

**7 Deputy M. Tadier of St. Brelade of H.M. Attorney General regarding legislation preventing the display of racist or otherwise offensive language in public places (OQ.164/2020):**

I am slightly caught short here because I do not have the question up. I thought we were earlier on the Order Paper.

**The Bailiff:**

You do not know what it is, Deputy?

**Deputy M. Tadier:**

I know the subject is to do with the Community Relations Trust.

**The Bailiff:**

Shall I read it on your behalf, Deputy?

**Deputy M. Tadier:**

If that is all right, Sir. I am sorry to do this.

**The Bailiff:**

Not at all. What legislation exists, if any, to prevent the display of racist or otherwise offensive language in public places; and in the case of the memorial bench at Bouley Bay, was the Law Officers' Department ever approached for advice when the existence of the plaque was raised as an issue with the Connétable of Trinity and the Chief Minister in 2015?

**Mr. M.H. Temple Q.C., H.M. Attorney General:**

Article 2 of the Crime (Disorderly Conduct and Harassment) Law 2008 contains a potential jurisdiction to prosecute that sort of offence provided that the words used are threatening or abusive or that there is behaviour in a threatening or abusive way or there is disorderly behaviour. However, when the draft form of that law was debated by the States Assembly in 2007, the States Assembly decided to omit the additional subparagraph (d), which was intended to prohibit the display of writing signs or other visible representations that are threatening or abusive or insulting. So it would not be appropriate to prosecute written displays of racist or offensive language in public places under Article 2 of that 2008 law.

[10:15]

However, I would note that as regards future legislation, the draft Crime (Prejudice and Public Disorder) (Jersey) Law has been prepared, it is in draft, it has been through a public consultation process at the end of last year and that law would provide that crimes of prejudice, which is often referred to as hate crime, can be prosecuted and Article 3 provides an offence, which includes displaying any written material that is threatening, abusive or insulting. As regards to the second part of the Deputy's question concerning the memorial bench at Bouley Bay. I am unable to give an answer to that part of the question either way because the fact of whether or not someone took legal advice from law officers is legally privileged.

**3.7.1 Deputy M. Tadier:**

I thank the Attorney General for his answer but the prime thing that I am concerned about is that as things stand today in 2020, if somebody wanted to put up a plaque, for example, in a public place with something that was necessarily grossly offensive, it could be on racial or sexual orientation grounds, would that be permissible to put that up?

**The Attorney General:**

As regards a written offensive or racist comment, I could not prosecute that under the current Article 2 of the 2008 law. I would have to consider customary law offences such as acting in a manner that is likely to cause a breach of the peace or public nuisance offence. So there are customary law offences that I could consider but the new draft law, which has been through consultation, which has not been brought to the Assembly as yet, would provide a clear jurisdiction for prosecuting that sort of offence or that sort of behaviour.

**The Bailiff:**

We then come to question 8 but before I move on I would just like to clarify the issues that are appearing in the chat concerning the Order Paper. So if Members will bear with me for a moment. It appears that there is a slight anomaly in that Deputy Tadier's question was not switched as he expected, but my understanding is that otherwise the Consolidated Order Paper is as expected.