49

(46) (b)

Royal Court (Inferior Number)

Before: Sir Frank Ereaut, Bailiff.
Jurat R.H. Le Cornu.
Jurat J.H. Vint.

Between: Royal London Mutual Insurance Society Limited — Appellant

AND

Finance and Economics Committee of the States of Jersey — Respondent

Advocate F.C. Hamon for the Appellant.
H.M. Solicitor General for the Respondent.

In 1978 the Appellant applied to the Respondent, in accordance with the provisions of the Regulation of Undertakings and Development (Jersey) Law, 1973, as amended (hereinafter called "the Law"), for a licence to re-open an office at 11, Union Street, St. Helier. After an exchange of correspondence and interviews with the States Economic Adviser, the Respondent refused to grant a licence for that purpose. The Appellant now appeals against that decision.

The appeal is brought under Article 5(5) of the Law, which provides -

> "(5) Any person aggrieved by the decision of the Committee to refuse the grant of a licence or by any condition attached to the licence, may appeal, either in term or in vacation, to the Royal Court within two months of the date of the notification of the Committee in the matter, on the ground that the decision of the Committee was unreasonable having regard to all the circumstances of the case."

This is the second appeal under the Law. In the first appeal under the Law, namely, Safeguard Business Systems (C.I.) Limited, trading as E.H. Rowland -v- The Finance and Economics Committee (1980) J.J. , the Court in its judgment considered at some length the proper approach in the consideration of appeals under the Law, and decided for the reasons there given that it should adopt the

same / ...

same approach as had been adopted by the Royal Court in considering appeals from decisions of Committees of the States under other enactments..

That approach may be summarised as follows. The duty of the Court when considering an appeal from a decision of a Committee of the States is to consider the following three questions, namely:-

(1) Were the proceedings of the Committee in relation to the application, the objection of which gives rise to the present appeal, in general sufficient and satisfactory?

(2) Was the decision one which the Law empowered the Committee to make?

(3) Was the decision reached by the Committee one to which it could reasonably have come having regard to all the circumstances of the case?

and if the answer to all the three foregoing questions be in the affirmative, to maintain the decision of the Committee, irrespective of whether or not the Court would itself have come to the same decision upon consideration of the same material.

The Solicitor General urged us to adopt that approach in this case. Counsel for the Appellant described it as too restrictive and contended that the duty of the Court in such circumstances was to consider the application "de novo"; however, he conceded that because the Superior Number of the Royal Court, in the "Appeal by Mr. J.D. Habin in accordance with Regulation 10 of the Gambling (Licensing Provisions) (Jersey) Regulations, 1965," (1971) J.J. 1637, had rejected such a contention in analogous proceedings, he could not properly urge the Inferior Number to come to a contrary conclusion, but he expressly reserved his right to raise that contention on an appropriate occasion.

We agree with counsel that this Court could not be properly urged to depart from the view expressed by the Superior Number. Furthermore, we wish to say that the approach adopted by the Court in the first appeal under the Law appears to us to have been correct. It follows that in arriving at our decision in this case we have conceived it to

be / ...

be our duty to consider the three questions to which we have referred and, if our answers to all three questions are in the affirmative, to maintain the decision of the Committee irrespective of whether or not we would ourselves have come to the same conclusion upon consideration of the same material.

The relevant circumstances of this case as put to us are as follows:-

The Appellant is an old-established Company registered in England. It has an annual premium of some £35,000,000 and, being a Mutual Insurance Society, distributes its profits to its policyholders. It first opened an office in Jersey in 1936, and has ever since continued to have policy holders in the Island. It presently receives premiums from some 1,500 families in Jersey. It continued to do business in Jersey throughout the Occupation of the Channel Islands by enemy forces, and when the fourteen life assurance offices represented in the Islands, because of their isolation from their parent companies, formed an Association to continue business during that period, the then Superintendent of the Appellant was elected Secretary and its offices became in effect the Chief Office of the Association.

Subsequently, the Appellant decided to move from rented accommodation, and on 19th February, 1971, purchased a property, 11, Union Street, to serve as its Jersey office. The property included some dwelling accommodation. Attached to the consent of the Housing Committee were two conditions as follows:-

"1. That there shall be no diminution of the existing amount of private dwelling accommodation at the property;

2. That the private dwelling accommodation shall be occupied by employees of the purchaser Company, and their immediate families or other persons specifically approved by the Housing Committee."

