

5. Questions to Ministers without notice - The Minister for Home Affairs

5.1 Deputy M.R. Higgins:

I would like to return to the earlier questions regarding the legality of the bugging operation. Under the regulation investigatory powers authority must be given by someone responsible. I would like to know who that was. Please explain the legality of the bugging.

Senator B.I. Le Marquand (The Minister for Home Affairs):

It is my understanding that the statute that is being referred to applies within the jurisdiction. I thought in my previous answer that I had made it clear that nothing unlawful had happened within this jurisdiction, the issues related to matters which happened outside this jurisdiction.

5.1.1 Deputy M.R. Higgins:

Is that a good enough reason? For example, if I went out of the Island and killed someone I would not be breaking the Island's laws but I would certainly be breaking someone else's laws. Is it sufficient for the officers to claim, as they have done, the Nuremberg defence: "I was only obeying orders" in which case, after all, we hang the Germans for the same defence at Nuremberg. How can the officers claim they were only obeying orders if the thing was unlawful?

Senator B.I. Le Marquand:

I am simply not going to be drawn into answering questions on the merits or demerits of a matter which took place and should, according to statute, in private.

5.2 Deputy T.M. Pitman:

Is the Minister aware that somehow he appears to have misled the Assembly when he stated that he was entitled to make public the case against the former Police Chief once there was an outcome to disciplinary investigation? I refer, of course, to the fact that there was no outcome to any disciplinary process.

Senator B.I. Le Marquand:

If I used those words that was inexact. It is once the process was concluded and the process was concluded once there were no longer any disciplinary charges pending. If I said something which applied to something different, then I apologise for that.

5.3 Senator S.C. Ferguson:

Why is the Minister only just now bringing the question of police wages to the public attention when this is something which both the former Comptroller and Auditor General and my P.A.C. (Public Accounts Committee) have highlighted some years ago?

Senator B.I. Le Marquand:

Because hitherto I viewed this as being a matter for the States Employment Board to deal with. It so happens that in recent times in a discussion I had with the Chief Minister he indicated that the States Employment Board would need active assistance from my department in a fair, appropriate assessment of what were appropriate levels. This is an issue that I have had concerns about for some time, but I left it to the States Employment Board to deal with.

5.3.1 Senator S.C. Ferguson:

A supplementary. Is it correct that as part of their wages policemen also get private health insurance?

Senator B.I. Le Marquand:

No, it is potentially worse than that. There are certain allowances that they get for medical and dental matters, which frankly are very much outdated. As part of a recent process it was agreed that those would cease for new officers, but those rights still exist. I find that those belong in a very far and bygone age.

5.4 Deputy J.A. Hilton:

Can the Minister inform Members how many prisoners have been repatriated under the Repatriation Law?

Senator B.I. Le Marquand:

Yes, I can. The answer is zero because we do not yet have in place the international arrangements. I believe that they will be in place by the end of this month. There will then be a 3-month moratorium period before we can start to be active, but we cannot move until such time as the convention has been extended to us, which should, I am informed, be by the end of this month.

5.4.1 Deputy J.A. Hilton:

Supplementary, please. Can the Minister give Members any idea of what sort of numbers this involves?

Senator B.I. Le Marquand:

That is difficult to be certain about. I am not anticipating that the numbers will be huge, partly because of the difficulties relating to the situation in Poland, which has not been currently accepting prisoners back. However, I am anticipating a larger number in relation to the other related issue - or related to a degree but they have made it a related issue - which is the changing of status of prisoners going back to the U.K. from restricted to unrestricted. That is being given effect from next month. I would guess that the numbers we are going to see in all will be of the order of 25 between both, but that is a guess and it will be over a period of time.

5.5 Deputy M.R. Higgins:

When will the disciplinary judgment be published as it must be to meet Article 6 requirements of the European Convention on Human Rights? Is the fact that it is not mean that the presiding Chief Officer does not agree with the police officer's advocate that they were completely exonerated?

Senator B.I. Le Marquand:

I do not know how many times I have to tell the Deputy I am not going to publicise something in breach of the statute. I am certainly not going to comment on what is the opinion of the current Chief Officer in relation to a disciplinary matter.

5.5.1 Deputy M.R. Higgins:

Supplementary. Is it not the case that any decision, whether you give the full details or not, the decision must be published? The hearing has been in private but the decision must be made public.

Senator B.I. Le Marquand:

That is not my opinion. It would be a complete nonsense to have a situation in which you by statute said that there had to be a hearing in private and then the outcome of that, a decision, was public. That would be totally inconsistent. I have not taken legal advice on this apart from myself because it seems to me to be almost self-evident.

5.6 The Connétable of St. John:

Under the new building of the police headquarters it is correct the Home Affairs Department are tenants. That being the case, how much input has the Minister had in the needs of any new headquarters or has he left that requirement to others?

