

5. Questions to Ministers without notice - The Chief Minister

5.1 Deputy R.G. Le Hérisier:

Given the struggle we are all having with the generalities of the Strategic Plan which we are now told is deliberate, would the Acting Chief Minister confirm that policies will only be taken forward that emanate from this Plan once they have been subject to debate and the approval of this House?

Senator T.A. Le Sueur (The Deputy Chief Minister):

In general the answer is yes, Sir, but there are some policies which exist now. The Strategic Plan does not start from a clean sheet of paper. We have existing policies in respect of health, of education, of a variety of issues. This Strategic Plan develops and enhances those policies and so, it would perhaps be dangerous to say that no policies will be put in place until the plan is agreed. What I can say is the converse that policies which are not within the strategic plan would not normally then be allowed to be taken forward.

5.2 Deputy A. Lewis of St. John:

Can the Minister advise the House if it is still intended to transfer the responsibility of the population office from the Economic Development Department to the Chief Minister's Office and, if so, when will this occur and will the Chief Minister's Office be more sympathetic to the needs of local businesses as against the Economic Development Department's seemingly greater interest in attracting new non-local businesses?

Senator T.A. Le Sueur:

The arrangements for the population office have already been discussed by this House but I have got no indication that the present arrangements with the Housing Department and the Economic Development Department is not working satisfactorily in the best interests of the Island. If the Deputy has particular situations which cause him concern, I suggest he takes them up with the Minister for Economic Development.

5.3 Deputy G.P. Southern:

Is the Acting Chief Minister aware of the Guernsey Government's decision to abandon the look-through provision in its proposed taxation reforms and replace it with taxation of dividends only, with some measures to ensure compulsory distribution? Does he consider that such a move shows some misgivings, at least, over the compliance of look-through with the EU code of conduct on business taxation?

Senator T.A. Le Sueur:

I am aware of the current Guernsey proposals which refine the provisional look-through proposals and certainly that is something which I am looking at myself in terms of Jersey's look-through proposals. We need to make sure that whatever we do is compliant, is easy to administer and understandable. I have no doubts that the Guernsey proposals and the Jersey proposals are fully compliant with the EU code and I do not believe that any proposals put forward by Guernsey change that situation whatsoever.

5.4 Deputy J.A. Martin:

In the summary of the Council's Minutes from 9th March it has now been decided by the Ministers that Members and members of the public can have a recording of the Ministerial votes. As I did give notice, I would like to know how many Ministers were at the vote on the siting of the composting at La Collette, which way each Minister voted and which way the Chief Minister used his casting vote. I hope the Minister can inform us of that as I did give him notice about 20 minutes ago.

Senator T.A. Le Sueur:

I am grateful for the notice although it has not given me time to do any further research. Basically there were 8 Ministers present when that decision was made and it was 4 who believed that the composting site would be better placed at La Collette and 4 that went for Warwick Farm. The casting vote exercised by the Chief Minister was in favour of La Collette and he also voted in favour of La Collette. Those voting for Warwick Farm, from recollection, if I am wrong I am sure the Ministers will tell me, were Deputy de Faye, Senator Routier, Senator Le Main and myself. Those voting against, I believe, were Senator Walker, Senator Syvret, Senator Ozouf and Senator Kinnard. I believe that the 2 Members who were not at the Council's meeting were Senator Vibert and Senator Cohen.

5.5 Deputy P.V.F. Le Claire:

May I follow on from that question then? In that case, what the Assistant Minister is telling us is that there were 8 Ministers present for the vote and 4 votes were cast for Warwick Farm and 4 votes were cast for La Collette, yes? And that there is no casting vote unless there suddenly has appeared a new Minister or if the Chief Minister is not being included as one of these 8 Ministers in which case I would like to ask if that is correct? Where was the weighted decision that it not be put at Warwick Farm if there were 4 for and 4 against?

Senator T.A. Le Sueur:

In a situation, Sir, where the vote is equal the Chief Minister has a casting vote. He exercised his ordinary vote in favour of La Collette and he exercised his casting vote also in favour of La Collette. He effectively had 2 votes.

