1964

Dec. 11, 12

1965

Apr. 5

BETWEEN:

SAMUEL DUBINER .....PLAINTIFF;

AND

CHEERIO TOYS AND GAMES LTD .....DEFENDANT.

*Contempt of Court—Breach of terms of injunction—Breach of injunction by corporation and President thereof—Contumacious disregard of order of Court—Order for sequestration—Order for committal for contempt—Penalty for contempt of Court—Apology to Court.*

This is an application for an order committing Albert Krangle, the President of the defendant, to prison for his contempt in disobeying the judgment of this Court dated July 29, 1964, or, alternatively, granting the plaintiff leave to issue a writ of attachment for the said Albert Krangle, for leave to issue a writ of sequestration against the estate and effects of Albert Krangle and the defendant because of this breach of the injunction and of the order for destruction and delivery up and for an order requiring the said Albert Krangle and the defendant to answer for the plaintiff's costs arising from the defendant's acts in breach of the judgment and injunction contained therein.

By the terms of the judgment the defendant was enjoined from infringing the plaintiff's trade marks and was required to deliver up to the plaintiff all infringing articles in its possession, or to destroy them. The judgment further provided that if the defendant could remove the labels or other inscriptions on the infringing articles, the injunction would be stayed for one month in order to permit it to do so.

The evidence established that the defendant in fact dealt with the infringing merchandise after the date of judgment and after the expiration of one month from the date of judgment.

*Held:* That the President of the defendant, Albert Krangle, has chosen to discharge his duties with regard to having the defendant comply with the terms of the judgment of this Court, with a casualness, a carelessness, a neglectfulness, which borders on dereliction and which, in itself, apart from the outright breach of the injunction, contains some measure of contumacy.

2. That the conduct of Mr. Krangle and of the defendant corporation is not to be considered as a casual or accidental and unintentional disobedience to the order of the Court and that a contempt of Court has been committed and its order has been contumaciously disregarded.

3. That the defendant and Albert Krangle shall be jointly and severally liable for the payment of the costs of this application and of a fine of $1,000 00.

4. That there will be made an order for sequestration against the defendant and Krangle, which shall issue only if the fine of $1,000 and the costs of this application which are fixed at $500 are not paid within 30 days of the date of this judgment.

5. That a committal order will be made against Albert Krangle, under which he shall be imprisoned in the common gaol of the County of Carleton for a period of 30 days, but this order shall issue only if the said Albert Krangle has failed to appear before this Court within a period of 30 days from the date of this judgment, to tender a suitable apology for his conduct in breaching the order of this Court.

APPLICATION for order to commit for contempt.

The application was heard by the Honourable Mr. Justice Noël at Ottawa.

*Weldon F. Green* for the application.

*David Watson* and *E. A. Foster contra.*

The facts and questions of law raised are stated in the reasons for judgment.

NOËL J. now (April 5, 1965) delivered the following judgment:

This is an application for orders (a)(1) committing Albert Krangle, President of the defendant herein, to prison, for his contempt in the disobedience of the judgment rendered by this Court on July 29, 1964, or (2) in the alternative, granting the plaintiff leave to issue a writ of attachment for the said Albert Krangle; and (b) granting the plaintiff leave to issue a writ of sequestration against the estate and effects of the said Albert Krangle and the defendant corporation by reason of its breach of the injunction and the order for destruction and delivering up herein; (c) requiring the said Albert Krangle and the defendant jointly and severally to answer for the plaintiff's costs in full, arising from the defendant's acts referred to in the preceding paragraphs; (d) requiring the said Albert Krangle and the defendant, jointly and severally, to answer for the damages sustained by the plaintiff arising from the defendant's acts; (e) exemplary damages and (f) such further relief as this honourable Court deems just.

The reasons for judgment in the present case, which the defendant and its president is alleged to have contravened,

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were issued on July 29, 1964, the pertinent conclusions of which read as follows:

There will also be judgment in favour of the plaintiff that the following trade marks Yo-Yo (N.S. 94/24465), Bo-Lo (N.S. 48/12848), 99 (N.S. 83/21541) and PRO (N S. 85/22066) have been infringed by the defendant company, and for the injunction sought by him restraining the defendant company by its servants, agents or workmen or otherwise from further infringement of the above mentioned trade marks and an order for the delivering up to the plaintiff all infringing articles in the possession or control of the defendant or that the said infringing articles be destroyed under oath unless the defendant corporation can remove the labels or other inscriptions on the infringing articles in which case the said injunction shall be stayed for one month to enable it to perform this operation.

