

Cherry, Sir Benjamin Lennard (1869-1932),
lawyer and parliamentary draftsman
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References

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Cherry, Sir Benjamin Lennard (1869-1932), lawyer and parliamentary draftsman, was born on 30 August 1869 at Yardley Gobion, Northamptonshire, the son of the Revd Benjamin Newman Cherry of Clipsham rectory, Oakham, and his wife, Rosa Georgina Barrett Lennard. He was educated at Winchester College and at Trinity College, Cambridge, where he took honours in both parts of the law tripos and was awarded the LLB. He was called to the bar by Lincoln's Inn in 1893. In 1895 he married Laura Mary Gamlen, daughter of R. H. Gamlen of New Place, Welwyn, Hertfordshire. They had two sons and three daughters.

Cherry practised as a conveyancer and draftsman of parliamentary bills. He was appointed conveyancing counsel to the Supreme Court in 1914. He wrote extensively about land law. He was joint author of *The Land Transfer Acts, 1875 and 1897* (1899) and author of *The New Property Acts: Series of Lectures with Questions and Answers* (n.d.). He was joint editor of the following works: with George Edwin Tyrrell, Arthur Dickson, and Isaac Marshall, the seventh edition of *Dart's Treatise on the Law and Practice Relating to Vendors and Purchasers of Real Estate* (1905); with Arthur Eustace Russell, the ninth edition (1905) and with Russell and Claud Vivian Rawlence, the tenth edition (1913) of *Wolstenholme's Conveyancing and Settled Land Acts*, and with John Chadwick and John Robert Percival Maxwell, of the eleventh edition (1925) of the same work retitled *Wolstenholme and Cherry's Conveyancing Statutes, &c.*; and with Reginald Beddington, the twentieth (1911) and twenty-first (1913) editions of *Prideaux's Forms and precedents in conveyancing (incorporating Wolstenholme's Forms and precedents)*.

As well as being an author and editor, Cherry was a significant parliamentary draftsman, and was the main author of the Birkenhead property legislation, consisting of the Law of Property Act of 1925 and six ancillary statutes. This converted into the relatively orderly system known today a tangle based on customary and feudal tenures, springing and shifting uses, and numerous other arcane features said to have been characterized by Oliver Cromwell as 'an ungodly jumble' (Williams, v). It revolutionized land law, and was at that time the largest single body of legislation which had ever been placed on the British statute book.

Sir Arthur Underhill, a fellow conveyancer and member of one of the committees responsible for overseeing the new property legislation, said it was a wonder that Cherry steadily refused to practise in court, for he had many of the qualities required in a chancery barrister: a flow of language, great power of argument, and persistence (*The Times*, 15 Sept 1932). Reginald Bedding, a pupil of Cherry's at the Chancery bar, said he was supreme in clearness and conciseness and satisfied only with the production of the very best work. Professor D. Hughes Parry said of the revolutionary Birkenhead Acts, named after the lord chancellor of the time, that Cherry nursed them jealously and defended them wholeheartedly, as if they were his children, adding that he took endless pains in lectures, textbooks, and articles to make their effect generally known and he won over the solicitors of the country, who had profited greatly from the complexities of old-style conveyancing, to a sympathetic administration of the new law.

Viscount Haldane, one of five lord chancellors associated with the prelude to and creation of the Birkenhead Property Acts (the others were Lord Cairns, Lord Selborne, Lord Cave, and Birkenhead himself), said of Cherry that he was master of the new oceans on which, as a result, practitioners had been called to embark (*New property acts*, v). Wolstenholme, himself a great reformer and conveyancer, had already suggested making land transferable, like stocks and shares, free from trusts and settlements and Cherry called him 'the originator of the germ' (*Wolstenholme and Cherry*). Lord Davey had brought this idea before parliament originally, and various committees of Chancery lawyers took on the task which resulted in the passing of the 1925 legislation, together with the first parliamentary counsel, Sir Frederick Liddell, to whom, Cherry said, so much of the artistry in draftsmanship and clear arrangement was due. Cherry was throughout the workhorse and, as Lord Haldane put it, the mastermind in the fashioning of the new system (Cherry, viii). Cherry himself said he was there to run the gauntlet, and consoled his students with the thought that 'something very much worse might have been passed' (ibid.lecture 1). One of the obstacles with which he had to contend was the ignorance of many of those in authority. After Lord Cave, the lord chancellor who was in office when the 1925 legislation went through, had made a confused speech about the proposals in 1920, Cherry's sardonic comment was 'a little knowledge is a dangerous thing' (Heuston, 439).

Cherry was knighted in 1922 and made a bencher of Lincoln's Inn in 1927. His recreations were golf and shooting, and he was a member

of the Rye, Wheathampstead, and Knebworth golf clubs. He died in a nursing home at 7 Portland Place, London, on 12 September 1932.

Francis Bennion

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Wealth at death £7492 19s. 7d.: probate, 7 Dec 1932, *CGPLA Eng. & Wales*

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