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PRIVACY AND THE PRESS

Joshua Rozenberg

Reviewed by Jennifer McDermott

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I thoroughly recommend this book to lawyers, journalists, politicians and those seeking to protect their privacy. It is written in a very readable style, candidly from the perspective of a journalist who believes that “conflicts between privacy and the press in Britain should generally be resolved in favour of the media”. Joshua Rozenberg does not seek to argue that personal privacy should never merit the law’s protection, but he argues that the justification for legal intervention has to be of a very high order.

The book canters through all the recent headline-making cases, for example, those brought by Naomi Campbell against the *Daily Mirror*¹ and by Michael Douglas, Catherine Zeta-Jones and *OK!* against *Hello!*.² Joshua Rozenberg wryly thanks the rich litigants for bringing such cases to clarify the law. The facts of the cases are explained in great and often amusing detail and the legal issues are clearly described. A great deal of material is covered and it is good to see the legal landmarks set in their time context to see how and why the law is developing as it is. The inconsistencies in the various judges’ approaches at various times and even now are also sharply demarcated. Joshua Rozenberg rightly makes it clear that if there was ever a legal area where it is vital to know your judge, this is it.

The book covers not only English domestic law but also landmark cases in the European Court of Human Rights. On the free speech side, we are reminded of the Art 10 case law from the *Handyside*³ case in 1976 to *Bergens Tidende*⁴ in 2001. On the Art 8 privacy side, we are reminded about relevant media cases such as that of Geoffrey Peck in 2003,⁵ but gay rights and gender reassignment cases are covered too.

Joshua Rozenberg also writes about recent Press Complaints Commission (PCC) rulings and, while he is critical of some of them, he is still a firm believer in self-regulation and using this mechanism to resolve disputes against newspapers rather than the courts. Sometimes, as he points out, however, a PCC brokered newspaper apology can still be used to found a court claim for damages for misuse of private information, with Sara Cox and her husband receiving £30,000 and £20,000 each for naked honeymoon shots. As Joshua Rozenberg amusingly puts it, this was more compensation than Amanda Holden and Les Dennis received, but then “slightly more of them were photographed”!

The book is, in fact, much wider than just a resumé of recent privacy developments. It also covers the disclosure of journalists’ sources and the *Interbrew*⁶, *Ashworth*⁷ and *Ackroyd*⁸ cases; the development of the Albert Reynolds qualified privilege defence to a defamation claim⁹; the extension of the fair comment defence in the Sara Keays case¹⁰; and defamation damages developments, for example, in Jamaica in the *Gleaner* case.¹¹

In summary, this book is an excellent reminder of how much has happened in a relatively short time in developing our media laws. It is a shame perhaps that Joshua Rozenberg did not have the benefit of the House of Lords’ decision in the Naomi Campbell case to report that the Court of Appeal was in fact overturned and her privacy rights prevailed in the end. He would also, no doubt, had it been decided earlier, have been able to comment on the recent European Court of Human Rights Princess Caroline case¹² and the strengthening of even public figures’ rights to privacy. However, he might not have liked these developments unless he agreed that the harassment which the Princess had endured at the hands of the paparazzi and the photograph of the supermodel leaving Narcotics Anonymous before a drug therapy meeting were sufficient justification to give these two people privacy protection.

Anyway, all in all, a very good book, which once you start you cannot put down. And if, as I have, you have been involved in some of the cases written about, you realise that the research is meticulous and the book, whilst entertaining and readable, completely accurate.

Jennifer McDermott

Addleshaw Goddard

1. *Campbell v Mirror Group Newspapers Ltd* [2004] UKHL 22; [2004] 2 W.L.R. 1232.
2. *Douglas v Hello! Ltd (No.6)* [2003] EWHC 786; [2003] 3 All E.R. 996.
3. *Handyside v United Kingdom A/24*: (1976) 1 E.H.R.R. 737.
4. *Bergens Tidende v Norway* (2001) 31 E.H.R.R. 16.
5. *Peck v United Kingdom* (2003) 36 E.H.R.R. 41.
6. *Interbrew SA v Financial Times Ltd* [2002] EWCA Civ 274; [2002] 2 Lloyd's Rep. 229.
7. *Ashworth Hospital Authority v MGN Ltd* [2002] UKHL 29; [2002] 1 W.L.R. 2033.
8. *Mersey Care NHS Trust v Ackroyd* [2003] EWCA Civ 663; [2003] E.M.L.R. 36.
9. *Reynolds v Times Newspapers Ltd* [2001] 2 A.C. 127.
10. *Keays v Guardian Newspapers Ltd* [2003] EWHC 1565.
11. *Gleaner Co Ltd v Abrahams* [2003] UKPC 55; [2004] 1 A.C. 628.
12. (App. No.59320/00), judgment of June 24, 2004.