

3.3 Deputy F.J. Hill of St. Martin of the Minister for Home Affairs regarding the Police Procedures and Criminal Evidence (Jersey) Law 2003:

Will the Minister inform Members why no Appointed Day Act has been lodged for approval to bring into force Articles 30 to 32 and 34 to 48 of the Police Procedures and Criminal Evidence (Jersey) Law 2003, which relate to bail and detention, and how many suspects since 2003 have been released pending further inquiries but have failed to return on the prescribed date?

Senator B.I. Le Marquand (The Minister for Home Affairs):

The development section of the law was passed by the States and it was not realised at the time it was passed that there were significant financial implications. Unfortunately it was passed on the basis of there being no financial implications whatsoever. The problem was that when it came close to asking the House to bring the relevant part into effect, it was realised that it would require a magistrate to be prepared to sit 24 hours a day, 7 days a week, or at least be available, in order to deal with certain matters in his court, with a full court convened. In addition to that, the Saturday courts would be necessary. The cost of covering this would have been very high, and there were also serious problems in relation to the willingness of magistrates to attend, and advocates and other parties. Therefore it was realised that there would need to be another look at this. What then happened was that the officers in consultation with the magistrate at the time, who happened to be myself, came up with some alternative proposals which would have been much cheaper and more practical. However, there were technical points in relation to those, and there has been a long period of consultation with the Home Office in the U.K. to ensure that those alternative proposals were human rights compliant, a matter which I am sure the Deputy of St. Martin will be very keen to know about. However, after that there has been further consultation because there are now different magistrates, and we are awaiting the end of that consultation process. What will eventually happen is not that an Appointed Day Act will be sought for the relevant part of the law, but rather that an amendment will be brought to the House in relation to that. Now, in relation to the question of the Deputy of St. Martin in relation to numbers of people, the strict answer is none, because people who are released by police not having been charged are not released to a date. But I do not want to give him that answer, because I understand the spirit of what he intends is to know how many people have been released and have absconded who otherwise would have been on bail. I assume that is the true meaning of his question.

The Bailiff:

Wind up the answer, please. Your time has expired.

Senator B.I. Le Marquand:

The only meaningful figures I can give him are of serious offences. Pre-2003, 9 people were in the locate/trace category. 2003-2009, 15 people in a locate/trace category, and 2003-2009, one in the wanted category. That is of serious offences. There are huge numbers of less serious matters, but most of those are technical.

3.3.1 The Deputy of St. Martin:

I thank the Minister for going round the houses, really, with greatest respect. I fully understand that there has been a difficulty about the Magistrates Court, but really this is a 2-part question, and the second part has hardly been answered. Can I ask the Minister, why has the law not been brought up-to-date to ensure that the law in Jersey

is compatible with that in the U.K.? Our Jersey law is very much based on the U.K. 1984 law which allows police to give bail to suspects. Why has that law not been brought into Jersey?

Senator B.I. Le Marquand:

I thought I had given the answer to that, because it would seem to be part of a part which had other problems. Other than perhaps myself yesterday when I was preparing for this, nobody appears to have considered the possibility of seeking to bring in one article alone, namely the bail matters, without other matters. Although my recollection even on that was that there were certain technical difficulties because, although bail conditions could be given, there is no effective way of enforcing them. I would need to check on that.

3.3.2 Deputy G.P. Southern:

Will the new Minister assure the House that he will draw the attention of his officers to the need for brevity in composing answers to questions?

Senator B.I. Le Marquand:

No, I will give appropriate answers. If a complex answer is required I will give a complex answer. [Approbation]

3.3.3 Deputy P.V.F. Le Claire of St. Helier:

As he has raised the issue that a very large number of other offences have been given to him in relation to this question, could I ask the Minister that he circulate that list after this morning's session if possible, please?

Senator B.I. Le Marquand:

Sorry. I am not sure I understood the question.

Deputy P.V.F. Le Claire:

In answering the question to the Deputy of St. Martin, the Minister read out a number of offences that he said were serious, and then he made the comment that there were a great deal more that were less serious, and I understand that he has those numbers and those offences, and I wondered if he would circulate them?

Senator B.I. Le Marquand:

Am I being asked to provide details of the less serious matters? I can do that now, if that is being asked.

The Bailiff:

I think the Deputy is asking whether, if you have a convenient list of these different offences, whether they could be circulated to the Assembly.

Senator B.I. Le Marquand:

I do not have a list of offences. No. I could not ever be providing him with a list of potential offenders. That would be a gross breach of data protection.

The Bailiff:

A final supplementary, Deputy, please.

3.3.4 The Deputy of St. Martin:

I think the Minister will probably agree there are human rights implications here, and I would also ask that he would agree that it is possible to bring the law up-to-date to ensure that people are not allowed to leave the Island without coming back without having bail. Quite clearly there are a number of people in Jersey who are being denied justice simply because we have not the powers in place. I would ask the Minister to give the House some reassurance that the matter will be addressed with urgency, and possibly give us some indication when this law will come back to the House for approval.

Senator B.I. Le Marquand:

Having been accused of giving a complex answer, I am now facing a complex question. There are 4 parts to that question. I am very keen to get on with this, I can assure you and the Deputy of St. Martin, but consultation process must take place first. I am also willing to look at the possibility of seeking opinion on the second article on its own. It is important that we do not have a situation of people facing serious charges and being investigated, but who cannot yet be charged on not leaving the Island and evading their criminal liabilities.