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Stalking

Sally Ramage

The UK Minister for Equalities, unveiled a review of the law that may lead to specific new crimes of "stalking" and "cyber-stalking". The Home Office said that police can tackle stalking through anti-harassment laws but they are sometimes unaware that these powers exist. One in five women and one in ten men suffer from the obsessive attention of a stalker at some point in their life, according to new statistics. These include Katherine Jenkins, the Welsh classical singer, who this week revealed an online stalker has been bullying her. However, only around 8,000 people are convicted of harassment-related offences each year, like the stalker of Rio Ferdinand, the England footballer, who was given a 10-week sentence in May. Ms Featherstone said: "*There are campaigners and police I have talked to who believe the actual words of 'stalking' and 'cyber stalking' need to be in the act."*

Belt and braces: bail or jail

Sally Ramage

R v Hookway

Mr Hookway was originally arrested on 7 November 2010 on suspicion of the murder of a Mr Malcolm Short. He was arrested and kept in detention for the 36 hours. The Police successfully applied for a warrant of further detention for an additional 36 hours. The warrant, as is usual, stated that the 36 hours started from the issuing of the warrant. Hookway was released with 8 hours remaining of that time and bailed to return on five separate occasions. No further evidence came to light during this time. When Hookway returned on the sixth occasion the Police required him in custody for longer than 8 hours so applied for a further warrant. The Court said that the Police were not entitled to do this. This was due to the 36 hours expiring 36 hours after the issuing of the original warrant. This meant that there was no time left on the clock. The application for a further warrant was refused. The High Court decision on the maximum period of detention of a suspect on bail, therefore reversed the common interpretation of PACE. The court's ruling was that 96 hours after the relevant time. This meant exactly that. Since more than 96 hours had elapsed between 12.40pm on November 7, 2010 and April 5, 2011, no extension was possible. According to the Judge's literal reading of s.44 (3), time had been up since November 11, 2010 and a time limit that had expired could not be extended.

The Leveson Inquiry

Sally Ramage

The Prime Minister announced a two-part inquiry investigating the role of the press and police in the phone-hacking scandal, on July 13, 2011 and the enquiry commenced on Monday 14 November 2011. Lord Justice Leveson was appointed as Chairman of the Inquiry. Part One of the inquiry will examine the culture, practice and ethics of the media and the relationship of the press with the public, police and politicians. A panel of six independent assessors is assisting Lord Justice Leveson with expertise in the key issues being considered.

Recently the chief executive of a large newspaper publishing company, Mr Murdoch (Junior) gave evidence in the UK House of Commons to the *Commons Culture, Media and Sport Committee* who were investigating newspaper hacking scandal for the second time.

POLICING

Development and Contemporary Practice

Peter Joyce
SAGE (2011)

ISBN 978-1-84787-460-3

Book review by Sally Ramage, Editor, The Criminal Lawyer, Bloomsbury

From earliest times the benefits of communal life have been easy to see and it is difficult to think of man existing outside some form of society. In society man obtains benefits such as security, companionship, and an ordered existence. Today the presence of rules and regulations are generally accepted.

In our everyday behaviour we obey rules such as having decent and civilised manners, which do not cause offence to others. Many other rules are laid down in our law and are disobeyed under penalty of punishment, lest society degenerate into chaos and anarchy.

English law is usually divided into two main sections: criminal law which deals largely with offences for which people can be punished and civil law which concerns disputes between two or more people and which usually has nothing to do with the question of punishment.

Both Criminal Law and Civil Law fall within the sphere of what is called Common Law, which has grown out of the decisions made by judges. When reaching decisions, judges often took into account the local customs and unwritten rules of their times and when written down, these decisions became accepted laws or precedents until they are altered to meet new circumstances.

Some of the ancient Common Law is written into Acts of Parliament but some still remains unwritten. Statute Law is different to Common Law in that it is written and laid down by the authority of Parliament and has to be followed by the judges exactly as it is written.

The ‘Dark Ages’ is the name given to the time when Britain suffered from the break-down of established order and civilisation, through the repeated invasions on Norsemen, the Angles and the Saxons, although stability was maintained somewhat in the different Kingdoms into which England was then divided, such as Wessex, Kent and Mercia, kingdoms which formulated their own rules and laws to help maintain stability. It was Alfred the Great who first attempted to form a comprehensive code by employing a mixture of laws drawn from various clans, peoples and kingdoms.

The beginning of the common law is often dated from A.D. 1066, the advent of the Norman conquest of England. Before the Norman Conquest, there was no settled code of laws, or people whose sole job was to enforce them. Before the Norman Conquest, society here regarded crime and violence as everyday occurrences, priding personal valour and military prowess above most other qualities. All or much of the law at this time was a matter of ‘ordeal’ or ‘test of truth by water, fire or combat’. By the tenth century, Britain was divided into shires and subdivided into townships, not too different from today. To resolve

issues, a court was held every month and a shire court two or three times a year and every free man was obliged to attend the local court.

Up to the time of the Norman Conquest, Anglo Saxon law regarded a man's kin to be of greatest importance in maintaining order and fear of the action of a man's kin was of greatest importance, homicide being regarded as the affair of the kin or kindred, who were entitled to receive the wergild, or man's price, for any members slain. This idea of legal worth of a person was even expressed in terms of numbers of cattle and social classes were referred to as men worth 100 shillings or 6 shillings or whatever.

