

Law in 101 words

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

Arbitrator not biased

The arbitrator in *A v B and X* (2011) had previously received instructions from the respective solicitors for each of the parties to the arbitration, and was currently instructed by one of them in proceedings, which had nothing to do with the arbitration. The other solicitors applied to the court to have him removed on the grounds of doubts about his impartiality. The application was dismissed. Clear and credible evidence is needed to meet the common law test of bias under s24(1)(a) of the Arbitration Act 1996. Instructions by one solicitor in another case do not automatically point to a bias.

Barristers' immunity

- 1772, *R v Skinner*: "Neither party, witness, counsel, jury or judge can be put to answer, civilly or criminally, for words spoken in court."
- 1967, *Rondel v Worsley*: no action lay against a barrister for his work in court.
- 1989, *Saif Ali v Sydney Mitchell & Co*: a barrister's immunity from suit extended to preliminary decisions affecting the way in which the cause was conducted at hearing.
- 2002, *Arthur Hall v Simmons*: Apart from defamation claims, that immunity no longer serves a useful purpose.
- 2011, *Jones v Kaney*: The immunity of expert witnesses should be abolished except in relation to defamation.

Beneficiary signing the will

Martin Benn made his will in hospital three hours before he died and left all his estate to his sister Anne Benn. He was of sound mind but physically so frail that his hand trembled and he could not sign the will. His sister signed it, with his hand merely touching the pen or her hand. The beneficiaries on intestacy challenged its validity. In *Barrett v Benn* (2011) it was held that, although a beneficiary cannot witness a will, there is nothing in the Wills Act 1827 s9(a) to

prohibit a beneficiary from signing a will on the testator's behalf.

Breathing space

The cabin of a canal boat used as a dwelling must provide not less than 60 cubic feet of free air space for each person above the age of 12 and not less than 40 cubic feet for each child under that age, except that if the boat was built before 30 June 1873 the free air space for each child under the age of 12 years shall be deemed sufficient if it is not less than 30 cubic feet. The paint on every interior surface must be thoroughly renewed at least once in every three years. Canal Boat Regulations 1878.

Cut price law and insurance

Compulsory PI insurance for solicitors was introduced in 1975 with the master policy. The very suggestion of insurance caused great offence. It was an affront to our professional integrity, fulminated indignant solicitors in letters to the LSG. Back then few people changed their solicitors, fewer sued them and shopping round on price was unknown. In time, people took advice in order to transfer risk to their solicitors' insurers, and we started to worry more about our insurers than our clients. Today's pile 'em high, sell 'em cheap law factory services can be provided only in total reliance on our insurance policies.

Damaging railways

The defendants caused railway lines to be out of use, in one case by damaging an overhead bridge and in the other electrical gear at a level crossing, and admitted liability for the repairs. They disputed the claim for compensation by Network Rail to the train operating companies for the loss of use of the track. The compensation was assessed and paid under track access agreements. In *Network Rail v Conarken and v Farrell* (2011), the CA held that this loss and the compensation for it were reasonably foreseeable and, in the circumstance of this case, the compensation was recoverable.

Guilty until proven innocent

The employer's duties under s2 and s3 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 Chargot Limited* (2008), HL. NLJ

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