

### **3.2 Deputy M.R. Higgins of St. Helier of the Attorney General regarding the Viscount's recent decision to release creditor details of bankrupts to the media in the 'public interest':**

Will Her Majesty's Attorney General explain to Members the rationale behind the Viscount's recent decision to release creditor details of bankrupts to the media in the 'public interest' and will he explain what consultation, if any, the Viscount took, with whom and when, and what limits or qualifications there are to this publication?

[9:45]

#### **Mr. T.J. Le Cocq Q.C., H.M. Attorney General:**

Under the Departments of the Judiciary and the Legislature (Jersey) Law 1965, the Viscount is an independent officeholder and, as such, the Attorney General has neither control of nor responsibility for the discharge by the Viscount of the functions of his office. More importantly, however, as concerns his functions in a *désastre*, the Viscount is an officer of the Royal Court and acts as such in the decisions that he makes. Accordingly, decisions taken by him in individual *désastre* cases are not proper matters for discussion in the Assembly.

#### **3.2.1 Deputy M.R. Higgins:**

First of all, the question was not originally directed to the Attorney General, it was directed to the Chief Minister, who I think has responsibility for the court system or for justice in the Island. I do think it is a matter of interest to the public because the Viscount in this case is setting what I think is a dangerous precedent in that he is publishing information of debts that have not yet been proved. For example, Walkers, the advocates, had £40,000 knocked-off their previous bill and yet they are submitting other claims, as are others. So how is it that information that has not yet been firmly established is put online and where is that in the public interest?

#### **The Attorney General:**

I do not think I am in a position to go any further than my original answer. The reasons for the Viscount's decision is a matter for the Viscount and they are not a matter for discussion in this Assembly. That would quite clearly cross the line between a separation between the legislature and the judiciary.

#### **3.2.2 Deputy M. Tadier of St. Brelade:**

Can I just ask the Attorney General to whom one would ask that question to be able to get an answer?

#### **The Attorney General:**

If the question had been posed to the Chief Minister I would assume the Chief Minister would answer it in precisely the same way: these are not matters for discussion within the Assembly. It is perfectly reasonable to ask questions about the operation of areas of the court to the Attorney General; traditionally the Attorney General has been the person who has answered questions of that nature, but questions about specific matters, specific judgments of the court, specific matters before the court, specific *désastres* that are ongoing and current, certainly should not be discussed in the Assembly.

#### **3.2.3 Deputy M. Tadier:**

In that vein, could one ask would the Attorney General think it normal practice for a member of the public to have such information as the amount being claimed against them to be put in the public domain?

**The Attorney General:**

I am afraid in the context of the question, it is impossible to separate the general question that has been asked of me by the Deputy with the specific question that has been raised in connection with a specific *désastre*, and I do not feel able to answer it.

**3.2.4 Deputy J.H. Young of St. Brelade:**

If a person who is subject to *en désastre* proceedings considers that they suffer from damage due to publication of incorrect information, do they have any rights, any redress?

**The Attorney General:**

To be able to give any kind of answer to that I am afraid I need to know the precise details because any case of this nature will be right-specific. The Viscount would not normally be liable for any of the acts that he takes - if that is the question - pursuant to his office in a judicial or quasi-judicial capacity. That is not to say there are no rights of recourse in other ways, but I would need to give that much further consideration to be able to give a useful answer to the Assembly.

**3.2.5 Deputy S.Y. Mézec of St. Helier:**

Is the Attorney General aware of any precedent in a case where a Viscount has allowed this to happen with little justification for public interest, as it seems to be in this case?

**The Attorney General:**

I am certainly not going to comment on what the justification may have been for any decisions taken by the Viscount for the reasons that I have just mentioned. I have not considered any precedence in this matter so the answer is no, I am aware of no precedence for or against what has taken place.

**3.2.6 Deputy M.R. Higgins:**

It seems to me that we have a situation where we have people who are not elected who are unaccountable for their actions. If I could address this to the Chair, Sir, could you tell us who the Viscount is accountable to and the methods of redress?

**The Bailiff:**

No, you cannot ask questions of the Chair, Deputy. [Laughter]

**Deputy M.R. Higgins:**

Can I ask the question then, who do you ask? Is there anyone in this Assembly, or is the Viscount totally unaccountable?

**The Bailiff:**

Is that a question to the Attorney General?

**Deputy M.R. Higgins:**

Yes, Sir.

**The Attorney General:**

The Viscount is accountable in a number of different ways, primarily in connection with the *désastre* he is accountable to the Royal Court and, if people are dissatisfied and have an interest in what he has done, they are capable of making an application to the Royal Court; in some cases by appeal under the *Désastre* (Jersey) Law, in other cases by judicial review. There are mechanisms available to people who are aggrieved by the actions of the Viscount,

that does not mean that there is recourse to this Assembly to discuss the matters that the Viscount has done.

**3.2.7 Deputy M.R. Higgins:**

Could the Attorney General tell us how a person who is bankrupt and has no means can bring an action before the Royal Court?

**The Attorney General:**

I am sure the Viscount will advise anyone who does not have the means - and *ipso facto* a person under *désastre* will not have the means - that they have recourse to the legal aid system and they can seek legal advice via the legal aid system in Jersey and, because they cannot afford it, would expect, in reasonable circumstances, to have a lawyer appointed to represent them.