

CITY OF LONDON MAGISTRATES' COURT

Steven Nicholas Bray

1. Steven Bray is before the court facing a charge that on 20 March 2024 he failed without reasonable excuse to comply with a direction given by a police officer acting under section 143(1) of the Police Reform and Social Responsibility Act 2011 not to start playing amplified equipment in the Palace of Westminster Controlled Area, contrary to section 143(8) of that Act.
2. The burden of proving the elements of the offence rests on the prosecution, and the standard of proof they must reach is beyond reasonable doubt. Where, however, the defence of reasonable excuse is raised by a defendant, it is for the prosecution to disprove it, again beyond reasonable doubt.
3. The parts of section 143(1) of the Act which are material to this matter are as follows: *A constable who has reasonable grounds for believing that a person is doing, or is about to do, a prohibited activity may direct that person to cease doing that activity or (as the case may be) not to start doing that activity.*
4. A direction continues in force until the end of such period beginning on the day on which the direction is given as may be specified by the constable, or 90 days if no such period is specified. A direction may only be given if the equipment is being used or is about to be used in a manner that other persons in the vicinity of the controlled area can hear or are likely to be able to hear it.
5. A prohibited activity includes: *operating any amplified noise equipment in the Palace of Westminster controlled area. "Amplified noise equipment" means "any device that is designed or adapted for amplifying sound".*

6. The Palace of Westminster controlled areas are identified in section 142A(1) of the Act and have included Parliament Street in its entirety since 28 June 2022 when inserted by the Police, Crime, Sentencing and Courts Act 2022.
7. Section 145 of the Act empowers the police to seize the amplifying noise equipment if it appears that the equipment is being or has been used in the commission of an offence under section 143.
8. On the basis of the evidence I have heard from both parties, the footage I have seen, and the statements I have read, my findings are as follows. It is important to understand that I must consider the case on the basis of the events of 20 March only, because that is how the offence is charged. As I later describe, much of the evidence led by the prosecution relates to other undated and unspecific matters.
9. From shortly after 10am 20 March 2024, Mr Bray was present on a traffic island on Parliament Street at the end which meets Parliament Square. He has been a familiar figure at Parliament Square and its environs for many years as an anti-Brexit campaigner in the days of the EU Referendum and since then as a campaigner for re-admittance to the EU. He also uses the platform to express, regularly in very strong terms, antipathy to the government of the day.
10. The traffic island is a spot which looks directly onto the Palace of Westminster and is proximate to the main vehicular entrance to the Palace. It sits directly on the route taken by the Prime Minister on his or her route to Parliament; and similarly for the Chancellor and the Foreign Secretary, the most senior officers of state.
11. Mr Bray was using amplifying noise equipment on-and-off at varying pitches until the equipment was seized by the police shortly after midday. The spread and volume of the noise are described by several police officers. Inspector Gillespie first heard the noise at Little Sanctuary, just outside Westminster Abbey. By 11.23am he was on Bridge Street and observed other officers with Mr Bray, who was stood next to a large speaker which was turned on. Other officers walked around Parliament

Square and beyond and could pick up the sound, though inevitably its volume declined the further away they went. Inspector Gillespie witnessed PC Varney providing a written section 143 direction to Mr Bray; he engaged with Mr Bray, emphasising the warning, and on his walking away, the volume was turned up considerably for 30 seconds. He witnessed the continuation of the use of the amplifier following service of the direction.

12. PC Varney gave evidence. He was the officer tasked with giving the written direction to Mr Bray, accompanied by PS Nweke and PC Mclanders. At that point the amplifier had ceased, but was in a condition of readiness to be switched on again (as it was). PC Varney gave the direction and an oral warning to Mr Bray at approximately 11.22am. The officers then left the scene but returned within the hour on being informed that the amplifier had re-started notwithstanding the service of the direction. Under the instructions of PS Harvey, the officers were tasked with removing the amplifying equipment pursuant to section 145 of the Act.

13. There is BWF of the service of the direction and a map of the controlled area and of Mr Bray's reaction on being provided with it. Mr Bray told the officers it was the wrong map; that he had seen many maps; that he had always been allowed to protest using his amplifier from that spot; that the officer was not known to the area and had never been to one of his demonstrations before. I should say that had he bothered to look at the map rather than thrusting it back at the officer, he would have seen that he was in a controlled area and that it was lawful to provide the direction to him. On seeing the BWF, Mr Bray might perhaps reflect with some shame on the way he behaved towards the officers both at this juncture and on the seizure of his equipment.

