

STATEMENTS ON MATTERS OF OFFICIAL RESPONSIBILITY

17. Statement by the Chief Minister of the resignation of the Minister for Home Affairs:

17.1 Senator F.H. Walker:

Yes, please. Senator Kinnard has explained her reason for deciding to resign. The matter in question was a confidential matter before the Council of Ministers last Thursday. It was an item on which Senator Kinnard declared a conflict of interest and withdrew from the meeting. The Council, therefore, have not had the benefit of discussing the issue with Senator Kinnard. The issue is whether the present law which requires a judge to give a collaboration warning to juries in cases where the evidence relied upon is that of an accomplice in sexual cases and in cases where the evidence was that of a child, is appropriate or should be changed. The Council of Ministers considered the issue placed before them in some depth. We decided it is a matter of great importance. However, we were also informed that there is more than one approach to the issue. For example, the Scottish position is different to the position in England and Wales. The Council, therefore, decided that it would be inappropriate at this time to take a final decision until there had been further analysis and consideration of all relevant issues. The Council, therefore, asked me as Chief Minister to refer the matter to the Jersey Law Commission and invite the commission to consider reporting on the matter expeditiously. Let me be clear: the Council of Ministers has not decided whether to accept or reject the Home Affairs' recommendation. We have merely asked for a fuller evaluation of the matter and to seek further advice. I maintain that this is the correct action and I remain saddened by the Minister for Home Affairs' reaction.

The Deputy Bailiff:

Are there any questions? Senator Syvret.

17.1.1 Senator S. Syvret:

I understand that the Chief Minister's term of office is due to expire soon, but did any discussion take place at this meeting as to how long this examination may take, when a decision will be made and what option might be brought forward?

Senator F.H. Walker:

Ministers have discussed that and it will not be an overnight reaction. The Commission assuming they agree to accept the reference, and if they do not then of course it will come back to the Council of Ministers immediately but the Law Commission, assuming they agree to accept the approach, will obviously want to consider the matter very closely and may well themselves wish to take expert advice, so I cannot give a time scale for the resolution to this matter at this stage.

17.1.2 Senator S. Syvret:

Can the Chief Minister give an undertaking that the Law Commission will take opinions from all those who may wish to give them and be open to views from all parts of the spectrum, as it were? I know certainly a number of survivors and a number of survivor representative organisations that would wish to express views on this. It is an important matter. It is axiomatic that many of the people who have been through episodes of abuse as children have had very difficult troubled lives, psychological difficulties, substance misuse issues, run-ins with the law and so on. It is almost axiomatic and it would be quite, quite wrong, in my view, if people were to be dismissed or at least to have aspersions cast upon their reliability because of that as witnesses.

Senator F.H. Walker:

I cannot make any comments on how the Law Commission will undertake its review should it agree to accept it. I think though that what I could say, although this will be for a future Council of Ministers to decide, is I would be very surprised and disappointed if the next Council of Ministers did not ensure that all appropriate advice has been taken and all necessary and appropriate views have been listened to before reaching its final conclusion.

17.1.3 Deputy R.G. Le Hérissier:

I have to ask the Chief Minister in a sense to speak on behalf of Home Affairs, as many of us are confused. Could he say whether the Home Affairs' recommendation was to remove the need for the judge to give the collaboration warning?

Senator F.H. Walker:

The recommendation was to change the existing law which requires the judge to issue a warning to a situation where it would be discretionary and the Council of Ministers accepted the strength of the argument in favour, but equally there are matters of great concern about changing a law at this juncture and that is why we have asked for further expert advice and consideration.

17.1.4 Deputy J.A. Martin:

Would the Chief Minister refresh my memory and tell me exactly who are and who sits on the Jersey Law Commission, please?

Senator F.H. Walker:

I have not got names to hand but they are a body of 5 or 6 of Jersey's leading legal brains and they have the power, of course, to themselves seek detailed expert opinion on any issue that they may wish to discuss and upon which they wish to reach a recommendation.

17.1.5 Deputy J.A. Martin:

Sorry, Sir, a supplementary. My question is, are the Commission made up of probably the people who are carrying out the law or the people who will have to carry out the new law? I mean are they mainly judges or are they mainly lawyers? I need to know. He said higher legal minds. This recommendation came from the people who need to exercise law. Has he passed this on to people who are going to carrying out the law? This is what seems to be me to be the case.

Senator F.H. Walker:

They are leading local lawyers. That is all I think I can say at this point.

17.1.6 Deputy C.J. Scott Warren:

Could the Chief Minister inform Members how much warning he and the Council had of this important item being on the agenda?

Senator F.H. Walker:

My recollection is that it was circulated with other Council of Ministers' papers the day before the meeting. If I may, and I am grateful to the Greffier, give a more detailed answer to Deputy Martin. The Jersey Law Commission is currently comprised of Mr. David Lyons who is a leading solicitor in Jersey, Advocate A.R. Binnington, Mr. C.A.C. Chaplin, Mr. P. Hargreaves, Advocate K.J. Lawrence and Advocate J. Kelleher.

The Deputy Bailiff:

Senator Syvret, do you want to ask a further question?

17.1.7 Senator S. Syvret:

Yes. Certainly the question I was going to ask was about the membership of the committee, the Law Society. Will the Law Commission before making this request to them seek undertakings from them first of all that any potential conflict of interest be avoided in either the commission itself or any sub-panel it may wish to establish examining this matter, because having become very, very familiar with a lot of the cases, it is abundantly clear that there were a great deal of incompetencies and professional failings on the part of a number of lawyers and law firms over the years and decades?

Senator F.H. Walker:

The Council of Ministers would expect any member of the Law Commission with a conflict to declare that conflict and not to take part in the review and I have absolute confidence that that is exactly what they will.

The Deputy Bailiff:

Are there any other questions? Very well, then that completes that matter so we return to Public Business.