VOISIN LAW

In deep and leafy Seale Street … a Law Commission resides. | 1

I understand that the spin merchants employed by Governments throughout the world often deploy a tactic whereby they take advantage of "a good day to bury bad news". I recall that the Blair Labour Government came under some scrutiny in 2001 when the Government's press office department received an email from an adviser to say that today was, "*a very good day to get anything out we want to bury*". The day was 11 September.

In April, a consultation paper issued by the Jersey Law Commission headed: "*Improving Administrative Redress in Jersey*" was released to the world. Have you heard about it? No! Nor me. In my view, it should have arrived with trumpet blast. No burial here; this is a good news event. No need for spin doctor involvement other than to shout about its existence from the roof tops.

For those who do not know, the Jersey Law Commission is an independent group appointed by the States of Jersey to "*identity and examine aspects of Jersey Law with a view to their development and reform*". One of their laudable aims is to consider "*the simplification and modernisation of the law*" in Jersey.

There are currently seven Law Commissioners who represent the great and good of our legal community. You will be pleased to note that not all are practising lawyers. We have legal academics in there too. The work of a Commissioner is part time and they go unremunerated. Public at large, please note that this is another example of members of the legal world undertaking sterling and important work for no reward for the benefit of all. I know that empathy with law folk is as rare as a sunflower in the desert but these folk do give their time and expertise gratis.

The reason why this consultation paper particularly interested me was that it deals with the Commission's interim recommendations concerning the manner in which grievances regarding administrative decisions are handled in Jersey.

The Commissioners are recommending that the Chief Minster's office should "*co-ordinate work across the Government of Jersey, Parishes and other public bodies*" to improve internal complaint procedures. A belt and braces approach.

In addition, the Commission recommends a major restructuring of tribunals in Jersey. Apparently there are nine separate Tribunals (such as Social Security Medical Appeal Tribunal and the Data Protection Tribunal) in the Island and the interim recommendation is that most of those existing Tribunals should be amalgamated into a new judicial body to be called the Jersey Administrative Appeals Tribunal. Additionally, the Commission recommends transferring review and appeal powers away from Government Ministers; the removal of the States of Jersey Complaints Panel; the introduction of a public service ombudsman; amendment to the time limits and grounds of appeal to the Royal Court (and thus removing any anomalies) and consideration to which alternative dispute resolution can be used for administrative grievances.

The consultation paper runs to some 96 pages and, for those with an interest in these matters (i.e. all of us), in my humble opinion this document should at the very least be considered. The consultation period runs from 29 April to 29 July.

For those wishing to review it, I found it at:

https://jerseylawcommission.files.wordpress.com/2016/04/jsylawcom_improvingadminredress_final.pdf

Turning to our most august of tribunals, the Royal Court, how about this as a cracking opening to a Judgment:

"In deep and leafy St Lawrence, above the Millbrook reservoir, La Ruelle de St Clair winds its harmless way down from Le Mont Cochon to Waterworks Valley. Unfortunately, in this quiet and peaceful part of the Island a dispute between neighbours which has been rumbling for many years has erupted into litigation which, had there been any sensible efforts made at compromise, ought to have been capable of being settled without access to the Court becoming necessary".

Leaving aside details of the dispute itself, I suspect that the Bailiff's deployment of a Denning-esque style opening to his Judgment was not solely for the purpose of flexing his literary and poetic muscles. There is a serious message that the Court is sending out to the public (and lawyers): Please try and resolve these types of disputes without bothering the Court. The Court made it clear that it had not had the benefit of reviewing any without prejudice negotiating correspondence that had passed between the parties but the message is clear: parties should undertake every effort to resolve disputes of this nature without invoking the jurisdiction of the Court. Unfortunately, similar proclamations in the past appear to have fallen on deaf ears. Regrettably human behaviour in these circumstances is often based on emotion rather than good sense.

Ho hum ..... now back to that consultation paper.