

2018.09.11

9 Deputy J.H. Young of the Chairman of the Privileges and Procedures Committee regarding the tabling of written questions by elected members who held ministerial office: [OQ.114/2018]

Will the chairman inform the Assembly whether his committee has considered the Bailiff's recent ruling that elected Members who also hold ministerial office cannot ask written questions under Standing Orders of other Ministers?

[10:30]

Will he advise what changes he intends to make to ensure all Members' ability to ask questions related to work on behalf of their constituency, particularly in single member constituencies?

Deputy R. Labey (Chairman, Privileges and Procedures Committee):

Yes, I was given, as a courtesy, advanced notice by the Bailiff that he was going to repeat his ruling to the Assembly. I did discuss this with P.P.C. (Privileges and Procedures Committee), who were in broad agreement with it. The protocol that Ministers should not ask other Ministers written or oral questions grew up with the advent of ministerial government. It was a gentlemen's agreement or an unwritten rule. This approach never made it into Standing Orders. It seems to me that what we are trying to avoid, I guess, with this protocol is a love-in among Ministers with questions that they really already have access to the answer to, because they have access to the Minister fortnightly or weekly and they have access to Government information. I do think the Minister, the Deputy, makes an interesting and pertinent point in that in removing his ministerial hat, if you like, and doing work as a constituency member of the Assembly, it might be that there is a valid cause to him to ask a question in that capacity. I do not see that Standing Orders preclude that. I think it would have to be a case you would have to argue with the Presiding Officer.

4.9.1 Deputy J.H. Young:

Only one question, would the chairman agree that the answers to written questions, because my question is confined to written questions, are generally written by civil servants in a department and generally very rich in detailed information. Will he agree further it is useful to have that in the public domain when constituency issues arise?

Deputy R. Labey:

I cannot disagree with the questioner on this. I think the way forward here is if he has a particular case in mind is to test the waters with the process that I have just outlined in making the case for asking the question in the capacity of a constituency Member of this Assembly. I would be interested to test the Bailiff's ruling on this in those terms and then we could move forward from there.

The Deputy Bailiff:

I should, before allowing this question to proceed, obviously mention that there is a mechanism within the States of Jersey Law and Regulations to test the ruling of the Chair - that is by proposition brought before the House - and the matter can then be discussed and dealt with if Members wish the interpretation of Standing Orders to be different. I would have thought, without discussing the matter with the Bailiff, that to test it in the way it is suggested by the chairman of P.P.C. on the floor of the Assembly might be difficult, because the matter would fall to be determined at the approval stage of the question, rather than at the asking stage within the Assembly. So if guidance from the Chair is acceptable at this moment, that is my initial view.

Deputy R. Labey:

Yes, Sir. My point was that the process that the Minister or the Deputy could go through is submitting the written question with his case for doing so in the way that we all do.

The Deputy Bailiff:

In which case that is your answer.

4.9.2 Deputy M. Tadier:

Was the issue of Assistant Minister's asking written questions of other Ministers considered, given the fact like in certain scenarios one Assistant Minister with lots of delegated responsibilities, including legislative responsibility, may well, in theory, have more power than a less prominent full Minister with a smaller department?

Deputy R. Labey:

Yes, the Deputy makes a very good point. There are Assistant Ministers and there are Assistant Ministers. There are Assistant Ministers to the Chief Minister. I am not picking on anybody. It is a pertinent question and we should take a look at it.

4.9.3 Deputy M. Tadier:

Sir, a supplementary? Given the recent changes that were put through in the last Assembly, albeit not unanimously, there was a move towards one government and there is a presumption that the silos will be broken down. Should it not be the case that if you are in Government you do not ask questions to Government, because it is an inherent nonsense? Surely there is an element of fiction anyway, because there are a number of us in this Assembly who stood on a joint platform for election, not all of us necessarily with a joint manifesto, although that was the case for us. It should not be beyond the wit of those in the Assembly, given the fact we do not work in a vacuum, to find somebody to ask a question if something is really of pressing importance. Is that not another consideration?

