ROYAL COURT
(Samedi Division)

34.

21st February, 1997

F.C. Hamon, Esq., Deputy Bailiff, and
Jurats Bonn and Herbert

The Attorney General

- v -

C.I. Bakery Limited

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1 count of	contravening Article 21(1)(a) of the Health and Safety at Work (Jersey) Law, 1989, by providing an employee with a company vehicle which was not in good working order (inoperative parking brake) thus endangering other road users and causing injury to an employee of the Driver and Vehicle Standards Department (count 1).
1 count of	contravening Article 53 of the Motor Vehicles (Construction and Use) (Jersey) Order, 1956, as the owner of a motor vehicle used on the road when the condition of the rear body of the vehicle was such that danger was likely to be caused to persons on or near road (count 2).
1 count of	contravening Article 56 of the Motor Vehicle (Construction and Use) (Jersey) Order, 1956, as the owner of a vehicle which was used on the road when the steering gear was not maintained in good order (count 3).

Plea: Facts admitted.

Details of Offence:

Company (a subsidiary of the Le Riches Stores Limited Group) permitted an Iveco Ford cargo vehicle to be used on public roads whilst the parking brake was inoperative(count 1), the condition of rear body of the vehicle was such that danger was likely to be caused to persons on or near the road (count 2) and the steering was not maintained in good and efficient working order (count 3). On 19th April, 1996, whilst vehicle was being checked in a car park Motor Traffic Officers exhausted the air from the (foot) braking system in order to test the brakes. The vehicle had been left in gear on a slight incline. The driver of the vehicle was then requested to move the vehicle. He disengaged the gears and because the handbrake was inoperative the vehicle rolled forward and injured a Motor Traffic Officer who remained off work for a period of nine months following his injury.

Count 1 brought under Health and Safety Law (viz. the company failed to conduct its undertaking in such a way as to ensure as far as reasonably practicable that persons not in its employment were not exposed to risks to their safety).

Remaining counts under Motor Vehicles (Construction and Use) (Jersey) Order.

The vehicle had been booked to go into a garage on 20th February, 1996, for the handbrake to be attended to however the vehicle was not taken in. The part-time driver of the vehicle stated to the Police that he had informed the management that the vehicle was defective but had been told to continue with deliveries.

Details of Mitigation:

In mitigation, there had been a design fault with the handbrake of this type of vehicle and it was possible that a driver might not have been aware of the fault if he had been driving on the flat. Since the incident the parent company had taken significant steps to improve Health and Safety measures throughout the group.

Handsome apology.

Previous Convictions:

One previous infraction under the Health and Safety Law in June, 1996, on an unrelated matter.

Conclusions:

Count 1 : £2,500 fine.
Count 2 : £250 fine.
Count 3 : £250 fine.
£500 costs.

Sentence and Observations of the Court: Conclusions granted.

P. Matthews, Esq., Crown Advocate.
Advocate S.J. Crane for the Defendant Company.

JUDGMENT

THE DEPUTY BAILIFF: This case is a frightening example of what can happen when a company allows a vehicle that is clearly unroadworthy on to the public roads.

It was fortunate that someone was not killed. It is to us horrifying that Mr. Butel, the Motor Traffic Officer, suffered injuries which caused him to be off work for nine months. That was because the parking brake was inoperative and not essentially because the air had been removed from the foot brake.

The conclusion of the report of the Motor Traffic Officer states that *"this vehicle should not have been parked or circulating on the public highway due to the defective hooter switch, brakes and steering, loose rear body, leaking exhaust system, engine oil leaks, inoperative rear number plate light and dip beam".*

What we found most disturbing - and we have to say this - is that this defective vehicle was actually booked into a garage to have the handbrake repaired. The company knew of the defect but the vehicle was - for reasons which were not made clear to us - never taken to the garage. Again, apparently the part-time driver

had told the management at the time of the defective vehicle but had been told to continue using it.

However, we draw some relief from the fact, as Mr. Crane has told us, that relatively new safety supervisions have been installed and we have received a handsome apology from Mr. Crane who, if we may say so, has said everything that he could have said in the circumstances. We therefore impose a fine of £2,500 on count 1; on count 2, we impose a fine of £250; on count 3, we impose a fine of £250, making a total - as recommended by the learned Crown Advocate - of £3,000 in fines, with £500 costs.

No Authorities.