Ridge v. Baldwin – twenty years on

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One of the landmarks in the development of administrative law is the House of Lords decision in Ridge *v.* Baldwin. *The following article is based on the text of a lecture delivered at Victoria University on 14 March 1983 to mark the twentieth anniversary of that decision. Professor Keith looks at the approach of the judges in the case, especially that of Lord Reid, and explores some particular aspects of the decision and its wider ramifications.*

At the end of his most distinguished career, Lord Reid said that his judgment in *Ridge* v. *Baldwin*[1] was the one he was proudest of.[2] He must have seen it as the best or the most important of the 500 or so judgments he delivered while a member of the House of Lords. By contrast one of the commentaries on the Law Lords says that Lord Reid's judgments lack that enduring quality which ensures that a judge lives on after his departure from the bench.[3]

What I want to do now — twenty years to the day after the delivery of the speeches in *Ridge* v. *Baldwin* — is to attempt to appraise the significance of that case and particularly the significance of that judgment. I shall consider:

— The judgment itself: its content, style, and strengths;

— Its particular consequences for the law of natural justice;

— Its wider consequences for the law of the control of administrative action, for this was the first of a series of leading administrative law cases in which Lord Reid was the senior judge;

— The judicial method and role, for this case illuminates basic questions about the way the House of Lords makes the law and controls the executive.

It is convenient to begin and end with the question of judicial method and role, although I shall deal with it here only briefly and superficially.

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1 [1964] A.C. 40.

2 *The Times,* London, 14 January 1975.

3 Blom-Cooper and Drewry *Final Appeal: a study of the House of Lords in its judicial capacity* (Clarendon Press, Oxford, 1972) 157. The reference is possibly unfair to the authors; see their recognition of the importance of *Ridge* v. *Baldwin* ("a huge stride forward for public law", 261) and the "special mention" and high praise of Lord Reid as a judge at the hearing (156). The various views are difficult, perhaps impossible, to reconcile. See also 175-178 as to Lord Reid's dominance in terms of judgments written.

I.

The junior member of the House of Lords in *Ridge* v. *Baldwin* was Lord Devlin. He had become a Law Lord only a year or two before. Within two years he was to resign. He had already given some indication of his philosophical reasons for that. The Common Law, he had argued, was a system of law for resolving disputes between private individuals. There was no prospect, he said, of the Common Law expanding to fill the void now that the government was playing a principal role in managing the economy. The citizen, in his view, could not in his dealings with the executive get justice by process of law. He concluded that the Common Law no longer had the strength to provide any satisfactory solution to the problem of keeping the executive, with all its powers which under modern conditions are needed for the efficient conduct of government, under proper control.[4]

Lord Reid took a much more positive view, at least about the general role of senior appellate courts in developing the law. He did this in part by staying and actually making the changes. He spoke about it in a lecture which he gave a few years before he retired:[5]

> There was a time when it was thought almost indecent to suggest that judges make law — they only declare it. Those with a taste for fairy tales seem to have thought that in some Aladdin's Cave there is hidden the Common Law in all its splendour and that on a judge's appointment there descends on him the magic words Open Sesame. Bad decisions are given when the judge has muddled the pass word and the wrong door opens. But we do not believe in fairy tales any more.

In that lecture he stressed the role of common sense, legal principle and public policy — in that order — in developing the law. The emphasis on common sense and principle comes through in others of his judgments as well as *Cassell* v. *Broome*[6], to take just one instance of many — and he came back to it in one of his later judgments. "I would not . . . decide the matter entirely on logical argument. The life blood of the law is not logic but common sense. So I would see where this theory takes us . . . ". The law may sometimes be an ass, he said, but it cannot be so asinine as the proposed theory would require. And he continued: "We are not applying a rule but a principle and it must be applied sensibly."[7]

Before getting to the judgment I should mention two other people whose comings and goings are important in this story. The first is Lord Denning, who after four years in the House of Lords, had also had enough, but unlike Lord Devlin he did not resign. He exchanged offices with the Master of the Rolls, Lord Evershed, and went back to the Court of Appeal. In that Court he did of course make an enormous contribution, unparalleled in recent times, to the invigoration of the law-making process within the appellate structure. The second

