

## **2.14 The Deputy of St. Martin of the Minister for Home Affairs regarding the compatibility of the Draft Prison (Amendment No. 6) (Jersey) Law 200- (P.17/2007) with the European Convention on Human Rights:**

I think it might be helpful, Sir, before I ask my question for Members to note that P.18 - the draft Prison Amendment Law - was down for debate today, but it has been deferred to another date. At the time I lodged my question I was not aware of its being deferred. Also I was not aware that the Minister would not be in the House today. Could I ask the Assistant Minister would he advise Members what advice the Minister received to enable her to make the statement in P.18/2007 that the Draft Prison (Amendment No. 6) (Jersey) Law 200- P.18/2007 is compatible with Convention of Human Rights of the Human Rights (Jersey) Law 2000?

### **The Deputy of St. John (Assistant Minister for Home Affairs - rapporteur):**

As the Deputy has already reiterated, the debate for P.18 has been postponed until 1st May to enable advice on human rights compliance to be obtained from the Law Officers' Department. The Ministerial decision that gave rise to the lodging of this amendment was an oversight on the part of Home Affairs Department in that it was under the misapprehension that human rights compliance considerations had been cleared when, in fact, the Law Officers' Department has still work to complete on it. As soon as this became apparent, which was very soon after the Projet had been lodged, it was immediately withdrawn and a new date sought for debate. Should the proposition be deemed to be compliant the statement as signed will stand and the debate can proceed. If not, the proposition could be withdrawn and revised when lodged, or amendments could be lodged to P.18. Thank you, Sir.

### **2.14.1 The Deputy of St. Martin:**

Can I seek assurance from the Assistant Minister that when the proposition is re-lodged it will clarify the situation which at present allows for a male officer to search a female prisoner, and for a female officer to search a male officer, and will that be a human rights complaint?

### **The Deputy of St. John:**

I cannot comment at this stage on the outcome of the Law Officers' review of this document. However, that is exactly the sort of thing that they are looking at and if the Deputy is unhappy with the contents of the Projet when it is finally lodged then he should consider putting forward an amendment, Sir.

### **2.14.2 Deputy D.W. Mezbourian:**

I think I understood from the Assistant Minister's response that it was felt that this Projet was not considered to be human rights-compliant and it was realised at a pretty early stage after it was lodged. My concern would therefore be that this may have happened in the past and not been noticed. I wonder whether the Assistant Minister will confirm to the House that this has, or has not, happened?

### **The Deputy of St. John:**

As I have already outlined, this was basically an administrative error: it should not have come before the House until it had been confirmed fully human rights compliant by the Law Officers. It was an error; it was noticed very quickly and withdrawn, and will be resubmitted to this House for debate on 1st May.

### **The Greffier of the States (in the Chair):**

I think just to clarify from the Chair, Deputy, my understanding of the Assistant Minister's answer was not that it was found that the draft was not human rights-compliant, but that it was found that the statement had been signed without confirmation.

**The Deputy of St. John:**

That is correct. I mean, we are awaiting the advice of the Law Officers and should that advice be incompatible with human rights then we will lodge an amended version of the Projet, Sir.

**2.14.3 Deputy G.P. Southern:**

Does the Assistant Minister not consider that this particular incident reveals some confusion over the processes by which human rights compliance is established, and would he not agree with me that a review, in conjunction with the Law Officers' Department, should be conducted as a matter of some urgency?

**The Deputy of St. John:**

There is no confusion. The fact was that the Home Affairs Department had unfortunately thought that this had been compliant when it had not. Very soon after it was lodged it was withdrawn for that very reason. The Law Officers take human rights compliance very seriously since this House signed up to various items which ensure that Projets of this type are human rights-compliant before coming before this House. They take that matter, as far as I am concerned, very seriously, Sir.

**2.14.4 The Deputy of St. Martin:**

Will the Assistant Minister confirm when the Minister and the Assistant Minister met the Education and Home Affairs Scrutiny Panel we did draw their attention to our concerns that it may not be human rights-compliant and can he also appreciate that the concerns raised by our Panel really have proved fruitful?

**The Deputy of St. John:**

Yes, Sir, the Deputy is quite correct and the Law Officers were advised of that which is even more the reason why that Projet should not come before the House today, Sir. Thank you.