

CONSTITUTIONAL & ADMINISTRATIVE



FOURTH EDITION

Hilaire Barnett



www.cavendishpublishing.com



CONSTITUTIONAL AND ADMINISTRATIVE LAW

Fourth Edition

Hilaire Barnett, BA, LLM
Queen Mary, University of London



Cavendish
Publishing
Limited

London • Sydney

Fourth edition first published in Great Britain 2002 by Cavendish Publishing Limited, The Glass House, Wharton Street, London WC1X 9PX, United Kingdom

Telephone: + 44 (0)20 7278 8000 Facsimile: + 44 (0)20 7278 8080

Email: info@cavendishpublishing.com

Website: www.cavendishpublishing.com

© Barnett, H	2002
First edition	1995
Second edition	1998
Third edition	2000
Fourth edition	2002

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, scanning or otherwise, except under the terms of the Copyrights Designs and Patents Act 1988 or under the terms of a licence issued by the Copyright Licensing Agency, 90 Tottenham Court Road, London W1P 9HE, UK, without the prior permission in writing of the publisher.

Cataloguing in Publication details for this title are available from the British Library

ISBN 1 85941 721 3

Printed and bound in Great Britain

PREFACE

The United Kingdom's constitution, while of ancient origins, remains both dynamic and vibrant. As every public lawyer is only too aware, nowadays, the proper boundaries of constitutional and administrative law are both increasingly wide and subject to debate. In compiling any textbook on this subject, one of the principal preliminary tasks lies in defining the scope of material to be included and the approach to be adopted in relation to that material. The task of writing is made more problematic by the many and varied depths in which, and the means by which, the subject is taught both in the United Kingdom and overseas. Full time students; part time students; students on long distance learning programmes such as the University of London's Programme for External Students and students combining both constitutional and administrative law within a one year course, all have differing needs. The aim in this book has been to provide sufficient detail to meet all such needs in a user-friendly manner.

As emphasised in the introductory chapters, the study of the United Kingdom's constitutional and administrative law involves rather more than a learning of rules of law, and necessarily encompasses – over and above an understanding of legal rules – an understanding of history, government, politics and conventional practices which form the foundations of the contemporary constitution. As a result, any constitutional and administrative law textbook must incorporate sufficient information relating to such matters so as to enable students to view the constitution in its historical, political and conventional context. In this work, I have addressed the subject in this manner in order to provide a rounded, contextual explanation of the United Kingdom's constitution, which goes beyond pure law while also adequately covering the law.

As previously, the text is divided into seven main parts. Part I provides a general introduction to the scope of constitutional law, the sources of the constitution and the structure of the United Kingdom. In Part II, the fundamental concepts of the constitution are considered: the rule of law, separation of powers, the royal prerogative and parliamentary sovereignty. In Part III, the European Union and Community is discussed. The material is divided into two chapters. Chapter 8 considers the evolution, aims and structure of the Union and Community and the principal institutions and their respective powers. In Chapter 9, the sources of Community law and the relationship between national and Community law are discussed.

In Part IV, the structure of government is discussed, Chapter 10 considering the role of Prime Minister, Cabinet and the Civil Service, Chapter 11 discussing the concept of responsible government and ministerial responsibility and Chapter 12 the devolution of power to the Northern Ireland Assembly, Scottish Parliament and Welsh Assembly and local government.

Part V is devoted to the United Kingdom Parliament: 'Westminster'. Chapter 13 discusses the electoral system, Chapter 14 introduces students to

the House of Commons. Chapters 15 and 16 are devoted to parliamentary procedures for the scrutiny of legislative proposals and scrutiny of government administration. The House of Lords, its role, functions and the current reform proposals are considered in Chapter 17. Parliamentary privilege is discussed in Chapter 18. Notwithstanding the devolution of powers to regional and local government, Westminster remains technically sovereign in its law making powers and central to ensuring the accountability of the United Kingdom government to the electorate. Nevertheless, the impact of devolution and other constitutional reforms – most notably the Human Rights Act 1998 – is considerable, and introduces new restraints on the scope of Parliament's powers, an issue addressed in Chapter 15 in relation to the legislative competence of Parliament and also Chapter 7 which addresses the concept of sovereignty.

Part VI focuses on the individual and the state. The materials on civil liberties are organised into three separate chapters. The rapidly changing nature of constitutional law presents different challenges for each new edition. Whereas the 1998 edition had to accommodate the government's substantial reform agenda, the 2000 edition was written against the background of these reforms being largely, if not wholly, complete. With this fourth edition the principal area of focus lies in Chapter 19, with the Human Rights Act 1998, which has made an immediate impact on many areas of domestic law and required the adoption of different techniques of statutory interpretation and the development of the common law. The materials on civil liberties are divided into three chapters. The subject of state security is discussed in Chapter 23.

Part VII introduces administrative law. Judicial review of administrative action comprises two chapters, the first dealing with the role and scope of judicial review and procedural matters; the second analysing the grounds for judicial review. The complementary role, functions and powers of Commissioners for Administration are considered in Chapter 26.