5.6 Senator J.L. Perchard:

I have got a double-barrelled question on the same subject. The Public Employees Contributory Retirement Scheme's latest actuarial valuation as of the 31st December 2004 has now been completed. I understand the report on the Scheme has been released to the Committee of Management. Could the Acting Chief Minister advise the Assembly as to when the report will be available to States Members? Similarly on the same subject, Sir, on page 11 of the Strategic Plan it reads in the last paragraph: "The deficiency in the Teachers Pension Scheme will be corrected." What measures does the Assistant Chief Minister propose to use to correct this deficiency?

Senator T.A. Le Sueur:

I think the Senator is cheating there by asking 2 questions at once, Sir. The actuarial review of the Public Employees Scheme has indeed been agreed by the Committee of Management and by the States Employment Board. It is in the course of printing and it should be in Members' hands in the next 2 weeks. As far as the Teachers Pension Scheme is concerned, that is a different sort of scheme to the Public Employees Scheme. Discussions are actively in process with the Minister of Education, Sport and Culture, whose primary responsibility this is, for a corrective arrangement to be made which will eliminate that deficit over a period of time. No proposal has yet been finalised in respect of the Teachers Pension Scheme.

5.7 Deputy C.J. Scott-Warren of St. Saviour:

I would like to ask the Deputy Chief Minister if he could tell the Assembly Members where the provision exists for the Chief Minister to have 2 votes when there is a tie on voting on an important point in any decision.

Senator T.A. Le Sueur:

I do not believe it is enshrined in legislation, Sir, I believe it is a matter of Committee procedure. Without researching the situation, I can not identify anywhere in particular but it is certainly not

uncommon that where there are tied decisions whoever is chairing the meeting does have an additional casting vote. That seems to be the norm and it certainly applies in the questions to the Council Ministers.

5.8 Deputy R.G. Le Hérisier:

Following on the status of the strategic plan, would the Acting Chief Minister, in terms of paragraph 2.9.1 for example, where it says: “In 2006, adopt sustainable travel and transport plan and by the end of 2007 have in place funding for implementation”, would he categorically state whether that means the States will adopt the Plan or whether this Plan will be adopted by circumventing this Assembly?

Senator T.A. Le Sueur:

It is my understanding, Sir, that the sustainable transport strategy will be brought back to this House by the Transport Minister for discussion by the Members of this House and that it is this House that will make a decision.

5.9 Deputy G.P. Southern:

What justification does the Acting Chief Minister have for the £32 million raid on the Dwelling Houses Loan fund to fund expenditure elsewhere in the Strategic Plan and on what will this sum be spent?

Senator T.A. Le Sueur:

The £32 million from the Dwelling Houses Loan fund is used specifically to fund what I regard as essential maintenance of our infrastructure, primarily on our States social housing stock which over the last few years has deteriorated to an unacceptable standard. Much as I have a policy which reduces spending where possible, I do believe in the case of States infrastructure it is vital that we maintain that in adequate condition and this money from the Housing Fund will indeed go back into social housing predominantly and also the roads and drains of our infrastructure.

5.10 Deputy P.V.F. Le Claire:

Given the recent announcements by the Chief Minister and the Treasury Minister in Guernsey that the local companies will not pay any tax on their profits in Guernsey, how will that affect the Jersey businesses from an international or competitive perspective and what will stop them from going across to Guernsey and registering their businesses there and paying no tax here and operating here?

Senator T.A. Le Sueur:

I think that is probably a broader question than is immediately dealt with but anti-avoidance legislation will be required as part of the arrangements for dealing with the new corporate tax structures and those are already being discussed and will be implemented to ensure that there is no opportunity for any such arrangement to take place.

5.11 Deputy J.A. Martin:

To go back to the La Collette composting site, given that we now know that the Transport Minister and, I think, another Minister, has been asked to bring back the decision to the States and it is not necessary under the politics. Would the Acting Chief Minister confirm that it is always possible for any Member of the States to bring a private proposition as to the siting of the composting? My further question is, being that now the Ministers have made a decision, albeit split, on the vote in the House, would they have to stand by collective responsibility or would all the Ministers have a separate vote so, at least we would have 4 for and 4 against?