4 *Samples of Law Making* (O.U.P., London, 1962) 104, 105, 119. The chapter is based on a lecture, "The Common Law, Public Policy and the Executive" given in 1956, [1956] C.L.P. 1.
5 "The Judge as Law Maker" (1972) 12 J.S.P.T.L. 22.
6 [1972] A.C. 1027, 1084-1085, 1087, 1090.
7 *Haughton* v. *Smith* [1975] A.C. 476, 500.

is Viscount Simonds. He finally retired in 1962. He had played a dominant role all through the 1950s continuing what has been referred to as "substantive formalism".[8] Whatever that might mean, it certainly was the case first that he had a static view of the law — it was not for the judges to develop it[9] — and second that he and his fellow judges showed no great disposition to look afresh at the question of their powers to control the executive.[10] Rather, on the second issue, the judgments in the late 1940s and 1950s continued to reflect the hands-off position adopted by the judges during wartime. Lord Reid, as *Ridge* v. *Baldwin* comes on for hearing, is therefore now the senior Law Lord. Were things going to change in respect of either point?

II.

Of the issues raised in *Ridge* v. *Baldwin,* I consider only the question whether the Brighton Watch Committee was obliged to comply with the principles of natural justice before deciding to dismiss its Chief Constable on the ground that he was negligent in his duty or otherwise unfit for it. The decision that it was so obliged may not appear remarkable now. It perhaps helps to put the point in perspective to note that the Court of Appeal was unanimously of the other view[11] and that there was a dissentient on this point within the House of Lords. Among the reasons why I see the judgment and case as remarkable are the following:

(1) Any reluctance to review executive decisions seems to have disappeared.

(2) Principles which had long faded from view are vigorously reasserted.

(3) Conceptualism and label worship which were rampant are dismissed.

The last point can be developed by considering Lord Reid's treatment of the Atkin dictum in the *Electricity Commissioners* case in 1924:[12]

> Wherever any body of persons having legal authority to determine questions affecting the rights of subjects, and having the duty to act judicially, act in excess of their legal authority they are subject to the controlling jurisdiction of the King's Bench Division exercised in these writs [of prohibition and certiorari].

This text was taken as holy writ by courts in many jurisdictions, particularly after a decision of the Privy Council in 1950,[13] on the question whether an administrative body was obliged to act judicially, or in conformity with the principles of natural justice. A number of points can be made about the usage. Several of them are made very effectively by Lord Reid.[14] I wish, at this stage, to mention the complications that this text created for lawyers and courts prior to 1963. The first point is that Lord Atkin was not of course stating circumstances in which natural justice should be complied with. He was rather concerned to

8 See Stevens *Law and Politics: The House of Lords as a Judicial Body 1800-1976* (Weidenfeld and Nicholson, London, 1979) Part III.

9 Although see his extraordinary speech in *Shaw* v. *D.P.P.* [1962] A.C. 220, mentioned below, at nn. 43 and 44.

10 See e.g. Stevens, supra n.8, 388-396.

11 [1963] 1 Q.B. 539.

12 *R.* v. *Electricity Commissioners* [1924] 1 K.B. 171, 205, C.A.

13 *Nakkuda Ali* v. *Jayaratne* [1951] A.C. 66.

14 Supra n.1, 74-76.

address the question whether a remedy should be available, it having been already established that the body in question had acted illegally ("act in excess of their legal authority"). It is not at all obvious why a test for that purpose should carry over into the quite different area of due process. Secondly, if the test is carried over into that separate area, it is of course circular, for it says that if a body, amongst other things, has the duty to act judicially then it has the duty to act judicially (or comply with natural justice). The third point about the passage is that it required of the lawyers and judges who used it an increasingly sophisticated set of arguments about the meaning of the word "right" (did it include privileges, licences and various other statutory interests?), the meaning of the word "and" (did it, as Lord Hewart had said,[15] require a "superadded" characteristic?) and the range of tests that were required to establish that there was a "duty to act judicially". The courts should of course have been directing themselves specifically to that last issue and it may well be the case that much of the discussion was properly relevant in one way or another to that question. It did however become very turgid and complex. For one thing the adjective "judicial" could not be attached to the power, the process, or the body. The Atkin dictum suggested that it belonged to the process but what of its application to the other two? What if the power or the body could be characterised by another adjective, particularly "administrative"? And how were the words to be defined . . . ?[16]

It is the strength of the judgment of Lord Reid that he slices through all of that and gets back to the underlying principles in this area. In doing that he does, incidentally, largely explode the proposition that he states in the middle of his judgment that "[w]e do not have a developed system of administrative law".[17] His judgment provides an outstanding example of the interaction of principle, cases and facts. Of principle he refers to the opinions that have sometimes been expressed to the effect that natural justice is so vague as to be practically meaningless:[18]

> But I would regard these as tainted by the perennial fallacy that because something cannot be cut and dried or nicely weighed or measured therefore it does not exist. The idea of negligence is equally insusceptible of exact definition . . . .

