

[2003] 1 AC 829  
R (McCann) v Manchester Crown Ct (HL(E))  
Lord Hutton

A “It appears to their Lordships to be of little value to seek to confine crimes to a category of acts which by their very nature belong to the domain of ‘criminal jurisprudence’; for the domain of criminal jurisprudence can only be ascertained by examining what acts at any particular period are declared by the state to be crimes, and the only common nature they will be found to possess is that they are prohibited by the state and that those who commit them are punished.”

B In *Exp Alice Woodhall* (1888) 20 QBD 832, 837–838, Lindley LJ stated:

“Can we say that the application in the present case is not an application in a criminal cause or matter? I think that in substance it certainly is. Its whole object is to enable the person in custody to escape being sent for trial in America upon a charge of forgery.”

C In *Amand v Home Secretary* [1943] AC 147, 156 Viscount Simon LC stated:

“If the matter is one the direct outcome of which may be trial of the applicant and his possible punishment for an alleged offence by a court claiming jurisdiction to do so, the matter is criminal.”

D Lord Wright stated, at p 162:

“if the cause or matter is one which, if carried to its conclusion, might result in the conviction of the person charged and in a sentence of some punishment, such as imprisonment or fine, it is a ‘criminal cause or matter’.”

E 94 I am unable to accept these submissions. The application for an anti-social behaviour order does not charge the defendant with having committed a crime. The purpose of the application is to obtain an order prohibiting the defendant from doing anti-social acts in the future and its object is not the obtaining of a conviction against him resulting in the imposition of a punishment. I am in respectful agreement with the statement of Lord Bingham of Cornhill CJ in *Customs and Excise Comrs v City of London Magistrates’ Court* [2000] 1 WLR 2020, 2025 that:

F “criminal proceedings involve a formal accusation made on behalf of the state or by a private prosecutor that a defendant has committed a breach of the criminal law, and the state or the private prosecutor has instituted proceedings which may culminate in the conviction and condemnation of the defendant.”

G 95 The passages in the judgments relied on by the defendants do not, in my opinion, assist them because they emphasise that the imposition of a conviction may be a consequence of the proceedings in which the application is brought. Thus in the *Proprietary Articles Trade Association* case [1931] AC 310, 324 Lord Atkin stated that “those who commit them are punished”; in *Exp Alice Woodhall* 20 QBD 832, 838 Lindley LJ stated: “[the] whole object [of the application] is to enable the person in custody to escape being sent for trial in America upon a charge of forgery”; in *Amand’s* case [1943] AC 147 Viscount Simon LC stated, at p 156, that the matter is criminal if it is one “the direct outcome of which may be trial of the applicant and his possible punishment”; and Lord Wright stated, at p 162, that a matter is a criminal one which, “if carried to its conclusion, might result” in