

3.10 The Deputy of St. John of the Attorney General regarding the investigation of members by the police within the States Building:

Following the recent events at Westminster, would the Attorney General advise whether Members have any protection from investigation by the police within the States Building, while carrying out their business as Ministers, Scrutiny Panel members or Back-Benchers, and if so, outline what protection exists and whether a warrant to search Members' possessions, lockers, desks and computers within the States building could be issued, by whom and on what grounds?

The Attorney General:

I would like to congratulate the Deputy of St. John on a question which is far too difficult to answer at 3 days' notice also. There is no special protection ... and I would ask Members to take my response in light of that opening statement. There is no special protection for any Member from investigation by the police, whether within or without the States building, other than through the ordinary parliamentary privileges which might be claimed. A warrant to search Members' possessions, lockers, desks and computers could be issued under relevant provisions in the Police Procedures and Criminal Evidence (Jersey) Law 2003. Such warrants can only be obtained where there are reasonable grounds for believing a serious offence has been committed, of which there is evidence on the premises, and where the evidence is relevant, not legally privileged, and does not consist of excluded or special procedure material. Under the Police Procedures and Criminal Evidence law, warrants can be issued by the Bailiff, the Deputy Bailiff, or in the case of many statutory provisions, by Jurat. It may well be that the Privileges and Procedures Committee, in consultation with the Bailiff will want to consider what guidance ought to be given to Members in relation to parliamentary privilege.

3.10.1 The Deputy of St. John:

Could the Attorney General then come back at a future meeting with a more detailed response, given only 3 days' notice, and therefore would allow him to research the matter further, if he thinks that it is worth it? But while I am on my feet ...

The Bailiff:

Deputy, I think the Attorney General has answered that question. He had suggested it is a matter for the P.P.C. to take up with the presiding officer.

The Deputy of St. John:

Yes, Sir. Well, while on my feet then, would he also answer the following supplementary if it is appropriate? In the event of that particular type of action that I described in my original question, is there any written procedure for the Bailiff or the Greffier to advise Members on when they join the States of Jersey?

The Bailiff:

I am not sure that that is a matter for the Attorney General, Deputy. Again, that really is a matter for the President of the Privileges and Procedures Committee, I think.

3.10.2 Senator S. Syvret:

Given that it is absolutely rock-solidly established in British case law that the administration of justice needs to be free of all taint and suspicion of bias, how would the Attorney General suggest it would be feasible for example, for any member of the Jersey judiciary, the Bailiff, Deputy Bailiff or Jurats, to be remotely considered

objective agents in any case, for example, concerning me; and how would he suggest that we in fact put in place a system that complies with our obligations under the European Convention on Human Rights concerning the absolute right to a fair trial?

The Bailiff:

Senator, I am not sure that that question is in order, in the sense that it impugns the integrity both of the Bailiff and of the Deputy Bailiff.

Senator S. Syvret:

I have to say that it does not impugn the integrity. I would refer you to the Lord Hoffmann situation in the *Pinochet* case in the House of Lords. There was no question in that case of actual bias on the part of Lord Hoffmann when it was revealed he had a connection with a charity that made donations to Amnesty International. Now, that mere possibility of the suspicion of a conflict of interest was grounds sufficient to have that judgment by the House of Lords set aside. The question of the appearance of the objectivity of the administration of justice is well established, and even if you yourself and the Deputy Bailiff were absolute models of judicial perfection, you still could not meet the test of the appearance of objectivity.

The Bailiff:

Senator, I am sorry. That is a very interesting speech and it is an interesting matter for debate, but it is not a matter for which the Attorney General has responsibility in terms of questioning in this Assembly. Are there any other supplementary questions for the Attorney General? Then we move on to the question of Deputy Tadier.

The Deputy of St. John:

If I could thank the Attorney General, if I may?

Deputy M. Tadier of St. Brelade:

I should like to withdraw this question. It turns out that the answer has been given elsewhere. There was some confusion between Transport and Technical and the Planning department, but I am happy that it has been answered satisfactorily.

The Bailiff:

Very well, that question is withdrawn. We come next to a question by Senator Routier of the Minister for Health and Social Services.