He then stressed an important characteristic of principles: that those using them must give sufficient attention to the different circumstances in which they apply. He comes back to this in a very important passage later in his judgment. But before he does that he travels with greater ease over a large number of cases relating to three aspects of the facts in *Ridge* v. *Baldwin*.

The cases show that those who hold statutory office from which they can be dismissed only for cause, those whose property (this case was essentially about Ridge's pension) has been taken away in certain circumstances, and those whose reputations are being affected by decisions taken by professional or social bodies of which they are members, all those are entitled to the protection of natural

15 In *R.* v. *Legislative Committee of the Church Assembly* [1928] 1 K.B. 411, 415.
16 See e.g. K. J. Keith "The Courts and the Administration: a Change in Judicial Method" (1977) 7 N.Z.U.L.R. 325.
17 Supra n.1, 72.
18 Ibid. 64-65.

justice.[19] The reader of this passage must have a mounting sense of wonderment: is it necessary — Lord Reid occasionally indicates doubts himself[20] — to pile so many cases one on the other to establish what seems to be an obvious proposition? But the Court of Appeal did decide the other way. Lord Evershed inclined the other way. It is accordingly necessary not only to go that far but to go further.

Perhaps a brief reference to provisions of the Police Act 1964 that were enacted soon after the decision in this case can help provide a sense of perspective and some explanation of what had happened earlier. The new Act provides a different test.[21] It enables the police authorities to call on a Chief Constable to retire in the "interests of efficiency". The Act also obliges the Authority to receive and consider representations from the officer. These provisions are without prejudice to the rules relating to pensions. The emphasis is now a quite different one. First, the issue is not so much the Chief Constable's wrongdoing as the efficient operation of the police force. That is to say the focus is on the personal actions and qualities of the Chief Constable. Secondly, property rights are being dealt with separately. That is to say, there is not the same threat to property nor, to revert to the first point, perhaps even to reputation. Thirdly, the legislation itself provides for a procedure, one which does not go as far as the requirements of natural justice since it is limited to representations and does not provide for the giving and answering of specific charges and the calling and rebuttal of evidence. By contrast to the first and second points, Lord Reid sees the whole process under the earlier legislation as being directed at Ridge and him alone. This contrast helps lead us into the very important paragraph of the judgment where Lord Reid distinguishes between the individual case, often with the connotation of penalty, being decided by reference to the individual circumstances of the particular case, on the one hand, and, on the other, the case of a very different character, involving a minister or department, a scheme where the primary concern is with wide aspects of the public interest, and where it is likely that a minister will follow his normal departmental procedures.[22] Here Lord Reid is indicating that not every government action affecting, for example, property rights would be subjected to natural justice principles. Indeed in his discussion of the Atkin dictum later in his judgment he indicates that he thought Lord Atkin was going rather a long way in applying the prerogative remedies to a broad ministerial scheme of the sort that was in issue there.[23] (It might be noted that a court could be expected to go a rather long way in that kind of case since there had already been a finding of illegality, and the only remaining question was what was the remedy to be made available

19 Ibid. 65-71.

20 Ibid. 67 ("That citation of authority might seem sufficient, but I had better proceed further"); 68 ("Stopping there, I would think that authority was wholly in favour of the appellant").

21 Section 5 (4) and (5), Police Act 1964.

22 Supra n.1, 72.

23 Supra n.1, 76. Accordingly I doubt the view of Blom-Cooper and Drewry that *Franklin* v. *Minister of Town and Country Planning* [1948] A.C. 87 was effectively consigned to limbo, supra n.3, 262. See now *Bushell* v. *Secretary of State for the Environment* [1981] A.C. 75.

to deal with it.) The broad point is that Lord Reid is recognising that there are limits to the scope of the principle of natural justice; he is careful to leave the working out of those limits to later cases.

