

LONDON BOROUGH OF BARNET - JUDICIAL REVIEW

The High Court have now published the judgment in the case of R (on application of London Borough of Barnet) v The Parking Adjudicator.

This followed from an Adjudicator's decision on 18 February 2006 that Penalty Charge Notices issued by Barnet did not comply with the requirements of section 66(3) of the Road Traffic Act 1991. Barnet applied for a review of the Adjudicator's decision, but this application was refused on 6 March 2006.

Barnet then applied to the High Court for a Judicial Review of the decision. The hearing took place before Mr Justice Jackson on 1 and 2 August 2006.

The judgment can be viewed at <http://www.bailii.org> by entering reference EWHC 2357 in the search field or in the Key Cases section on the PATAS web site at <http://www.parkingandtrafficappeals.gov.uk>.

DE CRITTENDEN V NPAS-JUDICIAL REVIEW – BILL OF RIGHTS 1689

Attached as an appendix to this newsletter is the High Court judgment in Mr De Crittenden's judicial review application in respect of the NPAS decision on his Bill of Rights argument.

PATAS WEB SITE

The Parking and Traffic Appeals Service web site has been redesigned with the intention of making it easier for members of the public and local authorities to find relevant information.

The new site now incorporates separate areas for both tribunals with information specific to each.

The information available has been increased and made easier to access. For example, there are now individual pages describing the enforcement process for a Penalty Charge Notice according to the type of contravention, with links to traffic enforcement areas on local authority web sites.

We hope to make our various leaflets available to download from the site in the near future.

The address for the site is unchanged at <http://www.parkingandtrafficappeals.gov.uk> and we welcome feedback from the general public and local authorities.

PRE-HEARING LEAFLET

We have now published a new information leaflet which accompanies every appeal schedule letter explaining something about the appeals process and what appellants can expect at their hearing.

The leaflet also includes a map showing the location of the Hearing Centre at New Zealand House, near Trafalgar Square.

As mentioned in the section on the PATAS web site, we hope to publish this and other leaflets on our site shortly.

CHANGES TO THE COMPUTERISED ADJUDICATION SYSTEM

PATAS are about to introduce some minor enhancements to our computerised Adjudication and case management systems.

Parties to appeals should barely notice any differences: the improvements are designed to make the more complex case management functions easier to manage for Adjudicators and PATAS staff. However, there will be changes to the way in which Adjudicators handle statutory declarations referred to them by local authorities and TfL. The standard reports and letters will be different and the process will be more streamlined.

PARKING AND TRAFFIC APPEALS SERVICE SUMMARY LOCAL AUTHORITY REPORT London Borough of Xyz Tuesday, 8 August 2006 Statutory Declarations Directions PARKING APPEALS			
<u>Case Ref</u>	<u>PCN</u>	<u>Declarant</u>	<u>Direction</u>
20501*****	XY12345678	Other	the LA to cancel the Penalty Charge Notice

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PARKING

Local Authority Daily Report – Statutory Declarations

CONTINUED ON PAGE 3

CHANGES TO THE COMPUTERISED ADJUDICATION SYSTEM (CONTINUED)

Mr	Case No
-v-	
London Borough of	
Vehicle Registration Number:	Full Penalty Charge:
Penalty Charge Notice:	
Date of Issue: Sun 19 Dec 04	Time of Issue: 11:41
Parking Attendant:	Road
Location:	Parked with one or more wheels on any part of an urban road other than a carriageway (footway parking)
Contravention:	
Adjudicator's Direction	
This case comes before the Adjudicator by way of a Statutory Declaration referred under Paragraph 8(1) of Schedule 6 of <i>The Road Traffic Act 1991</i> and the Adjudicator has made the direction below.	
The reasons for the Adjudicator's directions are attached.	

The Adjudicator directs the LA to cancel the Penalty Charge Notice

Allow on this occasion - SD could be a review.

tra adj
Adjudicator appointed under Section 73(3) of the Road Traffic Act 1991

Direction Letter – Statutory Declaration

A circular explaining the changes in documentation will be sent to enforcing authorities just before the changes are implemented.