Over the years I have accumulated a debt to many colleagues. My particular thanks in 2002 are to Kenneth Armstrong for his invaluable help with the European Union, and to Ian Yeats for reviewing the chapters on judicial review. As ever, the usual disclaimer applies: any errors remain my sole responsibility. My thanks as ever to Sonny Leong and his team at Cavendish Publishing, with whom as before it has been a pleasure to work. Particular thanks go to Ruth Massey, who edited this edition and showed great patience and skill with the numerous amendments.

As before, I would like to thank all the students, past and present – both at home and, particularly, in the Far East – who, over the years, have deepened my understanding of the difficulties they face in studying such a rich, varied and essentially protean subject as that of the constitution of the United

Preface

Kingdom. Family and all friends are again owed a large and unquantifiable debt of gratitude, not just for all their support, but also for allowing me the necessary time and solitude in which to update the text.

*Hilaire Barnett
School of Law
Queen Mary, University of London
July 2002*

TABLE OF CASES

A v B plc [2001] TLR, 13 March	.697
A v United Kingdom (Case 100/1997/884/1096) [1999] 27 EHRR 611	.607
ADT v United Kingdom, Application No 35765/97 [2000] TLR, 8 August	.624
AV v United Kingdom, Application No 34546/97 (1998) 142 SJ 628	.621
Aannemersbedrijf PK Kraaijeveld BV ea v Gedeputeerde Staten van Zuid-Holland (Case C-72/95) [1996] ECR I-5403	.280
Abdulaziz, Cabales and Balkandali (1985) 7 EHRR 471	.628
Adan v Secretary of State for the Home Department; Noor v Same; Lazarevic v Same; Radiivojevic v Same [1998] 2 WLR 702	.782, 783
Adimi, Sorani and Kaziu [1999] TLR 596	.769
Agricultural Horticultural and Forestry Industry Training Board v Aylesbury Mushrooms Ltd [1972] 1 WLR 190	.874, 897
Ahmed (Iftikhar) v Secretary of State for the Home Department [1999] TLR, 8 December	.781
Ahmed, Ahmed and Barrow v Secretary of State for the Home Department [2000] Imm AR 370, CA	.757
Air Canada v Secretary of State for Trade [1983] 2 AC 394	.335, 339
Airedale National Health Trust v Bland [1993] AC 789	.645
Airey v Ireland (1979) 2 EHRR 305	.615
Al Nahkel for Contracting Ltd v Lowe [1986] QB 235	.165
Al-Adsani v United Kingdom, Application No 35763/97	.618
Alexander v Home Office [1988] 2 All ER 118	.665
Al-Fawwaz v Governor of Brixton Prison [2000] TLR, 22 December	.765
Alfred Crompton Amusement Machines Ltd v Customs & Excise Commissioners (No 2) [1974] AC 405	.333
Allason v Haines (1995) 145 NLJ Rep 1576; (1995) The Times, 14 July	.560
Allonby v Accrington and Rossendale College [2001] TLR, 3 April	.669
Ambard v Attorney General for Trinidad and Tobago [1936] AC 322	.688
Amphill Peerage Case [1977] AC 547	.521
Anderson and Others v Scottish Ministers [2001] TLR, 29 October	.646
Anderson v Gorrie [1895] 1 QB 668	.116
Andreou v Institute of Chartered Accountants in England and Wales [1998] 1 All ER 14, CA	.859
Andronicus and Constantinou v Cyprus (1996) 22 EHRR CD 18	.605
Anisminic v Foreign Compensation Commission [1969] 2 AC 147; [1968] 2 QB 862; (1969) 85 LQR 198	.846–48, 850, 876, 877
Anyanwu v South Bank Students' Union [2000] 1 All ER 1	.663
Aptheker v Secretary of State 378 US 500 (1964)	.165
Arrowsmith v United Kingdom (1978) 3 EHRR 218	.681
Ashby v White (1703) 2 Ld Raym 938; (1703) 3 Ld Raym 320; (1703) 14 St Tr 695	.563
Ashingdane v United Kingdom (1985) 7 EHRR 528	.615
Ashworth Security Hospital v MGN Ltd	.691, 692
Asma Jilani v Government of Punjab Pak Leg, December 1972, S Ct 139 (Pakistan)	.186

