

2nd October, 1986

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IN THE ROYAL COURT

JUDGEMENT - JAMES BARKER

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Before: P.L. Crill, Esq., C.B.E., Bailiff, and Jurats M.G. Lucas and P.G. Baker.

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BAILIFF: I speak from memory of events in this Court and therefore, without having all the papers in front of me, the dates may be inaccurate.

Mr. Barker, in this case, is a man who has prospered well in Jersey in relation to the large number of valuable properties which he owns. Unfortunately, over a period of time he incurred a number of large debts and the law was set in motion and eventually, last year I think it was, an application was made for the proceedings leading to a dégrèvement, which would have meant effectively that all his real property would have been sold for the benefit of the creditors, leaving him with nothing. That was varied - the harsh terms of the law were varied to the extent that the Royal Court at one stage was inclined to accept an undertaking by the principal creditor that the principal creditor would act as a trustee for Mr. Barker and pay him the balance of any money that was received for the properties, but subsequently another differently constituted <sup>Court,</sup> in fact the Full Court, allowed Mr. Barker to place his goods and property in the hands of the Court under the provisions of the "Loi (1839) sur les remises de biens".

Now, one of the important Articles in that Law is Article 5, and I translate it:

"Those who shall have obtained permission to place their goods in the hands of the Court cannot act except after the counsel and advice of the persons authorised by the Court to examine his goods".

In other words a person who places himself in the hands of the Court has to act in accordance with the directions of the Jurats of the Court. Any failure to do so, a deliberate failure that is, and not something which

is by mistake or inadvertently, is in the eyes of this Court as at present constituted not only an obstruction to the proper winding up of the affairs of the person who has placed his property in the hands of the Court, but could be, in particular circumstances, a direct contempt.

In this case, Advocate Benest, on behalf of the two Jurats, has brought a Representation alleging that two days after this Court had sat and had granted an extension of four months for the remise de biens to Mr. Barker, on the suggestion and representation of the two Jurats who were winding up the affairs under the remise, Mr. Barker met one of those Jurats, quite by chance, on Wednesday 24th September, 1986, in the Viscount's office and as a result of that meeting he was instructed by that Jurat, Jurat Vint, to do two things. Firstly to give access to a particular Estate Agent, William A Bull & Co., to the property 4 St. Saviour's Crescent, which is a very valuable property, valued at something like £400,000 or more. And secondly to provide a set of keys, or a spare set of keys for the Agents or the Jurats - it wasn't entirely clear for whom - but anyway to provide a spare set of keys for that property. We understand that there is a caretaker in that property, a Mrs. Pearce, and that she normally holds the keys.

Now the question is whether Mr. Barker was in fact told to provide those keys and whether he received a letter which was written by Mr. de Gruchy from the Viscount's Department on the 25th September to his Advocate, which confirmed what had taken place between Mr. Barker and the Jurat and Mr. de Gruchy of the Viscount's Department earlier that week. Now, that letter is very clear. It says that Mr. Barker claimed to be unable to arrange ready access to the Crescent because of the caretaker's absence. He said that he did not have a spare set of keys. Jurat Vint gave him until next Monday to provide access to the Crescent and to provide William A. Bull & Co., through him if desired, with a set of keys to the property. In that letter there is also a warning: "There is not a shred of doubt in my mind that the Jurats will hasten to bring any contempt by your client to the attention of the Court".

Now today it has been alleged, and we have heard Mr. de Gruchy, that those statements were indeed made by Jurat Vint. Mr. Barker denies that he understood them to be made in the sense the Jurat made them. And secondly he denies having received a copy of that letter. That we accept, but

his Advocate - whom, because of the circumstances of this case, we felt it right should be told by the Court that the privilege between client and lawyer should be overborne by order of this Court for these purposes - told us that he had taken Mr. Barker through that letter, and, he added, Mr. Barker was in no doubt that he had to give access to the Crescent to William A. Bull & Co., and produce a set of keys by Monday - that is to say, last Monday. Mr. Barker denies that he understood that and says that his Advocate - he doesn't go as far as saying he's lying - is in error. We haven't the slightest doubt that the directions by Jurat Vint were given. Nor do we have the slightest doubt that Mr. Barker clearly understood from Jurat Vint what he had to do and furthermore understood from his lawyer that the contents of the letter indicated what he had to do and that he stood in risk of proceedings for contempt of the orders of this Court if he didn't obey Jurat Vint's directions.

Stand up, Mr. Barker.

You are fined £500 for your contempt of three months. You have seven days to pay. If you behave like this again and disobey the orders of the Jurats of this Court in the remise, you will go to prison without the option.

MR. BARKER: Yes, Sir, I'd like to inform the Court that I intend to appeal against this.

BAILIFF: I have no doubt you may. It's up to you. This is the order of the Court.