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### **3.12 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding the negotiation of leases by the Ports of Jersey: [9691]**

In instances where the Ports of Jersey negotiate a lease with a new tenant and that tenant is a company, has the Minister directed the Ports of Jersey only to undertake such negotiations where the identity of the owners and directors of that company is in the public domain and, if not, why not?

#### **The Connétable of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):**

The short answer is no and no, as it would be inappropriate to politically interfere in a commercially confidential matter. However, I am sure the Senator will not like that answer. Can I just remind the Assembly that on 9th October 2012, this Assembly debated P.70/2012, Incorporation of the Ports of Jersey. I note from Hansard the good Senator voted in favour at that time for that proposition. The report to P.70/2012 stated, and I quote: "The primary goal in incorporating Jersey Harbours and Jersey Airport is to enable them to continue to be the provider of essential, lifeline public services to the Island, but to do so in a commercial and sustainable manner that will improve services for customers and generate a positive return to the States." When incorporating the Ports of Jersey Limited, the States Assembly set a number of primary objectives for the company and also assigned to the company the responsibility for the direction, strategy and management of the business. Both the Minister for Treasury and Resources and I recognise the independence of the board of directors in managing this business, including carrying on commercial port operations in the manner best calculated to secure sustainable growth in the economy of Jersey in the medium to long term. Taking account of independence, it would not be appropriate for me to direct them on activity that would be considered to be part of the normal course of their business, including lease negotiations.

#### **3.12.1 Senator S.C. Ferguson:**

I think the Assistant Minister has overlooked the point that the general public are shareholders of Ports, and since this is their money, is it not understandable that they would prefer contracts with local companies, with identifiable directors and shareholders, and where necessary, paying local tax?

#### **The Connétable of St. Peter:**

I think we need to recognise in this particular case of Ports the different business model. The majority of people that the Ports work with are not local companies, and I cite British Airways, easyJet, Lufthansa, Flybe, Condor and many, many others who are not local people, but we engage with them because they will produce the income and the facilities that we require to keep a vibrant economy going here in Jersey.

#### **3.12.2 Deputy G.P. Southern:**

Does the Assistant Minister not recognise that by permitting foreign-owned companies to own substantial businesses in Jersey and to contract with the States thereon that what he is doing is contributing to the tax gap that he wants to investigate between what might be expected and what is provided by foreign companies, who do not pay tax to trade in the Island? Surely this is just one example of a wholesale movement away from locally-owned companies to international companies, owned elsewhere, and the resulting drop in taxation for our revenues.

#### **The Connétable of St. Peter:**

A very short answer: I do entirely recognise every point in Deputy Southern's speech. That is why in every deal that the Ports do they are required to consider the net benefit to the Exchequer of Jersey.

### **3.12.3 Deputy G.P. Southern:**

In the recent case, which I believe the Senator is asking about, that was a significant loss. It seems to me that the Minister, in his first answer, has said it is entirely their business, it is a commercial contract and he is aware at the same time this means a loss of revenue to the Jersey Government.

#### **The Connétable of St. Peter:**

I think we are entering into some difficult territory here, because we are talking, I believe, about a specific case, a case which I am aware that many Members have been contacted on by an individual who has failed to secure the lease arrangements he required through Ports of Jersey, because his bid just was not good enough. If it is that particular business, there have been allegations made in that business particularly with regard to a company which they have identified in their communications who has never been, nor never will, be part of the tender negotiations on that particular deal.

### **3.12.4 Deputy J.A.N. Le Fondré of St. Lawrence:**

I suppose the statement is almost: is there not a risk that Ports act in the interests of the company, but not the financial interests of the Island as a whole? I suppose what that leads to - I appreciate the Assistant Minister semi-addressed that - he said that the Ports are required to ensure that there is no loss to the Exchequer. What role does Treasury take in just monitoring that Ports are adhering to that remit, in other words, where there is a significant financial transaction taking place that the net outcome is a benefit to the Exchequer and not a loss compared to where we presently were?

