VOISIN LAW

Police Constable Jersey “49.2144N” reporting for duty | 1

One assumes that by the time that you have doused your Rice Krispies with Jersey Dairy’s finest whilst riveted by this article, we will have the identity of the 45th President of the United States of America.

The fact that I am even mentioning this election in a pan Channel Islands publication thousands of miles away from America reflects the importance of the US Presidential elections and highlights the role of America in world politics. The fact that the country is often referred to as the world’s policeman is, in part, a recognition of the importance of its foreign policy.

Globalisation has obviously had a significant impact in this respect. It has been a major theme of the US election.

The role of a world policeman has been the subject of much debate. If one analyses America’s role as Chef de Police then one must also look at the rest of “the force” who partake in “world policing” on any level.

It goes without saying that our Finance industry is very important and the need for Jersey to fit into the international geopolitical jigsaw is an important one. However, can we sometimes be a little too zealous in our pursuit of accumulating sheriff’s badges from the world community?

Recent reports of politicians attending UK party conferences and seeking the ear of senior politicians regarding Brexit negotiations reminds me of the Alan Partridge “Dan” sketch. You may recall Alan shouting “Dan” numerous times across a carpark seeking the said “Dan’s” attention……. only to be ignored. Moreover, does our desire to be “in the club” blind us to the rights of the individual?

I have been involved in a case over the last number of years concerning the Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008 (the “TIEA Regulations”). I do not propose commenting on the case generally as it is ongoing. We have just completed the Court of Appeal round of fighting.

The issue that causes me a little concern relates to the individual involved, Mr Berge Larsen. Mr Larsen has been subject to investigations in Norway for a number of years. These investigations have extended to Jersey. They have been ongoing since about 2006 when the Investigation of Fraud (Jersey) Law 1991 was deployed.

With the implementation of the TIEA Regulations, investigations into Mr Larsen in Jersey accelerated.

The pursuit of Mr Larsen went up a gear after 2013 when he was convicted in Norway for, amongst other things, tax evasion. This appeared to give the Norwegian authorities new impetus to seek information from Jersey pertaining to his business affairs. Jersey authorities have, of course, assisted pursuant to their statutory obligations.

Throughout this period of time, Mr Larsen has protested his innocence. He has persistently denied any wrongdoing and claimed that he was an innocent man.

The Norwegian and Jersey authorities have relied heavily on the Norwegian conviction. It has been a significant facet of the litigation here in Jersey.

In August, Mr Larsen was acquitted and exonerated of all charges in Norway. My Norwegian is not the best but the impression I have gained from the media in Norway is that its own processes may be reviewed.

In Jersey there has been no recognition of his innocence. Why should there be? In fact, the week before he was acquitted, a local publication finally decided to comment on the case describing Mr Larsen as a convicted tax dodger and fraudster. Colourful language for a man whose innocence was confirmed only a matter of days later.

The difficulty for Jersey, of course, is what does it do when presented with allegations and a subsequent conviction for tax fraud?

The problem I see is that as a result of the challenges to the TIEA Regulations, the States of Jersey has sought fit to lower the standard of proof in relation to TIEA requests. It is virtually wiping out the ability of relevant parties to question a request from the foreign government. Is this right? Perhaps the lowering of the bar is causing us to prefer our international obligations and the preservation of our “reputation” over and above the rights of the individual. This may not be good for business.

On the one hand the States’ actions fit neatly into our role as a bobby on the beat in the World Financial Police Force but on the other hand perhaps they do our reputation no good. What makes Jersey so attractive to Mr Larsen and his peers given his recent experience? Innocent people should not be put through the procedural torture that has been inflicted upon Mr Larsen over the last ten years.

It is a balancing act and one that we need to consider very carefully.