

LIONEL D. SMITH

List of Publications
March 2019

□ Books

Waters' Law of Trusts in Canada, 4th edition; with Donovan Waters and Mark Gillen (Toronto: Thomson/Carswell, 2012). As in the 3rd edition (2005), I was responsible for chapters 10-11, 17-21, 23-30, and the appendices.

Canadian Corporate Law: Cases, Notes and Materials, 4th edition; with Bruce Welling and Leonard Rotman (Toronto: LexisNexis Canada, 2010). In this edition, I was responsible for chapters 5, 6, and 7. I also participated, with different responsibilities and co-authors, in the first (1996), second (2001) and third (2006) editions.

Oosterhoff on Trusts: Text, Commentary and Materials, 7th edition; with Albert Oosterhoff, Robert Chambers, and Mitchell McInnes (Toronto: Thomson/Carswell, 2009). In this edition, I was responsible for chapters 1, 10 and 15. I also participated, with different responsibilities, in the 6th edition (2004).

Commercial Trusts in European Private Law; with Michele Graziadei and Ugo Mattei (Cambridge: Cambridge University Press, 2005; paperback edition, 2009). The three co-authors wrote together sections 1 and 2 in Part I, and Part III, and edited the book, to which there were 22 other contributors. I am the sole author of the sections on English law. Reviews: (2006), 31 *European Law Review* 608; (2006), 20 *Trust Law International* 284; (2007), 11 *Edinburgh Law Review* 135.

The Law of Restitution in Canada: Cases, Notes and Materials; with Robert Chambers, Mitchell McInnes, Jason Neyers and Stephen Pitel (Toronto: Emond Montgomery, 2004). I was responsible for chapters 1, 2, 3, 6, 7 and 8.

The Law of Tracing (Oxford: Clarendon Press, 1997). Reviews: (1997), 11 *Trust Law International* 116; (1998), 114 *Law Quarterly Review* 331; (1998), 57 *Cambridge Law Journal* 218; (1998), 36 *Alberta Law Review* 810; (1999), 13 *Banking and Finance Law Review* 625; review article: (1999), 21 *Dublin University Law Journal* 131.

□ Editing

Law and the New Logics; with H. Patrick Glenn (Cambridge: Cambridge University Press, 2017; paperback edition, 2018), a collection of essays (with my preface (xi-xiv) and a chapter, listed separately below). Review: (2017), 76 *Cambridge Law Journal* 678.

Comparative Property Law: Global Perspectives; with Michele Graziadei (Cheltenham: Edward Elgar, 2017; paperback edition, 2018), a collection of 21 essays (with editors' preface, x-xiii). Review: 2018 *Revue trimestrielle de droit civil* 759.

Les apparences en droit civil; with Anne-Sophie Hulin and Robert Leckey (Montreal: Les Éditions Yvon Blais, 2015), a collection of essays (with editors' introduction, ix-xii) arising out of the Civil Law Workshops for 2012-2014.

Archives of the Civil Code Revision Office of Quebec / *Les archives de l'Office de révision du Code civil du Québec*, online at <<http://digital.library.mcgill.ca/ccro>>. Under the aegis of the Paul-André Crépeau Centre for Private and Comparative Law, I directed the digitization of the roughly 4,000 documents in this archive, and in collaboration with McGill's Library Technology Services, the creation of a freely accessible and searchable web site.

L'affectation: special issue of the *Revue juridique Thémis*, (2014) 48 *Revue juridique Thémis* 531-656, a collection of essays (with an introduction, co-authored with Alexandra Popovici (533-536)) arising out of a workshop on *l'affectation en droit*, Faculty of Law, McGill University, 1 October 2012.

Les intraduisibles en droit civil; with Alexandra Popovici and Régine Tremblay (Montreal: Les Éditions Thémis, 2014), a collection of essays (with editors' introduction, ix-xii) arising out of the Civil Law Workshops for 2010-2012.

The Civil Law Trust / La fiducie en droit civil: special issue of the *McGill Law Journal*, (2013) 58 *McGill Law Journal* 793-966 (with editor's introduction (793), and an article listed separately below).

