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**John Pritchard with Helen Garlick**

*and* Richard Barr, Stuart Baker, Paul Elmhirst, Christopher Osman,  
Edith Rudinger, Peter Wilde, John Wadham (and Liberty)

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**THE NEW PENGUIN GUIDE  
TO THE LAW**

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Third edition

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VIKING

*William Penn, the Quaker leader, was on trial. The judge ordered the jury to find Penn guilty, but they refused and acquitted him. The judge showed his displeasure by fining and imprisoning the jurors. One of the jurors sued the judge for false imprisonment. Held: His claim failed since judges of the senior courts could not be sued for acts done while acting judicially. Bushell (1670)*

Since then the principle has been refined, but the basic rule remains; judges have immunity from liability if the acts complained of were done by them in their capacity as a judge, in good faith, albeit mistakenly.

*A judge was hearing an appeal against deportation. The appellant was on bail but the judge ordered him to be kept in custody although he had no power to do so. The judge was sued for false imprisonment. Held: Although the judge had clearly acted wrongly, he could not be sued because he had been acting in a judicial capacity. Lord Denning said: 'Every judge of the courts of the land - from the highest to the lowest - should be protected to the same degree. If the reason underlying this immunity is to ensure "that they may be free in thought and independent in judgement", it applies to every judge, whatever his rank. Each should be protected from damages when he is acting judicially . . . So long as he does his work in the honest belief that it is within his jurisdiction, then he is not liable to an action. He may be mistaken in fact. He may be ignorant in law. What he does may be outside his jurisdiction - in fact or in law - but so long as he honestly believes it to be within his jurisdiction, he should not be liable.' Sirros (1974)*

#### A confluence of lawyers

The day has arrived. Two weeks ago a bundle wrapped in traditional legal pink ribbon arrived at the chambers of Ivan Lettuce, barrister at law, in the Middle Temple in London. It was marked 'brief to counsel'. Mr Lettuce's clerk noted with satisfaction the fee endorsed on the brief.

At 9.45 a.m. Mr Lettuce walks the short distance from the Temple to the Strand. He strides through the entrance to the Law Courts, pausing momentarily to remove his keys from his pocket after they have set off a security alarm. He disappears into the robing room and emerges a few minutes later wearing his wig and gown. He glides confidently upstairs towards one of the courtrooms.

Earlier in the day Mr Rufus Carrot, solicitor, had struggled on to the milk train, trailing behind him his client Mr Pritchard. The client was nervous. Mr Carrot was nervous too but tried to appear reassuring. The effort made him go slightly pink. The train arrived late. The taxi became stuck in heavy traffic.

At 9.50 they are disgorged outside the Law Courts. Mr Pritchard's penknife and Mr Carrot's mobile telephone both set off the security alarm. Perspiring and out of breath they rush upstairs to the court and into the cool presence of Mr Lettuce.

In carefully modulated aristocratic tones he outlines his final strategy to Mr Carrot and Mr Pritchard: 'Of course, with old Jaundice we have to be very careful to spell out exactly what the issues are. He's a little deaf.'

At 10.10 Sir Jeremy Jaundice, Judge of the Queen's Bench Division, arrives

at the judge's entrance to the Law Courts. Down the judge's corridor he exchanges not entirely judicial pleasantries with other judges before his clerk helps him on with his wig and his robes.

The clock moves round to 10.30. Last minute efforts at compromise in the gloomy corridor come to nothing. The parties assemble in the court. On the front bench are the barristers. Behind sit the solicitors, and behind them the parties to the action are gently smouldering. At 10.32 the judge's clerk nods to the court Associate.

'Silence!' shouts the Associate to the hushed assembly. On cue, the barristers, the solicitors, the protagonists and the few members of the public in the back row all stand up. Slowly, and looking faintly like Father Christmas in his red and white robe, Mr Justice Jaundice walks into the courtroom, bows and sits down.

'Pritchard versus Pilchard,' announces the Associate.

'Yes, Mr Lettuce,' says the judge.

'My Lord, I appear for the plaintiff Mr Pritchard. My learned friend Mr Spinach appears for the defendant Mr Pilchard. This case involves a dispute which first started in 1987 . . .'

And so begins another High Court trial, bringing together the forensic efforts of barristers, solicitors and a judge. To outsiders it can represent either a dignified display or a curious charade.

That is the system in the early 1990s. Will it be different in the next millennium?

Probably not!