Statistics April – June 2006 (2006-07 Quarter 1) **Parking**

	SUMMARY								
	REC'D	STAT DEC REC'D	ALLOWED	OF WHICH DNC	REFUSED	OF WHICH W'DRAWN	TOTAL SEALED	% ALLOWED INC. DNC	% DNC
Barking and Dagenham	70	0	64	3	76	0	140	46%	2%
Barnet	483	2	311	169	78	0	389	80%	43%
Bexley	69	14	46	4	61	0	107	43%	4%
Brent	195	0	76	26	93	1	169	45%	15%
Bromley	262	19	111	43	107	0	218	51%	20%
Camden	831	108	415	183	441	8	856	48%	21%
City of London	178	19	71	23	50	0	121	59%	19%
Croydon	152	17	44	14	113	4	157	28%	9%
Ealing	726	55	294	164	191	1	485	61%	34%
Enfield	73	16	41	10	56	1	97	42%	10%
Greenwich	79	0	28	8	49	2	77	36%	10%
Hackney	878	8	408	239	104	1	512	80%	47%
Hammersmith & Fulham	342	28	114	47	150	2	264	43%	18%
Haringey	304	0	180	53	116	2	296	61%	18%
Harrow	200	28	50	11	207	1	257	19%	4%
Havering	81	12	25	10	47	0	72	35%	14%
Hillingdon	70	5	57	33	47	0	104	55%	32%
Hounslow	227	0	78	28	115	1	193	40%	15%
Islington	612	6	322	200	284	2	606	53%	33%
Kensington and Chelsea	401	39	271	105	375	7	646	42%	16%
Kingston Upon Thames	103	0	43	13	78	0	121	36%	11%
Lambeth	444	0	387	185	228	8	615	63%	30%
Lewisham	106	28	52	10	74	0	126	41%	8%
Merton	60	0	38	17	23	0	61	62%	28%
Newham	272	34	153	62	154	0	307	50%	20%
Redbridge	128	5	56	12	88	3	144	39%	8%
Richmond Upon Thames	212	14	124	72	85	1	209	59%	34%
Southwark	541	0	343	231	108	0	451	76%	51%
Sutton	84	4	35	9	82	0	117	30%	8%
Tower Hamlets	190	12	84	23	114	0	198	42%	12%
Transport for London	626	67	250	95	291	4	541	46%	18%
Waltham Forest	298	0	137	49	115	1	252	54%	19%
Wandsworth	517	1	428	242	397	6	825	52%	29%
Westminster	2694	192	1351	617	693	13	2044	66%	30%
TOTALS :	12508	733	6487	3010	5290	69	11777	55%	26%

Statistics April – June 2006 (2006-07 Quarter 1) **Bus Lane**

	REC'D	STAT DEC REC'D	ALLOWED	OF WHICH DNC	REFUSED	OF WHICH W'DRAWN	TOTAL SEALED	% ALLOWED INC. DNC	% DNC
Barking and Dagenham	6	0	0	0	0	0	0	N/A	N/A
Barnet	49	0	21	7	18	0	39	54%	18%
Bexley	13	3	1	0	11	0	12	8%	0%
Brent	15	1	10	4	14	0	24	42%	17%
Bromley	23	3	15	2	17	1	32	47%	6%
Camden	8	1	5	4	11	0	16	31%	25%
City of London	2	0	1	0	0	0	1	100%	0%
Croydon	2	2	0	0	1	0	1	0%	0%
Ealing	105	0	48	27	48	0	96	50%	28%
Enfield	1	4	2	0	3	0	5	40%	0%
Hackney	14	0	6	5	5	0	11	55%	45%
Hammersmith & Fulham	10	9	4	1	19	0	23	17%	4%
Haringey	15	0	9	4	11	0	20	45%	20%
Harrow	23	2	6	0	14	0	20	30%	0%
Hillingdon	5	0	8	6	9	1	17	47%	35%
Islington	13	3	12	3	19	0	31	39%	10%
Kingston Upon Thames	0	0	1	1	4	0	5	20%	20%
Lambeth	28	0	16	7	18	0	34	47%	21%
Lewisham	5	0	0	0	1	1	1	0%	0%
Merton	4	0	7	1	2	0	9	78%	11%
Newham	19	3	19	9	21	0	40	48%	23%
Richmond Upon Thames	15	1	11	1	11	0	22	50%	5%
Southwark	6	0	4	3	3	0	7	57%	43%
Tower Hamlets	14	1	4	1	6	0	10	40%	10%
Transport for London	111	24	53	10	106	1	159	33%	6%
Waltham Forest	8	0	7	2	5	0	12	58%	17%
Wandsworth	13	0	0	0	4	0	4	0%	0%
Westminster	1	0	2	2	0	0	2	100%	100%
TOTALS :	528	57	272	100	381	4	653	42%	15%

