

# BURE CLUB NOISE IS STILL A NUISANCE COURT RULES

*'Expert advice followed' — claim*

C.T. November 26, 1965

**HOUSEWIFE Mrs. Ann Jacobs, of 7 Bure Close, Friars Cliff, told Christchurch Magistrates on Monday that the noise of amplified music from the nearby Bure Club was "like having a transistor radio in my shoes which I can't switch off". The noise, she alleged, could be heard in every room of her house and "it follows me around like a phantom from room to room".**

Mrs. Jacobs was a witness for the prosecution in a case brought by Christchurch Corporation in which the proprietor of the Bure Club, Mr. David Charles Stickley, was alleged to have defaulted in complying with a notice to abate a noise nuisance which was served in June of this year.

Counsel for the Corporation was Mr. Robert Hughes, instructed by the Town Clerk, Mr. John Macfadyen, and counsel for Mr. Stickley was Mr. E. Terence Read, instructed by Messrs. Williams, Thompson and Slinger.

After a five hour hearing, the chairman, Col. K. R. Brooke, announced that the bench were of the opinion that the alleged nuisance still existed and that there was a likelihood that it would recur. That being the case they proposed to make an order, but before doing that they would like to hear from the parties concerned if they had any proposals which would be mutually agreeable in order to prevent its recurrence.

Mr. Hughes said there had not been tests of the noise in the circumstances that existed today and he suggested that the matter be adjourned for the parties to carry out tests and get together.

Col. Brooke said what the bench were anxious not to do was to make an order which was going to prove unduly hard on the defendant, but at the same time they felt they would at some time or other make an order that would satisfy those who had complained.

The case was adjourned until December 13.

## NUISANCE

Earlier, Mrs. Jacobs said she lived about 30 yards from the club and she was able to hear the noise of the dance band which was a very disturbing noise and a nuisance. It permeated the whole house and it was there morning, noon and night, she alleged.

At the opening of the case, Mr. Hughes said he wanted to clear up a misunderstanding. "This is not an application to close the Bure Club down or anything like it. That is the idea which seems to have got about among the younger generation who use the club", he said.

Mr. Hughes explained that where a local authority was satisfied there was a statutory nuisance they were required to serve a notice upon the person by whose act the nuisance arose or continued.

That notice required him to abate the nuisance and to take such steps as might be necessary for that purpose. If a person made default in any of the requirements of the notice, or if the nuisance, although abated since the service of the notice, was, in the opinion of the

local authority likely to recur on the premises, a summons could be served requiring the person to appear.

#### ENTITLED

The case for the prosecution, said Mr. Hughes, was that there was too much noise coming from the instruments and drums and in their submission the residents were entitled to ask that the defendant should so conduct his affairs that it should not be necessary for the noise to escape so that it caused inconvenience and discomfort to a large number of people.

Mr. Hughes said that an abatement notice was served in June 1964 as a result of which certain things took place with a view to abating the noise. But when the Council were not satisfied with what had been done it was thought better not to proceed on a stale notice of June 1964, but to serve a new notice which was done in June of this year.

Mr. Hughes added that in carrying on this perfectly lawful occupation, the defendant unfortunately was causing this nuisance by noise to a variety of people in the district who sought relief through those proceedings.

Mr. Archibald Francis Saunders, a public health inspector with Christchurch Corporation, said that during the course of his duties he had been concerned with complaints of noise from the club which was surrounded by bungalows and flats in a good residential area.

#### UNIVERSITY

He had visited the club four or five times in recent months and had been in touch with the Institute of Sound and Vibration at Southampton University, and had spoken to a Mr. Sharland, of the university, on the site of the club.

On October 15 he saw Mr. Stickley with the specifications from Mr. Sharland for the acoustical sealing of the premises. It appeared efforts had been made at sound proofing consistent with what had been recommended by Mr. Sharland. He returned to the club on October 25 and some further efforts had been done.

