

**QUESTION TO BE ASKED OF H.M. ATTORNEY GENERAL ON TUESDAY 18th MARCH 2003, BY
SENATOR P.V.F. LE CLAIRE**

Question

By virtue of Article 3(2) of the Interception of Communications (Jersey) Law 1993, Her Majesty's Attorney General shall not issue a warrant under that Article for the interception of communications unless he considers it necessary in the interest of national security or for the purpose of preventing or detecting serious crime. Under Article 1(3)(a), the definition of serious crime includes conduct by a large number of persons in pursuit of a common purpose.

- (a) Would the Attorney General explain what is meant by a 'large number of persons', in this context, and how that is legally defined?;
- (b) would the Attorney General explain whether the reference to 'a large number of persons in pursuit of a common purpose' could lawfully include people who are interested or actively involved in creating political parties in Jersey?;
- (c) if the answer to (b) is in the affirmative, how many such warrants have been issued in the past 10 years?

Answer

- (a) The word "large" is not legally defined either in the Interception of Communications (Jersey) Law, 1993, or in the Interception of Communications Act 1985, upon which the relevant parts of the 1993 Law are based. In accordance with the standard principles of statutory interpretation, this means that the word would be given its ordinary dictionary definition. The ordinary dictionary definition of "large", so far as it is relevant, is "having a relatively great quantity".
- (b) The Interception of Communications Law empowers the Attorney General to issue warrants for the interception of communications in the interest of national security or for the purpose of preventing or detecting crime, but he cannot issue a warrant for the purpose of preventing or detecting crime unless the crime is serious. The matters specified in Article 1(3)(a), including the reference to conduct by a large number of persons in pursuit of a common purpose, are the factors which make a crime a serious crime for the purposes of the law. The common purpose must, however, be criminal before the fact that a large number of persons are pursuing it together entitles the Attorney General to issue a warrant.

Unless the objectives of the political party were criminal – one example would be the carrying on of terrorist activities – it would not be lawful to issue a warrant under Article 3(2)(b) of the 1993 Law.

- (c) It is generally inappropriate that the Attorney General be questioned on the floor of this Assembly as to warrants which may have been issued because the purpose of the 1993 Law is to enable the covert gathering of information in the interests of national security or for preventing or detecting serious crime.

However, and exceptionally, I am prepared on this occasion to depart from that rule. I confirm that I have not, and to the best of my knowledge and belief my predecessors have not, issued any warrant under the 1993 Law for the interception of communications on the grounds that those whose communications were to be intercepted included people interested or actively involved in creating political parties in Jersey.