

2.3 Deputy T.M. Pitman of the Minister for Economic Development regarding the high costs incurred by Jersey in relation to the recent judicial review of the U.K. Government's decision to close the Low Value Consignment Relief on goods originating from the Channel Islands:

Would the Minister advise whether additional witness statements contributed to the higher costs incurred by Jersey in comparison to Guernsey in relation to the recent judicial review of the U.K. Government's decision to close the Low Value Consignment Relief on goods originating from the Channel Islands and, if so, how many statements were there and what did they cost?

The Bailiff:

Chief Minister, I understand you will be answering for the Minister for Economic Development today.

Senator I.J. Gorst (The Chief Minister - rapporteur):

That is right so I hope that Members will be gracious and forgive me if I am not completely up to speed. Additional witness statements did contribute to the higher costs incurred by Jersey in comparison with Guernsey. There were in total 12 witness statements which cost approximately £15,000 each and which included 3 supplementary statements to address H.M.R.C.'s detailed grounds, as well as queries raised in evidence by H.M.R.C., R.A.V.A.S. (Retailers Against V.A.T. Avoidance Schemes) and Royal Mail.

2.3.1 Deputy T.M. Pitman:

I used to be involved in buying in goods under contracts for the States; not in as big a way as this. But is it not a fact that while the States talk about savings, without strong diligence the States are seen as a soft touch by too many industries and, in particular, the legal industry who really see us as a gravy train and the Ministers are too scared to challenge such advice.

Senator I.J. Gorst:

I do not agree with that statement at all. There are good reasons. Other questions have been asked this morning and I shall be answering them in due course. Just for the record, perhaps, I should say that if I, and I suspect other Ministers who advised me in this decision, were asked to make the same decision today that I had to make earlier or late last year, I would make exactly the same decision. This was about trying to ensure that jobs remained in Jersey and defence of part of our industry and I would make exactly that decision again this morning.

2.3.2 Deputy R.G. Le Hérissier of St. Saviour:

Two sub-parts: could the Chief Minister outline the discussions that took place with Guernsey as to whether a joint strategy was going to be promoted and, secondly, how much of this sum was borne by the private companies themselves?

Senator I.J. Gorst:

We did communicate with Guernsey. I think both Islands' advice was that at the initial stages they should not be joined. They were of course joined in due course once the proceedings got underway and that is what we suspected might have been the case. I think other questions have been answered this morning. I am not sure if they are written or they are still to be answered with regard to the cost or contribution of the industry to those costs.

2.3.3 Deputy M.R. Higgins of St. Helier:

Just on that last point, the answer from the Attorney General to my written question on this pointed out that £85,000 was added on the fulfilment industry so the total bill was about £741,000. My question to the Chief Minister is, yes, we all agree that steps needed to be taken to try to address the issue, but would it not have been better to get proper costings beforehand? It

strikes me that whenever it comes to a legal action we just pile-in and we pay whatever the price is. Should we not be getting proper estimates?

Senator I.J. Gorst:

There are 2 different points raised there: one costings and one estimates. We did get an estimate but as with any litigation - and I am careful not to answer what I am going to answer in a few moments' time - things changed: H.M.R.C. changed some of the tenets of their argument; R.A.V.A.S. were joined with the application; the Royal Mail involved itself; the 2 Islands were joined together; the need therefore for additional witness statements. All these things meant that the initial estimate was not met. But of course the Law Officers' Department and Ministers knew that the costs being incurred were outside of the estimate as we went along. It is just that there were no necessarily public statements that I can recall at those points in time.

2.3.4 Deputy M.R. Higgins:

Does the Chief Minister think though that the lawyers concerned should be submitting itemised bills so we can all see that we are getting value for money?

Senator I.J. Gorst:

I imagine that full bills are being submitted to the Law Officers' Department, as one would expect, and they are being appropriately considered and reviewed. But those particular itemised bills, it is right that they are considered in that way.

2.3.5 Deputy M. Tadier:

I know I sit quite far away from the Chief Minister in this Chamber but did he really say that he would make exactly the same decision again, even though he knows that the process would fail? He knows now with the power of hindsight 100 per cent that the challenge to the U.K. was going to fail but nonetheless the Chief Minister would still waste a total of £741,000 challenging a procedure which he knew was going to fail? Is that really the calibre of person that we have leading this Island?

[10:00]

Senator I.J. Gorst:

Of course I do not want to talk about my own calibre. What I was inferring was if I was asked to make the same decision today as I made earlier this year then I would make that decision. Of course, today I now know that that action unfortunately failed. But if I was making that same decision in the same circumstances I would not know at that point that the action had failed. I still stand by that was the right decision to make and I will argue strongly with any Member who suggests that it is not right for this Government to stand up on behalf of employees and jobs in this community. [Approval]

2.3.6 Deputy M. Tadier:

To clarify then, the Chief Minister obviously would not be making the same decision today because he would know that it was destined to fail. Interestingly, he says that it is good to stand up for workers' rights. Will he remind us perhaps how he voted on the T.U.P.E. (Transfer of Undertakings (Protection of Employment)) legislation only last week? If he is standing up for workers' rights, will he consider perhaps giving a better offer than a derisory 1 per cent to States employees which is a 4 per cent pay cut?

The Bailiff:

That is 3 different topics, Deputy.

Deputy M. Tadier:

I do not expect an answer; I never get them anyway.

Senator I.J. Gorst:

That is a little unfair that last point. Sometimes I am aware the Deputy does not like the answer he gets but that is quite different from getting an answer. **[Approbation]** I, while Minister for Social Security, brought in a number of protections for employees' rights and I stand by those. I was simply saying last week in my vote that, yes, we should protect States employees' rights; I did not necessarily think that legislation was the appropriate way to do that. I have forgotten now what the Deputy's third ...

The Bailiff:

I do not think they were questions so we will move on now to the next question which Deputy Le Hérissier will ask of the Minister for Planning ... **[Interruption]** I return to Deputy Pitman for the final question.

2.3.7 Deputy T.M. Pitman:

I would just say at that point that Deputy Tadier was too harsh on the Chief Minister. We do always get answers, it is just that usually they are never to do with the question. What I would like to know - because Deputy Higgins has stolen my thunder somewhat on itemised bills and large sections of the legal industry, their love of not giving them - with hindsight, would it perhaps not be better to go to Guernsey for legal advice where they certainly seem to give a much better value deal?

Senator I.J. Gorst:

Perhaps in my defence I should say that I certainly always start from the question. **[Laughter]** I do not agree with the Deputy's comment with regard to Guernsey. I think that the Attorney General in a written answer this morning has made it quite clear why the approach that we took led to a very early hearing and that was absolutely critical. Because if Members cast their minds back, timing was, at that point, of the essence because if we were able to move quickly and get an early hearing, that would mean then we had a chance of retaining that industry within our community. It is the approach that we took, the engagement of external legal help from the United Kingdom, that, I am very clear, allowed us to get that early hearing. Therefore, I stand again by that decision.