The minutes of the said judgment were settled only on October 7, 1964, and they, in brief, read as follows:

THIS COURT DOTH ORDER AND ADJUDGE: that the trade marks Yo-Yo, registered under No. N.S 94/24465, Bo-Lo, registered under No. N.S. 48/12848, 99, registered under No. N.S. 83/21541, Pro, registered under No. N S. 85/22066 and Tournament, registered under No. N.S. 85/22096 have been infringed by the defendants;

That the defendant by its servants, agents, workmen or otherwise be and it is hereby restrained from further infringement of the above trade marks Yo-Yo, Bo-Lo, 99, Pro and Tournament;

That the defendant deliver up to the plaintiff all infringing articles in the possession or control of the defendant or that the said infringing articles be destroyed under oath unless the defendant can remove the labels or other inscriptions on the infringing articles in which case the said injunction shall be stayed for one month to enable the defendant to perform this operation;

That the defendant do, within ten days after the date of service of this judgment upon the defendant, make and file an affidavit by an officer of the defendant stating the number and kind of articles at August 29, 1964, in its possession or control and marked with the trade marks Yo-Yo, Bo-Lo, 99, Pro and Tournament and serve a copy of such affidavit forthwith upon the plaintiff;

That the defendant do within ten days after the date of the filing of the said affidavit deliver up to the plaintiff those articles in the possession or control of the defendant at August 29, 1964, bearing the trade marks Yo-Yo, Bo-Lo, 99, Pro and Tournament or that the said articles be destroyed and in the latter case the destruction of the said articles be established by an affidavit of an officer of the defendant to be made and filed and a copy served upon the plaintiff within the said ten days.

On September 17, 1964, the defendant filed a notice of motion that an application would be made to this Court on September 24, 1964, for an order staying the injunction and the proceedings pending the outcome of the appeal taken by the defendant to the Supreme Court of Canada. This notice of motion was supported by an affidavit of Mr. Albert Krangle, President of the defendant company, dated September 18, 1964, wherein the affiant relates the action taken

by the plaintiff herein and the judgment of this Court, dated July 29, 1964, specifically stating that the Court held that the marks Yo-Yo and Bo-Lo could no longer be used by the defendant, that such use would constitute infringement and that the defendant was to be restrained by injunction of any future use thereof, and the said Albert Krangle was cross-examined on his affidavit on September 23, 1964.

Upon application of the plaintiff on October 1, 1964, the said Albert Krangle was *inter alia* ordered to attend before the Registrar of this Court, at his own expense, and be further examined on his affidavit of September 18, 1964, and that he fully inform himself of the following matters and answer questions relating thereto:

1. The number and kind of articles in the possession, power or control of the defendant at the time of the pronouncement of judgment in this action bearing the trade marks YO-YO, BO-LO, PRO, 99 and TOURNAMENT.
2. The number of return tops bearing the trade mark YO-YO to which the labels referred to in his answers to Questions 20, 21, 22, 23, 24, 25, 26 and 27 of his cross-examination on the said affidavit dated the 23rd day of September, 1964, were applied.
3. The number of return tops bearing the trade mark YO-YO that were sent to the defendant's agents since the date of pronouncement of judgment in this cause on July 29, 1964.
4. The number of return tops disposed of, distributed or sold by the defendant itself or by its agents since July 29th, 1964, and the place or places of such disposition, distribution or sale.

AND IT IS FURTHER ORDERED that the Defendant produce to the Plaintiff forthwith for the purpose of inspection and taking copies, and at the continuance of the cross-examination of Albert Krangle all documents in its possession, power or control relating to its use of the trade marks YO-YO and BO-LO, PRO, 99 and TOURNAMENT since the date of the pronouncement of judgment in this action, and particularly documents relating to the manufacture, disposition, distribution, use, sale or advertisement of wares by the defendant in association with the said trade marks;

AND IT IS FURTHER ORDERED that the Defendant produce at the continuance of the cross-examination of Albert Krangle and deposit with the Court a sample of each class or category of return top bearing the trade mark YO-YO or bat bearing the trade mark BO-LO, and wares bearing the trade marks PRO or 99 or TOURNAMENT in the possession, power or control of the defendant at August 29th, 1964, and at any subsequent date therefrom;

