

Civil Liberties

Cases and Materials

S. H. Bailey,
D. J. Harris &
B. L. Jones

Butterworths

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S. H. Bailey

MA, LLB (Cantab)
Lecturer in Law at the
University of Nottingham

D. J. Harris

LLM, PhD (Lond)
Senior Lecturer in Law at the
University of Nottingham

B. L. Jones

MA, LLB (Cantab)
Lecturer in Law at the
University of Nottingham

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Preface

In recent years, more attention has been paid to the law of civil liberties in law teaching (and elsewhere) than used to be the case. This appears likely to prove a continuing phenomenon, resulting in part from the current debate on the question whether the United Kingdom should enact a Bill of Rights and the now substantial jurisprudence of the Strasbourg authorities applying the European Convention on Human Rights to cases coming from this country. As to the former, Lord Wade's Bill of Rights Bill has been given a Third Reading by the House of Lords. Although the Lord Chancellor has indicated that the chances of the bill being adopted this session are only those of "an icicle in June", the vagaries of British weather are such that it is not impossible that some form of Bill of Rights will be adopted in the next few years. Certainly the chances of this happening are greater now than they have been before. In any event, the law of civil liberties now plays a prominent part in many constitutional law courses and the number of separate courses on civil liberties is increasing. In these circumstances, it would seem appropriate to publish a collection of cases and materials on the subject. Hopefully, this will serve the needs of those studying the law of civil liberties as already taught, particularly as it is a subject that calls for the reading of a lot of materials other than cases which are not always readily available and which a student may find convenient to have assembled in one place. Such a publication may also encourage the teaching of more civil liberties courses. One problem with teaching the law of civil liberties in constitutional law (quite apart from that of finding room in the syllabus) is that the latter is usually a first year course and the former, which cuts across a number of traditional teaching boundaries, requires a knowledge of concepts normally taught in second and third year courses.

The book concentrates, in the terminology of the UN Covenants on Human Rights, on *civil* liberties (rights); there is only occasional and incidental coverage of economic and social rights. A choice has to be made for reasons of space and rights within the latter categories tend to be dealt with in labour and welfare law courses rather than in constitutional or civil liberties ones. The book emphasises the basic civil liberties, although room has been found for prisoners' rights as an example of an area in which the law of civil liberties is in the process of change. We have tried to show how the law works in practice as well as what it is. In this respect particularly, we would like to acknowledge the debt that anyone writing on the law of civil liberties owes to Street's *Freedom, the Individual and the Law*. Our aim has been to cover the legal position in England and Wales. We have used the

situation in Northern Ireland as an example of the law of civil liberties in an emergency. Reference has been made to the position in Scotland, the United States and the Commonwealth countries where this provides an instructive comparison. There is also a section on the European Convention on Human Rights, and Strasbourg cases originating from the UK have been included or referred to elsewhere when relevant.

We wish to acknowledge the assistance given to us in providing information by a number of Government departments and other institutions. These include the Home Office, the Department of the Environment, the Attorney General's Office, the Press Council, the BBC, the IBA and the Metropolitan Police. We also wish to thank the following for permitting the publication of extracts from materials in respect of which they hold the copyright: HMSO; the Incorporated Council of Law Reporting; the All England Reports; Penguin Books Ltd; Times Publishing Co. Ltd; the Press Council; Sweet and Maxwell; Eclipse Publishing Ltd; New Society; West Publishing Co. Ltd; the Council of Europe; the European Communities; the BBC; the University of Toronto Law Journal. Finally, we would like to thank the publishers for preparing the index and tables and for generally being so helpful.

The manuscript was delivered to the publishers on 1 November 1979 and seeks to be up-to-date at that time. It has proved possible to make some alterations that take account of developments that have occurred since then. Our impression is that the law of civil liberties is an area of the law in which, more than in most, the type never sets.

S. H. Bailey
D. J. Harris
B. L. Jones

April 2 1980

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