In 1975/ ...

In 1975, the Appellant decided for the first time to close its Jersey office and to administer its business from its Southampton office. It retained its property at 11, Union Street, but let it to a Mrs. Ballantyne, a tenant qualified under the Housing Law, who then lived in the dwelling accommodation and conducted a curtain supply business from the former office, having been granted by the Committee a licence under the Law to do so.

The Appellant continued to do business in the Island through its two resident local agents and an Inspector made regular fortnightly visits from the Southampton office. But after a period it concluded that this arrangement was not satisfactory for its business and eventually decided that it wished to re-open an office in Jersey with a resident Superintendent. On 28th September, 1978, therefore, the Appellant wrote to the Economic Adviser to seek advice as to whether it would be permitted to re-open a branch office in Jersey, either at its own property 11, Union Street (if it could come to a satisfactory arrangement with the tenant) or at some other address which would include both office premises and accommodation for its Superintendent. The Economic Adviser replied that the matter was one for the Finance and Economics Committee, who would be influenced by the benefit which would accrue to the Island, and he asked for details of the number of policy holders in Jersey, the local premium income, the contribution to local tax revenues and the number of persons to be employed in the office.

The Appellant supplied all that information (including the fact that the tax paid for 1977 was £870.40), and stated that its personnel requirements would be limited to a Superintendent from England and a clerk who would be a Jersey resident. It offered to send a representative to discuss the making of a formal application, but the Economic Adviser suggested in reply that, as he believed that he now had sufficient information and because the Committee might well decide that the request for permission to open a branch office was straightforward, and agree readily to issue the necessary licence if an application were

made,/ ...

made, he should raise the matter with the Committee at its next meeting. To this the Appellant agreed.

The matter was duly raised with the Committee, which decided, on 3rd January, 1979, that if an application were to be made under the Law it would not be minded to grant consent -

> "as the arrangements proposed were not sufficiently in the Island's best interests to justify the granting of a consent."

On 4th January, 1979, the Economic Adviser wrote to the Appellant to advise that the Committee had decided -

> "that, on the basis of the information presently available, the additional pressures to be placed on the Island's resources were not offset by sufficient benefits to justify the granting of the necessary consent .... if a formal application were to be made."

He therefore invited a representative of the Appellant to meet him.

As a result, representatives of the Appellant met the Economic Adviser on 15th January, 1979; and on 25th January, the Appellant wrote to him. It acknowledged that it had made a serious error of judgment when it closed its Jersey office in 1975. It pointed out that the Housing Committee had already granted permission for the housing, at 11, Union Street, of the one employee whom it had to import from the United Kingdom, and all that remained for it to do, therefore, was to negotiate with its lessee at that address. Its application to the Committee was, therefore, only for permission to use its former office on the ground floor of the premises.

On 30th January, 1979, the Economic Adviser prepared a memorandum for the Committee on the matter. In it he said -

> " The Society had an office in the Island from the 1930's to 1975. Through poor management, the level of business was not substantial and in 1975 the Society decided to close the Jersey office and serve local policy holders from Southampton. With the passage of time it became clear to the Society that this had been a bad decision, and the Society now wished to turn the clock /...

clock back to 1975 and re-establish an office in the Island so that it could provide its policy holders with the service it believes they deserve."

After stating that the Society had the consent of the Housing Committee to place a Superintendent in the flat in the Appellant's property at 11, Union Street, he continued -

"To the extent that since 1975 local agents had continued to operate on behalf of the Society it could be contended that an undertaking had been maintained for the purposes of (the Law). Accordingly, the only requirement to obtain consent on the part of the Society was probably in connection with the occupation of office space in excess of 100 sq. ft. in area."

The Committee then sought the confirmation of the Housing Committee that the Appellant was entitled to accommodate a Superintendent in the flat. The Housing Officer replied that it was, and added that the property had been occupied since 1st May, 1976, by a Mrs. Ballantyne, who was a local person and was therefore in occupation by virtue of an exempted transaction.

