

A XII *The submissions of Liberty*

38 The House gave permission to Liberty to intervene in the *McCann* case in writing and orally. The contribution of Liberty has helped to sharpen the focus of the debate on issues under the Human Rights Act 1998. It is, however, unnecessary to deal separately with the submissions of Liberty. The reasons I have given are also dispositive of the issues and arguments raised by Liberty.

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XIII *Jurisdiction*

39 Section 1(1)(a) of the Administration of Justice Act 1960 only permits an appeal from a decision of the High Court “in any criminal cause or matter”. In my view the proceedings under the first part of section 1 do not satisfy this criterion. It follows that in the *Clingham* case the House did not have jurisdiction to entertain the appeal.

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XIV *Disposal*

40 For these reasons as well as the reasons given by Lord Hope of Craighead I would dismiss the appeals in the *McCann* case and formally declare that there was no jurisdiction to hear the *Clingham* case.

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LORD HOPE OF CRAIGHEAD

41 My Lords, in a democratic society the protection of public order lies at the heart of good government. This fundamental principle has a prominent place in the European Convention for the Protection of Human Rights and Fundamental Freedoms. Among the grounds on which a public authority may interfere with the rights described in articles 8 to 11 of the Convention are public safety, the protection of public order and the protection of the rights and freedoms of others. It is only in article 10(1) that one finds an express declaration that the exercise of freedoms carries with it duties and responsibilities. But it is a theme which runs right through the Convention. Respect for the rights of others is the price that we must all pay for the rights and freedoms that it guarantees.

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42 On the whole we live in a law-abiding community. Most people respect the rights of others, most of the time. People usually refrain from acts which are likely to cause injury to others or to their property. On the occasions when they do not, the sanctions provided by the criminal law are available. But it is a sad fact that there are some individuals for whom respect for the law and for the rights of others has no meaning. Taken one by one, their criminal or sub-criminal acts may seem to be, and indeed often are, relatively trivial. But, taken together, the frequency and scale of their destructive and offensive conduct presents a quite different picture. So does the aggression and intimidation with which their acts are perpetrated. The social disruption which their behaviour creates is unacceptable. So too is the apparent inability of the criminal law to restrain their activities. This provides the background to the enactment of section 1 of the Crime and Disorder Act 1998 with which your Lordships are concerned in these appeals.

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43 The main question which they raise is the familiar one of classification. If proceedings under section 1 of the Crime and Disorder Act 1998 are to be classified as criminal proceedings for the purposes of