On October 14, 1964, the defendant produced a further notice of motion that an application would be made to this Court for an order extending the period of delivering up to the plaintiff of infringing articles in the possession or control of the defendant and permitting the defendant within such

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extended period to remove the labels or other inscriptions on the infringing articles or otherwise rendering them non-infringing and produced an affidavit dated October 15, 1964, to the effect

> ...that during the stay period of 30 days provided in the reasons for judgment of the Honourable Mr. Justice Noël, the defendant company endeavoured to render non-infringing the articles in his possession found by the Court in the said judgment to infringe the trade marks of the plaintiff named therein. The defendant rendered such articles non-infringing by the use of a gummed label which it affixed to the return tops for the purpose of concealing from the public any infringing trade marks inscribed thereon. For this purpose, the defendant ordered a number of labels, exhausted its supply of labels and expected a further supply shortly. In the meantime, in the absence of labels, the defendant has been unable to render all the infringing articles non-infringing. Similarly, the defendant has ordered new labels to replace those of its stocks or BO-LO merchandise but such labels were not received during the said 30-day period and, accordingly, the defendant for that reason was unable to comply with the 30-day period and requires a further period of time for the purpose of rendering its BO-LO bats non-infringing.

This request for an extension of time was not granted and the plaintiff was then permitted to cross-examine the President of the defendant company, Mr. Albert Krangle on his affidavits dated September 18, 1964, October 15, 1964, October 23, 1964, as well as on two affidavits dated November 2, 1964. This cross-examination of Mr. Krangle on his affidavits in support of his applications, as well as on those dealing with the delivering up of the offending wares disclosed that although he admits having received a copy of the reasons for judgment in the present case around August 4 or 5, 1964, he did not abide by the said judgment and caused to be distributed, advertised or sold in Canada by the defendant since the date of the said judgment, articles and wares marked with the trade marks Yo-Yo, Bo-Lo and Pro; he also failed to direct the removal from the articles in the possession, power and control of the defendant in the month following the pronouncement of the said judgment of the said trade marks and instead directed and applied or caused to be applied, even after August 29, 1964, September 18, 1964 and September 23, 1964, labels or stickers over the imprint of the said trade marks on certain of the said articles and then directed and/or caused to be distributed, advertised and sold in Canada by the defendant, the said illegally labelled articles as appears from Exs. 43, 44, 45 and 46 which Mr. Krangle admitted had been relabelled and shipped after September 23, 1964.

He also after the date of August 29, 1964, and September 23, 1964, and even up to October 20, 1964, directed and or caused to be erased, struck out, cut off, or in other ways defaced the trade marks Yo-Yo, Bo-Lo and Pro on certain articles in the possession, power or control of the defendant as appears from Ex. B, filed December 4, 1964, and particularly from a letter dated September 23, 1964, addressed to H. H. Marshall Co. Ltd., of Halifax, where he directs:

Please cut off from your Big "C" window banners the words YO-YO which appear on the bottom of same and supply these new revised banners to the individual accounts.

and also from a letter dated October 20, 1964, addressed to Mr. Krangle by Mr. Schimpf of H. H. Marshall Ltd., of Halifax, wherein it is stated:

As instructed by your Cheerio representative, Mr. Ronald Henri, we had a couple of our employees go through all of the replacement stock shipped by you and removed the units containing the word YO-YO *and removed the word YO-YO from the boxes by cutting the same off with scissors.* We enclose herewith our invoice to cover the cost of the time amounting to $60.16. We would appreciate your crediting this amount to our account and oblige. (The emphasis is mine)

He further, as president of Contest Toys Limited, an associate of the defendant herein, caused to be distributed, advertised and sold in Canada by the said Contest Toys Limited, since the date of the judgment herein, articles marked with the trade mark YO-YO; and as manager of Dulev Plastics Limited, a corporation owned by his wife, he caused to be advertised, distributed and sold by the corporation since the date of the judgment herein, articles marked with the trade mark YO-YO and arranged for broadcasting throughout the eastern and western provinces, television films in association with which the trade mark YO-YO is displayed or spoken, although in the case of Contest and Dulev, I must say that he did what he could, after his cross-examination of September 23, 1964, to withdraw from trade the offending articles.

