

ROYAL COURT

3rd November, 1988

Before: P.R. Le Cras, Esq., Commissioner, and
Jurats Blampied and Baker

Appeal by the Connétable of St. Mary under
the provisions of Article 11(3) of the Dogs (Jersey)
Law, 1961, against an order of the Assistant Magistrate
regarding dogs belonging to Mr. T. Leonard.

Advocate C.E. Whelan for the Attorney General
Advocate S.A. Meiklejohn for Mr. Leonard
Advocate C.R. de J. Renouf for the
Connétable of St. Mary.

JUDGMENT

THE COMMISSIONER: We have given thought to the submissions of counsel and have come to the conclusion that the Articles in question are Articles 11(1), 11(3) and 11(4) of the Dogs (Jersey) Law, 1961. Sub-paragraph (1) of Article 11 reads: "Where it is shown to the satisfaction of the Police Court, on a representation made by any person, that a dog is dangerous or is not kept under proper control, the Court may make an order". Sub-paragraph (3): "Where on a representation made under paragraph (1) of this Article the Police Court refuses to make either of the orders which it is empowered to make or makes an order directing that the dog shall be kept under proper control, the person making the representation may, within the period of seven days from the date of such refusal or order, appeal to the Royal Court against the decision". Under sub-paragraph (4): "On any appeal

under paragraph (2) of this Article, the Royal Court may either dismiss the appeal or make either of the orders which the Police Court might have made".

In our view, in order to be satisfied on the representation, it is necessary for the Police Court to hear not only the representation but also the relevant witnesses whom the representor wishes to produce, as well as the owner of the dog and his witnesses and to hear them on oath. Consequently it is our view that the representation has not been properly heard. Furthermore, the Royal Court is a Court of appellate jurisdiction. It is not in our view a satisfactory procedure for this Court to turn itself, in effect, into a Court of first instance by hearing the case 'de novo' with witnesses not heard in the Court below and with no right of appeal from our decision. The representation will therefore be remitted to the Police Court with a request that witnesses should be heard in order that a decision may be taken in the light of the knowledge of all the facts. Consequently, we do not propose to hear the representation this morning.

n.b. No authorities.

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