

JUDGMENTB.R. COOPER -v- THE PRISON BOARD AND OTHERS

DEPUTY BAILIFF: This is a question of law and therefore I have to decide it myself. The representation of Mr Cooper refers to an offence for any person not registered under the Medical Practitioners' Registration Law, 1960, to act in the capacity of a doctor or at any rate to perform medical services, and it appears from what the Solicitor General has said and from what we can gather from Mr Cooper, that that is the nub of his complaint.

He seeks, however, to carry it further. If it is an offence under the Medical Practitioners' Registration Law for Mr de la Haye to have done what he did, then he is answerable to the Courts if the Attorney General, and the Attorney General alone, should decide to prosecute. It cannot be for this Court to refer papers to the Attorney General, unless there is clear evidence in, for example, a civil case that a criminal offence has been committed and the Court often refers papers to the Attorney General in such circumstances. But there is nothing in the Prison Law which renders the present defendants, that is to say, the President of the Prison Board, the Governor and the Medical Officer of La Moye Prison, in any <sup>way</sup> liable for anything that Mr de la Haye might have done, which contravened the Medical Practitioners' Registration Law, 1960, and we don't express any view on that at all because evidence has not been before us and it's not the time or the place for such evidence to be brought.

I am, therefore, satisfied that by alleging that a member of the prison staff has committed a criminal offence, that does not, by itself, entitle the complainant in this case, Mr Cooper, to proceed against the President of the Prison Board, the employer, that is to say, of Mr de la Haye, the Governor and Medical Officer of La Moye Prison in respect of that alleged offence. Still less is it right, and nor would it be right, rather ... still less would it be right for this Court to refer any papers in the manner suggested to the Public Prosecutor, who has an absolute discretion to proceed. A proper course for Mr Cooper to take is if there are matters in

the judgment which he takes exception to, it's for him to continue and prosecute an appeal against the civil judgment of this Court.

As regards an allegation that there has been an offence, whether it has been a criminal offence or at least an infraction of the Medical Practitioners' Registration Law, 1960, then it is a matter for him to report direct, if he so wishes, to the Attorney General, but this Court cannot usurp and would not seek to usurp the discretion of the Attorney General in deciding whether to prosecute or not. Therefore we admit and accept the objection voiced by Her Majesty's Solicitor General and we order the claim to be struck out as disclosing no reasonable course of action.

We are dismissing the application as I said, Mr Cooper, but in accordance with Article 13 of the Court of Appeal (Jersey) Law, 1961, we give you leave to appeal against my ruling if you so wish, seeing as it is an interlocutory matter, Mr Solicitor.