Mr. Krangle was called upon to give reasons why he did not comply with the injunction nor with the judgment of the Court which he explained as follows: He admitted, as we have seen, that he had received copy of the judgment on August 4 or 5, 1964, but at p. 9 of the transcript of his cross-examination of September 23, 1964, he stated:

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A. ... I was evidently, under the erroneous impression until this morning, that by virtue of the fact that we are appealing the case, the judgment would automatically be stayed until the appeal had been dealt with. I learned, to my surprise, this morning from Mr. McClenahan, this is not the case, and so we are making all due haste to correct any merchandise we have still on hand, and we have advised the distributors in Halifax and other areas, to return—to pick up all merchandise and return it to us, and that it would be replaced with merchandise that is non-offending. This applies, as well, to banners and so on.

And at p. 10 of the transcript of September 23, 1964, he was asked the following question:

Q Did you make any other shipments after the date of July 29, 1964, that might have had offending merchandise?

A. We made shipments in connection with the promotions which we planned as far back as May and June, under the mistaken assumption that the appeal in itself would stay the decision until such time as the appeal had been dealt with.

And at p. 11:

A. I don't know the date of the notice of appeal. I had been given, possibly erroneously, to understand that the actual judgment had not—did not take effect until the Court sat on September 1st, and since they advised me that we had thirty days from that date then, I was of the mistaken opinion I found, that we had until the end of September in which to correct any merchandise.

And at p. 35:

Q. And that prohibition from July 29th, in your knowledge, 1964?

A. In my knowledge it ran from September 1st, which I understood was to commence, that is September 1st, for thirty days, and if the matter were appealed, then this matter would be deferred until the Court had heard it, and come down with a decision.

Q. From whom did you get that information?

A. Well, it was more or less what I had been given to understand, and possibly I misunderstood, but Mr. Kilgour indicated to me that the time for appeal ran from September 1st, for a sixty day period. I therefore, assumed that if the time for appeal ran for sixty days from September 1st, that the judgment commenced from September 1st. As I was aware of the reasons for judgment, I didn't see any judgment. That, I think was the cause of my misunderstanding.

And at p. 176:

Q. What other information would you have had from Mr. Kilgour?

A. I have the copy of the reasons for judgment, that is all I have seen.

Now although the judgment provided a procedure of destruction or delivering up of the offending articles in the power and control of the defendant

...unless the defendant corporation can remove the labels or other inscriptions on the infringing articles in which case the said injunction shall be stayed for one month to enable it to perform this operation ...

the defendant here again was under the false and erroneous impression that he could merely stick labels (which could be removed) over the inscribed trade marks and thereby comply with the judgment of the Court. He gave no explanation, however, as to his authority to relabel the wares in that fashion after the expiry of the month given for this purpose by the judgment and which expired on August 29, 1964, and Exs. 43, 44, 45 and 46 show that a mere sticker was placed over the inscription of the trade mark YO-YO even as late as subsequent to September 23, 1964.

The explanation given by Mr. Krangle that it was only on the morning of September 23, 1964, when he was called upon to be cross-examined on his affidavit of September 18, that he was told and heard that the appeal to the Supreme Court of Canada did not stay the judgment can hardly be relied on when one considers this man's sworn affidavit of September 18 wherein it appears that he refers to the judgment of this Court and particularly to the fact that:

as of December 28, 1963, the defendant was no longer a permitted user

and

that any use of the plaintiff's trade marks by the defendant thereafter would constitute an infringement and that the defendant was to be restrained by injunction from any future use,

and then concluded by stating that:

The defendant earnestly desires to proceed with its appeal to the Supreme Court of Canada as quickly as possible but in the meantime the defendant will experience considerable hardships in its promotional activities if it is *unable to use the trade mark YO-YO and BO-LO pending the said appeal*

and that:

the defendant to keep its business going must proceed with its promotional campaign during the pendancy of the said appeal and will be forced for its forthcoming campaigns *to employ other trade marks than YO-YO or BO-LO if the injunction of this Court is not stayed during the appeal* and the benefit of a successful appeal would be largely lost if the defendant has in the meantime been forced to establish and make known a new trade mark in association with its business. (the emphasis is mine)

His answer with regard to the above affidavit, at p. 296 of the November 4, 1964, cross-examination, is not only unreasonable but I may add incredible:

1152. Q. Mr. Krangle, did you not understand at the date that you swore this affidavit that an application was being made to the Court to stay the injunction? In other words, to permit your

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company to go ahead and use the trade mark "YO-YO" and "BO-LO" which, on the orders, you couldn't do it, you did not understand that ...