Constitutional and Administrative Law

Associated Provincial Picture House Ltd v Wednesbury Corporation [1948] 1 KB 223	96, 165, 598, 634, 785, 786, 867, 870, 887, 890, 891, 906–08, 918, 919, 943
Athlumney, Re [1898] 2 QB 547	92
Atlan v UK [2001] TLR, 3 July	649
Attorney General v BBC [1981] AC 303; [1981] 3 WLR 109	599
Attorney General v Blake (1996) The Times, 23 April	694, 795
Attorney General v de Keyser's Royal Hotel Ltd [1920] AC 508	168, 171, 631, 845
Attorney General v English [1983] 1 AC 16; [1982] 2 All ER 903	690
Attorney General v Fulham Corporation [1921] 1 Ch 440	96, 880
Attorney General v Guardian Newspapers Ltd [1987] 3 All ER 316	795
Attorney General v Guardian Newspapers Ltd (No 2) (Spycatcher case) [1990] 1 AC 109; [1988] 3 All ER 545	599, 693, 694, 795, 814
Attorney General v Hislop and Pressdam [1991] 1 QB 514; [1991] 1 WLR 219, CA	690
Attorney General v Johnathan Cape Ltd (Crossman Diaries case) [1976] 1 QB 752	33, 37, 38, 40, 345, 694, 794, 918
Attorney General v Mulholland and Foster [1970] 1 QB 114	689
Attorney General v Newspaper Publishing plc [1988] 1 Ch 333	692
Attorney General v Observer Ltd (No 2) [1990] 1 AC 109	692
Attorney General v Punch Ltd and Another (2001) unreported, CA	692
Attorney General v Times Newspapers Ltd [1974] AC 273	677, 689
Attorney General v Times Newspapers Ltd [1992] 1 AC 191	692
Attorney General v TVS Television; Attorney General v HW Southey & Sons (1989) The Times, 7 July	690
Attorney General v Wilts United Dairies Ltd (1921) 37 TLR 884	494, 822
Attorney General (Cth); ex rel McKinlay v Commonwealth (1975) 135 CLR 1	430, 431
Attorney General for Canada v Attorney General for Ontario [1937] AC 326	195
Attorney General for Hong Kong v Ng Yuen Shiu [1983] 2 AC 629	905
Attorney General for New South Wales v Perpetual Trustee Company Ltd [1955] 1 All ER 846	719
Attorney General for New South Wales v Trethowan [1932] AC 526; (1931) 44 CLR 394	206, 207, 212, 214
Attorney General of Duchy of Lancaster v GE Overton (Farms) Ltd [1982] Ch 277	145
Attorney General's Guidelines on Jury Checks [1988] 3 All ER 1086	99
Attorney General's Reference (No 3 of 1977) [1978] 3 All ER 1166	684
Attorney General's Reference (No 2 of 2001) [2001] TLR, 12 July	650
Averill v United Kingdom (2001) 31 EHRR 36	616
B v France (1993) 16 EHRR 1	627
B v Secretary of State for the Home Department (Deportation: Proportionality) [2000] 2 CMLR 1086	788

Table of Cases

B and P v United Kingdom Application Nos 36337/97 and 35974/97, (1997) <i>The Times</i> , 15 May	616
BBC v Johns [1965] Ch 32	142, 171, 192
Bailey v Williamson (1873) LR 8 QB 118	700
Baker v Carr 369 US 186 (1962)	427, 430
Barber v Guardian Royal Exchange Insurance Company (Case C-262/88) [1990] 2 CMLR 513	269
Barnard v National Dock Labour Board [1953] 2 QB 18	96, 892
Barony of Moynihan (1997) <i>The Times</i> , 28 March	521
Barry v Midland Bank plc [1999] 1 WLR 1465, HL	671
Barton v Commonwealth (1974) 131 CLR 477	174
Bate's Case (1606) 2 St Tr 371	141
Beach v Freeson [1972] 1 QB 14	557, 680
Beatty v Gillbanks (1882) 9 QB 308	702
Benham v United Kingdom (Case 7/1995/513/597) (1996) 22 EHRR 293	612, 617
Berkeley v Secretary of State for the Environment and Another [1998] TLR, 2 March, CA	897
Bibby v Chief Constable of Essex Police (2000) 164 JP 297; [2000] TLR, 24 April	730
Bilka-Kaufhaus GmbH v Weber von Hartz [1986] IRLR 317; [1986] CMLR 701; [1987] ICR 110	295, 662
Billesley Parochial Church Council v Wallbank [2001] EWCA Civ 713; [2001] 3 All ER 393	633
Blackburn v Attorney General [1971] 1 WLR 1037; [1971] 2 All ER 1380	195, 199, 290, 291, 853
Black-Clawson International Ltd v Papierwerke AG [1975] AC 591	125, 559
Board of Control ex parte Rutty [1956] 2 QB 109	742
Board of Education v Rice [1911] AC 179; (1911) 80 LJ KB 796	95
Boddington v British Transport Police [1998] 10 Admin LR 321; (1998) 148 NLJ 515	859
Bookbinder v Tebbit [1989] 1 All ER 1169	333, 679
Bouamar v Belgium (1988) 11 EHRR 1	610
Boucher v R [1951] SCR 265	681
Boukssid v Secretary of State for the Home Department [1998] TLR, 6 March	757
Bowles v Bank of England [1913] 1 Ch 57	195, 214, 493, 494
Bowman v United Kingdom [1998] TLR, 23 February	437
Bradbury v Enfield London Borough Council [1967] 1 WLR 1311	896
Bradlaugh v Gosset (1884) 12 QBD 271	563, 579
Brannigan and McBride v United Kingdom (1994) 17 EHRR 539	604, 610, 612
Brasserie du Pêcheur SA v Federal Republic of Germany (Cases C-46/93, C-48/93) [1996] ECR I-1029; [1996] 1 CMLR 889; [1996] 2 WLR 506	281–83
Brazil v Chief Constable of Surrey [1983] 3 All ER 537	727
Breen v AEU [1971] 2 QB 175	914