Deputy R. Labey:

Yes, that is exactly why the protocol developed, why this approach was taken, so that Ministers were not occupying, I guess, the valuable time for Back-Benchers to ask questions of Ministers, by asking questions themselves. That is what it is designed for and what we all appreciate.

4.9.4 Deputy G.P. Southern:

In the absence of collective responsibility, does that not change the criteria for allowing one Minister to introduce another Minister's policy and be critical of it? Is that a function that should be preserved?

Deputy R. Labey:

Yes, the Deputy makes a very pertinent point and now that we no longer have collective responsibility that may be a factor. Although there was not collective responsibility, was there, when this approach was first developed, with the first Council of Ministers? One could argue that this is a debating Chamber, that questions provoke debate and that any Member of this Assembly should be able to ask any other Member of this Assembly a question and that debate should be heard. One of the most depressing answers one gets is a Back-Bencher asking questions of a Minister is the: "Well, if the Deputy would like to have come and seen me I could have explained this to him". The point about questions in this Assembly is that it is airing it in public; that is the point.

[Approbation] That is a point that Deputy Young has in putting this question. What we want to

avoid is Ministers taking up valuable time or paperwork asking questions of other Ministers when they have access to that particular information.

4.9.5 The Connétable of St. Lawrence:

Will the chairman remind Members whether this ruling applies only to written questions, as stated in this question, or whether it is applicable to oral questions? If it is not applicable to oral questions, what is his view on that? It seems to me contrary that a Minister may not be able to ask a written question and yet is able to stand up in the Assembly and ask an oral question. I think that is what we are trying to establish, really is the validity on this ruling to oral questions.

Deputy R. Labey:

The question from the Minister, Deputy Young, was about whether Ministers can ask written questions of other Ministers. A protocol exists, but there is nothing in Standing Orders that prevents Ministers from asking written questions of other Ministers. My suggestion to him was to test it with the Presiding Officer through the normal course of asking a written question, laying out his case for doing so, as a Minister.

4.9.6 The Connétable of St. Lawrence:

Yes, but if I may, Sir, supplementary? I did ask the chairman to remind Members whether the Bailiff's ruling applies only to written questions or to oral as well.

Deputy R. Labey:

The Bailiff's most recent repeating of this protocol was on oral questions.

The Deputy Bailiff:

Again, I interject from the Chair, given that it is about the ruling of the Chair. The copy that I have starts with the reference to a convention in which Ministers do not ask questions of other Ministers in written or oral form. I believe, without reading through the entirety of it again, which was quite lengthy, that it applies to both forms of question.

4.9.7 Connétable M.K. Jackson of St. Brelade:

Would the chairman agree that given the Deputy intimated that he might be disadvantaged by being a single constituency Member that there is a channel for working with the Connétables of each Parish, should the need arise. I am sure most Connétables would be happy to back their Deputies up. **[Approbation]**

[10:45]

Deputy R. Labey:

I am not sure what the question was, but the Constable makes a good point.

4.9.8 Senator S.Y. Mézec:

Does the chairman agree with me that if any Minister is having withdrawal symptoms from not being able to ask questions on the floor of this Assembly, then to get it out their system they could, of course, lodge 7 questions to the chairman of P.P.C. to answer at every sitting instead?

Deputy R. Labey:

Feels like they are already doing so. These are interesting questions. I think the point really is that we have a finite time for oral questions and that really should not be taken up with a Ministers' love-in with Ministers asking questions of other Ministers. It would be interesting, would it not, to find

out what they do in other jurisdictions and whether this protocol exists in, for example, Trinidad and Tobago? Maybe we could find out fairly soon.

4.9.9 Deputy J.H. Young:

I thank the chairman and I am sorry to take so much time with this, but would he accept my question, first of all, just related to written questions and also accept that life being a Minister is extremely busy and it is much easier to get civil servants to write written answers and put them in the public domain?

Deputy R. Labey:

Yes, but the Bailiff might argue that you could pass your written question across the Cabinet table to the Minister responsible and you would still get your answer. The question is whether you want that aired and is that the reason for it, that you want it aired in a public forum?