The Act of the Committee, dated 14th March, 1979, noted that the tenant of the property was a local person, and continued -

" .... having recalled that the Society proposed to bring to the Island a Superintendent and his family to run the office, decided to maintain its decision that it would not be minded to grant a licence ..... as the arrangements proposed were not sufficiently in the Island's best interests to justify the granting of a consent."

On 16th March, the Economic Adviser informed the Appellant of that decision, stating that -

"The / ...

"The Committee continues to take the view that the additional pressures to be placed on the Island's resources would not be offset by sufficient benefits to justify the granting of the necessary consent in this case."

On 17th August, the Appellant wrote again to the Economic Adviser stating that it was continuing its business in the Island, but not as effectively as it might were it able to operate fully from its property. It had been advised that, under the wording of the Law, it could lawfully resume occupation of part of the ground floor premises (up to an area of 100 square feet) without a licence, and that twelve months later it could extend its occupation over a further 100 square feet, and so on each year. However, the Appellant preferred to re-occupy the whole of the ground floor (about 550 square feet) in one step rather than part at a time, and on that ground and because it was entitled to house an employee in the accommodation above the offices, it asked the Committee to reconsider its application. The Committee did so, but maintained its refusal on the same grounds as before.

Subsequent to that decision but before the hearing of the appeal, the Appellant's tenant, Mrs. Ballantyne, moved out of the property, 11, Union Street, which is now empty.

Having traced the history of this application, we now consider the first question before us, namely, whether the proceedings of the Committee were in general sufficient and satisfactory.

In general terms, the duty of the Committee is -

(a) to receive all applications made to it;

(b) to obtain such information about the application as is relevant to the decision it must make;

(c) to relate the application to the Committee's terms of reference set out in the Law; and

(d) to reach a reasoned and consistent decision which must be either to refuse the application or to allow it, conditionally or unconditionally.

Counsel / ...

Counsel for the Appellant criticised the proceedings of the Committee in a number of respects, and we now deal with these.

He first raised the question whether the Appellant needed a licence under the Law to re-establish its business at 11, Union Street.

The long title of the Law is to control the carrying out of undertakings and to regulate further development. Article 2(1) of the Law provides -

"Subject to the provisions of this Law, no person shall -

(a) enlarge the floor space of an undertaking by more than 100 square feet in any period of twelve months;

(b) transfer an undertaking occupying 100 square feet or more of floor space to a new situation;

(c) commence a new undertaking;

unless he has been granted a licence authorising him so to do."

"Undertaking" is defined by Article 1 as meaning -

"any trade, business or profession whether or not carried on for profit".

Counsel queried whether the Appellant could be said to be starting a new undertaking (since it had retained the property when it closed its office in 1975 and had continued to do business in the Island through its agents and fort-nightly visits of its Superintendent from Southampton) and therefore whether it needed a licence at all to re-open its office at 11, Union Street. The Economic Adviser raised this question in his memorandum to the Committee of 30th January, 1979, and Counsel argued that the Committee should have referred that observation to the Law Officers for their opinion.

This point was not raised in the pleadings and it is, therefore, somewhat surprising that it should have been raised for the first time at the hearing. We have no doubt that a licence was necessary. Even if the re-occupation of the office at 11, Union Street, would not have amounted to the commencement of a new undertaking so as to have required a

licence / ...

licence under Article 2(1)(c) of the Law, it would have required consent under Article 2(1)(a) or (b). In either case a licence was necessary. We cannot see that the failure of the Committee to seek the advice of the Law Officers redounded to the disadvantage of the Appellant. A licence was necessary under Article 2, that was never disputed by the Appellant at the time, and the Committee was well aware that the Appellant was seeking to re-open its former office.

The second criticism raised the question whether the Committee had correctly applied its own guide-lines to the application.

On 16th October, 1979, the States adopted a Proposition of the Policy Advisory Committee (P-97 of 1979, entitled Report and Proposition on Immigration) to -

"charge the Finance and Economics Committee to impose a more rigorous application of the powers under the Regulation of Undertakings and Development (Jersey) Law, 1973, as amended".

However, because the decision against which this appeal is made was given before the above-mentioned date, the decision must be judged against the policy of the Committee as it existed before that date. The guide-lines of that policy were set out on page 10 of the above-named Report and Proposition in these terms -

"(i) Under Part II of the Law - The Regulation of Undertakings -

given that the population growth objective has not required a complete halt to all new economic activity the interests of the Island have been considered to be best served by -

(1) not interfering with the steady expansion of well established firms;

(2) not frustrating local residents, qualified for housing purposes, in their desire to establish and operate new relatively small, undertakings in the Island;

(3) evaluating / ...