A. No, sir.

Q. At the date you swore that affidavit?

A. No, sir. I did not understand that.

And at p. 297:

1156. Q. Why did you give your instructions to make an application of this kind if you understood that you could go ahead and use the trade mark? Why would you instruct ...

A. I am not sure ...

The above explanation of Mr. Krangle in itself is most unconvincing, however, his cross-examination not only on his affidavits in support of his applications but also on those in connection with the defendant's obligation to deliver up the offensive wares discloses other matters from which it appears that he knew from the date of judgment that he could no longer use the said trade marks of the plaintiff.

From page 3 of his examination of September 23, 1964, it indeed appears from his answers that he must have understood the prohibition of the judgment:

11. Q. Can you give some indication of the date in August in which you would have read the judgment?

A. Well, it would be somewhere around the 4th or 5th day in August, thereabouts.

12. Q. Do you recall what the Defendant Company did on that day to comply with the judgment, if anything?

A. My recollection is that we immediately started to check over all of our merchandise with a view to eliminating any of the offending wares.

He also knew that he could not, after August 29, 1964, relabel or correct the wares but he nevertheless, after those dates, in addition to relabelling after the permitted date, sent out infringing wares to a number of distributors in Halifax, Newfoundland, Moncton, Saint John, N.B., Moose Jaw, Regina. Indeed in the course of his September 23, 1964, examination, Mr. Krangle refused to give information as to the whereabouts of his campaigns except with regard to Halifax. It is only when the Court ordered that invoices be produced that it was discovered that the defendant corporation had entered into contracts and was conducting campaigns in the five other places.

As a matter of fact, many of the infringing items might never have been discovered if one Al Gallo, at the request

of the plaintiff, had not gone to Halifax, Moncton and Saint John, N.B., on October 12, 13, 14 and 15, 1964, and served copies of the judgment on the defendant's distributors. cf. Gallo's affidavit of October 19, 1964.

The examinations also disclose that Contest Toys Limited and the Dulev Company, carried out campaigns in Vancouver and Winnipeg using infringing trade marks, although as Krangle admitted on September 23, 1964, he had, at the time, non-infringing wares on hand. Cf. p. 17 of his cross-examination of September 23, 1964:

> Q. Well, Mr. Krangle, I am a little bit puzzled, you say the merchandise that you shipped later in August of 1964 may or may not have borne the trade mark YO-YO. Now did it bear it or did it not?
>
> A. Well, I would say, I think eighty-one per cent of it did not bear the trade mark YO-YO because since January of 1963 all of the merchandise which we have ordered does not bear the trade mark YO-YO.

It further appears that although the defendant in the later part of August 1964 was shipping infringing wares to far off places, he was doing no business at all in Toronto where his head office was or in Montreal or in any city close at hand. The plaintiff suggests that this is indicative of the defendant's attempt to get rid of a quantity of infringing wares outside of the knowledge of the plaintiff and if the unsatisfactory explanation given by Mr. Krangle of his reasons for not dealing with offending wares in Toronto is taken, there might well be some substance to the accusation. Indeed, at p. 16 of the September 23, 1964, cross-examination, Mr. Krangle gave to the following questions the following answer:

> Q. Well, if you were shipping to your agents merchandise that did bear the mark YO-YO later in August, what stopped you from merchandising wares, return tops, in Toronto bearing the trade mark YO-YO?
>
> A. As I indicated to you it was my impression that having decided to appeal this judgment, that the judgment itself would be stayed until the appeal was heard.
>
> Q. Well, that seems to be more reason why you would go ahead with selling return tops.

I do not intend to go any further in dealing with the facts disclosed in the examination of Mr. Krangle than to say that perusal of the examinations reveal that the same reluctance permeates his conduct with regard to the delivering up and the affidavits of delivering up when, for instance.

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on behalf of the defendant, he swears to certain set quantities of offending wares and then later corrects them by saying that the previous amounts sworn to by him were either mere estimates or were counted and checked by someone else or that he did not read the affidavits or that it was prepared by one of his numerous lawyers.

I refer, merely as an example of his attitude, to p. 4 of his examination of September 23, 1964 (which was the first examination he was subjected to) where upon being asked by counsel for the plaintiff whether he had in his possession on the day he received notice of the judgment (4th or 5th of August, 1964) any wares bearing the trade marks "YO-YO", "BO-LO" and "PRO", he answered that he did not when later it developed that he had thousands of infringing wares.