Next he puts to one side the war time cases (and by inference suggests that it is now time for the legal system generally to recognise that attitudes from that time should be put to one side). He is nevertheless careful to stress the specific reasons for that; the circumstances, the nature of the subject matter, the inherent secrecy, and particularly the existence of alternative safeguards (the existence of which made natural justice safeguards less important). He also reminds us just what it is that the court is doing when it requires compliance with natural justice in cases like the present. It is doing it as an interpreting court:[24]

> Parliament knew quite well that the courts had an inveterate habit of [engrafting the principles of natural justice on to a host of provisions authorising administrative interference with private rights] and must therefore be held to have authorised them to do it unless a particular Act showed a contrary intention.

The defence regulations, he says, pointed to a reasonable and almost inevitable inference that the principles of natural justice were excluded. I have already mentioned some aspects of the Atkin dictum. I would note here only the great vigour of Lord Reid's writing when it comes to disposing of cases or statements which he thinks err from basic principle; consider the treatment of Lord Hewart and, although somewhat more restrained, the discussion of the Privy Council's judgment in the *Nakkuda Ali* case.[25] In the result, principle is re-established and Mr Ridge gets his pension. But what are others to make of this major step forward? My treatment must be brief and relates to both the particular and general consequences.

III.

A number of the early commentators were a little grudging. A notable and honourable exception was Professor de Smith.[26] Two questions were raised about the effect of the case. In the first place there were those who said that the detailed provisions of present day legislation setting out procedures for the protection of those involved in administrative processess excluded, for the most part, the operation of the principles. Secondly, there were those in New Zealand who doubted the criticisms of *Nakkuda Ali,* and who continued to extol the virtues of the Atkin dictum with its Hewart gloss. Notwithstanding these early doubts the decision and particularly the Reid judgment have had an enormous effect. The precedent issue has really not bothered the courts at all. It has been swept aside. *Ridge* v. *Baldwin* has been enthroned. Much of the conceptual baggage that went

24 Supra n.1, 73.
25 Ibid. 75 and 78-79.
26 De Smith "The House of Lords on Natural Justice" (1963) 26 Mod. L.R. 543; for others see e.g. Goodhart *"Ridge* v. *Baldwin:* Administration and Natural Justice" (1964) 80 L.Q.R. 105, Bradley "Failure of Justice and Defect of Police: A Commentary on *Ridge* v. *Baldwin"* [1964] Camb. L.J. 83, Northey "The Electricity Commissioners and the Chief Constable" [1963] N.Z L.J. 448, and Paterson *An Introduction to Administrative Law in New Zealand* (Sweet & Maxwell (NZ), Wellington, 1697) 110-112.

with the earlier law has disappeared as well. So far as the other point is concerned litigants have in fact found much legislation which does not have procedural provisions or which has procedural provisions which are incomplete. This is not the time for a full scale survey of those cases but courts since 1963 have established, for example, that powers as disparate as the following are subject to the principles of natural justice: the dismissal of a local authority,[27] the closing of a street,[28] the refusal of a licence to a boxer,[29] the grant of a new taxi licence,[30] the deportation of immigrants,[31] and the refusal of citizenship.[32] The powers probably would not have attracted the principles before 1963.[33] The judgment and later decisions building on it have also led to a very substantial difference in the way in which such cases are argued and decided. The contrast can be seen by comparing the arguments made by R. B. Cooke as counsel and Mr Justice P. B. Cooke as judge in cases in the 1950s[34] with judgments written by Sir Robin Cooke as a member of the Court of Appeal in the 1980s. In place of the convoluted argument relating to the issues presented by the Atkin dictum we now have the statement that certain points are "fairly elementary".[35] Argument and judgment are still focussed on detail, particularly the detail of the legislation and the facts. The law does have a spine of principle. It is still important to remember that the task is one of interpretation and not of creative writing. I come back to that point at the end of my comments on the wider consequence of the decision.

IV.

Ridge v. *Baldwin* was the first of four leading public law cases decided within five or six years by the House of Lords. The others concerned the access by litigants to information for the purposes of trial,[36] review of the exercise of ministerial discretion for alleged abuse,[37] and the review of the decisions of tribunals, even in the face of very strong ouster clauses.[38] The effect of these four decisions was that the House of Lords had made very significant steps in

27 *Durayappah* v. *Fernando* [1967] 2 A.C. 337, J.C.; compare *Buller Hospital Board* v. *Attorney General* [1959] N.Z.L.R. 1259, S.C. and C.A.

