4 pages.

**ROYAL COURT**
**(Samedi Division)**

87.

**29th April, 1994**

**Before: The Deputy Bailiff, and Jurats Hamon and Rumfitt.**

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**The Attorney General**

**- v -**

**Richard John Coutanche**

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6 infractions of Article 7(1)(a) of the Agricultural Land (Control of Sales and Leases) (Jersey) Law, 1974.

**AGE:** 51.

**PLEA:** Facts admitted.

**DETAILS OF OFFENCE:**

Created two hole golf course (rough) on three fields measuring approximately 11 vergees in breach of standard conditions.

**DETAILS OF MITIGATION:**

21 month delay in prosecution - plea of guilty.

**PREVIOUS CONVICTIONS:**

3 previous for breach of conditions under Housing and IDC.

**CONCLUSIONS:**

£650 fine on each charge (i.e. £3,900 in toto), and £400 costs.

**SENTENCE:**

£600 or 3 months' imprisonment on each charge, concurrent, in default of payment; £400 costs. 4 months to pay.

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**J.A. Clyde-Smith, Esq., Crown Advocate.**
**Advocate P.C. Harris for the accused.**

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**JUDGMENT**

**THE DEPUTY BAILIFF:** The Court regards this case as involving blatant infractions of the Law, which have continued over a long period. The conditions set out in the consent of the Agriculture and Fisheries Committee issued on 10th May, 1988, are perfectly clear. The defendant took no steps to find a suitable agricultural tenant, as he was required to do.

In correspondence with the Agriculture and Fisheries Department it was made equally clear that Mr. Kermin was not regarded as a *bona fide* agriculturalist yet despite that decision the defendant allowed Mr. Kermin to continue in occupation of the land.

Even if there was a failure by the Agriculture and Fisheries Department to give advice in relation to possibly polluted water in 1989, the Court does not regard that failure, if it took place, as excusing the defendant's wilful refusal to comply with the conditions of the consent.

The Crown Advocate has drawn our attention to fines imposed by this Court for breaches of the Housing (Jersey) Law, 1949. We consider that to be a reasonable approach. Both statutes have an underlying social purpose, in the case of the Housing Law to protect land for occupation by local people, and in the case of the Agricultural Land Law to protect the interests of *bona fide* local farmers.

We also note that the defendant has a bad record insofar as the observance of statutory requirements is concerned. But for one factor the Court would have had no hesitation in granting the conclusions and indeed considers them to be moderate. The factor which has caused us concern is the admitted delay of some two years in bringing this matter to a head. We propose, therefore, to make some allowance in imposing sentence to express our disapproval of the long delay which has taken place.

On charge one, you will be fined £600, or, in default, three months' imprisonment; and on each of charges 2, 3, 4, 5 and 6, you will be fined £600, or, in default, three months' imprisonment, concurrent, making a total of £3,600, or, in default of payment, three months' imprisonment, and you will pay costs in the sum of £400.

There is one final matter, Mr. Clyde-Smith; the law was amended in 1984 to insert a proviso, which reads:

> ***"Provided that where any person is convicted of the offence of failing to comply with any condition made or imposed under this Law and it is shown to the satisfaction of the Court that the offence was substantially a repetition or continuation of an earlier offence by him after he had been convicted of the earlier offence, he should be liable to a fine for every day on which the earlier offence has been so repeated or continued by him".***

We would ask, Mr. Clyde-Smith, that that provision be drawn to the attention of the Attorney General, should this defendant fail, within a reasonable period, to comply with his obligations under the Law.

## Authorities

A.G. -v- Taj Mahal (14th January, 1994) Jersey Unreported.

A.G. -v- Webster (2nd April, 1993) Jersey Unreported.

A.G. -v- Gala (2nd November, 1990) Jersey Unreported.

A.G. -v- Langston (23rd March, 1990) Jersey Unreported.

A.G. -v- Galante (17th August, 1990) Jersey Unreported.

A.G. -v- Chevalier Road Ltd (22nd September, 1989) Jersey Unreported.

A.G. -v- Pennymoor Consulting Services Ltd (1985-86) JLR N.14.