

R v Horseferry Road Justice ex p Independent Broadcasting Authority

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For full version of abbreviations click 'Abbreviations' on FB's website.

Criminal Law - Statutory Duty: QBD (Lloyd LJ and Skinner J): 30 January 1986

The informant laid an information and a summons was issued by the justices against the broadcasting authority alleging that contrary to s. 4(3) of the Broadcasting Act 1981, the authority had failed to satisfy themselves that a programme broadcast by them did not include subliminal images.

The authority applied for judicial review to quash the summons and to prohibit the justices from taking any steps in relation to it on the ground that a breach of s. 4(3) was not a crime and the justices lacked jurisdiction.

David Kemp QC and Vivienne Rose (instructed by Allen & Overy) for the authority.

Francis Bennion and John Steel (instructed by Kidd Rapinet Badge and Co) for the informant.

Lloyd LJ said that a breach of s. 4(3) was not expressly made an offence, but it was submitted that, by application of the doctrine of contempt of statute, it was an indictable offence carrying an unlimited fine.

If extant, the doctrine was only a rule of construction and was of little use in construing modern statutes.

Nowadays, when Parliament intended to create an offence it almost invariably said so.

The authority's duty under s. 4(3) was a best endeavours obligation to 'satisfy themselves'.

It was unlikely that Parliament intended to create a criminal offence out of anything so subjective.

Skinner J agreed.

Application granted.

Summons quashed.

(WLR)