14. I find that each officer present at the scene had reasonable grounds to make a direction though PC Varney was the officer who delivered it. Throughout the relevant time amplified sound was being used and in a state of readiness to be used. The amplified sound is reflected in the BWF and specifically at 10.40am to 10.45, 11.25am to 11.30am; 12.03pm to

12.29pm. But it was also heard intermittently. It ceased shortly after 12.30pm when the officers seized the equipment.

15. *The terms of the direction*: it is not clear who prepared the document or when; Mr Gillespie speaks simply of a “*prepared document with a map attached*”. It cites the wrong section of the Act; that is not material as to the validity of the direction, save perhaps as to the care and thought with which the document was prepared. In its content, the direction could not have been clearer: a complete prohibition on the use of any amplified equipment for 90 days. The obligation and the consequences of non-compliance were plain on the document and on its provision to Mr Bray.
16. PC Varney accepted the importance of Mr Bray’s position on Parliament Street and that this particular day was the occasion of Prime Minister’s Questions. He accepted that, having regard to the map, Mr Bray would only be able to conduct his protest using amplified equipment some 50 – 100 metres away where Parliament Street meets Whitehall.
17. I heard evidence from four non-police witnesses. Three were PAs for Members of the House of Commons; the fourth is on the estate staff.
18. Mr Rivington works on the 6th floor of No 1 Parliament Street, which overlooks the traffic island. He told me that from 9am until 12.30pm there was loud music from Mr Bray. He vented (an accurate description) that it left him feeling “*frustrated, agitated, annoyed, distracted*”. His window was partly closed and partly open. The music was unbearably loud and repetitive. He said that he can do his work better when Mr Bray is not there. He cannot concentrate when using his computer or on telephone conversations. I was shown a video clip which captures Mr Bray’s music. It was taken from outside his room’s window. It is certainly audible, but I had difficulty in accepting that it could reasonably have had the effects on concentration described within his room.
19. Mrs Colson also worked on the 6th floor of No 1 Parliament Street. Before retirement she was PA to Suella Braverman MP. She described the sound as “*unbearable*” and “*repetitive*” from about 10am. She could only stand it for so long and felt intimidated if outside. She could hear abuse

and felt it was ludicrous to have to listen to it and undemocratic that she should have to do so, by which I think she meant that there is a properly constituted law to prevent what Mr Bray does. She could not understand how others on lower floors could put up with it. She dreaded coming to work on Wednesdays. She thought Mr Bray was “*fixated*” in his beliefs. I have some difficulty understanding how Mr Bray’s actions amounted to intimidation of Mrs Colson on the day in question.

20. Mr Dove is the retail merchandise manager on the first floor of the premises of the Palace of Westminster. He describes the music as being constant from 9am to 5pm. Clearly, he is speaking generally rather than about 20 March when the music ceased at about 12.30pm. The music was “*extremely loud*”. He finds it irritating and distracting. He cannot work elsewhere. He feels that the music is abusive. It prevents him from doing his work to the best of his ability. He accepted that protest is a feature of life at Westminster, but that none are like Mr Bray’s. He acknowledged there were some breaks but he never knew “*when will that start again*”. It was not explained to me how the music was abusive, and distinguishing between 20 March and other days is difficult.
21. Mrs Leigh was the office manager for Anna Firth MP, working on the 3rd floor of 1 Parliament Street. She describes Wednesdays as being the worst day of the week because of the incredibly loud and repetitive music played by Mr Bray. It has been going on “*week after week, month after month, and year after year.*” It is an “*ordeal*” to walk past it. Mr Bray is abusive to anyone wearing a suit and whom he thinks is associated with the government or the civil service. These are general statements and do not appear to relate to 20 March; they are also irrelevant to this particular charge.
22. Mr Bray gave evidence of the history of his opposition to Brexit and his campaign for re-admittance to the EU. He said he is “*anti Tory*”. He believes his is an important message to disseminate and does so visually and audibly in a way that means the issue he stands for will not be forgotten. He does it at the place and time which he believes to be the most important to disseminate it. He says that his strategy leads to pictures of him in the media globally. He has spent many hours

campaigning; he has never been arrested; his relations with the police are good. He took issue with the map though, as I have indicated, he is wrong and, as this is a strict liability offence, his belief as to the accuracy of the map is irrelevant. He says that a move beyond the controlled area would render his protest pointless in that he would not be in the face of the Prime Minister and MPs on a Wednesday when a high turn-out is virtually guaranteed. The impact would not be the same from 50 to 100 metres along to Whitehall. He does not accept that his music is as long a duration as stated. His equipment operates on battery power and is limited.

