

3.4 The Connétable of St. John of the Minister for Treasury and Resources regarding the impact of the recent Royal Court decision in the action between the Minister, the States of Jersey Development Company and Harcourt and others on the development of the Esplanade Quarter:

The Bailiff:

Very well. Now, the next question arises out of a Royal Court decision which I personally gave, so I think it would be easier for everyone if the Greffier would just preside for that question, so I will ask the Greffier to take over briefly.

The Connétable of St. John:

In light of the recent Royal Court decision in the action between the Minister, the States of Jersey Development Company and Harcourt and others, would the Minister state whether this creates a conflict for the States when dealing with potential clients for the Esplanade Quarter and, if so, who is now representing the States interests and will this decision prevent the development from moving forward before the case is settled?

Senator P.F.C. Ozouf (The Minister for Treasury and Resources):

Standing Orders say that matters ought not to be raised when there is an issue of an ongoing court case, so I have obviously taken advice in the answer, but you will direct me or stop me where I am going too far in answering, if this is appropriate. But I have got to, of course, attempt to answer the Connétable's question.

The Greffier of the States (in the Chair):

You did pre-empt what I might have needed to have said, Minister, which is clearly the questions about the manner in which the States will be represented. Now, it is not about the merits of the court case; you cannot go into matters that are before the court.

Senator P.F.C. Ozouf:

Indeed, Sir, but what I will say is the Royal Court's recent decision was, effectively, a preliminary decision on the degree of weakness of the case and, therefore, it does not create any problems for the continued development of the Esplanade Quarter, as I am sure the Connétable has read from the judgment, and the court's decision is clear. In his summing up, the judge said that he saw the plaintiffs having considerable difficulty, so I do not say anything else apart from repeating what is in the judgment. As the Royal Court's decision is referred to and we are appealing that, I should not be commenting on the case any further than that. Suffice it to say that it is not an impediment for the Esplanade Quarter in continuing the good work that it is carrying on.

3.4.1 The Connétable of St. John:

Will the Minister consider asking the J.D.C. (Jersey Development Company) to sit around the table with himself and Harcourt and try and resolve the issue and see if they could not move forward? Possibly that way the taxpayers' money and time might be saved as, in these types of scenarios, the only people who generally win are the lawyers.

Senator P.F.C. Ozouf:

This is an interesting question because I do not feel that I can discuss ongoing court cases and the merits, but I can say it is curious that the plaintiffs, perhaps through the Connétable in his asking of questions, feel they need to raise this issue in the States Assembly prior to an appeal, prior to hearing of the case, and suggesting that they are worried about what might happen in the actual claim in the further courts. These issues are best dealt with by the

courts. The Treasury's position is clear: we have a strong case and it has no particular concern personally for me, but I do not think it is appropriate to be having discussions with counterparties, and that is certainly the advice that I have received.

3.4.2 Deputy J.H. Young:

The Minister in his answer criticises the question, suggesting almost that there is some motive. That troubles me. I know nothing about this case, but will the Minister not accept that this judgment is now in the public domain and these questions have been raised? He says it is not an impediment; surely will the Minister not reflect that if there is now going to be a full-blown court case, that carries costs, that must impact on the development? Surely he accepts there is an issue there to be dealt with that has potential consequences?

Senator P.F.C. Ozouf:

I would encourage the Deputy ... I am more than happy to answer questions on these issues, and Deputy Maçon sent the judgment round for Members to read. If Deputy Young has not had an opportunity of reading it, perhaps he should. The Royal Court described the plaintiffs' case as weak, but not sufficiently weak that it could be struck-out at an early stage of proceedings. As I have said, the decision is subject to an appeal and the Court of Appeal will be invited to reconsider whether this claim should survive an application to strike it out. That is the position. I would say that, notwithstanding the likelihood or otherwise of the success of the litigation, frankly, that has got nothing to do with S.o.J.D.C. (States of Jersey Development Company) continuing to ... and I think I have got other questions from the Deputy on the exciting possibilities of delivering S.o.J.D.C.'s aspirations: delivering quality office space to increasing demand to secure Jersey's economic future. That is the job they have been given, let them get on with it. This case will run its course through the courts.

3.4.3 Deputy J.H. Young:

I take the Minister's advice that I have not had the opportunity to go through the judgment, but he says he relies on it and that the judgment says that the plaintiffs' case is weak. Having had some background in working for law firms, I know that, notwithstanding whether a case is strong or weak, legal costs mount up and potentially that may result in some cost to the taxpayer. Surely that is a matter which the public are entitled to know about?

Senator P.F.C. Ozouf:

Yes, and I wish the court case was not being brought and, clearly, that the Minister for Treasury and Resources was not in a position to have to defend what is a weak case. There would be a situation that there would be an attempt, if it were a strong case, for one to settle it, but that is not in the interests ... we are not bringing the litigation, the other party is. It is interesting that they want discussions before the matters go forward; Members can read into that for themselves. I just do not think it is appropriate to deal with a litigious entity that is trying to take a matter to court, we have to defend ourselves and I have to do what is in the public interest, and the public interest is to defend robustly. If I may say, the Minister for Treasury and Resources is being given legal advice by the Solicitor General, and I have full confidence in the Solicitor General's abilities to be able to defend the States interests and the interests of the Minister for Treasury and Resources.

3.4.4 The Connétable of St. John:

It has been publically reported that the amended Order of Justice submitted by Harcourt goes on to plea that W.E.B.'s (Waterfront Enterprise Board) breach of contract was induced by the Minister. Clearly, this is a serious allegation that the developer would not make lightly, and

it is surely of great concern to the Assembly that one of its Ministers has been put in this position. What is the Minister's response to this?

Senator P.F.C. Ozouf:

This is extraordinary. The Connétable is reading from a script, he is not a lawyer; presumably he is getting this information from somewhere, so perhaps it is up to him to reflect ... clearly he has got some typed notes, but it is a matter for him. This issue is a legal issue being raised in the courts. I have properly been advised, S.o.J.D.C. has been properly advised; let the courts decide on the merits of the case. This should not be an issue of politics and me having to, effectively, try to get politics involved in settling what is, for me, a strong position that the States has. Moreover, the suggestions of discussions of getting around the table; I have been asked to get around the table with the plaintiffs on a number of occasions and, clearly, the advice that I have had is that would not be appropriate and to leave it to the experts. The Connétable of St. John is not an expert; I do not know where he is getting his information from. Leave the courts to decide.

Senator L.J. Farnham:

Sorry, Sir. May I just say I could not help but feel rather uncomfortable during that exchange. I am not sure if the Minister for Treasury and Resources is suggesting that the Constable was getting his information ... or acting on behalf of another party. Would the Constable be prepared to confirm that he is not acting directly on behalf of Harcourt? I am sure he is not, but I think that needs to be quite clear.

The Connétable of St. John:

I am not acting on behalf of anybody other than the public of Jersey. I have read the court findings ...

The Greffier of the States (in the Chair):

Very well, you have clarified that.