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3.8 Deputy A.D. Lewis of the Chief Minister regarding options for reforming the conveyancing system:

Given that currently home buyers can withdraw from a property transaction as late as the day that the transaction goes to court, incurring significant legal fees, wasting the resources of utility providers and causing stress and frustration for buyers and sellers, will the Chief Minister support a review to investigate options for reforming the conveyancing system and undertake to report back to the Assembly the recommendations for improvement?

Senator I.J. Gorst (The Chief Minister):

I thank the Deputy for his question. For many people, of course, the purchase of a home is the most expensive and important transaction they will make, I therefore understand and sympathise with the stress, frustration and cost for buyers and sellers when a conveyancing transaction fails to complete. It is my understanding, however, that it is currently possible for parties to enter into binding preliminary sale agreements prior to passing contract. Although such agreements cannot force a party to pass contract, they can provide for remedies in damages for the loss and costs associated with transactions that are not completed.

3.8.1 Deputy A.D. Lewis:

Does the Minister not, though, agree that this should be enshrined in law and a review of the conveyancing law may assist that? Also, is he aware that further delays and inefficiencies are also created due to the fact that Jersey has no land registry? Could the Chief Minister explain why there is no registry that clearly references the plan? Surely, with Jersey's desire to be a leader in digital, such a registry online for all to see is an obvious step forward?

Senator I.J. Gorst:

The Deputy asked me a question why something is not in place that has not been in place; it is a good question, but I am not sure that I am the one to be asked of it or be able to answer it. I am aware that the Judicial Greffe and the Legislation Advisory Panel have set up a working party to look at those issues; I am not aware of the progress that they have made, but I shall seek a progress report and provide that to the Deputy.

The Bailiff:

Presumably, Deputy Lewis, when you say that there is not a registry, you mean there is a registry but it does not record transactions in relation to the identification of property, it records transactions in relation to the person transacting?

Deputy A.D. Lewis:

Correct, Sir.

3.8.2 Deputy D. Johnson of St. Mary:

As someone who formerly derived part of his income from property transactions, I well appreciate the frustration behind the question posed by Deputy Lewis. I think the starting point must be to acknowledge that there is always going to be an interval of time between

the original agreement, informal or otherwise, between the parties, and the time when it comes to a formal contract, and the secret or the objective must surely be to reduce that interval. Under English law, which is my area, it was almost standard practice for parties to proceed to a preliminary agreement of sale as quickly as circumstances allowed, which included mortgage applications, *et cetera*, and once that agreement was in place there would then be a completion date given X weeks hence, which would enable the parties to make the necessary arrangements. That took a lot of heart out of the situation. As the Chief Minister just said, it is possible to enter into such an agreement in Jersey.

[10:45]

My understanding is that, for whatever reason, that practice seems to have fallen away of late, and I wonder if as an alternative enquiries might be made of the Jersey Law Society to adopt the situation they have in Guernsey where I am told that in 1997 Guernsey advocates adopted the Guernsey Bar Conditions of Sale, which replaced various different forms used by various firms. It appears to be that if the Jersey Bar could be persuaded to impose or themselves persuade their members to adopt such a system, then a lot of the unfairness and misfortunes to which the Deputy has referred would be avoided.

The Bailiff:

I think the question, Chief Minister, is whether you will approach the Law Society and ask them to adopt the Guernsey system. **[Laughter]**

Senator I.J. Gorst:

I thank the Deputy, however; I know he was probably in breach of Standing Orders and you were extremely gracious to him, but he is experienced in this area and I think we all benefited from his comments. The reality is that the opening question from Deputy Lewis, if there are real concerns about this area, of course I am prepared to meet with him, understand those concerns, and try and either find a solution or ask the Legislation Advisory Panel to review the cases that he provides. I say that because I think the Deputy of St. Mary sits, if recollection recalls, on the Legislation Advisory Panel, and I am looking for him to acknowledge that or ... no, he does not, okay. But I am sure that they would quite happily draft him on to be involved in any changes or approach to the Law Society that might be required, and we could put his expertise in this area to good use.

3.8.3 Deputy M. Tadier:

It is clearly a complex matter and any potential solutions may also be complex, but does the Chief Minister agree that one part of the solution may be, in order to stop potential wastage of court time and legal fees, to find a way whereby property transactions do not need to go before the Royal Court for them to become valid. Is that perhaps a 21st century solution to solving some of that problem?

Senator I.J. Gorst:

That is, of course, an option; elsewhere in the world one does not need to have that transaction registered in the way that we do in the court process. I think the Deputy asking the initial question suggested that there should be an exploration of the French system where,

in effect, lawyers undertake that process in chambers. Without really understanding the concerns that the Deputy's constituents are raising it is difficult for me on the floor of the Assembly to propose a remedy.

3.8.4 Deputy A.D. Lewis:

I assume then that the Minister is prepared to take this away and direct it at the appropriate authorities, perhaps the Legislation Advisory Panel. I sat on that very panel and at the time it was brought forward as a suggestion and on the land registry, for example, it was said it would be too expensive. This was before digital technology became an obvious route to solve that problem, so perhaps we can revisit it. I welcome the Chief Minister's comments but I also welcome comments from members of the public who may be listening today. I know so many people, and there may be many out there today, that have had similar situations when passing contracts on properties. I would urge them to contact me or the Chief Minister and maybe push this one along. I thank the Chief Minister for his interest in this and I do hope that it can be moved forward so we end up with a modern system for a modern digital Jersey.

The Bailiff:

I do not think that was a question.

Senator I.J. Gorst:

No, but I think there was a misinterpretation of the answer that I gave previously. I am not sure that I said I was going to take it away and deal with it; I suggested that the Deputy himself, and I would arrange with the Legislation Advisory Panel to have a conversation discussing the concerns raised by his parishioners together with the Deputy of St. Mary, to consider if there were improvements or changes that could be made.

Deputy A.D. Lewis:

Sir, but will the Minister support a review?

The Bailiff:

Will you support a review, Chief Minister?

Senator I.J. Gorst:

I have answered his question in the best way that I can. When we see the evidence that the Deputy wants to present, if a case is made for a review, then of course I would support a review. If it is not and there are other remedies that could be provided without needing to go through a long process of a review, then of course they would be preferable.