

4.8 Deputy M. Tadier of the Minister for Home Affairs regarding the recommendations contained within the disciplinary tribunal's judgement relating to the 3 police officers involved in the Curtis Warren case:

Following the unauthorised publication of the Disciplinary Tribunal's judgment relating to the 3 police officers involved in the Curtis Warren case, has the Minister acted upon the recommendation made at the tribunal that all 3 officers be formally commended for their hard work and professionalism and, if not, will he do so, and if so, will the commendation be extended to other officers involved in the case?

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

I do agree that the Presiding Officer recommended a formal commendation. A formal commendation is a matter which is discretionary for the Chief Police Officer of the force. If he had done so, then I would have very strongly disagreed with him. However, I can say this: it is apparent that a number of States of Jersey Police officers, including the 3 involved in this matter, worked very hard on this case and that the overall result of the case represented a major success for the States of Jersey Police. Curtis Warren and his associates represented a major threat to law and order in this Island. Unfortunately, the conduct of part of the investigation led to very serious criticism by senior judges and ultimately to the disciplinary process, and that has seriously detracted from what would otherwise have been recognised as a major success.

4.8.1 Deputy M. Tadier:

Thank you for the clarification. I think we can all share that sentiment. Does the Minister agree with the sentiment that says that the officers who protected the Island from one of the U.K.'s worst criminals, they should continue to take professional and personal satisfaction? Does he think that that congratulation should also be extended to the Law Officers' Department, who are obviously working very closely with the 3 police officers in the whole operation, giving advice as to what was legal and what was not? Does he think that those congratulations should be extended to whoever it was at the Law Officers' Department - and one of them may be in the chair at the moment - and if so, would he do that?

Senator B.I. Le Marquand:

That question is as clear a trap as I have seen for a long time. The fact is, yes, good work was also done by the Law Officers' Department in relation to this matter. They had to work a great deal harder because of the issues which led to the disciplinary, because in fact that then led to all sorts of lines of argument and appeals and so on.

[10:30]

I am well aware that during the course of matters, during the course of the judgment, there was an issue of some advice given by a particular then member of the staff of the Law Officers' Department, who has subsequently, as I understand it, left that department. I think that that advice was wrong and that is quite clear.

4.8.2 Deputy M.R. Higgins:

Can the Minister for Home Affairs tell the House whether the original investigation by Hampshire Police was very similar to the one that was commissioned against the former Chief of Police, Mr. Power, which was to look at procedures that were involved, and later turned into a disciplinary hearing following a request or complaint from Advocate Simon Baker, who was the advocate for Curtis Warren?

The Deputy Bailiff:

Deputy, I am not going to allow that question. It does not arise out of whether or not the officer should be formally commended for hard work and professionalism.

Deputy M.R. Higgins:

In that case, Sir, can I ask the following question, and that is if the officer should be commended, or the question of whether he should be commended, why is it that 2 other police officers left the force under a cloud because of this investigation and also 3 officers went through the pain and suffering of a criminal investigation into their activities when it was known that they were acting within the powers that were there?

Senator B.I. Le Marquand:

I cannot agree with that. It has always been clear in this case, and it is clear from the judgment of the Privy Council, which remains the authoritative statement on this, that the officers acted unlawfully in other jurisdictions. That is clear. We cannot get away from that fact.

4.8.3 Deputy M.R. Higgins:

A supplementary. Is it not the case the Privy Council, when they considered the case, were only using second-hand evidence? They did not investigate themselves, they went by information that came from the Court of Appeal.

Senator B.I. Le Marquand:

Well, that would probably be right, because those facts would have been decided at a lower level. When you are talking about an appellate process, you do not have a retrial beyond the first trial. The subsequent appeals are on points of law or by way of review of earlier decisions. They are not rehearings of evidence, but they will of course have had before them the evidence taken initially.

4.8.4 Deputy J.A. Hilton:

As we now know that none of the charges were proved and they were dismissed, is the Minister able to tell us what has happened to the 3 officers now? Are they back in post and, if not, why not? Thank you.

Senator B.I. Le Marquand:

I am always reluctant to talk about circumstances of individual officers because of privacy issues and so on. I can say that one officer is back at work and one officer is ill and one officer is not back at work for another reason.

4.8.5 Deputy R.G. Le Hérissier:

Would the Minister not concede that the public interest is not necessarily the minutiae of the case, it is the vast amount of money spent now and previously on disciplinary inquiries that is part of it? Would he also not accept that inadvertently, he may be giving the impression that he is waiting for an occasion or a means by which the officers can be found guilty and that this is being strung out, whereas it would be much better if closure were brought to bear upon the issue and that the impression were not given that we are just sort of trawling around to find a means of finding them guilty?

Senator B.I. Le Marquand:

With respect, that is another ridiculous question. It is simply not true. I am completely neutral in relation to disciplinary matters. That is the role I have always taken. I do not get involved; I am completely neutral. My job is to ensure that the system is fair and reasonable, and I have already indicated in response to an excellent question on that occasion by the Deputy that we are reviewing the process, because I was not happy with the way in which the actual hearing ended up being conducted. There were not the necessary procedural safeguards and we are reviewing that. But to imply that somehow I have got it in for the officers is totally without foundation.

4.8.6 Deputy M. Tadier:

Will the Minister reaffirm that he thinks it is important, given the fact that the U.K. judgment when it was at appeal was very critical of the 3 officers, and it did find wrongdoing? Does he think that is important to emphasise the fact that the judgment which took place in Jersey, which was to remain secret, but which now has been leaked on to an internet blog site ... does he agree that the difference in outcome for those 2 should be highlighted, and perhaps the outrageous question which I might ask is which one does he think was the correct judgment?

Senator B.I. Le Marquand:

That is another trap. I am not going to fall into that one either. I have now forgotten the first half of the question, unfortunately. I am sorry, I focused on the second half and I have forgotten the first half. Could the Deputy just remind me, please?

Deputy M. Tadier:

It is just the fact that obviously the 2 judgments were at odds with each other. Does the Minister think it is even more important therefore to highlight the fact that this judgment was positive in favour of the officers?

Senator B.I. Le Marquand:

Yes, that issue, Deputy Higgins had asked me questions before as to how we could get to such apparently different outcomes, and I have said that of course they were different occasions with different evidence and different judges in relation to that, and that is perfectly possible. Indeed, although I do not want to refer people to that, and it should not have been put in the public domain, if people have read what is in his decision, it is quite clear he draws that distinction himself, but for the purposes of the disciplinary they have been exonerated. For other purposes and judicial matters, the judgment of the Privy Council will remain a definitive statement of fact.