

3.7 Deputy S.Y. Mézec of the Minister for Infrastructure regarding the prospect of delaying the implementation of the waste disposal charge in order to engage with the business community: [1(241)]

Given the decision of the Parish Assembly in St. Helier to appeal the Royal Court's decision that the Bellozanne Covenant was spent and extinguished to the Privy Council, will the Minister consider taking this as an opportunity to delay the implementation of the waste disposal charge and to engage with the business community to address any concerns they may have about the charge?

Deputy E.J. Noel of St. Lawrence (The Minister for Infrastructure):

As Deputy Mézec's question is in 2 parts I will answer no to the first part and we are already undertaking a robust programme of stakeholder engagement, including the business community, to the second part.

3.7.1 Deputy S.Y. Mézec:

I would like to hear the Minister elaborate on the second part of that answer. Members will have received representations from the business community who have put forward concerns on several issues to do with the waste disposal charge, to do with how figures have changed seemingly at the last minute, and their concerns about how the amount to be paid in waste disposal charge can be fairly calculated and I, as a States Member, do not feel like I have had adequate answers to the questions that have been put on this subject, and I would be grateful if the Minister would be prepared to elaborate on how they are engaging with the business community and addressing the concerns that they have on this.

Deputy E.J. Noel:

I believe that Deputy Mézec attended our last States Members workshop during which it was mentioned that we have already been in contact with the business community and are continuing to engage with the business community and we have plans to try and help them minimise their costs through waste reduction. This is an ongoing process. We are not going to simply stop liaising and talking with the business community when the States come to debate this later on this summer, we are going to carry on talking to them and working with them so they can minimise their costs, so they can reduce their waste, right up until when, and even after, those waste charges come through if they are subsequently agreed by this Assembly.

The Solicitor General:

It was simply I am obliged to make 2 comments in response to the points that have been made by the Constable of St. Helier in his questions to the President. Firstly, it is not appropriate for the Constable to be referring to previous advice from Law Officers. The Constable knows that. That point has been made to his lawyers in correspondence and the reason for that simply is that if Law Officers' advice was continually publicised we would simply not be able to do our jobs. We would not be able to operate because clients would not be able to come to us and make a clean breast of their legal problems because otherwise they will simply have all their confidential matters disclosed in public, which would just not be appropriate. Secondly, the Law Officers' previous legal advice did change and the Constable also knows that. In relation to the description of my comment in court, which was made in submissions to the Court of Appeal, that is simply not an accurate account of my comments made in the Court of Appeal during the course of a case. Again, it is not appropriate for the Constable to be referring to matters that were raised in court in this Assembly, in a specific case.

3.7.2 Deputy J.A. Martin of St. Helier:

As the answer to the first part was a simple “no” could the Minister explain his Plan B, if the Parish of St. Helier is successful in the Privy Council, can he explain what that is to the Assembly please?

Deputy E.J. Noel:

I and my department have been tasked by this Assembly to bring forward non-household user pays charges or taxes - I use those words interchangeably; in this instance charges and taxes are the same thing. We have been tasked by this Assembly in 2018 to bring forward proposals in detail that will raise in excess of £3 million, in 2019 in excess of £11 million. I do not have the ability to delay the implementation of those charges. That would be the States decision this summer and I am doing what this Assembly has asked me to do.

3.7.3 Deputy J.A. Martin:

The Minister has not answered. I have asked him what his backup plan or Plan B is, if the Privy Council finds in favour that the covenant is to be upheld. It is about raising charges. Will he have to raise more? What happens? Because it will take a lot of waste charges out of his ability. It is a simple question. The Minister understands. Can he please answer?

Deputy E.J. Noel:

I am not going to comment on the legal case but if we find ourselves in that situation then we will still be bringing forward waste charges for non-household bodies. The detail of what those charges will then look like will have to be determined because we have been tasked with raising over £3 million in 2018 and over £11 million in 2019 and going forward. We have to raise that income as a user pays charge or tax - call it what you will - and that is what we have been tasked to do and that is what I am going to do with my department with the will of this House.

3.7.3 Deputy D. Johnson of St. Mary:

In the context of the Environment, Housing and Infrastructure Scrutiny Panel conducting a review of the proposed waste charges, and to which the Minister will by now have received the proposed terms of reference, is he able yet to advise if the intention is to lodge the proposition as to both liquid and solid waste charges simultaneously or does he intend to lodge that relating to liquid waste in advance of that relating to solid waste?

Deputy E.J. Noel:

I thank that question from the Deputy of St. Mary who is also the chairman of my Scrutiny Panel. We have until the 24th by the panel to give a response to their terms of reference. We are working on it this week, so we will have that. I can assure the chairman that we will have that response by the 24th. With regard to whether or not we will be bringing forward this in 2 parts or one part, I am still waiting for legal advice on that to see whether or not it is possible to bring it forward as one item, which we hope to do.

3.7.4 Deputy M. Tadier:

I know the Minister is a strong supporter of the Parish system and as such he will know that the Parish of St. Helier constitutes a third of the Island’s population but also probably a majority of the Island’s businesses. They of course did ask their Parish Assembly to pursue this appeal to the Privy Council. Given the fact that does represent a change, so the Minister feels that he has been tasked by some of this Assembly - I hasten to add - to introduce these new complex and no doubt regressive charges, but we can disagree perhaps on some of those points, does he not think that circumstances have changed sufficiently in order to have some kind of hiatus to see whether there is a better method to be done?

[10:45]

Also to find out what his likely chances are and costs are of success or failure with the Privy Council appeal.

Deputy E.J. Noel:

I am not going to comment on the latter part of that question. What I will say, and repeat again, my department and I have been tasked by this Assembly to bring forward non-household user pays charges or taxes - as I said it is the same thing - by 2018. That is exactly what we are doing. The decision by the Parish of St. Helier has no impact on that decision. It was a States decision and we are going to bring forward detailed proposals for this Assembly to consider in the summer months.

3.7.5 Deputy M. Tadier:

Does the Minister not accept that it is reasonable to presume that a Member of this Assembly may be a Member indeed who voted for and wants the principle of these charges to come through would still nonetheless feel much better knowing what the outcome of that appeal was before the Minister took the plans forward in his name? Because essentially it does change things and it seems reasonable at least to ask States Members whether or not they wish a hiatus in these new proposals?

Deputy E.J. Noel:

As I have already explained, the timetable is not my timetable. It is a timetable that is set by this Assembly. It was set by this Assembly last September in the M.T.F.P. and we are working to that timetable.

3.7.6 Connétable J.E. Le Maistre of Grouville:

The Minister has explained that he has got to raise a fixed sum of money with these charges and he says the businesses will be able to mitigate against the charges by reducing their waste. Of course if everybody reduces their waste the charge per tonne is going to go up and businesses will still be paying an awful lot of money.

The Greffier of the States (in the Chair):

Was there a question?

The Connétable of Grouville:

Does the Minister agree?

Deputy E.J. Noel:

I agree that businesses will be paying in 2018 just over £3 million in user pays charges and just over £11 million in 2019.

3.7.7 Deputy S.Y. Mézec:

No final supplementary. I just thank the Minister for his answer and for admitting that this is a tax. I will be intrigued to know what will happen to our borrowing limits under the Public Finance Law.

Deputy E.J. Noel:

Can I just reply to that? I have never said it is not a tax. Some Members have called this a stealth tax. There is nothing stealth about it. This is a user pays charge or tax and I am happy in this instance with that definition.