The Worlds of the Trust (Cambridge: Cambridge University Press, 2013), a collection of 22 essays (with editor's preface (xi-xiii) and note on translation (xiv-xvi), and a chapter listed separately below) arising out of the conference "The Worlds of the Trust/*La fiducie dans tous ses États*", Faculty of Law, McGill University, 23-25 September 2010.

Re-imagining the Trust: Trusts in Civil Law (Cambridge: Cambridge University Press, 2012), a collection of six essays (with editor's introduction (1-6) and a chapter, listed separately below) arising out of the Civil Law Workshops for 2008-2009.

Le droit civil et ses codes : parcours à travers les Amériques; with Jean-Frédéric Ménard and Jimena Andino Dorato (Montreal: Les Éditions Thémis, 2011), a collection of essays (with editors' introduction, ix-xiv) arising out of the Civil Law Workshops for 2009-2010.

Restitution (Burlington: Ashgate, 2001; ebook edition: Routledge, 2018), a collection of essays (with editor's introduction, xi-xix) in the series *International Library of Essays in Law and Legal Theory, Second Series*.

Ruled by Law [:] *Essays in Memory of Mr. Justice John Sopinka*, a collection of essays (with editor's introduction, vii-x) issued as a special edition of the *Supreme Court Law Review* ((2000), 12 S.C.L.R. (2d)). Reprinted as a freestanding book (Toronto: Butterworths Canada, 2003). My essay is listed separately below.

"An Essay on the Action for Money Had and Received" by Sir William Evans, published 1802; edited reprint, with Peter Birks and Francis Rose, in [1998] *Restitution Law Review* 1-33.

▣ Articles and Chapters

- “Restitution: A New Start?”, ch. 5 in P. Devonshire and R. Havelock, eds., *The Impact of Equity and Restitution in Commerce* (Oxford: Hart, 2018) 91-117. This paper was presented as a keynote address at a colloquium at the University of Auckland, 18-19 September 2017.
- “Prescriptive Fiduciary Duties” (2018), 37 *University of Queensland Law Review* 261-287. This paper was presented as a Current Legal Issues Seminar, Supreme Court of Queensland, Brisbane, 17 May 2018.
- “Give the People What They Want? The Onshoring of the Offshore” (2018), 103 *Iowa L. Rev.* 2155-2174, with [open access](#). This is the revised text of the Tamisiea Lecture in Wealth Transfer Law, given at the College of Law, University of Iowa, 8 September 2017.
- “Pierre-Basile Mignault, « L’enrichissement sans cause »”, in B. Lefebvre and B. Moore, eds., *Les grands classiques du droit civil : Les grands textes* (Montreal : Les Éditions Thémis, 2018) 219-249 (text in French). This is the revised text of a lecture given at the Faculty of Law, Faculty of Law, *Université de Montréal*, 2 November 2016.
- “Powership and its Objects”, in A.J.M. Steven, R.G. Anderson, and J. MacLeod, eds., *Nothing So Practical As A Good Theory: Festschrift for George L. Gretton* (Edinburgh: Avizandum Publishing, 2017) 223-234. This paper was presented at a Conference in Honour of Professor George Gretton, University of Edinburgh, 1 December 2017.
- “Massively Discretionary Trusts” (2017), 70 *Current Legal Problems* 17-54, with [open access](#); reprinted as ch. 5 in R.C. Nolan, K.F.K. Low, and T.H. Wu, eds., *Trusts and Modern Wealth Management* (Cambridge: Cambridge University Press, 2018) 130-168. This paper was presented as a Current Legal Problems lecture, University College London, 21 May 2015, and also at a Conference on “Modern Studies in the Law of Trusts and Wealth Management”, Singapore, 30-31 July 2015.
- “Droit et pouvoir”, ch. 5 in A.-S. Hulin and R. Leckey, eds., *L’abnégation en droit civil* (Montreal: Les Éditions Yvon Blais, 2017) 109-131 (text in French). This paper was given as an *Atelier de droit civil*, McGill University, 24 November 2014.
- “Law and Equity: Chunk and Permeate?”, ch. 9 in L. Smith and H. Patrick Glenn, eds., *Law and the New Logics* (Cambridge: Cambridge University Press, 2017) 181-195. This paper was presented at a workshop on “Law and the New Logics”, Netherlands Institute of Advanced Study, Wassenaar, Netherlands, 17-18 June 2011.
- “Contract, Consent, and Fiduciary Relationships”, ch. 5 in P.B. Miller and A.S. Gold, eds., *Contract, Status and Fiduciary Law* (Oxford: Oxford University Press, 2016) 117-138. This paper was presented at a workshop on “Contract, Status and Fiduciary Law”, Faculty of Law, McGill University, 6-7 November 2015 and at a workshop on “Contract and Fiduciary Duty: Two Things or Just One?”, University College London, 9 July 2015.