Brennan v United Kingdom, Application No 39846/98 [2001] TLR, 22 October	.617
Bribery Commissioner v Ranasinghe [1965] AC 172	.208, 211
British Coal Corporation v R [1935] AC 500	.68, 199, 213
British Oxygen Co v Board of Trade [1971] AC 610	.888
British Railways Board v Pickin, See Pickin v British Railways—	
British Steel Corporation v Granada Television Ltd [1963] 2 QB 477	.689
Broadwith v Chief Constable of Thames Valley Police [2000] Crim LR 924	.708
Brogan v United Kingdom (1988) 11 EHRR 117	.602, 603, 610–12, 834
Bromley London Borough Council v Greater London Council [1983] 1 AC 768; [1982] 2 WLR 62	.117, 420, 884, 900
Brown v Board of Education of Topeka 347 US 483 (1954)	.88, 189
Brown v Procurator Fiscal, Dunfermline [2000] TLR, 14 February	.651
Brown v Stott [2000] TLR, 6 December; 2001 SLT 59, PC	.379, 651
Brutus v Cozens [1973] AC 854	.714
Buckley v United Kingdom (1997) 23 EHRR 101; (1996) 146 NLJ 1628	.622, 623
Bulmer v Bollinger [1974] Ch 401	.284, 285
Burke, Re [2000] 3 WLR 33	.765
Burmah Oil Company v Bank of England [1980] AC 1090	.335, 339
Burmah Oil Company v Lord Advocate [1965] AC 75	.92, 125, 193, 473, 869
Burt v Governor General of New Zealand [1992] 3 NZLR 672	.158, 159
Burton and Another v De Vere Hotels (1996) The Times, 3 October	.664, 673
Bushell's Case (1670) 6 St Tr 999	.116
CG v United Kingdom, Application No 43373/98 [2002] TLR, 4 January	.618
CIA Security International SA v Signalson SA (Case C-194/94) [1996] ECR I-2201; (1996) 33 CML Rev 1035	.278, 279
CILFIT S & I Ministro della Sanita (Case 283/81) [1982] ECR 3415; [1983] 1 CMLR 337	.285
Calvin's Case (1608) 7 Co Rep 1a	.59, 67
Camelot Group plc v Centaur [1999] QB 124	.691
Campbell and Cozens (1982) 4 EHRR 293	.607
Campbell and Fell v United Kingdom (1984) 7 EHRR 165	.615
Campbell v Mirror Group Newspapers (MGN) Ltd [2002] TLR, 29 March	.638, 696, 697
Cannock Chase District Council v Kelly [1978] 1 WLR 1	.887
Carltona v Works Commissioners [1943] 2 All ER 560	.891
Case of Proclamations (1611) 12 Co Rep 74	.138, 143, 144, 167, 195
Case of Prohibitions Del Roy (Case of Prohibitions) (1607) 12 Co Rep 63	.143
Chahal v United Kingdom (1997) 23 EHRR 413	.608, 642, 644
Chandler v Director of Public Prosecutions [1964] AC 763	.162, 815
Chapman v United Kingdom (2001) 30 EHRR 48	.623
Charron v Government of the USA [2000] 1 WLR 1793	.765
Cheney v Conn [1968] 1 All ER 779	.194

