

ROYAL COURT

3rd September, 1990

125.

Before: The Bailiff, assisted by
Jurats Coutanche and Hamon

Between:	Citibank (Channel Islands) Limited	First Plaintiff
And:	Citibank NA	Second Plaintiff
And:	Citicorp Banking Corporation	Third Plaintiff
And:	Jersey Evening Post Limited	First Defendant
And:	Philip John Falle	Second Defendant

Contempt of Court

Advocate A.R. Binnington for the plaintiffs.
Advocate M.H. Clapham for the defendants.
Her Majesty's Solicitor General convened by
the Court as amicus curiae.

JUDGMENT

BAILIFF: This action arises from information given to a journalist (the second defendant in this case working for "The Jersey Evening Post") by an unknown source, of proposals by the plaintiffs' group to transfer some of their operations from the Middle East to Jersey.

It is clear to us, looking at the Order of Justice, that premature disclosure of that intention could have had the most disastrous consequences, not only for the bank, but also for the political and financial situation in the Gulf; and indeed even more serious from the point of view of Jersey would be the suggestion that most secret and confidential information was being disclosed from a source which it is impossible to trace. It cannot be said too often that the Island's success in financial circles depends on the strictest confidentiality being observed by all to whom confidences are given by the banks and other financial institutions.

If it once were thought that confidential information of a most sensitive nature was in danger of being leaked by the Island's Civil Service perhaps- one doesn't know, one cannot speculate, but at any rate official circles, so to speak- then that confidence would soon evaporate. To use the words of the late Senator Cyril Le Marquand: "Confidence is the name of the game", .

Therefore the Court has the greatest sympathy with the position in which the plaintiffs found themselves on the Friday morning when they were obliged to seek injunctions.

Having said that by way of background the Court has to turn its mind to the effect of those injunctions, of which there were three; the first two prohibited publication and they have been observed and we note that counsel (Mr. Binnington) this morning, has requested that they be lifted and we are quite happy to lift them because the question of confidentiality has been cleared, so he tells us, and therefore the lifting of those injunctions would not prejudice the plaintiffs as they might have been prejudiced earlier had the information been released then. Therefore we lift them.

However, the third injunction was directed at Mr. Falle, a journalist in the employ of the second defendants, "The Jersey Evening Post", for some eighteen years. He was instructed to disclose the source of his information. This morning the Solicitor General has

indicated that he is by no means satisfied that the Law of England applies to a case of this nature in Jersey.

In view of our findings which I am going to announce in a moment, I do not think it will be necessary to call upon him to address us, although it is a very interesting and important matter, but about which I shall say more in a moment.

We have proceeded to hear Mr. Falle himself and the two Viscount's Officers who served the injunctions on him. If we had found that, applying English Law, there might have been grounds for thinking that a contempt had been committed, we would have had to hear argument as to whether that was the appropriate law or not. But looking at the facts on the narrow issue as to what took place upon the service of the documents upon Mr. Falle, we are quite satisfied that he did not, even assuming that English Law applies, commit a contempt of Court and therefore so far as that issue is concerned he is discharged.

"The Jersey Evening Post" is also discharged because we are satisfied from the affidavit of Mr. Carter that that body knew nothing personally. Of course if Mr. Falle had been found guilty of contempt other matters might have flowed from that finding because the paper is his employer, but we are not called upon to consider that this morning. Which brings me to the last point.

The Court is perturbed at this leak. It is a matter, Mr. Solicitor, which I think you as legal adviser to the States with the Attorney General should refer as a matter of the utmost urgency to the Finance and Economics Committee, to ascertain whether it is possible to conduct an enquiry into how this occurred. Secondly, if you are right in your view of the law, to ascertain whether it is desirable to have a statute so that the media in this Island may know clearly- and it is right that people should know what they can or can't do- the limits, if there are limits, of what reporting they can do. I think that is a very important matter; it has to do with the balance of the freedom of the press with the public interest; a very difficult and important matter, and if your view is right, then perhaps the sooner we have a statute to clarify it the better. But I say no more at this stage.