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22nd October, 1986

Before the Deputy Bailiff, assisted by Jurats Perrée and Le Boutillier

Representation of Barrie Raymond Cooper

**DEPUTY BAILIFF:** The representor, Mr. Cooper, requests this Court (1) to register the Order in Council of the 19th May, 1976, and (2) to order the Connétable of the Parish of St. Helier, ex officio, to pay £250,000.00 to the representor by way of compensation. The issues thus raised have already been decided by the Royal Court in the action brought by the representor against Her Majesty's Attorney General. Judgment was given in that action on the 30th June, 1986. We have had to consider the question whether we are bound by that judgment. A similar question arose in the case of "Her Majesty's Attorney General -v- Robert Lawrence Weston" (Jersey Judgments 1979, at page 141). That action dealt with the matter of statutory contraventions being tried by jury, and in that case the Court said at page 145:

"Mr. Bailhache (who was counsel) submitted also that even if Pennington was decided correctly (that was an earlier case) the Royal Court as presently constituted was not bound to follow it."

The Court then referred to the situation of co-ordinate courts, and said at page 146:

"We think that the present position of the Inferior Number in relation to other judgments in pari materia of the same Court is similar to that of judges in the English jurisdiction in relation to judges of co-ordinate courts".

The Court then went on to quote a passage in Halsbury, 4th edition, Volume 22 at paragraph 1689, which sets out the position as follows:

"Where, however, a judge of first instance after consideration has come to a definite decision on a matter arising out of a complicated and difficult enactment, the opinion has been expressed that a second judge of first instance of co-ordinate jurisdiction should follow that decision; and the modern practice is that a judge of first instance will as a matter of judicial

comity usually follow the decision of another judge of first instance unless he is convinced that that judgment was wrong".

The Royal Court went on to say:

"We think that that is a description of the proper relationship which should apply in Jersey between the co-ordinate courts of the Inferior Number in matters of law at least. Accordingly, unless Mr. Bailhache can satisfy us that Pennington was wrongly decided we propose to follow it".

Now, we are in exactly that situation with regard to the judgment of the 30th June, 1986. Mr. Cooper has not satisfied us that the judgment of the 30th June, 1986, was wrongly decided, and we therefore propose to follow it. In that case, the representor asked the Court to rule that the Royal Court on the 11th June, 1976, should have registered the Order in Council, and not referred it to the States. The Court ruled that the Royal Court had acted quite properly, and rejected that part of the representor's application that referred to the registration of the Order in Council. Following that decision, we too reject the representor's entreaty that we should now register the Order in Council dated the 19th May, 1976. We might add that the registration of the Order in Council would not constitute a judgment against the Connétable of St. Helier as the prayer of the representation suggests.

On the 7th December, 1978, the representor signed a waiver or receipt and discharge, and here we quote, "in full and final settlement of all compensation, claims, interest and costs of whatsoever nature, and howsoever arising against the States of Jersey, their Committees, servants and agents and the Parish of St. Helier, the Connétable of St. Helier and their respective servants and agents arising out of an order of the Queen's Most Excellent Majesty in Council dated the 19th May, 1976 and of my unlawful detention at the Jersey General Hospital in June, 1961".

The representor requested the Royal Court to set aside that waiver, The Court could not find that the waiver was other than what it was expressed to be. The representor waived his rights and he cannot come back to the Court and seek to reinstate them. The Court rejected the second part of the representor's action with regard to the waiver. Again, following that decision, we find that the representor is estopped from pursuing his claim for £250,000.00 or any claim against the Connétable of St. Helier arising out of the Order in Council of the 19th May, 1976.

Accordingly, we dismiss the representation and we order that the  
representor shall pay the taxed costs of the Connétable of St. Helier.  
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