

5. Questions to Ministers without notice – The Minister for Treasury and Resources

5.1 Deputy J.A. Martin:

As I was unsuccessful to get the Minister for Economic Development to agree that no more money will be spent on our forts until we, as States Members see a proper Business Plan, can I have that assurance? Could the Minister please also comment that should the States be in direct competition with commercial tourism at the subsidy rate that we are giving them?

Senator T.A. Le Sueur (The Minister for Treasury and Resources):

I think there has been a degree of misunderstanding about this issue of forts and the need to invest in them. Firstly, they are part of our heritage and it is right that we invest money to protect and preserve and enhance that heritage. If we could also do that and generate a revenue at the same time, so much the better. The comments I made in respect of a previous application were in respect of a lack of detail in the Business Plan did not enable me to form a decision. I like to ensure that decisions made by the Treasury are made on the basis of full information and I, therefore, expressed concern at the lack of detail. Nonetheless, given the timescale and given the booking already been taken, it seemed clear that that had to proceed. I requested in future applications for these release of funds that full details should be available to Treasury before they are released.

5.2 Deputy G.P. Southern:

Does the Minister agree that in passing P.29/2006 - amendment to Jersey Trust Law 1984 - which contained reserve powers for the settlor, that the settlor can tell a trustee what to do which means a trustee is in a nominee role and the settlor can claim property back? We have in this Island - does he not agree - created a sham trust facility which avoids proper payment of tax especially withholding tax in the Island?

Senator T.A. Le Sueur:

No, I do not agree. The revision to Trust Law clarified and, I think, made life simpler for trustees and, indeed, perhaps for settlers. There is no question of trustees acting as nominees and were a trustee to act in a nominee capacity that would be a sham Trust and would certainly bring the whole trust down. So, I have no doubts that the amendment to the Trust Law which was passed by this House, Projet 29, was another step in the right direction to enhance our already very sound Trust Law which is accepted and respected by Trust Practitioners worldwide.

5.3 Deputy S.C. Ferguson:

Reverting to the historical properties, was the Minister aware that the National Trust for Jersey was also interested in participating in this programme, particularly with regard to houses rather than castles? This would have been cheaper for the States but would have had the same effect. Was he aware?

Senator T.A. Le Sueur:

No, I had no particular reason to be aware. I was consulted on a very narrow point of the use of monies within the Tourism Investment Fund in excess of their permitted level of spending without authorisation. Other than that, Sir, the Economic Development Minister has full authority to develop those properties in the way which is in the best interests of the Island.

5.4 Deputy R.G. Le Hérissier:

Was the Treasury Minister surprised when I was given an answer by the Minister for Health that he could not give me relevant financial information in terms of the switch towards private residential care? Would he not accept that those ballpark figures should be available to all Members? Is he not surprised that a programme that appears to be massive and at the current

rates could well exceed, for example, £2 million per year, the shift towards private residential care? That is something about which he should know explicitly.

Senator T.A. Le Sueur:

But I have full confidence that the Minister for Health has all the information that he requires in order to make an informed decision on the best way of funding health care for the elderly, or indeed funding any other part of the Health Services.

5.5 Deputy R.G. Le Hérissier:

Is the Minister saying, Sir, that decisions that are taken in this apparently covert manner are made according to the best principles of business rigor? Secondly, Sir, would he define to me what he means by productivity in the Civil Service and how it is met?

Senator T.A. Le Sueur:

I believe that, particularly with the new Public Finances Law where Accounting Officers have to be accountable to the Public Accounts Committee for their actions, they will take every effort to ensure they are fully informed that decisions they make are ones which can stand up to effective scrutiny. So, in addition to that, Sir, there are financial directions given by the Treasury in respect of certain actions that have to be followed in spending procedures. The second part of the question, Sir, I do not quite understand. Maybe the Deputy would like to repeat it?

5.6 Deputy R.G. Le Hérissier:

Could the Minister define, given all the talk there is about reforming the Public Service and the fact that much of this talk centres on cutting back people, what is happening in terms of raising the productivity of the Service rather than emphasising cut backs or ...

Senator T.A. Le Sueur:

Firstly, efficient services do not necessarily mean cutting back on people, they mean cutting back on expense incurred when that can be done as, for example, happened in the case of the prison by cutting down on overtime and making better use of the resources. I think, in terms of measuring productivity and efficiency, besides the fact that we have a benchmarking process in hand and that is regularly reviewed, I think the answer will simply be in terms of giving Ministers a limited amount of money to spend and making sure they spend it in the best possible way. I think I would need further thought into how that productivity could be measured, but certainly within the Business Plan last year we proposed that in future there should be what we call a balanced scorecard approach. Having set out in a Strategic Plan what measures we would want it to implement, we would then review those as Council Ministers, department by department on a quarterly basis, to ensure that where there are defects in the scorecard they are addressed and put right and where there are positive advantages in that they are shared and made available to other departments.

5.7 Deputy S. Power:

My question to the Minister is related to the proposed 'Zero/10' Corporate Tax. In the case of law and accountancy firms in Jersey, how will the net profit be split between zero rate on a domestic business and 10 per cent on their offshore operations, when they share the same partners, office buildings, communications and maintenance?

Senator T.A. Le Sueur:

The tax will be assessed on the basis of where the operation - be it a partnership or a company - is operating. If the partnership is operating in Jersey, it will be assessed in Jersey on all its income wherever that income arises wherever the clients happen to be based. The assessment between the individual parties would be assessed in the same way as they are currently assessed.

The assessment in respect of companies would be in respect of the shareholders in relation to their shareholding in that company.