28 *Lower Hutt City* v. *Bank* [1974] 1 N.Z.L.R. 545, C.A.; cf. *Calgary Power Ltd* v. *Copithorne* [1959] S.C.R. 24.

29 *Stininato* v. *Auckland Boxing Association (Inc.)* [1978] 1 N.Z.L.R. 1, C.A.; compare *Ex parte Fry* [1954] 1 W.L.R. 730 and *R* v. *Metropolitan Police Commissioner ex parte Parker* [1953] 1 W.L.R. 1150.

30 *R.* v. *Liverpool Corporation* [1972] 2 Q.B. 299; compare the *Parker* case, supra n.29 (cancellation of a licence).

31 *Daganayasi* v. *Minister of Immigration* [1980] 2 N.Z.L.R. 130, C.A.; compare *R.* v. *Governor of Brixton Prison, ex parte Soblen* [1963] 2 Q.B. 243, C.A.

32 *Attorney-General* v. *Ryan* [1980] A.C. 718, J.C.; compare the *Soblen* case, supra n.31.

33 See the older cases cited in nn. 27-31.

34 E.g. *New Zealand United Licensed Victuallers Association of Employers* v. *Price Tribunal* [1957] N.Z.L.R. 167, S.C. and C.A. Compare R.B. Cooke, "Administrative Law — Natural Justice — Right to a Hearing" [1954] Camb. L.J. 14, 17-19.

35 *Daganayasi* v. *Minister of Immigration* [1980] 2 N.Z.L.R. 130, 141.

36 *Conway* v. *Rimmer* [1968] A.C. 910.

37 *Padfield* v. *Minister of Agriculture, Fisheries and Food* [1968] A.C. 997.

38 *Anisminic Ltd* v. *Foreign Compensation Commission* [1969] 2 A.C. 147.

— opening up the processes of government prior to decision,
— requiring that discretion be properly and fairly exercised by ministers,
— requiring tribunals to exercise their powers in accordance with the law, and
— providing the citizen with access to information after the event to enable that citizen effectively to challenge decisions of administrative authority.

There have been cases since that group which are significant both in asserting and in limiting the powers of the court to control executive action but it was that group that created the great difference in power and mood. And this was not a unilateral effort by the courts. They were plainly affected by the wider context. So in 1958 the United Kingdom Parliament had enacted the Tribunals and Inquiry Act which repealed ouster clauses, required tribunals to give reasons if called upon, provided for appeals on points of law from the decisions of tribunals, and generally attempted to bring important areas of administrative action under closer scrutiny. In New Zealand there were parallel and related movements, including the establishment of the Office of the Ombudsman in 1962 and the creation of the Administrative Division of the Supreme Court in 1968.

The only real gap in the United Kingdom set of decisions about administrative powers relates to regulations. The case which might have been significant in establishing the principles was *McEldowney* v. *Forde*,[39] in which the House of Lords upheld very broad Northern Ireland emergency regulations. The judgments are unsatisfactory. They do not address the major issues. This was the one significant public law case in this period in which Lord Reid did not sit. There is obviously a danger in attributing too many of the developments over the period of which I am speaking to one man. But he does seem to have been in the middle of a great deal of the important action.

The cases raise as well wider issues about the proper role of courts in controlling administrative power. Thus A. L. Goodhart in his article on *Ridge* v. *Baldwin* stressed that it was important to remember that those performing administrative functions must not be unduly hindered.[40] Obviously the Brighton Watch Committee should be able to get rid of a crooked policeman. But just what effect does this judgment have on that power? Consider the following four points. The first is that a hearing, as required by *Ridge* v. *Baldwin,* should help ensure that the Watch Committee makes the right decision: it should be better informed about the issues. That is to say the procedure is of value to the decider as well as to the individual affected. The second point is that the Watch Committee did get rid of Ridge.[41] He got his back pay and his pension, the real purpose of the proceedings. The third point is to stress the difference between the procedural restraint which is in issue here and substantive interference with the decision of the Watch Committee. The House of Lords was not claiming the right to make judgments about the action the committee should take. That was a matter for the committee and the Home Secretary. Rather the court's role was to see that