Statistics April – June 2006 (2006-07 Quarter 1) **Moving Traffic**

	SUMMARY								
	REC'D	STAT DEC REC'D	ALLOWED	OF WHICH DNC	REFUSED	OF WHICH W'DRAWN	TOTAL SEALED	% ALLOWED INC. DNC	% DNC
Camden	252	25	179	132	83	0	262	68%	50%
Croydon	35	14	1	0	25	0	26	4%	0%
Ealing	149	0	22	12	15	4	37	59%	32%
Hammersmith & Fulham	5	1	0	0	9	1	9	0%	0%
Haringey	29	0	19	16	1	0	20	95%	80%
Islington	80	0	30	18	9	0	39	77%	46%
Lambeth	10	0	1	1	1	0	2	50%	50%
Newham	37	8	18	13	17	0	35	51%	37%
Transport for London	70	20	51	15	53	3	104	49%	14%
Wandsworth	10	0	4	1	0	0	4	100%	25%
Westminster	4	0	4	2	0	0	4	100%	50%
TOTALS :	681	68	329	210	213	8	542	61%	39%

Statistics April – June 2006 (2006-07 Quarter 1) **Lorry Ban**

	SUMMARY								
	REC'D	STAT DEC REC'D	ALLOWED	OF WHICH DNC	REFUSED	OF WHICH W'DRAWN	TOTAL SEALED	% ALLOWED INC. DNC	% DNC
ALG TEP	22	0	12	5	5	0	17	71%	29%

Statistics April – June 2006 (2006-07 Quarter 1) **Congestion Charging**

	SUMMARY								
	REC'D	STAT DEC REC'D	ALLOWED	OF WHICH DNC	REFUSED	OF WHICH W'DRAWN	TOTAL SEALED	% ALLOWED INC. DNC	% DNC
Transport for London	1745	358	1062	585	2274	76	3336	32%	18%

Statistics April – June 2006 (2006-07 Quarter 1) All Appeals

	SUMMARY								
	REC'D	STAT DEC REC'D	ALLOWED	OF WHICH DNC	REFUSED	OF WHICH W'DRAWN	TOTAL SEALED	% ALLOWED INC. DNC	% DNC
Barking and Dagenham	76	0	64	3	76	0	140	46%	2%
Barnet	532	2	332	176	96	0	428	78%	41%
Bexley	82	17	47	4	72	0	119	39%	3%
Brent	210	1	86	30	107	1	193	45%	16%
Bromley	285	22	126	45	124	1	250	50%	18%
Camden	1091	134	599	319	535	8	1134	53%	28%
City of London	180	19	72	23	50	0	122	59%	19%
Croydon	189	33	45	14	139	4	184	24%	8%
Ealing	980	55	364	203	254	5	618	59%	33%
Enfield	74	20	43	10	59	1	102	42%	10%
Greenwich	79	0	28	8	49	2	77	36%	10%
Hackney	892	8	414	244	109	1	523	79%	47%
Hammersmith & Fulham	357	38	118	48	178	3	296	40%	16%
Haringey	348	0	208	73	128	2	336	62%	22%
Harrow	223	30	56	11	221	1	277	20%	4%
Havering	81	12	25	10	47	0	72	35%	14%
Hillingdon	75	5	65	39	56	1	121	54%	32%
Hounslow	227	0	78	28	115	1	193	40%	15%
Islington	705	9	364	221	312	2	676	54%	33%
Kensington and Chelsea	401	39	271	105	375	7	646	42%	16%
Kingston Upon Thames	103	0	44	14	82	0	126	35%	11%
Lambeth	482	0	404	193	247	8	651	62%	30%
Lewisham	111	28	52	10	75	1	127	41%	8%
Merton	64	0	45	18	25	0	70	64%	26%
Newham	328	45	190	84	192	0	382	50%	22%
Redbridge	128	5	56	12	88	3	144	39%	8%
Richmond Upon Thames	227	15	135	73	96	1	231	58%	32%
Southwark	547	0	347	234	111	0	458	76%	51%
Sutton	84	4	35	9	82	0	117	30%	8%
Tower Hamlets	204	13	88	24	120	0	208	42%	12%
Transport for London	2553	469	1417	705	2725	84	4142	34%	17%
Waltham Forest	306	0	144	51	120	1	264	55%	19%
Wandsworth	540	1	432	243	401	6	833	52%	29%
Westminster	2699	192	1357	621	693	13	2050	66%	30%
TOTALS :	15463	1216	8151	3905	8159	157	16310	50%	24%

