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CONSTITUTIONAL
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O. HOOD PHILLIPS & JACKSON:
CONSTITUTIONAL
AND ADMINISTRATIVE LAW

~~Eighth Edition~~

~~THE LATE O. HOOD PHILLIPS~~

Q.C., D.C.L., M.A.(OXON.), J.P.

*Formerly Emeritus Professor of Jurisprudence
and sometime Dean of the Faculty of Law
in the University of Birmingham*

AND

PAUL JACKSON

LL.D. (LIVERPOOL), B.C.L. (OXON.), M.A. (DUBLIN)

Emeritus Professor of Law, University of Reading

AND

PATRICIA LEOPOLD

LL.B (Belfast), LL.M (Exeter)

Senior Lecturer in Law, University of Reading

LONDON
SWEET & MAXWELL
2001

<i>First edition</i>	.	.	1952
<i>Second edition</i>	.	.	1957
<i>Third edition</i>	.	.	1962
<i>Fourth edition</i>	.	.	1967
<i>Fifth edition</i>	.	.	1973
<i>Sixth edition</i>	.	.	1978
<i>Seventh edition</i>	.	.	1987
<i>Eighth edition</i>	.	.	2001

Published in 2001 by
 Sweet & Maxwell Limited of
 100, Avenue Road, London NW3 3PE
<http://www.sweetandmaxwell.co.uk>
 Typeset by Interactive Sciences Ltd, Gloucester
 Printed in England by MPG Books Ltd, Bodmin, Cornwall

A CIP catalogue record for this book
 is available from the British Library

ISBN 0421 574801
 ISBN 1SE EDITION 0421 576502

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PREFACE TO THE EIGHTH EDITION

Introducing the preface to the third edition of this work, in 1962, Owen Hood Phillips commented that Britain had lost an Empire and gained a Council on Tribunals. Had he lived to see this edition he might have been tempted to say that Britain has lost a Constitution and gained a Dome. It is not only, however, the changes of the last four years that have necessitated the rewriting of much of the text of earlier editions. Parliament and the courts have legislated and deliberated over the whole period since 1987 with a vigour which has left almost no chapter untouched.

In Part I, there is a new chapter on Devolution and the chapter on The United Kingdom and Europe has been extensively rewritten. In Part II, all six chapters dealing with Parliament have similarly been largely rewritten. In Part III, the changes have been, perhaps, less dramatic although the chapters on the Cabinet and the Prime Minister and Central Government Departments and Civil Service have had to take account of important developments. The two chapters which formerly dealt with the Armed Forces and Emergencies have been replaced by one which deals with both topics and the Security Services and Terrorism. Part IV—Justice and Police—has required considerable revision while the Human Rights Act 1998 has necessitated a new chapter in Part V and, an expansion in the chapters dealing with individual freedoms. Other statutory developments have led to a further chapter in this Part, Official Secrecy and the Right to Know.

The chapter on Offences Against the State has, on the other hand, disappeared and its contents distributed elsewhere—treason, for example, to the chapter on the Monarchy, terrorism to the newly expanded chapter, already mentioned, on the Armed Forces and other topics while Official Secrets and DA Notices belong appropriately to the new chapter referred to above.

The disappearance of the chapter on Local Government marks, however, the abandonment of any attempt to deal with this increasingly specialised and highly technical subject, apart from a brief survey in Chapter 2. We believe this change reflects the reality that the law of local government no longer forms a part of the great majority of courses on Constitutional (or Public) Law.

In Part VI, apart from this omission of a long established topic, the chapter on Public Corporations tries to reflect the change from nationalisation to privatisation and Chapter 29 reflects the renewed awareness of the importance of Delegated Legislation and the controversies that can surround it.

Despite the changes and the re-writing we hope that this is still in a recognisable way, an edition of *Hood Phillips*. We have tried to keep in mind its extensive use (and citation) in countries outside the United Kingdom and those readers whose interest in constitutional law—and the history of the British Constitution—are not confined to the pressing needs of an imminent university examination.

We are again indebted to our colleagues for answering patiently our many queries in areas where we wished to draw on their expertise, to Mr Ian Sainsbury of the University Library who continues to demonstrate the superiority of the human brain to the most modern computerised retrieval systems, and to Mrs Julie Jones for her patient and efficient assistance in converting indecipherable writing into a legible word-processed text.

Once again too we must thank Sweet and Maxwell for a forbearance which must far exceed that which publishers routinely show to errant authors. We are grateful also for the suggestion that we contribute a tribute to the memory of Owen Hood Phillips.

At various points in the text we have tried to incorporate references to events occurring after the June 2001 Election and reports of some recent cases. That in turn may have led to inconsistencies in the text. We apologise for any confusion so caused.

PJ

PML

OWEN HOOD PHILLIPS, Q.C., D.C.L.
1907-1986

Owen Hood Phillips was born at Portsmouth on September 30, 1907, the younger son of a Surgeon Captain in the Royal Navy. He read law at Oxford and always retained an affection for his old college, Merton. His distinguished academic career began at King's College London, where he returned as Reader after two years as lecturer at Trinity College, Dublin. He gained first hand experience of the workings of government during World War II when he served as a civil servant in the Ministries of Labour and Aircraft production.

In 1946 he was appointed Barber Professor of Jurisprudence at the University of Birmingham. He devoted much of the rest of his life to establishing the place of Birmingham among the leading law schools—a position helped by his own reputation, based not merely on his writings but for example on his role as constitutional adviser in 1953 to 1954 to the Singapore Constitutional Commission and again as a delegate to the Malta Constitutional Conference in 1955 and 1958.

His earliest writing had been done in the time spared from "my work in a Government Department, and not seldom it was accompanied by the sound of air-raids, flying bombs or rockets". He always had in mind not merely those taking examinations in law but also "the 'intelligent layman' whose intelligence is manifested by his avoiding examinations in law altogether".

In the current climate it is interesting to note that his *Reform of the Constitution* appeared as long ago as 1970 and anticipated many of the issues which subsequently became fashionable. After a lifetime of legal textbooks and articles in the *Law Quarterly Review* and *Public Law* he indulged an abiding fascination by publishing in 1972, *Shakespeare and the Lawyers*.

From 1975, when he retired, to his death in 1986, he retained his interest in the law and was able to devote more time, in company with his wife Lucy, to gardening, travelling and entertaining, while taking up the reading of *A la recherche du temps perdu*. His dry wit and slightly quizzical view of the world never deserted him—even in his last days in hospital.

One of us had the privilege of working with him for many years, both of us had the pleasure of knowing him. His memory will remain vivid to generations of his pupils and former colleagues even as he becomes merely a name on the cover of a book to students of this century.

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