23. 20 March 2024 was a Wednesday and the day set for Prime Minister's Questions. His aim is to get it across to the heads of government that the Brexit issue is not over and that they use amplified sound to attract attention. As I said, a high turn-out of members of the House of Commons
24. Mr Kerr appeared as a witness for Mr Bray. He accompanies Mr Bray and is seen on the BWF. His protest related to Brexit and he also had considerable antipathy to the government of the day. Mr Bray's supporters use banners, flags and music to keep their message alive. Their impact diminishes if the amplifier is not used. The music is deliberately quirky (my word): it attracts and retains attention. There is sarcasm and humour, and there is, Mr Kerr says, a place for that. The protest is limited to Wednesdays for Prime Minister's questions and Parliamentary busyness. It does not take place during the Parliamentary recess. The place is also a popular and usually crowded resort for tourists.
25. To recap: the traffic island where Mr Bray stood and had his amplifier was in the Palace of Westminster controlled area; that was clear from the map; it is irrelevant that Mr Bray did not believe that it was in the controlled area; the police had reasonable grounds for believing that Mr Bray was using or about to use his amplifier in the controlled area; he had been doing so already and his equipment remained in a state of readiness to be played further, and it was; the condition that a direction may only be made if within the hearing of persons in or in the vicinity of the controlled area was met; the direction was valid and properly served on Mr Bray; he ignored it and his equipment was lawfully seized.

26. Section 143 provides that an offence is not committed if the defendant has a reasonable excuse for not complying with the direction. As I have said, the burden of disproving the defence rests on the prosecution to the usual criminal standard.
27. *Did Mr Bray have a reasonable excuse for not complying with the direction?*
28. The only basis in this case upon which this defence would work for Mr Bray is if his action that day was in exercise of his Article 10 and Article 11 ECHR rights.
29. Article 10 provides that everyone has the right to freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas without interference by public authority. It is a qualified right and can be disapplied or circumscribed in the interests of, amongst other things, the protection of the rights of others.
30. Article 11 provides that everyone has the right of peaceful assembly. This is also a qualified right which can be disapplied or circumscribed, amongst other things, for the protection of the rights of others.
31. The rights of others are not defined. But the right to go about one's business without undue interference must be one of them.
32. Section 3(1) of the HRA 1998 provides that all legislation, including the Act under which these proceedings are brought, must be read and given effect in a way which is compatible with ECHR rights.
33. Section 6 of the HRA 1998 makes it unlawful for a public authority to act in a way which is incompatible with ECHR rights. That includes courts.
34. The Article 10 and 11 rights were not new to English law. They have been made over the centuries going back beyond the Chartists in the mid 19th century and beyond.

35. The question for me is whether the Article 10 and 11 rights are engaged and, if so, are they displaced by the qualifications. In this regard, I consider the steps set out in the *Ziegler* case at High Court and Supreme Court level and the authorities upon which their decisions are based. *Ziegler* was a case relating to obstruction of the highway, but its principles are applicable to all protest offences where there is a specific statutory defence of “without reasonable excuse” or “without lawful excuse”.
36. *Is what the defendant did in the exercise of one of his Articles 10 and 11 rights?* The answer is clearly yes.
37. *Is there an interference by a public authority with those rights?* Yes. The direction inhibited his right to express his views and impart his ideas in a manner which he wished to draw them to the attention of government members and other members of the public in the vicinity. The direction inhibited this right that day, but also for a period of 90 days, the statutory maximum and longer, in my view, than necessary to meet any specific concerns on 20 March 2024 (if there were indeed any credible concerns for that day). He would be subject to the jurisdiction of the criminal courts if he did not comply with that direction during the course of that 90 days.
38. As regards Article 11, Mr Bray was entitled to have his protest wherever reasonable and consistent with other Convention rights provided in all cases it was peaceful. On 20 March 2024, he was peaceful. There was indeed the argument with the police when he thought his rights were being infringed, but in the general scheme of things, it was a peaceful demonstration. It was never violent, and never in the past had been; there is no evidence of intimidation beyond that which is claimed by the four witnesses in their respective offices; no one was obstructed; there is no evidence that it was a nuisance to anyone, other than the four witnesses. It was certainly noisy. Demonstrations are. The Supreme Court cited the European Court case of *Lashmankin v Russia* (2009) which stated that “*the purpose of an assembly is often linked to a certain location and/or time to allow it to take place within sight and sound of its target object and at a time when the message may have the strongest impact*”. This

was thwarted at least in part on 20 March 2024 and would have been for a further 90 days.