REVIEW: TIME LIMIT FOR MAKING APPLICATION; EXTENSION OF TIME LIMIT**Rubin v London Borough of Barnet****Case No. 2050255881****Parked in a restricted street during prescribed hours**

This case was one of twelve applications for review by this Appellant.

The grounds of the application were essentially the same in each case, the appellant sought to present new argument. The other important common factor was that the applications were all made substantially out of time.

Regulation 11(3) of the *Road Traffic (Parking Adjudicators) (London) Regulations 1993* provides that an application for review "shall be made ... within 14 days after the date on which the decision was sent to the parties ...".

All of the applications were well out of time, ranging between 11 months and over four months. It was therefore necessary to consider extending the time for making the applications, under regulation 14(1) of the 1993 regulations.

The Adjudicator said that the time limit for making an application for review was there for a good reason. It reflected the principle that there is a public interest in the finality of proceedings. It also accorded with the principle of proportionality; the penalties in question were relatively small, and the proceedings relating to them needed to be proportionate to what was at stake. It was not desirable for such proceedings to be unduly time consuming or protracted. The time limit served these aims. If Adjudicators were freely to extend the time limit, this would undermine the purposes for which it was in place. Adjudicators were therefore slow to extend the time limit and would only do so in exceptional circumstances.

The Appellant had put forward no good reason for the very long delay in making these applications. Indeed, even if the applications had been made within time, it was very doubtful whether any of the grounds for review would have been satisfied. New arguments were not new evidence. Nor did the interests of justice generally require that an Appellant should be allowed to re-argue his appeal putting forward fresh arguments that he could perfectly well have put in the first place.

But in any event, even if the Appellant might have had good grounds for a review if he had applied within time, that was not a reason for extending time so long after the appeals were refused. If it were, it was difficult to see why any Appellant would not be able to seek to reopen their appeal at any time, thus effectively rendering redundant the time limit prescribed by the 1993 regulations and completely undermining the public interest in the finality of proceedings.

The Adjudicator accordingly rejected all the applications.

19 July 2006

REDUCED PENALTY ENTITLEMENT; WHETHER MOTORIST CAN BOTH PAY REDUCED PENALTY AND APPEAL; FAIR TRIAL UNDER EUROPEAN CONVENTION ON HUMAN RIGHTS, ARTICLE 6

Strauss v Royal Borough of Kensington & Chelsea

Case No. 2050448466

Parked in a suspended bay/space or part of a suspended bay/space

The Appellant raised an issue about the interpretation of section 66 of the *Road Traffic Act 1991*. He argued that on its proper interpretation a motorist can pay the reduced penalty charge and still go on to contest the penalty, ultimately by appealing to the parking adjudicator.

The Adjudicator said that the *Road Traffic Act 1991* provided that where a Notice to Owner was served, the recipient might make representations to the local authority; and if those representations were rejected the recipient of the Notice of Rejection might then appeal to the parking adjudicator.

This scheme was in his view comprehensive and its interpretation straightforward.