Senator B.I. Le Marquand:

I have essentially left the requirements to my senior police officers to deal with in conjunction with the architects who have particular expertise in this area. It seemed to me that is a matter for officers. If there had been any particular issues of difficulty I would expect them to refer them back to me, but I have left that to officers. It seems to me that is the appropriate thing to do.

5.6.1 The Connétable of St. John:

That being the case, why did the Minister not bring his briefing officers to the Scrutiny hearing last Friday to answer many of the questions that were put to him, which has now necessitated probably a delay in the hearing or in the debate on police headquarters because we now have to call for the evidence from the owners of the property?

Senator B.I. Le Marquand:

To be honest, I thought that what the Scrutiny hearing was about was in relation to parking arrangements generally in the area and it did not seem to me that my officers would have any specialised knowledge in that area over and above my own knowledge. In fact, we started to go into questions which probably would have required detailed answers from officers. I think some of those could be given by my own officers, but others would have had to have been given by Property Holdings. So it may be that I misunderstood the nature of the review and the sort of questions that were going to arise.

5.6.2 The Connétable of St. John:

On the back of that, will the Minister accept that there could be a slight delay in our reports coming forward when the time comes due to the additional information we require?

Senator B.I. Le Marquand:

I accept that it is quite reasonable that the Scrutiny Panel seek evidence of a more detailed nature than that which I was given and if that causes some delay then so be it.

5.7 The Deputy of St. Martin:

Could the Minister confirm that goods entering the Island with a value over the *de minimis* level should not be delivered to Jersey homes before the Customs have sanctioned that and the G.S.T. (Goods and Services Tax) has been paid?

Senator B.I. Le Marquand:

Yes, that is correct. If they are over the *de minimis* level they should be declared to Customs and the appropriate G.S.T. paid on them.

5.7.1 The Deputy of St. Martin:

Is the Minister aware that this practice of goods being delivered without G.S.T. being paid is becoming more frequent and will he look into the matter?

Senator B.I. Le Marquand:

I am not aware of that. I have had no indication of that from officers and most certainly if the Deputy or any other Member of this Assembly or any member of the public has any such information then I would certainly ask them to provide that information to the Customs and Immigration Service, but not to me as it will be dealt with much faster if they go directly there.

5.8 Deputy R.G. Le Hérissier:

Given the constant almost predetermined debate that goes on about police disciplinary procedures for ever and ever, would the Minister be prepared to push for a total review of how we handle these issues? Because given the enormous cost put against departments struggling with cutback programmes, for example, it strikes me that we have a totally dysfunctional system. What are his views?

Senator B.I. Le Marquand:

Well, that is the best question that I have had in this area today, if I may say so. I am conducting such a review currently. I have in answer to previous questions over some period indicated that we were employing the services of an expert in this area to do a review. That has been a little bit slow in coming through. The way in which this particular case ended up being handled by the lawyers involved, I am not criticising them but I am just saying that there were issues relating to that. The comments which I have now received from the new chairman of the Police Complaints Authority in relation to the methodology of the procedure and the time I have already spent myself looking at it indicate that we are very much in need of a review and this we are going to conduct.

5.9 Deputy T.M. Pitman:

Can I give the Minister for Home Affairs an even better question and an opportunity to put all questions on police disciplinaries to bed? We have established, I think, between the Minister and the Attorney General how reviews were initiated. Could he just answer us the \$6 million question and give us the title of the individual or individuals who initiated the disciplinary allegations against those 3 officers, as I am sure the Minister would agree they could not have just brought themselves?

Senator B.I. Le Marquand:

Well, that was not quite as good a question as the last one, which I did congratulate the Deputy on. I think it is rather confusing the issue again. I did explain that this went through definite phases. The first phase was a decision that there should be a review of processes and procedures. That then was conducted by the Hampshire Police Force. That then led to a situation in which there were issues of potential criminal matters or potential disciplinary matters which were thrown up. That then led to an investigation. The only involvement of the Law Officers was at the first stage that they were of the opinion jointly with the police chief that there should be the review. Thereafter, the matter took its natural course in relation to that leading to recommendations for disciplinary proceedings. I hope that has answered the questions.

5.9.1 Deputy T.M. Pitman:

I am sorry to appear pedantic or foolish, but could the Minister just clarify for me, finally, having reached that conclusion who initiated that this should be a disciplinary investigation? It is a big step from just a review to where we ended up.

Senator B.I. Le Marquand:

It was part of the terms of reference of the initial review that if matters were thrown up which would warrant moving on to a next stage that that would happen, but the decision in relation to that happening was made by the Chief Officer of Police.

The Bailiff:

Does any other Member wish to ask a question of the Minister for Home Affairs? Very well, that brings questions to him to an end.