39. *Is the interference prescribed by law?* Yes, by section 143 of the Police Reform and Social Responsibility Act 2011.

40. *Is the interference with Mr Bray's rights in pursuit of one of the qualifications to his rights, for example, the protection of the rights of others?* Yes, evidence of the effects of Mr Bray's action on the working lives of certain others and their right to work peacefully and effectively in important roles relevant to legislators was provided to the Court.

41. *Is the interference necessary in a democratic society to achieve that legitimate aim?* This prompts a series of sub-questions.

42. *Is the aim of the interference sufficiently important to justify and interference with a fundamental right?* Inspector Gillespie's evidence was that he was aware that the persistent use of the equipment was affecting those operating and working within the Palace of Westminster. The evidence supporting that view on the day of the charge came from the four individuals referred to. Unfortunately, their evidence was led in such a way that in many instances it simply was not clear what could properly be attributed to 20 March 2024 and what was of broader compass. I take the view that I must look at the matter as on the date of charge alone. I cannot undertake a fact specific enquiry, as I am required to, on the basis of the vagaries of what the facts may have been on various unknown dates. What I can accept is that, on 20 March 2024, Mr Rivington was irritated, annoyed, agitated and frustrated, and could not concentrate enough to do his job properly that day. I have to say I sense he lacks a certain robustness. Mrs Colson just found the noise unbearable and was affronted that something would not be done about the man "*fixated*" with certain views. Mr Dove was irritated by the noise and felt he could not do his job to the best of his ability. His is, of course, an important job, but I have some difficulty in accepting his account that he was so put off that it is right to close down completely the exercise that day by Mr Bray of his rights. None said that their employment that day was rendered impossible by the actions of Mr Bray.

43. I cannot accept the allegations of intimidation. There are no specifics. It is not clear which dates they might be referring to; they are irrelevant to this particular charge; the area at the point of the protest on that day and others has a substantial police presence, particularly on Prime Minister's Questions day, and I do not doubt that any cases of harassment, alarm, distress, or intimidation would have been dealt with speedily. None of the police officers has given evidence of any intimidatory acts or comments.

44. Accordingly, the answer to this question is no.

45. *Is there a rational connection between the means chosen and the aim of the qualification?* It is unfortunate that Inspector Gillespie was not called to give evidence as to the reasons for making the direction in the form it was made. Section 143 gives the police a discretion as to whether a direction should be made at all and, if so, the terms in which it is to be made. I have no evidence that consideration was given at any stage as to Mr Bray's rights. Why, for example, 90 days; would not a direction lasting until, say, 3.30pm have sufficed? I accept that the police power to impose conditions, such as a decibel limit, is not available to them under this Act. In the many Extinction Rebellion and JSO trials that I have dealt with in which officers are properly briefed as to the balances to be drawn, some unknown figure determined that a direction was necessary and prepared a direction accordingly, and it has not been explained to me on what basis. This direction just "emerged". This leads naturally into the next question.

46. *Are there less alternative restrictive means available to achieve the aim of the qualification?* One might think that a fair balance might be to direct silence from the amplifier save where the Prime Minister and other ministers of state were making their way to and from the House of Commons, and other MPs travelling to one of the most important days of the Parliamentary week. In other words, a time limit for that day, which I think the Act would have empowered them to do. Mr Gillespie was not here to answer the question. As it was, Mr Bray was just prohibited for the full statutory maximum (some twelve Wednesdays – albeit the Easter recess would have bitten into some of this). It seems to me that there may

have been alternative means. The prosecution has not proved there were not.

47. *Is there a fair balance between the right of the individual and the rights of the community?* A fair balance has to be struck between the different rights and interests at stake. This is inherently a fact-specific enquiry. It is perhaps the most difficult aspect of the exercise. *Ziegler* set out a number of factors drawn from previous UK authorities. Many are applicable only to highway obstruction, but others are of broader application. *City of London v Samede (2012)*, a Court of Appeal case, draws many of these together.