Section 66(3)(c) prescribed a period of 28 days for payment of the penalty charge. If the penalty was not paid within that time, paragraph 1 of Schedule 6 empowered the local authority to pursue enforcement of the penalty charge by serving a Notice to Owner. There was then a mechanism for the recipient of the Notice to Owner to contest liability, ultimately by appealing to the parking adjudicator. But if the penalty charge was paid within the 28 days that was an end of the matter. There was then no power to serve a Notice to Owner, because, of course, there was nothing to pursue enforcement of. And it was only through the enforcement process starting with the Notice to Owner that the right to challenge the penalty and ultimately the right to appeal to the parking adjudicator arose. So, if the penalty charge was paid within the 28 days prescribed by section 66(3)(c), those rights never arose. Nor could the motorist require the local authority to serve a Notice to Owner where the penalty had been paid. There was no power to serve a Notice to Owner unless the penalty had not been paid.

The Adjudicator rejected the Appellant's suggestion that the draftsman must have omitted to think of the possibility of paying and challenging. The scheme the draftsman had quite deliberately provided for was "pay or challenge".

There was no distinction in this respect between paying the full penalty or taking advantage of the reduced penalty available under section 66(3)(d). As the Appellant admitted, his argument relied on interpreting "paid" differently in sections 66(3)(d) and (e). There was no justification for so doing. It was generally presumed that the same word means the same thing if used in different provisions in the same statute. Here, the same word was used in successive paragraphs of a sub-section, and there was no reason for departing from the usual presumption.

But that was not the only reason. The Appellant treated paragraphs (c) and (d) as both making provision for payment of the penalty, but at different amounts. This was not so. It was paragraph (c) that dealt with the requirement to pay the penalty. Paragraph (d) did not set out any requirement to pay; it merely set out a particular consequence if the payment was made within the first 14 days.

The Adjudicator also rejected the Appellant's argument that "one would naturally expect the provisions to permit payment under reserve, payment without prejudice to liability or conditional payment". It may be this was common practice in other areas, but the Appellant's reliance on this in this context was misconceived. This was a statutory scheme and one must take the scheme as it was on its ordinary and natural interpretation.

Continued...

REDUCED PENALTY ENTITLEMENT; WHETHER MOTORIST CAN BOTH PAY REDUCED PENALTY AND APPEAL; FAIR TRIAL UNDER EUROPEAN CONVENTION ON HUMAN RIGHTS, ARTICLE 6

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Parked in a suspended bay/space or part of a suspended bay/space

Continued...

Nor, contrary to what the Appellant submitted, was there any need to imply anything to come to this interpretation. It was the ordinary and natural one. It was the Appellant who had to resort to implication for the interpretation he advocated.

This scheme did not breach the requirement under Article 6 of the European Convention of Human Rights for there to be an effective right of access to the tribunal. The provision for the reduced penalty served the clear public interest in providing an incentive to motorists to settle their parking penalties promptly and so minimise the need for the Council having to pursue enforcement through further action. To allow motorists to pay at the reduced rate but still go on to contest the penalty would plainly undermine that legitimate aim. Whilst proportionally a difference of 50% might seem high, the penalties themselves were relatively small and the difference between the full and reduced penalties was therefore modest in absolute terms. The difference must nevertheless be sufficient to provide some encouragement for prompt payment. The provision for the reduced penalty was therefore an entirely proportionate measure in relation to the legitimate aim it sought to achieve.

As to this case, the Appellant sent a cheque for £50 but said that he nevertheless wished to pursue the formal process following the Notice to Owner. This payment on terms was not a payment for the purposes of section 66 of the 1991 Act. The local authority was therefore entitled to serve the Notice to Owner, because the penalty had not been paid in the sense required by the scheme.

Appeal refused.

19 July 2006

VEHICLE PARKED ADJACENT TO A DROPPED FOOTWAY

Chergui v London Borough of Waltham Forest

Case No. 2060172565

Vehicle parked adjacent to a dropped footway

The Appellant's vehicle was parked on the footway obstructing the drive of a house.

A PCN was issued for parking adjacent to a dropped footway. However, s14(1) London Local Authorities and Transport for London Act 2003, applies only to a vehicle parked on the *carriageway*. As the vehicle was parked entirely on the footway it was not in contravention and it followed that this PCN was issued incorrectly.

Appeal allowed.