- “The Duties of Trustees in Comparative Perspective” (2016), 24 *European Review of Private Law* 1031-1052; also published in Czech (translation by the editor) as “Povinnosti Správců – Srovnávací Analýza” in L. Tichý, ed., *Svěřenský fond a trust – jejich fungování v mezinárodním srovnání [The Czech Trust Fund and the Trust: Comparative Perspectives on their Operation]* 81-100 (Prague: Charles University Press, 2016). This paper was presented at a conference on “The Functioning of the Trust”, Charles University, Prague, 15-16 May 2015.
- “What is Left of the Non-Delegation Principle?”, ch. 9 in B. Häcker and C. Mitchell, eds., *Current Issues in Succession Law* (Oxford: Hart, 2016) 209-229. This paper was presented at a conference on “Current Issues in Succession Law”, All Souls College, Oxford, 10-11 July 2015.
- “Will-Substitutes and Creditors: Canada and the US”, ch. 12 in A. Braun and A. Röthel, eds., *Passing Wealth on Death: Will-Substitutes in Comparative Perspective* (Oxford: Hart, 2016) 251-265. This paper was presented at a conference on “Will-Substitutes from a Comparative Perspective”, Oxford, 27-28 March 2015.
- “Defences and the Disunity of Unjust Enrichment”, ch. 2 in A. Dyson, J. Goudkamp and F. Wilmot-Smith, eds., *Defences in Unjust Enrichment* (Oxford: Hart, 2016) 27-51. This paper was presented at a conference on “Defences in Unjust Enrichment”, All Souls College, Oxford, 9-10 January 2015.
- “Intestate Succession in Quebec”, ch. 3 in K.G.C. Reid, M. de Waal, and R. Zimmermann, eds., *Comparative Succession Law vol. II: Intestate Succession* (Oxford: Oxford University Press, 2015) 52-66. This paper was presented at a conference on Intestate Succession, Faculty of Law, Edinburgh University, 12-13 July 2013.
- “Loyalty and Politics: From Case Law to Statute Law” (2015), 9 *Journal of Equity* 130-149. This paper was presented (by teleconference) at a workshop on “Equity in the Age of Statutes”, Faculty of Law, University of Melbourne, 27 February 2015.
- “The State of the Law of Unjust Enrichment in Common Law Canada” (2015), 57 *Canadian Business Law Journal* 39-57.
- With Jeff Berryman, “Disgorgement of Profits in Canada”, ch. 16 in E. Hondius and A. Janssen, eds., *Disgorgement of Profits: Gain-Based Remedies Throughout the World* (Cham, Switzerland: Springer, 2015) 281-297.
- With Alexandra Popovici, “Lepaulle Appropriated”, ch. 2 in R. Valsan, ed., *Trusts and Patrimonies* (Edinburgh: Edinburgh University Press, 2015) 13-41. This text comprises an English translation (18-41) of the first chapter of Pierre Lepaulle’s *Traité théorique et pratique des trusts* (1932), along with a translators’ introduction (13-17).
- “Canada: The Rise of Judgments with Suspended Effect”, ch. 11 in E. Steiner, ed., *Comparing the Prospective Effect of Judicial Rulings Across Jurisdictions* (Cham, Switzerland: Springer, 2015) 247-259.

“Fiduciary Relationships: Ensuring the Loyal Exercise of Judgement on Behalf of Another” (2014), 130 *Law Quarterly Review* 608-634.

“Can We Be Obligated to be Selfless?”, ch. 6 in A.S. Gold and P.B. Miller, eds., *Philosophical Foundations of Fiduciary Law* (Oxford: Oxford University Press, 2014) 141-158. This paper was presented at a conference on “Philosophical Foundations of Fiduciary Law”, Faculty of Law, De Paul University, Chicago, 19-20 July 2013.