Senator T.A. Le Sueur:

It is always a prerogative of a Member of this House to bring a proposition so long as it conforms with the States' procedures. So, yes, there would be an opportunity to discuss it in that way. I would also point out that where a proposition requires capital expenditure, that capital expenditure also has to be specifically authorised by this House so, there may be an opportunity in that situation. As far as the voting is concerned, I would remind the Deputy of what Senator Syvret said earlier that that was not a decision of the Council of Ministers, that was a view expressed as to which way the Minister for Transport should address the problem. I do not imagine that the Council of Ministers would necessarily change their minds from one week to the next but certainly on the basis of the overall scoring at that time, that was the view of the Ministers. As the Transport Minister said in his reply: "Different weightings and perhaps a question of timing might have swayed Members in different directions." So, I certainly cannot speak for them but I will just speak for myself.

5.12 Deputy R.C. Duhamel:

Apropos of what was just said, why then was a vote taken and indeed a vote recorded in the various media if indeed it was a decision of the Minister? It certainly has not been reported as such and I and, I think a number of other Members, are a little confused.

Senator T.A. Le Sueur:

I am sorry if Members are confused. The Minister responsible for composting brought the matter to the Council of Ministers for their information and to seek their guidance. He got that guidance and he is now making a decision which he considers appropriate.

5.13 Deputy G.P. Southern:

Under A1 of the minutes of the Council of Ministers of the 28th February, it was agreed that Members should be properly informed about decisions before those decisions were reported in the media and yet, only last night, I read that the problem with legal advice had been solved, in the newspaper. Is the Acting Chief Minister satisfied that the correct procedures are in place for informing Members who are not on the Executive of decisions or are we, as many suspect, to be treated as an irrelevance?

Senator T.A. Le Sueur:

I believe that the procedures which we have now adopted in respect of informing Members are a significant improvement on what we have had in the past. Last week, following a meeting of the Council of Ministers, I did arrange for summary minutes of that meeting to be circulated to all States Members the following day. Those minutes were circulated to Members at the same time as the media were briefed. The media briefing, on that particular topic, was quite clear. What the media have interpreted, as a result of that discussion, was not in fact what was decided and I believe that the Attorney General and I will wish to correct the media for what we believe was wrong reporting of certainly a position which was not taken. The decision which was taken at the Council of Ministers was that the question of legal advice would come back to a further meeting of the Council of Ministers at which the Ministers would receive the full written advice of the Law Offices before making their decision.

The Deputy Bailiff:

The Greffier informs me that the time has arrived. Very well, so, that concludes questions without notice.

Deputy P.V.F. Le Claire:

Can I just ask, from a procedural perspective, a question of the Chair or the Attorney General? Given the recent change to Ministerial government, Members are now becoming aware of certain procedures that, perhaps, may have occurred on Committees in the past but I certainly was not

aware of the fact that a casting vote could be exercised as custom on a Committee or on a Ministry, in effect, giving 2 votes to one Member. Given that the decision, specifically, was meant to have occurred in relation to the concerns of the residents and given the fact that the 3 representatives of the district and the Constable and the residents themselves have not been consulted, may I ask the Attorney General, in this instance, whereby the Minister has decided to make a decision heavily weighted by his Council's views on a casting vote by the Chief Minister, whether or not the Minister now going forward with the decision... You made a rather sweeping comment that it was not a matter for the States. I would like to ask through the Chair to the Attorney General or to yourself, Sir - I am certain either of you will be able to give a satisfactory answer - the paramount supremacy of the Assembly, surely, in Ministries with the fundamental exception of the Planning and Environment Committee, must be retained by the Assembly and therefore any decision of the Assembly is paramount, certainly in my view. Is that the case, Sir, or would it be a case in this extenuating circumstance, for any Member or Members with this situation facing them, be forced, in this instance, to exercise the nuclear option of a vote of no confidence in the Minister or perhaps in the Chief Minister? What is the situation? Do the States retain their supremacy and/or does the Ministry now take over that issue in a particular operational decision? I am a bit confused.

The Deputy Bailiff:

That is a matter which, if you wish to pursue, you must pursue with a more formal question with notice so everyone can think about it. Very well.

Deputy P.V.F. Le Claire:

It hinges on the debate, Sir, whether or not asking a question in a proposition is going to achieve anything.