12 August 2006

CO/10617/2005

Neutral Citation Number: [2006] EWHC 2170 (Admin)

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

Royal Courts of Justice

Strand

London WC2

Wednesday, 5th July 2006

B E F O R E:

MR JUSTICE COLLINS

THE QUEEN ON THE APPLICATION OF ROGER DE CRITTENDEN

Claimant

-v-

NATIONAL PARKING ADJUDICATION SERVICE

Defendant

(Computer-Aided Transcript of the Palantype Notes of
Smith Bernal Wordwave Limited
190 Fleet Street London EC4A 2AG
Tel No: 020 7404 1400 Fax No: 020 7831 8838
Official Shorthand Writers to the Court)

The Claimant appeared on his own behalf
The Defendant did not appear and was not represented

J U D G M E N T
(As approved by the Court)

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1. MR JUSTICE COLLINS: This is a renewed application by Mr De Crittenden to seek permission to apply for judicial review of a decision of a Parking Adjudicator given on 21st November 2005, which in fact allowed his appeal against the issue by the Worcester City Council of a penalty charge notice in relation to alleged unlawful parking, and the decision of another Parking Adjudicator on 7th December refusing his application for review of that decision.
2. It may be somewhat surprising that the claimant is seeking to pursue judicial review of a decision which was in his favour. But the point he is seeking to make is that the whole system of Parking Adjudicators, the whole system indeed of penalty charges set up by the Road Traffic Act 1991, is unlawful because it is contrary to the Bill of Rights. It is contrary to the Bill of Rights because it breaches the prohibition against fines and forfeitures before conviction or judgment against the persons upon whom the fines and forfeitures are to be levied.
3. I know that this point has been raised before a number of adjudicators, and for some reason it appears to have concerned a number of local authorities. That in itself is of course no good reason why this claim, which is totally academic so far as Mr De Crittenden is concerned, should proceed. But his main complaint, as I understand it, is that the Parking Adjudicators are not independent, they are not a court, and what is required, before any sum of money is taken from a member of the public, is the right to a trial. In the circumstances of this sort of case, it is the right to criminal proceedings.
4. Whatever may have been the position before 1991, parking under that Act was dealt with in a particular fashion. It was done in a slightly curious way because the 1991 Act in its main provisions deals with parking in London. But the Third Schedule applies those provisions generally across the country if local authorities wish to impose them by a particular Order. The 1991 Act has been repealed and replaced by the Traffic Management Act 2004, which explicitly refers to penalty charges as civil penalty notices. It sets up a similar system to that which can be applied under the 1991 Act across the country. That Act is not yet in force; at least when I looked at the latest volume of Halsbury's which indicated whether Acts were in force, it appeared not to be. Why that is I do not know. But it makes explicit what was implicit in the 1991 Act, namely that this is a civil penalty (for want of a better word). It is not a question of a criminal offence. Indeed, the whole purpose behind the 1991 Act was to take enforcement of parking out of the criminal law. There was a need for regulation. Without regulation there would obviously be chaos in our towns and cities. Parliament took the view that the right way of dealing with it was to create civil enforcement. Indeed, at the end of the line the enforcement of parking penalties is through a county court order. But the way in which a challenge can be made to a particular penalty notice is through the Parking Adjudicators, who were set up by the 1991 Act.
5. Mr De Crittenden complains that they are not independent. That complaint is totally ill founded. They are independent. They are an independent tribunal which Parliament has brought into being to act instead of a court to deal with these issues. There is nothing strange in our system of law in a tribunal being established to deal with matters which otherwise would have to be dealt with through the courts. Social security is a

good example. Virtually everything that arises out of social security payments or whether payments are due is dealt with through the tribunals, but there are many others. The system in being is that the tribunal is there to deal with the factual issue. It is controlled by the courts through judicial review or sometimes through a right of appeal. In this case the control is through judicial review. In that way the citizen is protected and has the right to go to an independent body, and ultimately the court, to ensure that his rights are respected.