“Peter Birks and Comparative Law” (2013), 43 *Revue de droit de l'Université de Sherbrooke* 193-208. This paper was presented at a conference for the 50th Anniversary of the Québec Society of Comparative Law, Faculty of Law, University of Sherbrooke, 27-29 October 2011.

“Deterrence, Prophylaxis and Punishment in Fiduciary Obligations” (2013), 7 *Journal of Equity* 87-104.

“Unauthorized Dispositions of Trust Property: Tracing in Quebec Law” (2013), 58 *McGill Law Journal* 795-809.

“Scottish Trusts in the Common Law” (2013), 17 *Edinburgh Law Review* 283-313, reprinted as ch. 7 in R. Valsan, ed., *Trusts and Patrimonies* (Edinburgh: Edinburgh University Press, 2015) 127. This is the revised text of the W.A. Wilson Memorial Lecture given at the Faculty of Law, University of Edinburgh, 7 December 2010.

“Security”, ch. 5 in A. Burrows, ed., *English Private Law*, 3rd edition (Oxford: Oxford University Press, 2013) 307-377. I wrote the same chapter in the 1st edition (P.B.H. Birks, ed.; 2000) and the 2nd edition (2007).

“Stateless Trusts”, ch. 5 in L. Smith, ed., *The Worlds of the Trust* (Cambridge: Cambridge University Press, 2013) 89-100. This paper was presented at a conference on “The Worlds of the Trust/*La fiducie dans tous ses États*”, Faculty of Law, McGill University, 23-25 September 2010.

“*North-West Transportation Co. Ltd. v. Beatty*”, ch. 13 in C. Mitchell and P. Mitchell, eds., *Landmark Cases in Equity* (Oxford: Hart Publishing, 2012) 393-422. This paper was presented at a conference on “Landmark Cases in Equity”, Faculty of Law, University College London, 8-9 April 2011.

“Legal Epistemology in the *Restatement (Third) of Restitution and Unjust Enrichment*” (2012), 92 *Boston University Law Review* 899-917. This paper was presented at a conference to mark the publication of the *Restatement Third, Restitution and Unjust Enrichment*, Faculty of Law, Boston University, 16-17 September 2011.

“The Re-imagined Trust”, ch. 7 in L. Smith, ed., *Re-imagining the Trust: Trusts in Civil Law* (Cambridge: Cambridge University Press, 2012) 258-273.

“Common Law and Equity in *Restatement (3d) of Restitution and Unjust Enrichment*” (2011), 68 *Washington and Lee Law Review* 1185-1202.

