

ROYAL COURT
(Samedi Division)

12.

27th January, 1994

Before: F.C. Hamon, Esq., Commissioner, and
Jurats Orchard and Herbert

Between:

Wilson John Medway

Plaintiff

And:

The Right Honourable
George Francis Child Villiers,
ninth Earl of Jersey

Defendant

Stephen Andrew Buchanan

Party Summoned
by the Court

Contempt of Court by the Party Summoned by
the Court.

Mr. Buchanan tape recorded the closing
speeches of Counsel without the Court's
permission.

Advocate T.J. Le Cocq for the Party Summoned
by the Court.

JUDGMENT

THE COMMISSIONER: The Court is dealing this morning with what it
described at the time, and still considers to have been, a serious
contempt of Court.

The matter came about in this way: Mr. Stephen Buchanan is
an English barrister employed as a legal assistant by Messrs. Bois
Labesse, employed by insurers to run the defence of the Earl of
Jersey in Medway -v- The Right Honourable George Francis Child
Villiers, ninth Earl of Jersey. They had instructed counsel for
that purpose, Advocate Falle.

Because we made enquiries following the discovery of what had
happened we have before us a diary sheet instruction to Mr.
Buchanan from Advocate Labesse, who was leaving the Island on
holiday. The first paragraph says: "SAB" (Mr. Buchanan's

initials) "must procure a recording of the speeches to be made by Advocate Meiklejohn and Advocate Falle for transcribing".

Mr. Buchanan had originally made a telephone request of the Judicial Greffe and was told by the Greffier that he would make a check with us. On the morning in question the Greffier duly attended upon us, in Chambers, before we came into Court, and repeated Mr. Buchanan's request that he might be allowed to record the proceedings. He was told that the Court did not approve of such a course of action, but it was up to Advocate Falle to make an application if he so wished. No application was made and the Court assumed that the matter had ended there.

At about 12 o'clock it was pointed out by the Judicial Greffier that a recording of the proceedings was covertly taking place. We did not interrupt the trial at that point because Mr. Falle was in the middle of a most difficult part of his address and we did not wish to distract him from what he was saying in the interests of justice.

It is important for us to record that having been told of our decision, the Greffier went back into Court before we came in and explained to Mr. Buchanan what our decision was. We have no doubt that he was fully aware of what we had told him, and we find it difficult to conceive that anyone of intelligence could have misunderstood what was said.

We need to deal with our feelings in this matter because we did describe this as a contempt of court. This Court is not concerned in any way at all with its dignity and I think it is important that we point this out. The Court in the course of many of its daily trials is offended mildly or heavily by matters which are put to it. We are concerned here because an order of the Court has been broken and if orders of the Court are broken then that leads, in our view, to a breakdown of the judicial system.

We asked for the matter to be brought back to Court at the earliest opportunity and we passed the message through that Mr. Buchanan should be legally represented. There was a misunderstanding and when the case came to be heard just before Christmas, Mr. Buchanan was without the representation that we felt was necessary and we had therefore, in his interest, to adjourn.

It is now a long time since we heard about the matter on 13th and 14th December, 1993, and we understand exactly what Mr. Le Cocq has said when he said that Mr. Buchanan has been horrified by the course of events.

We must criticise in Court, and we do it with some reluctance, the note of Advocate Labesse because we feel that it was incumbent upon him to remind his legal assistant that no

recording of the Court's procedures can be made without consent and we cannot conceive why that consent would necessarily be granted. That we feel put an intolerable burden upon Mr. Buchanan in the circumstances.

We still regard the matter as extremely serious, but because Mr. Le Cocq has given us what we would describe as a handsome apology, although the Court is not really concerned with apologies in any form, but the apology was made as quickly as it could be made. It is a handsome apology and we appreciate that Mr. Buchanan must be perturbed about his future career which he intends to make at the Jersey Bar.

In the circumstances we are prepared to exercise leniency, despite what we regard as the seriousness of the matter, and we will merely issue this time a cautionary warning to Mr. Buchanan.

We are fairly certain that this will not happen again.

No authorities.