Table of Cases

Chief Constable of the North Wales Police v Evans [1982] 1 WLR 1155	842, 843
Chief Constable of the West Yorkshire Police v Khan [2001] TLR, 16 October	662
China Navigation Company Ltd v Attorney General [1932] 2 KB 197	162
Chorlton v Lings (1868) LR 4 CP 374	198, 425
Christie v Leachinsky [1947] AC 573	733
Church of Scientology of California v Johnson-Smith [1972] 1 QB 522	25
City of Glasgow Council v Zafar 1988 SLT 135	663
Ciulla v Italy (1989) 13 EHRR 346	610
Clancy v Caird 2000 SLT 546	379
Clark v TDG Ltd [1999] TLR, 1 April	674
Clark v University of Lincolnshire and Humberside [2000] 3 All ER 752	863
Clarke v Secretary of State for the Environment, Transport and the Regions [2001] TLR, 9 November	654
Commission for Racial Equality v Dutton [1989] 2 WLR 17; [1989] IRLR 8	660, 661, 709
Commission of the European Communities, supported by Kingdom of Spain and United Kingdom v French Republic (Case C-265-95) [1997] ECR I-6959	263
Commission v Council: European Road Transport Agreement (ERTA) Case (Case 22/71) [1971] CMLR 335	288, 289
Commission v Italy [1979] 1 CMLR 206	263
Commission v Kingdom of Belgium (Case C-323/97) [1998] ECR I-4281.	263
Commission v United Kingdom (Case 804/79) [1981] ECR 1045	246
Commission v United Kingdom [1979] 2 CMLR 45	263
Commonwealth v Colonial Combing Spinning and Weaving Co Ltd (1922) 31 CLR 421	173
Condron v United Kingdom, Application No 35718/97 (2001) 31 EHRR 1	616, 737
Confederation Française Democratique du Travail v European Community (1979) 25 CMLR 229	268
Congreve v Home Office [1976] QB 629	928
Consorzio del Prosciutto di Parma v Asda Food Stores Ltd [1999] 1 CMLR 696; [1999] Eu LR 437	272
Conway v Rimmer [1968] AC 910	334, 339, 340
Cooper v Wandsworth Board of Works (1893) 14 CB (NS) 180	902
Cossey v United Kingdom [1992] 2 FLR 249	627
Costa v ENEL (Case 6/64) [1964] ECR 1125; [1964] CMLR 425	23, 215, 284, 287
Costello-Roberts v United Kingdom (1995) 19 EHRR 112	607
Council for Racial Equality v Amari Plastics [1982] QB 265	664
Council of Civil Service Unions v Minister of State for the Civil Service (GCHQ case) [1985] AC 374	96, 127, 144, 158, 162, 169, 175, 315, 327, 420, 626, 799, 819, 845, 867, 869, 871, 908, 909
Cowan v Commissioner of Police of the Metropolis [2000] 1 WLR 254	745
Coyne v United Kingdom (Case 124/1996/743/942)	613

Crees v Royal London Mutual Insurance Society Ltd [1998] TLR, 5 March	670
Criminal Proceedings against Arcaro (Case C-168/95) [1996] ECR I-4705	280
Curley v United Kingdom [2000] TLR, 17 March	613
D v National Society for the Prevention of Cruelty to Children [1978] AC 171	333, 647
D v United Kingdom (Case 146/1996/767/964) (1997) The Times, 12 May	609
Da Costa en Schaake NV (Cases 28–30/62) [1963] ECR 31	285
Danian v Secretary of State for the Home Department [1999] TLR, 9 November, CA	781
Darnel's Case (Five Knights' Case) (1627) 3 St Tr 1	19, 137, 139, 551
Davis v Johnson [1979] AC 264, CA; [1979] AC 317, HL	125, 559
Davis v Lisle [1936] 2 KB 434	747
Davy v Spelthorn Borough Council [1984] AC 262	860
Dawkins v Department of the Environment (1993) The Times, 4 February	660, 661
De Freitas v Benny [1976] AC 239	158
de Freitas v Permanent Secretary of Ministry of Agriculture, Fisheries, Lands and Housing [1999] 1 AC 69, PC	638
De Jong, Baljet and van den Brik v Netherlands (1983) 8 EHRR 20	610
De Wilde, Ooms and Versyp v Belgium (Vagrancy cases) (1971) 1 EHRR 373	610, 611
Defrenne v Belgium State [1971] ECR 445	276
Defrenne v SABENA (Case 43/75) [1978] ECR 1365	269, 276
Dekker v VJV Centrum (Case C-177/8) [1991] IRLR 27; [1990] ECR I-3841	295, 670
Demirkaya v Secretary of State for the Home Department [1999] TLR, 29 June, CA	781
Derbyshire County Council v Times Newspapers [1993] AC 534; [1993] 1 All ER 1011	598, 679
Desmond v Thorne [1982] 3 All ER 268	678
Deutsche Telekom AG v Vick [2000] TLR, 28 March	299
Devenney v United Kingdom, Application No 24265/94 [2002] TLR, 11 April	615
Devlin v United Kingdom, Application No 29545/96 [2001] TLR, 9 November	615
Dillenkofer and Others v Federal Republic of Germany [1996] ECR I-4845; [1996] 3 CMLR 469	283
Dimes v Grand Junction Canal Proprietors (1852) 3 HL Cas 759	116, 899, 900
Director General of Fair Trading v Proprietary Association of Great Britain [2000] TLR, 2 February; (2000) SJLB 289	909
Director of Public Prosecutions v Clarke [1992] Crim LR 60	714, 715
Director of Public Prosecutions v Fidler [1992] 1 WLR 91	715
Director of Public Prosecutions v Hawkins [1988] 1 WLR 1166	733
Director of Public Prosecutions v Hutchinson [1990] 2 AC 783	874
Director of Public Prosecutions v Jones [1999] 2 AC 240; [1999] 2 WLR 625	705, 708
Director of Public Prosecutions v Jordan [1977] AC 699	684
Director of Public Prosecutions v Luft [1977] AC 962	437