- “Mistaking the Trust” (2010), 40 *Hong Kong Law Journal* 787-804. This is the revised text of the Peter Willoughby Memorial Lecture given at the Faculty of Law, University of Hong Kong, on 9 March 2010.
- “The Measurement of Compensation Claims Against Trustees and Fiduciaries”, ch. 16 in E. Bant and M. Harding, eds., *Exploring Private Law* (Cambridge: Cambridge University Press, 2010) 363-376.
- “Simplifying Claims to Traceable Proceeds” (2009), 125 *Law Quarterly Review* 338-348. This paper was presented to the Oxford Private Law Discussion Group, Oxford, 23 February 2009.
- “Philosophical Foundations of Proprietary Remedies”, ch. 10 in R. Chambers, C. Mitchell and J. Penner, eds., *Philosophical Foundations of Unjust Enrichment* (Oxford: Oxford University Press, 2009) 281-305. This paper was presented at a conference on “Philosophical Foundations of Unjust Enrichment”, King’s College, London, 11-12 April 2008.
- “Trust and Patrimony” (2008), 38 *Revue générale de droit* 379-403; reprinted with minor changes at (2009), 28 *Estates, Trusts and Pensions Journal* 332-354 and as ch. 3 in R. Valsan, ed., *Trusts and Patrimonies* (Edinburgh: Edinburgh University Press, 2015) 42-61. Japanese translation by H. Watanabe: (2011), 86 *Quarterly Review of Corporation Law and Society* 257-282 (Waseda University, Japan). This paper was presented at the Workshop on Terminology and Property Models in the 21st Century, McGill University, 21 September 2006, and the 2nd Congress of the World Society of Mixed Jurisdiction Jurists, University of Edinburgh, 30 June 2007.
- “Unjust Enrichment: Big or Small?”, ch. 2 in S. Degeling and J. Edelman, eds., *Unjust Enrichment in Commercial Law* (Pymont, N.S.W.: Lawbook Co., 2008) 35-52. This paper was presented at a conference on “Restitution in Commercial Law”, Sydney, 3-5 August 2007.
- With Remus Valsan, “The Loyalty of Lawyers: A Comment on *3464920 Canada Inc. v. Strother*” (2008), 87 *Canadian Bar Review* 247-269.
- “Can I Change My Mind? Undoing Trustee Decisions” (2008), 27 *Estates, Trusts and Pensions Journal* 284-305. This paper was presented at an Ontario Bar Association conference on “Trusts, Trustees and Trusteeships”, Toronto, 24 September 2007 and also to meetings of the Society of Trust and Estate Practitioners in Halifax, 18 September 2008, and Moncton, 19 September 2008.
- “Public Justice and Private Justice: Restitution after *Kingstreet*” (2008), 46 *Canadian Business Law Journal* 11-35. This paper was presented at the Thirty-seventh Annual Workshop on Commercial and Consumer Law, Toronto, 19-20 October 2007.
- “Demystifying Juristic Reasons” (2007), 45 *Canadian Business Law Journal* 281-304. This paper was presented at the Thirty-sixth Annual Workshop on Commercial and Consumer Law, Banff, 27-28 October 2006.

- “Tracing”, ch. 7 in Lord Rodger of Earlsferry and A. Burrows, eds., *Mapping the Law [:] Essays in Memory of Peter Birks* (Oxford: Oxford University Press, 2006) 119-139.
- “The Rationality of Tradition”, ch. 14 in T. Endicott, J. Getzler, and E. Peel, eds., *Properties of Law [:] Essays in Honour of James Harris* (Oxford: Oxford University Press, 2006) 297-313.
- “Fusion and Tradition”, ch. 2 in S. Degeling and J. Edelman, eds., *Equity in Commercial Law* (Sydney: Thomson/Law Book Co., 2005) 19-39. This paper was presented at a conference on “Fusion: The Interaction of Common Law & Equity in Commercial Law”, Sydney, 16-18 December 2004.
- “The Trust Between Common Core and Common Law”, in *Le trust en droit international privé : perspectives suisses et étrangères*, vol. 52 of the publications of the Swiss Institute of Comparative Law (Geneva: Schulthess, 2005) 29-40. This paper was presented at the *17ème Journée de droit international privé de l’Institut suisse de droit comparé : « Le trust en droit international privé »*, Lausanne, 18 March 2005.
- Report for England and Wales in M. Graziadei, U. Mattei, and Lionel Smith, eds., *Commercial Trusts in European Private Law* (Cambridge: Cambridge University Press, 2005; paperback edition, 2009). In addition to being one of the editors of this book, I am the sole author of the sections dealing with English law.
- “The Timing of Injustice”, in D. Dyzenhaus and M. Moran, eds., *Calling Power to Account: Law, Reparations and the Chinese Canadian Head Tax Case* (Toronto: University of Toronto Press, 2005) 287-306. This paper was presented at a conference on “Achieving Human Rights in a Multicultural Society: Reparations, Human Rights and the Limits of Law”, Faculty of Law, University of Toronto, 12-13 April 2003.
- “Understanding Specific Performance”, ch. 10 in E. McKendrick and N. Cohen, eds., *Comparative Remedies for Breach of Contract* (Oxford: Hart Publishing, 2005) 221-233.
- “Unravelling Proprietary Restitution” (2004), 40 *Canadian Business Law Journal* 317-338. This paper was presented at the Thirty-third Annual Workshop on Commercial and Consumer Law, Toronto, 17-18 October 2003.
- “Understanding the Power”, ch. 4 in W. Swadling, ed., *The Quistclose Trust: Critical Essays* (Oxford: Hart Publishing, 2004) 67-76. This paper was presented at a symposium on *Quistclose* Trusts, All Souls College, Oxford, 30 November 2002.
- Canadian Editor of the *Restitution Law Review*, 1993–2003. This involved a detailed analysis of developments in Canadian restitution law in each annual volume of the *Review*.
- “The Motive, Not the Deed”, ch. 4 in J. Getzler, ed., *Rationalizing Property, Equity and Trusts [:] Essays in Honour of Edward Burn* (London: Butterworths, 2003) 53-81.
- “Restitution”, ch. 3 in P. Cane and M. Tushnet, eds., *Oxford Handbook of Legal Studies* (Oxford: Oxford University Press, 2003) 48-61.

