

Liversidge v Andersen [1941] UKHL 1

<https://lawcasesummaries.com/knowledge-base/liversidge-v-andersen-1941-ukhl-1/>

Facts

- In 1939, the Home Secretary (Sir John Andersen) was permitted to intern people if he had "reasonable cause" to believe that they had "hostile associations".
- This was permitted by Regulation 18B of the *Defence (General) Regulations 1939* (UK).
- Andersen detained Jack Perlzweig aka Robert Liversidge, placing him in prison with no reason why.

Issue

- Was the Court permitted to evaluate the Home Secretary's actions on an objective standard, comparing them to that which might be taken by a reasonable man, or were they to measure the actions against the Secretary's personal standard?

Held

- The majority of the House of Lords held that the legislation should be interpreted to give effect to what Parliament intended, even if that meant adding to the words to give that effect.
- If Andersen acted in good faith, then he did not need to disclose the basis for his decision.
- Lord Atkin's famous dissent stated that the majority were being "more executive-minded than the executive", and had abdicated their responsibility as a Court to ensure the Executive did not overstep the boundaries.

Quote

"...In some cases the issue is one of fact, in others of both fact and law, but in all cases the words indicate an existing something the having of which can be ascertained. And the words do not mean and cannot mean **"if A thinks that he has."** **"If A has a broken ankle" does not mean and cannot mean "if A thinks that he has a broken ankle."** **"If A has a right of way" does not mean and cannot mean "if A thinks that he has a right of way."** "Reasonable cause" for an action or a belief is just as much a positive fact capable of determination by a third party as is a broken ankle or a legal right ...the plain and natural meaning of the words "has reasonable cause" imports the existence of a fact or state of facts and not the mere belief by the person challenged that the fact or state of facts existed..."

(Lord Atkin's dissent)

Full Text

The full text is available here: <http://www.bailii.org/uk/cases/UKHL/1941/1.html>

Law case summary from www.lawcasesummaries.com