## Preface to the first edition

Paley, in the preface to his once celebrated *Principles of Moral and Political Philosophy*, remarks that 'when a writer offers a book to the public upon a subject on which the public are already in possession of many others, he is bound by a kind of literary justice to inform his readers, distinctly and specifically, what it is he professes to supply and what he expects to improve'. If we are to obey the first of these injunctions, we must say boldly that we profess to examine the principles underlying the English law of contract, to indicate the difficulties which surround their application, to illustrate them from the accidents of litigation and the practices of life, where such a course seems profitable, to justify or excuse their vagaries by a reference to their history. To answer the second and more invidious injunction, we hasten to disown with Paley 'any propensity to depreciate the labours of our predecessors, much less to invite a comparison between the merits of their performances and our own'; but we suggest that, even on so well-trodden a road, there is room for a new guide. *Anson on Contract*, for example, has directed the steps, not only of the present authors, but of generations of pupils. But the very success which has demanded the publication of eighteen editions has in some measure impaired its utility, and a mode of treatment, apposite sixty years ago, may be thought out of focus with present needs. *Pollock on Contract*, on the other hand, while it retains through successive editions the inimitable imprint of its distinguished author, does not profess to be comprehensive, and for this reason cannot be offered without support to the student.

Whether we have made out a case for a new book on contract, still less whether we have succeeded in supplying it, is not for us to say. Once more to quote Paley, 'of the execution the reader must judge; but this was the design'. But we must be allowed one word of apology. The preparation of our book has been unduly protracted by the alarms and excursions of the last six years. Set aside in the early stages of the war, it was later resumed and had then to be largely rewritten. We are conscious that it has suffered in the process and that signs of over-writing may be apparent. Unexpected delays have aggravated the difficulty, always anxious, of absorbing current developments in Parliament and in the courts, the business world and in professional literature, and have accentuated the feeling, ever present to authors of textbooks, that they may pursue, but can never overtake, the fleeting vision of the law. We may only hope that we have set an established subject in the new perspective, neither disdaining older authorities where they are valuable nor citing new cases merely because they are novelties.

It is customary for authors to lighten their labours and resolve their doubts by importuning friends more learned than themselves. We are conscious that many of our colleagues, well qualified to advise, would have corrected our errors. But in the special circumstances in which the book had to be written, we felt constrained to forego this advantage and to accept, for good or ill, the consequences of isolated judgment. We cannot, however, refrain from acknowledging our debt to Mr F H Lawson MA, Fellow of Merton College, Oxford, whose gift of illuminating a dark problem by a quick and penetrating observation has offered us fruitful suggestions which we have gratefully accepted. It is perhaps proper to add that, while each chapter has been separately prepared by one of the authors and then subjected to the criticism of the other, we accept joint and several liability for the whole.

G C Cheshire  
C H S Fifoot  
Oxford  
June 1945

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