Table of Cases

Director of Public Prosecutions v Whelan [1975] QB 842	700
Director of Public Prosecutions v Whyte [1972] AC 849	683
Director of Public Prosecutions v Wilson [2001] TLR, 21 March	648
Director of Serious Fraud Office ex parte Smith [1993] AC 1; [1992] 3 WLR 66	739
Donckerwolcke v Procureur de la Republic [1976] ECR 1921	246
Dornan v Belfast County Council [1990] IRLR 179	661, 668
Doughty v Rolls Royce plc [1992] IRLR 126	277
Douglas and Others v Hello! Ltd [2001] TLR, 16 January; [2001] 2 All ER 289; (2000) 9 BHRC 543	696
Dr Bonham's Case (1610) 8 Co Rep 114a; 77 ER 646; 2 Brown 255	24, 80, 116, 209, 899
Draper v United Kingdom, Application No 8186/78	627
Dudgeon v United Kingdom (1982) 4 EHRR 149	623, 918
Duke of Argyll v Duchess [1967] Ch 302	694
Duke v GEC Reliance Ltd [1988] 1 All ER 626; [1988] 1 AC 6128	293
Duncan v Cammell Laird [1942] AC 264	333, 334, 339
Duncan v Jones [1936] 1 KB 218	702, 704
Dunn v R [1896] 1 QB 116	327
Duport Steels Ltd v Sirs [1980] 1 WLR 142	133
Dyer v Watson; HM Advocate v K [2002] TLR, 4 February	650
ERT v Dimotiki (Case C-260/1989) [1991] ECR I-2925	270
Earl Spencer v United Kingdom (1998) 25 EHRR CD 105	696
East African Asians v United Kingdom (1973) 3 EHRR 76	607, 750, 751
Eckle v Federal Republic of Germany (1982) 5 EHRR 1	614
Edinburgh and Dalkeith Railway v Wauchope (1842) 8 Cl & F 710	10, 24, 202, 214, 564
Edwards v United Kingdom, Application No 46477/99 [2002] TLR, 1 April	723, 606
Eliot's Case (1629) 3 St Tr 309	552
Ellen Street Estates Ltd v Minister of Health [1934] 1 KB 590	124, 197, 198
El-Yassni v Secretary of State for the Home Department [1999] All ER (EC) 193; [1999] 2 CMLR 32	284
Engel et al v Netherlands 15 YB 508; (1976) 1 EHRR 647	615
Entick v Carrington (1765) 19 St Tr 1029	25, 97, 170, 743
Erich Ciola v Land Vorarlberg [1999] 2 CMLR 1220	274
Errington v Wilson 1995 SLT 1193	910
European Parliament v Council of the European Union (Case C-42/97), judgment 23 February 1999	265
Evans v Motor Insurers Bureau [1999] Lloyd's Rep IR 30; [1998] TLR, 12 October, CA	281
Ex parte Canon Selwyn (1872) 36 JP 54	203
Ex parte Church of Scientology of California (1978) The Times, 21 February	117, 901
Ex parte Coventry Newspapers Ltd [1993] QB 278	336
Ex parte Daisy Hopkins (1891) 61 LJ QB 240	742

Faccini Dori v Recreb srl (Case C-91/92)	
[1994] ECR I-3325; [1995] 1 CMLR 665	276, 278, 279
Fadli v Secretary of State for the Home Department	
[2000] TLR, 12 December	783
Felton v Callis [1969] 1 QB 1	165
Findlay v United Kingdom (1997) The Times, 27 February	112, 613
Findlay, Re [1985] AC 318	907
Finnegan v Clowney Youth Training Programme Ltd [1990] 2 AC 407	293
Fisher v Oldham Corporation [1930] 2 KB 364	719
Flanner v Halifax Estate Agencies Ltd	
[2000] 1 WLR 377; [2000] 1 All ER 373	917
Fletcher, Re [1970] 2 All ER 527	930
Flockart v Robinson [1950] 2 KB 498	706
Fogarty v United Kingdom, Application No 37112/97	
[2001] TLR, 26 November	618
Foster v British Gas plc (Case 188/89) [1991] 2 AC 306	277
Foto-Frost v Hauptzollamt Lubeck Ost [1987] ECR 4199	285
Foulkes (Trevor) v Chief Constable of Merseyside Police	
[1998] 3 All ER 714; [1998] 2 FLR 789	730
Fox, Campbell and Hartley v United Kingdom (1990) 13 EHRR 157	610, 733
Foxley v United Kingdom (2001) 31 EHRR 25	620
Francovich and Bonifaci v Italy (Cases C-6, C-9/90)	
[1991] ECR I-5357; [1992] IRLR 84; [1993] 2 CMLR 66	275, 278, 281, 283
Fray v Blackburn (1863) 3 B & S 576; 122 ER 217	116
G v United Kingdom (Minors: Right of Contact),	
Application No 32346/96 [2000] TLR, 1 November	623
Gardi v Secretary of State for the Home Department [2002] TLR, 3 June	780
Garland v British Rail Engineering Ltd (Case 12/81)	
[1983] 2 AC 751; [1982] ECR 359	218, 293, 297
Gay News Ltd v United Kingdom (1982) 5 EHRR 123	687
General Medical Council v British Broadcasting Corporation	
[1998] 3 All ER 426; [1998] 1 WLR 1573	691
Ghagar v Chief Constable of West Midlands Police	
(2000) unreported, 21 May	733
Ghani v Jones [1969] 3 All ER 1700	746
Ghosh v General Medical Council [2001] TLR, 25 June, PC	649
Gibbs v Ruxton 2000 SLT 310	379
Gibson v East Riding of Yorkshire Council	
[1999] 3 CMLR 190; [1999] ICR 622; [1999] IRLR 358; [2000] TLR, 6 July	275, 281
Gibson v Lord Advocate [1975] 1 CMLR 563	201
Gillow v United Kingdom (1986) 11 EHRR 335	66
Glasgow City Council v Marshall [2000] 1 WLR 333	669
Glimmerveen and Hagenbeek v Netherlands (1982) 4 EHRR 260	629