(3) evaluating all other new undertakings and any major expansion of existing undertakings in terms of net benefit, where the desire to avoid additional population growth would be matched against the prospect of a significant tax yield in relation to each employee, improved job opportunities for school leavers, better standards of service for local residents, the effect on other businesses, etc."

The Committee regarded the application of the Appellant as coming within category (3) and not category (1) of those guide-lines. Counsel for the Appellant argued that in reality the business was well-established in the Island (even though it did not have a central place of business) and that its application was designed to achieve a "steady expansion" of a company which was continuing to do business in the Island. We understand that argument, and have some sympathy with it, but category (1) of the guide-lines was, we think, clearly designed to apply only to firms which already had a central place of business in the Island. These, of course, were not statutory guide-lines, but were intended for the information of the public and to show that the Committee was following a consistent policy. This is an unusual case, but we think that the Committee, for the purpose of deciding how it should approach the application, was entitled to treat the Appellant, which had no central place of business, as being a "new undertaking" and therefore coming within category (3).

Thirdly, counsel elicited from Mr. G.C. Powell, the States' Economic Adviser, who gave evidence before us, that when on 3rd January, 1979, the Committee first considered the Appellant's request to be allowed to re-establish its office in Jersey the Committee knew that the Appellant had retained its property in Jersey but did not know that the Housing Committee, in its original consent, had agreed that the dwelling accommodation could be occupied by employees of the Appellant and their

immediate families. / ...

immediate families. Subsequently, the Committee was so informed but maintained its refusal, but counsel argued that it was, to say the least, unfortunate that the Committee did not know of this significant factor in favour of the Appellant before making its first decision.

We feel bound to say that we too think that this was unfortunate. In saying that, we are in no way criticising the Economic Adviser. We place on record the fact that counsel told us that the Economic Adviser had throughout been most helpful. As our statement of the history of this application shows, the Appellant offered to send a representative to discuss its request with the Economic Adviser before the matter was first put to the Committee, but the Economic Adviser felt that he had enough information to put before the Committee, and he was no doubt influenced by two factors, which were inter-linked. These were the belief that the Committee might well decide that the request was straightforward and that an application was therefore likely to be granted (a belief which we can well understand), and a consequent desire not to put the Appellant to the probably unnecessary expense of sending over from England a representative to discuss the request. The Appellant understandably agreed to the request being put in at this stage, and so it came before the Committee without the important additional information about the terms of the Housing Committee's consent.

We have said that that was unfortunate, but when we come to assess the effect of that on the decision to refuse, we find that there are two relevant matters. First, as we shall discuss later, the Committee was not bound by the terms of the Housing Committee's consent. Secondly, the Committee was later informed of those terms when a formal application was submitted, it then obtained confirmation of those terms from the Housing Committee and it gave further consideration to the case for the Appellant in the light of that additional information. There is no evidence whatsoever to suggest that the Committee did not genuinely re-consider the matter. The very fact that it went to the trouble of obtaining confirmation of this new information shows that it attached importance to it and we have no reason to believe, therefore, that the Committee did not take it fully into account in its further consideration.

Fourthly / ...

Fourthly, counsel referred to the memorandum, dated 30th January, 1979, which the Economic Adviser prepared for the Committee, and in which it was said that the decision to close down the office in 1975 was due to a fall in the level of business caused "through poor management". The Economic Adviser told us that he was sure that this had been given as the reason, in reply to his questions, during the meeting which he had with the Appellant's representatives, and he had made a note of that reply. Advocate P.F.C. Sowden, who was also present at that meeting as the Appellant's legal adviser, told us that he was sure that no such reason had been given for the closing of the office. He added that what the representatives had said was that the closing of the office had led to a bad service afterwards. Counsel argued that the use of the phrase "through poor management" in the memorandum to the Committee, although obviously due to a misunderstanding, could well have been damaging to the success of the application. Both witnesses were giving evidence of a conversation which had been held a long time previously and doing their best to recollect what was said, with the differnece that the Economic Adviser put down in writing only two weeks later his understanding of what had been said, assisted by his notes taken at the time.