Mr. Saunders was then allowed to leave the court, at the suggestion of Mr. Read, to inspect the club and see what further efforts had been made.

After returning to court, Mr. Saunders said something had been attempted there although it had not been completed. Some of it was of a "rather poor nature" and just how effective it would be he was not prepared to say. Some of the materials, he thought, were "rather poor", and the workmanship was "somewhat inferior in places".

#### USELESS

Mr. David Moss, of 89 Bure Lane, said that on occasions the noise went on until 1, 2 and 3 a.m. and it was useless to go to bed until the noise had stopped. Sometime it was "really dreadful" and whenever they saw it advertised for 1, 2 or 3 a.m. they never went to bed until after the music had stopped.

Cross-examined by Mr. Read, Mr. Moss said he did not dislike Beatle music, and he agreed that in some considerable part Beatle music was "drum beat".

Mr. Moss said he could not accept that the club had never advertised dancing until 1, 2 or 3 am and he added that Mr. Read's suggestion that dancing had never gone on until 1, 2 or 3 am was wrong.

In further replies to Mr. Read, Mr. Ross said that the Friars Cliff Residents' Association had discussed the matter and he was a warden for the association.

Asked if one of the aims of the association was to "get rid of the Bure Club", witness replied: "I wouldn't say we wanted to get rid of the club, just the noise. We like dancing but we don't like noise". He agreed it was a case of "live and let live".

Mrs. Muriel Churchwood, of 6 Bure Close, said the noise was a disturbing sound wherever she went in the house.

#### NO OBJECTION

In reply to Mr. Read, witness said she had no objection to the club and was not exaggerating about the noise.

Margaret Ann Knight, a school teacher, of 8 Bure Close, said the noise prevented sleep and it also prevented her marking examination papers in the evenings. The noise was too much and she could not concentrate at all. She had moved her bedroom because of the noise.

Coun. J. T. Beattie, a member of Christchurch Council, said he made a record of the noise on 60 different occasions between July 1 and October 10 and he made notes of the times when he considered the noise to be excessive. On one occasion he recorded the noise as "hysterical" and on another occasion as "thunderous". On July 1 the whole of the residents' association committee went to the corner of Bure Lane to listen at 10.45 pm and the noise then was considered to be excessive.

Mr. Peter Michael Roberts, a partner in a firm of chartered surveyors, of Bournemouth, said he had carried out noise tests in the area. When in Bure Lane the noise of passing traffic drowned the noise of the music. When there was no traffic he could hear the band very slightly by listening hard. It was confined to a dull beat.

#### VERY FAINTLY

From behind the Post Office, about 140 feet from the nearest point of the club he heard the beat quite clearly, and from a position outside some houses 200 feet from the club he heard the sound of the beat very faintly. "I wouldn't have thought it was loud enough to be a nuisance", he said.

From the telephone kiosk 100 feet from the club he could hear the music quite clearly. But the noise of passing traffic was much louder.

He had been, back to the club that day with Mr. Saunders and all the work in the specification had been done, with the exception of the door from the club to the gents' toilets which made no difference at all.

Asked by Mr. Hughes if anything had been done to reduce volume in the hall, Mr. Roberts said he understood that Mr. Stickley had taken steps to reduce the amplifiers to keep the volume down, so much so that he had had complaints about the low volume.

#### SATISFIED

Mr. Read said the specifications had been compiled on the advice of one of the leading experts in this area on sound who went along and heard the noise and was satisfied that the measures advised were measures that would abate the nuisance.

These matters had been complied with by October, and he submitted that the evidence given had been highly exaggerated and biased. The local authority, having found a nuisance, had suggested a means of abating the nuisance. This had been complied with by October so how could it be argued that this was not the clearest possible compliance with the local authority and the best possible endeavour to abate the nuisance, asked Mr. Read.

What better means could there be in matters of that sort than to accept the advice of the local authority based on the advice of a leading expert?

Mr. Stickley was not called to give evidence.