17. Q. Nowhere in your possession on the day you received notice of your judgment was merchandise bearing these last three mentioned Trade Marks?

A. Not that I am aware of.

His conduct has left me with a feeling, to say the least, that he has chosen to discharge his duties in this regard with a casualness, a carelessness, a neglectfulness, which borders on dereliction and which, in my view, in itself, (apart from the outright breach of the injunction) contains some measure of contumacy.

I might, however, point out (as there has been protracted discussions on this point) that although the plates which bore infringing marks were not delivered and were corrected only after August 29, 1964, by removing the offending marks and then used by the defendant for the purpose of printing new boxes, I do not feel that these boxes, which contain no infringing marks, should be considered as infringing and therefore they should not be delivered up to the plaintiff. The fact, however, that the defendant, through Mr. Krangle, made changes on the offending plates after the permitted date, should and will be taken into consideration with regard to the contempt proceedings.

At the hearing on the motion for committal, Mr. Krangle stood up and stated that he apologized to the Court for any inconvenience he has caused for failing to properly comprehend the judgment adding that he wished to assure this Court that he had not wilfully disregarded the order of this Court.

I am not, in view of the above related facts, convinced that the above is an expression of humble apology which the Court can accept as sincere. Mr. Krangle indeed must be brought to appreciate that compliance with an order of a Court is not a battle of wits but that such an order must always be complied with in spirit as well as in letter. Cf. *Kerr on Injunctions*, 6th ed., p. 688:

An order for an injunction must be implicitly observed and every diligence must be exercised to obey it to the letter.

In view of the protracted and costly proceedings initiated and conducted to insure the proper compliance of the defendant with the judgment of this Court and for which I intend to hold both the defendant and Mr. Krangle liable (the latter not only for the breach of the injunction but also on the ground that he has aided and abetted the defendant in the said breach) I do not feel that there would be anything gained by sending him to prison unless, as hereinafter set down, he persists in his behaviour. However, I do feel that some measure should be taken against him in order to enable him to reflect on the gravity of his conduct and although the formal judgment was served on him on October 13 only, his admission that he had the reasons for judgment on or about August 4 or 5, 1964, and therefore had in fact notice of the injunction, and the fact that he breached the said judgment even after October 13, would make him amenable to some sanction. I would also think that the fact that he was the sole directing authority in the defendant company and that he alone gave the orders and instructions which caused the said defendant company to breach the judgment of this Court would also be a determining factor in taking sanction against him as a director of the company.

The conduct of Mr. Krangle and of the defendant corporation, as hereinabove related, in my view, is not to be considered as a casual or accidental and unintentional disobedience to an order of the Court and I am satisfied that a contempt of court has been committed and that its order has been contumaciously disregarded.

I have given due thought to the question of penalty and I do feel that in addition to the costs of the above mentioned application, the quantum of which I shall establish hereunder and for which the defendant and the said Albert

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Krangle shall be held jointly and severally liable, a fine of $1,000 should also be paid jointly and severally by both the defendant herein and the said Albert Krangle to the Registrar of this Court or any other officer acting in his place in his absence. What I shall do, therefore, is to make the orders for sequestration against both the defendant and Mr. Krangle and for his committal to 30 days imprisonment for his contempt. The said orders for sequestration against both the defendant corporation and the said Albert Krangle, however will not be issued for a period of 30 days from the date of this judgment. If within that period of 30 days the said fine of $1,000 and the costs which I hereby fix in the amount of $500 have not been paid, then the said sequestration orders will issue to enforce payment thereof, and if within that time they have been paid then the sequestration orders shall not be issued. The committal order against the said Albert Krangle will likewise not be issued for a period of 30 days from the date of this judgment; if within that period the said Albert Krangle does not appear before this Court and indicate that he is now in a frame of mind appropriate to a person having breached a Court order, regrets the impropriety of his actions and subscribes to an expression of humble apology which the Court could accept as sincere, then the said Albert Krangle is to be imprisoned by the sheriff of the County of Carleton, in the common gaol of the said County to be there confined for a period of 30 days unless the required apology be sooner made.

I do feel that *Phonograph Performance Ltd. v. Amusement Caterer's (Peckham) Ltd.*[1] is sufficient authority to enable me in a case of civil contempt such as here to impose a lesser penalty than committal, namely a fine.

[1][1964] L.R. 195.