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29th October, 1986.

Mr M

-v-

**Housing Committee of the States of Jersey**

**BAILIFF:** This appeal arises out of a decision of the learned Assistant Magistrate of the 16th April, 1986. The position was that the appellant in today's case was the tenant of the States of Jersey Housing Committee in respect of premises in St. Saviour's Road. These premises had been let to Mr. M, the appellant, in 1982 and the agreement between him and the Committee is set out in writing, firstly the standard form of a Committee lease, paragraph 1 of which is as follows:

"The tenancy is terminable on any Saturday by a weeks notice on either side".

and then in paragraph 7:

"The Housing Committee reserves the right to add to or vary these conditions and in that event shall furnish to the tenant written notification of any such addition or variation".

Secondly, by letter of the 1st December, adding to the standard terms a number of extra conditions which are not relevant except for two which are on page 2 of the letter and two paragraphs are as follows:

"Your occupation of the property will be of a medium term duration only as the property will in due course be required for either demolition or redevelopment in connection with the Housing Committee's overall scheme for the area, no plans for which have been finalised".

Now, I stop there for a moment to say that is an indication that the appellant could not expect to remain sitting there forever even if he did observe all the terms of the lease .

The second paragraph is as follows:

"I can assure you however, that at the time that the property is required you will be given reasonable notice to move and will be offered other properties similar to the property but probably on the outskirts of town and not located on a housing estate. I have, however, explained that the type of accommodation offered to you in the future will depend on the manner in which you treat the property which has now been offered to you".

It has been suggested by Miss Nicolle for the Committee that the first paragraph is merely an indication that Mr. M could not expect to

remain there forever, as I have said, but there is an indication of course in the second paragraph that when the property is needed then reasonable notice will be given. "Is needed", of course, really refers to needed for demolition or redevelopment. As it happens, we are told by Miss Nicolle, that the property is not needed for demolition or redevelopment but to house other people on the Housing list. The reason being that the appellant had changed his circumstances and was then either a single man or a man with a wife only and no children, at the time these proceedings originally came before the Petty Debts Court or intended to come before the Petty Debts Court in May, 1985. In fact, a notice served on the 3rd May, 1985, which expired on 18th May, 1985, was not proceeded with and neither was the point taken by the appellant that it was "informe" and therefore it might be argued that in any case if you take the time that expired between May, 1985, and April, 1986, there was sufficient notice for Mr. M to know that the Committee had changed its mind. However, the Court is in some difficulty here - this is an appeal only on a matter of law and therefore we cannot really take into account matters which the learned Assistant Magistrate might have taken into account had they been before him at the time. They could not have been for the simple reason that the change of circumstances were not fixed, in the sense of the possibility of Mr. M requiring larger accommodation or as large accommodation in fact until the 20th October this year.

The Court has a duty to uphold the sanctity of contracts - that is quite true - but it also has to help as far as it can and to the limit of its powers, the lawful exercise of the carrying out of its duties by the Housing Committee. They are difficult duties and the Court does not wish to make it harder for them. Nevertheless, Mr. Slater has said that because of the clear restriction on the Housing Committee's right to evict the appellant contained in the two paragraphs I have mentioned in the letter of the 1st December from the Estate Manager of the Housing Committee, the proper course would have been for the Committee to have invoked paragraph 7 of the agreement, varied that restriction, giving him reasonable notice if he was going to do so and then served the notice of eviction because at the end of that period he would then become a "locataire refractaire" which he was not at the time the notice was served, in respect in which the judgment was given on the 16th of April, of this year. Miss Nicolle has suggested that if that were so, then Clause 1 could not be invoked by the tenant, but we think there is much in what Mr. Slater says, that in fact the Housing Committee has limited its powers without restricting the powers of giving notice by the tenant. It is

unlikely of course in these circumstances that the tenant would give notice. The position is that as long as Mr. M observed all the terms of the agreement he could look forward to remaining there until he had reasonable notice that the property was required for demolition or redevelopment, or (and again here in my opinion he would require reasonable notice of a change in the contract), or the contract is varied under paragraph 7 of the tenancy agreement. In either case he had neither and we think the appeal should be allowed and it is therefore allowed with costs.

