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ROYAL COURT

141,

3rd October, 1990,

Before: The Deputy Bailiff, and  
Jurats Myles and Vibert

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Between                      Glendale Hotel Holdings Ltd      First Plaintiff

And                              David Eves and Helga              Second Plaintiffs  
   Maria Eves (née Buchel)

And                              The Tourism Committee              Defendant  
   of the States of Jersey

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Advocate C. E. Whelan for the Defendant.  
The Plaintiffs "en défaut".

JUDGMENT

EX PARTE application by the Defendant seeking to raise the interim injunction imposed on it by virtue of service of the Order of Justice in the above action.

DEPUTY BAILIFF: The decision of the Court is that the Injunction suspending the cancellation of the registration of Glendale Private Hotel, included in the Order of Justice which I signed on the 26th September, 1990, is discharged.

The reasons for that decision will be given, in writing, later.

Because the Injunction was, of necessity, granted ex parte, the Court was entitled to discharge the injunction on an application also made ex parte because Crown Advocate Whelan has advanced sufficiently cogent grounds.

I should like to add a few words about the publicity given to the grant of the injunction. According to a Jersey Evening Post headline, Glendale had "won" an injunction against Tourism.

The text of the article correctly reported that the Plaintiffs had obtained an injunction. In a case of this kind there are no 'winners' and there are no 'losers'. The headline writer merely disclosed his ignorance of the nature of injunctions and of the method of the granting of injunctions. In every case where an injunction is granted on the basis of the documentation and information put before the Judge, it is open to the party affected by it to seek to have it discharged or varied and the Court will, as in this case, sit specially and within very short delay, to do so.

Because the Glendale Hotel remained open beyond the 8th September I think that I should spell out the position which arises. Once the 8th September was reached the first plaintiff could not lawfully continue to accommodate more than five persons in the hotel. Now that the injunction has been discharged it is again in that position. It has a legal duty to close down the hotel. If it does not, it is in breach of the Tourism Law and liable to prosecution. We have no doubt that the persons who will suffer most are those tourists who are currently resident there or who may arrive later, having paid for their holiday in advance to a

travel agent, and will find the doors of the hotel closed to them.

We look to the Tourism Department to do everything in its power to alleviate hardship. Consideration for the tourists was a significant factor in the decision to grant the Injunction now discharged.

The Court wishes to say something about the appeal provisions in the Tourism Law. There is a right of appeal against any amendment or the cancellation of the registration of any premises. We have no doubt that the original intention was that such appeal should be heard speedily because there is specific provision for an appeal to be heard and determined either in term or in vacation. But the Royal Court rules relating to administrative appeals have intervened with the result that no appeal will be heard within months of the original decision - and that ignores the fact that in the instant case, as a result of an unfortunate error, the delay to a hearing would have been in excess of a year. The Court considers that the Tourism Committee should give urgent consideration to amending the Law perhaps to provide that an appellant could apply for a stay of execution of the cancellation pending appeal or to provide that the Royal Court rules on Administrative appeals would not apply in order that any appeal might be heard summarily and without delay.

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Authorities referred to:

The White Book (1991 edition), Orders 29/1/1, 29/1/3,  
29/1/5 and 29/1/8

Halsbury's Laws of England (Volume 24) at paras 901, 948,  
949, 955, 956, 962, 1051, 1058 and 1065

A.G. -v- Shaban: Jersey, 25th May, 1988, unreported

Smith and Others -v- Inner London Education Authority  
(1978) 1 ALLER 411

Halsbury's Monthly Review - April, 1987 at pp.25-26.