

4.4 Deputy S.C. Ferguson of the Attorney General regarding the sharing of legal opinions with third parties:

Would the Attorney General inform Members whether legal opinions are being shared with third parties and, if so, would he agree to reconsider his objections to sharing these with the Scrutiny Panels?

The Attorney General:

I believe, Sir, there may have been occasions when those to whom legal advice has been given have inadvertently not respected the decision of the States on P.198/2007 but I can say that the Law Officers have not authorised this and the Law Officers have not knowingly shared any such advice. Although, of course, the Law Officers will reconsider the views previously expressed if the States so request, I do not at present see any need to do so because the principles which we set out in our response to that projet remain good even if, from time to time, human error may occur.

4.4.1 Deputy S.C. Ferguson:

However, Sir, given that the particular situation in actual fact was solved in an amicable manner because of the sharing of the legal opinion, does the Attorney General not feel that this could also be extended to Scrutiny, that it would in fact make for a much more amicable relationship than heretofore?

The Attorney General:

You can drive over a nail without getting a puncture but you do not subsequently aim for nails.

4.4.2 Deputy G.P. Southern:

On the matter of legal advice, Sir, would the Attorney General explain to Members the difference between an action by government which is incompatible with the rights of the E.C.H.R. and that which is disproportionate under the law?

The Attorney General:

That came out of left field, Sir, I am not sure it is consequential to this question. Perhaps the Deputy would repeat it?

Deputy G.P. Southern:

I have a written answer from the Chief Minister to a question answered earlier today in which I asked about a restriction constituting a disproportionate limitation. I have received an answer that says: "Is not incompatible" - nothing about disproportionate limitation on particular rights. Could the A.G. (Attorney General) explain to Members and to me what the difference is between disproportionate limitation and incompatibility with human rights?

The Bailiff:

Has this got anything to do with the question put by Deputy Ferguson?

Deputy G.P. Southern:

It has got everything to do with the provisional legal advice.

The Bailiff:

I take your word for it, I do not understand the question, perhaps the Attorney General does.

The Attorney General:

I understand the Deputy to be asking me to criticise the Chief Minister's answer to one of his questions this morning. I ought to read the answer he has given first before I comment.

4.4.3 Deputy R.G. Le Hérisier:

Would the Attorney General not admit that in the fullness of time and after mature reflection that the notion that Scrutiny should get independent legal advice because of the inability of the Attorney General to release his advice could lead to a quite ludicrous situation to which he has often drawn our attention where parts of the States are faced with 2 bits perhaps of contradictory legal advice? Is this not ludicrous?

The Attorney General:

I do not anticipate that the States will be faced with contradictory legal advice if the advice to Scrutiny and to Ministers is given by the Law Officers' Department.

The Bailiff:

I think we will leave over your supplementary to the Attorney General, Deputy Southern.