We have two comments to make on this fourth submission of counsel. First, we have to concede the possibility that the Economic Adviser was mistaken in attributing the remark to the cause of the closing of the office, instead of to the result of that event, but we think it very unlikely that he would have so confused the two causes, because it is reasonable to assume that his notes taken at the time would have followed the sequence of events. Secondly, however that may be, we do not see how the inclusion of the phrase can have had a damaging effect on the success of the application. It was purely incidental. The Committee had full information as to the level of business. Moreover, there is nothing in the Committee's reasons to suggest that the phrase had played any part in the decision reached.

Fifthly / ...

Fifthly, counsel criticised the Economic Adviser for having referred, in the course of correspondence, to the intention of the Appellant to bring over a Superintendent "and his family", whereas the Appellant had referred only to "one employee". We think this criticism is without foundation, because even if, as we were informed, the intention was to bring over a single man there could be no certainty that he would not subsequently marry, and if he did, that he would marry someone already resident in Jersey.

Sixthly, counsel argued that the Committee was not consistent in its grounds for refusal. In its earlier grounds it referred to "pressures", which must have meant economic pressures, but then it appeared to change its mind and rely on the alleged aggravation of the housing shortage, notwithstanding that the Housing Committee had previously given its consent. That change of mind could be clearly seen in the Committee's Act of 14th March, 1979, where, after recalling that the Appellant proposed to bring over a Superintendent and his family, it referred to the "arrangements proposed" as not being sufficiently in the Island's best interests to justify a consent being granted. Despite that, the Economic Adviser's letter of 16th March again referred to "additional pressures", which did not make it clear that the Committee's objection was obviously now based on housing, rather than on economic, grounds.

The Economic Adviser did not accept that there was any inconsistency between the grounds given by the Committee for its several refusals. He explained that the phrase "additional pressures" meant principally the importation of a Superintendent from England. The Committee accepted that some benefits would accrue from a re-opening of the office. A modest amount of tax would no doubt become payable, and existing policy-holders would benefit, but those benefits and the scale of operation were not considered by the Committee sufficient to off-set the "additional pressures". Existing policy-holders could still obtain a service from the resident agents. Moreover, there were other insurance companies providing a similar service for new subscribers. In balancing the cost to the Island (in the shape of a Superintendent taking up

residence here / ...

residence here) and the benefits which would accrue, the Committee considered that the former outweighed the latter.

At this stage we are concerned only to see if there was an inconsistency in the grounds of refusal given, and in our view there was not.

Seventhly, counsel argued that because the Housing Committee had previously consented to the occupation of the dwelling accommodation by an employee of the Appellant, it was wrong of the Committee to have taken into account in arriving at its decision to refuse the application the additional pressure which would result from the importation of a Superintendent from England.

The Solicitor General replied that the fact that the Housing Committee had previously consented to the occupation of dwelling accommodation by a non-resident did not in any way prevent the Committee from taking into account the fact that if it were to grant a licence a non-resident would take up residence in the Island. Indeed it had a duty to have regard to that factor. Its only terms of reference were to be found in Article 5(2) of the Law, which provides -

> "(2) in deciding whether to grant a licence, to impose conditions or to refuse the grant of a licence, the Committee shall have particular regard to the economic situation in the Island."

Those terms of reference require the Committee to control the economic growth of, and immigration to, the Island. The Law had been introduced because previous controls to discourage immigration, such as the Housing Law, had been found to be insufficient on their own.

We accept that argument inasmuch as we agree that the Committee was entitled, under its very wide terms of reference, to take into account, notwithstanding the previous Housing Committee consent, that the effect of granting a licence for the re-establishment of the business would be that a non-resident would take up residence in the Island.

Having considered / ...

Having considered all the submissions of the Appellant, we find, for the reasons we have given, that the proceedings of the Committee in relation to the application were in general sufficient and satisfactory.

We next come to the second question which we have to answer, namely, whether the decision was one which the Law empowered the Committee to make. There can be no doubt that the answer must be in the affirmative, because, as we have said, the Committee's terms of reference are in the widest terms.

We therefore now turn to the third question, namely, whether the decision reached by the Committee was one to which it could reasonably have come having regard to all the circumstances of the case.