6. Mr De Crittenden complains that the adjudicators were not carrying out their functions properly, because they were not requiring the local authorities to establish through the necessary paperwork that particular regulations or controls on parking existed. Obviously if there is a challenge to the penalty, it is for the authority to establish the right to make that charge. The burden is not, so far as I am aware under the statutory provisions, placed upon the motorist to establish that he was not liable. However, the motorist must produce some material -- there is clearly an evidential burden -- to establish that his claim has some merit.
7. Obviously, if the motorist asserts that there was no indication that any regulations applied and he did not believe any regulations applied, the authority has to show that that is not correct. Indeed, in this particular case the adjudicator directed the local authority to produce the necessary paperwork, and it did not do so. It was for that reason that Mr De Crittenden's appeal was allowed. This, Mr De Crittenden tells me, was a most unusual state of affairs in his experience. Maybe it was. But perhaps one advantage of this case will be that it is no longer a most unusual state of affairs, because if there is a challenge then the matter must be established. It is very easy for the local authority to establish it, at least it should be, if indeed the regulations that they are seeking to enforce apply, because they will have the necessary Order and they will be able to show the Order applies to the street in question. That should be all too easy. If they cannot do that, then they have no business imposing penalty charges. That is, I would have thought, elementary. If there have been any errors of law in the carrying out of the adjudication by Parking Adjudicators, then this court is there to deal with them if they arise in a given case.
8. The fact is, of course, that most who park know perfectly well, because there are notices and signs, that they are not doing what they should, and recognise that if they are caught they must pay. That is, frankly, hardly surprising. Sometimes, as we know from reading the papers, there are false tickets issued. The system breaks down. Sometimes local authorities impose restrictions when they have no power to do so. That does sometimes happen. It is of course necessary that if that does happen it should be identified and should be able to be identified, and it is so far as the system is concerned. But this is not a fine or forfeiture within the meaning of the Bill of Rights. The suggestion that the Bill of Rights applies is, I am afraid, nonsense. It does not. The only surprise I have is that this argument has been produced on a number of occasions and seems to have worried local authorities, and possibly even adjudicators. All I can say is that they should cease to worry. It is, as I have said, a completely baseless argument. The Bill of Rights' reference to fines and forfeitures before conviction or judgment means that what cannot prevail is a fine or a forfeiture in respect of which there is no right of appeal, whether ultimately to a court or through a

system which is set up which is equivalent to a court. That system has been set up. Thus, even if these were fines or forfeitures (and they are not), the Bill of Rights cannot be said to have been breached.

9. Mr De Crittenden suggested, as I understood his argument, that Parliament was not able to amend or change the Bill of Rights. It certainly is not able to do so except explicitly, but it is able to do so. Parliament is supreme and can amend any Act or any provision of our law at any time. If it passes an Act which clearly states something which could arguably be said to be contrary to a previous Act, then if it is clear and if there is no argument that can be raised against its clear meaning, it will prevail. But, as I say, we do not need that in this case because there is no contravention of the Bill of Rights.
10. In those circumstances, this claim, I am afraid -- quite apart from being academic because Mr De Crittenden has succeeded before the Parking Adjudication Service -- has no merit whatever, and the reliance on the Bill of Rights is utterly hopeless.
11. This application must therefore be refused.
12. MR DE CRITTENDEN: May I ask a question, sir?
13. MR JUSTICE COLLINS: Yes, of course.
14. MR DE CRITTENDEN: Just to clarify a point. You have said in part of what you said, not in the judgment, the earlier part, that I have the ability to go to a County Court at Northampton to require --
15. MR JUSTICE COLLINS: I think that was wrong. Of course, for example, if someone does not know of a penalty charge because for whatever reason they have not been served and the first they know about it is a County Court order, then of course they have the right to go to the County Court and say, "Oi". What would then normally happen, I suspect, is the County Court would be persuaded that the order should not stand, revoke it and say go to the Parking Adjudicators, because that is the system whereby the facts are established. Okay.
16. MR DE CRITTENDEN: Thank you, sir.
17. MR JUSTICE COLLINS: I am sorry to disappoint you.
18. MR DE CRITTENDEN: Ultimately, sir, I will not be disappointed I assure you.
19. MR JUSTICE COLLINS: All right.
20. MR DE CRITTENDEN: Thank you for your time.
21. MR JUSTICE COLLINS: Not at all.