

## STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

### **The Deputy Bailiff:**

There are no matters under J, so we then come to K: statements on a matter of official responsibility and the first one is from Deputy Ryan, Chairman of the Corporate Services Scrutiny Panel.

### **4.1 Deputy P.J.D. Ryan of St. Helier (Chairman of the Corporate Services Scrutiny Panel):**

The debate in the States on P.196/2005 on the 17th and 18th of January 2006 hinged on 2 key international aspects. The first one was that maintaining unequal ages of consent for consensual homosexual acts as opposed to heterosexual acts would be in breach of Jersey's commitments on the European Convention of Human Rights, to which I will refer as ECHR. Two, that failure to adopt the proposition could jeopardise the position of the United Kingdom under the Convention as asserted during the debate by the Chief Minister. These questions clearly come under the remit of the Corporate Services Panel. At the same time the Panel is aware that there are important social and health implications which are properly within the remit of the Social Affairs Panel which is making its own response to the referral of this proposition to Scrutiny. The Panel understands the concerns felt by some States Members as well as members of the public regarding the perception that the Island might be obliged by an external authority to introduce legislative changes against the wishes of a strong body of local opinion. Accordingly, the Panel believes that it is important to investigate fully the extent of the Island's responsibility to comply with judgments of ECHR and the potential implications for the Island's international reputation and relationship with the United Kingdom of not adopting the proposed reform of the law. The Panel believes that it is in a good position as a non-executive and non-partisan group of Members to provide an independent critical view of the issues involved. The Panel also believes that it is important to provide an opportunity for the public to submit relevant evidence in an open forum and have already received requests from individuals wishing to appear before the Panel in a public hearing. For these reasons, the Panel has decided to undertake a Scrutiny Review of the Island's obligations under ECHR to reform the law and has drafted the following terms of reference.

1. To examine the Island's current commitments under the ECHR.
2. To review the constitutional position of a decision not to reform the current law.
3. To review previous and current legal challenges in the European Court of Human Rights; and
4. To consider advice from the Law Officers.

In preparation, the Panel has conducted a preliminary review of the Minutes of the Legislation Committee going back to the circumstances surrounding the States decision in 1990 to decriminalise homosexual acts between consensual male adults in the Island. It has also looked at research papers prepared by the Home Office when the United Kingdom Government was considering equalising the age of consent, as well as copies of recent relevant ECHR judgments. The Panel is also awaiting written advice from the Law Officers' Department. Sir, we have now received that written advice since this statement was drafted. The Panel believes that it will be in a position to report to the States on the Island's responsibilities under ECHR within a period of 8 weeks. Thank you.

### **4.1.1 Deputy A. Breckon of St. Saviour:**

I wonder if under Standing Order 68 paragraph 3 I may raise a general point about the content of that statement?

### **The Deputy Bailiff:**

Under the Standing Orders you may ask questions of the President of the Scrutiny Panel. This is not an opportunity for a debate. You may ask some questions.

**Deputy A. Breckon:**

The question I would like to ask, Sir, is when was the content of that statement released before today, who to and was it embargoed?

**Deputy P.J.D. Ryan:**

As far as I am aware, this statement was issued today, Sir. I do not believe it was issued to the press if that was the...

**Deputy A. Breckon:**

Why was it in last night's paper then if it was not released?

**Deputy P.J.D. Ryan:**

I really do not understand that, why it was, Sir. I do not know. I would have to take advice from my officers, but it certainly did not come from me, no.

**4.1.2 Deputy G.P. Southern:**

Will the President assure Members that whatever the outcome of his investigation, whether there are questions still left unanswered, after 8 weeks he will hand this issue back to the Executive?

**Deputy P.J.D. Ryan:**

I obviously do not want to prejudge whatever we find or do not find, but I would think that it seems that there is quite a body of opinion available generally. We believe that it will be a fairly easy job to effectively ring-fence the kinds of things that we are going to be looking for. I think the question was will we hand this back to the Executive. The answer is that we will make a report at the end of the 8-week period and if there are still items that are unclear we will highlight them and hand it back to the Executive, yes.

**4.1.3 Deputy R.G. Le Hérisier:**

Would the Chairman outline whether in his preliminary investigations he came across the notion that there was some discretion, or whether indeed we have no discretion in this matter and have to proceed as Senator Walker outlined?

**Deputy P.J.D. Ryan:**

I do not want to prejudge the issues. It would be wrong to go into a review of this kind with any kind of fixed ideas and we will base our report on evidence purely and simply and we will report back our findings. I do not want to prejudge anything.

**4.1.4 Connétable D.J. Murphy of Grouville:**

If I may help on the leaks to the Evening Post or on the report in the Evening Post last night, I did receive an email from the Secretary of the Committee saying that an embargo was put on this, but the Evening Post ignored it and they have since apologised for doing that. It was a mistake on their part.

**The Deputy Bailiff:**

Any other questions? Then I propose that we hear the statement from the Chairman of the Social Affairs Scrutiny Panel and then I will raise with Members the steps to be taken in relation to the sexual offences law.