Table of Cases

Godden v Hales (1686) 11 St Tr 1165	138, 142
Golder v United Kingdom (1975) 1 EHRR 524	615
Goldsmith v Pressdram Ltd [1977] QB 83	678
Goodwin v United Kingdom (1996) 22 EHRR 123; [2002] TLR, 12 July, ECHR	690
Gough and Another v Chief Constable of Derbyshire and Others [2001] TLR, 19 July	652
Granger v United Kingdom (1990) 12 EHRR 469	98, 617
Grant v South West Trains Ltd (Case C-249/96) [1998] ECR I-621	295
Greaves v Kwik Save Stores Ltd [1998] TLR, 5 March	670
Grieve v Douglas-Home 1965 SLT 186	437
Guerra v Italy (1998) 26 EHRR 357	624
Guildford BC v Smith [1994] JPL 734	654
H v N (A Health Authority); H v Associated Newspapers Ltd [2002] TLR, 19 March	692
HK (An Infant), Re [1967] 2 QB 617	904
HM Advocate v McIntosh [2001] TLR, 8 February	651
Halford v Sharples [1992] 1 WLR 736	336
Halford v United Kingdom (Case 73/1996/692/884) [1997] IRLR 471	621, 802, 803
Halfpenny v IGE Medical Systems Ltd [1999] TLR, 4 January, CA	671
Hall and Co Ltd v Shoreham-by-Sea Urban District Council and Another [1964] 1 WLR 240	873, 874
Hallan and Another v Avery and Another [2001] TLR, 27 March	663
Hamar v Pensions Ombudsman (1997) The Times, 24 March	924
Hambleton DC v Bird [1995] 3 PLR 8	654
Hamer v United Kingdom, Application No 7114/75 (1981) D & R 24	627
Hamilton v al Fayed (No 1) [1999] 1 WLR 1569, CA	562
Hamilton v al Fayed (No 2) [2000] 2 All ER 224, HL	562
Hamilton v Hencke; Greer v Hencke (1995) unreported, 21 July	561
Hammersmith and Fulham London Borough Council v Department of the Environment [1990] 3 All ER 589; [1991] 1 AC 521	844
Hammersmith and Fulham London Borough Council v Jesuthasan [1998] TLR, 5 March	671
Hampson v Department of Education and Science [1991] AC 171	663
Han and Yau t/a Murdishaw Supper Bar and Others v Commissioners of Customs and Excise [2001] TLR, 3 August	650
Handyside v United Kingdom (1976) 1 EHRR 737	625
Hanratty v Lord Butler (1971) 115 SJ 386	158
Hardie v City of Edinburgh Council 2000 SLT 130	909
Harman and Hewitt v United Kingdom (1989) 14 EHRR 657	619
Harris v Minister of the Interior (1952) (2) SA 428 (South Africa)	68, 207, 212
Harris v Sheffield United Football Club Ltd [1987] 2 All ER 838; HL [1998] 3 WLR 1260; [1999] 1 All ER 129	721
Harz v Deutsche Tradax GmbH [1984] ECR 1921	279