48. *The extent to which continuation of the breach would breach domestic law.* The protest was, as regards criminal offences, peaceful save for the present allegation, a summary only offence attracting level 5 fine. Mr Bray presented no threat to public order or of the commission of any offence.

49. *The importance of the precise location to the protesters.* This is self-evident both in terms of time and place. This was a Wednesday. The protest was positioned and aimed to attract those attending Parliament for Prime Minister's Questions. Virtually all ministers of state sitting in the House of Commons as would the vast majority of MPs. Wednesday was the only day in which PMQs occurred. It should not be overlooked that that part of the Capital is also an attraction for tourists from this country and beyond.

50. *The duration of the protest.* I am guided by the appellate courts that I can only take into account the offending conduct which actually occurs rather than how long it might have lasted but for the intervention of the police. On this analysis it is approximately two and a half hours. In any event, it was likely to be finished for that week by 5pm.

51. *The extent of the actual interference caused to the rights of others.* As I have indicated, the gravamen of the complaints was the noise and the inability of some witnesses to do their jobs properly. Overall it was an unimpressive collection of annoyance, irritation, and a limited inability to

do their jobs well, all singularly unconvincing in the scheme of things and such as to displace a fundamental right. Doubtless a nuisance, but, again, demonstrations almost invariably are. No one else was affected. No one else expressed concern at the noise. The film footage shows passers-by seemingly unconcerned; no other businesses, of which there are many in that area, registered any complaint. Protests and demonstrations are part of everyday life, and very noisily so. If it was not Mr Bray that day, it could have been others, perhaps even noisier. Recent demonstrations have included hundreds of tractors. The real grip the witnesses have is that he is there every Wednesday when Parliament is sitting.

52. *Whether the views giving rise to the protest relate to very important issues and whether they are views which many would see as being of considerable breadth, depth and relevance.* It is well established by UK authorities that it is not for the court to venture views of its own on the substance of the protest itself or to gauge how effective it has been in bringing the protesters views to the fore. The right to protest is the right to protest right or wrong, misguidedly or obviously correctly, for morally dubious aims or for aims that are wholly virtuous.

53. But the court can take into account the general character of the views whose views the Convention is being invoked to protect. It is well established that political and economic views are at the top end of the scale. I accept that the views as regards the EU expressed by Mr Bray relate to the top end of the scale and that I must take that into account. He was described, virtually accused, as “*fixated*”. He is entitled to be.

54. How he chooses to express those views is a matter for him. I heard evidence, and saw footage, and heard the lyrics of a song played. Some may regard his methods as silly; some may regard them as immature; some may regard them as eccentric and amusing; some may think the lyrics are clever; others may abhor him and what he stands for others might wish his music even louder. He adopts a style which he believes will create an impact. It is not for a court to decide whether or not it will. Some offensive remarks could be heard when the prime Minister’s entourage passed by. So far as I can see, no one batted an eyelid, and clearly no offence would have been committed. Using an amplifier to get

a protest message across is a long-recognised method of doing so. Delivering it across to the Palace over the traffic in a way that could be heard and from a place he could lawfully stand, was important to him.

55. Mr Bray was plainly anti the government of the day. Playing The Muppet Show theme, the Laurel and Hardy theme and Star Wars as members of the Government were passing, and even beyond that, was eccentric, to say the least. Again, harmless. Lampooning the government through satire is one of the happy traditions of this country: cartoons about fat George IV, Punch and Private Eye bear testimony.

56. *Conclusion.* As I have indicated, the burden of disproving the defence of reasonable excuse rests on the prosecution. I fear I was offered very little help in understanding how its evidence unseated the fundamental rights, even though I took the unusual procedural step in the context of a summary trial of an unrepresented defendant of allowing the prosecution an opportunity to address me at the close of the defence case. Although I have some limited sympathy with the four witnesses, and I am conscious that I am not one who has to work against the background of Mr Bray's sound, the balance as between the fundamental right of protest and assembly, and the inconvenience and irritation caused to the four prosecution witnesses on this day, falls in favour of the fundamental right.

57. The defence of reasonable excuse has not been disproved and the prosecution fails.

DDJ(MC) Anthony Woodcock

14th April 2025