
Contents

<i>Foreword</i>	xi
<i>Acknowledgements</i>	xiii
<i>Table of cases</i>	xv
Introduction	1
1 The right of silence – a benchmark of justice?	8
<i>The background to the debate</i>	8
<i>The origins of the right of silence</i>	11
<i>Curtailing the right of silence: the debate</i>	15
<i>New legal regimes: founding principles and fair trials</i>	20
<i>Conclusion</i>	24
2 The right of silence – a crime control target?	25
<i>Judicial comment</i>	27
<i>Official inquiries and political debate</i>	30
<i>The Criminal Justice and Public Order Act 1994</i>	44
<i>Conclusion</i>	48
3 Police custody, cop culture and the caution	50
<i>'Cop culture' and the right of silence</i>	53
<i>PACE: a fair exchange?</i>	56
<i>The complex and coercive caution</i>	62
<i>The interview</i>	67
<i>'No comment' interviews</i>	73
<i>Conclusion</i>	84

4	A ‘fundamental dilemma’: the undermining of legal representation at the police station	86
	<i>Active defenders or babysitters?</i> 89	
	<i>Provision of pre-interview legal advice</i> 98	
	<i>Pre-interview disclosure</i> 103	
	<i>Police interviews and the undermining of legal representation</i> 108	
	<i>Conclusion</i> 118	
5	Silence in court	120
	<i>The widening application of section 34</i> 121	
	<i>‘Special warnings’ for failure to account for facts in interview</i> 131	
	<i>Section 35 – ‘Hobson’s choice’ and inferences from not testifying</i> 132	
	<i>‘Common sense’ inferences and lay tribunals</i> 141	
	<i>The impact of the CJPOA</i> 146	
	<i>Conclusion</i> 154	
6	Conclusion: the transformed landscape of the criminal trial	159
	<i>The warning signs</i> 164	
	<i>The aftershocks</i> 168	
	<i>Collateral damage to the lawyer–client relationship</i> 171	
	<i>The right will rise again?</i> 175	
	<i>Conclusion</i> 178	
	<i>Legislation: Criminal Justice and Public Order Act 1994</i>	
	<i>(as enacted)</i>	182
	<i>Methods</i>	189
	<i>Bibliography</i>	191
	<i>Index</i>	223