“Transfers”, ch. 5 in P. Birks and A. Pretto, eds., *Breach of Trust* (Oxford: Hart Publishing, 2002) 111-138. Also published in *Global Jurist*: <<http://www.degruyter.com/view/j/gj>>, vol. 1, no. 1, article 3. This paper was presented at a Symposium on “Breach of Trust” at All Souls College, Oxford, 19 April 2001.

“Unjust Enrichment, Property and Subsidiarity”, ch. 21 in D. Johnston and R. Zimmermann, eds., *Unjustified Enrichment: Key Issues in Comparative Perspective* (Cambridge: Cambridge University Press, 2002; paperback edition, 2010) 588-623. This paper was presented at a conference on “Comparative Law of Unjustified Enrichment”, Christ’s College, Cambridge, 7-9 April 1999.

“Restitution: The Heart of Corrective Justice” (2001), 79 *Texas Law Review* 2115-2175. This paper was presented at a Symposium on Restitution at the Faculty of Law, University of Texas, 12-13 January 2001.

“Relief Against Forfeiture: A Restatement” (2001), 60 *Cambridge Law Journal* 178-199. This paper was presented at a Workshop on “19th Century Commercial Law in 21st Century Asia”, Faculty of Law, University of Hong Kong, 1-2 June 2000.

“Unjust Enrichment, Property and the Structure of Trusts” (2000), 116 *Law Quarterly Review* 412-444.

With Kit Barker, “Unjust Enrichment”, ch. 21 in D. Hayton, ed., *Law’s Future(s)* (Oxford: Hart Publishing, 2000) 411-432.

With Robert Stevens, “La acción pauliana en Derecho inglés” [“*Actio Pauliana* in English Law”] ch. 5 in J.J. Forner Delagua, ed., *La Protección del Crédito en Europa: La Acción Pauliana [The Protection of Creditors in Europe: The Actio Pauliana]* (Barcelona: Bosch, 2000) 95-111 [Spanish translation by editor], 195-208 [original English version]. This paper was presented at a Workshop on the Actio Pauliana in European Law, Faculty of Law, University of Barcelona, 17 September 1999.

“The Mystery of ‘Juristic Reason’ ” (2000), 12 *Supreme Court Law Review* (2d) 211-244; reprinted in L. Smith, ed., *Ruled by Law [:] Essays in Memory of Mr. Justice John Sopinka* (Toronto: Butterworths Canada, 2003) 211-244.

“Lessons of the Swaps Litigation: Tracing”, ch. 8 in P.B.H. Birks and F.D. Rose, eds., *Lessons of the Swaps Litigation* (London: Lloyd’s of London Press, 2000) 233-241. This paper was presented at a Mansfield Symposium, All Souls College, Oxford, 29 November 1997.

“Tracing in Bank Accounts: The Lowest Intermediate Balance Rule on Trial” (2000), 33 *Canadian Business Law Journal* 75-91.

With C.G. van der Merwe, “Financing the Purchase of Stock by the Transfer of Ownership as Security” (1999), 10 *Stellenbosch Law Review* 303-327.

“Constructive Trusts and Constructive Trustees” (1999), 58 *Cambridge Law Journal* 294-302. This paper was presented at a Workshop on the “New Equity”, Faculty of Law, University of Hong Kong, 10-12 September 1998.

“Tracing and Electronic Funds Transfers”, ch. 8 in F.D. Rose, ed., *Restitution and Banking Law* (Oxford: Mansfield Press, 1998) 120-134. This paper was presented to the Restitution Section of the Society of Public Teachers of Law, Warwick University, Coventry, 19 September 1997.