#### **The Connétable of St. Peter:**

Yes, the Treasury has put in place a much more robust stewardship and governance procedure for all the States-owned entities, of which the Ports are one. We have a minimum of quarterly meetings with the directors. As Deputy Le Fondré said, the companies are motivated to work in the best interests of the company and the bottom line profit for the company, but we hold the Treasury shareholder function, which I undertake on behalf of the Treasury, which requires the board of directors to ensure that all the work done by those companies deliver a net benefit to Jersey.

#### **Deputy J.A.N. Le Fondré:**

Can I make a point of clarification? The Assistant Minister said "net benefit to Jersey." Is that the same as a net financial benefit to Jersey?

#### **The Connétable of St. Peter:**

Well-spotted, and yes, I do agree with Deputy Le Fondré. Thank you.

### **3.12.5 Deputy S.M. Wickenden of St. Helier:**

Does the Assistant Minister agree that if Members, as he is aware, did get an email that had mis-information, it would have been wise for the Treasury Department to contact Members with the correct information to stop our concerns being asked in such a way as they are being right now?

#### **The Connétable of St. Peter:**

What we are talking about here in this particular case - and I will take advice from you, Sir, in the Chair, if I go too close to straying into something where I should not go - this is a commercially sensitive deal that is being done by the Ports of Jersey. If one party who was unhappy with the deal wishes to make allegations about other people, that is a matter between that person making the

allegations and the person they are making the allegations about. That is a deal between them. We, as politicians, should take a much broader view of what is going on, rather than looking at a narrow view and reacting to that.

**3.12.6 Deputy K.C. Lewis:**

The Assistant Minister mentioned earlier quarterly meetings with Ports of Jersey. Would the Assistant Minister inform the Assembly what authority or influence he has over Ports of Jersey, if any?

**The Deputy Bailiff:**

Insofar as it relates to the subject matter of the question, which was the negotiation of leases.

**The Connétable of St. Peter:**

With regard to leases, none. That is an operational matter, but where we do have influence is directly over the board of directors and they will influence the operational matters.

**3.12.7 Deputy G.P. Southern:**

Is it not the case that the Assistant Minister mentioned the duties of directors or the board to act in the best interest of the company and that surely the next bit of that sentence should say: "in the context of doing business with the Government of Jersey"? Is it not that we should be encouraging a wider remit than strictly only in the interests of the directors or the shareholders?

**The Connétable of St. Peter:**

I am not sure I exactly know what question the Deputy is asking of me there. Certainly, as we have seen in the press in the U.K. particularly, there have been shareholder revolts where the company is not acting in the best interests of the shareholders. Certainly the Treasurer of the States represents the States and the shareholders in the A.G.M.s (annual general meetings), but we do hold all entities to a quarterly meeting where they present their business cases and their work going forward.

**3.12.8 Deputy G.P. Southern:**

Does the Assistant Minister not accept then that it is not in the interests necessarily of the shareholder, which is the States of Jersey, to have that short-term commercial interest to take priority over the longer-term tax revenue interests of that shareholder?

**The Connétable of St. Peter:**

I can just say yes, I totally agree, the long term is always the objective, not a short-term gain for a long-term loss. We only look at long-term projects and I can assure Members that I am fully apprised of the situation that has been discussed of the nebulous one on this side. I am fully aware of that and I am absolutely confident that Ports of Jersey are acting totally responsibly in this matter.

**3.12.9 Senator S.C. Ferguson:**

With companies like British Airways and so on, we do know the companies and we do know the directors. Now, the Ports are a strategic asset and where possible, as I have said before, business should surely be with companies incorporated locally. Does the Assistant Minister not agree?

**The Connétable of St. Peter:**

No. As I said earlier on to Senator Ferguson, no, I do not agree. We work with businesses outside the Island. But what I will say to Senator Ferguson and to all other Members, when the lease is signed on that particular deal, for want of a better word, they will be fully aware of who they are, where they are based and what taxes they will be paying.