39 [1971] A.C. 632.
40 Supra n.26, 115.
41 E.g. Bradley n 26, 115.

proper procedure was followed.[42] The fourth point is that the judgment in this case and in later leading cases highlights the central issues, which, it seems to me, should be in issue when fair procedures are being established and not just by courts. Pre-eminent is the basic test for action laid down in the legislation. I have already mentioned the different approach adopted by the Police Act 1964 and suggested the consequences of it for fair procedure. Next and very much connected with that legislative definition is the interest or range of interests involved. This case points to statutory offices in respect of which there is tenure, to reputation, to property rights and to efficient government. The courts have shown that they will in general provide appropriate procedural protection for the first three. The next point, again very much related to the legislative ground, is the type of judgment to be made by the decision makers. The courts see a difference between those cases where the issue is one of personal fault and the cases where the issue is a broader one about, say, the efficient operation of some unit of government. Next the sanction is important; and finally the judgment shows that the court will have regard to other safeguards written into the legislation. The approach then seems to involve an ordered, principled, rational consideration of the real issues. As I have hinted, it suggests the very range of matters that a legislature should take into account in determining whether or not to grant procedural protection in the statute in the first place. It is certainly to be contrasted with the arid judicial gobbledegook which prevailed in the 1950s under the thraldom of the Atkin dictum. In other words the courts need not be seen, in any broad sense, as involved in a confrontation with the executive in the area of due process if they write judgments like this one. The executive or legislature on the one side and the judiciary on the other can collaborate in establishing fair and effective procedures.

V.

I return to the question of judicial method. I have stressed the emphasis which Lord Reid places on principle. He shows himself willing to innovate or, as he would have it in this case, to renovate by reference to principle. There is, in this judgment, some recognition as well of the limits of the argument by reference to principle. Let me end with two other examples of such recognition from other areas of the law. The first comes from his dissenting judgment in the very contentious decision about conspiracy to corrupt public morals. In this case the majority of the House of Lords agreed with Viscount Simonds that the Court of Queen's Bench had a residual power "to superintend those offences which are prejudicial to the public welfare."[43] Is this not a case where Lord Reid's emphasis on principle might have led him in the same direction? Not so:[44]

> Even if there is still a vestigial power of this kind it ought not, in my view, to be used unless there appears to be general agreement that the offence to which it is applied ought to be criminal if committed by an individual. Notoriously, there are wide dif-

42 Although see Lord Devlin, supra n.1, 140, and note that as a member of the International Labour Organisation Administrative Tribunal he has indeed had such a quasi-appellate role in respect of (international) public servants.

43 *Shaw* v. *D.P.P.* [1962] A.C. 220, 268.

44 Ibid. 275.

> ferences of opinion today as to how far the law ought to punish immoral acts which are not done in the face of the public. Some think that the law already goes too far, some that it does not go far enough. Parliament is the proper place, and I am firmly of opinion the only proper place, to settle that. When there is sufficient support from public opinion, Parliament does not hesitate to intervene. Where Parliament fears to tread it is not for the courts to rush in.

In this case Lord Reid sees substantive limits on the use by the courts of principle to develop the law. In another leading case he also acknowledged the existence of rather more technical and functional limits on the use of principle. The case involved the admissibility of hearsay evidence which showed convincingly that the defendant in a car theft trial had changed various numbers on the chassis and bodies of the cars in issue. The broad arguments for admitting the evidence were very strong. But Lord Reid resisted:[45]

> I have never taken a narrow view of the functions of this House as an appellate tribunal. The common law must be developed to meet changing economic conditions and habits of thought, and I would not be deterred by expressions of opinion in this House in old cases. But there are limits to what we can or should do. If we are to extend the law it must be by the development and application of fundamental principles. We cannot introduce arbitrary conditions or limitations: that must be left to legislation.

We went on to point to the fact that any such development of the law here would not lead to finality or certainty. There would be a series of technical problems. Moreover, this was a matter where legislation, involving a wide survey of the whole field, was necessary. A policy of make-do was no longer adequate. That is to say, even in a very technical area right within the middle of lawyer's law, he saw limits to the role of the judges. But that should not take away, indeed it enhances, the significance of those very important cases, of which *Ridge* v. *Baldwin* is pre-eminent, where he felt able, on the basis of principle, to move forward.

45 *Myers* v. *D.P.P.* [1965] A.C. 1001, 1021.