Hashman and Harrup v United Kingdom [1999] TLR, 1 December; [2000] Crim LR 185; (2000) 29 EHRR 241	.625, 703
Hatton and Others v United Kingdom, Application No 36022/97 [2001] TLR, 8 October	.623
Hayes v Malleable EMC [1985] ICR 703	.669
Hazell v Hammersmith London Borough Council [1992] 2 AC 1	.413, 415, 420, 868
Hector v Attorney General of Antigua [1990] 2 AC 312	.70
Henderson's Case, HC 63 (1944-45)	.568
Henn and Darby v Director of Public Prosecutions [1979] ECR 3975; [1980] 1 CMLR 246; [1981] AC 850	.267, 273, 285
Hereford and Worcester County Council v Clayton (1996) The Times, 9 October	.672
Hill and Stapleton v Revenue Commissioners and the Department of Finance (Case C-243/95), judgment 17 June 1998	.672
Hill v Chief Constable of West Yorkshire [1988] 2 All ER 238	.608, 723
Hirst v Chief Constable for West Yorkshire (1986) 85 Cr App R 143	.705
Hirst v United Kingdom, Application No 40787/98 [2001] TLR, 3 August	.612
Hoekstra v Her Majesty's Advocate [2000] TLR, 14 April	.379, 648
Hoffman v Austria (1994) 17 EHRR 293; (1993) The Times, 27 July	.622
Hood v United Kingdom [1999] TLR, 11 March	.613
Horseferry Road Metropolitan Stipendiary Magistrate ex parte Siadatan [1991] 1 All ER 324; [1990] 3 WLR 1006	.713, 715
Horvath v Secretary of State for the Home Department [1999] TLR, 8 December, CA	.781
Huber v Austria, Application No 4517/10, 18 YB 324	.611
Hughes and Vale Property Ltd v Gair (1954) 90 CLR 203	.199
Hunter v Canary Wharf [1997] 2 All ER 426	.673
Hussain v United Kingdom; Singh v United Kingdom (Cases 55/1994/502/584; 56/1994/503/585) (1996) The Times, 26 February	613
Huvig v France (1990) 12 EHRR 547	.621
IJL, GMR and AKP v United Kingdom, Application Nos 29522/95, 30056/96, 30574/96 [2000] 9 BHRC 222; [2001] Crim LR 133	.616, 740
Ibralebbe v R [1964] AC 900	.199, 213
Inland Revenue Commissioner v National Federation of Self-Employed and Small Businesses Ltd [1982] AC 617	.96, 853
Interbrew SA v Financial Times [2001] TLR, 21 March	.692
International Transport Roth GmbH v Secretary of State for the Home Department [2001] TLR, 11 December	.771
Internationale Handelsgesellschaft mbH v EVST (Case 11/70) [1970] ECR 1125; [1972] CMLR 255	.215, 269, 287
Interpoc Import und Export GmbH v Commission (Case T-124/96) [1998] ECR II-231	.239
Ireland v United Kingdom (1978) 2 EHRR 25	.606

Table of Cases

Islam v Secretary of State for the Home Department [1999] 2 WLR 1015	784
Ismail, Re [1998] 3 WLR 495	765
JH Rayner (Mincing Lane) Ltd v Department of Trade and Industry [1990] 2 AC 418	166
Jain v Secretary of State for the Home Department [2000] Imm AR 76	782
James v Eastleigh Borough Council [1990] 2 AC 751	669
Jeffrey v Black [1978] 1 All ER 555	100, 746
Jex-Blake v Senatus of the University of Edinburgh (1873) 11 M 784	198
Jhamat v Inns of Court School of Law (Visitors to the Inns of Court) [1999] ELR 450	870
John and Others v Express Newspapers and Others [2000] 3 All ER 257	691
John Colt and Glover v Bishop of Coventry and Lichfield (Commendam Case) (1617) Hob 140	139
John Wilke's Case (1760–64), See Wilkes v Wood (1763)—	
Johnson v United Kingdom (Case 119/1996/738/937) (1997) The Times, 4 December	611
Johnston v Ireland (1987) 9 EHRR 203	627
Jordan v Borgoyne [1963] 2 QB 744	702, 714
Jordan v United Kingdom; McKerr v United Kingdom; Kelly and Others v UK; Shanaghan v UK, Applications No 28883/95; 30054/96; 37715/97 (2001) 11 BHRC 1; [2000] TLR, 17 March	605, 613
Joyce v Director of Public Prosecutions [1946] AC 3447	682
K (A Child) (Secure Accommodation Order: Right to Liberty), In re [2000] TLR, 29 November; (2000) 97(48) LSG 36; (2000) SJLB 291	646
Kaur v Lord Advocate [1980] 3 CMLR 79	597
Kaye v Robertson and Another [1991] FSR 62; (1991) The Times, 21 March	638, 695
Keighley's Case (1609) 10 Co Rep 139a	870
Kelly v United Kingdom (1993) 16 EHRR 20	605
Kenlin v Gardiner [1967] 2 QB 510	724
Kent v Dulles 375 US 116 (1958)	165
Kent v Metropolitan Police Commissioners (1981) The Times, 15 May	707
Khan v United Kingdom [2000] TLR, 23 May	621, 622, 741, 802, 803
Khawaja v Secretary of State for the Home Department, See R v Secretary of State for the Home Department ex parte Khawaja—	
Khazanchi v Faircharm Investments Ltd; McLeod v Butterwick [1998] TLR, 25 March	747
Khorasandjian v Bush [1993] 3 All ER 669	673
King v Walden (Inspector of Taxes) [2001] TLR, 12 June	650
Kingsley v United Kingdom, Application No 35605/97 (2001) 33 EHRR 13	642, 920
Kirkham v Chief Constable of Greater Manchester [1990] 2 QB 283	722
Klass v Federal Republic of Germany (1978) 1 EHRR 214	620, 627, 628
Knulier Ltd v Director of Public Prosecutions [1973] AC 423	687