

crime or involve the Crown Prosecution Service, and since the making of such an order, the purpose of which was preventive not punitive, was not a conviction, did not appear on the defendant's criminal record and resulted in no penalty, the proceedings were civil under domestic law; that, since the proceedings did not involve the determination of a criminal charge and could not result in the imposition of an immediate penalty on the defendant, they therefore could not be classified as criminal for the purposes of article 6 of the Convention; that, in so far as the proceedings involved a determination of the defendants' civil rights and thereby engaged the right to a fair trial under article 6(1), the use of hearsay evidence admissible under the Civil Evidence Act 1995 in such proceedings was not unfair and involved no violation of that right; that hearsay evidence under the 1995 Act and the 1999 Rules was therefore admissible on an application for an anti-social behaviour order under section 1 of the 1998 Act; but that, given the seriousness of the matter involved, the court should be satisfied to the criminal standard of proof that a defendant had acted in an anti-social manner before making such an order; and that, accordingly, in the first case the appropriate standard of proof had been applied, and since the second case was not a "criminal cause or matter" the House had no jurisdiction to hear the appeal under section 1 of the 1960 Act (post, paras 22, 26-27, 30, 33-35, 36, 37, 39-40, 51, 55-56, 64, 67, 68, 74, 76-77, 81-84, 94-98, 102-103, 105-106, 108, 111, 112, 113-117).

Dicta of Lord Atkin in *Proprietary Articles Trade Association v Attorney General for Canada* [1931] AC 310, 324, PC, of Lord Bingham of Cornhill CJ in *Customs and Excise Comrs v City of London Magistrates' Court* [2000] 1 WLR 2020, 2025, DC, *B v Chief Constable of Avon and Somerset Constabulary* [2001] 1 WLR 340, DC, *S v Miller* 2001 SC 977 and *Gough v Chief Constable of Derbyshire Constabulary* [2002] QB 1213, CA applied.

Decision of the Court of Appeal [2001] EWCA Civ 281; [2001] 1 WLR 1084; [2001] 4 All ER 264 affirmed.

The following cases are referred to in the opinions of their Lordships:

*Adolf v Austria* (1982) 4 EHRR 313

*Albert and Le Compte v Belgium* (1983) 5 EHRR 533

*Amand v Home Secretary* [1943] AC 147; [1942] 2 All ER 381, HL(E)

*B v Chief Constable of Avon and Somerset Constabulary* [2001] 1 WLR 340; [2001] 1 All ER 562, DC

*Bendenoun v France* (1994) 18 EHRR 54

*Benham v United Kingdom* (1996) 22 EHRR 293

*Brown v Stott* [2003] 1 AC 681; [2001] 2 WLR 817; [2001] 2 All ER 97, PC

*Constanda v M* 1997 SC 217

*Customs and Excise Comrs v City of London Magistrates' Court* [2000] 1 WLR 2020; [2000] 4 All ER 763, DC

*Deweert v Belgium* (1980) 2 EHRR 439

*Dombo Beheer BV v The Netherlands* (1993) 18 EHRR 213

*Doorson v The Netherlands* (1996) 22 EHRR 330

*Engel v The Netherlands (No 1)* (1976) 1 EHRR 647

*Garyfallou AEBE v Greece* (1997) 28 EHRR 344

*Gough v Chief Constable of the Derbyshire Constabulary* [2001] EWHC Admin 554; [2002] QB 459; [2001] 3 WLR 1392; [2001] 4 All ER 289, DC; [2002] EWCA Civ 351; [2002] QB 1213; [2002] 3 WLR 289; [2002] 2 All ER 985, CA

*Guzzardi v Italy* (1980) 3 EHRR 333

*H (Minors) (Sexual Abuse: Standard of Proof)*, *In re* [1996] AC 563; [1996] 2 WLR 8; [1996] 1 All ER 1, HL(E)

*Han v Customs and Excise Comrs* [2001] EWCA Civ 1040; [2001] 1 WLR 2253; [2001] 4 All ER 687, CA

*Kostovski v The Netherlands* (1989) 12 EHRR 434

*Lauko v Slovakia* (1998) 33 EHRR 994