“Constructive Fiduciaries?” ch. 9 in P.B.H. Birks, ed., *Privacy and Loyalty* (Oxford: Clarendon Press, 1997) 249-268. This paper was presented at a seminar of the Society of Public Teachers of Law, All Souls College, Oxford, 28 September 1996.

With Kirk W. Munroe, “Canada”, ch. Q5 in M. Ashe and B. Rider, eds., *International Tracing of Assets*, vol. 1 (London: Sweet and Maxwell, 1997-2004 (looseleaf)) Q5/1- Q5/14.

“Tracing into the Payment of a Debt” (1995), 54 *Cambridge Law Journal* 290-305. This paper was presented to the Restitution Section of the Society of Public Teachers of Law, University of East Anglia, Norwich, 15 September 1994.

“Tracing in *Taylor v. Plumer*: Equity in the Court of King’s Bench”, [1995] *Lloyd’s Maritime and Commercial Law Quarterly* 240-268.

“Disgorgement of the Profits of Breach of Contract: Property, Contract and ‘Efficient Breach’ ” (1994), 24 *Canadian Business Law Journal* 121-140.

“The Stockbroker and the Solicitor-General: The Story Behind *Taylor v. Plumer*” (1994), 15 *Journal of Legal History* 1-22; reprinted, with a new Postscript, as ch. 3 in C. Mitchell and P. Mitchell, eds., *Landmark Cases in the Law of Restitution* (Oxford: Hart Publishing, 2006) 39-63.

“The Province of the Law of Restitution” (1992), 71 *Canadian Bar Review* 672-699.

“Three-Party Restitution: A Critique of Birks’s Theory of Interceptive Subtraction” (1991), 11 *Oxford Journal of Legal Studies* 481-519.

❑ Notes and Reviews

Review: A. Schiavone, *The Invention of Law in the West* (Cambridge: Harvard U.P., 2012) (2013), 48 *Canadian Journal of History* 479-481.

“Constructive Trusts and the No-Profit Rule: *FHR European Ventures LLP v. Mankarious*” (2013), 72 *Cambridge Law Journal* 260-263.

“Execution Against a Power of Revocation: *Tasarruf Mevduati Sigorta Fonu v. Merrill Lynch Bank and Trust Company (Cayman) Ltd.*” (2013), 129 *Law Quarterly Review* 332-334.

- Review: American Law Institute, *Restatement of the Law Third: Restitution and Unjust Enrichment* (St. Paul: A.L.I., 2011) (2012), 57 *McGill Law Journal* 629-638.
- Review: F. Giglio, *The Foundations of Restitution for Wrongs* (Oxford: Hart Publishing, 2007) (2008), 47 *Canadian Business Law Journal* 158-164.
- “*Allcard v. Skinner*”, “Fiduciaries”, “Injunction”, “Remedies”, “Restitution” and “Specific Performance” in P. Cane and J. Conaghan, eds., *The New Oxford Companion to Law* (Oxford: Oxford University Press, 2008).
- “In Memoriam: Peter Birks, 1941-2004” (2005), 41 *Canadian Business Law Journal* 161-165.
- Review: J. Kessler, *Drafting Trusts and Will Trusts*, 6th edition (London: Sweet & Maxwell, 1998); J. Kessler and F. Hunter, *Drafting Trusts and Will Trusts in Canada* (Toronto: LexisNexis Butterworths, 2003) (2005), 50 *McGill Law Journal* 183-186.
- “Access to Trust Information: *Schmidt v. Rosewood Trust Ltd.*” (2003), 23 *Estates, Trusts & Pensions Journal* 1-8.
- Review: G. Jones, *Goff and Jones: The Law of Restitution*, 5th edition (London: Sweet & Maxwell, 1998), [2000] *Restitution Law Review* 591-592.
- “Restitution for Mistake of Law: *Kleinwort Benson Ltd. v. Lincoln City Council*”, [1999] *Restitution Law Review* 148-158.
- Review: G. Thomas, *Powers* (London: Sweet & Maxwell, 1998) (1999), 13 *Trust Law International* 142.
- “Tracing Deposits: *Box v. Barclays Bank plc*” (1999), 14 *Banking and Finance Law Review* 613-619.
- “Restitution” and, with G. Starr, “Bankruptcy” in *The Canadian Encyclopedia* (Toronto: McLellan and Stewart, 1999); also online at <<http://www.thecanadianencyclopedia.com>>.
- “W(h)ither Knowing Receipt?: *Gold v. Rosenberg and Citadel General Assurance Co. v. Lloyd’s Bank of Canada*” (1998), 114 *Law Quarterly Review* 394-398.
- “Constructive Trust for Breach of Fiduciary Obligation: *Soulos v. Korkontzilas*” (1997) 76 *Canadian Bar Review* 539-550; also, more briefly (1998), 114 *Law Quarterly Review* 14-17.
- “Tracing Into Life Assurance Proceeds: *Foskett v. McKeown*” (1997), 113 *Law Quarterly Review* 552-557.
- “Canada: Money Laundering Update” (1997), 4 *Journal of Financial Crime* 265-268.
- Review Article, with multiple co-authors: K. Mason and J. Carter, *Restitution Law in Australia* (Sydney: Butterworths Australia, 1995), [1997] *Restitution Law Review* 229-248.
- Review: W.C. Gilmore, *Dirty Money [:] The Evolution of Money-Laundering Counter-Measures* (Strasbourg: Council of Europe Press, 1995) (1996), 75 *Canadian Bar Review* 628-631.