Counsel for the Appellant asked us to find that in the special circumstances of this case the decision of the Committee to refuse the application was manifestly unreasonable.

We agree that this is an unusual case. The Appellant had until 1975 conducted its business in the Island from its office at 11, Union Street, through its resident Superintendent who, with the consent of the Housing Committee, lived in the flat above the office. It is to that office and flat that it now wishes to return. It is entitled to place its Superintendent from England back in the flat, because it has the consent of the Housing Committee for an employee to live there. However, it cannot re-establish its business at the office without the permission of the Committee, and the Committee has refused permission because the grant of such consent would mean the re-occupation of the flat by a Superintendent from England. There is no point in the Appellant re-introducing a Superintendent to the flat if it cannot re-establish its business at the office. The intention of the refusal is, it is clear, to prevent the immigration to the Island of one Superintendent. It is to be assumed that the effect of the refusal would be to oblige the Appellant to let or sell the office and flat to someone who would be qualified to obtain the necessary statutory consents.

In the / ...

In the light of these unusual facts, we think that the decision of the Committee could be described as somewhat harsh. We believe that if we had been in the position of the Committee we might well in the special circumstances have granted permission, rather than have prevented a Company previously long established in Jersey at a central place of business from re-establishing its office in the Island after a comparatively short interregnum of only three years, simply on account of the immigration of one employee. Such immigration would have done no more than replace the employee who occupied the flat, with Housing Committee consent, until 1975. Had the Appellant not closed its office then the enactment of the Law could not have affected the status quo.

However, we have to recognise the fact that our view does not necessarily mean that the decision was one to which the Committee could not reasonably have come, because we consider that we have to apply an objective test, and that the standard of reasonableness to be looked for is the criterion of what a reasonable body could have decided. The discretion whether or not to grant consents under the Law has been conferred on the Committee, and not on the Court.

In Associated Provincial Picture Houses Ltd. -v- Wednesbury Corporation (1947) 2 All ER 680, the Court was asked to find that a licensing authority acted unreasonably and therefore ultra vires when, in allowing a cinematograph theatre to be opened on Sundays, it took into consideration matters concerning the well-being and the physical and moral health of children and imposed a condition that children under the age of 15 years should be excluded from the theatre.

We think it valuable to set out at some length two extracts from the judgment in the Court of Appeal of Lord Greene, M.R. At page 683 he said -

"In the present case, / ...

"In the present case, it is said by counsel for the plaintiffs that the authority acted unreasonably in imposing this condition. In the first place, it appears to me clear that the matter dealt with by this condition was one which a reasonable authority would be justified in considering when it was making up its mind what conditions should be attached to the grant of its permission. Nobody, at this time of day, can say that the well-being and the physical and moral health of children are not matters which a local authority, in exercising its powers, can properly have in mind when those questions are germane to what it has to consider. Counsel for the plaintiffs did not suggest that the authority were directing their minds to a purely extraneous and irrelevant matter, but he based his argument on the word "unreasonable," which he treated as an independent ground for attacking the decision of the authority. Once, however, it is conceded, as it must be conceded, that the subject-matter of this condition was one which it was competent for the authority to consider, there, in my opinion, is an end of the case, because, once that is granted, counsel must go so far as to say that the decision of the authority is wrong because it is unreasonable, and then he is really saying that the ultimate arbiter of what is and is not reasonable is the court and not the local authority. It is just there, it seems to me, that the whole argument entirely breaks down. It is perfectly clear that the local authority are entrusted by Parliament with the decision on a matter in which the knowledge and experience of the authority can best be trusted to be of value. The subject-matter with which the condition deals is one relevant for its consideration. It has considered it and come to a decision on it. Theoretically it is true to say - and in practice it may operate in some cases - that, if a decision on a competent matter is so unreasonable that no reasonable authority could ever have come to it, then the courts can interfere. That, I think, is right, but that would require

overwhelming / ...

overwhelming proof, and in this case the facts do not come anywhere near such a thing. Counsel in the end agreed that his proposition that the decision of the local authority can be upset if it is proved to be unreasonable, really meant that it must be proved to be unreasonable in the sense, not that it is what the court considers unreasonable, but that it is what the court considers is a decision that no reasonable body could have come to, which is a different thing altogether. The court may very well have different views from those of a local authority on matters of high public policy of this kind. Some courts might think that no children ought to be admitted on Sundays at all, some courts might think the reverse. All over the country, I have no doubt, on a thing of that sort honest and sincere people hold different views. The effect of the legislation is not to set up the court as an arbiter of the correctness of one view over another. It is the local authority who are put in that position and, provided they act, as they have acted here, within the four corners of their jurisdiction, the court, in my opinion, cannot interfere."

