

HOUSE OF LORDS

SESSION 1999–00
30th REPORT

APPEAL COMMITTEE

**TIME EXTENSIONS IN CRIMINAL
APPEALS: JURISDICTION**

REPORT

Ordered to be printed 2 March 2000

LONDON

THIRTIETH REPORT

from the Appeal Committee

2 MARCH 2000

ORDERED TO REPORT

1. On 27 July 1999, the petition of Anthony Richard Clarke, praying for an extension of time within which the petition may be lodged and for leave to appeal in accordance with the Administration of Justice Act 1960, was presented and referred to an Appeal Committee. The petitioner's legal aid certificate was lodged.

2. The point of law of general public importance certified by the Divisional Court of the Queen's Bench Division was: "Whether premises which carry a risk of personal injury by reason of design or layout are capable of being found prejudicial to health so as to constitute a statutory nuisance within the meaning of section 79(1)(a) and 79(7) of the Environmental Protection Act 1990".

3. On 7 December, the petition was allowed following the report from an Appeal Committee which considered the matter on the papers. An objection in writing from the respondent Council to the jurisdiction of the Appeal Committee was lodged in the Parliament Office before the petition for leave was determined but, due to a mistake made by the Judicial Office, the Appeal Committee to which the petition was referred did not have the objections before them at the time when they considered the petition.

4. Mr Clarke's petition of appeal was presented on 10 January.

5. On 21 February, the respondent Council presented a petition praying that the Order of the House of 7 December last be vacated. Their petition was referred to this Appeal Committee, who have met and heard counsel.

6. Birmingham City Council contend that the House had no jurisdiction to grant leave to appeal to Mr Clarke, because his petition was lodged outside the time limits imposed by section 2(1) of the Administration of Justice Act 1960; and that, because Mr Clarke is the prosecutor in the action, it was not open to him to apply for an extension of time in accordance with section 2(3) of the Act. Mr Clarke contends that there is an implied power to extend time.

7. We consider that the suggested implication conflicts with the express terms of the statute and is not sustainable. The Committee therefore find that the petition was inadmissible. The practice directions should however be amended to make it clear that there is no jurisdiction to extend the time limits in favour of the prosecutor even if he is legally aided.

RECOMMENDATION

8. In these circumstances the Committee recommend that the Order made pursuant to the 8th Report of the Appeal Committee on 7 December last, relating to the petition of Anthony Richard Clarke praying for an extension of time within which the petition may be lodged and for leave to appeal in accordance with the Administration of Justice Act 1960 in the cause *Birmingham City Council (Respondents) v. Clarke (A.P.) (Petitioner)* be *vacated*; that the petition be *dismissed* as inadmissible; that the presentation of the petition of appeal on 10 January last be *vacated*; that the costs of the respondents be paid out of Central Funds in accordance with section 16 of the Prosecution of Offences Act 1985; and that the costs of the petitioner be taxed in accordance with the Legal Aid Act 1988.