

5.17 The Deputy of St. Mary of the Chairman of the Privileges and Procedures Committee regarding the role of the Privileges and Procedures Committee in protecting Members of the States as they carry out their duties:

Would the Chairman state whether it is part of the role of P.P.C. (Privileges and Procedures Committee) to protect Members of the States as they carry out their duties and if so can she inform Members what action, if any, P.P.C. took to support and protect the Deputy of Grouville when her home was searched by the police with no warrant and Senator Syvret in publishing information he believed was in the public interest?

Connétable J. Gallichan of St. Mary (Chairman of the Privileges and Procedures Committee):

It is not the Privileges and Procedures Committee's role to protect Members of the States as they carry out their duties. The committee's responsibilities regarding Members of the States are set out under standing order 128. Paragraphs (d) (e) and (f) make it the committee's responsibility to provide accommodation, services and facilities for Members of the States and make recommendations for improvements, to liaise with the body directed by the States to review Members' remuneration and expenses and bring any proposals forward to the States for debate, and enforce the code of conduct for elected Members of the States, promote high standards among Members of the States, and champion and defend the privileges of Members of the States. Perhaps there is some confusion on this last point in respect of the committee's remit to champion and defend the privileges of Members of the States. The committee would point out that neither of the matters referred to by the Deputy in his question are covered by parliamentary privilege. I would refer the Deputy to R.79 of 2009, Parliamentary Privilege in Jersey, which was presented to the States by P.P.C. in 2009 in July. This report gives an overview of parliamentary privileges as applied in legislatures such as the States of Jersey which follow a Westminster model and may be of assistance in clarifying the role of P.P.C. in respect of the defence of privileges of Members of the States. The committee is not empowered to intervene in criminal matters on behalf of States Members. In this respect Members of the States are treated in exactly the same way as members of the public and all of the same complaints mechanisms concerning the actions of the police are open to them.

5.17.1 The Deputy of St. Mary:

Just on a specific point, is the Chairman then saying that the fact that communications between constituents and a States Members were basically open to view when the police were doing the search of the house, is that not a concern?

The Connétable of St. Mary:

I assume from the Deputy's question he is referring to the communications not to the Senator who is the subject of the police search but to his partner. The partner of anybody being investigated, just because they happen to also be a States Member, makes no difference. P.P.C. is unable to intervene in criminal matters, either for the person being investigated or his or her partner if they should happen to be a States Member.

5.17.2 The Deputy of St. Mary:

I am sorry, I do not see that this is a criminal matter - and I would like the Chairman to clarify - when the purpose of the raid was to look at data protection issues in

connection with a States Member carrying out what they thought was their job. It just seems odd that the Chairman is saying P.P.C. do not have a role in this matter.

The Connétable of St. Mary:

I believe I have been as clear as I can in my answer given just a few minutes ago, and indeed when the Deputy asked me this very same question in February of this year. The most significant privileges that are available under the Westminster model are freedom of speech and the exercise by parliament of control over its own affairs. I would refer the Deputy to the answer given by Her Majesty's Attorney General in the question put by the Deputy of St. John on 20th January when the Deputy asked whether Members had any protection from investigation by the police. The Attorney General at that time said: "There is no special protection for any Member from investigation by the police, whether within or without the States building, other than through ordinary parliamentary privileges which might be claimed." The ordinary parliamentary privileges of freedom of speech and the exercise by parliament over control of its own affairs do not apply in this case, hence there is no special protection from investigation by the police.

5.17.3 Deputy M. Tadier:

If I can ask what I think is the underlying question that the Deputy of St. Mary is getting at: if it is not the job of P.P.C. to protect Members of the States as they carry out their duties whose job is it? Is it like under the Westminster model, for example, the job of the speaker? We all know the example given of Black Rod. When Black Rod knocks on the door at the House of Commons it is the speaker who will speak up for members' rights. Is that also the case in Jersey that if there really has been a challenge to a Member's privilege in a real sense is it the job of the speaker to act on behalf of the Member or is it P.P.C. or both or neither?

The Connétable of St. Mary:

I am tying this strictly to what the Deputy of St. Mary has asked me in his question and as I have repeated now twice, parliamentary privilege was not an issue regarding the matters raised by the Deputy. I would refer to the report that P.P.C. put out, R.79. I specifically draw the Deputy's attention to section 7.8 when, very briefly, it says: "In common with the position described above in relation to the United Kingdom, Canada and Australia, it is clear that there is no immunity from arrest or detention for Members of the States of Jersey in relation to criminal matters. Members are subject to the criminal law in exactly the same way as all other members of the community with exactly the same rights in relation to search, arrest or detention." I really would refer the Deputy and Deputy Tadier to that report.

5.17.4 Deputy M. Tadier:

The supplementary question is clearly a slightly different question, although I think it is related. The question I have been asking is if in an actual case where privilege has been flouted or a Member feels that their right to carry out their job and to represent the public has been challenged is it the job of P.P.C. to speak up on that issue if there is an issue concerned or is it the job of the speaker of the House?

The Connétable of St. Mary:

As I have already said, part of the remit of standing orders, is and I will just read it again to make sure I get it right: "To enforce the code of conduct for elected Members of the States, promote high standards among Members of the States and champion and

defend the privileges of Members of the States.” As I have repeatedly said, the question does not refer to anything which deals with parliamentary privilege. If parliamentary privilege was a matter then clearly it would be up to P.P.C. to enforce it.

5.17.5 Deputy M. Tadier:

Maybe a tangible example: if somebody came into the States, a police officer came to the States, searched my locker and I had a problem with that, would I go to P.P.C. and make a complaint or would it be up to the speaker of the House to speak out on my behalf if there is an issue with that?

The Connétable of St. Mary:

My understanding is that if there was just cause for the locker of the Member to be searched, if it is a criminal matter, parliamentary privilege does not give Members immunity from criminal sanction.

5.17.6 The Deputy of St. Mary:

The point at issue is whether or not these matters that I referred to in my question are in fact criminal matters or whether they are matters of some other kind. Would the Chairman like to comment?

The Connétable of St. Mary:

I am not a lawyer, I am not a police officer, but I do know that the matters in the question do not fall under the ambit of parliamentary privilege. That is my responsibility, nothing more. **[Approbation]**