At page 685, he concluded as follows:-

"In the result, in my opinion, the appeal must be dismissed. I do not wish to repeat what I have said, but it might be useful to summarise once again the principle, which seems to me to be that the court is entitled to investigate the action of the local authority with a view to seeing whether it has taken into account matters which it ought not to take into account, or conversely, has refused to take into account or neglected to take into account matters which it ought to take into account. Once that question is answered in favour of the local authority, it may still be possible to say that the local authority, nevertheless, have come to a conclusion so unreasonable that no reasonable

authority / ...

authority could ever have come to it. In such a case, again, I think the court can interfere. The power of the court to interfere in each case is not that of an appellate authority to override a decision of the local authority, but is that of a judicial authority which is concerned, and concerned only, to see whether the local authority have contravened the law by acting in excess of the powers which Parliament has confided in it. The appeal must be dismissed with costs."

We have already found that the proceedings of the Committee were in general sufficient and satisfactory, inasmuch as it did not take into account matters which it ought not to have taken into account, and equally it did not refuse or neglect to take into account matters which it ought to have taken into account. Having answered that question in favour of the Committee, this appeal can succeed only if, in our view, the Committee, in refusing the application, came to a conclusion so unreasonable that no reasonable authority could ever have come to it. The issue is not what the Court considers unreasonable, but what the Court considers is a decision that no reasonable body could have come to, which is quite different.

We wish to say, in the first place, that we accept that the power exercised by the Committee in this case was exercised in good faith for the purpose envisaged by the Law.

Secondly, we also accept from its terms that the Law was deliberately designed to give the Committee very wide discretionary powers to provide an economic regulator in order to control the economic growth of, and immigration to, the Island. It is common knowledge, which the Court must take into account, that these pose grave problems for the government of the Island, and grave problems require drastic remedies and controls, affecting the right of an individual to do as he wishes. Thus the "policy" content of the Committee's discretionary powers is large, and it is clear from the judicial authorities that where the "policy" content of discretionary

powers / ...

powers is large the Courts tend to be reluctant to read implied limitations into the grant of power in so far as these would restrict within a narrow range the factors to which the competent authority is entitled to have regard. We believe that to be the correct approach.

Thirdly, as we have said, the Committee's terms of reference are in the widest terms and, as one would expect, the guide-lines which the Committee has set itself are correspondingly wide, embracing, as we believe they necessarily had to, a number of conflicting factors to be balanced against each other in considering each application. These are matters for the exercise of judgment and discretion in each case within the frame-work of the guide-lines and in pursuance of a consistent policy. Against that back-ground the opinion of the Court can be no more valid that that of the Committee; and indeed we have to accept that it is likely to be less so because the Court does not have access to the same information as has the Committee.

We have concluded, when we look at all the circumstances of this case, that we cannot say that the decision to refuse the application was one which was so unreasonable that no reasonable authority in the position of the Committee could ever have come to it. The application involved the importation of only one employee and the taking up of only 550 square feet of office space, but we cannot refute the argument enshrined in the old saying that if you look after the pennies the pounds look after themselves. The effect on the economic situation of the Island of allowing in one employee would no doubt be extremely small, but we have to accept that there was a principle at stake, and that the Committee was entitled to consider that effect and to balance it (however small) against the benefits which would accrue, as explained by the Economic Adviser. An exception might have been made in the special circumstances of this case, but the Committee was in a better position than the Court to weigh the "additional pressures" against the off-setting benefits. Moreover, the Committee is entrusted with the duty of maintaining a consistent policy and with achieving the purposes for which the Law was enacted.

After anxious / ...

After anxious consideration, therefore, we have come to the conclusion that the decision to refuse the application was one to which the Committee could reasonably have come, and it follows that our answer to the third and final question is also in the affirmative.

Accordingly, we dismiss this appeal.