“*In Rem* Forfeiture Proceedings and Extraterritorial Jurisdiction: *U.S. v. All Funds on Deposit in Any Accounts Maintained in the Names of Meza or de Castro*” (1996), 45 *International and Comparative Law Quarterly* 902-909.

Review: P.M. McDermott, *Equitable Damages* (Sydney: Butterworths, 1995); M. Cope, ed., *Equity [:] Issues and Trends* (Annandale, N.S.W.: The Federation Press, 1995); J. Glover, *Commercial Equity [:] Fiduciary Relationships* (Sydney: Butterworths, 1995) (1996), 75 *Canadian Bar Review* 388-397.

“Fiduciary Relationships — Arising in Commercial Contexts — Investment Advisor: *Hodgkinson v. Simms*” (1995), 74 *Canadian Bar Review* 714-732.

Review: C. Mitchell, *The Law of Subrogation* (Oxford: Clarendon Press, 1994) (1995), 9 *Trust Law International* 32-34.

“Mistaken Certification of Cheques: *LePage Real Estate Services Ltd. v. Rattray Publications Ltd.*” (1995), 11 *Banking and Finance Law Review* 127-139.

“Tracing the Proceeds of Collateral Under the Personal Property Security Act: *Flexi-Coil Ltd. v. Kindersley District Credit Union Ltd.*” (1995), 25 *Canadian Business Law Journal* 460-477.

“Bailment With Authority to Mix — And Substitute: *Mercer v. Craven Grain Storage Ltd.*” (1995), 111 *Law Quarterly Review* 10-18.

“Tracing, ‘Swollen Assets’ and the Lowest Intermediate Balance: *Bishopsgate Investment Management Ltd. v. Homan*” (1994), 8 *Trust Law International* 102-105; also (1995), 14 *Estates and Trusts Journal* 298-305.

“Breach of Confidence — Constructive Trusts — Punitive Damages — Disgorgement of the Profits of Wrongdoing: *Ontex Resources Ltd. v. Metalore Resources Ltd.*” (1994), 73 *Canadian Bar Review* 259-273.

“Mistaken Payments and Theft by an Owner: *R. v. Milne*” (1992), 21 *Canadian Business Law Journal* 103-114.

Review: Law Reform Commission of Canada, Working Paper No. 63: Double Jeopardy, Pleas and Verdicts (1992), 71 *Canadian Bar Review* 186-194.

❑ **Forewords and Prefaces**

“Foreword” to M. Mac Aodha, ed., *Legal Lexicography: A Comparative Perspective* (Farnham: Ashgate, 2014) xix-xx.

“Préface” to M. Cantin Cumyn and M. Cumyn, *L'Administration du bien d'autrui*, 2nd edition (Montreal: Yvon Blais, 2014) xiii-xiv (text in French).