

BINDMAN &
PARTNERS

PRESS RELEASE

Wednesday, 13 December 2006 – for immediate release

Anti-war protestors welcome House of Lords judgement on protest rights as a “wake up call for democracy”

The House of Lords handed down a landmark ruling today on the scope of free speech and protest rights under the Human Rights Act. The judgement – which found that anti war campaigners human rights of free speech and assembly had been violated by Gloucestershire police - was welcomed as a wake up call for democracy.

The test case was brought Jane Laporte along with 120 other anti war campaigners who were prevented from attending a lawful protest at RAF Fairford in March 2003, just hours before the base was used for bombing raids on Iraq. The case was heard over three days in October this year. Giving the lead judgement of a unanimous court, Lord Bingham of Cornhill said that the case had:

“raised[d] important questions on the right of the private citizen to demonstrate against government policy and the powers of the police to curtail exercise of that right.”

They had done so wholly unlawfully in this case, their Lordships held, because the Human Rights Act had brought about “a constitutional shift” creating for the first time a right to protest which the common law had previously been “reluctant and hesitant” to acknowledge (para 34 of the ruling). Freedom of expression was “an essential foundation of democratic society” (para 36) and there had been no reason to restrict it in this case. Rejecting the police’s argument that suspicions about some of the coach passengers entitled them to turn back everyone, Lord Bingham commented:

“There was no reason (other than her refusal to give her name, which however irritating to the police was entirely lawful) to view the claimant as other than a committed, peaceful demonstrator. It was wholly disproportionate to restrict her exercise of her rights under articles 10 and 11 because she was in the company of others some of whom might, at some time in the future, breach the peace.”

The campaigners had travelled in three coaches from London to attend a lawful and authorised demonstration at the airbase from which bombing raids on Iraq were about to be launched. They were stopped and searched en route by Gloucestershire police and then asked to reboard their coaches. The doors were then sealed by police who escorted them in convoy back to London. Both the High Court and Court of Appeal ruled that the forced return was unlawful, but approved the Polices' decision to turn the protestors back. The Lords' decision overruled the lower courts on this aspect of the case. An appeal by the police against the finding that they had unlawfully detained the campaigners on the return journey was also rejected.

John Halford, a public law and human rights specialist at Bindman and Partners, represented the campaigners. He said today:

"The House of Lords judgement is a wake up call for democracy. Under this government we have seen a sad and steady erosion of the rights that underpin democracy: those to express dissent and to do so collectively with others in public. The Lords have given a principled judgement on where the line should and must be drawn: peaceful protest can only be prevented in the most extreme circumstances which are very far from this case. These campaigners wanted to protest lawfully against an unlawful war. The Lords have unhesitatingly said they had that right."

Jane Laporte in whose name the test case was brought fought a 3 ½ year legal battle to ensure that the police's actions should not go unchecked:

"The willingness of the police to bow to political pressure, by stifling dissent and arbitrarily detaining protestors in this way, brings the proper role of the police into question. They should, as the judgement found, be the facilitators not suppressors of peaceful protest. I am delighted the House of Lords has said their actions were completely unlawful and a human rights breach."

Jesse Schust, a passenger and legal observer on the coaches, said:

"It is particularly ironic that the police violated our human rights by detaining us, when we sought to demonstrate against an illegal war that has devastated Iraq and left over 100,000 dead."

There will be a **press conference in Parliament Square tomorrow at 1030 am** immediately after the judgement is handed down.

Notes for editors:-

- For more information about this press release contact John Halford Bindman and Partners 0207 833 4433 mobile 07966 376544 j.halford@bindmans.com Jane Laporte (the claimant) can be contacted on 07817 483 167 and Jesse Schust (another passenger) on 0781 458 7361
- Fairford Coach Action is the name of the group of more than 90 passengers who have collectively decided to pursue a Judicial Review case against the police's actions on 22nd March 2003. Full background information is available on the website. Visit the site for links to the full judgement, related web articles, statements of support, and testimonial statements from coach passengers. <http://www.fairfordcoachaction.org.uk/>
- On 22nd March 2003, three days after the start of the US/UK war on Iraq, a demonstration organised by the Gloucestershire Weapons Inspectors (GWI), attracted over 3,000 protestors to the airbase. Groups travelled to Fairford from 37 locations across the UK. American B-52 planes flew from RAF Fairford airbase to bomb Baghdad (see <http://www.fairfordpeacewatch.com/>) and Fairford was the site of excessive policing during the war on Iraq. (Within 52 days (from 6 March 2003), police conducted over 2000 anti-terror searches in the vicinity.) GWI, Berkshire CIA and Liberty issued a dossier showing how stop and search powers of the Terrorism Act 2000 were misused by police. For the report "Casualty of War - 8 weeks of counter-terrorism in rural England" see <http://www.gwi.org.uk/> and <http://www.liberty-human-rights.org.uk/> The Government estimated the added cost of policing RAF Fairford was £6.9 million. The airbase continues to be upgraded for use by US Stealth (B2) Bombers, greatly expanding the US capacity to "invisibly" deploy tactical nuclear weapons anywhere in the world within hours. Further info at <http://www.gwi.org.uk/> and <http://www.atkinsglobal.com/skills/design/sectors/aviationdefence/jfsiraffairford/>
- The main defendant in the case is The Chief Constable of Gloucestershire Constabulary; the two interested parties are the Commissioner for the Metropolitan Police and the Chief Constable of Thames Valley Police.
- The committee of five Law Lords who heard, and will rule on, the case are: Lord Bingham of Cornhill (Senior Lord of Appeal in Ordinary), Lord Rodger of Earlsferry, Lord Carswell, Lord Brown of Eaton-under-Heywood, and Lord Mance.
- Interviews with passengers from the coaches can be arranged (please enquire - see contact details above). Dramatic, high-quality, digital video footage and photographs are also available. To use this footage on TV or in film, contact Catherine Bonnici of Journeyman Films (catherine@journeyman.co.uk Tel: 020 8941 9994 Fax: 020 8941 9899).
- Professional photos of the coach detention are available. Guy Smallman was one of several accredited journalists who were on the coaches. He has a selection of pictures from the day. Contact Guy Smallman 07956 429 059 with enquiries. (These photos are in a suitable format to be wired directly to the picture desk).
- The Human Rights Act 1998 came into force in October 2000. It requires the police and other public authorities to avoid breaching key European Convention Human Rights Articles save where legislation makes this impossible. Amongst the key rights are Article 5 (deprivation of liberty must be justified in accordance with a procedure prescribed by law and on one of the five grounds listed in paragraph (1) of the Article), Article 10 (freedom of speech and expression) and Article 11 (freedom of assembly).
- At common law a constable may arrest a person without warrant whom he or she reasonably believes will commit a breach of the peace in the immediate future, even though at the time of the arrest such person has not committed any breach. This power is subject to a number of strict restrictions, however: the belief must relate to an act or threatened act harming any person or, in his presence, his property, or which puts a person in fear of such harm; the belief must relate to the likely actions of the particular individual or individuals against whom the power is used; and when the particular individual is acting lawfully at the time the power is used, the threat of his committing a breach of the peace must be sufficiently real and imminent to justify the use of such a draconian power.

Bindman and Partners 275 Gray's Inn Road London WC1X 8QF DX 37904 Kings Cross Telephone 020 7833 4433 Fax 020 7837 9792 Email info@bindmans.com