

## **2.12 The Deputy of St. Martin of the Chief Minister regarding a review of Article 26(1) of the Court of Appeal (Jersey) Law 1961:**

Given that in answer to an oral question on 28th April 2009, the Chief Minister stated that Article 26.1 of the Court of Appeal (Jersey) Law 1961 was different from the U.K.'s equivalent law, and that he was asking the Law Officers' Department to review the issue and offer advice in due course, will he give an update on what action, if any, has been taken?

### **Senator T.A. Le Sueur (The Chief Minister):**

Yes. I have not received formal advice on the detailed legal significance of the distinction between legislation in the United Kingdom and Jersey on the determination of appeals in criminal cases. I am advised that it is a complex matter and is still being considered as part of the substantial workload of the Law Officers' Department. I am able to inform the Deputy, however, that the statutory provision in the United Kingdom was not precisely as stated by him in his oral question in 2009. The fact that a conviction is unsatisfactory is no longer, and has not been since 1995, an express ground for appeal. Since 1995 there has been a single ground of appeal in the United Kingdom, namely, that an appeal is allowed if the conviction is unsafe. In Jersey, under the Court of Appeal (Jersey) Law 1961, an appeal will succeed and a conviction will be set aside if either, it is unreasonable, it cannot be supported by evidence, there has been a wrong decision on a matter of law or on any ground there was a miscarriage of justice. This is subject to the proviso that, if the court is satisfied that no substantial miscarriage of justice occurred, it may dismiss the appeal. It is not apparent to me that the cumulative effects of the grounds set out in the Jersey law are, in substance, very different from the United Kingdom position and I have seen no case to support the proposition that the English position which, in any event, was not as stated in the original question, is necessarily better than ours. I am not aware that the Jersey provision has been challenged in the courts as not being compliant with human rights. The Jersey Court of Appeal, as for all Jersey courts, is obliged by Article 7 of our Human Rights Law to act in accordance with the Convention rights when deciding whether or not a conviction should be upheld.

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

All I was going to say, I was going to compliment and thank the Chief Minister on a very full answer; I only wish other Ministers would take heed of the way in which to give an answer and I thank him and, no doubt, I will consider the answer in Hansard and may well come back with a supplementary, but I am grateful for such a full answer.