5.8 Deputy G.P. Southern:

Has the Minister read a publication by Voller Trust and Corporate Services Limited of 18th May 2006, which clearly says: “The introduction of statutory provisions for reserve powers for trust settlors allow the settlor of a trust to direct the trustee in the exercise of a range of powers.” He has just been quoted as saying: “Any such reservation would be a sham trust.” Will he assure the House that he will read this document and give a response to assure the House that no such sham trusts are being set up in Jersey?

Senator T.A. Le Sueur:

First, no, I have not read the Voller Paper. I reject the suggestion that any reservation of powers automatically creates a sham trust. One has to look at the particular circumstances of any particular trust. There is no way of legislating against that. It would be on a case-by-case basis. If a trust is a sham trust it will be shown to be one in the course of time when it is challenged. There is no intention that in the legislation to encourage the setting up of trusts which might be regarded as shams and I believe that the Jersey Trust practitioners themselves have a very high standard of reputation and responsibility to the Financial Services Commission to ensure that they will not knowingly want to be involved in what are sham trusts.

5.9 Deputy G.P. Southern:

May I seek some clarification on that? I accept the word: “Intention”, what is the effect? Will he return with a categorical denial related to this paper that these are not sham trusts?

Senator T.A. Le Sueur:

I am not sure which trusts the Deputy is referring to. I am not going to be in a position, Sir, nor would I want to try to assess every trust which has been set up in the Island which I do not how many of them might be. Until they are looked at by somebody or other, I could not possibly give that sort of assurance.

5.10 Deputy J.A. Martin:

I will try again, Sir. The Minister did not answer the second part of my question at all. Given that private enterprise cannot get anything out of the Tourism Investment Fund, is he assured that Treasury money should be directly invested in competition with the private sector tourism in Jersey? Does he believe this is the best use of our money?

Senator T.A. Le Sueur:

I can think of many instances where the States is in direct competition with the private sector, telecommunications springs to mind as an obvious example. What we have to do, I think, is to make sure that those properties are maintained for the best possible use of the community and it is the community who will benefit in the best possible way; whether that is done by private developers, whether it is done by the States, whether it is done as a partnership will be open to discussion, as long as it is done in the best interests of the Island. As far as the actual use of the Tourism Development Fund is concerned, it has purposely been taken away from States’ involvement and been given to an independent third party organisation to be able to decide what is in the best interests of the Island. I believe that that Fund will make up its own rules and have its own procedures and I have no indication that private developers would be totally debarred from having any access to those funds.

5.11 Deputy G.P. Southern:

In a written response to a question earlier today the Minister repeated the figures that those businesses affected by the 10 per cent rate will be approximately 250 to 300 and that the 10 per cent rate will raise something of the order of £60 million to £80 million. These are the figures that he set out initially or over a year ago - 2 years ago almost. Is it not time, does the Minister consider, that these figures are refined, particularly if we are to vote through the total package of fiscal measures that he is proposing? If we were to find out afterwards that it is only £60 million and not £80 million, then we may have to make substantial readjustments in the future. Will the Minister come to this House with some more detail about who will be charged 10 per cent, which categories of financial services operators and a better estimate of how much money will be raised so that we can be assured that the black hole will be filled by these measures?

Senator T.A. Le Sueur:

I think there are 2 parts to that question, Sir, and certainly as far as the quoting of the black hole or deficits is concerned, that is under review by Treasury officers as I speak and I am trying to get the most up to date figure for that position. The 'Zero/10' proposals are at the moment still out for consultation and until that consultation has been agreed and a way forward clearly established it is very difficult to be able to put a more precise figure on the numbers we are talking about. But I have no reason to doubt the figures which I quoted in my answer to the Deputy earlier this morning are the best possible estimate of the current time.

5.12 Senator S. Syvret:

So would the Minister for Treasury and Resources agree with me in the light of answers I gave this morning that, in fact, we do know - contrary to what was recently suggested - what the approximate costs of the buying of care in private sector was likely to be? That we are, in fact, aware of these issues and that it would be commercially financially extremely disadvantageous to the States were the information to be made public. Would he agree with me that I said that I would be prepared to provide privately to Members in strict confidence the figures in question and that this would be the best practice as opposed to discussing them publicly on the floor of this Assembly?

Senator T.A. Le Sueur:

Yes, and I am happy to confirm that the Minister for Health and myself are at one accord on that matter.

5.13 The Deputy of St. Martin:

Would the Minister confirm that since the States gave approval for its department to draft the legislation which requires stamp duty to be paid on those properties bought by share transfer, that possibly around £1 million has now been lost to the Treasury? Also, is the Minister in a position to give us an update on the progress of legislation and when will it be produced or presented to the States?

Senator T.A. Le Sueur:

I have no way of verifying the £1 million figure but I will take the Deputy's suggestion; that is not a bad guess. As far as progress is concerned, I am having a meeting with officers of different departments early next month to take this forward. There are some fairly significant issues here and it is clear that a new law will be required. We cannot just simply extend existing legislation because it is not appropriate. If I give Members a flavour of some of the difficulties, many of the properties concerned will be owned by companies not incorporated in Jersey. How does one assess stamp duty on a property incorporated elsewhere? Is it on the property itself; is it on the shares in that company; who does it; is it going to be the Judicial Greffe; is it going to be Financial Services Commission? There are a whole range of different scenarios here to be considered and the situation, as I indicated to Members some time ago, is not as clear-cut by any

means as the principle might first appear. Nonetheless, that meeting is taking place as a matter of urgency once we have concluded matters on the Strategic Plan and I hope to be able to inform the Deputy of progress, and indeed the House, following those discussions.

The Bailiff:

That concludes the second question period.