

ROYAL COURT
(Samedi Division)

219.

9th December, 1992

Before: The Bailiff: And Jurats
Blampied and Gruchy.

In re the Investigation of Fraud (Jersey) Law, 1991.

Representations of J. and N. McMahon and of R.C.G. Probets.

Application by the representors for an interim injunction restraining the Attorney General from taking any further steps in relation to a notice issued by him under Article 2 of the above Law, requiring Allied Irish Banks (C.I.) Limited to disclose certain documents, until such time as the Royal Court determines whether or not the matters under investigation fall within the terms of the said Article 2.

Advocate R.J. Michel for J. & N. McMahon.

Advocate G.R. Boxall for R.C.G. Probets.

The Attorney General.

JUDGMENT

THE BAILIFF: It is only necessary for the purposes of this part of the case for me to limit myself to the submission of the Attorney General, because J. and N. McMahon, who are named as the representors, are not whom they seem to be; they operate a bank account under those names, which they are using as pseudonyms. Mr. Michel knows that but does not know who they are, and

therefore it would be improper for the Court to receive an application from anonymous representors.

It is a moot point, which as far as I know the Court has not had to consider before, although the Court will allow certain kinds of cases to be heard using initials or numbers, but in those cases the Court has to give leave and furthermore is aware of the identity of the parties.

This is the first occasion, as far as I know, on which the Court has been asked to entertain a representation without being aware of the true identity of the applicants.

We think it is undesirable that those who come to this Court should be able to shelter behind anonymity without the Court knowing the reasons for it; and no good reasons have been submitted to us which, in our view, would entitle us to hold otherwise.

We have looked at the White Book which is not helpful, except where it indicates that if you are going to sue, you have to use your proper name, whereas you can be sued in other names if you are in a partnership. As far as this Court is concerned, it has always in the past insisted on knowing who the litigants are, unless, I repeat, there are good and adequate reasons for dispensing with that requirement. We think it is a requirement and we are not prepared to dispense with it.

Accordingly, we accept the Attorney General's submissions and find that the representors are non-suited. Having said that, we invite the Attorney General to agree to something which we are going to suggest: that he should not enforce his Order for seven days, which would give the anonymous representors time to decide whether to come back to the Court using their proper names, in

which case the matters which they have raised - and they are important matters of course - could be properly argued.

Authorities

Investigation of Fraud (Jersey) Law, 1991: Article 2(1).

R.S.C. (1993 Ed'n): 81/9/1 & 2.

Le Gros: "Traité du Droit Coutûmier de l'Ile de Jersey" (1943):
p.145: de l'Ordre de Justice et de la Remontrance:
"justiciable".

Johnson Matthey Bankers -v- Arya (1985-86) JLR 208 at 211.