Also, there were many offences for which compensation could not be had. In the 10th Century, there was the growth of tithing and lordship and during this period, maintaining order by kindred decreased and the number of crimes increased. Crimes were punishable by death or mutilation and the criminal's property was forfeited to the King.

Early 11th Century records show listed 'botless' crimes (i.e. crimes without compensation) as breaches of the King's peace. Such offences were, for example, 'ambush', 'housebreaking' or 'failing to join the army when called upon'. During the Norman period, the King's peace was extended in scope and any major crime was an offence against the King. The responsibility for local law and order then rested with the thanes or local chieftains. Alfred the Great expended this principle so that all members of all groups were held responsible for any members who broke the law and all shared in paying the fines imposed, giving each person an incentive to see that the rest kept to the laws. After the Norman Conquest the responsibility for keeping law and order throughout the Kingdom was known as the 'King's Peace'.

Expansion of the power of the monarch in Norman times caused considerable change in the way the country was governed and a group of semi-professional, skilled administrators, the Curia Regis, became a law court. The machinery for dealing with criminal offences expanded, as it did for civil offences. By the end of the 13th Century, all major cases were taken away from the local courts and tried by the King's justices who travelled the country on a regular circuit. Under Henry II, the King's Peace was thought of as a form of protection for all.

Henry II replaced ‘trial by ordeal’ (fire and water) with ‘trial by a jury of twelve men’, though ‘trial by battle’ was not unusual in the sixteenth century and was not abolished in England until A.D. 1819 by Parliamentary statute.

The state of crime in medieval times, as today, was so great that Edward I made a new law, the Statute of Winchester. There was much lawlessness in the towns, with Britain’s population then three million people (now 63 million) and the Statute of Winchester in the year of 1285 forced every borough to keep ‘Watch and Ward’, all men being responsible for keeping the peace. ‘Hue and Cry’ became a statutory obligation and if any man who had committed a wrong tried to evade justice, a hue and cry was to be raised and all men were required to leave what they were doing and give chase to the offender, anyone not doing so being liable to be tried alongside the offender. This Statute of Winchester developed the Anglo-Saxon principle of local self-policing.

In 1332, Edward III empowered parish constables to arrest people suspected of slaughter, felonies, and robberies and to take them to the sheriff. These were petty constables.

By the 14th Century there was a decline of justice, with wealthy individuals taking over the justice system. Lords enlisted private armies or fighting servants who wore the uniform of their master, known as ‘livery’. The lords would bear pressure on juries, undermining the whole system of law-enforcement, which had developed through the Middle Ages.

The 17th Century is notable for the struggle between the king and parliament in which common law emerged the winner and the judicial system independent after the 1688 constitutional settlement that judges were to be independent of royal influence. The Statute of Winchester remained law until 1865, many years after the formation of Peel’s police in 1829.

The police today operate on the principle that they can only carry out their duties if they have the agreement and support of the community. To ensure a good relationship between the police and the public, it is important that there is a fair and thorough system for complaining. Since 1 April 2004 a new independent police complaints organisation has been in place, the Independent Police Complaints Commission. For the first time, independent investigation

teams can conduct police complaints, people complaining have more rights and the whole complaints process now has stricter standards. In 1786 The Dublin Police Act established the Dublin Metropolitan Police, demolished in 1925 and replaced by the Garda Siochana. The 1800 Glasgow Police Act provided the police of Glasgow, and the 1822 Irish Constabulary Act provided police across Ireland; the Municipal Police Act 1829 provided police on the mainland;

Complaints can be made about police officers that neglect their duty; drink on duty; use racist behaviour or language; are involved in corrupt practices; use excessive force. The Policing and Crime Act 1984 gave the police a number of key powers, including the ability to stop and search a person or vehicle in a public place, enter private property, search the premises and seize material found there.

One of the last criminal justice statutes of worth is the Policing and Crime Act 2009, which introduced new provisions to improve police accountability and effectiveness, among other things. The objective of this criminal justice act was to amend the law to give statutory status and greater independence to the Police Senior Appointments Panel to advise the Secretary of State as well as police authorities on matters relating to senior officer appointments and succession planning. It also includes measures related to collaborative working between police forces and seeks to repeal unused or un-commenced legislation.

Policing is a modern and welcome consolidation of the progress of British policing. Its ten chapters deal with the development of professional policing; police response to crime; methods of policing; police powers; the police service; its control and accountability; its diversity; its politics; global policing and future directions of policing. The final chapter on policing during severe budget cuts does not excite the reader as do the newpapers which are constantly aiding and abetting fears that Police forces across the country, facing budget cuts of up to 20 per cent over the next four years, likely to result in thousands of fewer officers, tell their readers that crime is higher where there are fewer police officers. Rather the chapter dwells on the coalition government's Police Reform and Social Responsibility Bill 2011, now a statute, gaining Royal Assent in September 2011. This statute aims to replace police authorities with directly elected Police Commissioners with the objective of improving police accountability. In all, this book is a clearly written account of the progress of policing in the United Kingdom, a welcome and unfettered approach to the subject.

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