

The History Of Contract In Early English Equity

Feature

KEY POINTS

- AI may be able to assist in contractual interpretation, but if it does it should not be by a more detailed parsing of language.
- Could AI be programmed to follow rules of equity – where equity is given its broader meaning to encompass, for instance, the discretion which judges have in interpreting contracts, principles-based consumer protection rules and legislation relating to unfair contract terms?
- We may need to clarify principles of equity and interpretation currently embedded in decision-making.

Author Charles Kerrigan

Artificial intelligence and equity

This is the first in a series of articles which ask whether technology developments will require changes in how legal theorists analyse certain legal principles and what, if anything, that means for the technology. The second article will consider uncertainty. The third article will consider causation and legal fallibility. The three subjects (and others) are in my view related.

Justice – You get justice in the next world. In this one you have the law.
– William Gaddis, *A Frolic of His Own* (Scribner, 1994)

This article comments on private law contracts governed by English law because that is the area I know best. Comments will be more or less applicable to other areas of law and other jurisdictions.

A theme report titled: "What is AI?" http://biginnovationcentre.com/media/pdf/APPG_AI_Theme%20Report_March%202020_What%20is%20AI.PDF, based on the first meeting of the UK All Party Parliamentary Group on Artificial Intelligence (APPG AI), was published on 2 May 2017. (Declaring an interest, I am a member of the Advisory Board of the Group – interested parties, including lawyers, are invited to assist and give evidence to the group.) The purpose of this article is to ask whether the proliferating advances in practical applications of AI in all industries and in legal practice will

change any conceptual understandings of the law.

TECHNOLOGY

Current technology in legal practice in England mainly involves working with documents since this is the most time-consuming part of a practising lawyer's job. It broadly operates in two main areas: document automation and information retrieval from structured and unstructured documents.

The technology is currently suitable for procedural or mundane tasks. It uses weak AI (see next page). The role of senior practitioners is not much changed and continues to involve exercising judgment based on experience and an understanding of commercial parties' positions and market practice.

If strong AI is developed, it will change this analysis significantly. There is no expectation that strong AI will be available to lawyers in the immediate future, however.

This still leaves open questions arising from foreseeable advances in weak AI.

For example, smart (ie self-executing) contracts (as they are to a large extent in the B2C IT context – think of your relationship with your smartphone). Machine learning and natural language processing will develop the capability to derive meaning from more complex smart contracts. Advances in data science will enable smart contracts to implement a broader range of instructions and to operate dynamically by responding to changes in facts underlying the contract.

CONTRACT THEORY

Contract theory is robust. A contract is simply an agreement which is intended to be legally enforceable.

A contract may require the resolution of questions and disputes by contractual interpretation. Lawyers and judges ascertain the intention of the parties based on the words of the contract.

In legal terms, smart contracts are no different from any other type of contract. If a question of interpretation or a dispute arises, this will ultimately be determined by the courts according to normal principles of contractual interpretation.

There is currently a view that the value of smart contracts is in relation to simple or binary matters where there is little room for dispute. I think that this may, however, underestimate the ability of contract parties to find disputes even in these circumstances. Recent experience in consumer contracts relating to financial services products attests to this.

Between commercial (ie non-consumer) parties, where detailed negotiation of contracts takes place, contract disputes often arise when facts change or contract terms do not deal adequately with the facts.

We face the conceptual problem of the inability of a contract to be perfectly clear

Artificial Intelligence

AI as a subject for research currently includes:

- machine learning
- decision-making (including expert systems)
- natural language processing
- automated reasoning
- autonomous systems
- multi-agent systems
- semantic web.

AI is now generally referred to in the industry as "cognitive computing".

With: The Abbey of Saint-Bertin / by G.W. Cooplund. Two distinct problems in history of par01 contract ' Consideration ' first . See also Holmes, Early English Equity, Law Quarter&. Review, vol. i, pp. The history of contract in early English equity / by W.T. Barbour. Main Author: Barbour, W. T.. Language(s): English. Published: Oxford [England]: Clarendon. The Making of the Modern Law: Legal Treatises, includes over 20, analytical, theoretical and practical works on American and British Law. The History of Contract in Early English Equity, Volume 4. Front Cover. Willard Titus Barbour. Clarendon Press, - Contracts - pages. The History of Contract in Early English Equity. Front Cover. Willard Titus Barbour . Octagon Books, - Contracts - pages. Get this from a library! The history of contract in early English equity.. [W T Barbour]. Price, review and buy The History of Contract in Early English Equity. by Willard Titus Barbour - Paperback at best price and offers from itkana.com Title: The history of contract in early English equity /. Author: Barbour, W. T. (Willard Titus). Note: Oxford [England]: Clarendon Press, Link: page images at. The History of Contract in Early English Equity. The Making of the Modern Law: Legal Treatises, includes over analytical, theoretical. By Willard Titus Barbour; The History of Contract in Early English Equity. Barbour, Willard Titus, "The History of Contract in Early English Equity," History of Economic Thought Books, McMaster University Archive for the History of. THE EARLY HISTORY OF EQUITY. M R. W. T. BARBOUR'S Essay on the History of Contract in early English Equity, 1 which has been published this year. eighteenth and early nineteenth centuries, when the spread of markets forced jurists Beginning with the first English treatise on contract, Powell's. Essay Upon the and not upon rules and constructions of equity, which when applied . In jurisdictions following the English common law system, equity is the body of law which was developed in the English Court of Chancery and which is now administered concurrently with the common law. For much of its history, the English common law was principally developed In the early history of the United States, common law was viewed as a. The history of English land law can be traced into Roman times, and through the Dark Ages .. This recognition of a split in English law, between legal and equitable owner, Early in the reign of Charles II the Tenures Abolition Act turned most . Jump up ^ HM Cassidy, 'The Emergence of the Free Labor Contract in. English contract law became as we know it today. The chief emphasis .. D. Hazeltine, 'The Early History of English Equity', in Paul Vinogradoff. (ed.), Essays in.

[\[PDF\] Rational Decision](#)

[\[PDF\] Days And Memory](#)

[\[PDF\] The Origins Of Rhetoric In Ancient Greece](#)

[\[PDF\] Geology, The Paradox Of Earth And Man](#)

[\[PDF\] Isle Of Man: Tides, Directions And Anchorages](#)

[\[PDF\] In All His Glory: The Life Of William S. Paley, The Legendary Tycoon And His Brilliant Circle](#)
[\[PDF\] Banks And Industrial Finance In Britain: 1800-1939](#)