

## **2.17 Deputy R.G. Le Hérisssier of the Chief Minister regarding whether Crown and public servants accused of criminal offences must first face criminal trial before disciplinary proceedings can be pursued:**

Is there a requirement that Crown and public servants accused of criminal offences must first face criminal trial and what impact does this have on possible disciplinary proceedings?

### **Senator I.J. Gorst (The Chief Minister):**

There is no absolute requirement in law that criminal proceedings against Crown and public servants or indeed against anyone else must be conducted before disciplinary proceedings take place. In practice, advice is taken in each case to assess whether issues of fact are separate or intertwined and whether there is a risk that any disciplinary process could prejudice criminal proceedings. If there is a risk that disciplinary proceedings might prejudice criminal proceedings in any way, then the disciplinary proceedings are held in abeyance.

[11:30]

### **2.17.1 Deputy R.G. Le Hérisssier:**

As the Chief Minister knows, and I had sought to direct this question elsewhere, there is enormous public anger, obviously, about a certain case at the moment and the circumstances surrounding that case. Would the Minister confirm whether or not he is happy with the process that has been demonstrated in recent years and in recent months to the public and what steps is he taking as a matter of general personnel policy, not in order to interfere with the judiciary, but as a matter of general personnel policy, to ensure that we learn the lessons that need to be learnt?

### **Senator I.J. Gorst:**

I think it is fair to say that I do not think anyone is satisfied with the current process. It creates frustrations all around. If I, perhaps, talk first about States employees. The Deputy will be aware, I am sure, that a memorandum of understanding has been arrived at and is now in place where such cases arise with regard to States employees. With regard to Crown appointments it is slightly different and I am of the opinion that we need to review the current process. But I think what I must say is that there is no easy, necessarily, or straightforward solution because that independence must be maintained. We do follow - I think it is fair to say - a similar process in that regard to England and Wales and we have seen other cases in England and Wales very similar to the one that the Deputy I think is highlighting. With regard to the dissatisfaction, I agree with him and I am not sure that anybody disagrees, but finding a more practical and timely - I think that is the important thing - solution will not be straightforward but it is certainly something that we should be reviewing and considering.

### **2.17.2 Deputy R.G. Le Hérisssier:**

Again, I realise this may not be the Chief Minister's territory but given the history of this case and aside of recent events, will the Chief Minister be able to draw to the attention of the relevant authorities that there appear to have been massive contraventions of the judicial code of conduct, for example about incompatible work. Will he draw attention of the relevant authorities to this matter to ensure and to find out why were these contraventions of the judicial code of conduct allowed to carry on for such a long period?

### **Senator I.J. Gorst:**

I do not know the direct answer to the Deputy's questions but he does raise a very important question which needs to be considered. Of course quite clearly the legal process needed to take its course without any intervention from Ministers whatsoever and that is right and proper. But I am of the view that in such cases there arises a point where public confidence in a position is such that an individual would struggle to maintain that position because of the loss of that public confidence. That needs to be understood, we need to consider how that can be dealt with and the point that the Deputy raises. But let us be absolutely clear, there cannot be political interference in the judiciary and these areas are notoriously difficult, but that does not mean to say we should not start to consider how things can be done differently. It might surprise Deputy Pitman, it is where I think that he had an element of accuracy in his opening question with regard to understanding whether there should be Ministerial or oversight of the court system, however, with all the caveats that I presented when I answered that question as well.

### **2.17.3 Deputy T.M. Pitman:**

Given that we have certainly bus drivers' representatives and members of staff sitting in the balcony, does the Chief Minister not agree that really some kind of action is necessitated by the leader of Government to try and make sure a situation where someone can be paid for 4 years for doing I think 2 week's work, more than £500,000 of taxpayers' money, and is still being paid while he is in prison. That obviously causes huge disquiet among the public and does the Chief Minister agree that surely he should initiate some kind of investigation as far as he can go without blurring these powers?

### **Senator I.J. Gorst:**

I think in my own vocabulary - which perhaps the Deputy did not quite understand when I answered the question earlier - I am saying that I do not think anyone is necessarily satisfied with the process that rightly had to be followed. It is appropriate that we consider what, if any, changes can be made but with all the caveats that I carefully explained, because it is not necessarily straightforward or easy but we must make sure that the system is functioning well. There are some areas - and I think this case has shown that - that is not necessarily the case.

### **2.17.4 Deputy J.A. Hilton:**

Notwithstanding the Chief Minister's answer to the previous question, can the Chief Minister tell us exactly what steps he intends to take to stop the salary being paid with immediate effect, and what steps he intends to take to make sure that the monies paid out are put back into the public purse?

### **Senator I.J. Gorst:**

Perhaps the first part of that question is easier to answer than the second. Steps are ongoing, it would not be right for me to announce them today because appropriate advice has to be sought. With regard to the second part of the question, I understand the Deputy's concern which I believe is mirrored by the public at large and advice will be sought on that as well, but I am far from certain that will be possible.

### **2.17.5 Deputy J.M. Maçon:**

Notwithstanding what the Chief Minister has just said, does the Minister not accept that the principle of innocent until proven guilty must be adopted and that this should filter down through the H.R. (Human Resources) process as well, acknowledging that makes the issue itself more thornier alongside?

### **Senator I.J. Gorst:**

I could not have put it better myself and I thank the Deputy for his intervention.

### **2.17.6 Deputy R.G. Le Hérisier:**

Would the Chief Minister promise to look into why the judicial code of conduct - which I would find very strange - were to allow a senior member of the judiciary to engage in the part-time selling of financial products, for example, would he promise that there would be a further investigation into why that apparently did not work?

### **Senator I.J. Gorst:**

I have said that I believe that a review should be undertaken but, as I stand here, I cannot say one way or the other, on the basis of the premise of the Deputy's question, whether that is right or not because I do not have that code in front of me.