

ROYAL COURT

25th May, 1988

Before: the Bailiff,
assisted by
Jurat Coutanche and
Jurat Le Boutillier

Between

Les Ruisseaux Holdings Ltd

Plaintiff

And

George Frederick Fenner
and Elaine Mary Fenner (née Webb)

Defendants

Representation of Plaintiffs alleging
Breach of Injunction in Order of Justice

Advocate S.C.K. Pallot for Plaintiffs
Advocate J.A. Clyde-Smith for Defendants

JUDGMENT

BAILIFF: Thank you, Mr Pallot, Mr Clyde-Smith. We have listened to the evidence. There is obviously some misunderstanding, and I think it is very easy to realise how it came about. I think the defendants believed they were in the right and did not realise that what they were not supposed to do was to build anything over the land, which they believed the plaintiffs did not have the right to use as a "rond point", but which the plaintiffs believed they did have a right to use; and there was the misunderstanding. We do

not find that there was that deliberate flouting of the Court's authority which we are always anxious to punish if we have to and we do not think it has been proved to our satisfaction (which is beyond reasonable doubt) that there has been a contempt, Mr Pallot. We think, therefore, that we will dismiss the action; the representation is dismissed, but on the other hand we think that because it is still part of the dispute between the parties it would be just, unless you are going to address me on it either of you, that costs should be in the cause.

ADVOCATE PALLOT: Certainly I agree that I should have resisted very strongly any order of costs in the circumstances. I think all that needs to be said at the moment for the avoidance of any future doubt, pending the final determination of the case, let there be no further doubt ...

BAILIFF: There's no doubt whatever, Mr Clyde-Smith has made it clear that all that we saw, in other words, everything to the north, northwest, northeast of the building must remain as it is. Nothing must be done.

ADVOCATE PALLOT: That's right, yes, what I was rather worried about, given the evidence of Mrs Fenner, was that ... (inter)

BAILIFF: Well, I think she understands and Mr Clyde-Smith understands that nothing is to be done at all. Even if she believes she is in the right.