

# Law in 101 words

## Snippets from *The Reduced Law Dictionary*, by **Roderick Ramage**

### Case citation dates

Square brackets are used in full case citations, if the year is integral to locating the report (eg [2010] 2 All ER 123). Round brackets are used where the year is not required, usually because there is a unique volume number regardless of year (eg (2008) 11 CCLR 218). Where a full citation is not given but only the year is cited, the year of the hearing is usually shown in round brackets. On occasions both may be used, eg, if the hearing date is so far removed from the reported date that it is felt necessary to give both.

### Dealing with wingers

This was written by a bus company:

Dear Sir,  
We acknowledge receipt of your letter of the 10th inst claiming compensation for injuries to your daughter Jane on the school bus that morning. Jane is well known to our drivers. She is a pesky little nuisance and will never do what she is told. If she wouldn't sit down when told to it serves her right that she fell and got hurt. So we respectfully suggest that you fuck off.  
Yours faithfully

I would have given the writer a medal, but the company's cowardly management disciplined him.

### Equity looks on that as done which ought to be done

This maxim applies where something is agreed but had not actually been done. "The doctrine cannot in its application to contracts...be permitted to turn the conditional into the absolute, the optional into the obligatory, or to make for the parties contracts different from those they have made for themselves. What a party to a contract ought to do, within the true meaning of this doctrine, is what he has contracted to do, and nothing more and nothing less is to be taken in the equity to be done": *De Beers v British South Africa Co* [1912] AC 52, per Lord Atkinson.

### Guilty until proven innocent

The employer's duties under s 2 and s 3 of the Health and Safety at Work etc. Act 1974 (to ensure the health and safety at work of all employees and that persons not in the employer's employment are not exposed to risks to their health and safety) "describe a result which the employer must achieve or prevent". A death or injury at work shows that the result was not achieved, so the employer is in breach of duty unless he can show that it was not reasonably practicable for him to do more than was done. *R v. Chagot Limited* [2008] UKHL 73, [2009] 2 All ER 645.

### How long is the law?

A preacher at the Great Hucklow Chapel illustrated his sermon by saying that it needs more or less 30 million laws to enforce the Ten Commandments. This, I guess, is how

## “ According to *The Justice of the Peace and Parish Officer* 'esquires' in English law included...barristers (but not solicitors) ”

it came about. Geometric progression. The Lord's Prayer, in the King James's version, is 56 words long, and the Ten Commandments take 296. Many centuries later the Americans, at Gettysburg, needed 1,337 words for their Declaration of Independence, but for real progress we had to wait for the bureaucrats at Brussels, who used up 27,586 words in their Regulation on the Addition of Caramel Derivatives in Wheat and Barley Products.

### Measures in TUPE

Regulation 13(4) of TUPE requires transferees to notify the transferor of any measures that they envisage making, and reg 13(2)(c)(d) requires the transferee to notify them to the appropriate representatives of the employees affected

and to consult with them with a view to seeking agreement. In *Todd v Strain* [2011] IRLR 11, [2010] All ER (D) 108 (Oct), the transferee envisaged a change to the employees' pay date, which was not to their disadvantage. TUPE does not require the measure to be disadvantageous or material, so the change was a "measure". EAT reduced the award against the transferor, which alone was at fault, from 13 to seven weeks' pay.

### Mr or Esq

According to Burn, Richard; Chitty, J.; Black, Philip (1975, reprint of the 1831 edition) *The Justice of the Peace and Parish Officer*, "esquires" in English law then included:

- the eldest sons of knights;
- the eldest sons of younger sons of peers, and their eldest sons;
- esquires created by letters patent and their eldest sons;
- esquires by virtue of their offices, such as Justices of the Peace, and others who bear any office of trust under the Crown;
- esquires of knights constituted at their investiture;
- foreign noblemen;
- persons who are so styled under the Royal sign manual; and
- barristers (but not solicitors).

### Teacakes & VAT

In 1994 HMRC conceded that it had wrongly classified marshmallow teacakes as biscuits liable to standard rate, whereas they should have been classified as cakes and zero rated. M&S claimed a repayment of £3.5m, but the VAT tribunal decided that a refund in excess of 10% would be unjust enrichment as M&S's customers had been charged VAT. Thirteen years of litigation included two forays to the ECJ, which left issues to be decided locally. HMRC decided not to pursue them, so M&S won its appeal to the HL in *M&S v HMRC* [2009] UKHL 8, [2009] 1 All ER 939. Jaffa cakes were tax free from 2003.

NLJ

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